

CITY COUNCIL AGENDA – AMENDED MAY 5, 2026

WEDNESDAY, MAY 6, 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 6 · 6:00 – 9:00pm
Time zone: America/New_York
Google Meet joining info
Video call link: <https://meet.google.com/mdw-ffoj-qrt>
Or dial: (US) +1 269-948-7501 PIN: 430 779 637#
More phone numbers: <https://tel.meet/mdw-ffoj-qrt?pin=1428794674240>

1. **Roll Call.**
2. **Moment of Silence (up to one minute) and Pledge of Allegiance**
3. **Act on Minutes:** **March 18** & April 8, 2026
4. **Public Comment:** (Opportunity to address the council regarding any topic not listed under Public Hearings)
5. **Public Hearings:** Starting at 6:15 p.m

PUBLIC HEARINGS

- **Supplemental Appropriation:** *(continued from April 22, 2026)*
\$29,907.49 from Free Cash to fund equipment necessary to support computer systems
- **Referral for dispositon and Resolution to declare surplus and dispose of the Town Lodging House, 75 Oliver Street** *(continued from April 22, 2026)*
- **Affordable & Fair Housing Partnership’s Zoning Ordinance Recommendations including:**
 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

6. **Items for Immediate Attention:**

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

8. **Correspondence:**

- | | | |
|--|-------------------------------------|--------------------------|
| a. Request from Human Resources Director Emily Russo to withdraw the agenda item to amend Ch. 7, Sec. 7-17, Exhibit A to remove certain positions from the classification plan which are now in a collective bargaining unit | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| b. Presentation by Fire Chief Christopher Norris | <input checked="" type="checkbox"/> | <input type="checkbox"/> |

9. **Mayor Communications:**

- | | | |
|---|-------------------------------------|-------------------------------------|
| Presentation of Proposed Fiscal Year 2027 Municipal Budget and | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Presentation of Proposed Fiscal Year 2027 Reduced Municipal Budget | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Update on FIFA Events | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

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

- | | | |
|---|--------------------------|-------------------------------------|
| Announcement of a Special City Council Meeting on Monday, May 11, 2026 at 6:15 p.m. | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
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11. **Council Communications, Announcements and Standing Committee Reports:**

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

a. **FINANCE:**

- 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)**
- Request for the Creation of a Communications Donation Account for the purchase of interoperable emergency response portable radios for the fire department (4-8-26) **(7-7-26)**

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

- G.L. c. 59, S 5, Clause 17 F: Annual Cost-of-Living Adjustment (COLA) for Certain Exemptions
- G.L. c. 59, S 5, Clause 22G: Exception to Requirements for Legal and Sufficient Beneficial Interest (Trusts)
- G.L. c. 59, S 5, Clause 22I: COLA for Veteran Exemptions

Supplemental Appropriation:

\$29,907.49 from Free Cash to fund equipment necessary to support computer systems (4-22-26) **(7-21-26)**

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)**

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) **(5-7-26)**

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)**
 - Request to amend Chapter 7, Section 7-17, Exhibit A (Classification of Employees) to remove certain positions from the classification plan which have been incorp. into a collective bargaining unit (4-8-26)**(7-7-26)**

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)**
 - Town Lodging House – Referral for Disposition (5-7-25) **(6-1-26)**
 - Resolution to Declare Surplus and Dispose of 75 Oliver Street, Town Lodging House (4-8-26) **(7-7-26)**

- f. **RULES & GOVERNMENT RELATIONS:**

City Council Action Request:

 - Code of Conduct for Appointed Members of Boards, Committees, and Commissions (9-17-25) **(5-15-26)**

*Public Hearings May 6, 2026

**Public Hearing May 20, 2026

12. **Old Business/Pending:**

13. **New Business:**

	<u>Action Required</u>	<u>Information</u>
a. Special City Election Warrant (<i>needs to be signed</i>)	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. Authorization for Emerald Place Preliminary Eminent Domain Proceedings	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c. Authorization for Parsons & Ferry Streets Preliminary Eminent Domain Proceedings	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d. <u>City Council Action Request:</u> Adoption of MGL Ch. 60, Sec. 3D to establish a Neighbor in Need fund	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e. <u>Supplemental Appropriation Request</u> for \$870,000 from Free Cash to 32B Health and Dental Insurance	<input checked="" type="checkbox"/>	<input type="checkbox"/>

CITY COUNCIL MEETING - MARCH 18, 2026

Meeting held at 50 Payson Ave. 2nd Floor Meeting Area and Remotely via Google Meet

6:00 p.m.

Members Present:

President Koni Denham, Vice-President Felicia Jadczak, Tom Peake, Jonathan Schmidt, Nathan Markee, Kiam Jamrog-McQuaid, and James “JP” Kwiecinski

Members Absent:

Amanda Newton

Remote Members:

Tamara Smith

Pledge of Allegiance and Moment of Silence:

President Denham recognized the opportunity for participants to engage in a moment of silence and recite the pledge of allegiance should they wish to do so.

Act on Minutes:

On motion by Councilor Schmidt and seconded by Councilor Markee, it was unanimously voted (by roll call) to approve the February 18, 2026 and March 4, 2026 City Council minutes.

Mayoral Appointees:

On motion by Vice President Jadczak and seconded by Councilor Peake, it was unanimously voted (by roll call) to suspend the rules in order to put forth appointment nominations for Kae Collins and Angelique Baker for the Community Relations Committee and Veterans Council, respectively.

On motion by Vice President Jadczak and seconded by Councilor Markee, it was unanimously voted (by roll call) to approve the appointment of Kae Collins to the Community Relations Committee.

On motion by Vice President Jadczak and seconded by Councilor Jamrog-McQuaid, it was unanimously voted (by roll call) to approve the appointment of Angelique Baker to the Veterans Council.

Both appointees were formally sworn in by Assistant City Clerk, Maddie Palmer.

Public Comment Summary:

Carolyn Cushing, Main St, addressed the council regarding the US military spending and how it has impacts on local housing and budget deficits. Cushing cited data from the National Priorities Project and argued Easthampton’s portion of tax dollars spent on war could be funding local services and public housing development.

President Denham stated that it was 6:15 p.m. and thus time for the Public Hearing to begin. The opportunity for public comment would continue after the close of the Public Hearing.

On motion by Councilor Markee and seconded by Councilor Schmidt it was unanimously voted (by roll call) to open the Public Hearing.

Public Hearing starting at 6:15 p.m.

City Ordinance Amendments: Request to Review General Ordinance Amendments re: Short Term Rentals and City Council Action Request for Short Term Rental Zoning Ordinance Amendments - Definitions & Table

Councilor Jamrog-McQuaid explained that the purpose of the ordinance is to balance the demand for affordable long-term housing with the economic benefits of short-term rentals in a way that considers both visitors and local residents. The ordinance would establish a clear local registration and enforcement process that currently does not exist. The primary requirement will be annual registration of any short-term rental with the city. It shall require joint inspection and approval by the Board of Health, Building Department as well as the Fire Department.

Councilor Jamrog-McQuaid further stated that the ordinance will set forth a cap of 50 short-term rental dwelling units in the city, with initial applications being reserved for the first 30 days for those who are currently operators of existing units. A non-renewable, one-year provisional registration option will be available for property owners. These provisional registrations are outside of the 50-unit cap. A single owner may register up to two units if one is located at their principal residence, otherwise, they are limited to one. Short term rental units are prohibited in affordable or income restricted dwelling units.

Councilor Jamrog McQuaid added that the ordinance would also establish quiet hours between 10 p.m. and 8 a.m. and would also require that there be a minimum of one off-street parking space per short-term rental unit.

There was discussion between the councilors regarding some concerns over “reasonable fees”, enforcement of a noise ordinance, as well as the review period for the ordinance itself.

President Denham called for members of the public to speak to the proposed ordinance.

John Lucio, 69 Strong St, stated that he is currently an owner of a short-term rental property. He explained that he was involved in the process of opening Bombyx in Northampton. They did a one-year test for noise pollution given that it is an entertainment venue. He expressed that the subjective nature of “excessive noise” can make it difficult to enforce noise ordinances.

Karl Prael, 22 Gaston St, expressed concerns about incumbency in the application process. He stated that a single or multi family home could potentially be taken off the market to be utilized solely as a short-term rental. He stressed that at some point there may need to be further distinction between the number of units that are “owner occupied” and those that are not.

Councilor Jamrog-McQuaid moved to approve the General Ordinance amendment regarding short-term rentals.

On motion by Councilor Peake and seconded by Councilor Markee it was proposed to amend the language in 4-50.5 D from “audible outside of the dwelling unit” to “excessively loud at the property line.” It was unanimously voted (by roll call) to amend the above language.

On motion by Vice President Jadczyk and seconded by Councilor Smith it was proposed to amend the review period in 4-50.9 to require a review “after the first year of the ordinance taking effect followed by at least every two years by city council.” It was unanimously voted (by roll call) to amend the review period requirement.

On motion by Councilor Jamrog-McQuaid and seconded by Councilor Schmidt it was **UNANIMOUSLY VOTED** (by roll call) to approve the General Ordinance amendment including the aforementioned changes.

Councilor Jamrog-McQuaid thanked the various departments, council members, and members of the public who provided their time and input to drafting the new ordinance.

An additional motion was made to amend the Easthampton Zoning Ordinances to include the adoption of a formal definition for a short-term rental as well as the addition of short-term rentals to the permitted use regulations Table 5-1. The definition includes the rental of a whole or portion of a primary or accessory dwelling unit for overnight accommodations for no more than 28 consecutive calendar days. The new entry to Table 5-1 defines short-term rental as subject to registration and limitations set forth in city ordinances, permitted only in conforming and lawful pre-existing non-conforming dwellings, and listed as permitted by right in all districts.

On motion by Councilor Jamrog-McQuaid and seconded by Councilor Markee it was **UNANIMOUSLY VOTED** (by roll call) to approve the amendments to the table of use and definitions.

On motion by Councilor Schmidt and seconded by Councilor Markee it was unanimously voted (by roll call) to close the public hearing.

Public Comment Continued:

Eva Gerstle, Conservation Agent, (remote) announced that the Conservation Commission will hold informational sessions on the proposed wetlands ordinance at the commission’s regularly scheduled meetings on Monday March, 23rd and Monday April 13th. Gerstle said that these sessions will allow the public and members of the council the opportunity to familiarize themselves with the ordinance before it moves to the ordinance committee and eventually before the full city council for a vote.

Correspondence:

Dan Rist, Senior Center Building Committee Chair, read the following statement:

“THANK YOU, PRESIDENT DENHAM, FOR ALLOWING ME TO INFORM THE COUNCIL REGARDING THE WORK OF 2 COMMITTEES FOR OVER 2 YEARS TO BUILD A NEW SENIOR CENTER. I ALSO WANT TO DEFEND THESE COMMITTEES AGAINST MISINFORMATION OUT THERE AND MISCONCEPTIONS ABOUT THE PROJECT. THEY ARE RESOLUTE AND DILIGENT VOLUNTEERS OF ALL AGES. TO BE CLEAR WE ARE ONLY AT THE BEGINNING OF DEBATING WHERE TO PUT WHAT.

FIRST SOME HISTORY.

THE COA HAS BEEN IN EXISTENCE AS FAR AS I KNOW SINCE 1986 HAVING MANY PLACES OF RESIDENCE, AN OFFICE IN THE COMMUNITY CENTER, AN OLD MILL BUILDING, ANOTHER OLD BUILDING ON MAIN STREET AND THEN THEIR PRESENT LOCATION THE “OLD” POST OFFICE. THE COMMON DENOMINATOR IS OLD BUILDINGS.

IN 2018 THE COA BOARD DECIDED THAT PLANNING WAS NEEDED FOR PROGRAMS, SERVICES AND SPACE AFTER A UMASS STUDY WAS DONE. THEY THOUGHT THEY COULD MOVE THE CENTER TO A NEW RENTAL PROPERTY BUT DECIDED THAT WOULD BE IMPRACTICAL. IN 2022 AN ARCHITECTURAL FIRM, EDM, WAS HIRED TO EVALUATE THE CURRENT LOCATION AND CONCLUDED THE BUILDING COULD NOT ACCOMMODATE THE CENTER LONG TERM BECAUSE OF "SERIOUS BUILDING DEFICIENCIES" THE COA AT THE OLD POST OFFICE DOES NOT HAVE ENOUGH SPACE TO ACCOMMODATE THE SENIORS THAT WANT THEIR PROGRAMS.

IN 2023 MAYOR LACHAPPELLE APPOINTED AN AD HOC COMMITTEE TO BEGIN SERIOUS STUDY AND RESEARCH FOR A NEW BUILDING WITH THE GOAL OF REPORTING BACK BY THE END DECEMBER OF 2024. THAT COMMITTEE STUDIED LOCAL FACILITIES, OTHER COMMUNITIES' PROGRAMS AND SITES TO BUILD IN EASTHAMPTON. THEY WERE TASKED TO DO THE RESEARCH, THE LEG WORK IF YOU WILL.

I WAS ON THE SUB COMMITTEE TO VISIT LOCAL SITES INCLUDING LUDLOW, HADLEY WILBRAHAM AND SOUTH HADLEY WHICH IS MY PERSONAL GOLD STANDARD. THESE FACILITIES ARE MODERN WITH ENOUGH SPACE TO MANAGE PROGRAMS WHICH EASTHAMPTON HAS BUT DOES NOT HAVE THE SPACE TO PROVIDE FOR. IN FACT, MANY OF OUR PROGRAMS ARE WAIT LISTED. WHILE VISITING S. HADLEY AN 80 PERSON YOGA CLASS WAS IN THEIR MULTI PURPOSE ROOM. WHEN I COMMENTED TO THE DIRECTOR THAT IT HAD GREAT ATTENDANCE SHE SAID AND I QUOTE, 'YES WITH MANY FROM EASTHAMPTON'. THAT HIT HOME TO ME. OUR SENIORS HAVE TO TRAVEL TO OTHER LOCAL CENTERS TO GET WHAT THEY WANT AND NEED. THE PARKING LOT WAS OVERFULL WITH PARKING ON ADJACENT STREETS BECAUSE THEY DID NOT BUILD ENOUGH PARKING AND SENIORS DO DRIVE TO WHERE THEY WANT TO GO. S. HADLEY HAD MANY ROOMS FOR CRAFTS EXERCISE, GAMES, POOL TABLES, CONFERENCE ROOMS AND A KITCHEN FOR LUNCHESES SERVED. A NICE RECEPTION AREA, A LIBRARY AND A COFFEE SHOP. DAMN IT WAS BEAUTIFUL. WHY CAN'T EASTHAMPTON BUILD ONE?

THE AD HOC COMMITTEE ALSO EXAMINED LOCAL SITES TO PLACE A NEW SENIOR CENTER LISTING PROS AND CONS FOR EACH. THEY HAD CRITERIA THAT INCLUDED 5 ACERS, TRAFFIC CAPABILITY AND PVTA ACCESS. THEY CAME UP WITH 6 POTENTIAL SITES LISTING A HIGHLAND AVENUE PARCEL THE CITY OWNS AS THEIR NUMBER ONE. THE AD HOC REPORT CONCLUDED THAT WITH THE SENIOR POPULATION EXPECTED TO RISE TO OVER 40% OF THE EASTHAMPTON POPULATION, A NEW CENTER WAS NEEDED TO OFFER THE PROGRAMS SENIORS NEED AND WANT.

IN THE SPRING OF 2025 MAYOR LACHAPPELLE APPOINTED A BUILDING COMMITTEE WITH 12 MEMBERS WITH MANY FROM THE COMMUNITY AND SEVERAL AD HOC COMMITTEE MEMBERS. AS ITS CHAIR I ASKED THE COMMITTEE TO START WITH USING THE AD HOC REPORT TO INFORM THEIR DECISIONS.

IN SEPTEMBER OF LAST YEAR, THEY STARTED WITH SITE REVIEW BECAUSE UNTIL WE DECIDE WHERE TO BUILD IT, WE COULD NOT HIRE AN ARCHITECT TO DO A FEASIBILITY STUDY OF SAID SITE.

WE BEGAN WITH DETERMINING THAT 392 MAIN ST, ALTHOUGH A GOOD SITE FOR THE CENTER IT WAS PRIVATELY OWNED WITH THE OWNER NOT WANTING TO SELL AND EVEN IF WE DECIDED TO PROCEED WITH AN EMINENT DOMAIN TAKING, IT WOULD COST OVER A MILLION. I AM PERSONALLY OPPOSED TO TAKING SOMEONE'S PROPERTY UNLESS THERE IS OVERWHELMING NEED. WE HAVE OTHER POTENTIAL SITES, SO THE COMMITTEE CONCLUDED THAT USING CITY PROPERTY WAS A PRIORITY TO SAVE THAT MILLION.

ALSO, WE WERE OFFERED SPACE AT RIVERSIDE BUT IT WAS REJECTED AS HAVING NO PARKING, WOULD REQUIRE A LEASE FOR THE CITY FOR THE FORESEEABLE FUTURE, HAD ACCESSIBILITY DIFFICULTY AND WOULD NEED EXTENSIVE RENOVATION. ANOTHER OLD BUILDING.

NOW ENTER OUR PLANNER ALLISON MANUEL WHO DID A DEEP DIVE INTO THE CITY OWNED PROPERTY.

HIGHLAND AVENUE WAS FOUND BY HER TO BE RECREATIONAL LAND HAVING BEEN DONATED BY THE BOY SCOUTS FOR TRAILS AND RECREATION. TO CHANGE A RECREATIONAL DESIGNATION WOULD REQUIRE A 2/3RDS VOTE OF THE LEGISLATURE OF BOTH HOUSES. WE COULD GET A JUDGE TO DETERMINE THAT THE SENIOR CENTER IS A RECREATIONAL FACILITY BUT THAT'S ALSO A LONG PROCESS. DALEY FIELD WAS ONE OF THE SITES BUT IT IS ALSO PARK PROPERTY AND THE SCHOOL BUILDING AUTHORITY DESIGNATED IT AS A FIELD FOR SCHOOL SPORTS.

THERE IS BEAUTIFUL LAND OFF HOLYOKE ST AT THE BASE OF THE MOUNTAIN BUT ALLISON AND PUBLIC SAFETY DETERMINED THAT EMPTYING SENIORS ONTO A HEAVILY TRAVELED CORRIDOR WOULD BE TERRIBLY DIFFICULT AND DANGEROUS.

THAT LEFT THE COMMITTEE WITH THE PARK STREET SITE. PLANNING DID NOT FIND ANY VISIBLE DIFFICULTY WITH THE SITE.

THE FOLLOWING WERE DETERMINING FACTORS:

- THE PARCEL IS 54 ACERS AND WE WOULD ONLY NEED 5.
- THE SITE WOULD BE ON THE NORTH SIDE OF WHITE BROOK WITH 7 ACERS AVAILABLE BEYOND THE NECESSARY BUFFER ZONE.
- THERE WOULD BE PLENTY OF LAND LEFT FOR WILDLIFE AND TRAILS THAT SENIORS COULD USE.
- IT COULD BE BUILT ON THE LOWER END NEAR TREEHOUSE WITH POSSIBLE ROAD ACCESS TO THAT COMMUNITY.
- IT IS ACCESSIBLE TO PARK ST THRU A 50 FT CORRIDOR PLENTY WIDE ENOUGH FOR A ROAD.
- TRANSPORTATION IS NOT AN ISSUE. PVTA ALREADY GOES TO TREEHOUSE, THE COA HAS BUSES TO SHUTTLE SENIORS FROM THE CENTER OF TOWN AND MANY SENIORS DRIVE ANYWAY.
- IT IS AS FAR AWAY FROM THE CENTER OF TOWN AS MANY OTHER SITES AND THE MOUNTAIN VIEW ROTARY IS AN ADVANTAGE FOR TRAFFIC.

SO, THE COMMITTEE CHOSE THIS SITE FOR AN ARCHITECT TO STUDY, A FEASIBILITY REVIEW. WHICH INCLUDES ENGINEERING, LAND, TOPOGRAPHY, CONSERVATION, WET LANDS AND OF COURSE COST. THIS STUDY WOULD NOT HAVE A USE BY DATE AND WOULD BE STILL RELEVANT WHENEVER WE DECIDE TO BUILD.

NOTHING IS SET IN STONE. MY PERSONAL GOAL IS TO KEEP THE COST TO TAXPAYERS AS LOW AS POSSIBLE. CERTAINLY NOTHING LIKE THE 60 MILLION NEEDED FOR MOUNTAIN VIEW WHICH SENIORS VOTED FOR. WE ARE FAR AWAY FROM RECOMMENDING ANYTHING TO THE COUNCIL AND THE TAXPAYERS. THE PROCESS MOVING FORWARD IS TO HAVE THAT ARCHITECT GIVE US DESIGN IDEAS AND ESTIMATED COSTS. WE WILL HAVE FORUMS FOR CITIZEN REVIEW AND INVOLVE THE PUBLIC ANYWAY WE CAN. WE MAY HAVE TO WAIT UNTIL THE ECONOMY IS BETTER BUT I REMIND YOU THAT WAITING ALSO INCREASES COST, SOMETHING CITY SPACE KNOWS ALL TOO WELL.

CONCLUSION:

WE NEED TO GIVE BACK TO SENIORS. THEY NEED A ONE-FLOOR ACCESSIBLE BUILDING. OUR CURRENT SPACE IS MANAGED WELL BY OUR DIRECTOR CYNTHIA TARAIL AND HER PROFESSIONAL DEDICATED STAFF, BUT THEY NEED SPACE FOR THE PROGRAMS OTHER COMMUNITIES CAN OFFER. WHY SHOULD SENIORS HAVE TO DRIVE TO OTHER CENTERSTO GET THOSE PROGRAMS? THE SENIOR BUILDING COMMITTEE IS A COMMITTED, HARD-WORKING COMMITTEE THAT WILL BRING YOU AND THE RESIDENTS THE BEST POSSIBLE RECOMMENDATION.

I SAY TO OTHERS WHO ARE THE NAYSAYERS, YOU CAN CRITICIZE WHERE, WHAT IT IS AND HOW BIG, OR OF COURSE THE COST BUT I WILL FERVENTLY DEBATE YOU IF YOU SAY WE DON'T NEED A NEW SENIOR CENTER. I SAY TO ANYONE AND TO THE COUNCILORS, GO THE CURRENT COA BUILDING AND SEE ITS DEFICIENCIES FOR YOURSELF AND IF YOU CAN, GO TO SOUTH HADLEY AND SEE WHAT THEY HAVE TO OFFER.

I WILL DEDICATE WHATEVER TIME I HAVE LEFT FOR PUBLIC SERVICE TO THE GOAL OF PROVIDING EASTHAMPTON WITH A MODERN SENIOR CENTER.”

*Thank you,
Dan Rist*

Ryan Griffin, Director of Public Health, discussed the proposed updates to tobacco regulations, including a nicotine-free generation (NFG) regulation, which has been implemented in over 20 Massachusetts municipalities. The NFG policy would gradually phase out the sale of nicotine products to future generations by establishing a birth year cutoff (individuals born on or after January 1, 2006) for legal sales. The ban is a public health strategy to prevent initiation among younger generations without impacting current adult users.

Director Griffin also explained the legal minimum age for purchasing tobacco products would increase by one year annually, effectively banning sales to anyone below the continually rising age threshold. This approach is not categorized as a crime, but rather a restriction on businesses' tobacco permits, requiring affected individuals to purchase products outside of the city of Easthampton. The Board of Health is seeking public input and will hold an opportunity for public discussion on Monday, April 13th, from 6:30 p.m. to 8:30 p.m.

Mayor Communications:

None

President/Vice-President Communications:

Vice President Jadcak reminded fellow council members to utilize the newly updated templates available to them via the shared Google Drive.

President Denham acknowledged the ongoing commitment of the school committee to training/educating its members. Members recently attended a FEMA crisis training. President Denham also announced that following a state investigation, the Easthampton Public School System was cleared of any wrong-doing in regards to its handling of anti-Semitic incidents that occurred in 2024. Finally, President Denham stated that city council meetings for April were scheduled for the 8th and 22nd in observation of the beginning of Passover.

Council Communications:

Councilor Markee announced that Easthampton We the People is holding a spaghetti supper fundraiser at the high school on March 19th and that the CPA visionary meeting will be held in the City Council chambers on March 19th at 6 p.m.

Councilor Jamrog- McQuaid announced that the Easthampton Tenants Union meets weekly on Thursdays from 5:30 to 7:00 p.m. in the chambers and encouraged the community to utilize their resource-rich and well-designed website

Committee Reports:

Finance:

Councilor Peake reported that the Finance Committee had discussed the possibility of establishing a health care cost stabilization fund. The fund would offset potential future increases to the cost of employee health insurance. Like of stabilization funds, money would be allocated from various sources as necessary to maintain financial stability.

On motion by Councilor Peake and seconded by Councilor Kwiecinski it was unanimously voted (by roll call) to establish a health care cost stabilization fund.

Public Safety:

Councilor Schmidt reported that the Public Safety Committee met on March 10th. The committee discussed topics regarding pedestrian safety on Cottage Street as well as improvements to water treatment. The committee followed up with Department of Public Works Director, Greg Nuttelman about ongoing improvements to traffic and pedestrian safety on West Street. Nuttelman confirmed the completion of projects like the addition of fog lines as well as a permanent speed feedback sign that was funded through a grant.

On motion by Councilor Schmidt and seconded by Councilor Markee it was unanimously voted (by roll call) to remove the item, "Traffic and Pedestrian Safety on West Street" from the agenda without prejudice.

Appointments:

Vice President Jadczyk reported that the Appointments Committee discussed three mayoral appointees at their last meeting. The appointees were Steven Linsky, Alexander Baron, and Lydia Barry all for appointment to the Energy Advisory Committee with terms expiring on December 31st, 2026.

On motion by Vice President Jadczyk and seconded by Councilor Jamrog-McQuaid it was unanimously voted (by roll call) to approve the appointments of Steven Linsky, Alexander Baron, and Lydia Barry to the Energy Advisory Committee.

Vice President Jadcak stated that the committee is still reviewing the existing information on committees, boards, and commissions, to ensure it is in alignment with the current process for application and vacancy postings.

On motion by Vice President Jadcak and seconded by Councilor Schmidt it was unanimously voted (by roll call) to provide a 90-day extension to the ongoing agenda item: request for board/committee vacancy review/recruitment.

On motion by Vice President Jadcak and seconded by Councilor Jamrog-McQuaid it was unanimously voted (by roll call) to provide a 90-day extension to the agenda item: Proposal for Mayor and Clerk to create an Appointment Committee Handbook.

Ordinance:

Councilor Jamrog-McQuaid reported that the committee last met on March 12th where they finalized the language of the general ordinance regarding short-term rentals that was passed earlier this evening. The next meeting is scheduled for April 6th at 6:00 p.m.

Property:

Councilor Kwiecinski reported that the Property Committee will be meeting on Monday March 23rd at 6:00 pm. to further discuss matters relating to the intended disposition of the Old Town Lodging House.

Rules & Government Relations:

Councilor Kwiecinski reported that the committee met on March 11th where agenda items regarding proposed resolutions were discussed. Councilor Kwiecinski explained that a resolution was brought forward to establish the Easthampton Housing Crisis Task Force to address the housing affordability crisis and promote a "whole of government approach" through cross-departmental and intergovernmental communication. The Task Force would invite representatives from various committees and city departments to meet at least once annually to discuss policy goals. Additionally, the resolution calls for the establishment of a dedicated public-facing group email, such as housingcrisis@easthamptonm.gov, to redirect messages to all Task Force members, ensuring they are aware of relevant agendas and communications.

**Easthampton City Council Resolution in Support of
Establishing the Easthampton Housing Crisis Task Force**

The housing crisis is a central issue facing residents and families in Easthampton, throughout the Commonwealth, and across the nation. The lack of adequate housing construction, often driven by burdensome and inconsistent regulations across the state, has created a severe housing shortage across all price ranges, leaving many in housing insecurity and financial precarity as rents and other expenses rise much faster than household incomes. U.S. Census ACS estimates indicate that over 40% of Easthampton renter households were housing cost burdened as of 2023, spending more than a third of their income on housing.¹

Several Easthampton tenants have written to and spoken before the Easthampton City Council,

recounting experiences with predatory rental market practices enabled by the housing shortage, including unfair rental agreements, abrupt and unreasonable rent hikes, neglect of repairs, and unfair eviction tactics. The number of affected tenants has increased in recent years, prompting the formation of the Easthampton Tenants Union.²

The city of Easthampton has taken a number of actions in recent years to increase housing production and protect housing affordability, including: the creation of the Easthampton Housing Production Plan;³ backing affordable housing developments; developing the Easthampton Affordable and Fair Housing Partnership zoning recommendations;⁴ and forming of the Easthampton Rent Study Committee to explore local rent control and tenant protection policy.⁵

Through the recent passage of the Affordable Homes Act in 2024, the release of the 2025 comprehensive statewide housing plan “A Home for Everyone”, as well as the 2025 Unlocking Housing Production Commission report “Building for Tomorrow”, state leaders, policymakers, and stakeholders across the housing ecosystem have also identified housing as a top priority and articulated clear strategies to increase housing production.^{6, 7, 8}

These strategies closely align with the work already underway in Easthampton, particularly the current efforts to reduce excessive barriers to housing production in our zoning ordinance. To sustain momentum on this work and explore additional local tools to address the housing crisis, it is critical to employ a whole-of-government approach by collaborating across city leadership, staff, relevant boards and committees, and housing advocates in the community.

WHEREAS, the City of Easthampton has a number of appointed boards, committees, and resident advocacy groups working locally to address the housing crisis, including the Easthampton Affordable & Fair Housing Partnership (“Housing Partnership”), the Easthampton Planning Board, the Easthampton Rent Study Committee, the Easthampton Housing Coalition, and the newly formed Easthampton Tenants Union, as well as hardworking city staff within the Easthampton Planning and Health Departments.

WHEREAS in 2025, the Massachusetts Executive Office of Housing and Livable Communities (EOHLC) released “A Home for Everyone,” the first statewide comprehensive housing needs assessment and housing production plan, outlining the critical need for 220,000 additional housing units across the Commonwealth.

WHEREAS in 2025, the Massachusetts Unlocking Housing Production Commission—including former Easthampton Mayor LaChapelle—released a report identifying several barriers to housing production, many of which municipalities can address locally through zoning and permitting reform. This report unequivocally affirms the goals underlying the Easthampton Housing Production Plan and the proposals in the Housing Partnership zoning recommendations report.

WHEREAS, the City of Easthampton has made progress in the construction of both affordable and market-rate rental units in the community through the support of projects such as the Elementary School Reuse, One Ferry St., Cottage Square, and Parsons Village developments, as well as the early adoption of measures to encourage the construction of accessory dwelling units.

WHEREAS, there are a number of efforts the city could pursue in the near future, including but not limited to additional zoning reforms to increase residential density where appropriate, a rent stabilization home rule petition to protect tenants and prevent displacement, creating a community land trust or affordable housing trust, and exploring expanding public or social housing in the city.

WHEREAS, Easthampton is a local leader in housing policy and advocacy and has opportunities to work with state leadership and community stakeholders to meet the need for increased housing production in Easthampton.

WHEREAS, to further address the housing crisis using the tools available to municipalities, Easthampton would benefit greatly from whole-of-government coordination, including collaboration between the Mayor's Office, City Council, our state legislative delegation, the Planning Department, Health Department, and relevant advisory boards and committees.

WHEREAS, the City of Easthampton also recognizes the vital role of community housing advocates, including the Easthampton Tenants Union, in ensuring that housing policies are informed by the lived experiences of renters in the current housing market and those who may be facing housing insecurity.

THEREFORE BE IT RESOLVED that the Easthampton City Council calls on the Mayor's Office to form the Easthampton Housing Crisis Task Force ("Task Force"), and requests the Mayor to invite the following individuals and representatives to serve as members: the City Council President, the State Representative for our district or designee, the State Senator for our district or designee, the chair of the Housing Partnership, the chair of the Rent Study Committee, the chair of the Planning Board, chair of the Housing Authority, a representative from the Easthampton Tenants Union, the Planning Director, and the Public Health Director, to meet at least once annually in a public meeting to discuss statewide and local housing policy goals and priorities, as well as current efforts underway in Easthampton to address the housing crisis.

THEREFORE BE IT FURTHER RESOLVED that to fulfill the primary goal of creating an easy and transparent mechanism for information sharing related to the housing crisis, the Easthampton City Council calls on the Mayor's Office to establish a dedicated public-facing group email, such as housingcrisis@easthamptonma.gov, that redirects all incoming messages to every member of the Easthampton Housing Crisis Task Force, and does not allow for direct replies.

BE IT FURTHER RESOLVED The Council further requests that the Task Force be notified and updated—through this communications channel and routine notices from the Mayor's Office, State Legislative Delegation, City Council, Planning Board, and the Planning Department—of any items reasonably related to housing policy, housing affordability, or increasing housing production, including communications with federal, state and local leaders, details on local and state administrative efforts, proposed ordinance amendments and legislative changes, grant applications, and housing developments in the city.

BE IT FURTHER RESOLVED that any deliberation on these items will be directed to the relevant public meeting held by the relevant board(s) or committee(s) within the Task Force, utilizing joint meetings when appropriate, to allow for full public transparency and community participation in solving the housing crisis.

BE IT FURTHER RESOLVED that a copy of this resolution will be sent to all named parties, including the office of state representative Homar Gómez, state senator John Velis, as well as the Secretary of the Executive Office of Housing and Livable Communities, the office of Lieutenant Governor Kim Driscoll, and the office of Governor Maura Healey.

On motion by Councilor Jamrog-McQuaid and seconded by Councilor Schmidt, it was unanimously voted to approve the request to establish the Easthampton Housing Crisis Task Force.

Councilor Kwiecinski further reported that the committee reviewed the history of eight special request liquor licenses that had not been fully implemented due to COVID-19, and the committee recommended requesting an extension from the legislature.

On motion by Councilor Kwiecinski and seconded by Councilor Markee it was voted (by roll call) 7 in the affirmative with Councilor Peake abstaining, to schedule a public hearing for April 8th at 6:15 p.m. to discuss the Mayoral Request to add 8 additional liquor licenses through legislative action.

Councilor Kwiecinski noted that the committee discussed an old business item concerning a resolution supporting Senate Bill 2786, which would reclassify eligible drinking water operators to Group Two retirement benefits at age 60, rather than Group One at age 65. The resolution highlights the dangerous nature of the work, including exposure to chemicals and physically demanding tasks, noting the classification of water operators as essential critical infrastructure workers.

Easthampton City Council Resolution in Support of Retirement Reclassification for Drinking Water Operators

The Easthampton City Council recognizes the critical role that drinking water operators play in safeguarding Easthampton's public health by ensuring the delivery of safe and reliable drinking water and the proper management of wastewater. Their attentiveness to their work prevents waterborne diseases, minimizes exposure to harmful contaminants, and maintains the integrity of the City's critical infrastructure. Without proper operation and maintenance, our water system could become a breeding ground for pathogens and sources of various health risks. As a community, we recognize the sacrifices our water operators have made to their physical health and wellbeing.

WHEREAS, during the COVID-19 pandemic, the Department of Homeland Security's Cybersecurity and Infrastructure Security Agency classified water operators as "Essential Critical Infrastructure Workers;" and

WHEREAS, like police officers and firefighters, water operators play a crucial role in public safety and infrastructure resilience, ensuring communities like Easthampton have access to water for drinking, hygiene, and sanitation; and

WHEREAS, licensure requires extensive training, education, passing up to four levels of exams in treatment and/or distribution, minimum years of on-the-job training/experience for full licensure, and ongoing continuing education; and

WHEREAS, certified operators do not have the ability to easily move out of hazardous working conditions to “desk jobs,” particularly in their later years of employment, which increases the risk of on-the-job injury and workers’ compensation costs for municipalities; and

WHEREAS, this council recognizes the service and dedication that water operators have willingly provided to residents of Easthampton as per MassDEP regulations, primary and secondary operators must be available to respond in-person to water emergencies within 1 hour at all times when not present in the Distribution System or Treatment Facility. There is added stress to this 24/7/365 responsibility; and

WHEREAS, due to the high-risk and physically demanding nature of water operations, workplace injuries are a serious concern:

- Historic OSHA data indicates that excavation work—core to water operations—has a fatality rate 112% higher than general construction.
- As operators age, the likelihood of injury and inability to perform physically strenuous tasks increases significantly after age 60.

WHEREAS, licensed water operators represent a small percentage of the state workforce. This legislation would impact only those licensed operators working for systems affiliated with state and county retirement boards—not private-sector employees; and

THEREFORE BE IT RESOLVED, that the Easthampton City Council supports passage of House Bill 3000/Senate Bill 1834, sponsored by Representative Steven Xiarhos and Senator Peter Durant, will allow eligible water operators to qualify for maximum retirement benefits at age 60 (Group 2) rather than age 65 (Group 1); and

THEREFORE BE IT FURTHER RESOLVED, the Easthampton City Council Clerk will send a copy of this resolution to State Representative Homar Gómez and State Senator John Velis.

On motion by Vice President Jadczyk and seconded by Councilor Peake it was voted (by roll call) 7 in the affirmative with Councilor Kwiecinski abstaining, to adopt the resolution in support of retirement reclassification for drinking water operators.

Councilor Kwiecinski also added that the committee had discussed a request to amend Rule 11A in order to clarify the process for Ad Hoc Committee appointments made the City Council President. The following language was proposed to be added, "All appointments made by the president should be approved by the council through the appointment process."

On motion by Councilor Kwiecinski and seconded by Councilor Jamrog-McQuaid it was unanimously voted (by roll call) to amend Rule 11A to clarify the process and ensure greater transparency.

It was announced that the Rules & Government Relations Committee would meet on April 2nd at 6 p.m. to continue the discussion regarding the proposed city-wide code of conduct.

New Business:

Mayoral Request for Immediate Adoption of MGL Ch. 32B Sec. 21-23 re: health insurance plan modifications

On motion by Vice-President Jadczyk and seconded by Councilor Peake it was unanimously voted (by roll call) to set a public hearing for the above item at a special meeting on March 25th at 6 p.m. in the council chambers.

On motion by Vice President Jadczyk and seconded by Councilor Markee it was unanimously voted (by roll call) to move this request to the Rules and Government Relations Committee to be discussed at a meeting on March 24th prior to the special meeting on March 25th.

New Pay Plan Position of Recreation Coordinator

On motion by Vice-President Jadczyk and seconded by Councilor Peake it was unanimously voted (by roll call) to move the agenda item re: New Pay Plan Position of Recreation Coordinator to the Ordinance Committee for further discussion.

Approval of Proposed City Council Budget for Fiscal Year 2027

On motion by Vice-President Jadczyk and seconded by Councilor Markee it was unanimously voted (by roll call) to move the agenda item re: Approval of Proposed City Council Budget for Fiscal Year 2027 to the Finance Committee for further discussion.

City Council Action Request: General Ordinance Amendment proposing a Wetlands Protection Ordinance

On motion by Vice-President Jadczyk and seconded by Councilor Schmidt it was unanimously voted (by roll call) to move the request to the Ordinance Committee for further discussion.

City Council Action Request: General Ordinance Amendment re: BEES Committee Membership Structure (including change from 7 to 11 members) Ord. Sec. 2-76.1

On motion by Vice-President Jadczyk and seconded by Councilor Jamrog-McQuaid it was unanimously voted (by roll call) to move the request to the Ordinance Committee for further discussion.

President Denham reminded everyone that the next city council meeting would be held on April 8th.

Public Comment Continued:

Karl Prah, 22 Gaston Street, addressed the council stressing the need for a holistic approach to pedestrian safety and convenience, urging council members to walk their precincts to assess where conditions are not accessible or safe for walkers. Prah emphasized that improving pedestrian and biking infrastructure leads to a more affordable and sustainable community.

On motion by Councilor Schmidt and seconded by Councilor Jamrog-McQuaid it was unanimously voted (by roll call) that this meeting **ADJOURN**.

Time: 9:43 p.m.

Respectfully Submitted,

Maddie Palmer (Assistant City Clerk)

CITY COUNCIL MEETING – APRIL 8, 2026

Meeting held at 50 Payson Ave., 2ndflr meeting area and remotely by Google Meet
6:00 p.m.

Members Present: President Koni Denham, Vice-President Felicia Jadczak, James “JP” Kwiecinski, Tom Peake, Tamara Smith, Jonathan Schmidt, Amanda Newton, and Nathan Markee. Councilor Kiam Jamrog-McQuaid was present remotely via Google Meet.

Pledge of Allegiance and Moment of Silence:

Act on Minutes: None.

On motion by Vice-President Jadczak and seconded by Councilor Markee it was unanimously voted to suspend the rules of the City Council to allow the City Clerk to perform the oath of office to Alex Barron for appointment to the Energy Advisory Committee.

Public Comment Summary:

Kae Collins, 4 Carol Avenue, said that she thinks that there is a “tie” between both resolutions tonight: The PROTECT Act and the Medicare for All Act. She said that both have one thing in common: the amount we pay in our taxes.

Sara Weinberger, 359 Main Street, Unit B, said that she is a member of the Immigrant Legislative Advocacy Network and is in support of the PROTECT Act. She said that this Act has already been passed by the House.

Ellen Koteen, Huckleberry Lane, spoke in support of the PROTECT Act.

Karl Prael, 22 Gaston Street, stated that he hopes that the City Councilors took his advice from the last City Council meeting to “walk around their precincts.” He said that he is in support of the “Medicare for All” resolution. He proposed some ideas to assist the city with rising insurance costs for employees such as providing trash removal services and building a health clinic and dental offices. He asked to let others be a part of the public plan by Home Rule Charter change.

On motion by Councilor Kwiecinski and seconded by Councilor Schmidt it was unanimously voted by roll call vote to open the Public Hearing.

<p>Public Hearing starting at 6:15 p.m.</p>
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Mayoral request to add 8 liquor licenses through legislation

Councilor Kwiecinski spoke regarding the proposed acquisition of eight additional liquor licenses. He said that the liquor licenses were approved in the past but not used due to COVID-

19. Councilor Kwiecinski said that the city would like to re-establish these licenses in hopes that it will generate additional funds for the city. He said that some businesses have expressed interest in applying for the liquor licenses. Councilor Kwiecinski said that the City Council Rules and Government Relations Committee voted 3-0 in favor of the proposal for eight additional liquor licenses.

Councilor Markee asked Councilor Kwiecinski if these licenses are in addition to the liquor licenses Easthampton currently has. He also asked if there is any information on what businesses have expressed interest in the licenses.

Evan LeBeau, Assistant to the Mayor and Clerk to the Licensing Board, stated that no one has currently applied for a new liquor license but there have been businesses that have shown interest. There are no liquor licenses available to apply for at this time. Evan added that the ABCC (Alcoholic Beverages Control Commission) and the Easthampton Licensing Board have to approve the licenses.

Councilor Kwiecinski added that this is the first step to petition the legislature for the additional licenses.

Councilor Peake said that he is on a board that holds a liquor license in Easthampton so he will abstain from the pending vote regarding the additional liquor licenses since he has a conflict of interest. He added that he is in favor of the city petitioning to obtain the additional liquor licenses. He said that he does not agree with the liquor license quotas.

Mayor Derby spoke regarding the previously issued liquor licenses in question (from 2020) stating that the licenses had a 3-year time constraint on them.

Lindsi Sekula, Precinct 3 (online) said that as a former city employee who was the liquor licensing clerk for seven years, this is a very smart move for Easthampton and hopes that the City Council votes in favor of this proposal for additional liquor licenses.

Councilor Kwiecinski read the petition to the legislature for an additional 8 liquor licenses as follows:

CITY OF EASTHAMPTON

HOME RULE PETITION ORDER

ORDERED:

That the City Council of the City of Easthampton hereby petitions the General Court of the Commonwealth of Massachusetts to enact special legislation in substantially the following form:

Petition of the City of Easthampton for legislation to authorize the issuance of certain liquor licenses.

An Act relative to the issuance of certain liquor licenses in the city of Easthampton

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1.

Notwithstanding chapter 46 of the acts of 2020 or any other general or special law to the contrary, the licensing authority of the city of Easthampton may grant up to 8 additional licenses for the sale of alcoholic beverages originally authorized pursuant to said chapter 46.

SECTION 2.

Licenses granted pursuant to this act shall be issued by the licensing authority of the city of Easthampton under section 12 or section 15 of chapter 138 of the General Laws and shall be subject to all of said chapter 138 except section 17.

SECTION 3.

The licensing authority of the city of Easthampton shall not approve the transfer of a license granted pursuant to this act to any other location outside of the city of Easthampton, but it may grant a license to a new applicant at the same location if the applicant files with the licensing authority a letter from the department of revenue and a letter from the department of unemployment assistance indicating that the license is in good standing with those departments and that all applicable taxes, fees and contributions have been paid.

SECTION 4.

A license granted pursuant to this act shall be returned physically, with all of the legal rights, privileges and restrictions pertaining thereto, to the licensing authority of the city of Easthampton if the licensee terminates or fails to renew the license or if the license is cancelled, revoked or no longer in use at the location of original issuance, and the licensing authority may then grant the license to a new applicant at the same location under the same conditions as specified in this act.

SECTION 5.

This act shall take effect upon its passage.

And be it further ORDERED:

That the City Clerk be and hereby is authorized and directed to transmit a duly certified copy of this Order to the City's legislative delegation for filing in the General Court.

On motion by Councilor Kwiecinski and seconded by Councilor Markee it was voted by roll call vote with Councilor Peake abstaining, to approve the Home Rule Petition for 8 additional liquor licenses.

On motion by Councilor Kwiecinski and seconded by Councilor Peake it was unanimously voted by roll call vote to close the public hearing.

Public Comment (continued):

Ryan Griffin, Easthampton Director of Public Health, stated that a Tobacco Regulations Forum will be held on Wednesday, April 29, 2026 at 6:30 p.m. on the second floor of the Municipal Building at 50 Payson Avenue. He added that the proposed regulations are on the city website under the Health page.

John Carroll (online), lives and works in Eastworks, 116 Pleasant Street, is interested in setting up a formal voter committee with regard to voter registration, education, and transportation to try to maximize voter turnout.

President Denham said that the speaker may email her since the City Council cannot respond during public comment.

Elodie Chicoine, 86 Torrey Street, resident since 1976, spoke of her ongoing interest in the “town farm” property at 75 Oliver Street. Her family owns Chicoine Family Farm in Easthampton. She shared a poem by Tolstoy, which she said she feels applies to the movement forward on the town farm property.

Items for Immediate Attention:

Easthampton City Council Resolution in Support of “An Act Establishing Medicare for All in Massachusetts”

Councilor Smith said that health care costs are very expensive and are now affecting our budgets on a municipal level.

President Denham asked if any City Councilors would like to send this resolution to committee for review. Councilor Markee said that he is not in favor of sending the resolution to committee. No other Councilors were in favor of sending the resolution to committee.

President Denham said that if the resolution is sent to committee for review it will be placed under New Business.

Councilor Smith read the resolution in support of “An Act Establishing Medicare for All in Massachusetts” in the form of a motion which was seconded by Councilor Kwiecinski.

Councilor Peake said that he is in support of this resolution. He said that some members of the public have criticized previous resolutions asking “how does this affect Easthampton?” Councilor Peake said that it is very easy to see how this would impact Easthampton.

Councilor Newton spoke in favor of the resolution but said that she is concerned about Massachusetts hospitals, which she stated are among the best in the country, possibly not wanting to continue research if Medicare for All passes.

Councilor Kwiecinski said that we should all share this burden and that this is a first step and “we will take it.”

President Denham stated that she fully supports the resolution in support of “Medicare for All”. She said she has had the privilege of living outside of this country and has seen quality and access to health care in other countries.

By roll call vote, with Councilor Newton abstaining, the Easthampton City Council Resolution in Support of “An Act Establishing Medicare for All in Massachusetts” was voted in favor.

Easthampton City Council Resolution in Support of “An Act Establishing Medicare for All in Massachusetts”

The United States is in the midst of a healthcare crisis, both in regard to affordability and equitable access to preventive and specialty care services. Despite spending the most on healthcare as a percentage of GDP, the U.S. has worse outcomes and life expectancy than peer countries with single-payer healthcare systems, which are much more cost-efficient.¹

In Massachusetts, a recent economic analysis published in January 2026 calculated healthcare expenditures at over \$128 billion annually and found that switching to a single-payer system, as proposed in the statewide legislation *An Act Establishing Medicare for All in Massachusetts*, could eliminate over \$54 billion in unnecessary spending. This would reduce overall healthcare spending by more than 42 percent.²

By eliminating co-pays and premiums and replacing them with a 2.5 percent income tax and a 7.5 percent payroll tax for employers, households earning less than \$500,000 per year would see substantial savings they would otherwise spend on private health care—over 98 percent of Massachusetts households would spend less on health care than they do now.³

These savings would not just benefit households; employers and municipalities would also see significant savings by replacing health insurance costs with a simpler payroll tax. An analysis done by MassCare on the potential savings to municipalities found that the City of Easthampton would save over \$3.5 million annually in healthcare costs.⁴ These funds could be much better spent on sustaining our schools, infrastructure, and other public services.

1 David Blumenthal et al., *Mirror, Mirror 2024: A Portrait of the Failing U.S. Health System* (Commonwealth Fund, 2024), <https://doi.org/10.26099/TA0G-ZP66>.

2 Auden Cote-L’Heureux and Gerald Friedman, *Funding Universal Health Care in the Commonwealth of Massachusetts - Economic Analysis* (MassCare, 2026), <https://masscare.org/wp-content/uploads/2026/02/funding-universal-health-care-report-2026.pdf>

3 Cote-L’Heureux and Friedman, *Funding Universal Health Care in the Commonwealth of Massachusetts*.

4 “Municipal Savings Calculator,” MassCare.Org, January 30, 2026, <https://masscare.org/muni-calc/>.

WHEREAS, equitable access to health care has become one of the biggest political issues of the day and is of great concern to ourselves and our community members; and the United States remains one of the few countries that does not provide universal publicly funded health care; and

WHEREAS, the cost of health care and health insurance is increasing, including out-of-pocket costs such as co-pays and deductibles, and single-payer healthcare systems have proven to be both more cost-effective while producing better outcomes and life expectancy.⁵

WHEREAS, a 2022 study done by the Yale School of Public Health found that in 2020, an estimated 77,675 excess deaths were attributable to lack of adequate healthcare coverage in the U.S. that could have been prevented with a universal single-payer system, without including repercussions from the pandemic;⁶ and

WHEREAS, the same 2022 study estimated that 338,594 preventable COVID deaths were attributable to incomplete insurance coverage in the U.S. between 2020 and 2022;⁷ and

WHEREAS, rising healthcare costs are a burden for employers and employees alike, in particular, the money spent by municipalities to cover healthcare for their employees is a large cost to both the employer and the employees; and

WHEREAS, Massachusetts has been a leader in providing coverage for quality health care for its people; and there is an alternative means of providing health care for all that also offers better coverage, without co-pays or deductibles, and includes medical, dental, and preventive care;

WHEREAS, economic analysis has found that the Commonwealth of Massachusetts could save over \$54 billion and reduce healthcare spending by over 42 percent, and over 98 percent of Massachusetts households would spend less on health care than they do now;

WHEREAS, the City of Easthampton would save over \$3.5 million per year in insurance costs under the “Act Establishing Medicare for All”;⁸ and

WHEREAS, these public funds could be better spent by the City to improve the overall quality of life, protect the quality of public services, and increase equity in wages, salaries, and other benefits for city employees; and

NOW, THEREFORE BE IT RESOLVED, that the Easthampton City Council supports the passage of Massachusetts House Bill H.1405 and Massachusetts Senate Bill S.860, “An Act Establishing Medicare for All in Massachusetts”; and

BE IT FURTHER RESOLVED, that a copy of this resolution will be sent to the offices of state representative Homar Gómez, state senator John Velis, as well as the office of Lieutenant Governor Kim Driscoll, and the office of Governor Maura Healey.

5 Blumenthal et al., *Mirror, Mirror 2024: A Portrait of the Failing U.S. Health System*

6 Galvani et al., (2022). *Universal healthcare as pandemic preparedness: The lives and costs that could have been saved during the COVID-19 pandemic*. <https://doi.org/10.1073/pnas.2200536119>

7 Galvani et al., *Universal healthcare as pandemic preparedness*

8 MassCare.Org, “Municipal Savings Calculator.”

Easthampton City Council Resolution in Support of “An Act Promoting Rule Of Law, Oversight, Trust, And Equal Constitutional Treatment” (The PROTECT Act)

Councilor Jamrog-McQuaid introduced the PROTECT Act, stating that he and President Denham were contacted by members of the community regarding this.

President Denham asked if any City Councilors would like to send this resolution to committee. No councilors responded in the affirmative.

Councilor Newton read the Resolution in Support of “An Act Promoting the Rule Of Law, Oversight, Trust, And Equal Constitutional Treatment” (The PROTECT Act)

Vice-President Jadcak said that she is in favor of the PROTECT Act and appreciates that high-profile deaths were mentioned. She added that there were others who were not named and that sometimes brown and black people are not mentioned.

Councilor Markee said that he strongly supports this resolution but believes that it does not go far enough. He said that he believes that I.C.E. should be defunded and dismantled.

Councilor Kwiecinski said that he supports this resolution and agrees that it does not go far enough.

President Denham seconded Vice-President Jadcak’s comments. She said that as a white woman she has often taken for granted her identity. She stated that not everyone has liberty and justice and this is why she will not stand for the pledge of allegiance. President Denham added that she whole-heartedly supports this resolution.

Councilor Kwiecinski responded to President Denham stating that he still stands for the Pledge of Allegiance but at the end he makes a “personal pledge” that he will do his best to ensure justice for all. He said this is why he will vote yes on the resolution in support of the PROTECT Act.

President Denham said that she would like to respond to Councilor Kwiecinski but will not.

On motion by Councilor Newton and seconded by Councilor Peake it was unanimously voted by roll call vote to endorse the resolution in support of “An Act Promoting Rule Of Law, Oversight, Trust, And Equal Constitutional Treatment (The PROTECT Act) as follows:

Easthampton City Council Resolution in Support of “An Act Promoting Rule Of Law, Oversight, Trust, And Equal Constitutional Treatment” (The PROTECT Act)

There has been increasing concern about the impact of federal immigration enforcement in our community, and the city has taken some important steps to protect our immigrant community members. Through the passage and recent reaffirmation of the 2019 *Easthampton Welcoming Community Trust Ordinance*, the city has established that our law enforcement and city officials will

not cooperate with federal immigration enforcement.¹ The next steps are at the state legislative level to expand protections and ensure accountability for these unlawful actions.

WHEREAS, the current administration has deputized a masked federal police force that has been used to attack immigrant and non-immigrant neighbors in cities across the country and violate residents' Constitutional rights under the First Amendment, Second Amendment, and Fourth Amendment; and

WHEREAS, the Department of Homeland Security has unleashed Immigration and Customs Enforcement (ICE) agents who have acted with impunity in their attempts to arrest, detain, and intimidate nonviolent immigrants and protesters, leading to high-profile deaths of peaceful demonstrators Renee Good and Alex Pretti in Minneapolis, Minnesota, and resulted in the deaths of numerous detainees; and

WHEREAS, in 2025, there were over 600 arrests at courthouses across the state of Massachusetts; and

WHEREAS, in July 2019, this Council passed the *Welcoming Community Trust Ordinance*, which affirms that Easthampton is a welcoming city and seeks to ensure trust between and among employees, officials, representatives of the City, all residents, and visitors to our City, facilitating dialogue as well as effective law enforcement and public safety.

WHEREAS, On March 25th, 2026 the Massachusetts State House passed H.D. 5316, An Act promoting rule of law, oversight, trust, and equal constitutional treatment, colloquially known as the PROTECT Act, filed by Black and Latino Legislative Caucus (MBLLC), including Easthampton's Representative Homar Gomez, and also endorsed by immigrants rights and civil rights organizations, such as the MIRA Coalition and the ACLU of Massachusetts; and

WHEREAS, If passed by the Massachusetts State Senate and signed by Governor Maura Healey, the PROTECT Act will: ban federal immigration officers from making civil arrests in state courthouses; require that every person the feds detain be given information on how to hire a lawyer – in their native language; mandate that their attorneys get notified if their client is transferred to another facility; ensure lawyers can speak to their clients by phone at least once a day; bar law enforcement from asking someone about their immigration or citizenship status without an “articulable, case-specific reason” that their status is “directly material” to a criminal offense; prohibit any new 287(g) agreements between ICE and local law enforcement (The only entity in Massachusetts with such an existing agreement is the state's Department of Correction.); direct the Healey administration to create rules around locations where ICE agents would be prohibited; instruct state Attorney General Andrea Campbell to sue on behalf of residents if she believes federal officials violated the proposed measure; *and*

WHEREAS, it is essential that we support safe access to our courts, restore trust in our local law enforcement agents, and protect the rights of all of our residents, regardless of immigration status; and

WHEREAS, the City of Easthampton requests that the final legislation must: Prevent state and local officers from being deputized as ICE agents by banning 287(g) agreements and ensure police do not provide operational assistance to ICE, including questioning individuals about their immigration status; and

THEREFORE BE IT RESOLVED, that the Easthampton City Council endorses H.D. 5316, the PROTECT Act, and supports swift approval of the bill from the Massachusetts State Senate; and

BE IT FURTHER RESOLVED, that a copy of this resolution will be sent to the offices of Representative Homar Gómez, Senator John Velis, as well as the office of Lieutenant Governor Kim Driscoll, and the office of Governor Maura Healey.

¹ "Easthampton Pledges Safe Space amid Immigration Fears." WWLP 22News, February 9, 2026. <https://www.wwlp.com/news/local-news/hampshire-county/easthampton/easthampton-pledges-safe-space-amid-immigration-fears/>.

Communications from Elected Officials, Boards and Committees

Correspondence:

Since scheduled speaker Emma Reilly could not attend tonight, Tom Geryk, Easthampton and Westhampton Veterans' Agent, spoke about the Easthampton Coalition for Veterans' Wellness. Mr. Geryk said that he is proud to be a member of the coalition which works to bring veterans and their families together. He said that many veterans experience isolation and that this group partnered with Building Bridges and holds a monthly veterans luncheon the first Wednesday of the month at noon. Mr. Geryk added that the luncheon has been an excellent outreach source for him.

Mr. Geryk said that the annual "Vet Fest" which began two years ago will be held at Nonotuck Park on Saturday, September 19th from 10:00 a.m. to 2:00 p.m. He added that a new website has been launched which people may subscribe to find out about upcoming events is veteranswellnesseasthampton.org.

Mr. Geryk said that he would like to welcome Evan LeBeau, Assistant to the Mayor, as the newest member of the Easthampton Coalition for Veterans' Wellness.

Mayor Communications:

Mayor Derby stated that the City Charter requires a quarterly Mayoral report. He said that he and the city's financial team met regarding this year's budget. He said that last year's budget had a \$4 million gap which was closed by using money from the Stabilization Fund. The city was also without a Treasurer for a significant amount of time. The city hired a consultant to help get caught up.

He said that free cash was recently certified (which is usually done by October) and that the \$4 million deficit has grown with increased health care costs being a major factor. He said that the city will be seeking a Proposition 2 ½ Override Vote. Mayor Derby added that several surrounding communities are also holding override votes.

Mayor Derby provided an update on the FIFA grant emphasizing that no city funds will be spent on the event (which also includes a 250th Anniversary of the United States celebration). He said that in-kind donations from businesses are being used for a 1:1 match.

Mayor Derby said that he recently attended a Senior Center Building Committee meeting and that because of how the city is doing financially, a new Senior Center cannot be afforded right now.

Councilor Jamrog-McQuaid (online) asked Mayor Derby to provide a copy of the FIFA watch party grant application and additional materials since he has received questions from the public about the event.

Councilor Kwiecinski thanked Mayor Derby for providing the quarterly report.

Mayor Derby said that representatives from the Department of Revenue will be meeting with him tomorrow to “walk us through the process” of setting up a proposition 2 ½ override vote.

President Denham asked the amount of the FIFA grant. Mayor Derby said that it is for \$100,000.

President/Vice-President Communications:

President Denham read a “Certificate of Announcement” pursuant to 301 CMR 51.07 (2), P-001096 from the Commonwealth of Massachusetts Department of Conservation and Recreation. This is in regard to a proposed land acquisition of approximately 13 acres of land in a undeveloped woodlot.

DCR has stated that no vote needs to be taken, just that the following announcement be read:

Dear Members of the Easthampton City Council,

The Commonwealth of Massachusetts, acting through its Department of Conservation and Recreation (DCR) has under consideration the acquisition of an interest in approximately 13 acres of land, or other property interest therein, in the City of Easthampton. The property is currently an undeveloped woodlot. The proposed use for the property will be protected open space. Attached is a locus map marked “Exhibit A” which shows the property in which DCR is interested. The applicable regulations require the disclosure of the Commonwealth’s reasons for the proposed land acquisition at a public hearing held in the city or town in which such real property is located. To comply with this requirement, we ask that the City Council announce that the Commonwealth is considering this acquisition for the above-stated purposes at its next regularly scheduled meeting. The City Council does not need to take any formal action on its part. Please document the announcement in the City Council’s meeting minutes and return the statement in the box below filled out appropriately:

Certificate of Announcement pursuant to 301 CMR 51.07(2)

DCR #P-001096, City of Easthampton

I, Mary Ann Giza, Clerk of the City of Easthampton, Massachusetts, do hereby certify that on, April 8, 2026, it was announced at a public meeting of the City Council that:

The Department of Conservation and Recreation may acquire an interest in a parcel of land located in Easthampton as shown on the attached locus map marked as "Exhibit A" for conservation and/or recreation purposes.

President Denham announced that the Municipal Leadership Academy concluded last night. She added that people were incredibly appreciative and that one woman said that she had no idea how much work went into running the city and how much it costs. President Denham thanked Vice-President Felicia Jadczyk, Councilor Tamara Smith, and State Representative Homar Gomez for their assistance in running the program.

Vice-President Jadczyk said that she is currently engaged in a wayfinding project to incorporate better signage and make things more clear. She encouraged residents to take part in the survey open through April 12th regarding the wayfinding project.

Councilor Jonathan Schmidt announced that there will be fire extinguisher training on April 28th from 10 am to Noon. It was noted that the fire department is collaborating with the Council on Aging on this.

Councilor Jamrog-McQuaid announced that the Easthampton Tenants Union meets weekly on Thursdays at 5:30 p.m. at 50 Payson Avenue. It was added that the group has a great website at easthamptontenantsunion.org.

On motion by Councilor Peake and seconded by Councilor Kwiecinski, it was unanimously voted by roll call vote to have a 5-minute recess.

Committee Reports:

Finance: Councilor Peake said that the Finance Committee met earlier tonight to approve minutes. They will meet next Wednesday at 5:30 p.m. to discuss the City Council FY 27 budget and tonight's supplemental appropriations.

Public Safety: Councilor Newton said that the Public Safety Committee met with Fire Chief Christopher Norris at their last meeting. Councilor Newton announced that open burning season ends on May 1st. She added that anybody may request a smoke or carbon monoxide detector. The next Public Safety Committee meeting will be held on April 28th and the agenda will include a discussion of the language in the Traffic Rules and Orders.

Appointment: Councilor Smith said that a meeting will be scheduled soon to discuss the four proposed Mayoral appointments.

Ordinance: Councilor Jamrog-McQuaid said that the Ordinance Committee met on April 6th with Eva Gerstle to review the proposed Wetlands Ordinance. He said that they are waiting for public input from the informational session. The Ordinance Committee also discussed the proposed change in number of members of the BEES Committee and voted to send it back to the full Council.

On motion by Councilor Jamrog-McQuaid and seconded by Councilor Markee it was unanimously voted by roll call vote to set a public hearing for April 22, 2026 at 6:15 p.m. in City Council Chambers to discuss the proposed General Ordinance amendment regarding the BEES Committee Membership Structure (including change from 7 to 11 members) Ord. Sec. 2-76.1

Councilor Jamrog-McQuaid announced that the Ordinance Committee will meet on April 28, 2026 and that they will also meet twice per month in May and June.

President Denham stated that there will be a meeting on April 13, 2026 at 6:00 p.m. in City Council Chambers to review the proposed Wetlands Ordinance.

Property: Councilor Kwiecinski announced that if other Councilors agree, there will be a public hearing regarding the disposition of the Town Lodging House on April 22, 2026. He said that a public hearing is not required but he feels that the history of the property warrants a public hearing. Councilor Kwiecinski read the full text of the Town Lodging House Resolution as follows:

City Council Resolution to Declare Surplus and Dispose of 75 Oliver Street, also known as the Town Lodging House, in the City of Easthampton, MA.

WHEREAS The Inhabitants of the City of Easthampton (the “City”) are the owners in fee simple of the real property known as the Town Lodging House, located at 75 Oliver Street (the “Property”), as described in a deed recorded with the Hampshire County Registry of Deeds, Book 432, Page 459; and

WHEREAS The Property is no longer needed for municipal purposes; and

WHEREAS The City wishes to declare the Property as surplus; and

WHEREAS The City has determined that disposing of the Property is in the best interests of the City and its residents, subject to certain conditions on the sale of the Property; and

WHEREAS The City wishes to dispose of the Property pursuant to a certain Request for Proposals (the “RFP”) prepared by the City Council Property Committee, appended hereto as Attachment A; and

WHEREAS Massachusetts Law including but not limited to Massachusetts General Laws, Chapter 40 § 3, authorizes the disposition of municipal property upon the vote of the City Council,

NOW, THEREFORE, BE IT MOVED:

1. That the City Council of Easthampton hereby declares the Property located at 75 Oliver Street, including all real property and fixtures as more particularly described in a deed recorded

with the Hampshire County Registry of Deeds (the "Registry"), Book 432, Page 459, as surplus and not presently needed for municipal purposes; and

2. That the City Council hereby authorizes the disposition of the Property pursuant to the mechanism detailed in the RFP, subject to the following conditions on the sale of the Property:

- a. If the City enters into an agreement to sell the Property for less than its appraised value, and if the prospective new owner and end user of the Property (collectively the "Purchaser") qualify for exemption from local property taxes under M.G.L. c. 59, § 5(3), then the parties shall negotiate, and prior to closing on the sale of the Property, the Purchaser and City shall execute a written agreement to provide a payment-in-lieu of taxes (PILOT) in an amount equal to or greater than 10% of the property taxes which otherwise would be due to the City for the Property;
- b. The Property shall be conveyed to the Purchaser subject to, and the Purchaser shall agree to assume and comply with, all obligations for all encumbrances of record in the Registry, including but not limited to the Agricultural Preservation Restriction recorded with Registry at Book 2326, Page 341, the Historic Preservation Restriction recorded with the Registry at Book 5484, Page 113, and the Affordable Housing Restriction recorded with the Registry at Book 5872, Page 203;

- c. The reuse of the Property by the Purchaser shall provide a substantial public benefit to vulnerable or underserved communities;

- d. The Land Disposition and Development Agreement executed by the Mayor shall be substantially similar to the drafts appended hereto as Attachment B (the "Agreement");

- e. The Agreement shall include a right of first refusal in the City's favor and the City shall have the right to assign same;

- f. The Agreement shall include a requirement that the City and the Purchaser or its tenant, or the entity actually utilizing the Property, shall execute a written agreement mandating that the City, in its sole discretion, may designate and have one non-voting observer on the organization's local governing board to facilitate communication and understanding between such entity and the City; and

3. That the City Council authorizes the Mayor, or their designee, to circulate and publish as necessary the RFP in Attachment A, pursuant to applicable state and local laws; and

4. That the City Council authorizes the City Council Property Committee to serve as the RFP Review Committee and to receive, open and evaluate the responses to the RFP pursuant to the terms and criteria outlined in said RFP; and

5. That the City Council Property Committee, acting as the RFP Review Committee, shall thereafter be authorized to make recommendations to the Mayor relative to the proposals received; and

6. That the City Council authorizes the Mayor, or their designee, to take all necessary actions to dispose of the Property in accordance with (i) the recommendation of the City Council Property Committee, (ii) the aforementioned conditions on the sale of the Property, and (iii) all applicable local and State laws, such actions including but not limited to entering into agreements and executing all documents necessary for the lawful convenance of the Property; and 7. That a copy of this vote be entered into the official records of the City Council and provided to the City Council Property Committee, the Mayor and the City Solicitor for implementation.

Motion to set a public hearing for the proposed sale and disposition of the Town Lodging House

On motion by Councilor Kwiecinski and seconded by Councilor Markee it was unanimously voted by roll call vote to set a public hearing for April 22, 2026 at 6:15 p.m. in City Council Chambers to discuss the proposed sale and disposition of the Town Lodging House at 75 Oliver Street.

Rules and Government Relations: Councilor Kwiecinski said that the last Rules and Government Relations Committee meeting was scheduled before the March 25, 2026 Special City Council meeting to discuss MGL Ch. 32B, Sections 21-23. The Special City Council meeting was subsequently cancelled. Councilor Kwiecinski said that the Mayor and City Council spoke at the Rules and Government Relations Committee meeting and that the Mayor agreed to meet with the unions regarding health insurance.

President Denham said that she would like to acknowledge the facilitation of running that meeting as well as acknowledging Vice-President Jadcak and Councilor Newton. President Denham added that they asked good, pointed questions and that this was a textbook example of how to use Council Committee meetings for real problem-solving. President Denham said that the meeting had a real impact on the lives of city employees.

Councilor Kwiecinski also acknowledged fellow Councilors and the willingness of parties to work together. He said that the Rules and Government Relations Committee is working on the Code of Conduct for Boards and Committees.

New Business:

Vice-President Jadcak read all of the New Business agenda items as motions.

On motion by Vice-President Jadcak and seconded by Councilor Kwiecinski it was unanimously voted by roll call vote to refer the following agenda item to the City Council Public Safety Committee:

City Council Action Request – General Ordinance Amendment: Amend General Ordinances to include E-Bike Regulations and Use.

On motion by Vice-President Jadczyk and seconded by Councilor Peake it was unanimously voted by roll call vote to refer the following agenda item to the City Council Ordinance Committee:

City Council Action Request – Creation of a Cannabis Equity Ordinance to facilitate business participation.

On motion by Vice-President Jadczyk and seconded by Councilor Peake it was unanimously voted by roll call vote to refer the following agenda item to the City Council Finance Committee:

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

On motion by Vice-President Jadczyk and seconded by Councilor Peake it was unanimously voted by roll call vote to refer the following agenda item to the City Council Ordinance Committee:

- Request to amend Chapter 7, Section 7-18, Exhibit B (Pay Plan) to modify the current wage scale structure (remove the first two steps and add two steps at the end)

On motion by Vice-President Jadczyk and seconded by Councilor Schmidt it was unanimously voted by roll call vote to refer the following agenda item to the City Council Ordinance Committee:

- Request to amend Chapter 7, Section 7-17, Exhibit A (Classification of Employees) to remove certain positions from the classification plan as they have been incorporated into a collective bargaining unit.

On motion by Vice-President Jadczyk and seconded by Councilor Peake it was unanimously voted by roll call vote to refer the following agenda item to the City Council Finance Committee:

- Request for the creation of a Communications Donation Account for the purchase of interoperable emergency response portable radios for the fire department.

On motion by Vice-President Jadczyk and seconded by Councilor Schmidt it was unanimously voted by roll call vote to refer the following agenda item to the City Council Finance Committee:

- Request for the creation of a First Responder Wellness Donation Account for the purpose of receiving funds designated for the proposed First Responder Wellness Project.

On motion by Vice-President Jadczyk and seconded by Councilor Markee it was unanimously voted by roll call vote to refer the following four Mayoral appointments to the City Council Appointment Committee:

<u>NAME</u>	<u>BOARD/COMMITTEE</u>	<u>TERM EXPIRES</u>
Patricia Krusko	Council on Aging	12/31/2028
Jennifer Sandler	Community Relations Committee	12/31/2027
Ethan Abeles	Manhan Rail Trail Committee	12/21/2028
Wendy Taylor-Jourdan	Planning Board (from Assoc. to full member)	12/31/2028

On motion by Vice-President Jadczyk and seconded by Councilor Newton it was voted by roll call vote, with Councilor Schmidt abstaining, to refer the following City Council President appointment to the City Council Appointment Committee:

<u>NAME</u>	<u>BOARD/COMMITTEE</u>	<u>TERM EXPIRES</u>
Jonathan Schmidt	TNGDI Committee	12/31/2029

On motion by Vice-President Jadczyk and seconded by Councilor Markee, it was unanimously voted by roll call vote to refer the Resolution to Declare Surplus and Dispose of the Town Lodging House at 75 Oliver Street to the City Council Property Committee.

First Reading by Councilor Peake on the following appropriations:

Supplemental Appropriations:

- \$48,000.00 from Free Cash to EMS overtime for call backs and personnel paramedic stipends
- \$79,500.00 from Free Cash to miscellaneous sick leave and vacation buyout, overtime, uniforms, and handicapped accessibility for the Public Safety Complex
- \$500,000.00 from Enterprise Retained Earnings to fund Enterprise Stabilization
- \$5,000.00 from Free Cash to fund a new part-time position in the Tax Collector’s Office for FY26
- \$29,907.49 from Free Cash to fund equipment necessary to support computer systems
- \$700,000.00 from Free Cash to fund General Stabilization, Capital Stabilization, and Tax Rate Stabilization
- \$364,429.44 from Mt. Tom Trailhead Park Development to Fund 085 Capital Stabilization
- \$247,901.00 from FY22 Land Grant – Reservation Road to Fund 084 General Stabilization
- \$102,394.01 from Free Cash to Police sick leave incentive, unused vacation, overtime, and dues
- \$200,000.00 from Enterprise Retained Earnings for water meters and metering equipment
- \$150,000.00 from Enterprise Retained Earnings for FY26 WWTP concrete floor repairs
- \$196,510.00 from 085- Capital Stabilization to FY25 CDBG – Emerald Place water for construction restoration work, including pavement, sidewalks & landscaping

- \$168,100.00 from Enterprise Retained Earnings for FY26 Maple St. water and sewer replacement

Community Preservation Act (CPA) Supplemental Appropriation Requests:

- \$103,250.00 from Fund Balance Reserved for Historic Preservation to Library Annex Design
- \$150,000.00 from CPA Reserved for Affordable Housing & CPA Reserve Fund to FY26 Valley CDC Additional Mortgage Subsidies to provide 3 down payment assistance grants

On motion by Councilor Peake and seconded by Vice-President Jadczyk it was voted by roll call vote, with Councilor Schmidt abstaining (as a library employee) to refer the above-mentioned supplemental appropriations to the City Council Finance Committee and to set a public hearing for April 22, 2026 at 6:15 p.m. in City Council Chambers to discuss these same appropriations.

Councilor Peake asked whether, in the future, the accounts listed in the supplemental appropriations could be named rather than listed by account numbers, so the public knows the name to which account each number refers.

On motion by Councilor Kwiecinski and seconded by Councilor Markee it was unanimously voted by roll call vote that this meeting **ADJOURN**.

Time: 8:49 p.m.

Respectfully Submitted,



Clerk to the City Council

City Council Action

Date of City Council meeting April 8, 2026

Date referred to Committee April 8, 2026

Public hearing date April 22, 2026 Date of Advertising: April 11, 2026
continued to May 6, 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

**CITY OF EASTAMPTON
MASSACHUSETTS**



**Request for Proposals
for the Purchase, Renovation and Reuse of the
Historic Town Lodging House & Adjacent Agricultural Land**

I. Introduction

The City of Easthampton is requesting proposals from any party interested in the purchase, renovation and reuse the historic Town Lodging House and adjacent agricultural land (the "Property") (the "Proposer"). This City-owned Property is located at 75 Oliver Street in Easthampton, Massachusetts. The Property, shown on Assessors Map 126 as Lot 44, contains 56 acres of land, more or less, and is described more particularly in a deed recorded with the Hampshire County Registry of Deeds (HCRD) in Book 432, Page 459. The Property is located in the Rural Residential (R-35) zoning district per the Easthampton Zoning Map and Zoning Ordinance, and is currently served by municipal water and sewer. There are multiple existing deed restrictions on the Property, which are noted in the following section. The Property is being sold in "AS-IS, WHERE IS" condition with no representations or warranties of any nature or kind.

II. The Property

The Property was purchased by the City in 1890 for use as a "poor farm". It includes a 5,800 square foot historic residential structure (the "Lodging House"), that was built in 1890 to provide housing for the indigent. The Lodging House is subject to an Affordable Housing Restriction (the "AHR") recorded in HCRD Book 5872, Page 203. Also located on the Property is a large outbuilding that functioned as a garage with attached workshop. Both structures are listed in the National Register of Historic Places, and are subject to an Historic Preservation Restriction (the "HPR") recorded in the HCRD in Book 5484, Page 113. The Property, with the exception of roughly one acre surrounding the Lodging House, is subject to an Agricultural Preservation Restriction (the "APR") recorded in the HCRD in Book 2326, Page 341.

The Lodging House was designed by the prominent local architectural firm W.F. Pratt and Sons in the late Victorian architectural style. Around 1936, an addition to the north-western ell was completed as a Works Progress Administration (W.P.A.) project in response to the growing need for housing. The Lodging House continued to provide accommodation for the displaced and unhoused until 2022. The detached garage/workshop structure was built between 1938-1939 as another W.P.A. project. The farmland that surrounds the Lodging House was tended to by the residents of the Property until the 1950s, at which time the City began leasing the land to local farmers. In recent years, the fields on the Property have been used for hay production.



Circa 1890 photograph of Easthampton Poor Farm

III. Existing Documentation

The City has compiled documents related to the Property, which include those noted in the following list. All documents are available on the City's website at: <https://easthamptonma.gov/782/Town-Lodging-House>

- Property deed and restrictions
- National Register of Historic Places Registration Form
- Massachusetts Historical Commission Inventory Form
- Archaeological Assessment (2022)
- Archaeological Site Examination Survey (2024)
- Renovation Plans – As-Builts (2000)
- Asbestos Survey and Lead-Based Paint (LBP) Determination (2025)

IV. Minimum Criteria for Consideration

Proposals must meet the minimum criteria set forth below in order to qualify for continued consideration. Any proposal that fails to meet the minimum criteria shall be rejected as nonresponsive.

1. The proposal shall include all the required forms specified in the Submittal Requirements section of this RFP.
2. The proposal shall include a plan for compliance with all deed restrictions or encumbrances including those listed herein.
3. The proposal shall include a statement of Public Benefit for the proposed use.
4. The proposal shall include satisfactory references.
5. The proposal shall include a business plan, including detailed financial proforma with projected multi-year revenue, cash flow and expenses.

V. Comparative Evaluation Criteria

<u>Ratings</u>	<u>Rationale</u>
Highly advantageous	Exceeds the requirements
Advantageous	Meets the requirements
Not advantageous	Meets minimum requirements
Not acceptable	Does not meet requirements

The City will evaluate and select the proposal that best meets the needs of the community, in accordance with the following criteria:

1. The public benefit.
Desired benefits include: Integration of vulnerable or underserved communities in the reuse of the Property; creation of partnerships with other organizations within the City; significant investment in the future of the Property through capital improvements; added value to the neighborhood.
 - A proposal that provides all of the desired benefits shall be Highly Advantageous.
 - A proposal that provides most of the desired benefits shall be Advantageous.
 - A proposal that provides some of the desired benefits shall be Not Advantageous.
 - A proposal that provides none of the desired benefits shall be Not Acceptable.

2. Consistency with the deed restrictions.

Desired renovation outcomes and reuse activities include: preservation and significant enhancement of the architecture and historic materials and quality of the existing structures; agricultural use of the land that thoroughly incorporates regenerative agricultural practices; provision of quality housing for individuals with low-moderate incomes beyond the minimum duration of the Affordable Housing Restriction.

- A proposal that provides all of the desired renovation outcomes and reuse activities shall be Highly Advantageous.
- A proposal that provides most of the desired renovation outcomes and reuse activities shall be Advantageous.
- A proposal that provides some of the desired renovation outcomes and reuse activities shall be Not Advantageous.
- A proposal that provides none of the desired renovation outcomes and reuse activities shall be Not Acceptable.

3. Financial feasibility and the viability of the business plan.

Desired financial data and documents include: a business plan that clearly demonstrates a sound financial strategy for the improvement and long-term use of the Property; estimated redevelopment costs a schedule of operating income; an expense proforma and the proposed method of financing.

- A proposal that provides all of the desired financial data and documents shall be Highly Advantageous.
- A proposal that provides most of the desired financial data and documents shall be Advantageous.
- A proposal that provides some of the desired financial data and documents shall be Not Advantageous.
- A proposal that provides none of the desired financial data and documents shall be Not Acceptable.

4. Project Timing.

Desired project timing and supporting documents include: a detailed timeline and plan for obtaining financing and grant funding, completing the required design and permitting work and starting work; commencement of renovations to the Lodging House within 12 months after the execution of a Land Disposition and Development Agreement, a draft of which is attached hereto as Exhibit B (the "Agreement"); initiation of occupancy of the Lodging House within 18 months after the execution of the Agreement.

- A proposal that provides the desired supporting documents and meets the desired project timing shall be Highly Advantageous.

- A proposal that provides the desired supporting documents and minimally exceeds the desired project timing shall be Advantageous.
- A proposal that provides the desired supporting documents and significantly exceeds the desired project timing shall be Not Advantageous.
- A proposal that does not provide the desired supporting documents shall be Not Acceptable.

VI. Procedure

To obtain a copy of this RFP, register for the pre-submission briefing and site visit, and/or submit questions, please email the City's Procurement Officer, Michael Owens, at mowens@easthamptonma.gov.

1. This RFP will be released to the public on xxxx, 2026 and will be available by emailing the City's Procurement Officer.
2. A pre-submission briefing and site visit will be held on xxxx, 2026 at xx:xx. In the case of inclement weather, the briefing and site visit will be held on xxxx, 2026 at xx:xx. Attendance at the pre-submission briefing and site visit shall be mandatory. Prospective Proposers must register for the briefing by emailing the City's Procurement Officer.
3. Questions regarding this Request for Proposals shall be submitted in writing via email to the City's Procurement Officer on or before xxxx, 2026.
4. If questions are received, an addendum will be issued on or before before xxxx, 2026. Addenda will be e-mailed to all Proposers on record as having requested the RFP Packet.
5. Proposals are due on or before XXXXXXXX 2026 by 11:00 am. Proposers shall submit one unbound original copy and one electronic copy to:

Procurement Officer
City of Easthampton
50 Payson Avenue – Suite 120
Easthampton, MA 01027
6. The proposals will be opened and recorded at 11 am on XXXXX 2026. Late submissions shall not be accepted. Unsigned proposals shall not be accepted.
7. Upon opening, proposals will be reviewed for completeness by the Procurement Officer. Proposals deemed complete will be evaluated by the City Council Property Committee according to the evaluation criteria contained in this RFP.
8. The City will publicly announce the RFP outcome on or before xxxx. 2026.

VII. Submittal Requirements

All proposals shall include:

1. Completed Proposal Response Form (attached)
2. Affidavit of Compliance (attached)
3. Certificate of Non-Collusion (attached)
4. Tax Compliance Certification (attached)
5. Overview of Proposer's qualifications
6. A narrative description of the proposed renovation and reuse of the Property and how it will comply with the three deed restrictions with any supporting plans or documents
7. A statement of the proposal's Public Benefit
8. A business plan, including detailed financial pro-forma
9. A minimum of 3 references for similar projects

VIII. General Terms and Conditions

1. The City has determined that the award of this contract is subject to the Uniform Procurement Act. M.G.L. c. 30B. Therefore, the provisions of M.G.L. c. 30B are incorporated herein by reference. Submissions shall be evaluated according to the requirements of M.G.L. 30B and the evaluation criteria outlined in the RFP.
2. While the City believes that the information provided in this RFP, including all exhibits and addendums, if any, is accurate, the City makes no representation or warranty, express or implied, as to the accuracy and completeness of the information in this RFP. The Proposer assumes all risk in connection with the use of the information, and by submitting a proposal releases the City from any liability in connection with the use of the information provided by the City. Further, the City makes no representation or warranty with respect to the Property including, without limitation, the value, quality or character of the Property or its fitness or suitability for any particular use and/or the physical and environmental condition of the Property. The Property shall be conveyed in "AS-IS, WHERE IS" condition.
3. If the City enters into an agreement with a Proposer to sell the Property for less than its appraised value, and if the Proposer or its end user qualify for exemption from local property taxes under M.G.L. c. 59, § 5(3), then the Proposer and City shall, prior to closing on the sale of the Property, negotiate and execute a written agreement to provide a payment-in-lieu of taxes (PILOT) in an amount equal to or greater than 10% of the property taxes which otherwise would be due to the City for the Property.

4. The Land Disposition Development Agreement shall include a right of first refusal in the City's favor and shall include terms which allow the City to assign its rights under the Right of First Refusal.
5. The Property shall be conveyed subject to, and the Purchaser shall agree to assume and comply with, all obligations for all encumbrances of record in the Registry, including but not limited to the Agricultural Preservation Restriction recorded with Registry at Book 2326, Page 341, the Historic Preservation Restriction with the Registry at Book 5484, Page 113, and the Affordable Housing Restriction recorded with the Registry at Book 5872, Page 203
6. Each Proposer shall undertake its own review and analysis (the "Due Diligence") concerning the physical and environmental condition of the Property, applicable zoning and other land use laws, required permits and approvals, and other development, ownership, and legal considerations pertaining to the Property, and the use of the Property, and shall be solely responsible for applying for and obtaining any and all permits and approvals necessary or convenient for the Proposer's use of the Property. All costs and expenses of developing the Property including, without limitation, all costs of permitting and improvements, shall be the sole responsibility of the successful Proposer.
7. Acceptance of RFP Terms. Proposer's submission of a proposal in response to this RFP Shall constitute its acceptance of all of the terms and conditions of this RFP.
8. Proposer's Responsibility to Review all RFP Terms. It is the responsibility of each respondent to examine the terms and conditions of this RFP. Failure to do so shall be at the respondent's own risk. The City shall assume that the respondent has made a full investigation to be fully informed of the extent and character of the requirements of this RFP.
9. Compliance with all Applicable Local, State, and Federal Laws and Regulations. The respondent shall comply with all applicable laws and regulations related to this project.
10. Proposals Become Public Records. All proposals will become a matter of public record, subject to the Massachusetts public records law (M.G.L. c. 66, §10) and the corresponding regulations and exemptions. Submission of a proposal acknowledges the City's obligations under M.G.L. c. 66 if the City receives a public records request.

IX. Rights Reserved by the City of Easthampton

1. The City reserves the right to cancel this RFP; to waive any informality or irregularity as permitted by law; or reject in whole or in part, any and all proposals if the City determines that cancellation, waiver or rejection serves the best interests of the City of Easthampton. City's Option.

2. The City reserves the right to waive any minor informality in any proposals received if such waiver is in the City's interest. The determination of the criteria and process by which proposals are evaluated, the decisions as to who shall receive a contract award, or whether or not an award shall be made as a result of this RFP shall be at the sole and absolute discretion of the City.
3. Interviews and Acceptance or Rejection of Proposals. The City reserves the right to interview any and all Proposers. The City reserves the right to modify or withdraw this request at any time, to reject any or all proposals or portions of proposals, to request additional information either in writing or through interviews of selected applicants, to solicit new responses, and to award contracts as it deems to be in its best interest.
4. The City may request additional information of one or more Proposers relative to a proposal or qualifications. Requests shall be in writing with the expectation of a written response within a specified time. Proposers may also be invited to appear before the Property Committee. Failure to comply with this request shall result in a rejection of the proposal at issue. The right to an interview does not automatically extend to all proposers whose proposals are accepted for review, but is granted in the sole discretion of the City Council Property Committee.
5. The Proposer selected by the City Council Property Committee will be given exclusive rights to negotiate with the City the terms of the purchase and development of the Property. If, at any time, such negotiations are not proceeding to the satisfaction of the City, the City may, in its sole discretion, choose to terminate said negotiations. Upon the termination of such negotiations, the City Council Property Committee may, in its sole discretion, select another Proposer with whom to initiate negotiations.

X. Purchase and Sale Agreement; Land Disposition and Development Agreement

The City and the successful Proposer (the "Buyer") shall enter into a mutually satisfactory Purchase and Sale Agreement (the "P&S") within thirty (30) days from the date of the award. A Draft P&S is attached hereto as Exhibit C.

The City shall enter into a mutually acceptable Land Disposition and Development Agreement ("Agreement"), a draft of which is attached hereto as Exhibit B, with the successful Proposer which shall govern the renovation of the structures, the reuse of the Property, and include terms relating to the construction of improvements, the City's review of plans, construction schedule, insurance, and other terms, to ensure that said renovation and reuse actually takes place and the Property is not neglected. The Agreement will be negotiated simultaneously with the P&S. The Agreement or a notice existing the existence of the Agreement shall, at the City's discretion, be recorded at closing, prior to the recording of any mortgage and/or liens, and said mortgages and liens shall be subordinated to the Agreement.

Schedule of exhibits:

- Exhibit A: City Council Resolution to Dispose of 75 Oliver Street
- Exhibit B: DRAFT Land Disposition and Development Agreement
- Exhibit C: DRAFT Purchase & Sale Agreement
- Exhibit D: Real Estate Disclosure Form

Exhibit A – City Council Resolution

TO BE INCLUDED

Exhibit B – DRAFT Land Disposition and Development Agreement

**ATTACHED
TO BE INCLUDED HERE**

Exhibit C – DRAFT Purchase and Sale Agreement

**ATTACHED
TO BE INCLUDED HERE**

Exhibit D – Real Estate Disclosure Form

**ATTACHED
TO BE INCLUDED HERE**

**LEGAL NOTICE
REQUEST FOR PROPOSALS**

The City of Easthampton requests proposals for the disposition of the “Town Lodging House” property located at 75 Oliver Street in Easthampton, MA (the “Property”) The purpose of this disposition is to preserve the existing historic structures, preserve the agricultural land, and provide affordable housing to individuals with low-moderate incomes. The City anticipates disposition by sale to a developer or a development team responsive to the criteria in the City’s Request for Proposals (the “RFP”).

The RFP is available by emailing Michael Owens, Procurement Officer, at mowens@easthamptonma.gov on or after XXXXX 2026. The City will conduct a mandatory in-person pre-submission site visit at the Lodging House on XXXXXXX 2026, at 11 am. In the event of inclement weather, the site visit will be rescheduled to XXXXX, 2026, at 11 am. Proposers must register for the briefing and site visit by emailing Michael Owens at mowens@easthamptonma.gov.

Written questions may be submitted by email to mowens@easthamptonma.gov or to the address below on or before 2:00 pm on XXXXX 2026. Proposals are due on or before XXXXXXX 2026 by 11:00 am. Proposers shall submit one unbound original copy and one electronic copy to:

Procurement Officer
City of Easthampton
50 Payson Avenue – Suite 120
Easthampton, MA 01027

The proposals will be opened and recorded at 11 am on XXXXX 2026. Late submissions shall not be accepted. Unsigned proposals shall not be accepted. The City reserves the right in its sole discretion to reject any or all proposals and/or limit or refine this project’s scope as deemed in the City’s best interest.

The City of Easthampton has determined that the award of this contract is subject to the Uniform Procurement Act. M.G.L. c. 30B. Therefore, the provisions of M.G.L. c. 30B are incorporated here by reference. Submissions will be evaluated according to the requirements of M.G.L. 30B and the evaluation criteria outlined in the RFP.

Please run two times in the legal ads, once on XXXXX 2026 and again on XXXXX 2026.

Bill to: Mayor’s Office
City of Easthampton
Municipal Building – 50 Payson Avenue
Easthampton, MA 01027

PROPOSAL RESPONSE FORM
City of Easthampton
Purchase of 75 Oliver Street (Lodging House and Farmland)

Name of Proposer: _____

Organization (if any): _____

Street Address: _____

City, State, Zip: _____

Telephone & Email: _____

Proposed
Purchase Price:
\$ _____
(price written in words)

\$ _____
(price written in numbers)

Proposed use of Property _____
and any additional terms _____

(Attach additional sheets as required)

Please attach detailed financial pro-forma and a statement of the public benefit provided by your proposal.

Date: _____
Signature of Authorized Person & Title (if any)

Proposals shall be received at the Office of the Mayor, Municipal Building, 50 Payson Avenue, Suite 115, Easthampton, MA 01027 at or before 2:00 p.m. on XXXXX 2026.

AFFIDAVIT OF COMPLIANCE

Must submit

_____ Massachusetts Corporation

_____ Foreign Corporation

_____ Non-Profit Corporation

_____ Partnership

_____ Sole Proprietorship *

Name of Corporation _____

Address _____

As President, or authorized company officer, of the above-named corporation, I do hereby certify that the above-named corporation has filed with the State Secretary all certificates and annual reports required by M.G.L. Chapter 156B §109 and by Chapter 181 §4

Signed under the penalties of perjury this _____ day of

_____, _____

Signature and Title of Authorized Company Officer

Corporate Seal (affix below):

*If a sole proprietorship, you must indicate your status as a sole proprietorship; the person signing this bid shall be deemed the sole proprietor and legal entity for the purposes of this bid and contract.

Non-Collusion Form and Tax Compliance Form

Persons submitting a bid or proposal to provide supplies or services to your jurisdiction, or to purchase supplies from your jurisdiction, must submit a certification of non-collusion and tax compliance.

CERTIFICATE OF NON-COLLUSION

The undersigned certifies under penalties of perjury that this bid or proposal has been made and submitted in good faith and without collusion or fraud with any other person. As used in this certification, the word "person" shall mean any natural person, business, partnership, corporation, union, committee, club, or other organization, entity, or group of individuals.

Name of person signing bid or proposal

Name of business

TAX COMPLIANCE CERTIFICATION

Pursuant to M.G.L. C. 62C, §49A, I certify under the penalties of perjury that, to the best of my knowledge and belief, I am in compliance with all laws of the Commonwealth relating to taxes.

Name of person signing bid or proposal

Name of business

Exhibit B

DRAFT

LAND DISPOSITION AND DEVELOPMENT AGREEMENT

THIS LAND DISPOSITION AND DEVELOPMENT AGREEMENT (“Agreement or LDA”) is made this ___ day of _____, 2024 (“**Effective Date**”), by and between the City of Easthampton, Massachusetts (“**City**”), a public body corporate and politic organized under the laws of the Commonwealth of Massachusetts, having a place of business at 50 Payson Avenue, Easthampton, MA 01027 (hereinafter the “**City**” or “**City**”), and between *****, a Massachusetts, *****, having a usual place of business at ***** (“*****” or “*****” together with the “**City**”, the “**Parties**”) who agrees to purchase and develop the Property (as hereinafter defined), upon the terms and conditions hereinafter set forth.

Recitals

1. The City is the owner in fee simple of certain real property known as *****, all located within the City of Easthampton, Massachusetts the deed to which is recorded at Book 432 Page 459 in the Registry of Deeds for Hampshire County, Massachusetts. (the “Registry”), (the “**Property**”).
2. On or about ***** 2026, the City issued a request for proposals (the “**RFP**”) for the Property in connection with the contemplated development, construction and operation of ***** at the Property. The RFP is attached as Exhibit A.
3. On or about *****, the ***** submitted a proposal, a copy of which is attached as Exhibit B (the “**Proposal**”), to develop, rehabilitate, construct and operate ***** and associated site improvements on the Property.
4. On or about ***** 2026, the City designated the ***** as the preferred developer for the Property pursuant to a vote of the City Council and as the party to whom the City would dispose of interest in the Property in accordance with the RFP and other related documents. Exhibit C.
5. City and ***** desire to enter into an agreement pursuant to which the City will dispose of an interest in the Property to ***** and ***** will develop, construct, and operate the Project at the Property in accordance with this Agreement as set forth below.
6. As detailed in the Proposal, ***** intends to redevelop and rehabilitate the Property into approximately ** units of mixed income housing, including *****. There will be no more than ***** units and the majority of the remaining units will be restricted to residents earning no more than ** % of area median income (the “**Project**”).

NOW, THEREFORE, in consideration of the payment of the consideration herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

Contractual Terms.

1. The Property to be Conveyed.

- (a) The City shall convey and **** shall purchase the real property, the deed to which is recorded at Book 432 Page 459 in the Registry. Included in the sale as a part of said Property are the buildings, structures, and improvements now thereon, including, without limitation, the Building and all fixtures belonging to the City and used in connection therewith.
- (b) Surveys of the Property are attached as Exhibit E. Said surveys detail and describe the real property to be conveyed under this Agreement. The City makes no representations or warranties as to the accuracy of said surveys.
- (c) Additional Sites. Nothing in this Agreement shall preclude **** from incorporating into the Project, with the prior written consent of the City, which may not be unreasonably withheld, one or more parcels of land adjacent to any of Property; provided that any land use restriction agreement (“**LURA**”) as described and defined herein below entered into pursuant to this Agreement encumbers such additional real property as well as the Property.
- (d) The Property shall be conveyed to **** subject to a right of first refusal to be negotiated concurrent with this Agreement.

2. Consideration.

- (a) The agreed purchase price for the Property is **** Dollars (\$ ****) (the “**Purchase Price**”).
- (b) The Purchase Price for the Property shall be payable as follows:
 - (i) **** and no/100 (\$****) has been paid, or shall be paid within five (5) days of the full execution of this Agreement, as a deposit (the “**Deposit**”). The Deposit shall be credited toward to the Purchase Price at closing and refundable in the event **** is not able to obtain the Funding Award (as defined herein) and/or the Zoning Approvals (as defined herein); and
 - (ii) The remaining balance shall be paid at the time of Closing (as defined herein) in wired funds to City’s designated account or by certified, bank check or attorney’s trust fund check.
- (c) The Deposit shall be held in escrow by counsel for the City (the “Escrow Agent”). Upon receipt of the Deposit by the Escrow Agent, the City shall acknowledge receipt of the Deposit. The Parties agree that such Deposit

shall be held by the Escrow Agent, in a non-interest-bearing account pursuant to the Escrow Agreement attached hereto as Exhibit J.

- (d) The Purchaser or its tenant, or the entity actually utilizing the Property, shall execute a written agreement mandating that the City, in its sole discretion, may designate and have one non-voting observer on the organization's local governing board to facilitate communication and understanding between such entity and the City; and
- (e) If the purchase price of the Property is less than its appraised value, and if the prospective new owner and end user of the Property (collectively the "Purchaser") qualify for exemption from local property taxes under M.G.L. c. 59, § 5(3), then the parties shall negotiate, and prior to closing on the sale of the Property, the Purchaser and City shall execute a written agreement to provide a payment-in-lieu of taxes (PILOT) in an amount equal to or greater than 10% of the property taxes which otherwise, would be due to the City for the Property;

3. Project Development Schedule and Closing. The Project Development Schedule is incorporated into this Agreement as Exhibit D. Provided the Parties are in compliance with their obligations under this Agreement, the Closing shall occur within nine (9) months of ****'s receipt of a Funding Award but in no event later than **** 2026 (the "**Outside Closing Date**"). Should the Parties fail to close by the Outside Closing Date, and if such Outside Closing Date is not extended by mutual written agreement of the Parties, this Agreement shall terminate automatically one (1) day following the Outside Closing Date. Time is of the essence in this Agreement.

4. Title Deed and Restrictions.

- (a) At the Closing, upon payment of the Purchase Price as set forth above, the City shall deliver and the **** shall accept, a Quitclaim Deed, and said deed shall convey a good and clear record, marketable and insurable title thereto in fee simple to the Property, free and clear of encumbrances except the following:
 - i. Any and all provisions of any municipal ordinance and/or regulation and/or any federal, state, local, public and/or private laws, with special reference to building lines, zoning restrictions and all provisions of any zoning rules and regulations governing the subject Property;
 - ii. Taxes, including fire district and/or any other similar taxes, payable to the Town, City, Taxing District and/or properly constituted association in which the Property are situated which become due and payable after delivery of the Deed, which taxes the **** shall assume and agree to pay as part of the consideration for the Deed;
 - iii. Any liens for municipal betterments assessed after the date of this

Agreement;

- iv. Easements, restrictions, and reservations of record;
- v. Such facts as an accurate survey and/or physical inspection of the Property might reveal, provided same do not render title unmarketable; and
- vi. Any Permitted Exceptions (as defined herein).

(b) Long Term Use Restriction. At the time of Closing, **** shall execute and record a land use restriction agreement, in a recordable form acceptable to the City consistent with the requirements of this Agreement enforceable as a restriction encumbering the Property for no less than **** (**) years pursuant to which **** shall agree to use the Property for the use allowed under this Agreement, excepting any other incidental uses necessary for the success of the Project as agreed to by the City. The City agrees that MassDocs form of Affordable Housing Restriction (“AHR”) recorded in connection with the financing of the Project shall satisfy this requirement. The City shall have the right to review the AHR prior to the Closing to confirm that its terms are consistent with the requirement of this LDA.

5. Due Diligence Period.

(a) **** shall have the right to conduct, or caused to be conducted, for a period of sixty (60) days after the Effective Date (the “**Due Diligence Period**”), any and all inspections, investigations, tests, title examinations, review of existing leases and tenancies, and studies, including, without limitation, investigations with regard to zoning, building codes, and other governmental regulations, **** technical inspections, engineering tests and soils, seismic and geological reports, as well as toxic and environmental reports and investigations as to title to be conveyed with respect to the Property, and any other reasonable physical, mechanical and structural inspections and/or investigations as **** may elect to make or obtain, all at ****’s sole expense and risk.

Upon request by ****, City will provide to **** all relevant reports, data and testing results pertinent to the site which are in City’s possession within fifteen (15) days of the Effective Date.

**** may terminate this Agreement for any reason by giving to City written notice of ****’s election to terminate (“****’s **Termination Notice**”) not later than 5:00 p.m. on the last day of the Due Diligence Period. If **** terminates this Agreement pursuant provision **** shall be entitled to the return of the Deposit. In such event, except as expressly provided elsewhere herein, this Agreement shall be of no further force and effect and the Parties shall have no further rights, obligations or liabilities hereunder. Should **** terminate this Agreement pursuant to this provision **** shall, at no cost, provide the City with copies of all reports, finds and the like of any nature or kind related to the Property which are developed or received by **** during the Due Diligence

Period.

****, its employees, agents and independent contractors at ****'s sole cost, risk and expense may enter the Property in the City's presence upon reasonable advance written Notice to the City to do any nondestructive inspections or review or verify any due diligence information. **** shall not make any subsurface soil examinations without City's prior approval and unless **** has satisfied City that such examinations will not adversely affect any building foundations and/or utilities. Destructive or invasive testing shall be agreed to in advance, in writing by the Parties. **** will restore the Property to the condition which existed prior to such examinations.

- (b) During the Due Diligence Period, upon providing forty-eight (48) hours' notice to City, ****, its agents, consultants, contractors and subcontractors shall have the right to enter upon the Property to conduct or make any and all of the foregoing inspections and tests. **** shall indemnify and hold City and the Property harmless from and against any and all costs, losses, damages or expenses including reasonable attorney's fees and costs arising out of or resulting from such entry by ****, its agents, consultants, contractors or subcontractors and the like.
- (c) During the Due Diligence Period, **** shall order a title commitment (the "**Title Commitment**") and, at ****'s sole discretion, a survey, and **** shall notify City in writing in detail of any objections to the Title Commitment and/or survey no less than five (5) days prior to the expiration of the Due Diligence Period. If the Title Commitment or survey reveals a title defect of a character that can be reasonably satisfied, remedied or cured by legal action or otherwise within a reasonable time, upon the written request of **** ("**Title Notice**"), which request shall be delivered on or before the date that is five (5) days prior to the expiration of the Due Diligence Period, City may, at its expense and sole option, promptly take such action as is necessary to eliminate such defect. City shall respond to the Title Notice within fifteen (15) days after its receipt specifying whether City will satisfy any matters raised in the Title Notice. If the City agrees to satisfy the matters raised the date for Closing shall automatically extend for thirty (30) days. Notwithstanding anything else contained here to the contrary, City shall not be required to spend more than \$1,000.00 to cure title defects. If (i) City elects not to cure such defect, or (ii) City elects in writing to cure a defect but has not cured such defect by the date of Closing, then **** may, at its sole discretion: (A) extend the date of Closing for a reasonable period not to exceed thirty (30) days to allow City to cure such defect(s); (B) terminate this Agreement, in which event **** shall receive a full refund of the Deposit; or (C) proceed to Closing and accept such title as City can convey. Notwithstanding any other provision of this section, City covenants and agrees that all liens and encumbrances on City's title to the Property which secure the payment of a sum certain, including judgment liens, mortgages, mechanics' liens and delinquent taxes or taxes which are otherwise due and payable on or before the Closing shall be removed by City out of the Purchase Price at Closing, whether or not **** has designated such as an

unacceptable encumbrance or a defect. If City does not timely receive notice of ****'s election to terminate under this Section 4(e) above or Section 4(g) below, **** will be deemed to have waived the uncured objections and to approve the title as shown in the Title Commitment, and such uncured objections shall become "**Permitted Exceptions**". The Title Company shall issue an Owner's and a Loan Policy, with appropriate endorsements, at a market rate appropriate to the size of this transaction in connection with the sale of the Property.

- (d) Extension of Due Diligence Period. **** by Notice to City may extend the Due Diligence Period for an additional thirty (30) days by giving City Notice on or before the expiration of original Due Diligence period of its need for such extension.
- (e) Notification of Government Entities. In the event the need arises to notify under applicable laws any federal, state or local public agencies of any environmental conditions at the Property, as a result of ****'s Investigations, **** shall immediately notify City and agrees that City, not **** or ****'s employees, agents, contractors subcontractors, consultants, attorneys, appraisers or other representatives, shall make such disclosure as City deems appropriate, unless such disclosure is required by law to be made by **** or ****'s employees, agents, contractors, subcontractors, consultants, attorneys or other representatives, in which instance **** or such employee, agent, contractor, subcontractor, consultant, attorney, or other representative may make such disclosure and **** shall immediately notify City thereof.

6. Possession and Condition of Property. The City shall not enter into a lease or occupancy agreement, or other agreement allowing for tenancy or use of occupancy of the Property which extends past the Closing Date without the express written consent of ****, which consent shall not be unreasonably withheld. The Property shall be delivered at the Closing free of all tenants and occupants. Upon such delivery, the Property shall be in the condition that they were in at the time of the execution of this Agreement, reasonable wear and tear excepted.

7. Acceptance of Deed. The acceptance of the Deed by the **** or its nominee, as the case may be, shall be deemed to be a full performance and discharge of every agreement and obligation herein contained or expressed, except such as are, by the terms hereof, to be performed after the Closing.

8. Use of Purchase Price to Clear Title. To enable the City to make conveyance as herein provided, the City may, at the time of Closing, use the Purchase Price or any portion thereof to clear the title of any or all encumbrances or interests; provided that all instruments so procured are recorded with the Deed or within a reasonable time under local conveyancing practices.

9. Adjustments.

- (a) Fuel, rents, security deposits, last month's rents plus accrued interest or other leasehold deposits, and real estate taxes and assessments for the then current year shall be apportioned as of the Closing Date; and the net amount thereof shall be added to or deducted from, as the case may be, the Purchase Price.
- (b) If the amount of said taxes, if any, is not known at the time of the Closing, then the taxes shall be apportioned on the basis of the taxes assessed for the preceding year with a reapportionment as soon as the new tax rate and valuation can be ascertained; and if the taxes which are to be apportioned shall thereafter be reduced by abatement, the amount of such abatement, less the reasonable cost of obtaining the same, shall be apportioned between the Parties; provided, that neither party shall be obligated to institute or prosecute proceedings for an abatement unless herein otherwise agreed.
- (c) Payment of Tax Stamps. It is assumed by the Parties that this transaction shall not be subject to an excise tax pursuant to M.G.L c. 64D, § 1 et. seq. If an excise is imposed such excise shall be the obligation of ****.

10. Broker. The Parties represent to each other that they have not dealt with a real estate agent or broker. If any other agent or broker is entitled to a commission as a result of this transaction, it shall be paid by the party with whom the agent or broker dealt and the party breaching this representation shall indemnify and hold the other party harmless from any claims as a result of such breach.

11. Default.

- (a) **** shall be in Default of this Agreement if any of the following occur and **** after receiving Notice of its default from the City fails to cure same:
 - i. There is a material change to Project without prior approval from the City. Material change shall mean an increase in the number of market-rate units at the Project;
 - ii. The LURA is not recorded at the Closing;
 - iii. **** fails to pursue all necessary financing, development and construction permits for the Project diligently and in good faith as required by this Agreement following the expiration of the Due Diligence Period; or
 - iv. **** breaches any material provision of this Agreement; or

- v. **** files a lawsuit of any nature or kind against the City, its employees or Boards, or appeals in any way the decision of any local licensing authority or permit granting authority.
 - vi. **** shall be adjudicated bankrupt or be declared insolvent under the federal bankruptcy code or any other federal or state law (as now or hereafter in effect) relating to bankruptcy, insolvency, reorganization, winding up or adjustment of debts (hereinafter collectively “Bankruptcy Laws” or if **** shall (a) apply for or consent to the appointment of, or the taking of possession by, any receiver, custodian, trustee, United States Trustee, or liquidator (or other similar official) of **** or of any substantial portion of ****’s property, or (b) generally not pay its debts as they become due, admit in writing its inability to pay its debts generally as they become due, or (c) make a general assignment for the benefit of its creditors, or (d) file a petition commencing a voluntary case or seeking to take advantage of any Bankruptcy Law; or
 - vii. If an order for relief against **** is entered in any involuntary case under any Bankruptcy Law, or if the petition commencing an involuntary case against **** or proposing reorganization of **** under any Bankruptcy Law shall be filed in and approved by any court of competent jurisdiction and not be discharged or denied within sixty (60) days after filing, or if a proceeding or case shall commence in any court of competent jurisdiction seeking aid or liquidation, the organization, dissolution, winding up or adjustment of debts of ****, or the appointment of a receiver, custodian, trustee, United States Trustee, or liquidator or (other similar official) of **** or of any substantial portion of ****’s property, or any similar relief as to **** pursuant to any Bankruptcy Law, and any such proceeding or case shall continue undismissed, or an order, judgment or decree approving any or ordering any of the foregoing shall be entered and continued unstayed and in effect for thirty (30) days.
 - viii. Remedies for the City. If there is a Default by **** and **** does not purchase the Property, the City shall retain the Deposit and **** agrees to compensate the City an additional **** Dollars (\$****) and this shall be the City’s sole remedy at law and in equity.
- (b) The City shall be in Default of this Agreement if any of the following occur and the City after receipt of Notice of its Default from **** fails to cure same:
- (i) The City fails in any material respect to observe or perform any covenant, condition, agreement or obligation under this Agreement.
 - (ii) Remedies for ****. If there is an Event of Default by the City *** shall provide the City Notice of such Default and the City shall thereafter have the right to cure as detailed in this Agreement. If such Default is not cured,

****'s sole remedies shall be to either (i) terminate this Agreement upon proper notice to the City and thereafter the Deposit shall be immediately refunded to **** or (ii) commence an action for specific performance. In no event shall the City be liable to **** for damages of any nature or kind including lost opportunity or consequential damages.

- (c) Right to Cure. Upon Notice that it is in Default under this Agreement, the Party receiving such Default notice shall have (60) days after the receipt of such Default Notice to cure such Default before the non-defaulting party may seek a relief of any nature or kind as a result of such Default.

12. Conditions Precedent.

(a) ****'s performance of its obligations hereunder is subject to the satisfaction of the following conditions which conditions are for the sole benefit of **** and may only be waived by ****: (i) City has performed all material obligations to be performed by it hereunder and all of City's representations and warranties contained herein shall be true and correct as of Closing in all material respects; (ii) there shall have been no material adverse change in the title, including but not limited to zoning or use restrictions, to the Property from the date of the expiration of the Due Diligence Period subject only to those Permitted Exceptions; (iii) there shall have been no material adverse change in the physical condition of the Property from the date of the expiration of the Due Diligence Period, subject to the condemnation and casualty provisions; (iv) **** will have obtained the Zoning Approvals and (iv) **** shall have obtained the Financing Award.

(b) Financing Award. The Closing is contingent upon **** obtaining an award of **** and such additional public financing that, when combined with ****, is sufficient to allow **** to construct the Project in ****'s reasonable discretion (the "**Financing Award**"). **** agrees to diligently and expeditiously apply for and pursue the Financing Award as soon as the applications therefor are available and to diligently pursue the post-application requirements in order to obtain the Financing Award as soon as possible.

(c) Zoning Relief. The Closing is contingent upon **** obtaining the necessary zoning relief to construct the Project (the "**Zoning Approvals**").

(d) City's performance of its obligations hereunder is subject to the satisfaction of the following conditions: (i) **** has performed all material obligations to be performed by it hereunder and all of ****'s representations and warranties contained herein shall be true and correct as of Closing Date in all material respects; and (ii) ****'s delivery to the title company chosen by **** on or before the Closing Date, for disbursement as provided herein, of the Purchase Price, less Deposits, plus or minus proration, adjustments, and the other sums, documents and materials described elsewhere in this Agreement.

(e) If any of the conditions specified in this Section have not been satisfied at or prior to the Closing Date, each of ***** and City shall have the right to provide Notice to the other party that it is terminating this Agreement, in which case the notified party shall have up to thirty (30) days to cure any of the conditions specified in this Section and if the notified party is City and City has not cured then ***** shall receive a refund of the Deposit and thereafter this Agreement shall terminate and cease to exist and the Parties shall have no ongoing obligations to each other.

13. Responsibilities.

The responsibilities set forth in Exhibit I attached hereto are incorporated into this Agreement.

14. Representations.

(a) The City represents to the ***** as follows:

(i) The City has the legal power, right and authority to enter into this Agreement and the instruments referenced herein, and to consummate the transaction contemplated hereby;

(ii) To the knowledge of the City, there is no pending or threatened condemnation or similar proceeding effecting the Property or any portion thereof;

(iii) To the knowledge of the City, there are no current legal actions, suits or other legal or administrative proceedings, pending or threatened, effecting the Property; and,

(iv) Except as previously disclosed by City to ***** , the City has not received written notice from any governmental agency or department that the Property are in violation of any municipal, state or federal law, ordinance or regulation applicable to the Property.

(b) ***** represents to the City as follows:

(i) ***** has the legal power, right and authority to enter into this Agreement and the instruments referenced herein, and to consummate the transaction contemplated hereby.

15. Non-Foreign Person. City represents to the ***** that the City is not a “foreign person” as that term is defined in Section 1445 of the Internal Revenue Code and, at the Closing, will deliver to the ***** an affidavit to that effect on the date of Closing. The City also agrees to provide to the ***** information necessary for the ***** to file a form 1099B.

16. Notices. Except as specifically provided for herein, any “Notice” required by this

Agreement shall be given in writing by (i) certified mail, return receipt requested; or (ii) a national overnight courier service; or sent as follows:

Developer: ****
Attn: ****

with a copy to: Attorney ****

City: **City of Easthampton**
Attn: Mayor
50 Payson Avenue
Easthampton, MA 01027

with a copy via email to:

City of Easthampton
Attn: City Planner

50 Payson Avenue
Easthampton, MA 01027

City of Easthampton

50 Payson Avenue
Easthampton, MA 01027

City Attorney

Any Notice shall be effective upon (i) placement with a national overnight courier service; or (ii) receipt of mailing certified mail, return receipt requested.

17. Property Conveyed “AS IS”.

- (a) Disclaimer of Representations and Warranties by City. It is understood and agreed that City, elected and appointed officials, employees and agents have not made and are not now making any representations or warranties relative to the Property, and they specifically disclaim to the

extent not expressly set forth in this Agreement or any document executed by City and delivered to **** or ****'s Title Company at Closing, any warranties, representations or guaranties of any kind or character, express or implied, oral or written, past, present or future, with respect to the Property, including, but not limited to, warranties, representations or guaranties as to (i) matters of title, (ii) environmental matters relating to the Property or any portion thereof, (iii) geological conditions, including, without limitation, subsidence, subsurface conditions, water table, underground water reservoirs, limitations regarding the withdrawal of water and earthquake faults and the resulting damage of past and/or future earthquakes, (iv) whether, and to the extent to which the Property or any portion thereof is affected by any stream (surface or underground), body of water, flood prone area, flood plain, floodway or special flood hazard, (v) drainage, (vi) soil conditions, including the existence of instability, past soil repairs, soil additions or conditions of soil fill, or susceptibility to landslides, or the sufficiency of any undershoring, (vii) zoning, subdivision or other land use restrictions, regulations or requirements to which the Property or any portion thereof may be subject, (viii) the availability of any utilities to the Property or any portion thereof including, without limitation, water, sewage, gas and electric, (ix) usages of adjoining Property, (x) access to the Property or any portion thereof, (xi) the value, compliance with the plans and specifications, size, location, age, use, design, quality, description, suitability, structural integrity, operation, or physical or financial condition of the Property or any portion thereof, or any rent, income, expenses, charges, liens, encumbrances, rights or claims on or affecting or pertaining, to the Property or any part thereof, (xii) the presence of Hazardous Substances (hereinafter defined) in or on, under or in the vicinity of the Property, (xiii) the condition or use of the Property or compliance of the Property with any or all applicable laws, including, without limitation, past, present or future federal, state or local ordinances, rules, regulations or laws, building, fire or zoning ordinances, codes or other similar laws, (xiv) the existence or non-existence of underground storage tanks, (xv) any other matter affecting the stability or integrity of the Land, (xvi) the potential for further development of the Property, (xvii) the existence of vested land use, zoning or building entitlements affecting the Property, (xviii) the merchantability of the Property or fitness of the Property for any particular purpose (**** affirming that **** has not relied on City's skill or judgment to select or furnish the Property for any particular purpose, and that City makes no warranty that the Property is fit for any particular purpose), or (xix) tax consequences of the transaction contemplated by this Agreement, except as set forth in this Agreement. **** represents that it is a knowledgeable, experienced and sophisticated developer of real estate and that it is relying on its experience and the experience, information provided by and recommendations of ****'s consultants in purchasing the Property, together with the representations and warranties being given by City hereunder. **** acknowledges and

agrees that upon Closing, City shall sell and convey to **** and **** shall, subject to any representations, warranties and covenants contained herein expressly described to survive the Closing, accept the Property “as is, where is,” with all faults. **** further acknowledges and agrees that there are no oral agreements, warranties or representations, collateral to or affecting the Property by City, any agent of City or any third party. **The terms and conditions of this Section 17 shall expressly survive the Closing and not merge with the provisions of any documents delivered at Closing.** City is not liable or bound in any manner by any oral or written statements, representations, or information pertaining to the Property furnished by any real estate broker, agent, employee, servant or other person, unless the same are specifically set forth herein or in any document executed by City and delivered to **** or ****’s Title Company at Closing. **** acknowledges that the Purchase Price reflects the “as is” nature of this sale and any faults, liabilities, defects or other adverse matters that may be associated with the Property. **** has fully reviewed the disclaimers and waivers set forth in this Agreement with its counsel and understands the significance and effect thereof.

- (b) DISCLAIMER OF EXPRESS OR IMPLIED WARRANTIES. THERE ARE NO EXPRESS OR IMPLIED WARRANTIES GIVEN TO **** IN CONNECTION WITH THE SALE OF THE PROPERTY EXCEPT AS HEREIN SET FORTH IN THIS AGREEMENT. THE CITY HEREBY DISCLAIMS ANY AND ALL WARRANTIES OF MERCHANTABILITY, HABITABILITY AND FITNESS THAT MAY BE DUE FROM CITY TO ****, WHETHER IN REGARD TO ANY BUILDING SITUATED ON THE PROPERTY, THE PERSONAL PROPERTY CONTAINED THEREIN OR THE FIXTURES CONTAINED THEREIN. This Section shall expressly survive the Closing.
- (c) “Hazardous Substances” Defined. For purposes hereof, **“Hazardous Substances”** means any hazardous, toxic or dangerous waste, substance or material, pollutant or contaminant, as defined for purposes of the Comprehensive Environmental Response, Compensation and Liability Act Of 1980 (42 U.S.C. Sections 9601 et seq.), as amended (**“CERCLA”**), or the Resource Conservation and Recovery Act (42 U.S.C. Sections 6901 et.), as amended (**“RCRA”**), or any other federal, state or local law, ordinance, rule or regulation applicable to the Property, or any substance which is toxic, explosive, corrosive, flammable, infectious, radioactive, carcinogenic, mutagenic or otherwise hazardous, or any substance which contains gasoline, diesel fuel or other petroleum hydrocarbons, polychlorinated biphenyls (pcbs), radon gas, urea formaldehyde, asbestos, lead or electromagnetic waves.
- (d) Release. Subject to Section 17(a) and 17(b) above and except with respect

to a representation, warranty or covenants expressly made herein expressly described to survived the Closing or in any documents delivered by City at Closing, **** hereby fully and irrevocably releases City, City's managers, and members and its and their respective employees, officers, directors, shareholders, owners, constituent partners, representatives, agents, servants, attorneys, affiliates, parent, subsidiaries, successors and assigns, and all persons, firms, corporations and organizations acting in its behalf (collectively all of the foregoing being called "**City Released Parties**") from any and all claims that it may now have or hereafter acquire against City (and/or any of the City Released Parties) for any costs, loss, liability, damage, expenses, demand, action or cause of action (including, without limitation, causes of action in tort) of any and every kind and character known or unknown which **** might have alleged or asserted against City arising from or related to the Property, including, without limitation, any construction defects, errors, omissions or other conditions, latent or otherwise, any Hazardous Substances or other environmental matters, affecting the Property, or any portion thereof or arising from or related to any violations of applicable laws or any and all other acts, omissions, events, circumstances or matters regarding the Property or the Leases. This release includes claims of which **** is presently unaware or which **** does not presently suspect to exist which, if known by ****, would materially affect ****'s release of City. **** hereby acknowledges that it understands the significance and consequences of such release and **** has had an opportunity to be advised by independent counsel regarding the same. The assumptions, exceptions, and releases contained in this Section 17(d) shall survive the Closing. The release granted herein is not intended to be an indemnification of **** to the City Released Parties.

18. Development of the Project on the Property.

**** agrees to Develop the project as set forth in this Agreement pursuant to the terms and conditions of this Agreement.

19. Survival

All provisions of this Agreement governing the LURA shall be recorded and shall touch, concern and run with the Property in perpetuity. ****'s release and indemnity obligations detailed in this Agreement shall survive the closing or termination of this Agreement and shall be enforceable in perpetuity or for the longest period permitted by law.

20. Miscellaneous Provisions.

(a) CASUALTY LOSS. Until the delivery of the Deed, City shall maintain insurance on said Property as presently insured. All risk of loss shall remain with the City until the recording of the Deed.

(b) ADDITIONAL DOCUMENTATION AT CLOSING. The City agrees to execute and

deliver simultaneously with the delivery of the Deed (a) an owner's affidavit, in customary form in order to induce *** title insurer to remove the standard exceptions to the title insurance policy regarding parties in possession and mechanics' liens; (b) such affidavits or other documents as *** may reasonably request in order to confirm that City is not a "foreign person" for purposes of Section 1445 of the Internal Revenue Code of 1986, as amended; (c) affidavit of purchase price and terms; (d) an affidavit furnishing the information required for filing IRS Form W-8 or W-9 as applicable and Form 1099 with the Internal Revenue Service; and (e) such other documents and certificates as the ****'s attorney may reasonably require, or which are otherwise usual and customary in similar transactions. At the time of delivery of the Deed, **** shall execute and deliver a disclosure form as required by M.G.L. c. 7C §38. CITY shall prepare and file all required forms.

- (c) ASSIGNMENT. ****shall not assign this agreement or any of ***'s rights hereunder without prior written consent of City, which may be withheld in City's sole and absolute discretion.
- (d) TITLE AND PRACTICE STANDARDS. Any matter arising under or relating to this Agreement which is the subject of a title standard or practice standard of the Massachusetts Real Estate Bar Association at the time for delivery of the Deed shall be covered by said title or practice standard to the extent applicable, unless it is inconsistent with any provision of this Agreement.
- (e) CONDEMNATION; EMINENT DOMAIN. Notwithstanding anything herein to the contrary, in the event of a taking of any part of the premises by eminent domain, City and ***** may, unilaterally at their own option, terminate this Agreement, whereupon all deposits made by under this Agreement shall be returned to ****.
- (f) POST-CLOSING COMPLIANCE. If any errors or omissions are found to have occurred in any calculations or figures used in the settlement statement signed by the parties, and notice thereof is given within sixty (60) days of the date of the delivery of the Deed to the party charged, then such party agrees to make a payment as necessary to correct the error or omission. This provision shall survive delivery of the Deed.
- (g) Entire Agreement: This Agreement constitutes the entire agreement and understanding of the Parties, is an integrated document and supersedes any and all prior agreements and understandings of the Parties, whether oral written or otherwise.
- (h) Exhibits. All exhibits referred to in this Agreement shall be incorporated into this Agreement by such reference and shall be deemed a part of this Agreement as if fully set forth in this Agreement.
- (i) Payments: Time is of the essence for the payments and/or actions required under this Agreement. The Parties acknowledge that the failure to make the payments and/or take the actions as outlined in this Agreement is a material breach of this Agreement.

- (j) Waiver or Modification: No modification, amendment or waiver of any of the provisions contained in this Agreement, or any representation, promise or condition in connection with the subject matter of this Agreement shall be binding upon any Party unless made in writing and signed by such Party or by a duly authorized officer or agent of such Party.
- (k) Further Assurances: The Parties agree to execute all reasonable documents and perform all reasonable acts necessary or appropriate to effectuate the performance of the terms of this Agreement.
- (l) No Promise or Inducement: The Parties acknowledge that no promise or inducement which is not contained in this Agreement has been made to him/her or it, and in executing this Agreement he/she or it has not relied upon any statement or representation not contained in this Agreement.
- (m) Reliance on Representations: Each of the Parties agrees that they have relied on the representation and warranty of each and every other Party made in writing in this Agreement and that but for such representations or warranties such Party would not have executed this Agreement.
- (n) No Rights in Non-Parties: No individual or entity not a Party to this Agreement shall have any rights whatsoever with regard to this Agreement.
- (o) Plain Meaning: Unless specifically defined in this Agreement, all words used in this Agreement shall be given their plain and ordinary meaning.
- (p) Legal Construction: Each Party has read all portions of this Agreement and has had it explained by his/her or its attorney if the Party is represented by an attorney. The Parties agree that the terms of this Agreement shall not be interpreted in favor of or against any Party as the draftsman, but shall be interpreted solely for the purposes of fairly effectuating the express intent of the Parties as detailed in this Agreement.
- (q) Headings: In interpreting this Agreement, headings shall have no meaning and shall be treated as being provided for informational purposes only.
- (r) Severability: Except for the release provisions, if any term, provision, covenant or condition of this Agreement shall be held by a court of competent jurisdiction to be invalid, void or unenforceable, in whole or in part, such decision shall not effect the validity of any remaining portion of this Agreement and the remaining portion of this Agreement shall stand in full force and effect, and shall in no way be effected, impaired or invalidated.
- (s) Forum Selection and Jurisdiction: This Agreement shall be governed solely by the laws of the Commonwealth of Massachusetts without giving effect to conflicts of laws principles. The Parties irrevocably and unconditionally consent to the exclusive jurisdiction of the Commonwealth of Massachusetts Superior Court and the venue of

Hampshire County, Massachusetts to resolve all disputes, claims or controversies arising out of or relating to this Agreement or any agreement, document or instrument executed and delivered in connection to or with this Agreement or the negotiation, breach, validity, termination or performance of this Agreement and the transactions contemplated hereby.

- (t) Authority to Execute Agreement: Each Party executing this Agreement warrants and represents to the other Parties that he/she or it is an authorized representative of the Party holding valid and legal authority to execute this Agreement and to bind themselves and the entities they represent to the terms of this Agreement.
- (u) Execution in Multiple Parts/Signatures: To facilitate execution, this Agreement may be executed in two or more counterparts each of which shall be deemed an original but all of which shall constitute one and the same document. A scanned, duplicate or facsimile copy of a signature on this Agreement shall have the same force and effect as if such signature were an original signature.
- (v) Mechanics Liens: During the Cities' ownership of the Property, **** has no express or implied authority to create or place any lien or encumbrance of any kind upon, or in any manner to bind the interest of City, the Property for any claim in favor of any person dealing with ****, including those who may finish materials or perform labor for any construction or repairs. **** covenants and agrees that it will pay or cause to be paid all sums legally due and payable by it on account of any labor performed or materials furnished in connection with any work performed on the Premises and that it will save and hold City harmless from all loss, cost or expense based on or arising out of asserted claims or liens against the leasehold estate or against the interest of City in the Premises or under this Lease. **** shall give City immediate written notice of the placing of any lien or encumbrance against the Premises and cause such lien or encumbrance to be discharged within 30 days of the filing or recording thereof, provided, however, **** may contest such liens or encumbrances as long as such contest prevents foreclosure of the lien or encumbrance and **** causes such lien or encumbrance to be bonded or insured over in a manner satisfactory to City within such 30 day period.
- (w) No Agency/No Joint Venture. The Parties acknowledge and agree that **** is not an agent or employee of the City. Neither **** nor any of its officers, agents, employees, representatives or subcontractors shall be considered an employee, direct or indirect, of the City within the meaning of any federal, state or local law or regulation, including but not limited to, laws or regulations covering unemployment insurance, workers compensation, industrial accidents, employee rights and benefits, wages and taxes. Nothing in this Agreement shall be construed to create a relationship between Service Provider and Municipality of a partnership, association, or joint venture.
- (x) Genders. Any reference to the masculine gender shall be deemed to include the feminine and neuter genders, and vice versa, and any reference to the singular shall

include the plural, and vice versa, unless the context otherwise requires.

(y) Initialing. Each page which contains a handwritten or typewritten change and each exhibit which is not attached to this Agreement shall be initialed or signed by each party.

(z) Assignment. **** may assign or transfer its rights and obligations under this Agreement only to a nominee entity with common ownership to be formed prior to closing to take title to the Property without City's consent, provided notice of such assignment or nomination is given to City five (5) business days prior to the Closing Date.

(aa) Computation of Time Periods. If the Closing Date or any other date or time period provided for in this Agreement expires or ends on a Saturday, Sunday or Federal, state or legal holiday, then such date shall automatically be extended until 5 p.m. Eastern Daylight Time of the next day which is not a Saturday, Sunday or federal, state or legal holiday.

IN WITNESS WHEREOF, the undersigned have executed this Agreement on the day and year first above written.

**CITY OF EASTHAMPTON,
MASSACHUSETTS**

Witness

By: _____
****, Its Mayor

****** PROPOSER ******

Witness

By: _____

ESCROW AGENT

Witness

By: _____
INSERT NAME, Shareholder.

Schedule of Exhibits

Exhibit A	Town Lodging Reuse RFP (Request for Proposals)
Exhibit B	**** Reuse Proposal
Exhibit C	City Council Resolution
Exhibit D	Project Development Schedule
Exhibit E	Plans of Land
	E-1 ****
Exhibit F	LURA Agreement
Exhibit G	Tenants
Exhibit H	Intentionally Omitted
Exhibit I	Project Development
Exhibit J	Escrow Agreement
Exhibit K	**** Concept Plan

Exhibit A ** (Request for Proposals)**

Exhibit B ** Reuse Proposal**

Exhibit C City Council Approval

Exhibit D Project Development Schedule

TBD

Exhibit E Plans of Land

E-1 Plan of Land ****

Exhibit F LURA Agreement

Exhibit G Existing Tenants

NONE

EXHIBIT I PROJECT DEVELOPEMET

Article 1. Development of Project

1.1 The Project. The Project shall be developed and constructed in conformance with Exhibits A, B, C, D, H and I as modified by the written Agreement of the Parties and as permitted by such permits are issued for the construction of the Project providing that such permits substantially conform to the Agreement.

Article 2. Responsibilities of ** as Relate to the Project.**

- 2.1 **** shall have sole responsibility for all aspects of the Project, including but not limited to design, permitting, financing, development, construction and operation of the Project.
- 2.2 **** shall comply and shall apply for and diligently pursue all necessary governmental consents and approvals, including, if required, a land use permit pursuant to the City's 40R zoning district or any other zoning permits, a building permit and other municipal, state or federal permits, prior to undertaking any work on the Project.
- 2.3 **** shall apply for all necessary Project financing and subsidy arrangements. **** shall keep the City fully informed of all applications for government assistance and public or private financing with respect to the Project and upon request shall provide the City with copies of formal submissions in addition to the drafts submitted for prior City review.
- 2.4 ****'s responsibility for Project costs shall in no way preclude **** from applying for or and receiving funds from **** under the **** Program or similar public **** grant support program.
- 2.5 **** shall coordinate, direct and manage the Project development and construction teams identified in the Proposal and any other team members subsequently selected by ****. **** shall provide the City with contact information for contractors, where available, for sub-contractors working on the Project.
- 2.6 **** shall manage and supervise the construction of the Project in a good and first-class workmanlike manner and employing new materials of good quality and in accordance with the terms of this Agreement.
- 2.7 **** shall not permit or cause any party to bring any Hazardous Material upon the Property or transport, store, use, generate, manufacture or release any Hazardous Material in or about the Property without City's prior written consent.
- 2.8 **** shall use its reasonable best efforts to adhere to the Project Development Schedule attached as Exhibit H-1 and shall update the City as to the completion of the milestones detailed therein and or its inability to meet same.
- 2.9 **** shall insure the Project conforms and complies with the Agreement.
- 2.10 Upon reasonable notice **** shall provide the City on a timely basis, or upon request from City, all information reasonably necessary for the City to determine whether **** is in compliance with its obligations under the Agreement including access to the Property and Project, and to assure compliance with the provisions of this Agreement.

Article 3. Responsibilities of City.

3.1 City shall review in a timely manner any matter which it is required to review or approve and advise **** of approval or denial, and (if relevant) of its reasons for denial. Provided, however, that nothing in the Agreement or shall serve as a guarantee that **** will receive any permit, license or the like from any municipal board.

3.2 Public Funding. City may in its reasonable discretion apply, in partnership with or aid **** in, applications for such grants or other public funding which may be available to improve the public infrastructure in, around or about the Property.

3.3 Financing (“****”). City will cooperate in good faith with **** in its application for a **** or similar agreement designed to set the real estate tax liability for the Property over a ten (10) year period from the Closing Date. Provided however, that **** understands and agrees that the City’s cooperation in such application(s) shall not guarantee that the City will ultimately negotiate and/or enter into or approve a **** or similar agreement with ****.

3.3 City shall cooperate in good faith with **** in providing information within City’s possession as necessary to obtain licenses, approvals, clearances, zoning permit and other permits, or other cooperation from local, state, and Federal agencies and officials and from local governing bodies, including with respect to the approval of the Project for funding provided by the Massachusetts Department of Housing and Community Development (DHCD) and/ or the United States Department of Housing and Urban Development; provided, that in no event will the City be responsible for the cost of preparing any such applications.

3.4 In no event shall the City assume any responsibility as a borrower, guarantor or endorser of any debt relating to the Existing Property or the Project.

3.5 Except as detailed in this Agreement, the City shall have no control over ****, the work, contractors, subcontractors or workers involved in the Project.

Article 4. Modification of the Project.

If resources anticipated by the Parties for the Project become unavailable, or for any reason the Project ceases to be feasible, including, without limitation, due to engineering constraints of the Property, the Parties will work, in good faith, to develop changes or alternate plans which accomplish the original goals set forth in this Agreement to the maximum extent possible given available resources, which changes may include a change in the number of the units in the Project but shall not include a material reduction in the number of affordable housing units or a change in the income eligibility criteria for such units. In the event that the Parties, acting in good faith, are either unable to identify feasible changes or alternate plans or to agree upon proposed changes or alternate plans within six (6) months after the need for changes or alternate plans has been identified, either party may terminate this Agreement upon thirty (30) days’ written notice to the other party, in which event **** shall be entitled to termination expenses.

Article 5. Additions to the Project Not Fully Negotiated at Time the Agreement was Executed but which the Parties Agree will become part of the Agreement.

The Parties agree they will use their reasonable best efforts to negotiate the following terms which shall be included as part of any permit application.

5.1 ****. **** and the City shall, in good faith, negotiate a written agreement for use of the *** by the public at a nominal cost to be negotiated by **** and the City or other end user. It is reasonably anticipated this objective may be satisfied by way an agreement, i.e., a lease between **** and third party(ies) approved by the City, or by way of a lease to the City for use by the City or a lease to the City and subsequent sublease of such space to a third party approved by the City and ****. This right to use shall be perpetual in nature. Providing further that **** shall make its reasonable best efforts to make the **** available for use by the City during construction of the Project.

5.2 Public Parking Location and Amount. **** shall provide a minimum of **spaces and a ****, which is similar in nature and design to the **** Concept Plan dated **** 2026 (“**** **Concept Plan**”) previously provided by the City to **** and included herein as Exhibit K. Location and maintenance are to be discussed during the Due Diligence Period and **** reserves the right to locate the **** on a separate lot that will be conveyed to the City.

5.3 The Project at the Property shall include environmental sensitive landscaping as appropriate utilize native plantings.

5.4 **** shall use commercially reasonable efforts to achieve LEED certification and receive Enterprise Green Communities Certified for the Project.

Exhibit J

ESCROW AGREEMENT

Section 1. Parties and Definitions

A. Parties

City Means City of Easthampton, MA
50 Payson Avenue
Easthampton, MA 01027

**** Means *****

B. Definitions

Agreement Means this Escrow Agreement

Claims Means all debts, demands, actions, causes of action, suits, dues, sum and sums of money, accounts, reckonings, bonds, covenants, contracts, controversies, agreements, promises, doings, omissions, variances, damages, extents, executions, liabilities and any and all other claims of every kind, nature, and description whatsoever, both in law and in equity, which a **Party** to this **Agreement** now has or ever had from the beginning of the world to the date of this **Agreement** on account of any actions or inactions including all claims which were ever raised or could ever have been raised against any **Party** or the **Escrow Agent** regarding the **Agreement**. **Claims** does not mean or include the **Parties'** obligations, and/or the terms, conditions, rights and remedies under this **Agreement**.

Escrow Means the sum of **** and no/100 (\$****) to be held by the **Escrow Agent** in a non-interest-bearing account of the **Escrow Agents** choosing subject to the terms of this **Agreement**. The **Escrow** shall be released by the Escrow Agent as detailed in this **Agreement** and Exhibit A attached hereto and incorporated herein.

Escrow Agent Means Bacon Wilson, P.C.

Parties Means all the **Parties** collectively named in § 1A of this **Agreement**.

Section 2. Recitals

In consideration of the mutual promises and covenants contained in this **Agreement**, the payment of all or part of the **Escrow** on the terms and conditions detailed herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by all

Parties, the **Parties** and the **Escrow Agent** agree as follows:

Section 3. Release of Claims

- A. **The Parties** hereby remise, release, and forever discharge the **Escrow Agent** in its role as **Escrow Agent** from all **Claims** except as preserved herein.

Section 4. Miscellaneous Provisions

- A. This **Agreement** shall be operative on the date it is executed by the **Parties** and the **Escrow Agent**.
- B. The **Parties** acknowledge that the **Escrow Agent** represents the **City** and hereby consent to the continued representation of the **City** by the **Escrow Agent** during the entire period of time that the **Escrow Agent** is holding the **Escrow**, including without limitation any period of time in which any dispute under this **Agreement** exists between the **Parties**.
- C. The **Parties** agree that the **Escrow Agent** shall not be liable for any action or non-action taken in good faith in connection with the performance by the **Escrow Agent** of its duties hereunder, but shall be liable only for willful default or acts of bad faith.
- D. The **Escrow Agent** shall disburse the Escrow only upon joint written instruction of all parties, or upon the request of either **Party** if after written notice by the **Escrow Agent** to the other **Party** and the expiration of five (5) days from the date of delivery of such written notice no written objection to the disbursement of the **Escrow** has been made by the other **Party**.
- E. The **Escrow Agent** is authorized to retain such amounts and all interest, if any thereon in its possession, without liability to any **Party**, until such dispute has been settled by mutual agreement of the **Parties** or by a final order, decree, or judgment of a court of competent jurisdiction and the time for appeal has expired and no appeal has been perfected. The **Escrow Agent** shall not be under any duty to institute or defend any such proceedings. In no event shall the **Escrow Agent** be required to take any action unless and until indemnified to its satisfaction by the **Party** requesting such action.
- F. In the event that the **Escrow Agent** institutes any declaratory, interpleader or other action, the Parties agree to indemnify and hold the **Escrow Agent** harmless in equal shares from and against its reasonable costs and expenses and reasonable attorneys' fees incurred in connection therewith, which may be deducted from the **Escrow** to the extent available.
- G. The **Escrow Agent** has executed this **Agreement** to indicate its acceptance of the provisions of this agreement and its agreement to abide by those provisions of this **Agreement** that are applicable to the **Escrow Agent**.

- H. The execution of this **Agreement** by the **Escrow Agent** is not intended to and shall not result in any privity of contract with any **Party** or any possible third-party beneficiary of this **Agreement**.
- I. Except as otherwise provided for herein the **Escrow Agent** shall not be paid any fees or other amounts in connection with the performance by the **Escrow Agent** of its services hereunder.
- J. **Entire Agreement:** This **Agreement** constitutes the entire agreement and understanding of the **Parties**, is an integrated document and supersedes any and all prior agreements and understandings of the **Parties**, whether oral written or otherwise.
- K. **Plain Meaning:** Unless specifically defined in this **Agreement**, all words used herein shall be given their plain and ordinary meaning.
- L. The **Parties** acknowledge that no promise or inducement which is not contained in this **Agreement** has been made to him/her or it, and in executing this **Agreement** he/she or it has not relied upon any statement or representation not contained in this **Agreement**.
- M. **No Rights in Third Parties:** No individual or entity not a party to this **Agreement** shall have any rights whatsoever with regard to this **Agreement**.
- N. **Participation of Counsel:** The **Parties** have participated through legal counsel in negotiations leading to this **Agreement**, and have had the benefit of consultation and advice of said counsel regarding the settlement of the **Civil Action**, and regarding the terms and effect of this **Agreement**. If a **Party** was not represented with regard to this **Agreement** such **Party** acknowledges that he/she or it voluntarily proceeded without counsel and understands that this **Agreement** is binding pursuant to its terms and conditions.
- O. **Legal Construction:** Each **Party** has read all portions of this **Agreement** and has had it explained by his/her or its attorney if the **Party** is represented by an attorney. The **Parties** agree that the terms of this **Agreement** shall not be interpreted in favor of or against any **Party** as the draftsman, but shall be interpreted solely for the purposes of fairly effectuating the express intent of the **Parties**.
- P. **Waiver or Modification:** No modification, amendment or waiver of any of the provisions contained in this **Agreement**, or any representation, promise or condition in connection with the subject matter of this **Agreement** shall be binding upon any **Party** unless made in writing and signed by such **Party** or by a duly authorized officer or agent of such **Party**.
- Q. **Severability:** Except for the release provisions, if any term, provision, covenant or condition of this **Agreement** shall be held by a court of competent jurisdiction to be invalid, void or unenforceable, in whole or in part, such decision shall not effect the

validity of any remaining portion and the remaining portion shall stand in full force and effect, and shall in no way be effected, impaired or invalidated.

Forum Selection and Jurisdiction: This **Agreement** shall be governed solely by the laws of the Commonwealth of Massachusetts without giving effect to conflicts of laws principles. The **Parties** irrevocably and unconditionally consent to the exclusive jurisdiction of the Commonwealth of Massachusetts Superior Court and the venue of **Hampshire County**, Massachusetts to resolve all disputes, claims or controversies arising out of or relating to this **Agreement** or any agreement, document or instrument executed and delivered in connection to or with this **Agreement** or the negotiation, breach, validity, termination or performance of this **Agreement** and the transactions contemplated hereby.

- R. **No Assignment of Rights:** This **Agreement** and the rights of the **Parties** hereunder may not be assigned (except by operation of law) and shall be binding upon and shall inure to the benefit of the **Parties** their heirs, successors and assigns, if any. The **Parties** further expressly represent and warrant that he/she or it is the lawful owner of the **Claims** released in this **Agreement** and that he/she or it has not otherwise transferred or assigned such **Claims**.
- S. **Authority to Execute Agreement:** Each **Party** executing this **Agreement** warrants and represents to the other **Parties** that (1) he/she or it lawfully holds the interest being released, (2) and he/she or it is an authorized representative of the **Party** holding valid and legal authority to execute this **Agreement** and to bind themselves and the entities they represent to the terms of this **Agreement**.
- T. **Execution in Multiple Parts:** To facilitate execution, this **Agreement** may be executed in two or more counterparts each of which shall be deemed an original but all of which shall constitute one and the same document.
- U. **Headings:** In interpreting this **Agreement**, headings shall have no meaning and shall be treated as being provided for informational purposes only.

IN WITNESS WHEREOF, we have hereunto set our hands and seals on the dates indicated below our signatures.

SIGNATURE PAGE TO FOLLOW

Witness

City of Easthampton
Its: Mayor
Date: _____

Witness

Date: _____

*******, P.C. as Escrow Agent**

Witness

Date: _____

Exhibit K Map** Concept Plan**

Exhibit C
DRAFT

City of Easthampton
Request for Proposals (RFP)

Purchase, Renovation and Reuse of the
Historic Town Lodging House & Adjacent Agricultural Land

DRAFT PURCHASE AND SALE AGREEMENT

1. **PARTIES**. This Purchase and Sales Agreement (this “Agreement”) is made this ____ day of _____, 2022 between the **City of Easthampton**, with a principal address located at 50 Payson Avenue, Easthampton, Massachusetts, hereinafter called the “SELLER” and _____, of _____, hereinafter called the “BUYER”.

2. **DESCRIPTION OF PREMISES**. Subject to the terms and conditions set forth herein, SELLER hereby agrees to sell, and BUYER hereby agrees to buy, the following bounded and described premises:
 - a. **XXXXXX, Easthampton, Massachusetts**, identified on Assessors Map XX as Lot X, containing XXX acres, more or less, and being the premises described in a Deed recorded with the Hampshire County Registry of Deeds in Book _____, Page _____.
 - b. **XXXXXX, Easthampton, Massachusetts**, identified on Assessors Map XX as Lot XX, containing XX acres, more or less, being the premises described in a Deed recorded with the Hampshire County Registry of Deeds in Book _____, Page _____.

3. **BUILDINGS, STRUCTURES, IMPROVEMENTS, FIXTURES**. Included in the sale as a part of said Premises are the buildings, structures, and improvements now thereon, including, without limitation, the Building and all fixtures belonging to the SELLER and used in connection therewith.

4. **TITLE**. Said premises are to be conveyed by a quitclaim deed running to BUYER, or to the nominee designated by BUYER by written notice to SELLER at least seven business days before the Deed is to be delivered as provided herein, and said Deed shall convey a good and clear record and marketable title free from all encumbrances, except:
 - a. Provisions of existing building and zoning laws;
 - b. Such taxes for the then current year as are not due and payable on the date of the delivery of such Deed, except as set forth herein;

- c. Any liens for municipal betterments assessed after the date of this Agreement;
 - d. Easements, restrictions, and reservations of record, so long as the same do not prohibit or materially interfere with the use of said premises for residential and community purposes;
5. DEED; PLAN. SELLER shall prepare the Deed. If said Deed refers to a plan necessary to be recorded therewith, BUYER shall deliver such plan with the Deed in a form adequate for recording or registration.
6. TIME FOR PERFORMANCE. The Deed is to be delivered and the consideration paid at the Hampshire County Registry of Deeds, or as otherwise agreed upon by the parties herein, (XX) days from the effective date of this Agreement, or an earlier date, upon the BUYER delivering at least fourteen (14) days' prior written notice thereof. If the closing date shall fall on a weekend or other such day on which the Registry of Deeds is closed, the closing shall take place on the next business day thereafter. It is agreed that time is of the essence of this Agreement.
7. PURCHASE PRICE. The purchase price for said premises is _____ and 00/100 Dollars (\$_____), of which:
- \$_____ has been paid today, constituting 5% of the purchase price and representing the deposit hereunder
 - \$_____ are to be paid at the time of delivery of the Deed by certified, treasurer's or bank check, or by wire transfer, at the discretion of the SELLER,
 - \$_____ TOTAL
8. POSSESSION AND CONTROL OF PREMISES. Full possession of the premises, free and clear of all occupants and tenants, is to be delivered at the time of the delivery of the Deed, said premises to be then in the same condition in which they are now, reasonable use and wear of the buildings thereon excepted. The BUYER shall be entitled to the right to inspect the premises for compliance with this paragraph prior to the delivery of the Deed to determine whether the condition complies with the terms of this clause.
9. EXTENSION TO MAKE TITLE OR PREMISES CONFORM. If SELLER shall be unable to give title or to make conveyance, or to deliver possession of the premises, all as herein stipulated, or if at the time of the delivery of the Deed the premises do not conform with the provisions hereof, SELLER shall use reasonable efforts to remove any defects in title, or to deliver possession as provided herein, or to make the said premises conform to the provisions hereof, as the case may be, in which event SELLER shall give written notice to BUYER at or before the time for performance herein, and the time for performance shall be extended for a period of no more than one hundred twenty calendar days, In no event, however, shall reasonable efforts require SELLER to expend more than \$XXX.00, inclusive of attorney's fees.

10. FAILURE TO PERFECT TITLE OR MAKE PREMISES CONFORM. If at the expiration of the extended time SELLER shall have failed to remove any defects in title, deliver full possession, or make the premises conform, as the case may be, then any payments made under this Agreement shall be forthwith refunded and all other obligations of the parties hereto shall cease and this Agreement shall be void without further recourse to the parties hereto.
11. BUYER'S ELECTION TO ACCEPT TITLE. BUYER shall have the election, at either the original or any extended time for performance, to accept such title as SELLER can deliver to the said premises in their then-existing condition and to pay the purchase price herein without deduction, in which case SELLER shall convey such title as they have without further recourse.
12. ACCEPTANCE OF DEED. The acceptance of a Deed by BUYER shall be deemed a full performance and discharge of every agreement and obligation herein contained or expressed, excepting those obligations which are, by their terms or nature, to be performed after the delivery of said Deed.
13. CASUALTY LOSS. Until the delivery of the Deed, SELLER shall maintain insurance on said premises as presently insured. All risk of loss shall remain with SELLER until the recording of the Deed.
14. ADJUSTMENTS. Fuel is to be adjusted as of the Closing Date and a payment in lieu of taxes shall be paid in accordance with G.L. c.44 §63A as of the day of performance of this Agreement and the net amount thereof shall be added to the purchase price payable by BUYER at the time of delivery of the Deed.
15. ADJUSTMENT OF UNASSESSED AND ABATED TAXES. If the amount of said taxes is not known at the time of delivery of the deed, they shall be apportioned on the basis of the taxes assessed for the preceding fiscal year.
16. DEPOSITS. All deposits made hereunder shall be held in escrow by the City Treasurer in a non-interest bearing account, subject to the terms of this Agreement and shall be duly accounted for at the time of performance for this Agreement. In the event of any disagreement between the parties, the escrow agent shall retain all deposits made under this Agreement pending written instructions mutually given by SELLER and BUYER or a final order by a court of competent jurisdiction.
17. LIABILITY OF TRUSTEE, SHAREHOLDER, BENEFICIARY, ETC. If SELLER or BUYER executes this Agreement in a representative or fiduciary capacity, only the principal or the estate being represented shall be bound, and neither SELLER nor BUYER so executing, nor any shareholder or beneficiary of any trust, shall be personally liable for any obligation, express or implied, hereunder.
18. WARRANTIES AND REPRESENTATIONS. BUYER acknowledges that BUYER has not been influenced to enter into this transaction nor has BUYER relied upon any

warranties or representations not set forth or incorporated in this Agreement or previously made in writing, except the following additional warranties and representations, made by SELLER: None.

19. BROKERS. BUYER and SELLER each represent and warrant to the other that each has not contacted any real estate broker in connection with this transaction and was not directed to the other as a result of any services or facilities of any real estate broker. BUYER and SELLER agree to defend and indemnify the other against and hold the other harmless, to the extent permitted by law, from any claim, loss, damage, costs, or liabilities for any brokerage commission or fee that may be asserted against the other by any broker in connection with this transaction. The provisions of this paragraph shall survive delivery of the Deed.
20. ADDITIONAL DOCUMENTATION AT CLOSING. The SELLER agrees to execute and deliver simultaneously with the delivery of the Deed (a) an owner's affidavit, in customary form in order to induce BUYER'S title insurer to remove the standard exceptions to the title insurance policy regarding parties in possession and mechanics' liens; (b) such affidavits or other documents as BUYER may reasonably request in order to confirm that SELLER is not a "foreign person" for purposes of Section 1445 of the Internal Revenue Code of 1986, as amended; (c) affidavit of purchase price and terms; (d) an affidavit furnishing the information required for filing IRS Form W-8 or W-9 as applicable and Form 1099 with the Internal Revenue Service; and (e) such other documents and certificates as the BUYER'S attorney may reasonably require, or which are otherwise usual and customary in similar transactions. At the time of delivery of the Deed, BUYER shall execute and deliver a disclosure form as required by G.L. c.7C §38. SELLER shall prepare and file all required forms.
21. ASSIGNMENT. BUYER shall not assign this agreement or any of BUYER'S rights hereunder without prior written consent of SELLER, which may be withheld in SELLER'S sole and absolute discretion.
22. CONDITION OF PREMISES. BUYER acknowledges and agrees that upon closing, SELLER shall sell and convey to BUYER and BUYER shall accept the Premises "as is, where is, with all faults," including SELLER'S responsibility to remove all personal property and deliver the Premises in broom-clean condition, except to the extent expressly provided otherwise in this Agreement. BUYER has not relied and will not rely on and express or implied warranties, guaranties, statements, representations, or information pertaining to the Premises made or furnished by SELLER or any agent, employee, board or commission member, or any other party representing or purporting to represent SELLER, nor shall SELLER be liable or bound by the same, unless explicitly set forth in this Agreement. Without limiting the above, BUYER acknowledges that SELLER has no responsibility for hazardous waste, oil, hazardous material or other hazardous substances, as those terms are defined by any applicable law, rule, or regulation, including but not limited to the Massachusetts Oil and Hazardous Materials Release Prevention and Response Act, G.L. c.21E, on, in, under, or released from the Premises, or for any other condition or defect in the Premises.

BUYER represents to SELLER that BUYER has had the opportunity to conduct such investigation of the Premises, including but not limited to, the physical and environmental conditions thereof, as BUYER deems necessary or desirable to satisfy itself as to the condition of the Premises and the existence or nonexistence of curative action to be taken with respect to any Hazardous Waste on or discharged from the Premises. BUYER further agrees to rely solely upon the same and not upon any information provided by or on behalf of SELLER, its agents, or employees, unless expressly set forth herein. Upon closing, BUYER shall assume the risk that adverse matters, including but not limited to, construction defects and other physical and environmental conditions, may not have been revealed by BUYER'S investigations. BUYER, upon closing, shall be deemed to have waived, relinquished, and released SELLER from and against any and all claims, demands, causes of action, damages, liabilities, costs, and expenses of any and every kind or character, known or unknown, which BUYER might have asserted or alleged against SELLER at any time arising out of any latent or patent construction defects or physical conditions, violations of any applicable laws and any and all other acts, omissions, events, circumstances, or matters regarding the Premises.

23. BUYER'S DEFAULT; DAMAGES. If BUYER shall fail to fulfill BUYER'S agreements herein, all deposits made hereunder by BUYER shall be retained by SELLER as SELLER'S sole and exclusive remedy at law and equity for BUYER'S breach of this Agreement.
24. SELLER'S DEFAULT, DAMAGES. If SELLER shall fail to fulfill SELLER'S obligations herein, BUYER shall be entitled to terminate this Agreement and receive a refund of the Deposit. The foregoing shall be BUYER'S sole and exclusive remedy at law and in equity for any breach of this Agreement by SELLER. BUYER agrees that the amount of the Deposit represents a reasonable estimate of the damages BUYER will sustain in the event of such default by SELLER, and shall not be deemed to constitute a forfeiture or penalty.
25. TITLE AND PRACTICE STANDARDS. Any matter arising under or relating to this Agreement which is the subject of a title standard or practice standard of the Massachusetts Real Estate Bar Association at the time for delivery of the Deed shall be covered by said title or practice standard to the extent applicable, unless it is inconsistent with any provision of this Agreement.
26. BUYER'S REPRESENTATIONS. BUYER hereby warrants and represents that this Agreement and all documents to be executed by BUYER and delivered to BUYER at the closing are, or at the time of closing will be, duly authorized, executed, and delivered by BUYER.
27. NOTICE. Any notice required to be given under this Agreement shall be in writing and signed by the part or the party's attorney or agent and shall be deemed to have been given upon the earlier of: (i) two business days after deposit with the United States Postal

Service, if sent by registered or certified mail, return receipt requested; (ii) one business day after deposit with an express courier service such as Federal Express; (iii) actual receipt; or (iv) confirmed facsimile transmission, provided such facsimile transmission is promptly followed by other acceptable means of sending notice. Notice are to be addressed as follows:

In the case of BUYER:

With a copy to:

In the case of SELLER:

With a copy to:

By such notice, either party may notify the others of a new address, in which case such new address shall be employed for all subsequent deliveries and mailings.

28. CONDEMNATION; EMINENT DOMAIN. Notwithstanding anything herein to the contrary, in the event of a taking of any part of the premises by eminent domain, SELLER or BUYER may, at their own option, terminate this Agreement, whereupon all deposits made by BUYER under this Agreement shall be returned to BUYER.

29. POST-CLOSING COMPLIANCE. If any errors or omissions are found to have occurred in any calculations or figures used in the settlement statement signed by the parties, and notice thereof is given within sixty (60) days of the date of the delivery of the Deed to the party charged, then such party agrees to make a payment as necessary to correct the error or omission. This provision shall survive delivery of the Deed.

30. EXTENSIONS. BUYER and SELLER hereby authorize their respective attorneys to execute on their behalf any extensions to the time for performance and any change of location and/or time for delivery of the Deed. BUYER and SELLER shall be able to rely upon the signature of said attorneys as binding unless they have actual knowledge prior to the execution of the document that such authority has been revoked or disclaimed. For the purposes of this Agreement and any Amendments thereto, facsimile and scanned signatures shall be construed as original.
31. CONSTRUCTION. This Agreement may be executed in multiple counterparts and each executed copy shall be deemed to be an original, to take effect as a sealed instrument, sets forth the entire agreement between the parties, is binding and inures to the benefit of the parties hereto and their respective heirs, devisees, executors, administrators, successors and/or assigns. If two or more persons are named as BUYER or SELLER herein, their obligations shall be joint and several.
32. ADDITIONAL TERMS, INCORPORATION. All contract terms, conditions, and requirements of the Request for Proposals dated XXXXX and the successful proposer's response to the RFP dated _____ 2026 and incorporated herein by reference as though the same were stated at length.
33. GOVERNING LAW. This Agreement shall be governed exclusively by the provisions of the laws of the Commonwealth of Massachusetts, and any actions, suits, or other claims pertaining or relating to this Agreement shall be brought within the courts of Massachusetts.

[Signature page to follow.]

Executed as a sealed instrument as of the date set forth above.

SELLER: City of Easthampton

BUYER:

By:

Its:

Exhibit C

DISCLOSURE STATEMENT FOR TRANSACTION WITH A PUBLIC AGENCY CONCERNING REAL PROPERTY M.G.L. c. 7C, s. 38 (formerly M.G.L. c. 7, s. 40J)

INSTRUCTION SHEET

NOTE: The Division of Capital Asset Management and Maintenance (DCAMM) shall have no responsibility for insuring that the Disclosure Statement has been properly completed as required by law. Acceptance by DCAMM of a Disclosure Statement for filing does not constitute DCAMM's approval of this Disclosure Statement or the information contained therein. Please carefully read M.G.L. c. 7C, s. 38 which is reprinted in Section 8 of this Disclosure Statement.

Section (1): Identify the real property, including its street address, and city or town. If there is no street address then identify the property in some other manner such as the nearest cross street and its tax assessors' parcel number.

Section (2): Identify the type of transaction to which this Disclosure Statement pertains --such as a sale, purchase, lease, etc.

Section (3): Insert the exact legal name of the Public Agency participating in this Transaction with the Disclosing Party. The Public Agency may be a Department of the Commonwealth of Massachusetts, or some other public entity. Please do not abbreviate.

Section (4): Insert the exact legal name of the Disclosing Party. Indicate whether the Disclosing Party is an individual, tenants in common, tenants by the entirety, corporation, general partnership, limited partnership, LLC, or other entity. If the Disclosing Party is the trustees of a trust then identify the trustees by name, indicate that they are trustees, and add the name of the trust.

Section (5): Indicate the role of the Disclosing Party in the transaction by checking one of the blanks. If the Disclosing Party's role in the transaction is not covered by one of the listed roles then describe the role in words.

Section (6): List the names and addresses of every legal entity and every natural person that has or will have a direct or indirect beneficial interest in the real property. The only exceptions are those stated in the first paragraph of the statute that is reprinted in Section 8 of this Disclosure Statement. If the Disclosing Party is another public entity such as a city or town, insert "inhabitants of the (name of public entity)." If the Disclosing Party is a non-profit with no individual persons having any beneficial interest then indicate the purpose or type of the non-profit entity. If additional space is needed, please attach a separate sheet and incorporate it by reference into Section 6.

Section (7): Check "NONE" in the box if none of the persons mentioned in Section 6 is employed by DCAMM or an official elected to public office in the Commonwealth of Massachusetts. Otherwise list any parties disclosed in Section 6 that are employees of DCAMM or an official elected to public office.

Section (8): The individual signing this statement on behalf of the Disclosing Party acknowledges that he/she has read the included provisions of Chapter 7C, Section 38 (formerly Chapter 7, Section 40J) of the General Laws of Massachusetts.

Section (9): Make sure that this Disclosure Statement is signed by all required parties. If the Disclosing Party is a corporation, please make sure that this Disclosure Statement is signed by a duly authorized officer of the corporation as required by the statute reprinted in Section 8 of this Disclosure Statement.

DCAMM's acceptance of a statement for filing does not signify any opinion by DCAMM that the statement complies with applicable law.

This completed and signed Disclosure Statement should be emailed to realestate.dcammm@mass.gov or otherwise delivered to:

Deputy Commissioner for Real Estate
Division of Capital Asset Management and Maintenance
One Ashburton Place, 15th Floor, Boston, MA 02108

**DISCLOSURE STATEMENT FOR
TRANSACTION WITH A PUBLIC AGENCY CONCERNING REAL PROPERTY
M.G.L. c. 7C, s. 38 (formerly M.G.L. c. 7, s. 40J)**

The undersigned party to a real property transaction with a public agency hereby discloses and certifies, under pains and penalties of perjury, the following information as required by law:

(1) REAL PROPERTY:

(2) TYPE OF TRANSACTION, AGREEMENT, or DOCUMENT:

(3) PUBLIC AGENCY PARTICIPATING in TRANSACTION:

(4) DISCLOSING PARTY'S NAME AND TYPE OF ENTITY:

(5) ROLE OF DISCLOSING PARTY (Check appropriate role):

_____ Lessor/Landlord

_____ Lessee/Tenant

_____ Seller/Grantor

_____ Buyer/Grantee

_____ Other (Please describe): _____

(6) The names and addresses of all persons and individuals who have or will have a direct or indirect beneficial interest in the real property excluding only 1) a stockholder of a corporation the stock of which is listed for sale to the general public with the securities and exchange commission, if such stockholder holds less than ten per cent of the outstanding stock entitled to vote at the annual meeting of such corporation or 2) an owner of a time share that has an interest in a leasehold condominium meeting all of the conditions specified in M.G.L. c. 7C, s. 38, are hereby disclosed as follows (attach additional pages if necessary):

NAME

RESIDENCE

(7) None of the above-named persons is an employee of the Division of Capital Asset Management and Maintenance or an official elected to public office in the Commonwealth of Massachusetts, except as listed below (Check "NONE" if NONE):

NONE

NAME:

POSITION:

**DISCLOSURE STATEMENT FOR
TRANSACTION WITH A PUBLIC AGENCY CONCERNING REAL PROPERTY
M.G.L. c. 7C, s. 38 (formerly M.G.L. c. 7, s. 40J)**

- (8) The individual signing this statement on behalf of the above-named party acknowledges that he/she has read the following provisions of Chapter 7C, Section 38 (formerly Chapter 7, Section 40J) of the General Laws of Massachusetts:

No agreement to rent or to sell real property to or to rent or purchase real property from a public agency, and no renewal or extension of such agreement, shall be valid and no payment shall be made to the lessor or seller of such property unless a statement, signed, under the penalties of perjury, has been filed by the lessor, lessee, seller or purchaser, and in the case of a corporation by a duly authorized officer thereof giving the true names and addresses of all persons who have or will have a direct or indirect beneficial interest in said property with the commissioner of capital asset management and maintenance. The provisions of this section shall not apply to any stockholder of a corporation the stock of which is listed for sale to the general public with the securities and exchange commission, if such stockholder holds less than ten per cent of the outstanding stock entitled to vote at the annual meeting of such corporation. In the case of an agreement to rent property from a public agency where the lessee's interest is held by the organization of unit owners of a leasehold condominium created under chapter one hundred and eighty-three A, and time-shares are created in the leasehold condominium under chapter one hundred and eighty-three B, the provisions of this section shall not apply to an owner of a time-share in the leasehold condominium who (i) acquires the time-share on or after a bona fide arms length transfer of such time-share made after the rental agreement with the public agency is executed and (ii) who holds less than three percent of the votes entitled to vote at the annual meeting of such organization of unit owners. A disclosure statement shall also be made in writing, under penalty of perjury, during the term of a rental agreement in case of any change of interest in such property, as provided for above, within thirty days of such change.

Any official elected to public office in the commonwealth, or any employee of the division of capital asset management and maintenance disclosing beneficial interest in real property pursuant to this section, shall identify his position as part of the disclosure statement. The commissioner shall notify the state ethics commission of such names, and shall make copies of any and all disclosure statements received available to the state ethics commission upon request.

The commissioner shall keep a copy of each disclosure statement received available for public inspection during regular business hours.

- (9) This Disclosure Statement is hereby signed under penalties of perjury.

PRINT NAME OF DISCLOSING PARTY (from Section 4, above)

AUTHORIZED SIGNATURE of DISCLOSING PARTY DATE (MM / DD / YYYY)

PRINT NAME & TITLE of AUTHORIZED SIGNER



City Council Resolution to Declare Surplus and Dispose of 75 Oliver Street, also known as the Town Lodging House, in the City of Easthampton, MA.

- WHEREAS The Inhabitants of the City of Easthampton (the "City") are the owners in fee simple of the real property known as the Town Lodging House, located at 75 Oliver Street (the "Property"), as described in a deed recorded with the Hampshire County Registry of Deeds, Book 432, Page 459; and
- WHEREAS The Property is no longer needed for municipal purposes; and
- WHEREAS The City wishes to declare the Property as surplus; and
- WHEREAS The City has determined that disposing of the Property is in the best interests of the City and its residents, subject to certain conditions on the sale of the Property; and
- WHEREAS The City wishes to dispose of the Property pursuant to a certain Request for Proposals (the "RFP") prepared by the City Council Property Committee, appended hereto as Attachment A; and
- WHEREAS Massachusetts Law including but not limited to Massachusetts General Laws, Chapter 40 S 3, authorizes the disposition of municipal property upon the vote of the City Council,

NOW, THEREFORE, BE IT MOVED:

1. That the City Council of Easthampton hereby declares the Property located at 75 Oliver Street, including all real property and fixtures as more particularly described in a deed recorded with the Hampshire County Registry of Deeds (the "Registry"), Book 432, Page 459, as surplus and not presently needed for municipal purposes; and
2. That the City Council hereby authorizes the disposition of the Property pursuant to the mechanism detailed in the RFP, subject to the following conditions on the sale of the Property:

- a. If the City enters into an agreement to sell the Property for less than its appraised value, and if the prospective new owner and end user of the Property (collectively the "Purchaser") qualify for exemption from local property taxes under M.G.L. c. 59, S 5(3), then the parties shall negotiate, and prior to closing on the sale of the Property, the Purchaser and City shall execute a written agreement to provide a payment-in-lieu of taxes (PILOT) in an amount equal to or greater than 10% of the property taxes which otherwise would be due to the City for the Property;
 - b. The Property shall be conveyed to the Purchaser subject to, and the Purchaser shall agree to assume and comply with, all obligations for all encumbrances of record in the Registry, including but not limited to the Agricultural Preservation Restriction recorded with Registry at Book 2326, Page 341 , the Historic Preservation Restriction recorded with the Registry at Book 5484, Page 113, and the Affordable Housing Restriction recorded with the Registry at Book 5872, Page 203;
 - c. The reuse of the Property by the Purchaser shall provide a substantial public benefit to vulnerable or underserved communities;
 - d. The Land Disposition and Development Agreement executed by the Mayor shall be substantially similar to the drafts appended hereto as Attachment B (the "Agreement");
 - e. The Agreement shall include a right of first refusal in the City's favor and the City shall have the right to assign same;
 - f. The Agreement shall include a requirement that the City and the Purchaser or its tenant, or the entity actually utilizing the Property, shall execute a written agreement mandating that the City, in its sole discretion, may designate and have one non-voting observer on the organization's local governing board to facilitate communication and understanding between such entity and the City; and
3. That the City Council authorizes the Mayor, or their designee, to circulate and publish as necessary the RFP in Attachment A, pursuant to applicable state and local laws; and
 4. That the City Council authorizes the City Council Property Committee to serve as the RFP Review Committee and to receive, open and evaluate the responses to the RFP pursuant to the terms and criteria outlined in said RFP; and

5. That the City Council Property Committee, acting as the RFP Review Committee, shall thereafter be authorized to make recommendations to the Mayor relative to the proposals received; and
6. That the City Council authorizes the Mayor, or their designee, to take all necessary actions to dispose of the Property in accordance with (i) the recommendation of the City Council Property Committee, (ii) the aforementioned conditions on the sale of the Property, and (iii) all applicable local and State laws, such actions including but not limited to entering into agreements and executing all documents necessary for the lawful convenance of the Property; and
7. That a copy of this vote be entered into the official records of the City Council and provided to the City Council Property Committee, the Mayor and the City Solicitor for implementation.

VOTED In favor: __; Opposed:_____. [Requires 2/3 Vote]

Approved this ____ day of _____ 2026.

EASTHAMPTON CITY COUNCIL

In accordance with Section 3-7 of the Easthampton Home Rule Charter, the following order, resolution or vote adopted by the City Council is presented to the Mayor for approval:

Date: _____

 Mayor Salem Derby

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>

ZONING ORDINANCE



Easthampton, Massachusetts

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

This zoning ordinance was adopted by vote of Town Meeting on
January 18, 1995 (Updated through April 17, 2024)

(All amendments adopted thereafter are incorporated herein)

Appendix G*

CITY OF EASTHAMPTON

Section I. TITLE, AUTHORITY AND PURPOSE

Section II. DEFINITIONS

- 2.0 Word Definitions
- 2.1 Term Definitions

Section III. ESTABLISHMENT OF ZONING DISTRICTS

- 3.0 Division Into Districts
- 3.1 Zoning Map
- 3.2 Changes to the Map
- 3.3 Boundaries of Districts

Section IV. INTERPRETATION AND APPLICATION

- 4.0 Interpretation
- 4.1 Application
- 4.2 Application of Zoning to Lawful Nonconforming Uses or Structures
- 4.3 Mixed Uses

Section V. USE REGULATIONS

- 5.0 Applicability of Use Regulations
- 5.1 Permitted Uses
- 5.2 Uses Subject to Other Regulations
- 5.3 Table of Use Regulations

Section VI. AREA, HEIGHT AND BULK REGULATIONS

- 6.0 Applicability of Area, Height and Bulk Regulations
- 6.1 Table of Area Regulations
- 6.2 Table of Height and Bulk Regulations
- 6.3 Reduction of Lot Areas
- 6.4 Separation of Lots
- 6.5 Screening and Buffers
- 6.6 Buildings in the Floodway
- 6.7 Accessory Buildings in All Residential Districts, the General Business District, and the Neighborhood Business District
- 6.8 Other General Area, Height and Bulk Provisions
- 6.9 Fences, Hedges, Walls and other Enclosures
- 6.10 Building Size Cap for Retail Uses

ZONING ORDINANCE AND MAP

11-06-2024

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

Cross references: Buildings and building regulations, Ch. 4; classification of buildings by use for construction purposes, 4-64.

State Law Reference: Authority of town to adopt zoning Bylaw, chapter 808 of the Acts of 1975.

Section VII. SPECIAL DISTRICT REGULATIONS

- 7.0 Aquifer Protection District
- 7.1 Floodplain and Manhan River Protection Zoning District
- 7.2 Wireless Communications Services District (WCSD)
- 7.3 Solar Energy Facilities
- 7.4 Smart Growth Zoning Overlay District (SGZD)

Section VIII. DEVELOPMENT METHODS

- 8.0 General Development Standards
- 8.1 Planned Business Development
- 8.2 Planned Industrial Development
- 8.3 Multifamily Dwellings
- 8.4 Section deleted 10-15-2008
- 8.5 Accessory Dwelling Units
- 8.6 Planned Unit Residential Development for Affordable Housing
- 8.7 Planned Unit Development for Mixed Uses
- 8.8 Downtown Business Development Methods
- 8.9 Highway Business Development Methods
- 9.0 Mixed Use/Mill Industrial Development Methods
- 9.1 Open Space Residential Development
- 9.3 Transfer of Development Rights
- 9.4 Traditional Neighborhood Development Regulations

Section X. ADDITIONAL LAND USE REGULATIONS

- 10.0 Signs
- 10.1 Off-Street Parking and Loading Regulations
- 10.2 Environmental Performance Standards
- 10.3 Filling of Swales, Valleys, etc.
- 10.4 Home Occupation
- 10.5 Commercial Development and Performance Standards
- 10.6 Removal of Sand, Gravel, Quarry or other Earth Materials
- 10.7 Adult Entertainment Enterprises
- 10.8 Keeping of Farm Animals on Residential Lots
- 10.9 Medical Marijuana
- 10.10 Adult Use Cannabis Establishments

Section XI. NONCONFORMING USES, STRUCTURES AND LOTS Section XII. ADMINISTRATION AND ENFORCEMENT

- 12.0 Administrative Official
- 12.1 Permit Required
- 12.2 Previously Approved Permit
- 12.3 Certificate of Occupancy Required
- 12.4 Permit Time Limits
- 12.5 Violations

11-06-2024

- 12.6 Board of Appeals
- 12.7 Special Permits
- 12.9 Site Plan Approval

Section XIII. ADMINISTRATIVE APPEALS

- 13.0 Administrative Appeal
- 13.1 Variances

Section XIV. AMENDMENT, VALIDITY, AND EFFECTIVE DATE

- 14.0 Amendment
- 14.1 Validity
- 14.2 Effective Date

11-06-2024

SECTION I. TITLE, AUTHORITY AND PURPOSE

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

(Bylaw of 5/31/79)

SECTION II. DEFINITIONS

2.0 WORD DEFINITIONS

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

2.1 TERM DEFINITIONS

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

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

Accessory use: See use, accessory

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

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

Agriculture: The production, keeping or maintenance, for sale or lease of plants and animals useful to man, including but not limited to: forages and sod crops; grains and seed crops; dairy animals and dairy products, poultry and poultry products; livestock including beef cattle, swine, horses, mules, ponies, or goats or any mutations of hybrids hereof, including the breeding and grazing of any or all such animals, bees, and apiary products, for animals, trees and forest products; fruits of all kinds, including grapes, nuts and berries, vegetables, floral, nursery, ornamental and greenhouse products, or lands devoted to a soil conservation or forestry management program.

Air transportation: Establishments engaged in domestic and foreign transportation by air including airports, flying fields, air cargo, as well as passenger and air freight terminal services.

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

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

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

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

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

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

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

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

Building accessory: See *accessory building*.

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

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

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

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

Building, principal: A building in which is conducted the principal use of the lot on which it is located.

Building coverage: The building area of a lot expressed as a percent of the total lot area.

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

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

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

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

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

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

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

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

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

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

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

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

11-06-2024

Condominium: A multifamily dwelling where the land and building are collectively owned but each unit is individually owned, subject to M.G.L. Ch. 183A (Condominium Law and Ch. 527 of 1983 Condominium Conversion Law).

Discount club: A store with a wide variety of merchandise for sale at less-than-retail cost, open on an annual fee for membership or places restrictions upon patrons.

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

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

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

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

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

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

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

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

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

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

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

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

Essential services: Services provided by public utility or governmental agencies through erection, construction, alteration, or maintenance of underground or overhead gas, electrical, steam or water transmission or distribution systems and collection, communication, supply, or disposal systems. Facilities necessary for the provision of essential services include poles, wires, mains, drains, sewers, pipes, conduits,

cables, fire alarm boxes, police call boxes, traffic signals, hydrants, and other similar equipment and accessories in connection therewith. Specifically excluded from this definition are buildings necessary for the furnishing of adequate service by such public utility or governmental agencies for the public health, safety or general welfare.

Family: All the people who occupy a single housekeeping unit, regardless of their relationship to one another.

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

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

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

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

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

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

Floriculture: The cultivation of ornamental flowering plants.

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

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

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

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

Height: The vertical distance from the average finished grade of the adjacent ground to the top of the structure of the highest roof beams of a flat roof, or the mean level of the highest gable or slope of a hip roof.

Heliport: An area, either at ground level or elevated on a structure, licensed or approved for the loading and unloading and takeoff of helicopters, and including auxiliary facilities such as parking, waiting room, fueling and maintenance equipment.

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

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

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

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

Horticulture: The cultivation of a garden or orchard.

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

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

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

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

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

Kennel, private: Any building or land designed or arranged for the care of dogs, cats or other household pets belonging to the owner of the residential, principal use, kept for purposes of show, hunting, or as pets.

Loading space: An off-street space used for loading or unloading, not less than fourteen (14) feet in width, forty-five (45) feet in length and fourteen (14) feet in height, and containing not less than one thousand three hundred (1,300) square feet including both access and maneuvering area.

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

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

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

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

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

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

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

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

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

Lot, nonconforming: *See nonconforming lot.*

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

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

Manufactured home: A structure, built in conformance to the National Manufactured Home Construction and Safety Standards which is transportable in one or more sections, which in traveling mode, is eight (8) body feet or more in width or forty (40) body feet or more in length, or, when erected on site, is three hundred twenty (320) or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling unit with or without permanent foundation when connected to the required utilities and includes the plumbing, heating, air conditioning and electrical systems contained therein as defined in M.G.L. Chapter 140, Section 32Q, as amended.

Manufacturing: A facility primarily for heavy or light industry and the manufacture or assembly of a product including processing, blending, fabrication, assembly, treatment and package. Incidental activities such as storage, offices, wholesale sales, retail sales and employee-only recreation and eating facilities are permitted. (Manufacturing may include, but is not limited to, the following products: aircraft parts; ceramics, pottery; cosmetics; engines; furniture and home furnishings; pharmaceuticals; poisons, pesticides and the like; soap, glue, detergents and related by-products; wallboard, joint cement and plaster; etc. Manufacturing may include, but is not limited to, the following materials: aluminum, sheet metal, steel; bone, shell, cellophane; gypsum; hydrocyanic acid, tar, coal tar, asbestos, beryllium, trichloroethylene, vinyl chloride; rubber; textiles, wool, yarn, felt, canvas, leather, paper cloth; wood, cork, fiberglass, clay, glass, plastics; fertilizer; etc. Manufacturing may include, but is not limited to the following processes: metal engraving, metal fabrication, welding, foundry; asphalt plant, sand blasting plant; fertilizer works; forging, drop forging, drop hammer, boiler works; printing; metal plating and finishing; spray painting; etc.)

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

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

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

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

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

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

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

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

11-06-2024

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

Occupancy permit: A permit authorizing the occupancy and use of land and/or structures and buildings.

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

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

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

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

Passive recreation: Any leisure activity not considered active.

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

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

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

Principal use: See use, principal.

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

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

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

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

Recreational facility, nonprofit: A recreational facility not conducted or maintained for the purpose of making a profit.

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

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

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

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

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

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

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

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

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

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

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

Sign, surface area of:

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

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

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

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

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

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

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

- (a) all public ways,
- (b) a way shown on a plan approved and endorsed in accordance with the "Subdivision Rules and Regulations" of Easthampton, Massachusetts, and
- (c) A way having in the opinion of the Easthampton Planning Board sufficient width, suitable grades and adequate construction, or has been secured by an adequate performance guarantee by the Planning Board pursuant to the Subdivision Control Law, to provide for the needs of vehicular traffic

in relation to the proposed uses of the land abutting thereon or served thereby, and for the installation of municipal services to serve such land and the building erected or to be erected thereon.

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

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

Structure: See *nonconforming building or structure*.

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

Substantially different use: See *use, substantially different*.

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

Surveyor: A surveyor registered in Massachusetts by the Board of Registration of Professional Engineers and Surveyors with a current license.¹

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

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

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

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

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

Use, Accessory: A use incidental and subordinate to the principal use of a structure or lot. An Accessory Use, other than a home occupation, may not occupy more than forty (40) percent of the total area of the structure or lot on which it is located, except that this limitation does not apply to uses accessory to scientific research, development or related production (see the home occupation section of this Ordinance for regulations specific to home occupations). When the principal use is permitted by right in a zoning district, an accessory use for scientific research, development, or related production may be permitted by special

¹ Definition added by the City Council on Nov. 6, 2024; approved by the Mayor on Nov. 12, 2024.

permit from the permit granting authority and the use does not have to be located on the same lot as the principal permitted use if the special permit granting authority finds that the proposed accessory use does not derogate from the public good. (Definition revised in its entirety by the City Council on Sept. 16, 2015; approved by the Mayor on Sept. 17, 2015.

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

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

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

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

Viticulture: The cultivation of grapes.

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

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

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

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

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

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

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

(Bylaw of 5-31-79; Bylaw of 5-19-82; Bylaw of 5-12-88, Approved 7-15-88, and as amended per notes within Section II)

Diagram 2-1

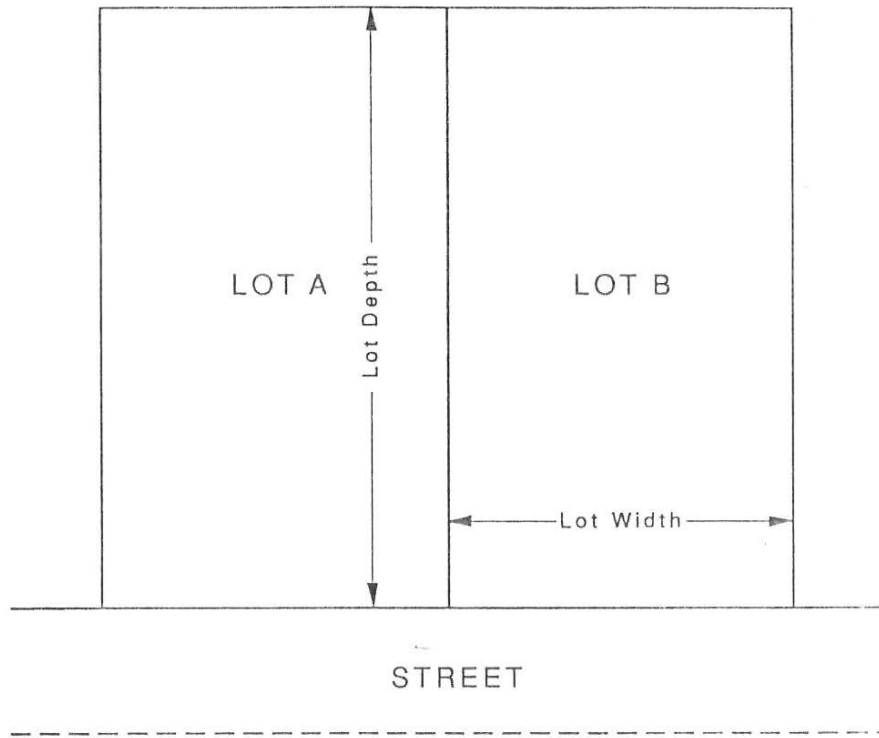


Diagram 2-2

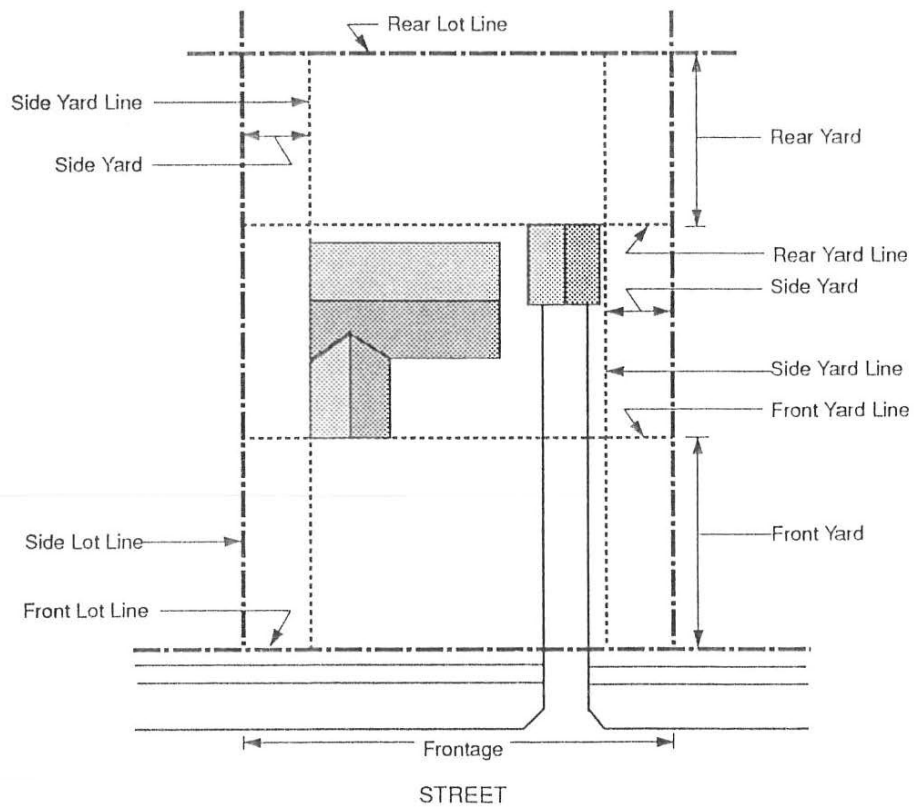


Diagram 2-3

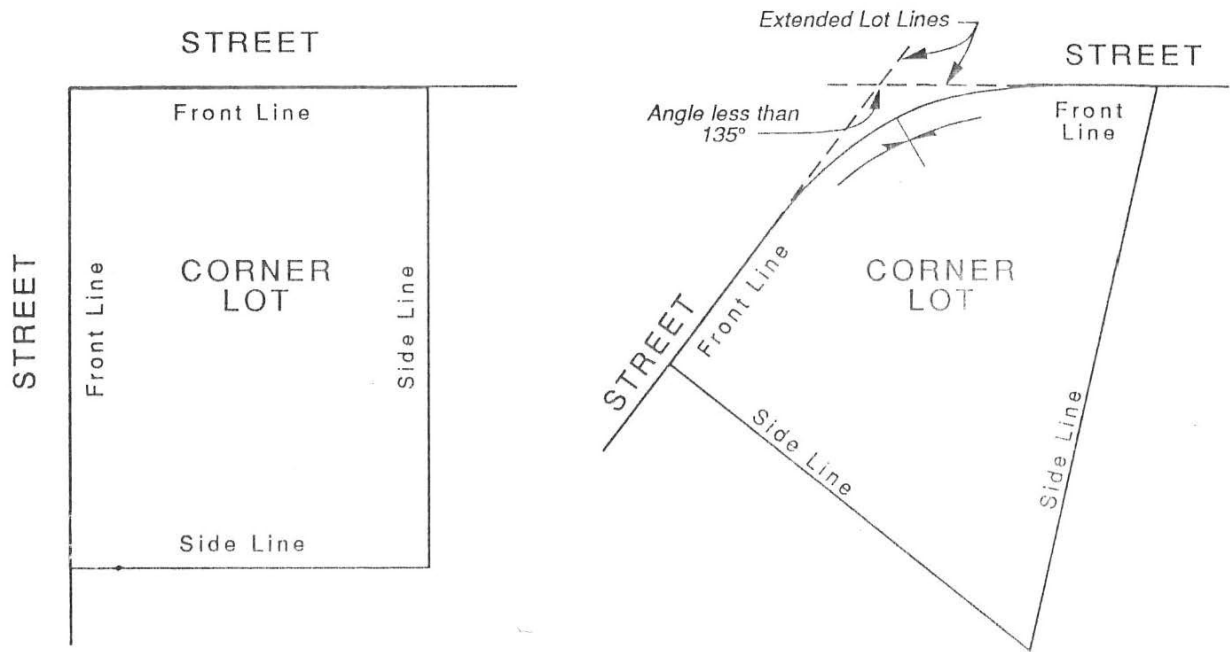
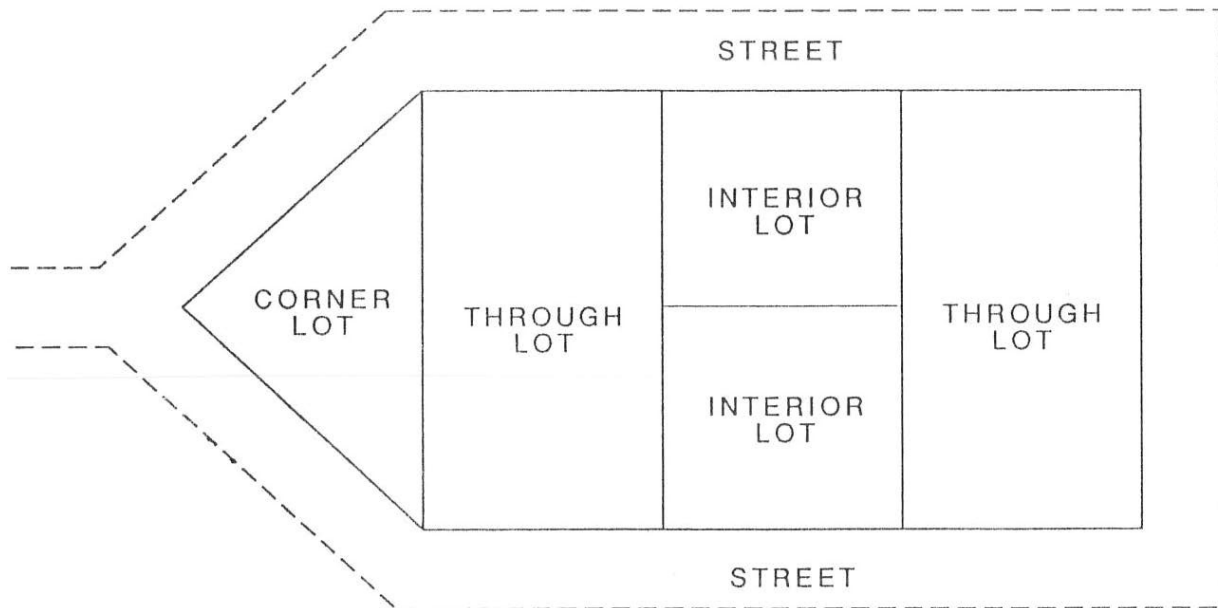


Diagram 2-4



SECTION III. ESTABLISHMENT OF ZONING DISTRICTS

3.0 DIVISION INTO DISTRICTS

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

<i>Full Name</i>	<i>Short Name</i>
Residential - Rural A	R-80
Residential - Rural B	R-40
Residential - Rural C	R-35
Residential - Suburban A	R-15
Residential - Suburban B	R-10
Residential - Urban	R-5
Downtown Business	DB
Highway Business	HB
Neighborhood Business	NB
Industrial	I
Mixed Use/Mill Industrial	MI
<i>Overlay Zoning Districts</i>	
Aquifer Protection	AP
Floodplain and Manhan River Protection	FL
Wireless Communications Services District Smart	WCSD
Growth Zoning Overlay District	SGZD

3.1 ZONING MAP

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

3.2 CHANGES TO THE MAP

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

3.3 BOUNDARIES OF DISTRICTS

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

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

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

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

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

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

(Bylaw of 5/31/93)

SECTION IV. INTERPRETATION AND APPLICATION

4.0 INTERPRETATION

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

4.1 APPLICATION

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

4.2 APPLICATION OF ZONING TO LAWFUL NONCONFORMING USES OR STRUCTURES

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

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

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

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

4.3 MIXED USES

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

SECTION V. USE REGULATIONS

5.0 APPLICABILITY OF USE REGULATIONS

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

5.1 PERMITTED USES

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

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

5.2 USES SUBJECT TO OTHER REGULATIONS

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

5.3 TABLE OF USE REGULATIONS

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

5.32 Aquifer Protection District

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

5.33 Flood Plain Zoning District/Manhan River Protection District

See Section 7.1, the Flood Plain Zoning District, to determine what uses are permitted.

SECTION V – Easthampton Table of Use Regulations

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

Districts			
R-5	Residential - Urban	DB	Downtown Business
R-10	Residential - Suburban B	HB	Highway Business
R-15	Residential - Suburban A	NB	Neighborhood Business
R-35	Residential - Rural C	I	Industrial
R-40	Residential - Rural B (Aquifer Drift Area)	MI	Mixed Use / Mill Industrial
R-80	Residential - Rural A (Aquifer Till Area)		

Permitted Uses / Permitting Process	
–	Use Prohibited
P	Use Permitted by Right
PA	Use Permitted by Site Plan Approval from the Planning Board (see Section 12.9)
SP	Use Permitted by Special Permit from the Zoning Board of Appeals (see Section 12.7)
SPB	Use Permitted by Special Permit from the Planning Board (see Section 12.7)

Table 5-1 – Easthampton Table of Use Regulations

<u>Uses</u>	<u>Standards and Conditions</u>	<u>Zoning Districts</u> ²											
		R-5	R-10	R-15	R-35	R-40	R-80	DB ³	HB	NB	I	MI	
RESIDENTIAL													
1. Single-family detached dwelling		P	P	P	P	P	P	-	-	-	-	-	-
2. Duplex		P	P	P	SP	-	-	-	-	-	-	-	-
3. Multifamily dwelling	See Section 8.3 for additional standards	PA ⁴	SPB	SPB ⁵	SPB ⁶	-	-	PA	SPB	SPB	-	SPB	
4. Multifamily dwellings with 15% affordable housing ⁷	See Section 8.3 for additional standards	PA	PA	PA ⁸	PA ⁹	-	-	PA ¹⁰	PA	PA	-	PA	
5. Conversion of existing one-family dwelling to two-family dwelling		SP	SP	SP	SP	-	-	-	-	-	-	-	-

² See Section 7.0 for Aquifer Protection District use regulations and Section 7.1 for Floodplain and Manhan River Protection Zoning District use regulations when applicable

³ New construction development in the Downtown Business District for a single use totaling over 4,000 sq. ft. shall require a special permit from the Planning Bd. under Section 12.7 added by the City Council on 09-02-2009; approved by the Mayor on 09-03-2009

⁴ Amended by City Council 1-21-1997; further amended 10-15-2008

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

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

⁷ Amended 10-15-2008; Approved by Mayor 10-16-2008; Further amended by the City Council 06-16-2021; approved by Mayor 06-21-2021

⁸ Amended by City Council 09-04-2001; Further amended by the City Council 06-16-2021; approved by Mayor 06-21-2021

⁹ Amended 10-18-1995; Approved 01-10-1996; Further amended by the City Council 06-16-2021; approved by Mayor 06-21-2021

¹⁰ Amended 10-15-2008; Approved by Mayor 10-16-2008; Further amended by the City Council 06-16-2021; approved by Mayor 06-21-2021 ¹¹ Amended by the City Council 06-16-2021; approved by Mayor 06-21-2021

Table 5-1 – Easthampton Table of Use Regulations

6. Conversion of existing one-family dwellings to three- and four-family		SP	SP	SP	-	-	-	-	-	-	-	-
7. Accessory Dwelling Unit ¹¹	See Section 8.5 for additional standards	P	P	P	P	P	P	P	P	P	P	P
Uses	Standards and Conditions	Zoning Districts ²										
		R-5	R-10	R-15	R-35	R-40	R-80	DB ³	HB	NB	I	MI
RESIDENTIAL, cont.												
8. Planned Unit Residential Development for Affordable Housing ¹¹	See Section 8.6 for additional standards	PA	PA	PA	-	-	-	PA	PA	PA	-	PA
9. Planned Unit Development for mixed uses	See Section 8.7 for additional standards	-	-	-	-	-	-	PA	SPB	SPB	SPB	SPB
10. Open Space Residential Development	See Section 9.1 for additional standards	-	SPB	SPB	SPB	SPB	SPB	-	-	-	-	-
11. Major Residential Development	See Section 7.2 for additional standards	P	P	P	P	P	P	-	-	-	-	-

RESIDENTIAL TEMPORARY												
1. Temporary manufactured homes to be placed on the same lot as a residence which has been destroyed by fire or other natural holocaust	Temporary manufactured homes to be placed on the same lot as a residence which has been destroyed by fire or other natural holocaust. Such temporary living quarters may remain on the lot for 12 months while the residence is being rebuilt. Any such manufactured home shall be subject to the provisions of the state sanitary code. The term manufactured home includes mobile homes. ¹³	P	P	P	P	P	P	P	P	P	P	SP

COMMUNITY FACILITIES												
1. Church or other religious purpose		P	P	P	P	P	P	P	P	P	P	P

¹¹ Amended by City Council 05-04-2022; Approved by Mayor LaChapelle 05-04-2022 ¹³
 Bylaw of 05-31-1979; Bylaw of 05-19-1982

Table 5-1 – Easthampton Table of Use Regulations

2. Educational purpose which is on land owned or leased by the Commonwealth or any of its agencies, subdivisions, or bodies political; or by a religious sect or denomination; or by a nonprofit educational corporation.		P	P	P	P	P	P	P	P	P	P	P
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<u>Uses</u>	<u>Standards and Conditions</u>	Zoning Districts ²										
		R-5	R-10	R-15	R-35	R-40	R-80	DB ³	HB	NB	I	MI
COMMUNITY FACILITIES, cont.												
3. Childcare facility		P	P	P	P	P	P	P	P	P	P	P
4. Public park, conservation area and preserved open spaces including areas for passive recreation, but not including active recreational facilities		P	P	P	P	P	P	P	P	P	P	P
5. Nonprofit recreational facility, not including a membership club		PA	PA	PA	PA	PA	PA	PA	PA	PA	-	PA
6. Nonprofit country, hunting, fishing, tennis or golf club		SP	SP	SP	SP	SP	SP	-	-	-	-	-
7. Day camp or other similar campground		SP	SP	SP	PA	SP	SP	-	-	-	-	-
8. City administration building, fire or police station		PA	PA	PA	PA	PA	PA	PA	PA	PA	PA	PA
9. City cemetery, including any crematory therein		SP	PA	PA	PA	-	-	-	-	-	-	-
10. Historical association or society		P	P	P	P	P	P	P	P	P	-	P
11. Public libraries and museums		PA	PA	PA	PA	SP	SP	PA	PA	PA	-	PA
12. Nursing, rest, or convalescent home		PA	PA	PA	PA	PA	PA	-	-	PA	-	-
13. Hospital or sanitarium		P	P	P	P	P	P	-	-	P		-
14. Street, bridge, railroad		P	P	P	P	P	P	P	P	P	P	P
15. City highway equipment and electric utility garage		-	-	SP	SP	-	-	SP	SP	SP	PA	PA
16. Reservoir, pumping station, water treatment plant, wastewater treatment plant		SP	SP	SP	PA	PA	PA	SP	PA	SP	PA	PA
17. Essential services		P	P	P	P	P	P	P	P	P	P	P
18. Police firing range		-	-	-	SP	SP	SP	-	-	-	SP	SP

Table 5-1 – Easthampton Table of Use Regulations

19. Large Solar Energy Facility ¹²	See Section 7.3	SPB	SPB	SPB	SPB	SPB	SPB	SPB	SPB	SPB	SPB	SPB	SPB
20. Small Solar Energy Facility ¹⁵	See Section 7.3	P	P	P	P	P	P	P	P	P	P	P	P
21. Power Plant		-	-	-	-	-	-	-	-	-	-	SPB	SPB
22. Other governmental use not specifically listed herein		SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP

<u>Uses</u>	<u>Standards and Conditions</u>	<u>Zoning Districts</u> ²											
		<u>R-5</u>	<u>R-10</u>	<u>R-15</u>	<u>R-35</u>	<u>R-40</u>	<u>R-80</u>	<u>DB</u> ³	<u>HB</u>	<u>NB</u>	<u>I</u>	<u>MI</u>	
AGRICULTURE													
1. Agriculture, horticulture, floriculture or viticulture except a greenhouse or stand for retail trade: a. On parcels of 5 acres or under b. On parcels over 5 acres		- P	SP P	P P	P P	P P	P P	P P	- P	SP P	SP P	SP P	SP P
2. Year-round greenhouse or farm stand: a. On parcels of 5 acres or under b. On parcels over 5 acres	Greenhouses used primarily for horticulture are agricultural uses. Farm stands are those structures for the sale of produce, wine and dairy products. During the months of June, July, August or September of every year, the majority of such farm stand products for sale, based on either gross dollar sales or volume, must have been produced by the owner of the land on which the farm stand is located.	- P	SP P	P P	P P	P P	P P	P P	SP P	SP P	SP P	SP P	SP P
3. Temporary (not to exceed erection or use for a period exceeding 4 months in any one year) greenhouse or stand for retail sale of agricultural or farm products raised primarily on the same premises: a. On parcels of 5 acres or under b. On parcels over 5 acres		- P	SP P	SP P	P P	P P	P P	P P	- P	SP P	P P	P P	P P

¹² Added by the City Council on 12-16-2009; Approved by Mayor Tautznik on 12-17-2009 ¹⁵ Added by the City Council on 12-16-2009; Approved by Mayor Tautznik on 12-17-2009

Table 5-1 – Easthampton Table of Use Regulations

4. Raising and keeping of livestock, horses, and poultry, not including the raising of swine or fur animals for commercial use: a. On parcels of 5 acres or under b. On parcels over 5 acres		-	-					-	-	-	-	-	-
		P	P	SP P	P P	P P	P P	P P	P P	P P	P P	P P	P P
5. Raising of fur animals and/or swine: a. On parcels of 5 acres or under b. On parcels over 5 acres		-	-	-				-	-	-	-	-	-
		P	P	P	SP P	P P	P P	P P	P P	P P	P P	SP P	P P
Uses	Standards and Conditions	Zoning Districts ²											
		R-5	R-10	R-15	R-35	R-40	R-80	DB ³	HB	NB	I	MI	
AGRICULTURE, cont.													
6. Commercial stables, kennels, or veterinary hospital in which all animals, fowl or other form of life are completely enclosed in pens or other structures	Agricultural uses exempt under M.G.L. Chapter 40A includes the boarding of horses and the breeding of animals and are permitted by right, if they are a principal use	-	SP	SP	SP	SP	SP	SP	-	SP	SP	SP	-
7. Noncommercial forestry and growing of all vegetation		P	P	P	P	P	P	P	P	P	P	P	P
8. Commercial forestry	Any forestry or lumbering operations performed by a farmer on parcels over 5 acres exempt under M.G.L. Chapter 40A are permitted by right	-	-	SP	P	SP	SP	SP	-	-	SP	SP	-
9. Commercial cordwood operations for sale		-	-	-	SP	SP	SP	SP	-	-	-	SP	-

RETAIL AND SERVICE ¹³													
1. Convenience market	Retail establishment selling principally convenience goods including but not limited to food, drug and proprietary goods ¹⁷	-	-	-	-	-	-	-	SPB	SPB	SPB	SPB	SPB
2. Discount store		-	-	-	-	-	-	-	PA	SPB	SPB	SPB	SPB

¹³ No Plan Approval shall be required [for Retail and Service Uses in the Downtown Business District] in those instances where a change in use is proposed and no substantial physical changes (other than signs and ADA compliance) or increases in footprint will occur to the site or building exterior as determined by the Building Commissioner and where no new or additional requirements of the Zoning Ordinance must be met for the proposed use. Added by City Council on 8-19-2020; Approved by Mayor 8-21-2020 ¹⁷ Amended by the City Council on 6-17-2015; approved by the Mayor on 6-18-2015

Table 5-1 – Easthampton Table of Use Regulations

3. Hardware/paint store	-	-	-	-	-	-	-	PA	SPB	SP	SPB	SPB
4. Garden center	-	-	-	-	-	-	-	-	PA	-	PA	PA
5. Factory outlet store	-	-	-	-	-	-	-	PA	SPB	-	SPB	PA
6. Antique or gift shop	SP	SP	SP	SP	SP	SP	SP	PA	PA	PA	-	PA
7. Shop of a potter, sculptor, jeweler, artist, weaver or other similar craftsperson	-	-	-	-	-	-	-	PA	SP	SP	-	PA
8. Pharmacy, drugstore	-	-	-	-	-	-	-	PA	SP	PA	SPB	SPB
9. Furniture store	-	-	-	-	-	-	-	PA	SPB	SP	SPB	SPB

<u>Uses</u>	<u>Standards and Conditions</u>	Zoning Districts ²										
		R-5	R-10	R-15	R-35	R-40	R-80	DB ³	HB	NB	I	MI
RETAIL AND SERVICE, cont.												
10. Supermarket	In the NB district, supermarket buildings are limited to a maximum of 10,000 square feet of gross floor area	-	-	-	-	-	-	PA	SPB	SP	-	-
11. Discount club, warehouse club, warehouse supermarket	In the MI district, uses must be located in existing building only	-	-	-	-	-	-	-	SPB	-	SPB	SPB
12. All other retail establishments	Does not include any retail establishments specifically listed in Table 5-1	-	-	-	-	-	-	PA	SPB	SP	SPB	SPB
13. Restaurants and bars not including drive-in or drive-through restaurants		-	-	-	-	-	-	PA	SPB	SP	SPB	SPB
14. Drive-in or drive-thru restaurant ¹⁴		-	-	-	-	-	-	-	SPB	-	SPB	-
15. Bakery, deli, butcher shop, fish market, caterer or similar establishment for the production and sale of food and beverage		-	-	-	-	-	-	PA	SP	PA	-	PA
16. Establishment selling new and/or used automobiles and trucks, new automobile tires and other accessories, aircraft, boats, motorcycles and household trailers		-	-	-	-	-	-	-	SPB	SP	PA	-

<u>Uses</u>	<u>Standards and Conditions</u>	Zoning Districts ²										
		R-5	R-10	R-15	R-35	R-40	R-80	DB ³	HB	NB	I	MI

¹⁴ Standards and conditions note removed by the City Council on 7-7-2010

Table 5-1 – Easthampton Table of Use Regulations

RETAIL AND SERVICE, cont.												
17. Bed-and-Breakfast Use	A bed-and-breakfast use must comply with the following standards: a) The rooming units shall not include individual kitchens. b) The rooming units must share a common entrance for the single-family dwelling. c) The use must not change the singlefamily character of the dwelling. d) Adequate parking must be provided. Parking spaces for the use or singlefamily dwelling cannot be located in the front-yard requirement. e) Transient occupants are prohibited from staying more than 30 days in a one-year period. f) The exterior appearance of the structure shall not be altered from its single-family character.	SP	SP	SP	SP	SP	SP	PA	-	PA	-	PA
18. Lodging House		SP	-	-	-	-	-	-	-	SP	-	-
19. Motel		-	-	-	-	-	-	-	PA	SP	-	-
20. Hotel		-	-	-	-	-	-	PA	SPB	PA	-	-
21. Automotive service station	Does not include the open storage of abandoned automobiles or other vehicles, or a junkyard ¹⁵	-	-	SP	SP	-	-	-	PA	SP	SPB	SPB
22. Automotive service station with convenience market ¹⁶		-	-	-	-	-	-	-	SPB	SP	SPB	SPB
23. Automotive repair or garage with three or less service bays	Not including a junkyard or open storage of abandoned automobiles or other vehicles	-	-	SP	SP	-	-	-	PA	SP	SPB ¹⁷	SPB

<u>Uses</u>	<u>Standards and Conditions</u>	Zoning Districts ²										
		R-5	R-10	R-15	R-35	R-40	R-80	DB ³	HB	NB	I	MI

¹⁵ Amended by the City Council on 6-17-2015; approved by the Mayor on 6-18-2015

¹⁶ Standards & Conditions removed by City Council on 6-17-2015; approved by Mayor on 6-18-2015

¹⁷ Added by vote of the City Council on 4-18-2006; approved by the Mayor on 4-19-2006

Table 5-1 – Easthampton Table of Use Regulations

RETAIL AND SERVICE, cont.													
24. Automotive repair or garage with more than three service bays	-	-	-	-	-	-	-	-	SP	-	SPB	-	
25. Car wash	-	-	-	-	-	-	-	-	SP	SP	SP	-	
26. Funeral establishment	SP	SP	-	-	-	-	-	PA	PA	PA	-	-	
27. Membership club	SP	SP	SP	SP	SP	SP	SP	PA	PA	PA	-	SP	
28. Beauty or barber shop, hair salon, tanning salon, or similar establishment	-	-	-	-	-	-	-	PA	SP	PA	-	SPB	
29. Laundry or dry cleaning establishment	-	-	-	-	-	-	-	PA	SP	PA	-	SPB	
30. Tailor, garment maker, milliner, cobbler or other shop for the repair or manufacture and retail sale of clothing or footwear	-	-	-	-	-	-	-	PA	SP	PA	-	SPB	
31. Photographer's studio	-	-	-	-	-	-	-	PA	SP	PA	-	PA	
32. Repair or service shop for household appliance or business equipment	-	-	-	-	-	-	-	PA	PA	SP	-	SPB	
33. Photocopy shop	-	-	-	-	-	-	-	PA	SP	PA	-	SPB	
34. All other personal and consumer establishment	Does not include any personal and consumer establishments specifically listed in Table 5-1		-	-	-	-	-	-	PA	SPB	PA	-	SPB
35. Travel agencies	-	-	-	-	-	-	-	PA	PA	PA	-	PA	
36. Medical/dental center, clinic or laboratory	-	-	-	-	-	-	-	PA	SPB	SPB	SPB ¹⁸	SPB	
37. All other professional and business offices and services including ATM's and banks including those with drive-through automatic teller machines and drivethrough windows ¹⁹	Does not include any professional and business office and services specifically listed in Table 5-1		-	-	-	-	-	-	PA	SPB	SP	-	SPB
38. Golf course, miniature golf, driving range, pitch-and-put	-	-	-	SPB	-	-	-	-	PA	SPB	SPB	-	
39. All other outdoor amusement and recreation service	-	-	-	-	-	-	-	SPB ²⁰	PA	SPB	SPB	-	
Uses	Standards and Conditions	Zoning Districts²											
		R-5	R-10	R-15	R-35	R-40	R-80	DB³	HB	NB	I	MI	

¹⁸ Amended by vote of the City Council on 12-19-2000; approved by Mayor on 12-20-2000

¹⁹ Amended by the City Council on 01-05-2011; approved by the Mayor on 01-07-2011

²⁰ Amended by vote of the City Council on 4-17-2001; approved by Mayor on 4-18-2001

Table 5-1 – Easthampton Table of Use Regulations

RETAIL AND SERVICE, cont.												
40. Indoor amusement and recreation service		-	-	-	SP	-	-	PA	SP	SP	SP	SP
41. Motor vehicle, machinery or other junkyard	Must be screened from outside view by an enclosed solid fence or wall and gate at least 10 feet in height or by natural or topographic features	-	-	-	-	-	-	-	-	-	-	-
42. Telecommunications Facilities ²¹	See Section 7.2	For permitting process see Section 7.2 - Wireless Communications Services District										
43. Communications, radio television station		SP	-	-	-	-	-	SP	SP	SP	SP	SP
44. Planned Business Development	See Section 8.1	-	-	-	-	-	-	-	SPB	-	SPB	-
45. Off-Site Medical Marijuana Dispensary (OMMD) ²²		-	-	-	-	-	-	-	SPB	-	PA	SPB
46. Cannabis Retailer ²³	See section 10.10	-	-	-	-	-	-	SPB	SPB	-	SPB	SPB
47. Cannabis Membership Club ²⁴	See section 10.10	-	-	-	-	-	-	-	-	-	-	-
48. Adult On-Site Cannabis Social Consumption ²⁵	See section 10.10	-	-	-	-	-	-	-	-	-	-	-

WHOLESALE, TRANSPORTATION, AND INDUSTRIAL												
1. Removal of sand, gravel, quarry, clay, or other raw material provided that the removal of such material will not increase the threat of contamination to the groundwater as determined by a professional geologist, hydrogeologist, soil scientist or engineer trained or experienced in hydrogeology		SP	SP	SP	SP	-	-	SP	SP	SP	SP	SP

<u>Uses</u>	<u>Standards and Conditions</u>	<u>Zoning Districts ²</u>										
		<u>R-5</u>	<u>R-10</u>	<u>R-15</u>	<u>R-35</u>	<u>R-40</u>	<u>R-80</u>	<u>DB ³</u>	<u>HB</u>	<u>NB</u>	<u>I</u>	<u>MI</u>

²¹ Amended 01-06-1998; Approved 01-07-1998
²² Added by City Council 02-12-2014; approved by Mayor 02-13-2014
²³ Added by City Council 03-28-2018; approved by Mayor 03-29-2018
²⁴ Added by City Council 03-28-2018; approved by Mayor 03-29-2018
²⁵ Added by City Council 03-28-2018; approved by Mayor 03-29-2018

Table 5-1 – Easthampton Table of Use Regulations

WHOLESALE, TRANSPORTATION, AND INDUSTRIAL, cont.												
2. Processing and treating of raw materials including operations appurtenant to the taking, such as grading, drying, sorting, crushing, grinding and milling operations		-	-	SPB	SPB	-	-	-	-	-	PA	-
3. Construction trailers (temporary) while construction is in progress	Permitted only while construction is in operation	P	P	P	P	P	P	P	P	P	P	P
4. Transportation service facilities		-	-	-	-	-	-	-	SPB	-	PA	SPB
5. Taxi terminals and livery		-	-	-	-	-	-	-	SP	SP	PA	SPB
6. Open storage of raw materials, finished goods, or construction equipment and structures for storing such equipment	Must be screened from outside view by an enclosed solid fence and gate at least 10 feet in height, or a solid wall of evergreens planted not more than 18 inches apart and at least 3 feet in height, and a solid gate at least 10 feet in height and not more than 20 feet in width	-	-	-	-	-	-	-	SP	-	SPB	-
7. Research offices or establishments devoted to research and development		-	-	-	-	-	-	SP	SPB	SP	PA	PA
8. Planned Industrial Development	See Section 8.2	-	-	-	-	-	-	-	-	-	SPB	-
9. Wholesale trade and distribution		-	-	-	-	-	-	-	-	-	SPB	SPB
10. General manufacturing uses not commonly considered hazardous or noxious		-	-	-	-	-	-	-	-	-	SPB	SPB
11. Publishing, data processing and computer software manufacturing	Includes associated offices and distribution facilities	-	-	-	-	-	-	-	SPB	-	PA	PA
12. Hand forging, soldering and welding shops	Excludes punch presses over twenty tons rated capacity, drop hammers and other noise producing machine operated tools	-	-	-	-	-	-	-	-	-	SPB	SPB
13. Packing and crating services		-	-	-	-	-	-	-	-	-	SPB	SPB
14. Recycling centers		-	-	-	-	-	-	-	-	-	SPB	SPB
15. Moving and storage operations		-	-	-	-	-	-	-	-	-	SPB	SPB
16. Metal foundries		-	-	-	-	-	-	-	-	-	-	SPB

<u>Uses</u>	<u>Standards and Conditions</u>	Zoning Districts ²										
		R-5	R-10	R-15	R-35	R-40	R-80	DB ³	HB	NB	I	MI

Table 5-1 – Easthampton Table of Use Regulations

WHOLESALE, TRANSPORTATION, AND INDUSTRIAL, cont.													
17. Warehousing establishments		-	-	-	-	-	-	-	-	-	-	SPB	SPB ²⁶
18. Waste hauling establishments		-	-	-	-	-	-	-	-	-	-	PA	-
19. Self-storage units	Add buffering and screening requirement	-	-	-	-	-	-	-	-	-	-	PA	-
20. Radioactive waste disposal	No land or structures within any use district in the City of Easthampton may be used for the collection, treatment, storage, burial, incineration or disposal of radioactive waste, temporary storage of vehicles used in the transportation of radioactive waste. This restriction shall not apply when precluded under present or subsequent state law	-	-	-	-	-	-	-	-	-	-	-	-
21. Registered Marijuana Dispensary (RMD) ²⁷		-	-	-	-	-	-	-	-	-	-	PA	SPB
22. Cannabis Cultivator ²⁸	See section 10.10	-	-	-	-	-	-	-	SPB	SPB	-	SPB	SPB
23. Cannabis Product Manufacturer ²⁹	See section 10.10	-	-	-	-	-	-	-	SPB	SPB	-	SPB	SPB
24. Cannabis Independent Testing Laboratory ³⁰	See section 10.10	-	-	-	-	-	-	-	SPB	SPB	-	SPB	SPB
25. Cannabis Research Facility ³¹	See section 10.10	-	-	-	-	-	-	-	SPB	SPB	-	SPB	SPB
26. Cannabis Craft Co-op ³²	See section 10.10	-	-	-	-	-	-	-	SPB	SPB	-	SPB	SPB
27. Cannabis Micro-Business ³³	See section 10.10	-	-	-	-	-	-	-	SPB	SPB	-	SPB	SPB
28. Hemp Cultivation ³⁴	See section 10.10	-	-	-	-	-	-	-	PA	PA	-	PA	PA
29. Cannabis Delivery Operator ³⁵	See section 10.10	-	-	-	-	-	-	-	-	SPB	-	SPB	SPB
30. Cannabis Courier ³⁶	See section 10.10	-	-	-	-	-	-	-	-	PA	-	PA	PA

²⁶ Amended 01-21-1997

²⁷ Added by the City Council 02-12-2014; approved by Mayor 02-13-2014

²⁸ Added by the City Council 03-28-2018; approved by Mayor 03-29-2018

²⁹ Added by the City Council 03-28-2018; approved by Mayor 03-29-2018

³⁰ Added by the City Council 03-28-2018; approved by Mayor 03-29-2018

³¹ Added by the City Council 03-28-2018; approved by Mayor 03-29-2018

³² Added by the City Council 03-28-2018; approved by Mayor 03-29-2018

³³ Added by the City Council 03-28-2018; approved by Mayor 03-29-2018

³⁴ Added by the City Council 02-12-2014; approved by Mayor 02-13-2014

³⁵ Added by the City Council 06-16-2021; approved by Mayor 06-21-2021

³⁶ Added by the City Council 06-16-2021; approved by Mayor 06-21-2021

Table 5-1 – Easthampton Table of Use Regulations

<u>Uses</u>	<u>Standards and Conditions</u>	<u>Zoning Districts</u> ²											
		<u>R-5</u>	<u>R-10</u>	<u>R-15</u>	<u>R-35</u>	<u>R-40</u>	<u>R-80</u>	<u>DB</u> ³	<u>HB</u>	<u>NB</u>	<u>I</u>	<u>MI</u>	
ACCESSORY USES													
1a. Minor Home Occupation ³⁷	In accordance with Section 10.4	P	P	P	P	P	P	P	P	P	P	P	P
1b. Major Home Occupation ³⁸	In accordance with Section 10.4	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP
2. Family home day care ⁴³	Shall not occupy more than 40 percent of the gross floor area of the structure and there shall be a minimum number of 100 square feet of outside play area for each enrolled child	SP	SP	SP	SP	SP	SP	PA	SP	SP	-	-	-
3. Accessory building such as a private garage, playhouse, greenhouse not used in farming operations, tool shed, private swimming pool, or similar accessory structures	These uses are subject to the provisions of Section VI	P	P	P	P	P	P	P	P	P	P	P	P
4. Accessory private garage for not more than 3 non-commercial motor vehicles, and, except on a farm, not more than 10,000 pounds registered G.V.W. or less in size commercial motor vehicle	This use is subject to the provisions of Section VI	P	P	P	P	P	P	P	P	P	P	P	P
5. Accessory storage of a trailer, unregistered automobile or boat	A trailer, unregistered automobile or boat shall either be stored with a principal or accessory building or shall not be less than 25 feet from any lot line and shall not be within the side yards; and it shall not be used for dwelling or sleeping purposes. Maximum number of trailers, un-registered automobiles or boats per lot is two.	P	P	P	P	P	P	P	P	P	P	P	P
6. Accessory repair and storage facilities in any retail sales or consumer service establishment	Shall not accompany more than 25 percent of the gross floor area of the principal building or 5,000 square feet, whichever is less	-	-	-	-	-	-	PA	P	SP	P	PA	PA

³⁷ Amended 09-16-2015

³⁸ Amended 09-16-2015 ⁴³ Amended 05-01-1996

Table 5-1 – Easthampton Table of Use Regulations

<u>Uses</u>	<u>Standards and Conditions</u>	Zoning Districts ²											
		R-5	R-10	R-15	R-35	R-40	R-80	DB ³	HB	NB	I	MI	
ACCESSORY USES, cont.													
7. Keeping of saddle or riding horses and other farm animals for the use of occupants only ³⁹		-	-	SP	P	P	P	-	-	-	-	-	-
7a. Keeping a small flock of up to six (6) poultry including chickens (no roosters) on a residential lot for use of the occupants only. Poultry other than chickens only allowed on residential lots of at least one (1) acre in size. (Section 10.8) ⁴⁰	Lots with one (1) or two (2) dwelling units	P	P	P	P	P	P	P	P	P	P	P	P
	Lots with three (3) or more dwelling units	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP
7b. Keeping a larger flock of (7 to 25) poultry including chickens (no roosters) on residential lot for use of the occupants only (Section 10.8) ⁴¹	Only allowed on residential lots of at least one (1) acre in size.	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP
7c. Removed by City Council 05-02-2018 ⁴²													
8. Accessory industrial and commercial uses to serve principal industrial and commercial uses respectively		-	-	-	-	-	-	PA	PA	PA	PA	PA	PA
9. Accessory signs	Subject to the provisions of Section 10.0	P	P	P	P	P	P	P	P	P	P	P	P
10. Accessory off-street parking and loading spaces	As required in Section 10.1	P	P	P	P	P	P	P	P	P	P	P	P
11. Accessory uses which are necessary in connection with scientific research or scientific development or related production provided that the board of appeals makes a finding that the proposed accessory use does not substantially derogate from the public good		SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP
<u>Uses</u>	<u>Standards and Conditions</u>	Zoning Districts ²											

³⁹ Amended by City Council on 02-16-2011

⁴⁰ Added by City Council on 02-16-2011; amended 03-06-2013, amended by the City Council on 05-02-2018; approved by the Mayor on 05-02-2018.

⁴¹ Added by City Council on 02-16-2011; amended 03-06-2013, amended by the City Council on 05-02-2018; approved by the Mayor on 05-02-2018.

⁴² Added by City Council on 02-16-2011; amended 03-06-2013; Sec. 7c deleted by the City Council on 05-02-2018.

Table 5-1 – Easthampton Table of Use Regulations

	R-5	R-10	R-15	R-35	R-40	R-80	DB³	HB	NB	I	MI
ACCESSORY USES, cont.											
12. Removal of sand, gravel, quarry, clay or other raw material provided that the removal of such material will not increase the threat of contamination to the groundwater as determined by a professional geologist, hydrogeologist, soil scientist or engineer trained or experienced in hydrogeology	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP

SECTION VI. AREA, HEIGHT AND BULK REGULATIONS

6.0 Applicability of Area, Height and Bulk Regulations

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

6.1 Table of Area Regulations

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

6.2 Table of Height and Bulk Regulations

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

6.3 Reduction of Lot Areas

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

6.4 Separation of Lots

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

6.5 Screening and Buffers – Industrial or Business

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

- 6.51** This strip shall be at least twenty-five (25) feet in width, shall contain a screen of plantings in the center of the strip not less than three (3) feet in width and six (6) feet in height at the time of occupancy of such lot, and may be part of the yard area. On lots with one hundred seventy-five (175) feet or more, the strip shall be at least thirty-five (35) feet in width.
- 6.52** Individual shrubs or trees shall be planted not more than three (3) feet on center, and shall thereafter be maintained by the owner or occupants so as to maintain a dense screen yearround. At least fifty (50) percent of the plants shall consist of evergreens.
- 6.53** A solid wall or fence, not to exceed six (6) feet in height, complemented by suitable plantings, may be substituted for such landscape buffer strips.
- 6.54** Where an I, GB, or HB district abuts an R district, no buildings within the I, NB, GB, or HB district shall be within twenty-five (25) feet of the boundary line of the R district.

6.6 Buildings in Floodway

No building, except a boathouse or pump house, shall be erected in a floodway or within ten (10) feet of any watercourse or area subject to periodic flooding, unless the first floor elevation is higher than the flood line, or unless such flood line shall have been reduced by construction of dams at the headwaters, or by other means.

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

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

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

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

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

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

6.75 Accessory Buildings and Structures Other than Private Garages (title amended by the City Council 11-20-2013; approved by the Mayor 11-23-2013)

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

6.8 Other General Area, Height and Bulk Provisions

In addition to the regulations in Section 6.0 through Section 6.7 above, the following regulations shall apply:

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

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

6.83 Except for planned business and industrial development, multifamily developments,

community facilities, and public utilities, only one principal structure shall be permitted on a lot. (Sentence amended by the City Council 11-20-2013; approved by the Mayor 11-23-2013)

- a. The minimum distance between the walls of such principal buildings which contain windows shall be twice the minimum side yard or side setback required in the district, except multifamily developments. (Sentence amended by the City Council 11-20-2013; approved by the Mayor 11-23-2013)
- b. The minimum lot area required per each individual dwelling unit, building, or other unit of use shall be multiplied by the number of such units to obtain the minimum lot area required for the total tract of land. Other area regulations shall apply to the tract as a whole.

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

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

6.86 Projections into required yards or other required open spaces are permitted subject to the following:

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

6.87 **Building Heights**

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

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

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

6.88b. Subsection b added by the City Council on 12-16-2011; approved by the Mayor on 12-17-2011. Section 6.88b removed by the City Council on May 2, 2018; approved by the Mayor on May 2, 2018.

6.89 Where the existing development within one hundred twenty-five (125) feet to each side of the vacant lot amounts to more than twenty-five (25) percent of the frontage, and where said development has an average setback less than that required by this ordinance, then any vacant lot setback may be reduced to said average of the existing development.

6.90 Fences, Hedges, Walls or Other Enclosures

6.901 Applicability

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

6.902 Fence Height

a. In all zoning districts:

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

b. In all residential districts:

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

c. In all business and industrial districts:

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

6.903 Fence Setbacks

a. In all zoning districts:

All privately owned hedges, walls or other enclosures shall be no closer to the sidewalk, street right-of-way, or property lines than three feet. All fences in residential zones can be located up to, but not on any property line. For agricultural uses on parcels greater than five acres, or where abutting property owners agree, a fence may closer to the

property line or along the property line. (Amended by City Council 01-19-1999; approved by Mayor on 01-20-1999. Further amended by the City Council on 04-06-2004; approved by the Mayor on 04-07-2004).

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

b. In all business and industrial districts:

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

6.904 Fence Placement

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

6.905 Corner Lot Fences

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

6.906 General

Any specific, more stringent provision in any other section of this ordinance relating to fences, hedges, walls, or other enclosures shall prevail over provisions in this section.

Table 6-1 - Easthampton Table of Area Regulations

		<u>Minimum required lots (1)</u>			<u>Yards (2)</u>		
<u>District</u>	<u>Use</u>	<u>Area sq. ft.</u>	<u>Width ft.</u>	<u>Frontage ft.</u>	<u>Front (3) ft.</u>	<u>Side ft.</u>	<u>Rear ft.</u>
R-5	One-family detached year-round dwelling	5,000	(4)	50	15	10	20

	Accessory Dwelling (see Section 8.5) (11)				15	10	10
	Multifamily Dwelling	5,000+ 2,500 for each unit more than one		50	15	10	20
	Multifamily dwelling with at least 15% affordable units ⁽⁹⁾	2,000 for each unit		50	15	10	20
	Planned Unit Residential Development for Affordable Housing (6)	10 acres			15	10	20
	Any other permitted structure or principal use	5,000		50	15	10	20

Footnotes:

- (1) In a residential district, no building, except a one-story accessory building, shall be constructed on any lot not having at least 50 feet in width at all points, parallel to the street, between the street and the building in question.
- (2) See Section 6.5.
- (3) For a 2 1/2 story structure, a 40-foot setback from the street line is required.
- (4) Setback Width = Required Frontage. A special setback applies on both sides of Broad Brook in the Aquifer Protection District; see Section 7.0. This provision does not apply to the MI District. (Last sentence added by City Council 6-5-2019; approved by Mayor 6-5-2019)
- (5) Lots of record in the R-15 district of Zoning Map dated March 25, 1972 which are or become nonconforming, and which are now in the R-40 district must meet the setback requirements of R-15 districts elsewhere in town, i.e., 30 foot front, 15 foot side, and 30 foot rear.
- (6) See Section 8.6 for additional density and dimensional regulations.
- (7) See Section 9.1 for additional density and dimensional regulations.
- (8) See Section 8.7 for additional density and dimensional regulations.
- (9) Section added by the City Council on 10-15-2008; approved by the Mayor 10-16-2008
- (10) In the Mill Industrial District, a new lot may be created around an existing and/or substantially renovated building containing no minimum: setbacks, area, coverage, and/or frontage requirements if said building and/or property demonstrate continued vehicular access to/from an adjacent roadway and compliance with relevant Building Code requirements (F10 added by City Council 6-5-2019; approved by Mayor 6-5-2019).
- (11) Added by the City Council 06-16-2021; approved by Mayor 06-21-2021

Table 6-1 (continued)* Easthampton Table of Area Regulations

		<u>Minimum required lots (1)</u>			<u>Yards (2)</u>		
<u>District</u>	<u>Use</u>	<u>Area sq. ft.</u>	<u>Width ft.</u>	<u>Frontage ft.</u>	<u>Front (3) ft.</u>	<u>Side ft.</u>	<u>Rear ft.</u>

R-10	One-family detached year-round dwelling	10,000	(4)	100	20	10	30
	Accessory Dwelling (see Section 8.5) (11)				20	10	10
	Duplex	12,500		100	20	15	30
	Multifamily dwelling	10,000 + 5,000 for each unit more than one		120	20	15	30
	Multifamily dwelling with at least 15% affordable units (9)	4,000 for each unit		100	20	15	30
	Planned Residential Development for Affordable Housing (6)	10 acres			20	10	30
	Open Space Residential Development (7)	5 acres					
	Any other permitted structure or principal use	10,000		120	20	10	30
R-15	One-family detached year-round dwelling	15,000	(4)	100	30	15	30
	Accessory Dwelling (see Section 8.5) (11)				30	15	15
	Duplex	17,500		100	40	25	40
	Multifamily dwelling (9)	15,000 for each unit		120	40	25	40
	Multifamily dwelling with at least 15% affordable units ⁽⁹⁾	5,000 for each unit		100	30	20	30

*See footnotes on first page of Table 6-1.

** Amended by City Council 09-04-2001.

Table 6-1 (continued)* Easthampton Table of Area Regulations

<u>Minimum required lots (1)</u>					<u>Yards (2)</u>		
<u>District</u>	<u>Use</u>	<u>Area sq. ft.</u>	<u>Width ft.</u>	<u>Frontage ft.</u>	<u>Front (3) ft.</u>	<u>Side ft.</u>	<u>Rear ft.</u>
R-15 (cont.)	Planned Residential Development for Affordable Housing (6)	10 acres			40	25	40
	Open Space Residential Development (7)	5 acres					
	Any other permitted structure or principal use	15,000		120	40	25	40
R-35	One-family detached year-round dwelling or any other permitted structure or principal use	35,000	(4)	120	50	20	50
	Accessory Dwelling (see Section 8.5) (11)				50	20	20
	Duplex	40,000		120	50	25	50
	Multifamily dwelling (9)	35,000 for each unit		120	50	20	50
	Multifamily dwelling with at least 15% affordable units (9)	25,000 for each unit		120	40	20	50
	Open Space Residential Development (6)	5 acres					
R-40	One-family detached year-round dwelling or any other permitted structure or principal use	40,000		120	50	25	50(5)
	Accessory Dwelling (see Section 8.5) (11)				50	25	25

*See footnotes on first page of Table 6-1.

** Added by City Council 09-4-2001; amended by the City Council on 01-04-2005; approved by the Mayor on 01-04-2005 *** Amended by the City Council 06-17-2015; approved by the Mayor on 06-18-2015

Table 6-1 (continued)* Easthampton Table of Area Regulations

		<u>Minimum required lots (1)</u>			<u>Yards (2)</u>		
District	Use	Area sq. ft.	Width ft.	Frontage ft.	Front (3) ft.	Side ft	Rear ft.
R-40 (cont.)	Open Space Residential Development(7)	5 acres					
R-80	One-family detached year-round dwelling or other permitted structure or principal use.	80,000		240	50	25	50
	Accessory Dwelling (see Section 8.5) (11)				50	25	25
	Open Space Residential Development(6)	5 acres					
DB	Planned Unit Development for Mixed Uses(8)	5 acres***			10	10	10
	Any other permitted structure for uses in Table 5-1	5,000	(4)	50	10	10	20
HB	Planned Business Development	3 acres***	120	120	30	25	30
	Planned Unit Development for Mixed Uses(8)	5 acres***			30	25	30
	Any other permitted structure	25,000		120	30	25	30
NB	Planned Unit Development for Mixed Uses(8)	5 acres**			30	25	30
	Any other permitted structure or principal use	5,000	(4)	50	15	10	20

I	Planned Unit Development for Mixed Uses(8)	5 acres**			50	25	30
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*See footnotes on first page of Table 6-1.

Table 6-1 (continued)* Easthampton Table of Area Regulations

		<u>Minimum required lots (1)</u>			<u>Yards (2)</u>		
District	Use	Area sq. ft.	Width ft.	Frontage ft.	Front (3) ft.	Side ft	Rear ft.
I (cont.)	Planned Business Development	3 acres**	140	140	50	25	30
	Planned Industrial Development	15 acres	140	140	50	25	30
	Any other permitted structure or principal use	40,000	(4)	140	50	25	30
MI	Planned Unit Development for Mixed Uses(8)	4 acres**					
	Any other permitted structure for uses in Table 5-1 ⁽¹⁰⁾	10,000*	(4)*	100*	30*	15*	30*
GB**	Planned Business Development	5 acres	120	120	30	25	30
	Planned Unit Development for Mixed Uses(8)	10 acres			30	25	30
	Any other permitted structure	25,000		120	30	25	30

*See footnotes on first page of Table 6-1.

** Amended by the City Council on 06-17-2015; approved by the Mayor on 06-18-2015.

Table 6-2 Easthampton Table of Height and Bulk Regulations

District	Use	Maximum Permitted Height Feet (1)	Maximum Permitted Height, Stories	Maximum Building Coverage of Lot (Covered Area as Percent of Total Lot Area)
R-5	Any permitted use or structure	40(2)	3(2)	40
R-10	Any permitted use or structure	40	3	25
R-15	Any permitted use or structure	40	3	20
R-35	Any permitted use or structure	40	3	10
R-40	Any permitted use or structure	35	2 1/2	10
R-80	Any permitted use or structure	35	2 1/2	10
DB	Any other permitted use or structure	45 (3)	3(3)	72
HB	Planned Business Development	45	3	50
	Any other permitted use or structure	45	3	45
NB	Any other permitted use or structure	45	3	40
I	Planned Business Development	30	2	50
	Planned Industrial Development	30	2	40
	Any other permitted use or structure	30	2	40

Table 6-2 (continued) Easthampton Table of Height and Bulk Regulations

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

Footnotes:

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

(Bylaw of 03-22-1975; Bylaw of 05-31-1979; Amended by City Council 07-01-2003; approved by Mayor 07-02-2003; Amended by City Council 06-05-2019; approved by Mayor 06-05-2019)

Section 6.10 Building Size Cap for Retail Uses

(Section 6.10 added by the City Council on 06-17-2015; approved by the Mayor on 06-18-2015)

6.101 Purpose

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

6.102 Applicability

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

6.103. Exemptions

The following uses are exempt from this ordinance:

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

6.103 Size Cap

No building to be occupied by a single commercial retailer shall exceed fifty-thousand (50,000) square feet of gross floor area.

SECTION VII. SPECIAL DISTRICT REGULATIONS

7.0 AQUIFER PROTECTION DISTRICT

7.01 Purpose of the District

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

7.02 Scope of Authority

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

7.03 Establishment and Delineation of Aquifer Protection District

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

7.04 Definitions

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

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

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

Toxic or hazardous material: A substance or material which has been determined by the Department of Environmental Protection to be capable of posing an unreasonable risk to health, safety and property when transported in commerce. Hazardous materials have been designated by the Department of Environmental Protection under Chapter 21C and 21E M.G.L. and 310 CMR 30.130-136.

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

- a. Cause or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible illness; or
- b. Pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of, or otherwise managed.

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

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

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

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

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

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

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

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

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

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

7.05 Use Regulations

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

7.051 Permitted Uses

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

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

7.052 Prohibited Uses

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

- (1) very small quantity generators of hazardous waste, as defined by 310 CMR 30.00 as amended which generate less than 20 kilograms or 6 gallons of hazardous waste per month may be allowed by Special Permit in accordance with Section 1.9 of this Ordinance;
 - (2) household hazardous waste collection centers or events operated pursuant to 310 CMR 30.390 as amended;
 - (3) waste oil retention facilities required by M.G.L. C.21, s52A, and;
 - (4) treatment works for the remediation of contaminated water, which are approved by Mass. Department of Environmental Protection and designed in accordance with 314 CMR 5.00 as amended.
- b. Business or industrial uses, not agricultural, which dispose of process wastewaters on-site;
- c. Solid waste landfills, dumps, auto recycling, auto graveyards, junk and salvage yards, landfilling or storage of sludge and septage, with the exception of the disposal of brush or stumps;
- d. Trucking repair centers, bus terminals, car washes, motor vehicle gasoline sales, motor vehicle and boat service and repair shops, commercial fuel oil storage and sales;
- e. Storage of and/or transmission of liquid petroleum products is prohibited except for the following:
- (1) Storage which is incidental to:
 - (a) normal household use, outdoor maintenance, or the heating of a structure;
 - (b) emergency generators required by statute, rule or regulation;
 - (c) waste oil retention facilities required by statute, rule, or regulation;
 - (d) treatment works approved by the Massachusetts Department of Environmental Protection designed in accordance with 314 CMR 5.00 for the treatment of contaminated ground or surface waters;

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

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

- f. Outdoor or underground storage of hazardous chemicals, pesticides, herbicides or hazardous wastes, or indoor storage of such materials in corrodible containers.
- g. Dumping or disposal of any hazardous material or hazardous waste on the ground, in water bodies, in septic systems or in other drainage system. This shall include the use of septic system cleaners which contain toxic chemicals such as methylene chloride and 1-1-1 trichlorethane.
- h. Stockpiling and disposal of snow or ice removed from highways and streets located outside of the Aquifer Protection District that contains sodium chloride, calcium chloride, chemically treated abrasives or other chemicals used for snow and ice removal;
- i. Wastewater treatment works subject to a groundwater discharge permit under 314 CMR 5.00 except the following:
 - (1) the replacement or repair of an existing system(s) that will not result in a design capacity greater than the design capacity of the existing system(s);
 - (2) the replacement of an existing subsurface sewage disposal system(s) with wastewater treatment works that will not result in a design capacity greater than the design capacity of the existing system(s), and;
 - (3) treatment works designed for the treatment of contaminated ground or surface waters subject to 314 CMR 5.00.
- j. Residential, commercial or industrial uses within Zone I of any municipal water supply well.
- k. Duplexes or multifamily residential uses, except in an Open Space Residential Development served by the municipal sewer system.
- l. Outdoor storage of salt or deicing chemicals.
- m. Rendering impervious by any means, more than fifteen (15) percent or 2,500 square feet of the area of any single lot, whichever is greater, unless a system for artificial recharge that will not result in the degradation of groundwater is provided. As a guide to Best Management Practices, consult the publication "Artificial recharge: Evaluation and Guidance to Communities (1996)" by the Pioneer Valley Planning Commission. In an Open Space Residential Development permitted under Section 9.1 of this ordinance, the space in the entire cluster minus the area of the roadways shall be considered in determining permissible lot coverage, rather than the space on individual lots. The permissible coverage shall be evenly divided among the individual lots on a pro-rated basis. (Amended 6-3-97)
- n. Septic system components within 150 feet of Broad Brook.

- o. Individual sewage disposal systems that are designed in accordance with 310 CMR 15.00 to receive more than 110 gallons of sewage per quarter acre under one ownership per day, or 440 gallons of sewage on any one acre under one ownership per day, whichever is greater, except the replacement or repair of an existing system that will not result in an increase in design capacity above the original design
- p. Excavation of or removal of earth, sand, gravel, clay and other soils shall not be permitted. This section shall not apply to such limited excavations incidental to permitted uses including, but not limited to, providing for installation or maintenance of structural foundations, utility conduits or on-site sewage disposal.

7.053 Uses by Special Permit

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

- a. All business, commercial and industrial activities permitted in the underlying district either by right or by Special Permit, provided that such activity is not prohibited in section 7.052, and that such activity has a site plan to prevent compaction and siltation, loss of recharge, seepage from sewer pipes and contamination of groundwater by petroleum products or chemicals, and complies with all performance standards in section 7.054.
- b. The installation or enlargement of subsurface waste disposal system for a residential dwelling.
- c. The above ground storage of all hazardous materials and petroleum product. However, a Special Permit shall not be required for storage of liquid petroleum products of any kind which is incidental to normal household use, outdoor maintenance, or the heating of a structure, provided such storage is in a free standing container located within a building or in a free standing container with protection adequate to contain a spill the size of the total capacity of the container and is otherwise in compliance with the Massachusetts Fire Safety Code (537 CMR).
- d. With respect to pre-existing commercial or industrial uses, any of the following changes in an existing business, commercial or industrial use:
 - (1) increase in quantities of hazardous waste generated;
 - (2) change of use;

7.054 Aquifer Protection Performance Standards

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

- a. Sodium chloride for ice control shall be used at the minimum salt to sand ratio which is consistent with the public highway safety requirements, and its use shall be eliminated on roads which may be closed to the public in winter. Alternative deicing materials, such as calcium chloride, shall be used to the extent feasible for winter road maintenance.
- b. The storage of sodium chloride, calcium chloride, chemically treated abrasives or other chemicals used for the removal of ice and snow on roads shall be covered and located in a paved surface with berms, or within a structure designed to prevent the generation and escape of contaminated run-off.
- c. Fertilizers, pesticides, herbicides, lawn care chemicals or other leachable materials shall be used in accordance with Lawn Care Regulations of the Massachusetts Pesticide Board, 333 CMR 10.03 (30, 31), as amended, with manufacturer's label instructions and all other necessary precautions to minimize adverse impacts on surface and groundwater.
- d. The storage of commercial fertilizers and soil conditioners shall be within structures designed to prevent the generation and escape of contaminated run-off or leachate.
- e. All new animal manure storage areas shall be covered and/or contained in accordance with the Natural Resource Conservation Service standards to prevent the generation and escape of contaminated run-off or leachate (Amended 6-3-97).
- f. All hazardous materials, as defined in M.G.L. Chapter 21E, must be stored either in a free standing container within a building, or in a free-standing container above ground level with protection to contain a spill the size of the container's total storage capacity.
- g. In accordance with the State Plumbing Code, all vehicle maintenance facilities must have floor drains, unless they receive a variance from the State Plumbing Board, which must be connected to a municipal sewer system or to a state-approved holding tanks in unsewered areas. All other facilities which use, store or maintain hazardous materials or wastes must, with state approval, seal floor drains or connect them to a sewer system or holding tank.
- h. With the exception of bridges, the area within 75 feet of Broad Brook shall be kept in a natural vegetated condition and not altered in any way.
- i. The following standards for urban stormwater run-off control apply:
 - (1) For commercial and industrial uses, to the extent feasible, run-off from impervious surface shall be recharged on the site by stormwater infiltration basins or similar systems covered with natural vegetation. Such run-off shall not be discharged directly to rivers, streams, or other surface water bodies. Dry wells shall be used only where other methods are infeasible. All such basins and wells shall be preceded by oil, grease and sediment traps to facilitate removal of contamination. All recharge areas shall be permanently maintained in full working order by the owner(s). Infiltration systems greater than three-feet deep shall be located at least one hundred feet from drinking water wells, and shall be situated at least ten-feet down-gradient and one hundred-feet up-gradient from building foundations to avoid seepage problems. Infiltration basins and trenches shall be constructed with a three-foot

minimum separation between the bottom of the structure and maximum groundwater elevation.

- (2) For commercial or industrial projects which will render impervious, by any means:
 - (a) more than ten (10) percent or up to twenty (20) percent of any single lot, or;
 - (b) more than five (5) percent or up to ten (10) percent of lots of thirty-five thousand (35,000) square feet or more;a system of artificial aquifer recharge of precipitation must be developed to retain stormwater runoff within the confines of the lot. The management of stormwater and any artificial recharge systems developed shall be designed so as not to result in the degradation of groundwater. A stormwater management plan shall be developed which provides for the artificial recharge of precipitation to groundwater, where feasible. Recharge shall be attained through site design that incorporates natural drainage patterns and vegetation, and through the use of stormwater infiltration basins, infiltration trenches, porous pavement or similar systems. All infiltration practices shall be preceded by oil, grease, and sediment traps or other best management practices to facilitate removal of contamination.
 - (3) For residential uses, to the extent feasible, recharge shall be attained through site design that incorporates natural drainage patterns and vegetation. To the extent possible, stormwater run-off from rooftops, driveways, roadways and other impervious surfaces shall be routed through areas of natural vegetation and/or devices such as infiltration basins, infiltration trenches or similar systems.
 - (4) Infiltration practices shall be utilized to reduce run-off volume increases to the extent possible as determined in accordance with infiltration standards and specifications established by the Soil Conservation Service. A combination of successive practices may be used to achieve the desired control requirements. Justification shall be provided by the person developing land for rejecting each practice based on site conditions. Any and all recharge areas shall be permanently maintained in full working order by the owner. Provisions for maintenance shall be described in the stormwater management plan.
- j. The application of pesticides, herbicides or fertilizers for non-domestic or nonagricultural uses must be approved by the Board of Health.

7.06 Procedures for Issuance of a Special Permit

7.061 Requirements for Special Permit in the Aquifer Protection District

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

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

- b. Those businesses using or storing such toxic or hazardous materials shall file a hazardous materials management plan with the Planning Board, Hazardous Materials Coordinator, Fire Chief and Board of Health which shall include:
 - (1) Provisions to protect against the discharge of hazardous materials or wastes to the environment due to spillage, accidental damage, corrosion, leakage or vandalism, including spill containment and clean-up procedures.
 - (2) Provisions for indoor, secured storage of hazardous materials and wastes with impervious floor surfaces.
 - (3) Evidence of compliance with the Regulations of the Massachusetts Hazardous Waste Management Act 310 CMR 30, including obtaining an EPA identification number from the Mass. Department of Environmental Protection.
- c. Drainage recharge features and provisions to prevent loss of recharge.
- d. Provisions to control soil erosion and sedimentation, soil compaction, and to prevent seepage from sewer pipes.
- e. Periodic water quality monitoring may be required by the Planning Board including sampling of wastewater disposed to on-site systems and sampling from groundwater monitoring wells to be located and constructed as specified in the Special Permit with reports to be submitted to the Planning Board, the Board of Health and the City Engineer. The costs of monitoring, including sampling and analysis, shall be borne by the owner of the premises.

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

- a. The Planning Board shall follow all Special Permit procedures contained in Section 12.7 of this ordinance. In addition the Planning Board shall distribute copies of all application materials to the Board of Health, the Conservation Commission, and the City Engineer, each of which shall review the application, and following a vote, shall submit recommendations and comments to the Planning Board. Failure of boards to make recommendations within 35 days of distribution of the applications shall be deemed to be lack of opposition. One copy of the application materials shall be transmitted to or retained by the City Clerk for viewing by the public during office hours.
- b. The Planning Board may grant the required Special Permit only upon finding that the proposed use meets the following standards and those specified in Section 12.79 of this ordinance. The Planning Board must find that the proposed use:
 - (1) Is in harmony with the purpose and intent of this ordinance and will promote the purposes of the aquifer protection district.
 - (2) Is appropriate to the natural topography, soils and other characteristics of the site to be developed.

- (3) Has adequate public sewerage and water facilities, or the suitable soil for on-lot sewerage, in compliance with applicable Mass. Department of Environmental Protection standards in 310 CMR 22, and for an on-lot water system.
 - (4) Will not, during construction or site work or thereafter, have an adverse environmental impact on any watershed or watercourse in the district. A commercial forestry operation shall present a plan for cutting which provides safe temporary equipment storage, and follows the Massachusetts Forest Cutting Practices Act 304 CMR 11.00.
 - (5) Will not adversely affect the existing or potential quality and quantity of water in the aquifer protection district.
 - (6) Has, where required, provided the mechanism to assure on-site quality recharge. Appearance shall be given by a professional engineer.
 - (7) Will not promote the intensive use of pesticides. Golf courses must present an application schedule and list of pesticides to be used which will not contaminate the aquifer.
- c. The Special Permit Granting Authority shall not grant a special permit under this section unless the petitioner's application materials include, in the Board's opinion, sufficiently detailed, definite and credible information to support positive findings in relation to the standards given in this section.

7.07 Nonconforming Use

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

7.1 FLOODPLAIN AND MANHAN RIVER PROTECTION DISTRICTS

7.11 Purpose of the District

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

7.12 District Delineation

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

- (1) The general boundaries of the floodplain district are shown on the Easthampton Flood Insurance Rate Map (FIRM), dated August 15, 1979, as Zones A, A1 through 30, to indicate the one hundred-year flood. The exact boundaries of the district are defined by the one hundred-year water surface elevations shown on the FIRM and further defined by the flood profiles contained in the flood insurance study, dated February 1979. The floodway boundaries are delineated on the Easthampton Flood Boundary Floodway Map (FBFM), dated August 15, 1979, and further defined by the floodway data tables contained in the flood insurance study. These two (2) maps as well as the accompanying study are incorporated herein by reference and are on file with the City Clerk, Planning Board, Building Inspector and the Conservation Commission.
- (2) Within Zone A, where the one hundred-year flood elevation is not provided on the FIRM the developer/applicant shall obtain any existing flood elevation data and it shall be reviewed by the conservation committee. If the data is sufficiently detailed and accurate, it shall be relied upon to require compliance with this ordinance and the state building code.
- (3) In Zone A, the best available federal, state, local, or other floodway data shall be used to prohibit encroachments in floodways which would result in any increase in flood levels within the community during the occurrence of the base flood discharge. In Zones A1-A30 and AE, along water courses that have not had a regulatory floodway designated, no new construction, substantial improvement, or other development shall be permitted unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood. In Zones A1-A30 and AE, along water courses that have regulatory floodways designated on the Easthampton FIRM encroachments are prohibited in the regulatory floodway which would result in any increase in flood levels within the community during the occurrence of the base flood discharge.

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

- (1) The area subject to the ordinance shall be the entire length of the Manhan River in Easthampton. The Manhan River Protection District shall encompass those floodplain areas designated as Zones A or Zone A 1-30 on the City of Easthampton Flood Insurance Rate Maps (FIRM) for the Manhan River. Where the floodplain has not been delineated on the FIRM maps or where the delineation is less than 100 feet

from the riverbank, the Manhan River Protection District shall be defined as that area within 100 feet, measured horizontally, of the riverbank. For purposes of this ordinance, the riverbank shall be defined as the river's mean annual high water line (see definitions).

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

7.13 General Use Regulations

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

- a. All development, including structural and non-structural activities, whether permitted by right or by special permit must be in compliance with the Wetlands Protection Act, Massachusetts General Laws, Chapter 131, Section 40, and with the requirements of the Massachusetts State Building Code pertaining to construction in the floodplains (currently Section 744), with the State Environmental Code, Title V, and must comply in all respects to the provisions of the underlying district except that where the Floodplain and Manhan River Protection Zoning imposes additional regulations such regulations shall prevail.
- b. In the floodplain district no new buildings shall be erected or constructed except by special permit from the special permit granting authority, nor shall existing buildings be enlarged, moved, except as hereinafter provided. No dumping, filling or earth transfer or relocation shall be permitted, and no land or building shall be used for any purpose except hereinafter provided.

7.14 Permitted Uses

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

- a. Agricultural uses such as farming, grazing, truck farming, horticulture, etc.
- b. Forestry and nursery uses.
- c. Outdoor recreational uses, including fishing, boating, play areas, and foot, bicycle or horse paths.
- d. Conservation of water, plants, wildlife.
- e. Wildlife management areas, foot, bicycle, and/or horse paths.
- f. Temporary non-residential structures used in connection with fishing, growing, harvesting, storage, or sale of crops raised on the premises.

- g. Structures existing prior to the adoption of these provisions which conform with the provisions of the ordinances regulating underlying districts, including maintenance and repair usual for continuance of such an existing structure and improvements to such structures provided that the footprint increase of those improvements does not exceed 25% of the overall footprint of the structure. In the event such structure is destroyed said structure may be rebuilt on the same location but no larger than the original overall footprint.
- h. Installation of driveways of minimum size necessary to serve areas outside the floodplain district, where other access is not feasible, provided no change in grade substantially effects purpose of this district.

7.15 Prohibited Uses in the Floodplain District

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

- a. The storage or disposal of any sand, gravel, rock or other mineral substance, refuse, trash, rubbish debris, or dredged spoil.
- b. Draining, excavation or dredging, or removal or relocation of loam, peat, sand, gravel, soil, rock or other mineral substance, except as accessory to work permitted as of right or by special permit.
- c. The storage or disposal of materials used for snow and ice control including sand, salt and other deicing chemicals.
- d. The manufacture, storage or disposal of hazardous wastes, as designated by the Regulations of the Massachusetts Hazardous Waste Management Act, Massachusetts General laws, Chapter 21C, and by the U.S. Environmental Protection Agency under 40 CFR 250.
- e. Solid waste landfills, junkyards and dumps.

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

7.16 Prohibited Uses and Restrictions in the Manhan River Protection District

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

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

- b. All forest cutting over 25,000 board feet at one time shall require the filing of a Forest Cutting Plan in accordance with the Mass. Forest Cutting Practices Act (M.G.L. Chapter 132, sections 40-46). In addition, no commercial cutting of forest shall occur within 50 feet of the riverbank. In the area between 50 feet and 100 feet from the riverbank, no more than 50% of existing forest shall be cut.
- c. No new impoundments, dams or other water obstructions may be located within the district.
- d. No private wastewater treatment facilities, including residential package treatment plants, shall discharge directly to the Manhan River.
- e. No commercial earth removal or mining operation is permitted within 100 feet of the river.
- f. All other uses not specifically permitted or allowed by special permit approval within the overlay zone are prohibited.
- g. A buffer strip extending at least one hundred (100) feet in depth, to be measured landward from each riverbank of the Manhan River shall be required for all lots within the River Protection District. If any lot, existing at the time of adoption of this ordinance, does not contain sufficient depth, measured landward from the riverbank, to provide a one hundred foot buffer strip, the buffer strip may be reduced to 50% of the available lot depth, measured landward from the riverbank.
 - (1) The buffer strip shall be kept in a natural or scenic condition.
 - (2) No buildings nor structures shall be erected, enlarged, altered or moved within the buffer strip except as provided for in Sections 7.14 and 7.18.
- h. All utilities shall meet the following standards:
 - (1) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.
 - (2) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system and discharge from the system into flood waters.
 - (3) New on-site waste disposal systems shall be located to avoid impairment or contamination from them during the flooding and shall be located no less than 150 feet from the riverbank. Replacement of existing on-site waste disposal systems shall be located as far away from the riverbank as is feasible.

7.17 Prohibited Uses in the Floodway

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

7.18 Special Permits

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

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

(1) Residential Districts

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

(2) Business and Industrial Districts

- (a) Uses which are in compliance in all respects with the provisions of the underlying districts.**

7.182 Special Permit Requirements

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

- a. Four (4) copies of a plan determining that the construction will be in conformance with the State Building Code (specifically those sections dealing with construction in floodplains) and will not result in increased flood heights, additional threats to safety, extraordinary public expense, create nuisances, or conflict with existing local laws. The ZBA shall provide a copy of the plan to the Planning Board, the Board of Health, Conservation Commission and shall be required to wait twenty-one (21) days for a recommendation from each board. After twenty-one (21) days the ZBA may render its decision.**
- b. Within Zones A 1-30, where base flood elevation is not provided on the FIRM, the applicant shall obtain any existing base flood elevation data. These data will be reviewed by the Building Inspector for their reasonable utilization toward meeting the elevation or floodproofing requirements, as appropriate, of the State Building Code.**
- c. No encroachments (including fill, new construction, substantial improvements to existing structures, or other development) shall be allowed unless it is demonstrated by the applicant that the proposed development, as a result of compensating actions, will not result in any increase in flood levels during the occurrence of a 100-year flood in**

accordance with the Federal Emergency Management Agency's regulations for the National Flood Insurance Program.

- d. The proposed use shall comply in all respects with the provisions of the underlying district, and the Zoning Board of Appeals may require such additional requirements and conditions as it finds necessary to protect the health, safety and welfare of the public or the occupants of the proposed use, or of the floodplain district.
- e. A determination that the proposed use is in compliance with the Wetlands Protection Act, Massachusetts General Laws, Chapter 131, Section 40.

7.183 Special Permit Procedures

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

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

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

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

- (a) Not create increased flood hazards which are detrimental to the public health, safety and welfare.
- (b) Comply in all respects to the provisions of the underlying district or districts within which the land is located.
- (c) Comply with all applicable state and federal laws, including the Massachusetts Building Code and the Massachusetts Wetlands Protection Act (M.G.L., Ch. 131, Sec. 40).

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

- (1) be situated in a portion of the site that will most likely conserve shoreland vegetation and the integrity of the buffer strip;
- (2) be integrated into the existing landscape through features such as vegetative buffers and through retention of the natural shorelines;
- (3) not result in erosion or sedimentation;
- (4) not result in water pollution.

7.19 **Disclaimer of Liability**

11-06-2024

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

Section 7.2 Wireless Communications Services District

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

7.21 Wireless Communications Service District

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

7.22 Definitions

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

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

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

7.23 Description of Areas Included in the Wireless Communications Services District

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

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

7.24 Use Restrictions

(a) The telecommunication facilities allowed are free-standing monopoles, lattice steelwork structures, or antennae affixed to existing structures, with associated antenna and/or panels. Monopoles are preferred.

Satellite dishes and/or antenna may be located on existing structures or may be free-standing. Monopoles shall not be located on buildings.

- (b) Telecommunications towers may be constructed only after the issuance of a Special Permit from the Planning Board in accordance with this section and Section 12.7.
- (c) Telecommunications towers are not permitted in the underlying Downtown Business District.
- (d) Telecommunications antennas which are co-located on existing telecommunications towers or other existing structures may be constructed only after Site Plan Approval in accordance with this section and Section 12.9.
- (e) To the extent feasible, all service providers shall co-locate on a single facility. All telecommunications towers must be designed, to the maximum extent which is practical and technologically feasible, for co-location of other telecommunications antenna, including offering space to all other telecommunication providers at market rates and providing for towers to be expanded upward. Special Permits for new towers shall be issued only upon a finding by the Planning Board that existing or approved towers cannot adequately fulfill the applicant's service requirements or accommodate the telecommunications facilities contemplated by the applicant.
- (f) In no event shall any telecommunications tower be located closer than one (1) mile to any other tower.
- (g) Towers with one telecommunication provider shall be limited to 140 feet. Towers with co-located telecommunications facilities shall be allowed an additional 20 feet for each additional provider up to a maximum of one hundred ninety (190) feet.
- (h) In a residential zoning district, a tower shall not be erected nearer to any property line than a distance equal to one hundred ten percent (110%) of the vertical height of the tower, measured at the mean finished grade of the facility base. The Planning Board may allow a shorter setback if the shorter setback provides adequate safety and esthetics, and the manufacturer or qualified licensed designer certifies that the tower is designed to collapse on itself in the event of failure.
- (i) Setback from designated wetlands, water bodies and areas with a slope in excess of five (5) percent shall be at least one hundred and fifty (150) feet or 110% of the height of the tower, whichever is greater. Conservation Commission review and approval may be necessary.
- (j) Siting shall be such that the view of the facility from adjacent abutters, residential neighbors, and other areas of City shall be as limited as possible. Generally, towers shall be a galvanized or non-rusting finish unless otherwise required by the FAA. Towers may be required to be painted, when appropriate, to blend in with the landscape.
- (k) Fencing shall be provided to control access to telecommunication facilities and shall be designed to be as unobtrusive as possible.
- (l) The Site Plan shall provide for adequate landscaping to screen the telecommunications facilities to the extent possible and preserving, to the extent possible, existing on-site trees and vegetation.
- (m) There shall be no signs except a sign identifying the telecommunications facility, the owner and operator and an emergency telephone number where the owner can be reached on a twenty-four (24) hour basis; a no trespassing sign; a sign displaying the FCC registration number and, any signs required to warn of danger. All signs shall comply with the requirements of the Easthampton Zoning Ordinance.

- (n) Design and siting of towers should avoid, whenever possible, application of FAA lighting and painting requirements. Towers shall not be artificially lighted except as required by the Federal Aviation Administration (FAA).
- (o) There shall be a minimum of one (1) parking space for each telecommunications tower, to be used in connection with the maintenance of the telecommunications facility and the site, and not to be used for the permanent storage of vehicles.
- (p) To the extent technologically feasible, all network interconnections from the telecommunications facility shall be via underground lines.
- (q) Applicants proposing to erect facilities on municipally owned land or structures shall provide evidence of contractual authorization from the City of Easthampton to construct telecommunications facilities on municipally owned property.
- (r) Antennas or dishes located on a structure shall not exceed twenty-five (25) feet in height above the level of its attachment to the structure.

7.25 Submittal Requirements - Special Permit or Site Plan Approval

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

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

3. Demonstrate that the tower and site comply with this regulation.
 4. Describe the auxiliary power source, if any.
- g. A copy of the FCC registration, FCC license, and FAA opinion letter or registration for the proposed telecommunications facility and applicant.
 - h. Before a Special Permit is issued for a new tower, the applicant must explain why it is not feasible to locate their antenna and telecommunications facilities on an existing tower or building. Before a new tower is proposed in a residential district, the applicant must also explain why it is not feasible to locate their antenna and telecommunications facilities in other districts or on municipal facilities. Such explanation shall include a summary of propagation studies and a plan for any network of facilities.

7.26 Approval

- (a) A Special Permit shall be granted by the Planning Board in accordance with the Massachusetts General Law and Section 12.7 of this Ordinance. Any extension, addition of cells, antennas or panels, construction of a new telecommunications facility, or replacement of a facility, shall be subject to a new application for an amendment to the Special Permit.
- (b) A Site Plan shall be approved by the Planning Board in accordance with Section 12.9 of this Ordinance.

7.27 Conditions of Use

- (a) The tower and its transmissions shall comply in all respects with the current standards of the American National Standards Institute (ANSI) and the National Council for Radiation Protection (NCRP), whichever are stricter.
- (b) All telecommunication facilities shall be operated only at Federal Communications Commission (FCC) designated frequencies and power levels, and the applicant shall provide certification that the maximum allowable frequencies and power levels will not be exceeded. Certification shall include technical specifications, an explanation of those specifications, and, if necessary, field verification.
- (c) All unused facilities or parts thereof or accessory facilities and structures which have not been used for one (1) year shall be dismantled and removed at the owner's expense.
- (d) All telecommunications facilities shall be maintained in good order and repair. Any paint and finish must be maintained and repaired when the blemishes are visible from the property line. Annual inspection and maintenance reports for the tower and site shall be filed with the Zoning Enforcement Officer.

7.28 Performance Guarantees

- (a) Insurance in a reasonable amount determined and approved by the Planning Board after consultation, at the expense of the Applicant, with one (1) or more insurance companies shall be in force to cover damage from the structure and other site liabilities. Annual proof of said insurance shall be filed with the City Clerk.
- (b) An initial bond may be posted for annual maintenance for any access road, site and telecommunications tower in an amount approved by the Planning Board.

11-06-2024

- (c) The Planning Board may require a performance guarantee to insure that telecommunications facilities which have not been used for one year are removed.
- (d) Annual certification demonstrating continuing compliance with the standards of the Federal Communications Commission, Federal Aviation Administration, and the American National Standards Institute shall be filed with the Zoning Enforcement Officer by the Special Permit holder and/or all providers at the providers' expense.
(Approved by City Council, as amended, 1-6-98; approved by Mayor 1-7-98)

SECTION 7.3 SOLAR ENERGY FACILITIES⁴³

7.3.0 Purpose.

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

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

7.3.1 Definitions

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

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

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

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

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

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

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

⁴³ Section 7.3 added by the City Council on 12-16-2009; approved by the Mayor 12-17-2009.

defined as one engaged in agriculture or farming as herein defined, or on a farm as an incident to or in conjunction with such farming operations, including preparations for market, delivery to storage or to market or to carriers for transportation to market.

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

7.3.3 General Requirements for all Solar Energy Facilities

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

- 7.3.3.1 Exemptions. Solar facilities constructed, reconstructed, or renovated for the primary purpose of commercial agriculture shall be considered a structure pursuant to MGL, c. 40A, §3 and, therefore, shall be exempt from this ordinance.
- 7.3.3.2 A permit shall be granted unless the permit granting authority finds in writing that there is substantial evidence that: (a) the specific site is not an appropriate location for such use; (b) a nuisance is expected to be created by the use; and (c) adequate and appropriate facilities will be not provided for the proper operation and maintenance of the use.
- 7.3.3.3 Compliance with Laws, Ordinances and Regulations. The construction and operation of all such proposed solar energy facilities shall be consistent with all applicable local, state and federal requirements, including but not limited to all applicable safety, construction, environmental, electrical, communications and aviation requirements.
- 7.3.3.4 Proof of Liability Insurance. The applicant shall be required to provide evidence of liability insurance in an amount, and for a duration, sufficient to cover loss or damage to persons and property occasioned by the failure of the facility.
- 7.3.3.5 Site Control. At the time of its application for special permit or building permit, the applicant shall submit documentation of actual or prospective control of the project site sufficient to allow for installation and use of the proposed facility. Documentation shall also include proof of control over setback areas and access roads, if required. Control shall mean the legal authority to prevent the use or construction of any structure for human habitation within the setback areas.
- 7.3.3.6 Utility Notification. No solar energy facility shall be installed until evidence has been given that the utility company has been informed of the customer's intent to install an interconnected customer-owned generator. Off-grid systems shall be exempt from this requirement.
- 7.3.3.7 Solar Energy Facilities are not permitted to be constructed or placed on land previously used for the Loudville Road landfill, dump, or solid waste facility.

7.3.4 Design Standards

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

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

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

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

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

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

7.3.5 Safety and Environmental Standards

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

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

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

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

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

7.3.6 Monitoring and Maintenance

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

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

7.3.7 Abandonment or Decommissioning

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

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

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

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

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

7.3.8 Solar Energy Facility Permit Requirements

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

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

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

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

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

- (a) A site plan showing:
 - i. Property lines and physical dimensions of the subject property.
 - ii. Location, dimensions, and types of existing major structures on the property
 - iii. Location of the proposed solar system structures, foundations, and associated equipment.
 - iv. The right-of-way of any public road that is contiguous with the property;
 - v. Any overhead utility lines
 - vi. Location and approximate height of tree cover;
- (b) Solar system specifications, including manufacturer and model,
- (c) One or three line electrical diagram associated components, and electrical interconnection methods, with all NEC compliant disconnects and overcurrent devices.
- (d) Name, address, phone number and signature of the applicant, as well as all co-applicants or property owners, if any.
- (e) The name, contact information and signature of any agents representing the applicant.
- (f) A plan for maintenance of the solar energy facility.

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

- (a) Property lines for the site parcel and adjacent parcels within 300 feet.
- (b) Outline of all existing buildings, including purpose (e.g. residence, garage, etc.) on site parcel and all adjacent parcels within 300 feet. Include distances from the solar facility to each building shown.

- (c) Location of all roads, public and private on the site parcel and adjacent parcels and proposed roads or driveways, either temporary or permanent.
- (d) Existing areas of tree cover, including average height of trees, on the site parcel and adjacent parcels
- (e) Proposed location and design of solar facility, including ground equipment, appurtenant structures, transmission infrastructure, access, fencing, exterior lighting, etc.

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

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

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

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

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

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

7.3.9 Building Integrated Solar Energy Facilities.

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

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

7.3.9.2 Required Supporting Documentation for Building Integrated Solar Energy Facilities.

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

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

SECTION 7.4: SMART GROWTH ZONING OVERLAY DISTRICT (SGZD)⁴⁴

7.41. PURPOSE

The purposes of this Section 7.4 are:

- a. To establish an Easthampton Smart Growth Zoning District and Sub-Districts, to encourage smart growth in accordance with the purposes of G. L. Chapter 40R;
- b. To provide a range of safe, quality, and affordable housing options for individuals and families of all ages and incomes;
- c. To create affordable housing that is consistent with the character of Easthampton’s existing neighborhoods;
- d. To improve the quality of existing housing;
- e. To help increase access for low to moderate income households to affordable housing;
- f. To preserve the affordability of existing and new affordable units;
- g. To support private developers in their efforts to develop affordable housing;

⁴⁴ Sec. 7.4 approved by the City Council on April 21, 2010; approved by Mayor Tautznik on April 22, 2010. Amended by the City Council on May 4, 2022; approved by Mayor LaChapelle on May 4, 2022

- h. To encourage new development in the center city close to existing infrastructure and services, in order to protect open space and farmland in the outer reaches of the city.
- i. To encourage development types as delineated in the 2008 Master Plan and the Housing Production Plan.

7.42. DEFINITIONS

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

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

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

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

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

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

As-of-right - a use allowed under Section 7.45 without recourse to a special permit, variance, zoning amendment, or other form of zoning relief. A Project that requires Plan Approval by the PAA pursuant to Sections 7.49 through 7.412 shall be considered an as-of-right Project subject to review and approval by EOHLHC of any SGZD regulations, guidelines, application forms, or other requirements applicable to applications for Plan Approval of Projects by the Plan Approval Authority under Section 7.4 and 760 CMR 59.00.

Department or EOHLHC - the Massachusetts Executive Office of Housing and Livable Communities.

Design Standards – means provisions of Section 7.413 made applicable to Projects within the SGZD that are subject to the Plan Approval process.

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

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

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

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

Monitoring Agent – qualified housing entity designated by the PAA to review and implement the Affordability requirements affecting Projects under Section 7.46.

11-06-2024

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

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

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

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

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

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

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

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

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

Zoning Ordinance - the Zoning Ordinance of the City of Easthampton.

7.43 OVERLAY DISTRICT

7.431 Establishment.

The Easthampton Smart Growth Zoning District, hereinafter referred to as the “SGZD,” is an overlay district that is superimposed over the underlying zoning district (s) and is shown on the Zoning Map as set forth on the map entitled “Easthampton Smart Growth Zoning District, as amended on May 4, 2022.” This map is hereby made a part of the Zoning Ordinance and is on file in the Office of the City Clerk.

7.432 Sub-districts.

The SGZD contains the following sub-districts:

- a. Highway Corridor Mixed Use
- b. Downtown Mixed Use
- c. Traditional Neighborhood Village

7.44 APPLICABILITY OF SGZD

7.441 Applicability of SGZD.

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

7.442 Underlying Zoning.

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

7.443 Administration, Enforcement, and Appeals.

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

7.45 PERMITTED USES

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

P	Use Permitted by Right in the District
PA	Use Permitted with Plan Approval in the District from the Planning Board in accordance with Section 7.49
N	Not permitted

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

Section 7.451 SGZD Table of Use

Use Type	Standards and Conditions	Highway Corridor Mixed Use	Downtown Mixed Use	Traditional Neighborhood Village (TNV)
<u>RESIDENTIAL</u>				
Single-family Residential Uses, Detached		N	N	PA
2 and 3 family Residential Uses		PA	N	PA
Townhouses	Townhouses will be built on individual lots with zero side setback requirements.	PA	N	PA

Multi-family Residential Uses (over 4 units)	Not allowed on the ground floor, unless the unit is handicap accessible and is located in the back of the building. Ground floor units may be allowed for projects containing at least 51% of units as affordable or in other projects with a finding from the PAA that the project advances the purposes listed under 7.41 and meets the objectives of the Smart Growth Design Standards.	PA	PA	N
Assisted Living Residence	Any entity, however organized, which provides room and/or board in an independent residential living environment, provides services to residents who do not require 24hour skilled nursing care, but need assistance with activities of daily living, and collects payments for the provision of these services.	PA	PA	PA
Nursing Home	A home for the aged or infirm in which three or more persons not of the immediate family are received, kept, or provided with food and shelter, or care for compensation; but not including hospitals, clinics, or similar institutions devoted primarily to the diagnosis and treatment of the sick or injured.	PA	PA	N
Accessory Apartments		PA	PA	PA
<u>RETAIL AND SERVICE**</u>				
Convenience Market	Any retail establishment offering for sale a limited line of groceries and household items intended for the convenience of the neighborhood	PA	PA	PA
Supermarket	A retail establishment primarily selling food, as well as other convenience and household goods, which occupies more than 5,000 square feet of gross floor area	PA	PA	N

Use Type	Standards and Conditions	Highway Corridor Mixed Use	Downtown Mixed Use	Traditional Neighborhood Village (TNV)
<u>RETAIL AND SERVICE** (continued)</u>				
Professional Offices		PA	PA	PA
Pharmacy, drugstore		PA	PA	N

Child Care Center	Facilities that serve children under seven years of age or sixteen years if the children have special needs, or school-age children in programs that are held before or after school hours or during vacations	PA	PA	PA
Restaurants and bars	Not including drive-in or drive-through restaurants	PA	PA	N
Bakery, deli, butcher shop, fish market, caterer or similar establishment for the production and sale of food and beverage		PA	PA	PA
Bed-and-Breakfast Use		PA	PA	PA
Beauty or barber shop, hair salon, tanning salon, or similar establishment		PA	PA	PA, tannot salon permitted
Laundry or dry cleaning establishment	In the TNV, drop off laundry or dry cleaning service permitted only.	PA	PA	PA
<u>MIXED USE**</u>				
Neighborhood scale mixed use development projects, allowing two or more uses within the same building		PA	PA	PA
Downtown scale mixed use development projects, allowing two or more uses within the same building		PA	PA	N
Mill Renovation for Mixed Use		N	PA	N
Use Type	Standards and Conditions	Highway Corridor Mixed Use	Downtown Mixed Use	Traditional Neighborhood Village (TNV)
<u>WHOLESALE, TRANSPORTATION, & INDUSTRIAL**</u>				

Research offices or establishments devoted to research and development		PA	PA	N
Wholesale trade and distribution		PA	PA	N
General manufacturing uses not commonly considered hazardous or noxious		PA	PA	N
Publishing, data processing	Shall be carried on by the occupants of the dwelling unit with no more than one nonresident employee	PA	PA	PA
Computer software manufacturing	The manufacture or assembly of a product including processing, blending, fabrication, assembly, treatment and package	PA	PA	N
Warehousing establishments	In the Downtown Mixed Use District, this use is only permitted in an existing building prior to May 4, 2022.	PA	PA	N
Self Storage Facility	A building or group of buildings consisting of individual, self-contained units leased to individuals, organizations, or businesses for self-service storage of personal property.	PA	N	N
<u>ACCESSORY USES</u>				
Accessory uses customarily incidental to any of the above permitted uses.		PA	PA	PA
Home Occupation	See Section 10.4 of the Easthampton Zoning Ordinance in effect as of May 4, 2022 for standards	N	PA	PA
Family Home Day Care	Any private residence which on a regular basis, receives for temporary custody and care during part or all of the day, children under seven years of age or children under sixteen years of age if such children have special needs; provided, however, in either case, that the total number of children shall not exceed six	PA	PA	PA
Use Type	Standards and Conditions	Highway Corridor Mixed Use	Downtown Mixed Use	Traditional Neighborhood Village (TNV)

ACCESSORY USES (continued)				
Church or other religious purpose		P	P	P
Educational Use	On land owned or leased by the Commonwealth or any of its agencies, subdivisions, or bodies political; or by a religious sect or denomination; or by a nonprofit educational corporation.	P	P	P
City administration building, fire or police station		PA	PA	N
Public park, conservation area and preserved open spaces	Including areas for passive and active recreation	P	P	P
City highway equipment and electric utility garage		PA	N	N
Agriculture, aquaculture, silviculture, horticulture, floriculture and viticulture	On parcels of five acres or more.	P	P	P

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

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

7.46 HOUSING AND HOUSING AFFORDABILITY

7.461 Number of Affordable Housing Units.

For any Project with 5 or more units not less than twenty percent (25%) of housing units constructed shall be Affordable Housing. For Multifamily Housing limited to elderly residents, projects shall have at least thirty percent (30%) affordable housing units. For purposes of calculating the number of units of Affordable Housing required within a Project, any fractional unit shall be deemed to constitute a whole unit.

7.462 Monitoring Agent.

Where Projects are subsidized by a Subsidizing Agent and it is the practice of the Subsidizing Agent to monitor such Projects, the Monitoring Agent shall be the Subsidizing Agency. For all other Projects, the Monitoring Agent shall be the City of Easthampton. In any case where the Monitoring Agent cannot adequately carry out its administrative duties, upon certification of this fact by the PAA or by EOHLC such duties shall devolve to and thereafter be administered by a qualified housing entity designated by the PAA. The Monitoring Agent shall ensure the following standards are met by the Developer/Owner, prior to issuance of a Building Permit for a Project within the SGZD. Standards shall be for the term of the Affordable Housing Restriction:

1. Prices of Affordable Homeownership Units are properly computed and rental amounts of Affordable Rental Units are properly computed, as set forth in the Affirmative Fair Housing Marketing and Resident Selection Plan (AFHMP);
2. Income eligibility of households applying for Affordable Housing is properly and reliably determined, as set forth in the Affirmative Fair Housing Marketing and Resident Selection Plan;
3. The Affirmative Fair Housing Marketing and Resident Selection Plan shall conform to all state and federal requirements which have been approved by EOHLC specifically with regard to conformance with the Governing Laws and will be properly administered by the Developer/Owner or their Marketing/Lottery Agent;
4. Sales and rentals are made to Eligible Households chosen in accordance with the Affirmative Fair Housing Marketing and Resident Selection Plan; and
5. The Affordable Housing Restriction, meeting the requirements of this section and approved by the EOHLC specifically with regard to conformance with the Governing Laws, is recorded with the Hampshire County Registry of Deeds.

7.463 Submission Requirements.

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

1. Evidence that the Project complies with the cost and eligibility requirements of Section 7.464 of this ordinance;
2. Project plans that demonstrate compliance with the requirements of 7.465 of this ordinance, and;
3. A form of Affordable Housing Restriction that satisfies the requirements of Section 7.466 of this ordinance.
4. Details on the number of units that are accessible to the mobility and sensory impaired.

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

1. Affordable Housing shall be rented or sold to and occupied only by Eligible Households. If approved by EOHLC, during the initial Lottery/Lease Up only, preference will be given to

- Eligible Households that meet one or more Local Preference categories in accordance with EOHLC's AFHMP guidelines.
2. For an Affordable Rental Unit, the monthly rent payment, including applicable utility allowances, shall not exceed 30 percent of the maximum monthly income permissible for an Eligible Household, assuming a family size equal to the number of bedrooms in the unit plus one, unless other affordable program rent limits approved by the EOHLC shall apply.
 3. For an Affordable Homeownership Unit the monthly housing payment, including mortgage principal and interest, private mortgage insurance, property taxes, condominium and/or homeowner's association fees, insurance, and at the discretion of the PAA, parking, shall not exceed 30 percent of the maximum monthly income permissible for an Eligible Household, assuming a family size equal to the number of bedrooms in the unit plus one.
 4. Prior to the granting of any Plan Approval for a Project, the Applicant must demonstrate, to the satisfaction of the Monitoring Agent, that the method by which such affordable rents or affordable purchase prices are computed shall be consistent with state or federal guidelines for affordability applicable to the City of Easthampton.

7.465 Design and Construction. Units of Affordable Housing shall be finished housing units. With respect to the minimum required number for such units in a given Project, unless otherwise dictated by an eligible state or federal housing subsidy program other than 40R, units of Affordable Housing shall be equitably integrated and, at a minimum, proportionally dispersed throughout the residential portion of the Project of which they are part, across all residential buildings, floors, distinct unit types, and with respect to the gross floor area devoted to residential units, in accordance with the AHR and AFHMP approved by EOHLC. The Affordable Housing units shall be comparable in initial construction quality, size, amenities and exterior design to the other housing units in the Project. The total number of bedrooms in the Affordable Housing shall be at least proportionate to the total number of bedrooms in all units in the Project of which the Affordable Housing is part.

7.466 Affordable Housing Restriction. Each Project shall be subject to an Affordable Housing Restriction (such an AHR may be specific to the City and subject to formal EOHLC approval under the 40R Program and/or the City reserves the right to participate in a shared AHR associated with eligible state or federal housing subsidies through the Mass Docs Program) which is recorded with the Hampshire County Registry of Deeds or district registry of the Land Court and which contains the following:

1. Specification of the term of the affordable housing restriction as stipulated in the PAA Plan Approval decision but which nevertheless shall be no less than thirty years;
2. The name and address of the Monitoring Agent with a designation of its power to monitor and enforce the affordable housing restriction;
3. A description of the Affordable Homeownership Unit(s), if any, by address and number of bedrooms in a Project or portion of a Project which is homeownership; and a description of the overall quantity and number of bedrooms and number of bedroom types of the Affordable Rental Units in a Project or portion of a Project which is rental. Such restriction shall apply individually to the specifically identified Affordable Homeownership Unit and shall apply to a percentage of rental units of a rental Project or the rental portion of a Project with the initially designated Affordable Rental Units identified in and able to float subject to specific approval by EOHLC in accordance with the corresponding Affirmative Fair Housing Marketing Plan (AFHMP) and EOHLC's AFHMP guidelines.
4. Reference to the Affirmative Fair Housing and Resident Selection Plan, to which the Affordable Housing is subject, and which includes an affirmative fair housing marketing program, including public notice and a fair resident selection process. Such plan shall be

consistent with EOHLC guidance, subject to approval by EOHLC, and shall include a preference based on need for the number of bedrooms in a unit and a preference based on need for the accessibility features of a unit where applicable. Additional preferences in resident selection may only be provided to the extent such preferences are also consistent with applicable law and approved by EOHLC.

5. A requirement that buyers or tenants will be selected at the initial sale or initial rental and upon all subsequent sales and rentals from a list of Eligible Households compiled in accordance with the Affirmative Fair Housing Marketing and Resident Selection Plan;
6. Reference to the formula pursuant to which rent of an Affordable Rental Unit or the maximum resale price of an Affordable Homeownership Unit will be set;
7. A requirement that only an Eligible Household may reside in Affordable Housing and that notice of any lease of any Affordable Rental Unit shall be given to the Monitoring Agent;
8. Provision for effective monitoring and enforcement of the terms and provisions of the affordable housing restriction by the Monitoring Agent;
9. Provision that the AHR on an Affordable Homeownership Unit shall run in favor of the Monitoring Agent and/or the municipality, in a form approved by municipal counsel, and shall limit initial sale and re-sale to and occupancy by an Eligible Household;
10. Provision that the AHR on Affordable Rental Units in a rental Project or rental portion of a Project shall run with the rental Project or rental portion of a Project and shall run in favor of the Monitoring Agent and/or the municipality, in a form approved by municipal counsel, and shall limit rental and occupancy to an Eligible Household;
11. Provision that the owner[s] or manager[s] of Affordable Rental Unit[s] shall file an annual report to the Monitoring Agent, in a form specified by that agent certifying compliance with the Affordability provisions of this Ordinance and containing such other information as may be reasonably requested in order to ensure affordability; and
12. A requirement that residents in Affordable Housing provide such information as the Monitoring Agent may reasonably request in order to ensure affordability.

7.467 Costs of Housing Marketing and Selection Plan. The Affirmative Fair Housing Marketing and Resident Selection Plan or any associated Monitoring Services Agreement may make provision for payment by the Project applicant of reasonable costs to the Monitoring Agent to fulfill the duties required under Section 7.462.

7.468 Age Restrictions. Nothing in this Section 7.4 shall permit the imposition of restrictions on age upon any Project unless voluntarily proposed by the Applicant. However, the PAA may, in its review of a submission under Section 7.49, allow a specific Project within the SGZD designated exclusively for the elderly, persons with disabilities, or for assisted living, provided that any such Project shall be in compliance with all applicable fair housing laws and not less than thirty percent (30%) of the housing units in such a restricted Project shall be restricted as Affordable units.

7.469 Phasing. For any Project that is approved and developed in phases in accordance with Section 7.494, the percentage of Affordable Housing Units shall be at least equal to the minimum percentage of Affordable Housing required under Section 7.461. Where the percentage of Affordable Housing is not uniform across all phases, the unit dispersal and bedroom proportionality requirements under Section 7.465 shall be applied proportionately to the Affordable Housing provided for in each respective phase.

7.4610 No Waiver. Notwithstanding anything to the contrary herein, the Affordability provisions in this Section 7.46 shall not be waived without the express written approval of EOHLC, as may be permitted pursuant to the Governing Laws.

7.47 DIMENSIONAL AND DENSITY REQUIREMENTS

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

7.471 Tables of Height and Bulk Requirements.

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

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

Use	Maximum Height (feet)	Maximum Height (stories)	Required Minimum Residential Density (du/ac.)
Dwelling Units, Multi-Family	60	5	20
Assisted Living	45	3.5	20
Mill Renovation for Mixed Use	No Limit	--	20
Mixed Use Development, Downtown and Neighborhood Scale	60	5	20

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

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

Table 7-3. Height and Density Requirements in the Highway Corridor Mixed Use Sub-District

Use	Maximum Height (feet)*	Maximum Height (stories)	Required Minimum Residential Density (du/ac.)
Townhouses	45	3.5	8
Dwelling Units, Duplex	45	3.5	12
Dwelling Units, Three-Family Detached	45	3.5	12
Dwelling Units, Multi-Family Detached	45	3.5	20
Assisted Living	45	3.5	20
Mixed Use Development, Downtown Scale	45	3.5	20

* The Planning Board may allow up to 4 stories if the applicant can demonstrate the location and design of buildings greater than 3.5 stories in the HB District will not negatively impact the viewshed as listed in the City’s Smart Growth Design Standards. No buildings, parking or access ways shall be allowed closer than 25 feet from a property line when the project/property is abutting a residential Zoning District.

7.472 Tables of Area Requirements.

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

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

Use	Front setback (ft)	Side setback (ft)	Rear setback (ft)
Dwelling Units, Multi-Family Detached	10	10	20
Assisted Living	10	10	20
Mill Renovation for Mixed Use	10	10	20
Mixed Use Development, Downtown and Neighborhood Scale	0	5	20

Table 7-4. Area Requirements in the Traditional Neighborhood Village Sub-District

Use	Front setback (ft)	Side setback (ft)	Rear setback (ft)
Dwelling Units, Single Family Detached	20	5	20
Townhouses	20	0	20
Dwelling Units, Duplex	20	5	20
Dwelling Units, Three-Family Detached	20	10	20
Assisted Living	20	10	20
Dwelling Units, Patio House	20	10	20
Mixed Use Development, Neighborhood Scale	20	10	30

Table 7-5. Area Requirements in the Highway Corridor Mixed Use Sub-District*

Use	Front setback (ft)	Side setback (ft)	Rear setback (ft)
Townhouses	20	10	30
Dwelling Units, Duplex	20	10	30
Dwelling Units, Three-Family Detached	20	10	30
Assisted Living	20	10	30
Mixed Use Development Neighborhood Scale	20	10	30

* Where the HB District abuts a residential district, all of the provisions of Section 6.5 (Screening and Buffers) shall apply:

- a. A strip of at least 25 feet in width shall contain a screen of plantings in the center of the strip not less than 3 feet in width and 6 feet in height at the time of occupancy. On lots with 175 feet of frontage or more, the strip shall be at least 35 feet in width.
- b. Individual shrubs or trees planted not more than 3 feet on center, and shall be thereafter maintained by the owner or occupants so as to maintain a dense screen year-round. At least 50% of the plants shall consist of evergreens.
- c. A solid wall or fence, not to exceed 6 feet in height, complemented by suitable plantings, may be substituted for such landscape buffers.
- d. Where the HB district abuts a residential district, no buildings within the HB district shall be within 25 feet of the boundary line of the residential district.

7.480 PARKING REQUIREMENTS

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

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

Table 7-6: Off-Street Parking Regulations

Uses	Number of Parking Spaces Per Unit
<u>Residential</u>	
One-family dwelling	Two (2) per dwelling unit
Accessory apartment	Two (2) per dwelling unit, except the one-bedroom accessory apartment requires only one (1) space
Duplex; conversion of existing one-family dwelling to two-family	Two (2) per dwelling unit

Conversion of existing one-family dwelling to three- and four-family dwelling; multifamily housing for elderly and/or handicapped persons	One and one-half (1½) for each dwelling unit
Multifamily housing	One (1) for each dwelling unit in the development.
Bed and Breakfast	Two (2) plus one (1) additional space for each rooming unit
Home Occupation	In addition to meeting the parking standards for the dwelling unit, one (1) space plus one (1) space for each non-resident employee

Uses	Number of Parking Spaces Per Unit
<u>Community Facilities</u>	
Childcare facility; family day care home	One per two (2) employees plus one off-street passenger loading place for every eight (8) students
City building, recreational facility	One per each 1,000 square feet of gross floor area
Nursing, rest or convalescent home	One per three (3) beds at design capacity
Public Utility	One for each four hundred (400) square feet of gross floor area devoted to office use One for each eight hundred (800) square feet of gross floor area per other use

Uses	Number of Parking Spaces Per Unit
<u>Retail and Service</u>	
Convenience market; pharmacy, drugstore	One for each 1,000 square feet of gross floor area.
Supermarket	Six (6) for each 1,000 square feet of gross floor area
Restaurants, bars	One for each four (4) seats of total seating capacity, plus one for each two employees on shift of greatest employment
Discount club, warehouse club, warehouse supermarket	Five (5) for each 1,000 square feet gross floor area
Other retail uses including, but not limited to: discount store; hardware/paint shop; garden center; factory outlet store; antique or gift shop	One per each 1,000 square feet of gross floor area
Beauty or barber shop, hair salon or similar establishment	Two (2) for each operator chair
Personal and consumer establishments, including, but not limited to: laundry or dry cleaning; tailor; milliner; cobbler; photographer's studio; repair shop for household appliance or business equipment; photocopy shop	One for each 1,000 square feet of gross floor area

Medical/dental center, clinic or laboratory	Five (5) for each practitioner or one for each three hundred (300) square feet of gross floor area, whichever is greater
Other professional and business offices and services	One for each 1,000 square feet of gross floor area

Uses	Number of Parking Spaces Per Unit
<u>Industrial</u>	
Manufacturing or industrial establishment	One for each six hundred (600) square feet of gross floor area OR 0.75 for each employee of the combined employment of the two (2) largest successive shifts, whichever is larger

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

7.482 Shared Parking.

Notwithstanding anything to the contrary herein, the use of shared parking to fulfill parking demands noted above that occur at different times of day is strongly encouraged. Minimum parking requirements above may be reduced by the PAA through the Plan Approval process if the applicant can demonstrate that shared spaces will meet parking demands by using accepted methodologies (e.g. the Urban Land Institute Shared Parking Report, ITE Shared Parking Guidelines, or other approved studies).

7.483 Reduction in parking requirements. Notwithstanding anything to the contrary herein, any minimum required amount of parking may be reduced by the PAA through the Plan Approval if the applicant can demonstrate that the lesser amount of parking will not cause excessive congestion, endanger public safety, or that lesser amount of parking will provide positive environmental or other benefits, taking into consideration:

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

7.484 Location of Parking. Any surface parking lot shall, to the maximum extent feasible, be located at the rear or, where not feasible or otherwise preferred by the PAA, side of a building, relative to any principal street, public open space, or pedestrian way.

7.49 PLAN APPROVAL OF PROJECTS: GENERAL PROVISIONS

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

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

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

7.493 PAA Regulations. The Plan Approval Authority may adopt administrative rules and regulations relative to Plan Approval. Such rules and regulations and any subsequent amendments thereto must be approved by the Executive Office of Housing and Livable Communities (EOHLC).

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

7.410 PLAN APPROVAL PROCEDURES

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

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

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

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

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

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

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

10. Plans to prevent pollution of surface or groundwater; erosion of soil both during and after construction; excessive run-off; excessive raising or lowering of the water table; and flooding of other properties, as applicable.
11. Existing topography, indicated by dashed lines of two-foot contour intervals where slopes are greater than three (3) percent but less than fifteen (15) percent, and at five-foot contour intervals where slopes are fifteen (15) percent or more. All elevations shall be referred to the nearest U.S. Coastal and Geodetic datum. Where any changes in topography are proposed, finished contours shall be shown as solid lines.

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

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

- 12. A landscape plan showing all existing natural land features, major trees, forest cover, and water sources and all proposed changes to these features including size and type of plan material. Water sources will include ponds, lakes, brooks, streams, wetlands, floodplains and drainage retention areas. General soil types shall be indicated as part of the landscape plan.
- 13. Zoning district boundaries within five hundred (500) feet of the site's perimeter shall be drawn and identified on the plan. Such features may be shown as a key map on the detail plan itself.
- 14. Traffic flow patterns within the site, entrances and exits, loading and unloading areas, size and location of curb cuts on the site and within one hundred (100) feet of the site. Include the possible organization of traffic channels, acceleration and deceleration lanes, additional width or other means necessary to prevent difficult traffic situations.

7.4104 Additional Material. All of the following requirements shall be included on the Site Plan:

- 1. Traffic Impact Statement. A detailed Traffic Impact Statement is required in each case where a proposed new building, use or project will contain more than 10,000 square feet, or will include one of the following uses which generates high volumes of trips: convenience stores; drive-in restaurant; automotive service station; or bank. The Traffic Impact Statement shall contain:
 - (1) The projected number of motor vehicle trips to enter or leave the site, estimated for daily and peak hour traffic levels;
 - (2) The projected traffic flow pattern including vehicular movements at all major intersections likely to be affected by the proposed use of the site and entrances and egresses, loading and unloading areas, and curb cuts on site and within one hundred (100) feet of the site.
 - (3) A detailed assessment of the traffic safety impacts of the proposed project or use on the carrying capacity of any adjacent highway or road, including the projected number of motor vehicle trips to enter or depart from the site estimated for daily hour and peak hour traffic levels, road capacities, and impacts on intersections.
 - (4) A plan to minimize traffic and safety impacts through such means as physical design and layout concepts, staggered employee work schedules, promoting use of public transit or carpooling, or other appropriate means.
 - (5) An interior traffic and pedestrian circulation plan designed to minimize conflicts and safety problems.
- 2. Elevation plans of a scale of one-quarter (1/4) inch equals one foot for all exterior facades indicating pertinent design features and type of materials to be used.
- 3. Deeds, easements, agreements, and other legal documents. Drafts of deeds, easements, agreements, and other legal documents, including the following where applicable:
 - (1) Deeds of land to be conveyed to the city for streets or other public purposes;
 - (2) Deeds of easements and right-of-way;
 - (3) Covenants and any other agreements affecting the use of the site;

- (4) Articles of incorporation of a landowner’s association and the by-laws of the association; and,
- (5) Agreements between the applicant and the City regarding public improvements or other matters.

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

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

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

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

7.411 PLAN APPROVAL DECISIONS

7.4111 Plan Approval. Plan Approval shall be granted where the PAA finds that:

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

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

7.4112 Plan Disapproval. A Plan Approval application may be disapproved only where the PAA finds that:

1. the applicant has not submitted the required fees and information as set forth in the Regulations; or
2. the Project as described in the application does not meet all of the requirements and standards set forth in this Section 7.4 and the PAA Regulations, or that a requested waiver there from has not been granted; or
3. it is not possible to adequately mitigate extraordinary adverse project impacts on nearby properties by means of suitable conditions.

7.4113 Waivers. Subject to the limitations of Section 7.4610 and any conditions of EOHLC's approval of the SGZD, upon the request of the Applicant, the Plan Approval Authority may waive dimensional and other requirements of Section 7.4, including the Design Standards, in the interests of design flexibility and overall project quality, and upon a finding of consistency of such variation with the overall purpose and objectives of the SGZD, or if it finds that such waiver will allow the Project to achieve the density, Affordability, mix of uses, and/or physical character allowable under this Section 7.4.

7.4114 Project Phasing. The PAA, as a condition of any Plan Approval, may allow a Project to be phased at the request of the Applicant, or it may require a Project to be phased to mitigate any extraordinary adverse Project impacts on nearby properties. For Projects that are approved and developed in phases, the percentage of Affordable to market rate units shall be at least equal to the minimum percentage of Affordable Housing required under Section 7.461. Where the percentage of Affordable Housing is not uniform across all phases, the unit dispersal and bedroom proportionality requirements under Section 7.465 shall be applied proportionately to the Affordable Housing provided for in each respective phase.

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

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

7.412 CHANGE IN PLANS AFTER APPROVAL BY PAA

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

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

7.413 DESIGN STANDARDS

7.4131 Adoption and Amendment of Design Standards.

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

7.4132 EOHLC Approval

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

7.4133 Plan Approval

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

7.414 SEVERABILITY

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

SECTION VIII. DEVELOPMENT METHODS

8.0 GENERAL DEVELOPMENT STANDARDS

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

8.1 PLANNED BUSINESS DEVELOPMENT

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

8.12 General Description

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

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

8.13 Permitted Uses

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

8.14 Area, Height, and Bulk Regulations

- a. All uses in a Planned Business Development shall be in conformity with the area, height and bulk regulations set forth in Table 6-1 (Easthampton Table of Area Regulations) and Table 6-2 (Easthampton Table of Height and Bulk Regulations).
- b. Uses shall be contained in one continuous building except that groupings of buildings may be allowed by the special permit of the Special Permit Granting Authority where such groups are consistent with the safety of the users of the development and are further consistent with the overall intent of this section.
- c. The development shall be served by one common parking area and by common exit and entrance areas.
- d. The following uses are restricted to a total of only twenty (20) percent of the gross floor area of the building(s) in the development: convenience market, drive-in or drivethrough restaurants, automatic teller bank machines, banks with drive-through windows, and automotive service stations.

Unless the applicant provides data from existing uses, the Institute of Transportation Engineers' publication, Trip Generation, shall be used to calculate the number of vehicles trips per day for each proposed use.

Additional building permits for any uses listed above will not be issued once the twenty percent (20%) threshold has been reached.

8.15 Additional Planned Business Development Requirements

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

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

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

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

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

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

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

- a. Parking area may be located to the side or rear of the structure. No parking shall be permitted within the required front yard setback of a structure.
(Subsection a. amended by the City Council on Aug. 4, 2010; approved by Mayor Tautznik on Aug. 10, 2010)
- b. Notwithstanding other screening and landscape requirements set forth elsewhere in the ordinance, all yards shall be landscaped. Such landscaping shall include, but not necessarily be limited to, the planting of grass, ground cover, flowerbeds, shrubs, hedge or trees. All landscaping shall be maintained in a healthy growing condition, neat and orderly in appearance, and free of refuse and debris. All plantings shall be arranged and maintained so as not to obscure the vision of traffic.
- c. Street frontages shall include shade trees and there shall be trees planted for every 30 feet of street frontage, using trees no less than 2.5 inch caliper at the time of installation. In the case of an uncleared site, existing vegetation can be preserved to achieve said objective.
- d. When a parking lot is located adjacent to a public right-of-way, at least a five (5) foot wide landscaped area between the right-of-way and the parking lot shall be provided. This area shall be landscaped with one shade or ornamental tree planted every forty (40) feet along the right-of-way.

- e. For interior parking lot areas at least twelve (12) percent of the gross area of the vehicular use area shall be landscaped. Developed areas shall be a minimum of nine (9) feet in width. One shade tree for every fifteen (15) parking spaces is required in parking lots of over fifty (50) spaces. Landscaped front, side and rear yard areas can be included in this calculation.
- f. Failure to maintain landscaping shall be grounds to revoke parking lot approval and the approval for the principal use which the parking lot serves.
- g. Loading and unloading facilities shall be located in a manner so as not to be visible from the street frontage. In addition, such facilities shall be screened from public view from any side streets abutting the lot on which the building is located.

8.156 Traffic Impact Statement

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

- a. The projected number of motor vehicle trips to enter or leave the site, estimated for daily and peak hour traffic levels.
- b. The proposed traffic flow pattern for both vehicular and pedestrian access shall be described and related to the site plan, including vehicular movements, including vehicular movements at all major intersections likely to be affected by the proposed use of the site.
- d. Traffic flow patterns at the site including entrances and egresses, loading and unloading areas, and curb cuts on site and within one hundred (100) feet of the site.
- e. A detailed assessment of the traffic safety impacts of the proposed project or use on the carrying capacity of any adjacent highway or road, including the projected number of motor vehicle trips to enter or depart from the site estimated for daily hour and peak hour traffic levels, road capacities, and impacts on intersection. Existing daily and peak hour traffic levels and road capacities shall also be given.
- f. An internal traffic and pedestrian circulation plan designed to minimize conflicts and safety problems.

8.157 Additional Buildings Within A Planned Business Development

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

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

8.16 Application for a Planned Business Development

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

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

8.2 PLANNED INDUSTRIAL DEVELOPMENT

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

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

8.23 General Description

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

8.24 Uses Permitted by Special Permit

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

8.241 Wholesale, Transportation and Industrial

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

8.242 Retail and Service Uses to Serve the Convenience Needs of Persons Working in the Development

The following retail and service uses shall be permitted, but no more than ten percent (10%) of the gross floor area of all the buildings in the Planned Industrial Development shall be retail and service uses:

- a. Convenience market
- b. Pharmacy, drugstore
- c. Restaurants not including bars or drive-in or drive-through restaurants
- d. Bakery, deli, butcher shop, fish market, caterer or similar establishment for the production and sale of food and beverages
- e. Automotive service station
- f. Photocopy shop
- g. Professional and business offices and services

8.243 Other Permitted Uses:

- a. Agricultural uses including but not limited to farm stands, greenhouses, wood lots and other similar uses
- b. Church or other religious purpose
- c. Educational uses
- d. Childcare facilities
- e. Public park, conservation area and preserved open spaces including areas for active and passive recreation
- f. Nonprofit recreational facility, not including a membership club
- g. City buildings including but not limited to police stations, fire stations, ambulance services, highway equipment and electric utility garage
- h. Public utility except power plant, water filter plant, sewerage treatment plant and refuse facility
- i. Essential services

8.25 Dimensional Regulation

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

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

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

8.26 Incentives for Planned Industrial Developments

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

- a. Individual lot sizes must be reduced to no more than ten (10) percent below the largest that is normally required in the district.
- b. The total number of establishments in the development shall not exceed the number of establishments which could be developed under normal application requirements of the district.

8.27 Additional Requirements

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

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

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

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

- a. Parking areas shall be located to the side or rear of the structure. No parking shall be permitted within the required front yard of a structure.
- b. No more than two (2) curb cuts per development is permitted onto any collector streets already existing when the Planned Industrial Development is proposed.

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

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

- d. Street frontages shall include shade trees and there shall be trees planted for every 30 feet of street frontage, using trees no less than 2.5 inch caliper at the time of installation. In the case of an uncleared site, existing vegetation can be preserved to achieve said objective.
 - e. When a parking lot is located adjacent to a public right-of-way at least a 10foot wide landscaped area between the right-of-way and the parking lot shall be provided. This area shall be landscaped with one shade or ornamental tree planted every forty (40) feet along the right-of-way.
 - f. For interior parking lot areas five (5) percent of the gross area of the vehicular use area shall be landscaped areas and shall be a minimum of nine (9) feet in width. One shade tree for every fifteen (15) parking spaces is required in parking lots of over twenty (20) parking spaces.
 - g. Failure to maintain landscaping shall be grounds to revoke parking lot approval and the approval for the principal use which the parking lot serves.
 - h. Loading and unloading facilities shall be located in a manner so as to be visible from the street frontage. In addition, such facilities shall be screened from public view from any side streets abutting the lot on which the building is located.
- 8.274 Roads and utilities adequate to serve each stage of development must be installed prior to the occupancy of any structure within that stage of development.
- 8.275 Common Land Requirements
- a. At least ten (10) percent of the total tract area (of which at least fifty (50) percent shall not be wetlands or over five (5) percent slope land) shall be set aside as common land.
 - b. A conservation restriction in perpetuity shall be recorded on the deed to ensure that common open space shall be for conservation purposes and not be built upon for residential use or developed for accessory uses such as roadways or parking. The conservation restriction shall be either:
 - (1) Conveyed to a non-profit organization whose principal purpose is the conservation or preservation of open space, and/or,
 - (2) Conveyed to the city at no cost. Such conveyance shall be at the option of the city and shall require the approval of the City Council.
 - c. Such common land shall be restricted to open space, playfield, golf course or conservation area.
 - d. Such common land shall have suitable access to a street.

8.28 Application for a Planned Industrial Development

- a. The applicant must comply with the application requirements of M.G.L. Chapter 40A, Section 9 and the requirements contained in Section 12.7 of this ordinance. Where the site plan constitutes a subdivision, it shall be subject to Planning Board approval under the subdivision control law.
- b. A Planned Industrial Development may be developed in stages, in accordance with a sequencing plan approved by the Planning Board.
- c. The applicant shall provide the city with a performance guarantee if the development requires subdivision. The performance guarantee is subject to approval from the Planning Board and shall be in the form of: (a) a Covenant covenanting that before any lot is built upon or conveyed, all roads and utilities shall be built and approved by the Planning Board; or (b) the applicant shall complete all the required improvements at least nine (9) months prior to the expiration date of the financial performance guaranteed so that the city will have time to draw upon said funds and complete the unfinished work.

8.3 MULTIFAMILY HOUSING

8.31 Multifamily Dwellings by Special Permit

- a. Multifamily dwellings shall be permitted in the R-5, R-10, R-15, R-35, DB, HB, NB, and MI Districts as noted in Table 5-1, only upon issuance of a Special Permit from the Planning Board, as specified in Section XII of this ordinance, and in accordance with the additional requirements specified herein. (Amended by the City Council 1-21-97; further amended 10-15-08; approved by the Mayor 10-16-08)
- b. Multifamily dwellings with at least fifteen percent (15%) of the dwelling units (and not less than one unit) meeting the criteria for affordability as defined in Section 8.34 shall be permitted in the R-5, R-10, R-15, R-35, DB, HB, NB and MI Districts as noted in Table 5-1, only upon issuance of Plan Approval from the Planning board, as specified in Table 5-1 of this ordinance, and in accordance with the additional requirements specified herein. (Subsection added by the City Council 10-15-08; approved by the Mayor 10-16-08; amended by City Council 06-16-2021; approved by Mayor 06-21-2021)
- c. The development shall be served by a public water system adequate in terms of fire protection and domestic use. The development shall be served by a public sewer or an individual on-lot septic system which meets the minimum requirements of Title 5, State Environmental Code and the Rules and Regulations of the Easthampton Board of Health, as amended.

8.32 Dimensional Requirements

- a. All multifamily dwelling units shall conform to the dimensional requirements specified in Table 6-1 and Table 6-2.
- b. More than one structure may be allowed on a lot in a multifamily housing project by Special Permit from the Planning Board provided that the minimum lot size requirements in Tables 6-1 and 6-2 are met for each structure.
- c. The maximum number of dwelling units per structure shall be eighteen (18) with the condition in the R-15 and R-35 districts that the minimum yard setbacks be increased to fifty (50) feet if a structure contains over six units. In the Mixed Use Mill Industrial the Planning Board, by Special Permit, may allow a greater number of units in the historic mill buildings. (Amended 6-3-97; amended by the City Council 7-1-03; approved by the Mayor 7-2-03; further amended by the City Council 11-20-13; approved by the Mayor 11-23-13)

8.33 Additional Requirements for Multifamily Dwellings

8.331 Siting and Layout Requirements

- a. The development shall be integrated into the existing terrain and surrounding landscape, and shall be designed to protect abutting properties and community amenities. Building sites shall to the extent feasible: (1) minimize use of wetlands, steep slopes, floodplains, hilltops; (2) minimize obstruction of scenic views from publicly accessible locations; (3) preserve unique natural or historical features; (4) minimize tree, vegetation and soil removal and grade

changes; and (5) maximize open space retention and (6) screen objectionable features from neighboring properties and roadways.

- b. More than one structure may be placed on a lot, but no residential structures shall be placed closer to each other than 10 feet and must be visually separated by trees and plantings. In addition, each dwelling must be provided with access, drainage and utilities functionally equivalent to that provided under the Planning Board's Subdivision Rules and Regulations.
- c. In the DB District, no dwellings shall be permitted on the street level. (Amended by the City Council on 10-15-08; approved by the Mayor on 10-16-08; further amended by City Council 06-16-2021; approved by Mayor 06-21-2021)

8.332 Design Requirements

- a. Building designs should consider the 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. (amended by City Council 06-16-2021; approved by Mayor 06-21-2021)

8.333 Vehicular and Pedestrian Access Requirements

- a. The plan shall maximize the convenience and safety of vehicular and pedestrian movement within the site and in relation to adjacent ways.
- b. Multifamily structures shall have access on roads having sufficient width, suitable grades and adequate construction to provide for the needs of vehicular traffic generated by the site.
- c. Connecting walkways with tree belts shall be provided between structures and parking areas within the site and shall be constructed in accordance with the standards set forth in the Easthampton Subdivision Regulations.

8.334 Open Space and Buffer Area Requirements

- a. The Board may require that a minimum of fifty percent (50%) of all land not devoted to dwellings, accessory uses, roads or other development be reserved as open space and be made available for active and passive recreation. (Sentence amended by the City Council 11-20-13; approved by the Mayor 11-23-13)
- b. Multifamily dwellings shall be separated from adjacent properties by buffer strips consisting of trees and/or fencing sufficient to minimize the visual and noise impacts of the development. Such a buffer strip shall be at least ten (10) feet in width and it shall contain a screen of plantings. The screen shall not be less than five (5) feet in width and six (6) feet in height at the time of occupancy of such lot. Individual shrubs or trees shall be planted as close as necessary to create a visual screen and shall thereafter be maintained by the owner or occupants so as to maintain a dense screen year-round. At least fifty (50) percent of the plantings shall consist of evergreens. A solid wall or fence, not to exceed

six (6) feet in height, complemented by suitable plantings, may be substituted for such landscape buffer strip as approved by the Planning Board. The strip may be part of the yard.

8.335 Parking, Loading and Lighting Requirements

- a. To the extent feasible, parking areas shall not be located within a required front yard and shall be screened from public ways and adjacent or abutting properties by building location, fencing or planting. No individual parking area shall contain more than fourteen (14) spaces. Parking spaces shall be located not less than fifteen (15) feet from the front property line and ten (10) feet from the back or side property lines. No parking shall be allowed on interior streets.
- b. Exposed storage areas, machinery, service areas, truck loading areas, utility buildings and structures and other unsightly uses shall be set back or screened to protect the neighbors from objectionable features.
- c. No building shall be floodlit. Drives, parking areas, walkways and entrance ways shall be illuminated only by shielded lights not higher than fifteen (15) feet.

8.336 Water Supply and Sewerage Requirements

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

8.337 Storm Water Runoff

- a. To the extent feasible, measures for run-off from impervious surfaces should be designed to meet the following objectives in an appropriate manner:
 - (1) prevent non-point source pollution from urban runoff to streams, water bodies or groundwater;
 - (2) prevent the flooding of other neighboring down-gradient properties;
 - (3) promote recharge of groundwater aquifers, while preventing pollutants from entering groundwater.

8.338 Utility Requirements

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

8.339 Accessibility Requirements

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

8.34 Affordable Housing Requirements

8.341 Whenever an application is made under this section for Plan Approval from the Planning Board for a multifamily dwelling or development, the Planning Board shall require as a condition of the grant of a Plan Approval the provision within the development of affordable housing units amounting to fifteen (15) percent of the development's total number of dwelling units for incomes at 80% of the AMI. For projects that provide units for those with incomes at or below 50% of the AMI, only ten (10) percent of the units must be affordable. For any calculation that results in a fraction, it shall be rounded up and shall result in one Affordable unit at a minimum. (amended by City Council 06-16-2021; approved by Mayor 06-21-2021)

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

8.343 The distribution of unit sizes (i.e., number of bedrooms) and determination of occupancy characteristics (i.e., elderly or family) shall be made by the Planning Board at the time of granting the Plan Approval. (amended by City Council 06-16-2021; approved by Mayor 06-21-2021)

8.344 Target Population for Affordable Housing Units

- a. Affordable housing units are those which may be purchased by families with incomes less than eighty (80) percent of the median income for the SpringfieldChicopee-Holyoke Standard Metropolitan Statistical Area, and for whom the whole expenditure for housing costs does not exceed thirty (30) percent of the gross annual income of the owner. Housing costs for affordable housing units shall be calculated based upon current available mortgage interest rates, a thirtyyear (30) mortgage term, and a ten (10) percent down payment. Adjustments must be made according to the number of persons in the household. The maximum sale price for the affordable housing units shall be based upon these housing cost calculations.
- b. The median income for the SMSA shall be as established by the U.S. Department of Housing and Urban Development median gross family income data, as annually updated.
- c. The selection of qualified buyers for the affordable units shall be administered by a qualified non-profit housing agency.:

8.345 Preservation of Affordability

- a. In order to ensure equity and continued affordability, affordable housing units within the development shall be subject to resale controls administered by a qualified housing non-profit agency. Affordable housing units shall be subject to a deed restriction which shall establish the procedure for determining the maximum resale price of the unit as follows:
 - (1) At the time of initial sale of the affordable unit, the Housing agency shall arrange for a real estate appraisal to be made, the costs to be borne by the seller, to determine the market value of the unit. The sale price divided by

the market value of the unit shall equal the discount rate. The discount rate shall be recorded as a deed restriction.

- (2) When the unit is resold, a real estate appraisal shall again be conducted to determine the market value of the unit. The market value shall be multiplied by the discount rate established on the deed to determine the maximum resale price.
 - (3) The deed restriction shall contain the following language: "No deed shall be valid to convey good title, unless it is accompanied by the certificate of the Housing agency, which after having made at least one appraisal thereof, certifies the full market value of the property, and further state the maximum consideration to be permitted on the deed."
- b. At the time of resale of an affordable housing unit, the housing non-profit agency shall notify qualifying households on their waiting list of the availability of the unit, immediately after determining the resale price.
 - c. Those families so notified shall have exclusive right to contract for the unit, for a period of sixty (60) days.
 - d. If no contract has been entered into with any party at the end of sixty days, the owner of the unit may offer the unit to the general public at the price determined by the deed restriction.

8.4 MULTIFAMILY HOUSING FOR ELDERLY AND/OR HANDICAPPED PERSONS

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

8.5 ACCESSORY DWELLING UNITS

(Section 8.5 Accessory Apartments replaced in its entirety by City Council 06-16-2021; approved by Mayor 06-21-2021)

Accessory Dwelling Units (ADU) shall conform to the provisions of this Section 8.5

8.51 Purpose

The purpose of the accessory dwelling unit ordinance is to:

- a. Add inexpensive rental units to the housing stock to meet the needs of smaller households, both young and old;
- b. Make housing units available and attainable to low and moderate income households who might otherwise have difficulty finding housing within the city;
- c. Address the housing needs of Easthampton residents;
- d. Permit the owner of a detached single- or two-family dwelling to construct one additional dwelling unit on the lot;
- e. Protect stability, property values, and the architectural design of neighboring buildings, to the extent feasible by ensuring that accessory apartments are created only in accordance with this ordinance; and
- f. Legalize conversion to encourage compliance with the State Building Code.

8.52 Procedures

- a. The Building Commissioner shall administer and enforce the provisions of this Section 8.5. Where a special permit is required to waive the standards in this Section 8.5, the Zoning Board of Appeals shall be the special permit granting authority.
- b. Application for a Building Permit shall include a floor plan of the accessory dwelling unit, the principal dwelling(s) on the lot, and all elevations, and a site plan demonstrating compliance with the dimensional and other requirements of this Section 8.5. All plans shall be drawn to scale and shall identify the existing structure and proposed modifications to create the accessory dwelling unit. Any new additions, expansions, or structures proposed to be within 3 feet of or at a required setback line shall require verification by a surveyor prior to issuance of a building permit.
- c. Where a Special Permit is required, the special permit application shall be submitted in accordance with Section 12.7 and the rules and regulations of the Board of Appeals.
- d. The Easthampton Planning Department may prepare, administer, and modify as necessary an Accessory Dwelling Unit Guidance Document to assist with interpretation of this Section 8.5.

8.53 General Standards for Accessory Dwelling Units

- a. The principal use on the lot shall be a detached single- or two-family dwelling.
- b. The owner(s) of the detached single- or two-family dwelling shall occupy one of the units as their primary residence at the time of occupancy, except for bona fide temporary absences. A

property containing an approved ADU may be sold to a new owner even if it is non-owner occupied.

- c. There shall not be more than one accessory apartment on a lot.
- d. The accessory dwelling unit shall not be sold or transferred separate and apart from the principal dwelling to which it is accessory. The principal dwelling and the accessory dwelling unit shall remain in common or single ownership.
- e. There shall be one off-street parking space for the accessory apartment in addition to one offstreet parking space required for the principal dwelling. The parking space shall be constructed of materials consistent with the existing driveway and shall have vehicular access to the driveway. For bonafide reasons submitted in writing to the Building Commissioner with an application the additional parking space may be waived. This could include a person with disabilities or someone who doesn't own a vehicle.
- f. Where a new or expanded driveway on the lot is proposed to be within 10 feet of the side or rear lot line, there shall be a landscaped buffer of at least six feet, measured from the lot line, within which no parking, outdoor storage, or other use shall be permitted unless the applicant and abutter enter into a written agreement to allow a reduced setback or no landscaped buffer submitted with a building permit application. Landscaping or screening, where required, shall be installed prior to the issuance of a certificate of occupancy.
- g. There shall be no occupancy of the accessory dwelling unit until the Building Commissioner has issued a certificate of occupancy that the principal dwelling and accessory dwelling unit comply with all applicable health and building codes and city ordinances.
- h. Properties containing a second dwelling unit may be considered a two-family dwelling for tax purposes.

8.54 Standards for Interior and Attached Units

An interior or attached accessory apartment shall be designed to maintain the appearance of a single- or two-family dwelling, subject to the following requirements:

- a. There shall be a separate entrance, either directly from the outside or through an entry hall or corridor shared with the principal dwelling or attached structure sufficient to meet the requirements of the State Building Code for safe egress;
- b. All stairways to an accessory apartment above the first floor shall be enclosed within the exterior walls of the single-family dwelling or on the side or rear of the dwelling if constructed on an outer wall. Egress stairs shall not be permitted on the front (street-facing) façade.
- c. An addition to the existing principal dwelling unit is permitted provided that it complies with the maximum building height, minimum setbacks, and maximum building coverages under Tables 6-1 and 6-2 for the principal structure in that zone.

8.55 Standards for Detached Units

An accessory apartment in a new or existing detached accessory structure is permitted subject to the following requirements:

- a. An existing accessory structure may be converted or renovated into one new unit regardless of its size or whether or not it conforms to the district’s minimum setbacks as long as no changes in footprint or height are required.
- b. A new detached accessory dwelling unit (and/or an attached unit consisting of new construction) shall not exceed 900 square feet.
- c. A new or expanded accessory dwelling unit shall comply with the maximum height, minimum setbacks, and maximum building coverages for a principal structure under Tables 6-1 and 6-2.

8.56 Accessory Dwelling Units in Non-conforming Single-Family and Two-Family Dwellings

- a. Alteration, extension, or structural change to a lawfully pre-existing single-family or twofamily residential structure shall be permitted in order to construct an accessory dwelling unit if the alteration, extension, or structural change does not increase the nonconforming nature of the existing structure. An alteration, extension, or structural change that conforms to the maximum building height, minimum yard setbacks, and maximum coverage requirements for the district as shown in Table 6-1 and Table 6-2 shall be deemed to not increase the nonconforming nature of the existing structure.
- b. The Zoning Board of Appeals may grant a special permit to construct an accessory dwelling unit if the alteration, extension, or structural change on a single-family or two-family property increases the nonconforming nature of the existing structure, provided that the Board finds that proposed changes shall not be substantially more detrimental to the neighborhood than the existing nonconforming use or structure.

8.57 Special Permit for Accessory Dwelling Unit

- a. Any requirement under this Section 8.5 may be waived through the issuance of a Special Permit from the Zoning Board of Appeals, provided the Board finds that the proposed accessory dwelling unit will be substantially consistent with the purposes of this Section 8.5 and will not have a detrimental impact on the neighborhood.

8.58 Provision for Accessory Dwelling Units under Prior Special Permits

- a. An accessory apartment that exists under and conforms to the conditions of a special permit granted by the Board of Appeals prior to June 16, 2021 shall be deemed a permitted accessory dwelling unit under this Section 8.5.
- b. Any previously authorized accessory apartment special permits shall now be deemed to run with the land and shall no longer expire upon sale of the property or transfer of title.

8.6 PLANNED UNIT RESIDENTIAL DEVELOPMENT FOR AFFORDABLE HOUSING ⁴⁵

⁴⁵ Sec. 8.6 amended by the City Council on May 4, 2022; Approved by Mayor LaChapelle on May 4, 2022

8.61 Uses Allowed By Plan Approval

Planned Unit Residential Developments shall be permitted in the R-5, R-10, R-15, DB, HB and MI Districts only upon issuance of a Plan Approval from the Planning Board as specified in Section XII of this ordinance.

8.62 General Description

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

8.63 Purposes

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

- a. Allow for greater variety and flexibility in the development of housing types;
- b. To support private developers in their efforts to develop affordable housing;
- c. Promote the permanent preservation of open space;
- d. Facilitate the construction and maintenance of streets, utilities and public services in a more economical and efficient manner;
- e. Maintain and replicate the traditional New England land use pattern in which small villages are adjacent to common open space.

8.64 Uses Allowed by Plan Approval

- a. Single family dwellings;
- b. Two-family dwellings;
- c. Townhouses - single family dwellings connected by one or more common walls;
- d. Multifamily dwellings;
- e. Recreational uses and open space.

8.65 Density and Dimensional Regulations

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

- a. The minimum lot size for all dwelling units may be reduced by ten (10) percent below the lot size required in Table 6-1.
- b. The minimum total land area for a Planned Unit Residential Development shall be ten (10) acres.
- c. There shall be no frontage requirements within the Planned Unit Residential Development.
- d. Minimum setback, rear and side yard requirements specified in the Table of Dimensional Requirements shall pertain only to the periphery of the Planned Unit Residential Development.
- e. The maximum number of dwelling units per structure shall be eighteen (18) with the condition in the R-15 and R-35 districts that the minimum yard setbacks be increased to fifty (50) feet if a structure contains over six units (Amended by the City Council on 07-01-2003; approved by the Mayor on 07-02-2003).

8.66 Utility, Parking, and Circulation Requirements

- a. All structures which require plumbing shall be connected to a public sanitary sewer and public water system.
- b. A minimum of two parking spaces per dwelling unit shall be required, which may include garages.
- c. There shall be an adequate, safe, and convenient arrangement of pedestrian circulation, facilities, roadways, driveways, and parking.

8.67 Landscaping and Buffer Area Requirements

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

8.68 Common Open Space Requirements

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

8.69 Affordable Housing Requirements

8.691 Whenever an application is made under this section for a Plan Approval from the Planning Board for a Planned Unit Residential Development, the Planning Board shall require as a condition of the grant of a Plan Approval the provision within the development of affordable housing units amounting to fifteen (15) percent of the development's total number of dwelling units for incomes at 80% of the AMI. For projects that provide units for those with incomes at or below 50% of the AMI, only ten (10) percent of the units must be affordable.

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

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

8.694 Target Population for Affordable Housing Units

- a. Affordable housing units are those which may be purchased by families with incomes less than eighty (80) percent of the median income for the SpringfieldChicopee-Holyoke Standard Metropolitan Statistical Area, the whole expenditure for housing costs does not exceed thirty (30) percent of the gross annual income of the owner. Housing costs for affordable housing units shall be calculated based upon current available mortgage interest rates, a thirty-year (30) mortgage term, and a ten (10) percent down payment. Adjustments must be made according to the number of persons in the household. The maximum sale price for the affordable housing units shall be based upon these housing cost calculations.
- b. The median income for the SMSA shall be established by the U.S. Department of Housing and Urban Development median gross household income data, as annually updated.
- c. The selection of qualified buyers for the affordable units shall be administered by the Easthampton Housing Authority. The selection from a pool of prospective buyers meeting the established income guidelines shall be based upon the following criteria:
 - (1) Priority consideration shall be given to households not currently owning a home
 - (2) Priority consideration

8.695 Preservation of Affordability

- a. In order to ensure equity and continued affordability, affordable housing units within the PURD shall be subject to resale controls administered by the Easthampton Housing Authority. Affordable housing units shall be subject to a deed restriction which shall establish the procedure for determining the maximum resale price of the unit as follows:
 - (1) At the time of initial sale of the affordable unit, the Housing Authority shall arrange for a real estate appraisal to be made, the costs to be borne by the seller, to determine the market value of the unit. The sale price divided by the market value of the unit shall equal the discount rate. The discount rate shall be recorded on the deed and mortgage documents.
 - (2) When the unit is resold, a real estate appraisal shall again be conducted to determine the market value of the unit. The market value shall be multiplied by the discount rate established on the deed to determine the maximum resale price.
 - (3) The deed shall contain the following language: "No deed shall be valid to convey good title, unless it is accompanied by the certificate of the Housing Authority, which after having made at least one appraisal thereof, certifies the full market value of the property, and further state the maximum consideration to be permitted on the deed."

- b. At the time of resale of an affordable housing unit, the Easthampton Housing Authority shall notify qualifying households on their waiting list of the availability of the unit, immediately after determining the resale price.
- c. Those families so notified shall have exclusive right to contract for the unit, for a period of sixty (60) days.
- d. If no contract has been entered into with any party at the end of sixty days, the owner of the unit may offer the unit to the general public at the price determined by the deed restriction.

8.7 PLANNED UNIT DEVELOPMENT FOR MIXED USES

8.71 Uses Allowed by Special Permit

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

8.72 General Description

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

8.73 Purposes

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

- a. allow for greater variety and flexibility in development forms;
- b. encourage the redevelopment of underutilized industrial buildings for mixed uses;
- c. reduce traffic congestion and air pollution by providing opportunities for housing and employment in close proximity;
- d. encourage more compact and efficient developments.

8.74 Uses Allowed by Special Permit

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

- a. Single family dwellings;
- b. Two-family dwellings;
- c. Townhouses-single family dwellings connected by one or more walls;
- d. Multifamily dwellings;
- e. Business uses which are permitted in the underlying district;
- f. Industrial uses which are permitted in the underlying district.

8.75 Density and Dimensional Regulations

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

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

8.76 Utility, Parking, Landscaping and Open Space Requirements

Planned Unit Developments for Mixed Uses must meet the utility, parking, landscaping and open space requirements in Section 8.6.

8.77 Affordable Housing Requirements

If a Planned Unit Development for Mixed Uses includes affordable housing units amounting to ten (10) percent of the developments total number of dwelling units, and the units are consistent with the provisions of Section 8.69, the density and dimensional requirements in Section 8.75 may be substituted for those requirements normally required in the district.

8.8 DOWNTOWN BUSINESS DISTRICT DEVELOPMENT METHODS

The Downtown Business District (DBD) is established to provide a comprehensive set of development methods to be applied in Easthampton’s downtown area to distinguish its unique qualities from other business areas within the city. These methods are established for the continuance and enhancement of the historic downtown area as the functional and symbolic center of Easthampton.

8.81 General Description

The Downtown Business District shall be a separate business district that incorporates the areas in city which are part of Easthampton Center as delineated on the Easthampton Zoning Map.

8.82 Purposes

The Downtown Business District is established to achieve the following objectives for the city:

- a. to generate pride and confidence in the downtown area;
- b. to create an attractive environment which is active throughout the day and evening;
- c. to maintain a consistently high level of design quality;
- d. to encourage pedestrian activity by creating a positive pedestrian experience;
- e. to protect property values through quality control;
- f. to provide incentives for new and existing businesses in the downtown area.
- g. to maintain and promote a mix of residential & commercial uses.
(subsection g. added by the City Council on Sept. 2, 2009; approved by the Mayor on Sept. 3, 2009)

8.83 Uses Permitted with Site Plan Approval or by Special Permit

Uses permitted with Site Plan Approval or by Special Permit from the Planning Board in the Downtown Business District are listed in the Table of Uses Regulations in Section V.

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

8.84 Residential Uses in Commercial Buildings

Residential uses are permitted with Site Plan Approval from the Planning Board on all floors or levels in buildings in the Downtown Business District, except that residential uses are not permitted on the street level or first floor of new structures or commercial buildings which existed at the time of the adoption of this ordinance. The following types of residential uses may be permitted: apartments, hotels, and bed-and-breakfast establishments.

8.85 Density and Dimensional Requirements

All projects or uses in the DBD must conform to the density and dimensional requirements in Section VI.

8.86 Bonus Provisions for Developments in the Downtown Business District

If a new project or use improves the business environment of the DBD by donating to the City of Easthampton public amenities such as parks, benches, plazas, or public access to the riverfront, the Planning Board may allow up to ten (10) percent reduction in the minimum lot area requirements in Section VI as part of the Special Permit process. Applicants for projects or uses not requiring a Special Permit may apply for a Special Permit to be eligible for the Bonus Provisions in this section.

8.87 Preservation and Re-Development

Development in the Downtown Business district shall consider the preservation and re-use of existing buildings in order to maintain the historic nature and mix of uses in the district. (Sec. 8.87 added by the City Council on 09-02-2009; approved by the Mayor on 09-03-2009)

8.9 HIGHWAY BUSINESS AND GENERAL BUSINESS DISTRICT DEVELOPMENT METHODS

The Highway Business District (HBD) and General Business District are established to provide a comprehensive set of development methods to be applied in the highway business area of Easthampton, and to recognize the specific characteristics of the highway corridor. The HBD has special requirements as a major roadway and as a conduit to other communities.

8.91 General Description

The Highway Business District and General Business District shall be separate business districts that will contain businesses or uses which include auto-oriented uses that require larger lot sizes, are high volume traffic generators, and are not appropriate for other business districts in the city.

8.92 Purposes

The Highway Business District and General Business District are established to achieve the following objectives of the City of Easthampton:

- a. to direct large-lot businesses, high-volume traffic generators, and auto-oriented uses to the appropriate location.
- b. to provide safe, efficient traffic flow in the HBD and GBD.
- c. to maintain a high level of design and landscaping quality.
- d. to provide safe pedestrian and bicycle access to businesses and uses in the HBD.
- e. to protect property values through quality control.

8.93 Uses Permitted with Site Plan Approval or by Special Permit

Uses permitted with Site Plan Approval or by Special Permit in the Highway Business District or General Business District are listed in the Table of Uses Regulations in Section V.

8.94 Density and Dimensional Requirements

All projects and uses within the HBD or GBD must conform to the density and dimensional requirements in Section VI.

SECTION IX. Mixed Use/Mill Industrial District Development Methods

The Mixed Use/Mill Industrial District (MI) is established to provide a comprehensive set of development methods which recognize the mill industrial area’s historic qualities and its capacities as a mixed-use district.

9.01 General Description

The Mixed Use/Mill Industrial District shall be a separate mixed-use district in the area of city delineated on the Easthampton Zoning Map.

9.02 Purposes

The Mixed Use/Mill Industrial District is established to achieve the following objectives of the City of Easthampton:

- a. to generate pride and confidence in the historic mill district.
- b. to restore and revitalize the historic mill buildings in Easthampton.
- c. to maintain a consistently high level of design quality.
- d. to provide for a compatible mix of uses within the old mills.
- e. to improve the pedestrian environment in the mill district.
- f. to establish connections between the mill buildings and the abutting mill ponds.
- g. to allow diversification of existing businesses.
- h. to provide incentives for new businesses.

9.03 Uses Permitted with Site Plan Approval or by Special Permit

Uses permitted with Site Plan Approval or by Special Permit from the Planning Board in the Mixed Use/Mill Industrial District are listed in the Table of Uses Regulations in Section V.

9.031 Compatible Uses in Existing Mill Buildings

Uses within an existing mill building must be compatible. As part of the Site Plan Approval process, the Planning Board will evaluate proposed projects or uses for compatibility with existing uses within the same mill building. Uses that create excessive noise or dust may not be compatible with residences, offices, restaurants or retail stores. Uses that create a high volume of vehicular or pedestrian traffic may not be compatible with residences. The Planning Board may disapprove a Site Plan for any proposed use which is deemed by the Planning Board to be incompatible with any existing use in the same building, unless adequate mitigating measures, such as noise reduction or traffic mitigation measures, are provided.

9.04 Residential Uses in Existing Buildings

Residential uses are permitted with Site Plan Approval from the Planning Board or by Special Permit from the Zoning Board of Appeals on all floors or levels in buildings in the Mixed Use/Mill Industrial District, except that residential uses are not permitted on the street level or first floor of new structures or commercial buildings which existed at the time of the adoption of this ordinance. The following types of residential uses may be permitted: multifamily dwellings, multifamily housing for elderly and/or handicapped persons, accessory apartments, and bed-and-breakfast establishments.

9.05 Density and Dimensional Requirements

Uses in the Mixed Use/Mill Industrial District must abide by the density and dimensional requirements in Section VI.

9.06 Bonus Provisions for Developments in the Mixed Use/Mill Industrial District

If a new project or use improves the business environment of the MI District by donating to the City of Easthampton public amenities such as parks, benches, plazas, or public access to the mill ponds, the Planning Board may allow up to ten (10) percent reduction in the minimum lot area requirements in Section VI as part of the Special Permit process. Applicants for projects or uses not requiring a Special Permit may apply for a Special Permit to be eligible for the Bonus Provisions in this section.

9.1 OPEN SPACE RESIDENTIAL DEVELOPMENT

Ordinance Contents

- 9.11. Applicability
- 9.12. Preamble and Purpose
- 9.13. Definitions
- 9.14. Application Contents/Requirements
 - 9.141. Site Analysis Submission
 - 9.142. Preliminary Development Plan Submission
 - 9.143. Definitive Development Plan Submission
- 9.15. Use and Dimensional Standards
- 9.16. OSR Development Design Guidelines
- 9.17. Definitive Development Plan Contents
- 9.18. Criteria for Enhancing Development Flexibility/Additional Units
- 9.19. Procedures
- 9.20. Planning Board Findings

9.1.1 Applicability

Open Space Residential Developments shall be permitted in the Residential-10 (R-10), Residential15 (R-15), Residential-35 (R-35), Residential-40 and Residential-80 (R-80) districts only upon issuance of a Special Permit from the Planning Board, as specified in Section 12-7 of this ordinance, and in accordance with the additional requirements specified herein.

9.1.2 Preamble and Purpose

The purpose of the Open Space Residential Development ordinance is, through more flexible design, to encourage the preservation of open land for its scenic beauty and agricultural, open space, forestry and recreational use; to preserve historical and archaeological resources; to protect the public water supply; to protect the value of real property; to promote more sensitive siting of buildings and better overall site planning; to perpetuate the traditional New England landscape; to promote a better use of the land in harmony with its natural features; and to facilitate the construction and maintenance of streets, utilities and public services in an economical and efficient manner.

To accomplish these community goals, it is intended that Open Space Residential Development be developed as an entity in which an alternative pattern of development may be permitted in order to gain the following benefits:

- a. The more efficient use of land in harmony with its natural features.
- b. The preservation of open space and promotion of aesthetics and other amenities.
- c. Efficient use of land to increase the options for diverse and affordable housing.
- d. Protection of natural resources including water bodies and wetlands, floodplains, agricultural lands and wildlife habitats.
- e. Protection of the aquifer recharge areas and the municipal water supply.

- f. Economical and efficient street, utility and public facility installation, construction and maintenance.

9.1.3 Definitions

- a. Affordable housing units: are those which may be rented or purchased by those who meet the guidelines for maximum annual income for a low-income or moderate-income household. The income limit for "low income" shall be 80% of the median income for Easthampton, and the income limit for "moderate income" shall be 120% of median income for Easthampton. Median income for Easthampton will be as calculated by the U.S. Department of Housing and Urban Development, or any successor agency, and shall be adjusted for household size.
- b. Open Space Residential Development/Cluster Development: An option which permits an applicant to build single-family, two-family and multifamily dwellings on lots with reduced area and frontage requirements so as to create a development in which the buildings and accessory uses are clustered together into one or more groups with adjacent common open land.
- c. Homes association: A corporation or trust owned or to be owned by the owners of lots or residential units within a tract approved for cluster development, which holds the title to open land and which is responsible for the costs and maintenance of said open land and any other facilities to be held in common.
- d. Open land: Open space within a cluster, prohibited from development.
- e. Wetlands: Areas characterized by vegetation described in General Laws, Chapter 131, Section 40.
- f. Two-family dwelling: A detached building containing two (2) dwelling units.
- g. Zero lot line: Dwellings on separate lots with no side yard that share a common wall.
- h. Flexible frontage lot: Lot(s) with less frontage than required by the zoning ordinance as permitted by Section 9.1 of this ordinance.
- i. Common driveway: A driveway serving up to three (3) detached dwelling buildings.

9.1.4 Application Contents

9.1.4.1 Site Analysis Submission

The following shall be submitted/presented to the Planning Board at a regularly scheduled meeting for the purpose of assessing the impact or implications of the development and shall be used in the preparation of a preliminary design plan. The information below shall be submitted in as concise a manner as possible but shall be sufficient for the Board to engage in comprehensive discussion.

- a. Statement of Sensitive Land and Site Specific Resources

In order to ensure that the land can be used for building purposes without danger to public health and safety with proper provisions made for the protection of various environmental resources. The development shall maximize the preservation of on-site sensitive resources. The Statement of Site Resources shall be comprised of a map and/or narrative, prepared by qualified experts, and shall include the following information unless provided elsewhere in the formal application submitted to the Board:

- (1) Boundaries of areas regulated by the Easthampton Conservation Commission under MGL, Ch. 131, Ch. 40.
- (2) Location and limits of soil types consistent with the soils classification maps prepared by the U.S. Department of Agriculture Soil Conservation Service.
- (3) Areas where the depth of natural soil to bedrock is two (2) feet or less.
- (4) The extent of any primary and secondary aquifers underlying the site, as currently shown on maps prepared by the City of Easthampton.
- (5) Topographic contours at intervals of ten (10) feet or less.
- (6) Delineation of slopes of twenty (20) percent or greater.
- (7) The location of cultural and historic features including but not limited to stonewalls on the boundary of the site, archaeological and historic sites and structures, and significant trees (caliper of thirty (30) inches or more at the base). On sites of more than twenty (20) acres, interior stone walls shall be shown.
- (8) The boundaries of the secondary watershed areas in which the site is located.
- (9) Scenic viewsheds as identified by on-site observations from public roads and vantage points.
- (10) The zone or zones in which the proposed development is located, including any overlay zones, and any zone boundary line crossing or within one hundred (100) feet of the site.
- (11) If applicable, land which does or does not lie within a floodplain. If land does not fall within a floodplain, include the following notation on the map: "This land does not include areas of special flood hazard as defined by the City ordinances."
- (12) Additional data shall be prepared as requested by the Board for land areas adjacent to and within one hundred (100) feet of the site, or for a greater distance where necessary for proper evaluation of the development proposal's impact on specific Sensitive Resources on and off the site.

b. Statement of Site Context within the Built Environment

Information shall be provided that describes the existing neighborhoods that surround the development and shall include but not be limited to:

- (1) Relative building density and style as it relates to current zone districts in the surrounding areas.

- (2) Vehicular and pedestrian circulation systems and width of existing roads.
 - (3) Existing and infrastructure (utilities) and other public facilities that may possibly be impacted.
- c. The board shall provide a response to the applicant within forty-five (45) days as to the Board's preferred direction.

9.1.4.2 Preliminary Development Plan Submission

To promote better communication and to avoid misunderstanding, applicants are required to submit preliminary materials for review by the Planning Board prior to the application for a special permit. Such preliminary subdivision plans shall be submitted and comply with the Rules and Regulations governing the Subdivision of Land in the City of Easthampton.

Applicants who anticipate filing a Special Permit shall file with the City Clerk, one (1) copy and with the Planning Board, ten (10) copies, of the following documents:

- a. A subdivision development plan of sufficient detail to show the number of building lots reasonably attainable, in accordance with the provisions for a preliminary plan as set forth in the City of Easthampton Subdivision Control Laws and Regulations and this ordinance, with deference to the site analysis and lands prohibited from development by legally enforceable restrictions, easements or covenants, and other constraints dictated by the ordinance. The Development Plan must show the proposed locations of access roads, driveways and structures.

With respect to septic disposal sites, the Planning Board may, at its discretion, require on-site investigations (percolation tests) to be performed or request additional information from the applicant on those lots which it considers most marginal or questionable to assure compliance with Title V of the Massachusetts General Laws. The plan shall be subject to:

- (1) On-site field check for appropriateness of design.
 - (2) Review by the City Engineer in order to evaluate the accuracy of such Conceptual Plan. All expenses incurred for engineering studies or percolation testing shall be borne by the applicant.
- b. A Conceptual OSR development plan in conformance with this section as applicable and the provisions herein shall be submitted in order to set forth the intentions of the developer and further allow input from the Planning Board prior to submission of Definitive Plans. The Conceptual OSR development plan shall follow the use and dimensional standards in Section 9.15.

9.1.4.3 Definitive Development Plan Submission

Definitive Development Plan - General: A final Definitive Development Plan shall be submitted in conformance with this section and the City of Easthampton Subdivision Control Laws and Regulations as applicable. Such Definitive Plans shall adequately respond to

Section 9.16 (Development Design Guidelines) and Section 9.17 (Development Plan Contents) and address issues that have been previously discussed at the Site Analysis and Preliminary Plan Submission.

9.1.5 Use and Dimensional Standards

9.1.5.1 The area of the tract to be developed shall not be less than 5 acres.

9.1.5.2 Allocated Housing Types

- a. General: A one-family detached dwelling, a zero lot line single-family dwelling, a two-family detached dwelling, or attached dwellings may be constructed on certain lots in an Open Space Residential (OSR) Development although such lots have less area, frontage and/or rear and side yard dimensions than normally required.
- b. Zero lot line units are allowed. A side yard need not be provided on that side of a dwelling unit that shares a party wall or double wall with an adjacent dwelling unit.
- c. A minimum of seventy (70) percent of the total dwelling units shall be singlefamily dwellings. A minimum of sixty (60) percent of the total dwelling units shall be non-zero lot line, single family dwellings. A maximum of thirty percent of the dwelling units may be two-family or multifamily dwelling units. A multifamily unit shall consist of no more than eight (8) dwelling units in one building.
- d. If multifamily units are included, the entire development shall be serviced with the public sanitary sewer system.

9.1.5.3 Except as specified in a special permit granted under this section, all requirements of the zoning ordinance shall continue to apply.

9.1.5.4 Unless otherwise provided for, the Dimensional Regulations of Table 9-1 shall be complied with.

9.1.5.5 No principal use other than residential, recreational, agricultural or silviculture shall be permitted.

9.1.5.6 Allowed Density

The density shall be calculated by taking the parcel area less wetland areas, subtracting ten (10) percent of that area (for roadways) and dividing that number by the minimum lot area of the zoning district in which the parcel is located. Refer to Section 9.18 for Provisions for Enhancing Development Flexibility.

9.1.5.7 Flexible Frontage Lots in an OSR

The Planning Board may reduce the frontage requirements for not more than fifty (50) percent of the lots in the development, when such flexible lot (FFL) is to be used solely for single-family residential purposes and shall meet the criteria:

1. At least one and one-half times (1.5x) the minimum lot area normally required for district; and

- 2. Access to frontage of at least forty (40) feet; and
- 3. Access width from front line to the principal structure, of at least forty (40) feet; and
- 4. An access roadway with no curve having a radius of less than eighty (80) feet; and
- 5. The front setback shall be sufficient to avoid encroachment on abutting lots and structures; at a minimum the setbacks of Table 4 shall apply, except the setback width requirement in Table 4 shall not apply to Flexible Frontage lots under this ordinance.
- 6. The maximum building coverage allowed shall not exceed two-thirds (2/3) of that normally permitted in the district; and
- 7. There shall be no more than three (3) contiguous Flexible Frontage lots which may be served by a common driveway, where appropriate frontage lots may be served by same driveway; and
- 8. The lot shall be laid out such that the width at the building site shall be at least the required frontage width for the zoning district; and
- 9. The grade, length and location of access driveways shall be of suitable construction, in the opinion of the Planning Board, for the access and turnaround of vehicles, including moving vans, ambulances, fire and police. Such driveway:
 - a. shall have width of at least fifteen (15) feet, and
 - b. shall have a maximum grade of twelve (12) percent, and
 - c. shall have passing turnouts providing a total width of at least twenty (20) feet along a distance of at least twenty-five (25) feet, spaced with no more than three hundred (300) feet between turnouts and with the first such passing turnout at the driveway connection to the street, and
 - d. must receive a Department of Public Works driveway permit, and
 - e. approval by the Fire Department.
- 10. Appropriate easements shall be delineated on the Plot Plan and on the deed to the lot including a clear provision for the responsibility for the private maintenance of the common driveway, common utilities and snow removal running with the land.
- 11. The Flexible Frontage lots must meet all other requirements of the Easthampton Zoning Ordinance.

Table 9-1
Area Regulations for Open Space Residential Development

<u>District</u>	<u>R-10</u>	<u>R-15</u>	<u>R-35</u>	<u>R-49</u>	<u>R-80</u>
Min. Lot Area Single-family	7,500	10,000	12,500	15,000	40,000
Additional Area/Unit	3,000	5,000	7,500	10,000	25,000
Lot Frontage*	50	75	75	100	120
Min. Front Setback*	15	20	30	30	50
Min. Side Setback*	10	10	15	15	25
Min. Rear Setback*	20	20	30	30	50
Max. Building Coverage*	Per Table 6-1 of the Zoning Ordinance				

*May be modified by the Planning Board by OSR Special Permit. Flexible Frontage Lots in an Open Space Residential Development require 1.5 times the lot area, 40 feet of minimum frontage, increased yard setbacks.

9.1.5.8 Affordable Units

- a. The Planning Board may authorize a greater number of dwelling units than would be allowed by the density requirements of this Section as provided for in the Provisions and Criteria for enhancing development flexibility Section 9.18.
- b. The applicant shall establish such restrictions, conditions and/or limitations as are necessary to ensure that the units required for low- and moderate-income households will be permanently available for ownership, and available for a minimum of twenty years in the case of rental housing.
- c. Housing constructed by a public agency or nonprofit corporation using a federal, state or local housing assistance program may adhere to the requirements set forth by the funding agency provided that the intent of these regulations are met.
- d. Affordable housing units shall be geographically dispersed throughout the development.

9.1.6 OSR Development Design Guidelines

9.1.6.1 Vehicular and Pedestrian Circulation

- a. Primary routes shall be clearly differentiated from secondary routes and driveways; conflicts shall be minimized between vehicular routes and pedestrian routes and recreation areas.
- b. Roadways shall be laid out so as to minimize long vistas of pavement and monotonous linear arrangements of buildings.

9.1.6.2 Screening and Buffers

- a. Layout and design shall respond to needs for privacy between and around dwelling units; structures shall be arranged to maximize the preservation of existing trees and tree groves.

- b. All residential structures and accessory uses within the development shall be set back from the boundaries of the development by a buffer strip of at least fifty (50) feet in width. A buffer of one hundred (100) feet in width from existing roads which shall be kept in a natural or landscaped condition.

9.1.6.3 Open Space/Common Land

a. The total area of open space required shall be at least fifty (50) percent of the total parcel area, of which at least seventy-five (75) percent shall be neither bordering vegetated wetlands (as defined in M.G.L. Ch. 131, Section 40, the Wetlands Protection Act and 310 CMR), shall be set aside as Common Open Space. A functional relationship shall exist between the Common Open Space areas and the proposed residential clusters in an OSR Development.

- (1) Such Common Open Space shall be restricted to open space agricultural uses, recreational uses such as tot-lot, park, playground, play field, golf course or conservation.
- (2) Such Common Open Space shall have suitable access to and from the development's street(s).

(3) Such Common Open Space shall be placed under a Conservation Restriction/Easement in accordance with the provisions of M.G.L. Chapter 184, Sections 31-33 as amended. Such common land shall be either deeded to (1) a corporation or trust comprising a home association whose membership includes the owners of all lots or units contained in the tract. The developer shall include in the deed to owners of individual lots beneficial rights in said open land, and shall grant a conservation restriction to the City of Easthampton over such land pursuant to Massachusetts General Laws, Chapter 184, section 31-33, to insure that such land be kept in an open or natural state and not be built upon the residential use or developed for accessory uses such as parking or roadways; (2) to a non-profit organization, the principal purpose of which is the conservation of open space. The developer or charity shall grant a conservation restriction as set out in (1) above; or (3) to the Conservation Commission of the city for park or open space use, subject to the approval of the selectmen, with a trust clause insuring that it will be maintained as open space. A homes association organization shall be created by covenants running with the land, and such covenants shall be included with the submitted development plan and shall be subject to approval by the Planning Board.

Such organization shall not be dissolved nor shall it dispose of any common open space by sale or otherwise (except to an organization conceived and organized to own and maintain the common open space), without first offering to dedicate the same to the city.

Covenants creating such organization shall provide that in the event the organization established to own and maintain common open space, or any successor organization, shall at any time after establishment of the development fail to maintain the common open space in reasonable order and condition in accordance with the development

plan, the city may serve notice in writing upon such organization or upon the residents of the development setting forth the manner in which the organization has failed to maintain the common open space in reasonable condition, and said notice shall contain a demand that such deficiencies of maintenance be cured within thirty (30) days thereof, and shall state the date and place of a public hearing thereon which shall be held within twenty (20) days of the notice. At such hearing the city may modify the terms of the original notice as to the deficiencies and may grant an extension of time within which they shall be cured. If the deficiencies set forth in the original notice or in the modifications thereof shall not be cured within said thirty (30) days or any extension thereof, the city in order to preserve the taxable values of the properties within the development and to prevent the common open space from becoming a public nuisance, may enter upon said common open space and maintain the same for one year. Said entry and maintenance shall not vest in the public any rights to use the common open space except when the same is voluntarily dedicated to the public by the owners. Before the expiration of said one-year period, the city shall, upon its initiative or upon the request of the organization therefore responsible for the maintenance of the common open space, call a public hearing upon notice in writing to such organization or to the residents of such development, to be held by the Planning Board, at which hearing the organization shall show cause why such maintenance by the city shall not continue for a succeeding one-year period. The Planning Board shall send recommendations for further action, if any, to the City Council.

If the Planning Board determines that such organization is ready and able to maintain the common open space in reasonable condition at the end of said one-year period, the organization shall maintain the property. If the Planning Board determines that such organization is not ready and able to maintain the common open space in a reasonable condition, the city may, in its discretion, continue to maintain the common open space during the next succeeding year, and subject to a similar hearing and determination in each year thereafter. The covenants creating such organization shall further provide that the cost of such maintenance by the city shall be assessed ratably against the properties within the development that have a right of enjoyment of the common open space, and shall become a charge of said properties, and such charge shall be paid by the owners of said properties within thirty (30) days after receipt of a statement therefore.

The covenants shall provide that each dwelling unit shall have an equal say in determining the affairs of the organization; that costs shall be assessed equally to each dwelling unit; and that the organization shall be retained in the control of the developer no longer than until a majority of dwelling units are conveyed to permanent owners.

Where appropriate, and with the approval of the City Council, by virtue of the large size of a development or of the diversity of uses or dwelling types therein, more than one separate and distinct organization may be created. Separate organizations may not be created, however, where one might be too small (in terms of the number of lots included) to operate efficiently, or where one has a responsibility for too large or costly (to maintain) parcel of open space in proportion to that under the responsibility of other organizations within the same development.

(4) Open space liens: Homeowners must pay their pro rata share of organization costs, and the assessments levied by the association can become a lien upon the property.

- b. The majority of the common land shall consist of large blocks of contiguous areas easily accessible to most residents of the development from streets, culde-sacs and other open areas and linkages between different sections of common land shall be clearly shown; physical and visual access to the common land from the dwelling units, the preservation of the original land form and existing vegetation shall be maximized.
- c. Where the proposed development abuts a body of water, a portion of the shoreline, as well as reasonable access to it, shall be a part of the residual common land.

9.1.6.4 Utilities and Services

- a. Dumpsters, if applicable, shall be located in convenient locations, visually screened and shall not impede pedestrian or vehicular circulation.
- b. The installation and location of drainage systems shall not impede access to common land.

9.1.6.5 Protection of Environmentally Sensitive Areas

- a. The Planning Board may reduce the number of lots otherwise allowed for the protection of aquifers, wetlands, or other environmentally sensitive areas.
- b. Wildlife habitats of species listed as endangered, threatened or of special concern by the Massachusetts Natural Heritage Program will be protected.
- c. Historic and prehistoric sites and their environs will be preserved.

9.1.6.6 Building Lot Layout and Siting

- a. The Planning Board may request the establishment of building envelopes for buildings in particularly sensitive areas within the OSR development.
- b. Residences should be grouped in locations so that the greatest number of units can be designed to take advantage of solar heating opportunities; scenic views and long vistas will remain unblocked particularly as seen from public roads, special places or scenic roads.
- c. In areas within two hundred (200) feet from open bodies of water (reservoirs, lakes, ponds, rivers, streams), lots shall be laid out, to the greatest extent feasible, to achieve the following objectives:
 - (1) On a portion of the site that will most likely conserve shoreline vegetation and the integrity of the buffer strip.

- (2) Integrated into the existing landscape through features such as vegetative buffers and through retention of the natural shorelines.
 - (3) Will not result in erosion or sedimentation.
 - (4) Will not result in water pollution.
 - (5) Prevent any disruptions to the natural flow of the water course.
 - (6) Protect fisheries and wildlife habitat within and along the water course.
 - (7) Enhance and preserve existing agricultural lands, floodplain and other environmentally sensitive areas along the shoreline.
 - (8) An uncut buffer strip of native vegetation shall be maintained fifty (50) feet back from the bank of any affected water course, within which limited limb removal may be permitted to create filtered views and within which unpaved woodland paths may be created subject to Conservation Commission approval.
 - (9) Minimum set-backs from the bank for structures shall be one hundred (100) feet.
- d. In areas of greater than ten to fifteen (10-15) percent average slope or upon hilltops or ridgelines, lots shall be laid out, to the greatest extent feasible, to achieve the following objectives:
- (1) Building sites shall be located so that building silhouettes will be below the ridgeline or hilltop or if the site is heavily wooded, the building silhouettes shall be at least ten (10) feet lower than the average canopy height of trees on the ridge or hilltop.
 - (2) The placement of buildings, structures, or signs shall not detract from the site's scenic qualities or obstruct significant views, and shall blend with the natural landscape.
 - (3) Where public views will be unavoidably affected by the proposed use, architectural and landscaped measures shall be employed so as to minimize significant degradation of the existing scenic or aesthetic qualities of the site.
 - (4) Foundations shall be constructed to reflect the natural slope of the terrain.
 - (5) Preference should be given to exterior facades that utilize building materials which blend with the natural wooded landscape, both in texture and darker color.
 - (6) The removal of native vegetation or trees shall be minimized to the extent feasible in clearing sites for new structures and roads. In landscaping, preference shall be given to native trees and plants in order to maintain the natural character.
 - (7) Any grading or earth-moving operation in conjunction with the proposed development shall be planned and executed in such a manner that the final contours are consistent with the existing terrain, both on and adjacent to the site.

- (8) Safeguards shall be employed where needed to mitigate against environmental degradation from erosion, sedimentation, water pollution or flooding.
 - (9) The siting of roads, utilities and buildings shall be laid out to minimize the alteration of the existing surficial geography.
- e. In agricultural areas, lots shall be laid out, to the greatest extent feasible, to achieve the following objectives (listed in order of priority, as it is recognized that some may conflict with others on any given site):
- (1) On the most suitable soils for subsurface septic disposal (in areas not served by municipal or private waste treatment facilities only);
 - (2) On the least fertile areas for agricultural uses, and in a manner which maximizes the usable area remaining for such agricultural uses;
 - (3) Within any woodland contained in the parcel, or along the far edges of the open fields adjacent to any woodland (to reduce impact upon agriculture, to provide summer shade and shelter from winter wind, and to enable new construction to be visually absorbed by natural landscape features);
 - (4) In such a manner that the common boundary between the new house lots and the preserved farmland is designed to reduce potential conflict situations;
 - (5) In locations least likely to block or interrupt scenic vistas, as seen from the public roadway(s);
 - (6) Provide buffers between all dwelling units and non-agricultural structures as much as practicable to minimize conflicts between farming operations and residents.

9.1.7 Definitive Development Plan Contents

9.1.7.1 Procedure

The Planning Board approval of a Special Permit hereunder shall not substitute for compliance with the Subdivision Control Act, nor oblige the Planning Board to approve a related definitive plan for subdivision, nor reduce any time periods for Planning Board consideration under that law.

If applicable, a definitive plan for subdivision of land should be prepared concurrently with preparation of the overall development plan consistent with the Subdivision Regulations of the Easthampton Planning Board, and submitted to the Planning Board prior to application for a Special Permit. A definitive plan shall be submitted to the Planning Board consistent with their Subdivision Regulations and in substantial conformity to the approved overall development plan.

9.1.7.2 Application

Applicants for a special permit for an OSR development shall submit to the Board ten (10) copies and an original of each of the following: an application, definitive development plan,

and a site analysis. If the plan involves more than one (1) ownership, each owner of the land included in the plan shall be a party to the application, and upon approval, subject to its provisions.

9.1.7.3 Plan Contents

The definitive development plan shall meet the following requirements:

- a. It shall be drawn at a scale of 1" = 40', unless another scale is previously requested and found suitable by the Planning Board;
- b. A professional engineer, registered architect, or registered landscape architect shall prepare the site plan.
- c. The plan shall be stamped by the registered land surveyor who performed the boundary survey.
- d. A utilities and drainage plan shall be prepared by a professional engineer and/or landscape architect. Drainage calculations shall be submitted.
- e. The scale, date and north arrow shall be shown.
- f. Lot number, dimensions of lot in feet, size of lot in square feet, and width of abutting streets and ways; easements within the lot and abutting thereon.
- g. The location of existing or proposed buildings on the lot shall include the total square footage and dimensions of all buildings, architectural building elevations, floor plans, and perspective renderings shall be submitted. Further, the Planning Board shall consider and make recommendations regarding the siting of buildings.
- h. The total number of establishments and/or dwelling units.
- i. The location of existing wetlands, water bodies, wells, one-hundred-year floodplain elevation and other natural features requested by the Planning Board during the preliminary plan review phase.
- j. The distance of existing and proposed buildings from the lot lines and the distance between buildings on the same lot as may be required.
- k. Percent of building lot coverage; existing and proposed topographical lines at two-foot intervals; the use designation of each building or part thereof, and of each section of open ground, plaza or usable roof space.
- l. Numbering of parking spaces for multi-family developments.
- m. A landscape plan; showing all materials to be used and the quality, size and species of plantings.

- n. Deed or other recorded instrument that shows the applicant to be the owner under option of the land to be designated as an OSR Development and that the land is in single or consolidated ownership at the time of final plan application.
- o. The applicant shall submit such materials as may be required regarding: measures proposed to prevent pollution of surface water or groundwater, soil erosion, increased runoff, and flooding; design features intended to integrate the proposed new development into the existing landscape, to enhance aesthetic assets, and to screen objectionable features from neighbors.
- p. Information shall be submitted projecting traffic flow patterns into and upon the site for both vehicles and pedestrians and an estimate of the projected number of motor vehicle trips to and from the site for an average day and for peak hours.

9.1.8 Provisions and Criteria for Enhancing Development Flexibility

9.1.8.1 Objective/Goal

The incentives offered in this section are to encourage creative alternative development for Open Space Residential Developments which are sensitive to the priorities as listed below.

- a. Affordable Housing as defined in this ordinance.
- b. Preservation of existing lands.
- c. Preservation of open space:
 - (1) beyond the amount required by this ordinance;
 - (2) which would be deeded to public use; or
 - (3) which provides linkage to:
 - adjacent existing open space
 - public parks
- d. Performance in utilizing design criteria as set forth in these ordinances.
- e. Utilization of city services (infrastructure) in an efficient manner.
- f. Mitigation of the impacts on Aquifer Recharge Areas. (Note: techniques are further described in Section 9.16, Design Guidelines.)

9.1.8.2 Additional Units Criteria

- a. The maximum total increase in units shall be 15 percent for any development.
- b. A percentage increase equal to the percentage of affordable housing within proposed development may be allowed by the Planning Board.
- c. Conformance with the spirit of the design requirements may merit additional consideration by the Planning Board.

- d. In the Aquifer Protection District, the overall density in an OSRD shall not exceed one dwelling unit per 3/4 acre, in accordance with DEP Source Approval Regulations, 310 CMR 21.02.

9.1.9 Special Permit Application Procedures

9.1.9.1 Filing of Applications

- a. Each application for the special permit for an Open Space Residential development shall be filed with the Planning Board, with a copy filed forthwith with the City Clerk, and shall be accompanied by ten (10) copies of a preliminary plan of the entire tract under consideration, prepared by a professional architect engineer or landscape architect.
- b. Applications shall include each of the following: an application, an overall development plan and a site analysis. If the plan involves more than one (1) ownership, each owner of the land included in the plan shall be a party to the application, and upon approval, subject to its provisions.

9.1.9.2 Review of Other Boards

Upon receipt of the application for Special Permit and related plans/ analyses, the board shall within ten (10) days transmit one copy each to the Board of Health, Conservation Commission, City Engineer, Department of Public Works, Police Department and Fire Department. These boards and agencies shall review said plans and provide recommendations to the Planning Board within thirty-five (35) days.

9.1.9.3 Review and Approval Process

- a. Public Hearing. After the opportunity for review by other boards has taken place, the Planning Board shall hold a hearing under this section, in conformity with the provisions of General Laws, Chapter 40A, Section 9 and of the zoning ordinance and regulations of the Planning Board. The hearing shall be held within sixty-five (65) days after filing of the application with the Planning Board and the Clerk. Notice shall be given by publication and posting and by first class mailings to "parties of interest" as defined in General Laws, Chapter 40A, Section 11. The decision of the Planning Board, and any extension, modification or renewal thereof, shall be filed with the Board and Clerk within ninety (90) days following the closing of the public hearing. Failure of the Planning Board to act within ninety (90) days shall be deemed a grant of the permit applied for.
- b. After notice and public hearing in accordance with Section 9 of the Zoning Act (MGL c. 40A), the Planning Board may, after due consideration of the reports and recommendations of the Conservation Commission, Board of Health, Department of Public Works and City Engineer, grant a Special Permit provided that the conditions and standards of this section of the zoning ordinance have been adequately met.
- c. A Special Permit granted under this section of the zoning ordinance shall lapse within eighteen (18) months if construction has not begun or is not continuing to proceed, except for a good cause shown and approved by the Planning Board. The Special Permit may be renewed or extended with approval by the Planning Board.

- d. Subsequent approval by the Planning Board of such portions of an OSR development as constitutes a subdivision will be required as set forth in the Subdivision Control Law (MGL c. 41, section 81K-81GG). A granting of the Special Permit by the Planning Board shall not be deemed to constitute subdivision approval under the Subdivision Control Law of the Subdivision Rules and Regulations of the Planning Board.

9.2.0 Planning Board Findings and Recommendations

9.2.0.1 The Board may grant a Special Permit under this section only if it finds that the proposed project has shown the following:

- a. That the open space residential development is in harmony with the intent and spirit of the ordinance and the requirements of the Massachusetts General Laws, Chapter 40A, and the city's Master Plan and its latest revisions.
- b. That it will not have a detrimental impact on surrounding neighborhoods or adjoining zones.
- c. That it is designed with due consideration for the health, safety and welfare of the public.
- d. That it is preferable to a conventional plan in preserving open space, minimizing environmental disruption and impacts of city services and which allows for more efficient provision of such services.
- e. That the development allows for a greater diversity in affordable housing types.

9.2.0.2 The Planning Board may set forth additional conditions in its decision including but not limited to the following:

- a. Granting of a covenant or easements to ensure:
 - (1) protection and maintenance of pastures
 - (2) rights of public access
 - (3) building windows
 - (4) protection of scenic views and vistas.
- b. Specific approval of the uses allowed in designated open space and recreational areas including the requirement that before construction of any recreational structures such as tennis courts, swimming pools, or accessory clubhouses, detailed plans be submitted to the Planning Board for Site Plan approval.
- c. An alternative rate of development schedule or phasing plan Building setback requirements different from those stated in this ordinance.
- d. Provisions that would restrict overloading any public water, drainage system natural or man-made, sewer system or any other municipal system on which the development may have an adverse effect in the immediate area or in any other area of the city with regard to the health, safety or the general welfare of the public.

9.2.0.3 Administration of the Planning Board's findings shall be subject to the following: amendments or changes to an approved Site Analysis/Development Plan may be required based on the conditions of approval as set forth.

9.3 TRANSFER OF DEVELOPMENT RIGHTS

(Approved by the City Council on 01-17-2006)

9.31 Purposes:

1. The purposes of this ordinance are:
 - a) to protect farmland, aquifer recharge and rural areas of Easthampton;
 - b) to protect property values and provide a fair economic return to property owners ;
 - c) to foster compact development in areas served by public services and infrastructure.
 - d) to promote the creation of traditional neighborhood developments with compact, pedestrianfriendly, predominantly residential areas on gridded streets.
 - e) to preserve the remaining rural, historic, and agricultural character of the community by directing compact new development to appropriate locations adjacent to existing urbanized centers.

9.32 Transfer of Development Rights:

a. Transfer of Development Rights provides for increased density of residential and commercial development in the designated Receiving Area, when suitable open space land in the Sending Area, is permanently preserved from development. The transfer of development rights is accomplished by the execution of a Conservation Restriction, and the increased density is permitted by the issuance of a Special Permit, both as hereinafter provided. The Transfer of Development Rights shall conform in all respects to Section 6.10 of this ordinance, and in no event shall a Receiving Area be allowed to exceed the limitations set forth therein. (Subsection 9.32 amended by the City Council on June 17, 2015; approved by the Mayor on June 18, 2015).

9.33 Eligibility:

- a. All lots shown on a plan, or described in a deed, recorded at the Registry of Deeds in the Sending Area are eligible to apply for a Special Permit from the Planning Board to transfer all or part of the development rights on the lot to a lot in the Receiving Area.

9.34 Establishment of Sending Area and Receiving Area:

- a. The following districts are hereby established:

- (1) Sending Area;
- (2) Receiving Area.

These districts are delineated on the Transfer of Development Rights Map of Easthampton, which is incorporated by reference as part of the Zoning Ordinance.

9.35 Special Permit Process for Transfer of Development Rights:

- a. The applicant proposing to develop specified land in the Receiving Area at a density allowed by this ordinance with transfer of development rights shall make an application to the Planning Board for a Special Permit. The application shall clearly illustrate a land parcel or parcels in the Sending Area and a parcel or parcels in the Receiving Area proposed for transfer of development rights, and the number of development rights proposed for transfer.
- b. As part of the Special Permit application, the applicant shall determine the number of lots eligible for transfer from the parcel in the Sending Area, using the following process:
 - (1) After conferring with the Conservation Commission, subtracting all acreage which are identified as wetlands, 100-year floodplain, or riverfront area under the Mass Rivers Protection

- Act. The Conservation Commission may require the applicant to complete a wetland delineation;
- (2) Subtracting 5% of the total remaining parcel acreage, to account for land which would be used for roads if the parcel had been developed.
- (3) After determining the remaining land area, determining the number of lots allowable in the Sending Area based on a conceptual development plan;
- c. The Planning Board shall review the applicant’s assessment of acreage eligible for transfer, and shall make a final determination of such acreage eligible for transfer.
- d. The applicant shall also file with the Planning Board a preliminary development plan for the parcel in the Receiving Area, illustrating lots created using the transferred development rights, and illustrating all wetland and floodplain areas.
- e. Approval of a Special Permit, shall require the applicant to tender to the Planning Board a valid instrument granting to the City a permanent Conservation Restriction for eligible land in the Sending Area. The Conservation Restriction may be held by either the Easthampton Conservation Commission or a designated non-profit land trust. The applicant shall furnish to the Planning Board a certificate of title by a duly licensed attorney and such other evidence or assurance of title as may be satisfactory to the City Counsel.
- f. Upon final approval of site plans, the Planning Board shall make a decision to grant, deny, or grant with conditions, the Special Permit to increase in number and density of units in the Receiving Area, based on the table in Section 9.37, as per the process indicated in Section 12.7 of the Easthampton Zoning Ordinance.
- g. Upon the advice of City Counsel that the Conservation Restriction document is valid and sufficient, there must be a vote by the City Council authorizing acceptance of the Conservation Restriction by either the Conservation Commission or a designated non-profit land trust. If the Special Permit application is valid and sufficient, the Conservation Commission, acting on behalf of the City, shall accept the Conservation Restriction for recording in the County Registry of Deeds.

9.36 Receiving Area Regulations:

- 1. The Planning Board shall not approve a Special Permit for Transfer of Development Rights for a project which is not served by public sewer and water lines in the Receiving Area.

9.37 Dimensional and Density Regulations Allowed By the Transfer of Development Rights:

- a. Each residential building lot within the Sending Area is equivalent to one of the development rights in the Receiving Area shown in the Table of Exchange Standards for Transfer of Development Rights, found below in this section.

Table 1. EXCHANGE STANDARDS FOR TRANSFER OF DEVELOPMENT RIGHTS

Sending Area	Receiving Area	Notes
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1 residential building lot equals	2000 s.f. of additional commercial or industrial floor area, plus a 5% increase in building coverage for a single commercial or industrial lot, or	1) “Additional commercial or industrial floor area” shall be defined as floor area above that which would normally be permitted in the underlying district, under Table 6-2 the Easthampton Zoning Ordinance. The Planning Board may allow an increase in building coverage from the maximum building coverage required in Table 6-2, up to a maximum 75% building coverage for commercial or industrial uses.
	1.2 residential building units, plus a 5% increase in building coverage, or	2) An additional 10% increase in the number of units may be allowed if the development provides for affordable home ownership. Affordable housing shall be as defined in Section 8.69 and controlled by deed.
	1 neighborhood commercial building lot	3) See Section 9.42 for commercial uses allowed on a neighborhood building lot within a Traditional Neighborhood Development. Only one “neighborhood commercial building lot” may be approved per ten residential building lots within a TND.

- b. For development rights purchased for every one (1) lot meeting minimum dimensional requirements for the underlying Rural Residential District within the Sending Area, the developer can add 1.2 residential lots or one neighborhood commercial lot in a Traditional Neighborhood Development in the Receiving Area above what could normally be built under Residential A standards, provided the dimensional requirements indicated in Section 9.37, Table 2, of this Ordinance and other requirements of the ordinance are met. Fractions of building lots cannot be rounded up to the next whole number.

For example, if a developer buys the development rights to 14 buildable lots in the Sending Area, the developer is entitled to:

$$14 \text{ lots} \times 1.2 = 16.8 \text{ lots}$$

in addition to the underlying density in the Receiving Area. However, since fractional lots cannot be built on, the developer can construct only 16 units (above what could normally be built under Residential A standards).

- c. When a landowner wishes to sell less than the total number of development rights available to a tax parcel, the landowner may do so provided that the tax parcel is subdivided.
- d. The maximum limits on density, building coverage, and parking reductions permitted to be developed by Special Permit in the Receiving Area shall be determined by reference to the Table of TDR Dimensional Standards for Receiving Areas found below in this section.

Table 2. TDR Dimensional Standards for Receiving Areas

Underlying Zoning District	Dimensional Requirements in Underlying Zone	Dimensional Requirements in Receiving Area (with TDR)
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R-10	Lot Size: 10,000 s.f. Frontage: 100 ft. Front Setback: 20 ft. Side Setback: 10 ft. Rear Setback: 30ft. Building coverage: 25% Height: 2 ½ stories Maximum multi-family units in building: 6	Lot Size: 10,000 s.f. Frontage: 60 ft. Front Setback: 15 ft. Side Setback: 10 ft. Rear Setback: 20 ft. Building coverage: 60% Height: 2 ½ stories Maximum multi-family units in building: 9
R-15	Lot Size: 15,000 s.f. Frontage: 100 ft. Front Setback: 30 ft. Side Setback: 15 ft. Rear Setback: 30 ft. Building coverage: 20% Height: 2 ½ stories	Lot Size: 15,000 s.f. Frontage: 60 ft. Front Setback: 15 ft. Side Setback: 10 ft. Rear Setback: 20 ft. Building coverage: 50% Height: 2 ½ stories
R-35	Lot Size: 35,000 s.f. Frontage: 120 ft. Front Setback: 50 ft. Side Setback: 20 ft. Rear Setback: 50 ft. Building coverage: 10% Height: 2 ½ stories	Lot Size: 15,000 s.f. Frontage: 75 ft. Front Setback: 50 ft. Side Setback: 20 ft. Rear Setback: 30 ft. Building coverage: 50% Height: 2 ½ stories
Highway Business	Lot Size: 25,000 s.f. Frontage: 120 ft. Front Setback: 30 ft. Side Setback: 25 ft. Rear Setback: 30 ft. Building coverage: 40% Height: 2 ½ stories	Lot Size: 15,000 s.f. Frontage: 80 ft. Front Setback: 15 ft. Side Setback: 10 ft. Rear Setback: 20 ft. Building coverage: 75% Height: 2 ½ stories
Industrial	Lot Size: 40,000 s.f. Frontage: 140 ft. Front Setback: 50 ft. Side Setback: 25 ft. Rear Setback: 30 ft. Building coverage: 40% Height: 2 ½ stories	Lot Size: 15,000 s.f. Frontage: 100 ft. Front Setback: 15 ft. Side Setback: 10 ft. Rear Setback: 20 ft. Building coverage: 75% Height: 2 ½ stories

9.39 Special Permit Criteria:

- a. In addition to the Special Permit criteria in Section 12.7, the Planning Board shall grant a special permit for transfer of development rights if it finds the following criteria are met:
 - (1) The proposed use is in harmony with the purposes of this Ordinance:
 - (2) The proposed use meets all of the procedural, dimensional and density requirements, and design standards of this Ordinance.

9.395 Reporting of TDR Transactions:

(1) Buyers and sellers must report all TDR transactions (options, sales, gifts, donations) to the Planning Board within ten business days.

9.396 Release of Agricultural Preservation Restriction:

- a. No Agricultural Preservation Restriction, which has been conveyed under this Ordinance, may be released unless the provisions for release of Agricultural Preservation Restrictions in M.G.L. Chapter 184, Section 32 have been met, which include:
 - (1) The restriction must be repurchased from the City by the land owner at its then fair market value, and funds returned to the City bank for development rights;
 - (2) The restriction shall only be released by its holder only if the land is no longer deemed suitable for agricultural or horticultural purposes and unless approved by a two-thirds vote of both branches of the Massachusetts general court.

9.397 Alternate Method for TDR Transactions:

- a. In lieu of transferring development rights using the process described Sections 9.35-9.37 above, an applicant for a Special Permit in Section 9.35 may make a cash contribution to the City of Easthampton Farmland and Open Space Fund to be used for the purpose of purchasing agricultural preservation restrictions, conservation restrictions or open space in the Sending Area. The Easthampton Conservation Commission shall oversee all expenditures from this fund. The contribution shall be of a value equal to the value of raw developable land set by this ordinance at the time of adoption at \$35,000.00 per lot. This value shall be reviewed and adjusted every two years by the City Council.
- b. The maximum number of development rights which may be purchased through a cash contribution to the City of Easthampton shall be up to 100 development rights in any calendar year.

9.398 Registry of Willing Sellers:

- a. The City shall maintain a registry of landowners in the Sending Area that have expressed interest in selling development rights under this bylaw. Applicants for TDR must seek development rights from this registry first, before considering making a cash payment in lieu of transferring development rights, as permitted under Section 9.397.

9.4 TRADITIONAL NEIGHBORHOOD DEVELOPMENT REGULATIONS

9.41 Minimum Standards Required for a Traditional Neighborhood Development:

- a. The Traditional Neighborhood Development permits greater residential densities than allowed in the Residential R-10, R-15 and R-35 districts. This greater density is only permitted when development rights from the Sending Area are transferred to the Receiving Area as described in this ordinance. The following standards are required for the approval of a Traditional Neighborhood Development:
 - (1) Public water and sewer service is required for all development. All utility lines such as telephone, cable television, and electric are to be located underground.
 - (2) The tract of land to be developed shall be in one ownership, or shall be the subject of an application filed jointly in accordance with an approved plan.

9.42 Uses Allowed by Special Permit in a Traditional Neighborhood Development:

- a. Within a Traditional Neighborhood Development, the Planning Board may approve the following uses as part of the Special Permit:
 - (1) Single family dwelling;
 - (2) Neighborhood commercial uses, which may include: service oriented business, including bank, barber shop, beauty salon, and automatic self-serving laundry; retail service store or custom store such as a bakery or confectionery, florist, food store (no booth or restaurant facilities) or grocery designed primarily to provide daily service to the residents of the immediately surrounding neighborhood, provided that the gross floor area of the store does not exceed seven hundred and fifty (750) square feet, and provided that only one neighborhood commercial lot shall be approved for every ten residential lots within a TND;
 - (3) Home office;
 - (4) Accessory uses, buildings, and structures customarily incidental to any primary use located on the same lot.

9.43 Parking Standards:

- a. Parking for residential uses shall be provided in individual lots or in combined parking lots, provided each dwelling unit has at least one off-street parking space within five hundred (500) feet from its property boundary. Additional parking may be provided on streets or off-street.
- b. Parking lots for any uses shall generally be located at the rear of or at the side of buildings, and shall be no closer than six (6) feet from a building. When two adjacent lots contain parking areas it is encouraged to develop them as one parking area.
- c. Parking lot layout, landscaping, buffering, and screening shall prevent direct views of parked vehicles from streets and sidewalks, avoid spill-over light, glare, noise, or exhaust fumes onto adjacent properties. In order to achieve these objectives, parking lots exposed to view shall be surrounded by a minimum of a five-foot-high screen, hedge, or wall visually impervious year-round.
- d. The interior of all parking lots shall be landscaped to provide shade and visual relief. This is best achieved by protected planting islands or peninsulas within the perimeter of the parking lot. A minimum of one deciduous shade tree shall be planted for every six parking spaces. A six foot planting diamond or equivalent planter is required.
- e. Parking lot layout shall take into consideration pedestrian circulation. Pedestrian crosswalks shall be provided, where necessary and appropriate, shall be distinguished by textured paving, and shall be integrated into the wider network of pedestrian walkways.

Table 3. Parking Requirements in the Traditional Neighborhood Development

<u>Use</u>	<u>Minimum Parking Spaces Required</u>
a) Residential	One (1) space per dwelling unit
b) Other Uses	As per Section 10.1 of this ordinance

9.44 Conflict with Other Laws:

11-06-2024

- a. All development activities with the TND shall comply with applicable laws, regulations, and standards of the City of Easthampton , except that in the event of a conflict between this TND Ordinance and any such laws and regulations, the provisions of this TND shall control, provided that they are consistent with state and federal law.

9.45. Map Review:

Upon adoption of this ordinance, the Transfer of Development Rights map shall be signed and dated by the City Planner. The map shall be reviewed by the Planning Board every three years.

9.46. Validity and Severability:

The invalidity, unconstitutionality, or illegality of any provision of this section of the ordinance or boundary shown on the Transfer of Development Rights map shall not have any effect upon the validity, constitutionality or legality of any other provision or boundary of this ordinance.

SECTION X. ADDITIONAL LAND USE REGULATIONS⁴⁶ 10.0 SIGNS

10.01 Purposes

The purposes of these sign regulations are: to protect public health, safety and welfare: to encourage effect the effective use of signs as a means of communication in Easthampton; to maintain and enhance the aesthetic environment and Easthampton’s ability to attract sources of economic development; to protect property values; and to reduce potential traffic hazards to motorists and pedestrians, and to allow onpremise sign owners the ability to adequately identify their locations and promote their goods, services and/or products.

10.02 Applicability

- a. The provisions of this section shall apply to the construction, erection, alteration, use, location, and maintenance of all signs located out of doors.
- b. No sign shall be permitted except those which refer to a permitted use or an approved accessory use as set forth in Table 5-1 (Easthampton Table of Use Regulations) of this ordinance, provided such signs conform to the provisions of this Section.
- c. A sign permit application including building and sign dimensions, colors, and attachment methods, may be made at the same time of application for a building permit. When a building permit is not required, a sign permit may be issued in conjunction with an application for a Certificate of Occupancy.
- d. Street and apartment numbers are not regulated under this ordinance.
- e. Permits will be issued by the Zoning Enforcement Officer and permit fees shall be recommended by the Zoning Enforcement Officer and approved by the Mayor.
- f. A “Special Permit” from the Zoning Board of Appeals (ZBA) is required for exemptions to this ordinance, relating to sign area or number of signs. The ordinance has been written to cover most standard situations. There may be situations where businesses or institutions have, for example; unusual frontage, multiple access points or multiple structures where this ordinance will not allow necessary or appropriate signage. The ZBA shall review the request in accordance with Section 12.7 as well as the need for appropriate signage and shall find that the exemption is not detrimental to the zoning district and surrounding neighborhood and is necessary to meet the purpose of this sign regulation. Strict compliance with the requirements of this ordinance may be waived when, in the judgment of the ZBA, such action is in the public interest and is not inconsistent with the intent of this ordinance.

10.03 Definitions

For the purposes of this Section 10.0 et. seq. “Signs” only, the following terms shall be defined as follows:

Agriculture - The science, art, and business of cultivating soil, producing crops, and raising livestock; farming.

Banner - Any temporary sign of lightweight fabric or similar material that is mounted at two or more edges.

Building sign - Any sign attached to any part of a building, as contrasted to a free-standing sign.

⁴⁶ Section 10 revised, in its entirety; approved by the City Council on December 1, 2010; amended May 20, 2015.

11-06-2024

Business Flag - Any temporary sign of lightweight fabric or similar material that is mounted at one edge.

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

Canopy Sign - Any permanent sign that is a part of or attached to an awning, canopy, or other fabric, plastic, or structural protective cover. (A marquee is not a canopy.)

Changeable sign - A sign with the capability of content change by means of manual or remote operation.

Community information sign - Any sign wording, logo, or other representation that, directly or indirectly refers to an event sponsored by the City of Easthampton or a not-for-profit organization.

Construction sign - A temporary sign of an architect, engineer, or contractor, erected during the period such a person is performing work on the premises at which such sign is erected.

Development sign - A temporary sign used to direct attention to a construction site which includes a lot(s) considered as a unit for development purposes of three or more units of housing or commercial/industrial development where the lot or lots is occupied by more than one use whether in the same structure or not.

Directional sign - An off-premises sign, permanent or temporary, which indicates the direction or distance to a geographic area or destination.

Electronic Message Center - An exterior computer programmable sign capable of displaying words, symbols, figures or picture images that can be altered or rearranged by remote means without altering the face or surface of the sign.

For sale, rent or lease sign - A temporary sign advertising real property for sale, rent or lease.

Free-standing sign - Any sign supported by structure or supports that are placed on, or anchored in, the ground and that are independent from any building or other structure.

Gateway sign - A permanent sign used to direct attention to a site which includes a lot(s) considered as a unit for development purposes. For example, permanent subdivision, apartment or condominium project signs, campus of an academic institution or industrial park.

Incidental sign - A sign generally informational, its purpose is secondary to the use of the lot on which it is located, such as "No Parking" or other similar directives.

Identification sign - A sign used simply to identify the name, address, and title of an individual family or firm occupying the premises on which the sign is located.

Marquee - Any permanent, roof-like structure projecting beyond a building or extending along and projecting beyond the wall of the building, generally designed and constructed to provide protection from the weather.

Movable sign - Any sign not permanently attached to the ground or other permanent structure, or a sign designed to be transported, including but not limited to, signs converted to A or T frames; menu and

11-06-2024

sandwich board signs; and signs attached to or painted on vehicles parked and visible from the public right-of-way, said vehicle must be registered and used in the normal day-to-day operations of the business.

Municipal Gateway Sign - A permanent sign on arterial city streets used to promote the entrance or exit to the city.

Nonconforming sign - Any sign that does not conform to the requirements of this ordinance.

Off-premise sign - Any sign that advertises or indicates someone other than the person occupying the premises on which the sign is erected or maintained, or some business or businesses other than that transacted thereon, or advertises another property or any part thereof as for sale or rent.

On-premise sign - Any sign that advertises or indicates the usage, activity, or event conducted on the premises on which the sign is erected or maintained.

Permanent sign(s) - A sign that is permanently mounted, including its support structure, and is intended to be used for permanent, continuous display.

Political sign - A noncommercial sign erected to show support for a candidate for public office or to express a political opinion.

Primary sign(s) - The principal permanent sign of a business, institution, service or other occupant.

Projecting sign - Any sign affixed perpendicularly to a building or a vertical wall in such a manner that its leading edge extends more than six (6) inches beyond the surface of such a building or wall.

Recreational facilities - City property controlled by the Easthampton Parks and Recreation Commission and other public spaces administered and maintained by other authorities.

Roof sign - A sign which is located above, or projected two (2) feet above, the lowest point of the eaves of the top story or the top of a parapet wall of any building, or which is painted on or fastened to a roof.

Sandwich Board Sign - Sandwich board signs are self-supporting A-shaped or T-shaped moveable signs with only two visible sides.

Service Station LED Sign - A sign that displays the price/cost of a fuel product. (Definition added by the City Council on 05-20-2015; approved by the Mayor on 05-21-2015).

Setback - Distance measured horizontally from the curb line to the nearest point of the sign.

Sign - Any permanent or temporary structure, device, letter, word, model, banner, pennant, insignia, trade flag, or representation used as, or which is in the nature of an advertisement, announcement, or direction.

Special event sign - A temporary sign used in connection with a circumstance, situation, or event (i.e. church bazaar, circus, competition, festival, grand opening, open house, performance) that is expected to be complete within a reasonably short or definite period of time.

Surface area of a sign - The surface area of a sign shall include all lettering, wording, and accompanying designs and symbols, together with the background, whether open or closed, on which they

are displayed, but not including any supporting framework and bracing which are incidental to the display itself.

1. For a freestanding sign, the area shall include the frame, if any, but shall not include a pole or other structural components unless such parts are internally illuminated or otherwise designed to constitute a display device, or a part of a display device.
2. For a sign consisting of individual letters, designs and symbols attached to or painted on a surface, such as a building wall the area shall be defined as the smallest geometric area with no more than six sides or an oval or circle which encompasses all of the letters, designs and symbols.

Temporary sign - Any sign that is not permanently mounted, including its support structure, and is intended to be used temporarily, for not more than ninety (90) days in any calendar year, unless otherwise stated in this ordinance.

Unimproved right-of-way – The unpaved area of public property along the sides of roads.

Wall sign - Any sign attached parallel to, but within twelve (12) inches of, a wall, painted on the wall surface, or erected and confined within the limits of an outside wall of any building or structure, which is supported by such wall or building, and which displays only one sign surface. Window or door lettering, murals, decorative artwork are not to be considered or regulated as Wall Signs.

Way-finding sign - A permanent off-premises display of one or more directional or community informational signs, commercial, industrial, or recreational development districts. (1) Public, municipal or community institutions, (2) Shared Commercial, (3) Individual businesses, (4) Temporary public events which are expected to draw significant numbers of visitors. Way-finding signs will be administered by the appropriate authority: The Easthampton Department of Public Works and where appropriate the approval of Massachusetts Highway Dept.

Window sign - A sign physically adhered to the inside or outside of a window surface. Window signs are not considered primary signs.

10.04 General Standards

- a. All signs shall comply with the regulations for the erection and construction of signs contained in other applicable city regulations, except as shall be under the jurisdiction of Massachusetts State Building Code and the regulations promulgated thereto. Any sign deemed deteriorated or unsafe may be ordered repaired or removed by the Zoning Enforcement Officer with written notice to the owner. The Building Commissioner shall have jurisdiction in matters where structural issues are a part of the deterioration or unsafe condition.
- b. Any traffic or direction sign owned and installed by a governmental agency shall be permitted.
- c. A sign or its illuminator shall not, by reason of its location, shape, or color interfere with traffic or be confused with or obstruct the view or effectiveness of any official traffic sign, traffic signal or traffic marking.
- d. Occupants in a multi-use building in the Mixed Use Mill Industrial district shall be allowed up to five (5) sq. ft. of primary signage per every 1000 sq. ft. of occupied interior floor space up to a maximum of thirty-two (32) sq. ft. per occupant (subject to landlord approval).

- e. A Special Permit from the Zoning Board of Appeals (ZBA) is required for any exceptions to this ordinance.
- f. Traffic or directional signs which are necessary for the safety and direction of residents, employees, customers, and visitors, whether in a vehicle or on foot, of any business, institution, industry or residence shall not be limited.
- g. Unless permitted elsewhere under this ordinance, no private sign shall be permitted on public property.
- h. No sign, together with any supporting framework, shall extend to a height above the maximum building height in the underlying zoning district.
- i. No free-standing sign shall project over or into any public sidewalk or public way unless permitted elsewhere in the ordinance.
- j. If any sign is illuminated, whether internally or externally, it shall be with non-flashing lights only.
- k. Neon signs which meet all requirements of this ordinance are allowed without restriction to color.
- l. Service Station LED Sign – A sign that displays the price/cost of a fuel product (applicable in all zones that currently have gas station signs):

CRITERIA:

- a. Permanent ground mounted sign for sole use by fuel service stations for the purpose of advertising fuel costs are allowed.
- b. The LED numerals may not exceed sixteen (16) inches in height. Signs may be double sided.
- c. **Color:** All lighted LED numerals shall be of any color. LED background screen may only be black
- d. **Illumination:** The sign must not exceed a maximum illumination of .8 fc (foot candles) between dawn to dusk and .5 fc from dusk to dawn as measured from the sign’s face at maximum brightness. Such signs may not display light of such intensity or brilliance to cause glare or otherwise impair the vision of the passing driver. Sign installer should provide proof of sign’s brightness to the Building Inspector.
- e. Signs that blink or flash are prohibited.

(Subsection l. added by the City Council on 05-20-2015; approved by the Mayor on 05-21-2015)

- m. **Electronic Message Centers (EMC)**⁴⁷ shall be limited to the Mixed Use Mill Industrial, Downtown Business, and Highway Business districts only, under the following restrictions:

1. Operation controls:

- i. **Changes:** The duration of each message shall be at least 30 seconds as recommended by the US Dept. of Transportation. Transition between messages shall be less than one second. A change of message must occur simultaneously on the entire face. Messages shall not contain flashing, animation, scrolling, rolling or running images or letters.
- ii. **Brightness:** The sign’s brightness must have the ability to respond to changes in the ambient light levels. Signs shall be equipped with brightness dimming controls. Brightness levels must be no more than MassDOT standards.

⁴⁷ Section m (EMC’s) amended by the City Council on 04-17-2024; approved by the Mayor on 04-17-2024.

- 2. **Location:**
 - i. One message center shall be permitted per property in allowed districts.
 - ii. The location shall conform to all other regulations with regard to freestanding signs. EMCs must be free standing signs.
- 3. The allowable working sign area of an EMC shall be limited to no more than 75% of the total allowable max. area of a sign in said zone.
- 4. EMC signs may not market off-premises goods and services.
- 5. **Public Service Announcements:** Owners of (EMC) message center signs are required to coordinate with local authorities to display, when appropriate, community announcements emergency information to the traveling public, including Amber Alerts, Silver Alerts, and weather or other emergency information.
- 6. EMCs shall not be illuminated between the hours of 11pm and 7am or no later than operating business hours if beyond 11pm.
- 7. **Exemption for municipal property:** No provisions of Section 10.04 of the Zoning Ordinance pertaining to Electronic Messaging Centers shall apply to municipal property or for municipal purposes. This exemption shall apply to signs that are stationary, fixed or mobile and movable. (Subsection 7 added by the City Council on 08-02-2023; approved by the Mayor on 08-03-2023)
- n. **Gateway signs:**
 - 1. Gateway signs shall be limited to twenty (20) sq. ft. in all Neighborhood and Neighborhood Business Zones, thirty-two (32) sq. ft. in Highway Business and Mixed Use Mill/Industrial Zones and forty (40) sq. ft. in the Industrial Zone.
 - 2. The sign shall be placed at the entrance to a public way, but shall not be placed within the public way or on public property.
 - 3. The signs must be set back at least twenty (20) ft. from the street(s) unless in line with a lawfully placed, existing fence. Gateway signs shall be landscaped.
 - 4. The maximum height is six (6) ft. Gateway signs shall be owned and maintained by a homeowners association, or the institution it identifies. The sign shall display the name and logo of the development/institution only.
- o. **Way-finding Signs:** Provide a welcoming, uniform, highly-visible and easily-identifiable system to facilitate the safe orientation and guidance of individual visitors and commercial traffic to various sites of economic, recreational, seasonal and cultural value to the community.

Administration: Applications, approvals, siting, installation and removal of permanent way-finding signs as described above, on all streets under the City of Easthampton jurisdiction will be within the authority of the Easthampton Dept. of Public Works. On highways maintained and administered by Mass Highway Dept., state standards, regulations and authority will apply to all way-finding signs. The Board of Public Works shall establish regulations for the placement, location and size of way-finding signs, along with any fees associated with design and installation.

- p. **Window Signs** are limited in aggregate to forty percent (40%) of each window area.
- q. **Roof Signs** are permitted where the top of the sign does not exceed a fifteen (15) ft. height above grade. Roof signs may not extend above the peak of the roof and no more than two (2) ft. above the eaves.
- r. All signs must be maintained by the property owner in accordance with this ordinance. Signs that are not maintained may be ordered repaired or removed by the Building Commissioner, said notice shall be a written notice to the owner.
 - i. If the sign is deemed by the Building Commissioner to be in an unsafe condition, the owner of the business shall be immediately notified in writing, and shall, within forty-eight (48) hours of receipt of such notification, respond to the city with a plan to correct the unsafe condition, either by repair or removal.
 - ii. If such a plan has not been submitted the Building Commissioner shall undertake the repair or removal of said sign, such cost will be billed to the property owner.
 - iii. If the total costs are not paid in full within thirty (30) days of the repairs or removal, the amount owed shall be certified as an assessment against the property, and a lien upon the property, together with an additional percentage penalty for collection, the same as prescribed for unpaid real estate taxes, shall be applied.
- s. Only sign types in Table 10-1 (Types of Permitted Signs) shall be permitted.
- t. **Temporary Signs** for architect, engineer or contractor may only be erected during the period said person is performing work on the premises which said sign is erected and he/she shall have written permission of the owner.
- u. Any sign for multiple use lots in the Highway Business, Mixed Use/Mill Industrial, and Industrial Districts must include the street number at the top of the sign.
- v. **Protection of First Amendment Rights** – Any sign authorized with or without a permit under this Ordinance may, in lieu of any specified copy, contain any lawful message.

10.05 Signs on Public Property

- a. If carefully regulated, the placement of signs on city sidewalks by private individuals can provide a useful outlet for the expression of ideas and communication of information related to beneficial commercial activity, including, but not limited to, the advertisement of real estate open house events and sandwich boards.
- b. It is the desire of the City Council to enact standards that would allow for the regulated use of city sidewalks and areas near public ways for these communication purposes.
- c. In enacting these regulations it is not the intention of the City Council to regulate the content of messages on signs to be placed on public property, but instead, it is the City Council’s intention to enact reasonable time, place and manner restrictions aimed at insuring the safety of those using the public sidewalks and those driving on adjacent streets, and to achieve the city’s aesthetic interests by reducing visual clutter that would result from the unregulated posting of signs.

10.051 Restrictions Applicable to Signs on Public Property

- a. Except as otherwise provided in this section it shall be unlawful for any person to place a sign on public property where said sign fails to comply with any of the restrictions stated in this section. Unlawful signs shall be removed by Zoning Enforcement Officer and forfeited.
- b. Permits and appropriate fees will be required for placement of signs on public property unless specifically exempted in this ordinance.
- c. Restrictions applicable to signs on public property (unless specified elsewhere in this section):
 1. No sign shall exceed forty-two (42) inches in height.
 2. No sign shall exceed six (6) sq. ft. in area per side, no more than two sides.
 3. All signs shall be constructed or anchored to prevent movement of the sign, except that an anchor shall not be permanent and shall not damage the property on which it is placed.
- d. Restrictions applicable to the placement of signs:
 1. No sign shall be placed within the median of any public street, including Main Street Rotary, also known as Pulaski Park or any other traffic islands. Easthampton Parks and Recreation event signage is allowed to be placed at Pulaski Park for City Sponsored Community Events; any signage will be placed in the morning and removed that same evening. No sign shall be left overnight or longer than 12 hours of any given day. (Second and third sentences added by City Council 09-05-2012; approved by the Mayor on 09-06-2012)
 2. No sign shall be attached to, or leaned against, any street furniture, utility facility (including poles and boxes), street light or any other sign.
 3. No sign shall be placed in such a manner as to reduce the unobstructed path of travel on any sidewalk to less than forty-eight (48) inches wide, and if the existing unobstructed path of travel of a sidewalk is forty-eight (48) inches or less in width, no sign shall be placed on said sidewalk.
 4. No sign shall be placed within a curb cut or ramp installed to provide improved access to a sidewalk for the disabled.
 5. No sign shall be placed upon any public property other than a public sidewalk, except that temporary signs may be placed in an unimproved right-of-way with written consent of the owner of the adjoining property. A copy of written consent must be filed with the Zoning Enforcement Officer.
 6. No person shall display a sign that would otherwise be in violation of any of the standards provided in subsections (2) and (3) by placing upon, attaching to, or leaning such sign against, a vehicle parked within a public street. This prohibition shall not apply to advertising or other messages either painted or attached in some other way upon the outside of a registered vehicle, or to signs that are placed within the interior of the vehicle.
- e. Moveable signs i.e.: sandwich board signs, for use by adjacent entities (owners, tenants, etc.) are allowed on public property subject to the following restrictions:

1. An annual license issued by the City of Easthampton. Sandwich signs may be displayed only during hours and days of operation.
2. On a public sidewalk, curb, curb strip or pavement adjacent to the property owned, leased or used by the applicant. May not obstruct pedestrian access, movement, or vehicular traffic.
3. Movable signs shall not be illuminated, nor shall they contain moving parts (exclusive of changeable letters) nor have balloons, streamers, pennants or similar adornment attached to them. Attaching movable signs to structures, poles, objects, signs etc. by means of chains, cord, rope, wire cable is prohibited.
5. One sign per lot, or one sign per business on multi-tenant lots shall be permitted unless otherwise indicated. In Highway Business zones, no more than one temporary sign may be displayed for each fifty (50) lineal feet of frontage.

10.052 Signs allowed on Public Property by Right

Notwithstanding any other provisions of this section, the following signs are permitted:

- a. Signs being **held** by one or more persons on any public property.
- b. Traffic safety signs placed on public property by private persons as directed by a public official as part of the authorization to perform work on public property, or in connection with an event taking place on public or private property.
- c. Signs placed by a public officer or employee acting in their official capacity, including such signs as traffic signs, public transit signs, public restroom signs, public parking signs, warning signs, or signs identifying the location of emergency centers, public facilities or places of public interest.
- d. Temporary signs placed upon public right-of-ways may not interfere with traffic safety such as line of sight at intersections and must not block pedestrian passage on sidewalks or cross walks.
- e. Sandwich Board Signs may be placed on public property in DB, HB, NB, I, MI zones with a permit. Proof of insurance naming the City of Easthampton as an “additional insured” and a release of liability to the City of Easthampton are required (required insurance amount to be set by the Zoning Enforcement Officer and approved by the Mayor). Signs may be displayed during the hours and on days of operation of said business. Placement on a public sidewalk, curb, curb strip or pavement adjacent to the property owned, leased or used by the applicant. Said sign may not obstruct pedestrian access or movement, or vehicular traffic.
- f. Community Event Signs are intended to be used for events sponsored by the City of Easthampton or a not-for-profit organization. The Mayor’s Office may assist the Zoning Enforcement Officer with the administration of permitting. All signs may be placed no more than ten (10) days prior to said event and must be removed no more than two (2) days after the event are permitted in the following areas:

1. Along the fence in front of Nashawannuck Pond (at the corner of Williston Avenue and Cottage Street), limited to three (3) signs displayed at any one time and the size shall be in keeping with any structures constructed for sign display.
2. In front of the Old Town Hall (43 Main Street), signs are to be no larger than 18 sq. ft.
3. Street crossing banners, across Main Street (Rte. 10) near the Emily Williston Memorial Library, requirements for erecting and removing said banners will be relaxed as necessary to coordinate this process with the Building Commissioner and electric utility company or other contractor who erects and removes said banner.

10.06 Prohibited Signs

- a. Flashing signs, signs containing moving parts, signs containing reflective elements which sparkle in the sunlight, inflatable signs and tethered balloons (over 24” in diameter).
- b. Off-premise sign are prohibited with the following exceptions: political signs, special event signs, directional, way-finding, municipal gateway or gateway signs, community event signs.
- c. Any sign advertising or identifying a business or organization which is either defunct or no longer located on the premises.
- d. Size standards are listed for each district in Table 10-2.
- e. Signs on wheels are prohibited. This does not apply to signs on registered vehicles.

Table 10-1 Types of Permitted Signs

Sign Type	All Residential	All Business and Industrial
Gateway	Y	Y
Canopy	Y	Y
Free standing	Y	Y
Marquee	N	Y
Projecting	Y	Y
Roof	N	Y**
Sandwich Board	N***	Y
Wall	Y	Y
Way-finding	N*	Y*
Window	Y	Y
Business Flag	N	Y
Banner	Y	Y
Freestanding	Y	Y

Movable	N***	Y
Development	Y	Y
Directional	Y	Y
EMCs	N	Y- Only Mixed use Mill/Ind****
Y = Permitted N = Prohibited	****In M/MI only buildings 100,000 sq. ft. or more qualify. ***Except as public safety may require. **Roof signs permitted in accordance with Section 10. *Only allowed along State numbered routes.	

Movable signs, such as sandwich boards as well as other types being used as temporary signs are allowed in any zone, when being used to provide traffic, pedestrian and safety guidance on private property without a permit. When used on public property, authorization from the Chief of Police is required in addition to any permit required by this ordinance.

10.07 Non-Conforming Signs

- a. Continuance – A non-conforming sign lawfully existing at the time of adoption or subsequent amendment of this ordinance may continue, although such sign does not conform to the provisions of this ordinance.
- b. Replacement – Any sign replacing a non-conforming sign shall conform to the provisions of this section, and the non-conforming sign shall no longer be displayed. Similar uses may maintain the nonconforming size; the sign face may change. Different uses will require a special permit from the Zoning Board of Appeals to maintain a non-conforming sign. If the sign is structurally altered, then the nonconforming sign must become a conforming sign.
- c. Abandonment – If a non-conforming sign associated with a permitted use of structure has been abandoned for no less than two years (i.e. the structure has not been occupied for two years) then the non-conforming sign shall be removed and its nonconformity shall not continue.

10.08 Permit/License Section

- a. Required with sign permit applications: a placement diagram, explanation of where the proposed sign is to be placed and optional photographs if needed.
- b. A sign permit is required prior to the installation of any sign requiring a permit.
- c. Only one sign permit for a sandwich board sign is allowed per business and such permit is not transferable. If the sign is to be located on an adjacent public right-of-way to the business location, business owners shall sign a disclaimer that indemnifies the City of any liability for use of said public right-of-way. Evidence of insurance in an amount established by the Zoning Enforcement Officer and approved by the Mayor shall be provided annually with the permit application.

10.081 Enforcement

- a. All enforcement will provide instruction, guidance, and a first offense warning with the opportunity for a violation to be corrected prior to any fines being imposed.
- b. The Zoning Enforcement Officer shall be responsible for enforcement of this ordinance.

- c. As stated within this ordinance the Zoning Enforcement Officer or designee has the authority to remove any temporary sign unlawfully placed on public property without notice.
- d. The Zoning Enforcement Officer with the approval of the Mayor shall develop a specific policy for the permitting of permanent and temporary signs and shall annually review the fee schedule making adjustments when necessary.

10.082 Severability

The invalidity, unconstitutionality or illegality of any provision of this section of the ordinance shall not have any effect upon the validity, constitutionality or legality of any other provision of this section of the ordinance.

10.09 Temporary Signs 10.091 General Requirements

- a. Permits for temporary signs are not required unless otherwise indicated herein.
- b. Tethered hot air balloons, other inflatable objects, spinners and banners attached to temporary signs are not permitted.
- c. See Table 10-2 for maximum sizes in all zones.
- d. Each temporary freestanding sign cannot exceed six (6) feet in height above ground. The height restriction does not apply to flags.
- e. One temporary sign per lot, or one temporary sign per business on multi-tenant lots shall be permitted unless otherwise indicated. In Highway Business zones, no more than one temporary sign may be displayed for each fifty (50) lineal feet of frontage.
- f. All signs shall have a date written thereon indicating the date that the sign was installed. Signs without a date shall be removed by the Zoning Enforcement Officer.
- g. No sign shall be displayed for more than 14 days, unless otherwise indicated.
- h. Forfeiture of signs – Any sign installed or placed on public property, except in conformance with the General Requirements, will be removed without notice.
- i. In addition to other remedies herein, the City shall have the right to recover from the owner or person placing or maintaining such a sign the full cost of removal and disposal of such sign.

10.092 Business Flags

Flag sizes allowed by zoning district:

- Industrial, Mill Industrial – Maximum of five (5) ft. by eight (8) ft. or forty (40) sq. ft.
- Downtown Business, Highway Business, Neighborhood Business – Maximum of four (4) ft. by six (6) ft. or twenty-four (24) sq. ft.

10.093 Banners

- a. Banner sizes allowed by zoning district:
 - Neighborhood Business twenty-four (24) sq. ft.
 - Downtown Business, Highway Business, Industrial, Mixed Use/Mill Industrial forty (40) sq. ft.
- b. Banners shall be allowed for a period not to exceed fourteen (14) calendar days at any one time. Banners displayed for more than fourteen (14) days shall require a sign permit.
- c. Street spanning banners are only permitted for Community Events. The maximum size of a permitted street-spanning banner shall not exceed one-hundred (100) sq. ft.
- d. Banners shall be securely attached to a building or other permanent structure.

10.094 Real Estate Signs

- a. Signs must follow the items under General Requirements except as follows:
- b. One real estate sign per property is permitted, and must be located on the property which is advertised for sale or lease.
- c. Real estate signs that indicate the sale, rental, or lease of the property, provided such signs are located on private property, must be at least five (5) ft. from the paved portion of any street, sidewalk or public driveway.
- d. The sign must be removed no later than seven (7) days after closing of sale, rental or lease of the property.

10.095 Development Signs

- a. Signs must follow the items under General Requirements.
- b. The development sign may be erected only after a special permit or subdivision approval has been issued for the site.
- c. Signs shall be used to identify the name of the project, architect, engineers, contractors, and other individuals or firms involved with the construction.
- d. No lighting of the sign is permitted.
- e. Each temporary sign cannot exceed sixteen (16) sq. ft. in area on residential zoned property, and cannot exceed thirty-two (32) sq. ft. on all non-residential zoned property. In addition, up to three (3) contractor signs are allowed at four (4) sq. ft. each.
- f. Signs must be removed no later than seven (7) days after issuance of an occupancy permit by the City of Easthampton.

10.096 Other Temporary Signs

- a. Signs must follow the items under General Requirements.

11-06-2024

- b. Election Signs – Political signs are allowed at any time of the year, no permit is required.⁴⁸
- c. Notwithstanding any other provision in this ordinance, temporary and permanent political speech and election signs may be as large, and may remain as long, as any other sign allowed within the zoning district.
- d. Signs shall conform in appearance, size and placement as specified in the General Requirements and Table 10-2.

⁴⁸ Subsection b amended by the City Council on Nov. 6, 2024; approved by the Mayor on Nov. 12, 2024.

Table 10-2 Permitted Sign Uses

	ZONING DISTRICTS					
SIGN USES	Residential Districts	Downtown Business	Highway Business	Neighborhood Business	Industrial	Mixed Use/ Mill Industrial
<i>Primary Signs</i>						
<u>Identification Sign</u>	Y	Y	Y	Y	Y	Y
Buildings with 1-4 units:	1 sq. ft.	1 sq. ft.	1 sq. ft.	1 sq. ft.	1 sq. ft.	1 sq. ft.
Max. Area	6 ft.	None	None	6 ft.	None	None
Max. Height	1	1	1	1	1	1
Number per Dwelling Unit						
Buildings with Five or More Units:	6 sq. ft.	10 sq. ft.	10 sq. ft.	10 sq. ft.	10 sq. ft.	10 sq. ft.
Max. Area	6 ft.	6 ft.	6 ft.	6 ft.	6 ft.	6 ft.
Max. Height	1	1	1	1	1	1
Number per Development						
<u>Home Occupation Sign</u>	Y	Y	Y	Y	Y	Y
Max. Area	2 sq. ft.	2 sq. ft.	2 sq. ft.	2 sq. ft.	2 sq. ft.	2 sq. ft.
Max. Height	6 ft.	6 ft.	6 ft.	6 ft.	6 ft.	6 ft.
Number per Dwelling Unit	1	1	1	1	1	1
<u>Residential Accessory Use Sign</u> (Not including home occupations)	Y	Y	Y	Y	Y	Y
Max. Area	1 sq. ft.	1 sq. ft.	1 sq. ft.	1 sq. ft.	1 sq. ft.	1 sq. ft.
Max. Height	6 ft.	None	None	None	None	None
Number	1	1	1	1	1	1

Table 10-2 Permitted Sign Uses

Table 10-2 Permitted Sign Uses

SIGN USES	ZONING DISTRICTS					
	Residential Districts	Downtown Business	Highway Business	Neighborhood Business	Industrial	Mixed Use/ Mill Industrial
<i>Primary Signs (continued)</i>						
<u>Government Use, Non-profit agency, Community Facility</u>	Y	Y	Y	Y	Y	Y
Max. Area	6 sq. ft.	24 sq. ft.	32 sq. ft.	18 sq. ft.	40 sq. ft.	32 sq. ft.
Max. Height	6 ft.	None	None	None	None	None
Number	1	1	1	1	1	1
<u>Agricultural Sign</u>	Y	Y	Y	Y	Y	Y
Max. Total Area of Signs	20 sq. ft.	74 sq. ft.	100 sq. ft.	36 sq. ft.	100 sq. ft.	100 sq. ft.
Max. Sign size	20 sq. ft.	24 sq. ft.	32 sq. ft.	18 sq. ft.	40 sq. ft.	32 sq. ft.
Max. Height	10 ft.	15 ft.	15 ft.	12 ft.	15 ft.	15 ft.
Number	1	1	1	1	1	1
Setback	10 ft.	5 ft.	10 ft.	5 ft.	10 ft.	10 ft.
<u>Way-finding Signs</u>	Numbered Highways Only	Y	Y	Y	Y	Y
<u>Gateway Signs</u>	Y	N	Y	Y	Y	Y
Max. Sign Area	20 sq. ft.		32 sq. ft.	20 sq. ft.	40 sq. ft.	32 sq. ft.
Max. Height	6 ft.		6 ft.	6 ft.	6 ft.	6 ft.
Setback	20 ft.*		20 ft.*	20 ft.*	20 ft.*	20 ft.*

<u>Municipal Gateway Signs</u>	Y	Y	Y	Y	Y	Y
Max. Sign Area	32 sq. ft.	32 sq. ft.	32 sq. ft.	32 sq. ft.	32 sq. ft.	32 sq. ft.
Max. Height	6 ft.	6 ft.	6 ft.	6 ft.	6 ft.	6 ft.
Setback	20 ft.*	20 ft.*	20 ft.*	20 ft.*	20 ft.*	20 ft.*

*Setback may be reduced to bring sign in line with an existing, legally placed fence or approval from the Chief of Police and DPW and where appropriate the Mass. Highway Dept.

	ZONING DISTRICTS					
SIGN USES	Residential Districts	Downtown Business	Highway Business	Neighborhood Business	Industrial	Mixed Use/ Mill Industrial
<i>Primary Signs (continued)</i>						
<u>Nonconforming signs*</u>	Y	Y	Y	Y	Y	Y
<u>Business Sign for Commercial, Retail or Service Use</u> Max. Total Area of Signs Max. Size Sign Max. Height - Free-Standing Sign Setback	N Permitted for existing allowed business use.	Y 74 sq. ft. 24 sq. ft. 15 ft. 5 ft.	Y 100 sq. ft. 32 sq. ft. 15 ft. 10 ft.	Y 36 sq. ft. 18 sq. ft. 12 ft. 5 ft.	Y 100 sq. ft. 40 sq. ft. 15 ft. 10 ft.	Y 100 sq. ft. 32 sq. ft. 15 ft. 10 ft.
<u>Business Sign for Commercial, Retail or Service Use – Multi-Use Commercial Building</u> Max. Total Area of Signs Max. Size Sign	N N/A N/A	Y 74 sq. ft. 24 sq. ft.	Y 100 sq. ft. 32 sq. ft.	Y 36 sq. ft. 18 sq. ft.	Y 100 sq. ft. 40 sq. ft.	Y 100 sq. ft. 32 sq. ft.
<u>Sandwich Board Signs</u> Max. Area Max. Height	N** 6 sq. ft. 42"	Y 6 sq. ft. 42"	Y 6 sq. ft. 42"	Y 6 sq. ft. 42"	Y 6 sq. ft. 42"	Y 6 sq. ft. 42"

Table 10-2 Permitted Sign Uses

Electronic Message Center (EMC)	N	N	N	N	N	Y***
Max. Working Area of Sign	N/A	N/A	N/A	N/A	N/A	24 sq. ft.
Max. Height - Free-Standing Sign	N/A	N/A	N/A	N/A	N/A	15 ft.
Setback	N/A	N/A	N/A	N/A	N/A	10 ft.

*Each business is allowed 5 square feet of signage per 1000 sq. ft. of floor space used by said business up to max of 32 sq. ft.

**Use of Sandwich Board Signs is permitted in all zones to assist with safety.

***Only buildings with 100,000 sq. ft. or more qualify for an EMC.

Table 10-2 Permitted Sign Uses

SIGN USES	ZONING DISTRICTS					
	Residential Districts	Downtown Business	Highway Business	Neighborhood Business	Industrial	Mixed Use/ Mill Industrial
<i>Temporary Sign Use</i>						
<u>For Sale, Rent or Lease Sign</u>	Y	Y	Y	Y	Y	Y
Max. Area	6 sq. ft.	24 sq. ft.	32 sq. ft.	18 sq. ft.	40 sq. ft.	32 sq. ft.
Max. Height	6 ft.	6 ft.	6 ft.	6 ft.	6 ft.	6 ft.
Number per Permitted Use	1	1	1	1	1	1
Setback	10 ft.	5 ft.	10 ft.	5 ft.	10 ft.	10 ft.
<u>Architect, Engineer or Contractor</u>	Y	Y	Y	Y	Y	Y
Max. Area	4 sq. ft.	4 sq. ft.	4 sq. ft.	4 sq. ft.	4 sq. ft.	4 sq. ft.
Max. Height	6 ft.	6 ft.	6 ft.	6 ft.	6 ft.	6 ft.
Max. Number per Lot	3	3	3	3	3	3
Min. Setback from the Curb	10 ft.	10 ft.	10 ft.	10 ft.	10 ft.	10 ft.
<u>Real Estate Development Sign</u> (commercial, industrial, or over 3 residential units)	Y	Y	Y	Y	Y	Y
Max Area	16 sq. ft.	24 sq. ft.	32 sq. ft.	18 sq. ft.	40 sq. ft.	32 sq. ft.
Max. Height	6 ft.	6 ft.	6 ft.	6 ft.	6 ft.	6 ft.
Number per Development	1	1	1	1	1	1
Setback	10 ft.	5 ft.	10 ft.	5 ft.	10 ft.	10 ft.
<u>Banner*</u>	Y	Y	Y	Y	Y	Y
Max. Area	24 sq. ft.	40 sq. ft.	40 sq. ft.	24 sq. ft.	40 sq. ft.	40 sq. ft.
Number per Permitted Use	1	1	1	1	1	1

*Maximum Area for permitted street-spanning banner is 100 sq. ft.

Table 10-2 Permitted Sign Uses

	ZONING DISTRICTS					
SIGN USES	Residential Districts	Downtown Business	Highway Business	Neighborhood Business	Industrial	Mixed Use/ Mill Industrial
<i>Temporary Sign Use (continued)</i>						
<u>Business Flag</u> (pole mounted) Max. Area Min. Height at 12 inches from the building facade. Number per Permitted Use	N N/A N/A N/A	Y 24 sq. ft. 7 ft. 1	Y 24 sq. ft. 7 ft. 1	Y 24 sq. ft. 7 ft. 1	Y 40 sq. ft. 7 ft. 1	Y 40 sq. ft. 7 ft. 1
<u>Political Sign</u> Max. Area Max. Height Setback Number per Permitted Use	Y 6 sq. ft. 6 ft. 10 ft. N/A	Y 24 sq. ft. 6 ft. 5 ft. N/A	Y 32 sq. ft. 6 ft. 10 ft. N/A	Y 18 sq. ft. 6 ft. 5 ft. N/A	Y 40 sq. ft. 6 ft. 10 ft. N/A	Y 32 sq. ft. 6 ft. 10 ft. N/A
<u>Special Event Signs</u> Max Area Max. Height Setback Number per Permitted Use	Y 6 sq. ft. 6 ft. 10 ft. N/A	Y 24 sq. ft. 6 ft. 5 ft. N/A	Y 32 sq. ft. 6 ft. 10 ft. N/A	Y 18 sq. ft. 6 ft. 5 ft. N/A	Y 40 sq. ft. 6 ft. 10 ft. N/A	Y 32 sq. ft. 6 ft. 10 ft. N/A

Table 10-2 Permitted Sign Uses

10.1 OFF-STREET PARKING AND LOADING REGULATIONS

10.11 Off-Street Parking and/or Loading Requirements

In any district, if any structure is constructed, enlarged or extended, any use of land established, or any use in existence prior to 1973, is changed, parking and loading spaces shall be provided in accordance with the following tables and other requirements, except where noted below.

10.111 An structure in existence prior to 1973 which is enlarged or a use in existence prior to 1973 which is shall be required to provide parking and loading spaces in accordance with the following tables for the entire structure or use unless the increase in units or measurements amounts to less than twenty-five percent (25%) whether such increase occurs at one time or in successive stages,

10.112 For the Downtown Business (DB) and Mixed Use/Mill Industrial (MI) Districts only, no additional off-street parking or loading is required for the following:

- a. City buildings and city properties
- b. Continued use or reuse of a building in existence prior to 1973 as long as that use or reuse does not increase the total floor area within the building.

10.12 General Regulations

- a. Accessory parking or loading spaces being maintained in any district in connection with any use in existence prior to 1973 shall hereafter be maintained so long as said use remains, unless an equivalent number of parking or loading spaces is constructed elsewhere conforming to the requirements of the following tables provided: this regulation shall not require the maintenance of more parking or loading spaces than is required according to the tables.
- b. In granting a Special Permit for any use, the Special Permit Granting Authority may require offstreet parking spaces, standards, or conditions in addition to those set forth in this ordinance, if it deems necessary for the use.
- c. Any specific, more stringent provision in any other section of this ordinance relating to parking shall prevail over provisions in this section.
- d. When the computation of required parking or loading spaces results in a fractional space, any fraction over one-half (1/2) shall require one space.
- e. Driveway Access Permit - A driveway access permit must be obtained from the Department of Public Works for all new or relocated driveways or parking lots located along a street with an existing curb.

10.13 General Parking Areas Design and Location

All new structures and additions or extensions on existing structures, except as noted in Section 10.11, shall be provided with off-street parking or loading spaces in accordance with the following specifications.

10.131 Definitions

- a. Driveway -- a space, located on a lot, which is not more than fifteen (15) feet in width for residential uses nor more than twenty-four (24) feet in width for business, commercial, institutional or industrial uses at the lot line, built for access to a garage or off-street parking or loading space.
- b. Parking Space -- An off-street space at least nine (9) feet in width and twenty (20) feet in length, excluding the portion of the driveway to such space.

10.132 Location

- a. For uses in the Downtown Business (DB), Neighborhood Business (NB), Highway Business (HB), General Business (GB), Industrial (I), and Mixed Use/Mill Industrial (MI) districts only: The parking spaces required for the uses listed in Table 10-3 shall be on the same lot as the use they are intended to serve or, when practical difficulties prevent their establishment upon the same lot, they shall be established no further than two hundred (200) feet from the premises to which they are appurtenant. In no case shall the required parking spaces be part of the area used to satisfy any loading requirements of this ordinance.
- b. The loading spaces required for the uses listed in the Table 10-4 Off-Street Loading Regulations shall in all cases be on the same lot as the use they are intended to serve. In no case shall the required loading spaces be part of the area used to satisfy the parking requirements of this ordinance.

10.133 Lighting

Driveways and parking areas shall be illuminated in such a way that there shall be no glare for motorists, pedestrians or adjoining premises.

10.14 Additional Parking and Loading Space Standards for Areas with Five (5) or More Spaces

All parking and loading areas containing over five (5) spaces, including automotive and drive-in establishments of all types, shall be either contained within structures, or subject to the following:

10.141 Front Yard Areas

Parking spaces shall not be located within the required front yard area in any district.

10.142 Parking and loading spaces shall be so arranged as not to permit backing of automobiles onto any street.

10.143 Placement

An open air parking space shall be at least five (5) feet from any building.

10.144 Lighting

Any fixture used to illuminate any area shall be so arranged as to direct the light away from the street and away from adjoining premises used for residential purposes.

10.145 Surfacing

The area and access driveways thereto shall be surfaced with bituminous or cement concrete material and shall be graded and drained so as to dispose of all surface water accumulation.

10.146 Bumper Requirements

A substantial bumper of masonry, steel or heavy timber, or a concrete curb or berm curb which is backed shall be placed at the edge of surfaced areas except driveways in order to protect abutting structures, properties and sidewalks.

10.147 Driveway Location

- a. Any portion of any entrance or exit driveway shall not be closer than fifty (50) feet to the curb line of an intersecting street.
- b. Any two (2) driveways leading to or from a street to or from a single lot shall not be within thirty (30) feet of each other at their intersections with the front lot line for an interior lot and forty (40) feet for a corner lot.

10.148 Screening

- a. The parking or loading area shall be effectively screened on each side which adjoins or faces the side or rear lot line of a lot situated in any residential "R" district.
- b. Exposed storage areas, machinery, services areas, utility buildings and structures and other unsightly uses shall be effectively screened from neighboring properties when such properties are situated in any residential "R" district.
- c. Screening may consist of dense, hardy evergreen plantings, or earthen berms, or wall or tight fence complemented by evergreen plantings. Evergreen plants must be at least two (2) feet tall at planting with an expected mature height of at least six (6) feet within five years to provide a full screen of the use.
- d. All screened areas shall be properly maintained. Shrubs or trees which die shall be replaced within one growing season.
- e. Completion of the screening requirements may be postponed for a period not to exceed six (6) months from the time of the project completion due to winter weather conditions.

10.149 Storage

There shall not be any storage of materials or equipment or display of merchandise within required parking area except as part of approved building operations.

10.150 There shall not be any vehicle repair or gasoline or oil service facilities or any repair made to any motor vehicles, except on a lot occupied by a permitted automotive use. Any gasoline or oil facilities shall be at least twenty-five (25) feet from any lot line.

10.151 Loading and unloading areas shall be so located and designed that the vehicles intended to use them can maneuver safely and conveniently to and from a public right-of-way, and complete the loading and unloading operations without obstructing or interfering with any public right-of-way or any parking space or parking lot aisle.

10.15 Waivers

11-06-2024

Any section or subsection of Section 10.1, Off-Street Parking and Loading Regulations, may be waived or modified by the Permit Granting Authority or the Special Permit Granting Authority authorized to act under the applicable section of the Ordinance for compelling reasons of safety, aesthetics, and/or site design.⁴⁹

⁴⁹ Sec. 10.15 added by the City Council on 09-20-2023; approved by the Mayor on 09-25-2023

Off-Street Parking Regulations

Table 10-3

Uses	Minimum Number of Parking Spaces
<u>Residential</u>	
One-family dwelling	Two (2) per dwelling unit; One (1) per dwelling in association with an Accessory Dwelling Unit (amended by City Council 06-16-2021; approved by Mayor 06-21-2021)
Accessory Dwelling Unit (Accessory Apartments renamed and amended by City Council 06-16-2021; approved by Mayor 06-21-2021)	One (1) per dwelling unit (amended by City Council 06-16-2021; approved by Mayor 06-21-2021)
Duplex; conversion of existing one-family dwelling to two-family	Two (2) per dwelling unit
Conversion of existing one-family dwelling to three- and four-family dwelling; multifamily housing for elderly and/or handicapped persons	One and one-half (1½) for each dwelling unit
Multifamily housing	1.5 spaces per unit. This may be reduced to an average of 1 per unit based on unit mix and project location.
Bed and Breakfast	Two (2) plus one (1) additional space for each rooming unit
Lodging house	One (1) for each lodging unit
Home Occupation	In addition to meeting the parking standards for the dwelling unit, one (1) space plus one (1) space for each non-resident employee
<u>Community Facilities</u>	
Church or religious facility	One for each four (4) seats of total seating capacity
Business, trade or industrial school or college	One per four (4) students, based on the design capacity of the building, plus one for each teacher or other employee
Elementary school; junior high school; middle school	Two (2) per each room used for administration or class instruction, plus space for auditoriums or other places of assembly or gymnasium, whichever is greater
Senior high school	One per employee on the largest shift and four (4) per classroom, plus space for auditoriums or other places of assembly or gymnasium, whichever is greater
Childcare facility; family day care home	One per two (2) employees plus one off-street passenger loading place for every eight (8) students
City building, recreational facility	One per each four hundred (400) square feet of gross floor area

Off-Street Parking Regulations

Table 10-3 (cont.)

Uses	Minimum Number of Parking Spaces
<u>Community Facilities (cont.)</u>	
Dormitory, fraternity, sorority, YMCA or similar use	One for each sleeping room
Public library or museum	One for each three hundred (300) square feet of gross floor area
Nursing, rest or convalescent home	One per three (3) beds at design capacity
Hospital or sanitarium	Two (2) per bed, plus one space per medical staff member, plus one per each two (2) other employees on shift of greatest employment. Bassinets shall not be counted as beds for the purpose of computing parking
Public Utility	One for each four hundred (400) square feet of gross floor area devoted to office use One for each eight hundred (800) square feet of gross floor area per other use
<u>Agricultural</u>	
Commercial stable; kennel	One per employee, plus one for each 1,000 square feet of gross floor area
Greenhouse	One space for each three hundred (300) square feet of sales floor area
<u>Retail and Service</u>	
Convenience market; pharmacy, drugstore	Five (5) for each 1,000 square feet of gross floor area; minimum of four (4)
Furniture store	One for each 1,000 square feet of gross floor area
Supermarket	Six (6) for each 1,000 square feet of gross floor area
Restaurants, bars	One for each four (4) seats of total seating capacity, plus one for each two employees on shift of greatest employment
Drive-in or drive-through restaurants	One per eighty (80) square feet of gross floor area, plus five (5) off-street waiting spaces per drive-in or drivethrough lane - a minimum of four (4) is required
Discount club, warehouse club, warehouse supermarket	Five (5) for each 1,000 square feet gross floor area
Other retail uses including, but not limited to: discount store; hardware/paint shop; garden center; factory outlet store; antique or gift shop	One per each three hundred (300) square feet of gross floor area

Off-Street Parking Regulations

Motel; hotel	One for each sleeping room plus one for each four hundred (400) square feet of public meeting room and restaurant space
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Table 10-3 (cont.)

Uses	Minimum Number of Parking Spaces
<u>Retail and Service (cont.)</u>	
Automotive sales with or without service establishment	One per six hundred (600) square feet of gross floor area, plus one for each 1,000 square feet of lot area used for outdoor display area
Automotive service station	One space for each gas pump, plus two (2) for each service bay/stall
Automotive repair or garage	Two (2) for each service bay/stall
Automotive parts store	Three (3) for each 1,000 square feet of gross floor area
Car wash	One for each wash stall, plus two (2) additional. The wash stall shall not be construed as a required parking space. Additional for self-service car wash; lineup area for each wash stall of sufficient size to accommodate three (3) cars.
Funeral home	One for each fifty (50) square feet of floor area in the public rooms, plus one for each vehicle maintained on the premises, plus one for each employee
Membership club	One per fifty (50) square feet of assembly area
Beauty or barber shop, hair salon or similar establishment	Two (2) for each operator chair
Personal and consumer establishments, including, but not limited to: laundry or dry cleaning; tailor; milliner; cobbler; photographer's studio; repair shop for household appliance or business equipment; photocopy shop	One per each three hundred (300) square feet of gross floor area
Travel agencies	Four (4) for each 1,000 square feet of gross floor area
Medical/dental center, clinic or laboratory, off-site medical marijuana dispensary (OMMD) or Cannabis retailer <small>(Amended by the City Council on 02-12-2014; approved by the Mayor on 02-13-2014, further amended by the City Council on 03-28-2018; approved by the Mayor on 03-29-2018)</small>	Five (5) for each practitioner or one for each three hundred (300) square feet of gross floor area, whichever is greater
Bank	One for each two hundred (200) square feet of gross floor area, plus six stacking spaces for each drive-in window

Off-Street Parking Regulations

Other professional and business offices and services	One for each three hundred (300) square feet of gross floor area
Golf course; pitch-and-putt	Six (6) for each golf hole and one for each employee on largest shift
Golf driving range; miniature golf course	Two (2) spaces for every tee

Table 10-3 (cont.)

Uses	Minimum Number of Parking Spaces
<u>Retail and Service (cont.)</u>	
Amusement facilities	One for each one hundred fifty (150) square feet of gross floor, building, or ground area devoted to such use, or one space for each four (4) seats for patron use, whichever is needed by the facility
Junkyard	One per employee on shift of greatest employment, plus one for each 5,000 square feet of storage area
Communications, radio and television station	Four (4) for each 1,000 square feet of gross floor area
Planned business development	Sum of space requirements for various uses computed separately
<u>Industrial</u>	
Manufacturing or industrial establishment, including Registered Marijuana Dispensary (RMD), Cannabis cultivator, Cannabis product manufacturer, Cannabis independent testing laboratory, Cannabis craft cooperative, Cannabis delivery operator, Cannabis courier, Cannabis micro business, or Cannabis research facility <small>(Amended by the City Council on 02-12-2014; approved by the Mayor on 02-13-2014; further amended by the City Council on 0328-2018; approved by the Mayor on 03-29-2018; further amended by City Council 06-16-2021; approved by Mayor 06-21-2021)</small>	One for each six hundred (600) square feet of gross floor area OR 0.75 for each employee of the combined employment of the two (2) largest successive shifts, whichever is larger
Transportation service facilities	One for each six hundred (600) square feet of gross floor area
Open storage of raw materials, finished goods or construction equipment	One for each 1,000 square feet of area in such use
Research and development	One for each employee on the shift of greatest employment
Planned industrial development	Sum of space requirements for various uses computed separately
Wholesale establishment, warehouse or storage establishment	One per each 1,000 square feet of gross floor space
<u>Mixed Use</u>	

Off-Street Parking Regulations

Mixed use	Sum of space requirements for various uses computed separately
<u>Other Uses</u>	
Any use permitted by this <u>Ordinance</u> not interpreted to be covered by this schedule	Closest similar use space requirements as shall be determined by the building inspector

Note: Gross floor area shall mean the total area of a building measured by taking the outside dimensions of the building at each floor level intended for occupancy or storage.

**Table 10-4
Off-Street Loading Requirements**

Uses	Number of Loading Spaces Per Unit
Retail trade, manufacturing and hospital establishment with over five thousand (5,000) square feet of gross floor area	One for each twenty thousand (20,000) square feet or fraction thereof of gross floor area up to two (2) spaces; one additional space for each sixty thousand (60,000) square feet or fraction thereof of gross floor area over forty thousand (40,000) square feet. Space used for ambulance receiving at a hospital is not to be used to meet these loading requirements.
Business services, other services, community facility (school, church, city building, recreation, etc.) or public utility with over five thousand (5,000) square feet of gross floor area	One for each seventy-five thousand (75,000) square feet or fraction thereof of gross floor area up to two (2) spaces; one additional space for each two hundred thousand (200,000) square feet or fraction thereof of gross floor area over one hundred fifty thousand (150,000) square feet

10.2 ENVIRONMENTAL PERFORMANCE STANDARDS

Any use permitted by right or special permit in any district shall not be conducted in a manner as to emit any dangerous, noxious, injurious, or otherwise objectionable fire, explosion, radioactive or other hazard; noise or vibration, smoke, dust, odor or other form of environmental pollution; electrical or other disturbance; glare; liquid or solid refuse or wastes; conditions conducive to the breeding of insects, rodents, or other substance; conditions or element in any amount as to affect adversely the surrounding environment. The following standards shall apply:

10.21 Emissions

- a. Emissions shall be completely and effectively confined within the building, or so regulated as to prevent any nuisance, hazard, or other disturbance from being perceptible (without the use of instruments) at any lot line of the premises on which the use is located.
- b. No emission which can cause any damage to health of animals or vegetation or which can cause excessive soiling, at any point, shall be permitted.
- c. No emission of odorous gases or odoriferous matter in such quantities as to be offensive shall be permitted. Any process which may involve the creation and/or emission of any odors shall be provided with a secondary safeguard system.

10.22 Erosion Control

Erosion of soil and sedimentation of watercourses and waterbodies shall be minimized by employing the following "best management" practices:

- a. Exposed or disturbed areas due to stripping of vegetation, soil removal, and regarding shall be permanently stabilized within six months of occupancy of a structure.
- b. During construction, temporary vegetation and/or mulching shall be used to protect exposed areas from erosion. Until a disturbed area is permanently stabilized, sediment in runoff shall be trapped by using staked hay bales or sedimentation traps.
- c. Permanent erosion control and vegetative measures shall be in accordance with erosion/sedimentation vegetative practices recommended by the Soil Conservation Service.
- d. All slopes exceeding fifteen (15) percent resulting from the site grading shall be either covered with four (4) inches of topsoil and planted with a vegetative cover sufficient to prevent erosion or be stabilized by a retaining wall.
- e. Dust control shall be used during grading operations if the grading is to occur within 200 feet on an occupied residence or place of business. Dust control methods may consist of grading fine soils on calm days only or dampening the ground with water.

10.23 Discharge

No discharge, at any point, into a private sewer system stream or the ground of any material in such a way, or of such a nature or temperature as can contaminate any running stream, water supply or otherwise cause the emission of dangerous or objectionable elements and accumulation of wastes conducive to the breeding of rodents or insects shall be permitted.

10.24 Glare

No direct or sky-reflected glare, whether from floodlights or from high temperature processes such as welding shall be permitted beyond its lot lines onto neighboring properties, or onto any street.

10.25 Hazardous Activities

- a. No activities that emit dangerous radioactivity, at any point; no electrical disturbance adversely affecting the operation at any point, of any equipment, other than that of the creator of such disturbance, shall be permitted.
- b. All activities that involve hazardous materials at any point shall be provided with adequate safety devices against fire and explosion and adequate fire-fighting and firesuppression devices and equipment.

10.26 Hazardous Materials Storage

- a. All outdoor storage facilities for fuel, chemicals, chemical or industrial wastes, and potentially harmful raw materials, shall be located on impervious pavement, and shall be completely enclosed by an impervious dike which shall be high enough to contain a volume of liquid kept within the storage area, at least equal to one hundred ten (110) percent of the capacity of the container(s), so that such liquid shall not be able to spill onto or seep into the ground surrounding the paved storage area. Storage tanks for "home heating oil" and diesel fuel, not exceeding two hundred seventy-five (275) gallons in size, may be exempted from this requirement.
- b. All storage of hazardous materials, at any point shall be provided with adequate safety devices against fire and explosion and adequate fire-fighting and fire-suppression devices and equipment.

10.27 Noise

Excessive noise at unreasonable hours shall be required to be muffled so as not to be objectionable due to the intermittence, beat frequency, shrillness or volume.

10.28 Stormwater Management

- a. To the extent feasible, measures for run-off from impervious surfaces should be designed to meet the following objectives in an appropriate manner:
 - (1) prevent non-point sources pollution from urban runoff to streams, water bodies or groundwater;
 - (2) prevent flooding of neighboring or other down-gradient properties;

- (3) promote recharge of groundwater aquifers, while preventing pollutants from entering groundwater.

Appropriate recharge or detention methods may include: detention basins; vegetated swales; filter media; oil/water separators or other similar methods. Stormwater runoff design shall be in harmony with existing regulations set forth by the City of Easthampton and the Commonwealth of Massachusetts.

10.29 Vibration

No offensive vibration shall be permitted at any time.

10.3 FILLING OF SWALES, VALLEYS, ETC.

10.31 Applicability

No filling in of any swale, valley or other area or depression shall proceed without first securing a Special Permit from the Zoning Board of Appeals (ZBA), as specified in Section 12.7 of this Ordinance, and in accordance with the additional requirements specified herein, except where noted below.

10.311. Exceptions

The filling in of any swale, valley or other area or depression shall be exempt from this section provided all the following are complied with:

- a. A filling-in operation which does not exceed a total area of five hundred (500) cubic yards of material.
- b. A filling-in operation which does not exceed a total area of ten thousand (10,000) square feet on any lot, land parcel or subdivision thereof.
- c. A filling-in operation which is associated with acceptable agricultural land management practices, including, but not limited to, plowing and construction of agricultural structures; nursery operations, such as the removal and/or transplanting of cultivated sod, shrubs and trees; logging operations.
- d. Filling-in operations necessary in connection with lawful construction of a building, structure, street, driveway, sidewalk, path or other appurtenance.
- e. Filling, as a maintenance measure, or for landscaping purposes on existing developed lots or parcels, provided that the aggregate of area(s) affected does not exceed ten thousand (10,000) square feet, the grade change does not exceed twelve (12) inches at any point and does not alter the drainage patterns; and the filling-in does not involve a quantity of material in excess of one hundred (100) cubic yards.

10.32 Required Plans

For the filling of swales, valleys, or other area or depression not exempt under Section 10.311 of this Ordinance shall submit the following to the ZBA as part of the Special Permit process:

- a. Submission of a locus plan at a scale of one inch equals eight hundred (800) feet showing the area to be filled in or excavated, lot lines within which the filling is proposed and tie in to the nearest road intersection.
- b. Submission of a site plan to a scale of one inch equals forty (40) feet of the lot and surrounding area within one hundred (100) feet showing, in addition to above, existing and proposed contour lines at intervals of not more than two (2) feet resulting from the proposed filling in, in relation to the topography of the premises, said plan to be prepared by a registered professional engineer and registered land surveyor.

10.33 Additional Requirements

The following standards shall be used as additional requirements in the Special Permit process for the filling of swales, valleys, etc. not exempt under Section 10.311 of this ordinance:

- a. Provision for temporary and permanent drainage of the site.
- b. Limitation of fill to terrace fills which are not to exceed ten (10) feet at any one time nor be within ten (10) feet of an adjacent lot line or any cut.
- c. Re-grading of all or parts of the slopes resulting from such fill.
- d. Replacement of at least four (4) inches of top soil over all filled or otherwise disturbed surfaces and seeding with a perennial cover crop, reseeded as necessary to assure uniform growth and soil surface stabilization.
- e. Submission of plan for lighting, if night operation is contemplated.
- f. Where any fill will have a depth of ten (10) feet or more and create a slope of more than one foot in two (2) feet, there shall be a substantial fence enclosing the fill at least six (6) feet in height with suitable gates. Such fence shall be located ten (10) feet or more from the edge of the fill.
- g. Provisions shall be made such that the filling in of any land area shall not impair surface drainage, constitute an erosion hazard nor act as a source of sedimentation to any adjacent land or watercourse.
- h. Provisions shall be made such that the filling in of any land area does not impair the safe and efficient operation of any on-site sewage disposal or drainage facilities nor those located on adjacent properties.
- i. No filling in of land shall cause or permit any soil, earth, sand, gravel, rock, stone loam, or other fill material, or water or liquid to be deposited upon or to roll, flow or work upon or over the premises of another without the express consent of the owner of such premises so affected; nor shall any filling in of land cause or permit any soil, earth, sand, gravel, rock, stone, loam or other fill material or water or liquid to be deposited, or to roll, flow, or wash upon or over any public street, street improvement, road, sewer, storm drain, water course, or right-of-way, or public property.
- j. Such other conditions as may be deemed necessary and reasonable shall be imposed by the Board of Appeals in order to prevent damage to public or private property or any sewer, storm drain, or watercourse, or to prevent the filling in of land from being conducted in a manner

10.4 HOME OCCUPATIONS*

(*Revised in its entirety by the City Council on 09-16-2015; approved by the Mayor on 09-17-2015)

10.41 Purpose

- 10.41.1 To promote equitable economic development by allowing city residents a broad choice in the use of their homes as places of livelihood without negatively affecting the surrounding area and other people that live there.
- 10.41.2 To regulate economic generating activities occurring in residential areas so as to be compatible with the surrounding residential uses by assuring that the residential quality of life is protected from adverse impacts such as noise, traffic, and other nuisance issues.

10.42 Applicability

- 10.42.1 Minor Home Occupations complying with the standards in this Ordinance shall be permitted by-right in any dwelling unit or structure accessory thereto. The Zoning Enforcement Officer (ZEO) shall oversee the permitting of Minor Home Occupations and may, if necessary, consult with the City Planner or other municipal officials to determine if a proposed Home Occupation is truly a Minor Home Occupation complying with Section 10.43 and Section 10.44 of the Easthampton Zoning Ordinance.
- 10.42.2 Major Home Occupation complying with the standards in this Ordinance may be granted by a Special Permit from the Zoning Board of Appeals (ZBA) in any dwelling unit or structure accessory thereto.
- 10.42.3 Any Home Occupation involving hazardous materials (e.g. combustible, flammable, explosive, corrosive, toxic, radioactive, etc.), high heat or open flame (e.g. welding, kilns, etc.), or regulation by the Board of Health (e.g. clinics, bed-and-breakfasts, barbershops, beauty parlors, bakeries, residential kitchens, animal hospitals or kennels) must be reviewed as a Major Home Occupation.
- 10.42.4 In any case where standards in this Section 10.4 conflict with another Section of the Easthampton Zoning Ordinance, the stricter standard shall rule.

10.43 Standards for All Home Occupations

- 10.43.1 The owner/operator of every Home Occupation shall reside in the dwelling unit on the property at which the business operates.
- 10.43.2 No more than thirty-three percent (33%) of the existing gross floor area of the residential unit shall be devoted to the Home Occupation, regardless of whether such use is carried on in the residential unit or in an accessory structure.
- 10.43.3 There shall be no display or storage of finished goods, raw materials, or inventory visible from the street or lot lines.
- 10.43.4 There shall be no storage of goods or products produced off-site unless they are used as the raw materials to be combined into a finished product or they are used as the inventory or materials for services performed at an off-site destination.
- 10.43.5 There shall be no sales of products or services that are not produced on the premises. In addition, there shall be no areas intended for retail sales or service.

- 10.43.6 No advertising on the premises is permitted other than a small non-electric sign not to exceed two (2) square feet in area.
- 10.43.7 The premises and building on which the Home Occupation is conducted may not include a feature or design not customary in residential use buildings.
- 10.43.8 Any newly installed or replaced exterior lighting fixture shall be aimed and shielded so that it does not shine upwards or produce light beyond the boundaries of the property at which the Home Occupation is conducted.
- 10.43.9 Any addition, alteration, or change to a building must comply with all area, height, bulk, and setback restrictions as described in the Easthampton Zoning Ordinance.
- 10.43.10 Toxic, explosive, flammable, combustible, corrosive, radioactive, or similar hazardous materials shall not be used, stored, or manufactured on the premises in amounts exceeding those which are typically found in residential use.
- 10.43.11 Off-street parking for the Home Occupation shall be provided as described in Section 10.1 of the Easthampton Zoning Ordinance.
- 10.43.12 Traffic associated with a Home Occupation shall not place an unreasonable burden on the City, roads, or surrounding neighborhood due to noise, safety, congestion, or other associated nuisances.
- 10.43.13 No overnight storage of any kind of vehicle on the property is permitted except for those for the personal use of residents of the property and for those used in conjunction with the Home Occupation. Vehicles used in conjunction with the Home Occupation and stored overnight must be owned or leased by the operator of the Home Occupation and may not belong to people who do not reside at the property.

10.44 Standards for Minor Home Occupations

- 10.44.1 Minor Home Occupations must meet the following standards in addition to the standards listed in Section 10.43 of the Easthampton Zoning Ordinance. In case of conflict, the stricter standard shall apply.
- 10.44.2 No non-resident employees shall be employed to work at the subject property.
- 10.44.3 A Minor Home Occupation shall not be open by-appointment nor be open to members of the public (including but not limited to non-resident employees and business partners, contractors, clients, and business visitors) at any time.
- 10.44.4 There shall be no deliveries or pick-ups other than the types and frequency typically occurring in residential neighborhoods.
- 10.44.5 Only Class 1 and Class 2 vehicles, as classified by Massachusetts Department of Transportation, may be stored or used on the property in conjunction with the Home Occupation.

10.44.6 No use shall be allowed that causes the exterior appearance or emission of atmospheric pollution (including but not limited to odors, gas, fumes, smog, smoke, and dust), electrical disturbance, excessive light, glare, noise, vibrations, or any other nuisance to the neighborhood and/or the residential use of the other units in a multi-family structure.

10.45 Standards for Major Home Occupations

10.45.1 Major Home Occupations must meet the following standards in addition to the standards listed in Section 10.43 and Section 12.79 of the Easthampton Zoning Ordinance. In case of conflict, the stricter standard shall apply.

10.45.2 No more than two (2) non-resident employees shall be employed to work at the subject property.

10.45.3 Unless otherwise determined by the Zoning Board of Appeals, hours of operation to the public, including non-resident employees, clients, business visitors, as well as pickups/deliveries shall be limited Monday through Friday to the hours between 8:00 AM and 8:00 PM and on weekends to the hours between 10:00 AM and 6:00 PM.

10.45.4 There shall be no increase of traffic to the in excess of two (2) vehicles per hour (on average) during hours of operation to the public.

10.45.5 Unless otherwise allowed by the board, only Class 1 and Class 2 vehicles, as classified by the Massachusetts Department of Transportation, may be stored or used on the property in conjunction with the Major Home Occupation.

10.45.6 The premises and building on which the Major Home Occupation is conducted shall not be made objectionable or detrimental in any manner (including but not limited to the exterior appearance or emission of atmospheric pollution (e.g. odors, gas, fumes, smog, smoke, and dust), electrical disturbance, excessive light, glare, noise, or vibrations) to the neighborhood and/or the residential use of the other units in a multi-family structure.

10.46 Expiration, Amendment, and Renewal

10.46.1 Home occupation permits may be amended or renewed in accordance with this Ordinance. Home occupation permits are not transferable and shall expire upon (1) the sale of the property; (2) the abandonment or vacating of the property by the resident operating the home occupation; (3) the conclusion of the time as set as a condition by the Zoning Board of Appeals; or (4) the issuance of a subsequent Home Occupation permit at the same location.

10.5 COMMERCIAL DEVELOPMENT PERFORMANCE STANDARDS

In order to receive site plan approval or special permit, all projects or uses must demonstrate compliance with the Commercial Development Performance Standards herein, and abide by the Environmental Performance Standards set forth in Section 10.2.

10.51 Standards that apply to projects or uses in the Downtown Business District, Highway Business District, General Business District, Mixed Use/Mill Industrial District, and Neighborhood Business District

10.511 Parking Standards

Proposed projects or uses must comply with Parking and Off-street Loading regulations in Section 10.1 and the following standards:

- a. No parking shall be permitted within the required front yard setback of a structure. If the physical configuration of the lot creates a hardship for the property owner to meet this requirement, the Planning Board may allow parking in the front, with adequate screening, as noted in Section 10.515 (b).
- b. To the extent feasible, parking areas shall be shared with adjacent businesses.
- c. For developments which make a long-term commitment to actively promote employee and public use of transit, ridesharing, and other means to reduce single occupant vehicle (SOV) trips, minimum parking standards may be reduced by a percentage, up to a maximum of twenty percent (20%) to be determined by the Planning Board based upon the adequacy of trip reduction plans submitted in accordance with Section 10.524.

10.512 Appearance/Architectural Design Standards

- a. Architectural design shall be compatible with the scale of buildings in the city through the use of appropriate building materials, screening, breaks in roof and wall lines and other architectural techniques. Variation in detail, form and siting shall be used to provide visual interest and avoid monotony. Proposed buildings shall relate harmoniously to each other with adequate light, air, circulation and separation between buildings. The Planning Board may take into consideration whether exterior building facades and materials are consistent with other buildings in the City of Easthampton. For example, exterior materials such as wood or metal or vinyl clapboards or stone or brick, and treatment compatible on all four sides. The Planning Board may consider whether the roofline is peaked, or is otherwise consistent with other building styles in the City of Easthampton. Large work area doors or open bays shall not open toward or face roadways. (See Easthampton Facade and Sign Guidelines: A Community Development Handbook, for specific guidelines for facades in the downtown area, and for signs city-wide published in December 1985 - copies available in the City Planner's office).
- b. The Planning Board may adopt such regulations as may be necessary to further specify design standards.

10.513 Lighting Standards

- a. Any outdoor lighting fixture newly installed or replaced shall be shielded so that it does not produce a strong, direct light beyond the property boundaries.
- b. No light standard shall be taller than fifteen (15) feet.

10.514 Access Standards

- a. Curb cuts shall be limited to the minimum width for safe entering and exiting and shall in no case exceed 24 feet in width, per lane.
- b. All driveways shall be designed to afford motorists exiting to highways with safe sight distance.
- c. Adequate pedestrian and bicycle access shall be provided as follows:
 - (1) Sidewalks shall be provided to enable pedestrian access to adjacent properties, and between individual businesses within a development. The appropriate authority may waive this requirement in a case where such action is in the public interest and not inconsistent with the purposes stated in Sections 12.7 and 12.9. The appropriate authority for by-right uses is the Building Inspector, for uses by Special Permit or Site Plan Approval, the appropriate authority is the Planning Board.

10.515 Landscaping Standards

- a. Large parking areas shall be subdivided with landscaped islands so that no paved parking surface shall extend more than eighty (80) feet in width. At least one tree (minimum two (2) inch caliper) per thirty-five (35) parking spaces shall be provided within the area.
- b. Exposed storage areas, machinery, service areas, truck loading areas, utility buildings and structures and other unsightly uses shall be screened from view from neighboring properties and streets using dense, hardy evergreen plantings, or earthen berms, or wall or tight fence complemented by evergreen plantings. Evergreen plants must be at least two (2) feet tall at planting with the capacity to grow to full screening of the unsightly use. Plantings must be four (4) feet at planting when abutting a residential zone.
- c. All landscaped areas shall be properly maintained. Shrubs or trees which die shall be replaced within one growing season.
- d. Completion of the landscaping requirements may be postponed for a period not to exceed six (6) months from the time of project completion due to winter weather conditions.

10.52 Standards That Apply to Projects or Uses in Highway and General Business Districts

Projects or uses in the Highway Business District or General Business District must abide by the standards in this section in addition to the standards set forth in Section 10.51.

10.521 Access Standards

Applicants for projects or uses within the HBD or GBD must demonstrate that the project or use will minimize traffic and safety impacts on highways.

- a. The number of curb cuts on state and local roads shall be minimized. To the extent feasible, access to businesses shall be provided via one of the following:
 - (1) Access via a common driveway serving adjacent lots or premises
 - (2) Access via an existing side street
 - (3) Access via cul-de-sac or loop road shared by adjacent lots or premises.
- b. One driveway shall be permitted as a matter of right per business or per project, if a project includes several businesses within a structure or group of structures. Entering and exiting lanes shall be separated by a median strip. Where deemed necessary by the appropriate authority, two driveways may be permitted as part of the Site Plan Approval process which shall be clearly marked "entrance" and "exit". The appropriate authority for by-right uses is the Building Inspector, and for uses by Special Permit or Site Plan Approval, the appropriate authority is the Planning Board.

10.522 Landscaping and Screening Standards

- a. A landscaped buffer strip at least fifteen (15) feet wide, continuous except for approved driveways, shall be established adjacent to any public road to visually separate parking and other uses from the road. The buffer strip shall be planted with grass, medium height shrubs, and shade trees (minimum two-inch (2) caliper, planted at least every fifty (50) feet along the road frontage). At all street or driveway intersections, trees or shrubs shall be set back a sufficient distance from such intersections so that they do not present a traffic visibility hazard. The sidewalk required in Section 10.514c(1) shall be incorporated into the buffer strip.

10.523 Traffic Impact Statement

- a. A traffic impact statement shall be prepared, which shall contain:
 - (1) Traffic flow patterns at the site including entrances and egresses, loading and unloading areas, and curb cuts on site and within one hundred feet of the site.
 - (2) A detailed assessment of the traffic safety impacts of the proposed project or use on the carrying capacity of any adjacent highway or road, including the projected number of motor vehicle trips to enter or depart from the site estimated for daily hour and peak hour traffic levels, road capacities and impacts on intersections.
 - (3) Adequate pedestrian and bicycle access shall be provided as follows:
 - (a) Sidewalk shall be provided to provide access to adjacent properties and between individual businesses within a development.

- b. An additional traffic impact statement shall be prepared by projects over ten thousand (10,000) square feet, which shall contain:
 - (1) A plan to minimize traffic and safety impacts through such means as physical design and layout concepts, staggered employee work schedules, promoting use of public transit or carpooling, or other appropriate means.
 - (2) An interior traffic and pedestrian circulation plan designed to minimize conflicts and safety problems.

10.524 Trip Reduction Plan

- a. In each case where a new building(s) or new use of more than ten thousand (10,000) square feet is proposed, the applicant shall prepare and submit a "Trip Reduction Plan" clearly identifying a combination of transportation systems management strategies which are designed to reduce anticipated vehicle trips by thirty-five (35) percent. These strategies may include, but are not limited to:
 - (1) Vanpool/carpool incentive programs, such as employer subsidies for vanpools/carpools, preferred vanpool/carpool parking, ride matching services, and providing parking at the vanpool/carpool pick-up site.
 - (2) Allowing and encouraging flexible work hours and flexible work weeks.
 - (3) Encouraging pedestrian and bicycle commute modes by providing on-site bicycle parking storage, locker room facilities, bike and walking paths, and similar features.
 - (4) Site designs which are conducive to transit or vanpool use, such as convenient, weather protected transit shelters.
 - (5) Encouraging employee and customer use of transit services, including providing transit subsidies for improved transit service and accessibility.
 - (6) Provision of on-site services, retail opportunities, and housing if allowed in the zone.
 - (7) Naming a full-time or part-time transportation systems management coordinator to oversee implementing all strategies identified in the "Trip Reduction Plan."

SECTION 10.6. REMOVAL OF SAND, GRAVEL, QUARRY OR OTHER EARTH MATERIALS

10.61 Applicability

In addition to the general conditions and procedures established in Section 12.7 of this Ordinance for all special permits, the following additional requirements and procedures shall apply. No permit for earth products removal shall be issued if such removal will (1) endanger the general public health or safety or (2) constitute a nuisance, (3) result in detriment to the normal use of adjacent property by reason of noise, dust or vibration, or (4) result in traffic hazards in residential areas or excessive congestion or physical damage on public ways.

For the removal of sand, gravel, quarry, loam, sod or other earth materials, other than that which is incidental to and in connection with the construction of a building for which a permit has been issued in accordance with these zoning regulations, and for processing and treating raw materials, the following conditions shall govern:

- 10.611. Any existing sand or gravel removal activity operating under a permit issued prior to the date of adoption of this ordinance may continue until the expiration of the permit, except that any expansion or change in operation not covered by such permit shall require conformance with the above regulations.
- 10.612 Removal and processing operations shall not be conducted closer than fifty (50) feet to a public street or to any property line and three hundred (300) feet from any public street.
- 10.613 No equipment, except mobile equipment for sorting, washing, crushing, grading, drying, processing, and treating, shall be used closer than one hundred (100) feet from any public street or from the line of any adjoining property.
- 10.614 All excavated, filled, or otherwise disturbed surfaces upon completion of the operation shall be covered with at least four (4) inches of topsoil and seed with perennial cover crop; with reseeded as necessary to assure uniform growth and soil surface stabilization. No slope created by the removal operation shall be finished at a grade in excess of the natural angle of repose for the material.
- 10.615 Any access to excavated areas or areas in the process of excavation shall be adequately posted with **KEEP OUT - DANGER** signs.
- 10.616 No excavation, quarry, bank or work face extending under original ground level shall create a slope of more than one vertical to one point five (1.5) horizontal. A temporary fence shall be located ten (10) feet or more from the edge of the excavation or quarry, and shall be at least four (4) feet in height.
- 10.617 Adequate provision is to be made for drainage during and after the completion of operations.
- 10.617(a) No top soil or loam is to be removed from any development unless there is an excess of ten inches remaining for lawn and landscape purposes.
 - 10.618 Lateral support shall be maintained for all adjacent properties.
 - 10.619 The use of explosives shall be done in accordance with the regulations for storage or handling of explosives as published by the Commonwealth of Massachusetts.
- 10.6110 All operations shall be conducted in such a manner so as to comply with the laws of the Commonwealth of Massachusetts regulating water pollution and air pollution.

10.6111 Hours of operation shall be designated.

10.6112 Provisions shall be made for the adequate control of dust during operation.

10.62 Required Site Plan.

Site plans for the removal areas shall be prepared by a registered professional engineer or a registered land surveyor according to Section 12.7, with the following additional information:

- a. Water supply and sanitary sewerage systems and temporary and permanent drainage systems for the site.
- b. Topographic mapping showing existing contours at intervals of not more than two (2) feet and contours of finished grade after the conclusion of the operation.
- c. Submission of plan for lighting if night operation is contemplated.
- d. Proper provision for vehicular traffic, service roads, and control of entrances and exits to highways.
- e. The relocations of existing and future buildings and operations machinery to the removal areas.
- f. Delineation of the existing removal areas and the proposed area for removal in the immediate future.
- g. Provision for a substantial fence enclosing the excavation or quarry.

10.63 Required Reuse Plan.

Reuse of a removal site is in the public interest. Therefore, land reuse plan(s) on a scale of one hundred (100) feet to the inch or greater must be submitted to and approved by the Zoning Board of Appeals, subject to the regulations set forth below:

- a. The Zoning Board of Appeals may require that up to two (2) approved alternative future land reuse plans be submitted for such land as is used for the extraction of sand, gravel, rock, loam, sod, and associated earth materials. A land reuse plan is also required where an existing extraction operation is extended below the grade of adjacent ground.
- b. Said land reuse plan and its implementation applies to the conversion of the abandoned site and its planned reuse, including landscaping and suitable erosion control. It is, therefore, required that any land reuse plan correspond to a situation which could reasonably occur in the immediate future (zero (0) to five (5) years), and be revised as necessary as the existing physical character of the removal area changes.
- c. The land reuse plan or any part thereof which reasonably applies to an area which has been abandoned from removal use shall be put into effect within one (1) year of the abandonment of said operation. Abandonment for the purposes of this subsection shall be

defined as the visible or otherwise apparent intention of the owner or user of the land to discontinue the use of the land for a continuous period of one (1) year. Temporary operating of less than thirty (30) days shall not be construed to interrupt any continuous period of abandonment.

- d. A reuse plan as defined in this section shall be required for each operation which would come under this section prior to three (3) years from the date of adoption of this amendment, and shall be subject to all of the review procedures as provided in this section, notwithstanding the fact that the operation itself is being undertaken under the provisions of previously existing zoning ordinance.

10.64 The Zoning Board of Appeals shall require a surety bond signed by a Surety Company authorized to do business in the Commonwealth of Massachusetts, or other acceptable performance security, in an amount approved by the Board as sufficient to guarantee conformity with the provisions of the permit issued hereunder.

10.65 Exemption.

The removal of earth material in any of the following operations shall be exempt from this section:

- a. The removal of less than ten (10) cubic yards of material in the aggregate in any year from any one lot.
- b. The transfer of material from one part of a lot to another part of the same lot.
- c. The removal of material necessarily excavated in connection with lawful construction of a building, structure, street, driveway, sidewalk, path or other appurtenance provided the quantity of material removed does not exceed that actually displaced by the portion of such building, structure, street, driveway, sidewalk, path or other appurtenances below finished grade.
- d. The removal of material from an operating farm, nursery, or cemetery to the extent that such removal is necessary to the operation of the same.
- e. The moving or removal of material for any municipal purposes by, or on behalf of, any Department of the City of Easthampton

10.66 For a continuation of an operation beyond a period designated in the initial permit, a new application must be granted in the same manner as for the initial permit except that the Zoning Board of Appeals may waive requirements for submittal of materials required by this section. The waiver must be granted in writing by the Board to the applicant. All other provisions relating to operational standards and permit procedures shall apply. (By-law of 10-18-95, Approved 12-14-95)

SECTION 10.7. ADULT ENTERTAINMENT ENTERPRISES

10.71 Definitions

- a. Adult bookstore: "Adult bookstore" means an establishment having as a substantial or significant portion of its stock in trade, rental or sale, books magazines and/or other matter which are distinguished or characterized by their emphasis on matter depicting, describing or relating to

sexual conduct or sexual excitement as defined in Massachusetts General Laws, Chapter 272, Section 31 ("G.L. c.272, s. 31"), and which shall be deemed to include so-called sexual aids, mechanical and non-mechanical simulators and objects fashioned to resemble or perform certain of the functions of the human sexual organs and genitalia.

b. Adult entertainment establishment: "Adult entertainment establishment" means any establishment which displays entertainment which is distinguished or characterized by its emphasis depicting, describing or relating to sexual conduct or sexual excitement as defined in G.L. c. 272. s. 31.

c. Adult motion picture theater: "Adult motion picture theater" means a building used for presenting material related to sexual conduct or sexual excitement as defined in G.L. c. 272, s. 31.

d. Adult use: "Adult use" means a use (whether partially or in its entirety) of a building or business for the purpose of engaging in the sale, display, hire, trade, exhibition or viewing of materials or entertainments depicting, describing, or relating to sexual conduct or sexual excitement as defined in G.L. c. 272, s. 31.

e. Adult use advertisement sign: "Adult use advertisement sign" means an advertising sign or device which advertises an adult entertainment use, adult bookstore, adult video store, or adult motion picture theater and/or advertises the trade, rental or sale of material distinguished by an emphasis on matter depicting, describing, or relating to sexual conduct or sexual excitement as defined in G.L. c. 272, s. 31.

f. Adult video store: "Adult video store" means an establishment having as a substantial or significant portion of its stock in trade, rental or sale, videos and other matter which are distinguished or characterized by their emphasis depicting, describing or relating to sexual conduct or sexual excitement as defined in G.L. c. 272, s. 31.

g. Substantial or significant portion: "Substantial or significant portion" means at least that portion of (i) retail sales accounting for at least twenty percent of gross sales or (ii) merchandise accounting for at least twenty percent of total merchandise available for sale or (iii) shelf-space and display space which when combined is in excess of eighty (80) square feet.

10.72 Adult entertainment establishments and businesses promoting adult uses within the City of Easthampton.

Based upon the experience of other communities, particularly the evident problems which existed in those portions of the City of Boston bordering and included within the so-called "Combat Zone", the city of Easthampton finds that the proliferation of adult entertainment establishments (as said term is herein defined) will have an adverse effect on the community by, among other impacts, limiting economic development and reducing residential property values. Furthermore, the city finds that adult entertainment establishments, if situated near schools, parks or conservation areas, houses of worship, nursery schools, day care centers, kindergartens or playgrounds would have an adverse impact on the youth of the City of Easthampton. **10.721 General Limitations**

Notwithstanding any term or condition within the so-called Table of Use Regulations within the Easthampton Zoning Ordinance, or any other provision of said Zoning Ordinance, no adult entertainment establishments, adult bookstore, adult video store, adult motion picture theater and advertising signs or devices may be (i) erected, constructed, placed, altered, converted or otherwise changed in any district

other than the "DB" District or (ii) erected, constructed, placed, altered, converted or otherwise changed without the issuance of a Special Permit issued by the Easthampton Planning Board or (iii) or erected, constructed, placed, altered, converted or otherwise changed if it is within one thousand feet of the line of any lot which contains either an adult entertainment establishment, adult bookstore, adult video store, adult motion picture theater or adult advertising signs or devices.

10.722 Special Permit considerations for adult entertainment establishments and adult motion picture theaters

No special permit may be granted for any adult entertainment establishment or adult motion picture theater unless each of the following conditions are fully satisfied:

1. Adult entertainment establishments and adult motion picture theaters may not be located less than one thousand feet (1,000) from the nearest lot line of: each other; public or private nursery schools; public or private day care centers; public or private kindergartens; public or private elementary schools; public or private secondary schools; playgrounds; parks; conservation areas; and houses or worship.
2. A ten foot-wide landscaped strip shall be provided along the property line fronting a public or private way.
3. No adult entertainment establishments or adult motion picture theater may be situated on a lot which is less than five thousand square feet nor more than twenty thousand square feet.
4. Adult entertainment and adult motion picture theaters may not be allowed within a building containing other retail, consumer or residential uses.
5. A material condition to every special permit issued with respect to any adult entertainment establishment and adult movie theater shall be that such establishment or theater must cease its business operations between the hours of 1 a.m. and 10 a.m. each day.
6. No adult entertainment establishment or adult motion picture theater may have visible from outside the establishment or theater any flashing lights.
7. No adult entertainment establishment or adult motion picture theater shall be eligible to apply for a permit requesting a freestanding accessory sign.
8. Each applicant for a special permit to operate an adult entertainment establishment or an adult motion picture theater must provide on a plan submitted with its application adequate parking on the same lot of said establishment or theater in the following ration: one parking space for every 1.25 persons allowed for said establishment's seating capacity.

10.723 Special Permit consideration for adult bookstores and adult video stores.

No special permit may be granted for any adult bookstores or adult video stores (collectively said bookstores and video stores hereinafter referred to as "adult merchandise establishments") unless each of the following conditions are fully satisfied:

11-06-2024

1. Adult merchandise establishments may not be located less than one thousand (1,000) feet from the nearest lot line of: each other; public or private nursery schools; public or private elementary schools; public or private secondary schools; playgrounds; parks; conservation areas; and houses of worship.
2. A ten foot wide landscaped strip shall be provided along the property line fronting a public or private way.
3. No adult merchandise establishment may be situated on any lot which is less than five thousand square feet or more than twenty thousand square feet.
4. Adult merchandise establishments may not be allowed within a building containing other retail, consumer or residential uses.
5. No adult merchandise establishments shall be located within ten feet of a public or private way and must be set back a minimum of at least ten feet from all property lines (unless applicable zoning regulations provide for a greater setback).
6. A material condition to every special permit issued with respect to any adult merchandise establishment shall be that such establishment must cease its business operations between the hours of 11 p.m. and 9 a.m. each day.
7. No adult merchandise establishment may have visible from outside of the establishment or theater any flashing lights.
8. No adult merchandise establishment shall be eligible to apply for a special permit requesting a free-standing accessory sign.

10.724 Special permit consideration for adult use advertisement signs

No special permit may be granted for any adult use advertisement signs unless each of the following conditions are fully satisfied:

1. Adult use advertisement signs may not be located less than (1,000) from the nearest lot line of: each other; public or private nursery schools; public or private day care centers; public or private secondary schools; playgrounds; parks; conservation areas; and houses of worship.
2. Adult use advertisement signs may only be located on a building in which there is operating either an adult merchandise establishment, adult entertainment establishment or adult movie theater pursuant to a special permit issued by the Easthampton Planning Board.
3. The highest point on any adult use advertisement sign may be no higher than twenty feet above ground level.
4. No adult use advertisement sign may contain any moving, flashing of animated lights, or visible moving or parts.

10.725 Construction; conflicts

11-06-2024

In the event that the applicable provision of the zoning ordinance set forth in these amended provisions imposes greater dimensional or setback requirements than do the other provisions of the Easthampton Zoning Ordinance, the great requirements of the zoning ordinance shall apply. No structure shall contain both an adult merchandise establishment and either an adult entertainment or adult movie theater.

(By-law of 5-1-96; Approved 7-23-96)

Section 10.8 KEEPING OF FARM ANIMALS.

(Section 10.8 Added by the City Council on 02-16-2011; approved by Mayor on 02-17-2011; amended by the City Council on 03-06-2013. Section 10.8 replaced in its entirety by the City Council on May 2, 2018; approved by the Mayor on May 2, 2018)

10.8.1 Purpose

The purpose of this Ordinance is to allow for the accessory use of keeping of farm animals on residential properties for the personal use of the residents of that property only.

10.8.2 Applicability

- 10.8.2.1 This section applies to the Accessory Uses of keeping of farm animals on residential properties as listed in Table 5-1 (Accessory Uses) and does not apply to the Principal Agricultural Uses of raising or keeping of farm animals as listed in Table 5-1 (Principal Uses – Agriculture).
- 10.8.2.2 Residential properties with one (1) or two (2) dwelling units: allowed by permit in accordance with this Section endorsed by the Zoning Enforcement Officer.
- 10.8.2.3 Residential properties with three (3) or more dwelling units: allowed by Special Permit in accordance with this Section and Section 12.7 (Special Permits) from the Zoning Board of Appeals.
- 10.8.2.4 Residential properties with rental dwelling units: allowed provided that written proof of permission from the property owner is presented as part of the permit application process.
- 10.8.2.5 Waivers to the setback or lot size requirements for keeping farm animals on residential properties may be granted by Special Permit in accordance with this Section and Section 12.7 (Special Permits) from the Zoning Board of Appeals.

10.8.3 Standards

- 10.8.3.1 Structures and waste (manure, compost) locations related to the keeping of animals shall meet the required setbacks for accessory structures in Section 6 and as described herein. In the case of conflicts, the standards in this section shall prevail.
- 10.8.3.2 Enclosures, structures, and waste locations for keeping:
 - 10.8.3.2.1 A small flock of up to six (6) poultry including chickens (no roosters), shall be at least fifty (50) feet from the street line and at least fifty (50) feet from any dwelling unit other than the dwelling to which they are accessory.
 - 10.8.3.2.2 A larger flock of (7 to 25) poultry including chickens (no roosters), shall be at least seventy-five (75) feet from the street line and at least fifty (50) feet from any dwelling unit other than the dwelling to which they are accessory.
 - 10.8.3.2.3 Any other farm animals allowed under this Section, shall be at least seventy-five (75) feet from the street line and at least fifty (50) feet from any dwelling unit other than the dwelling to which they are accessory.
- 10.8.3.3 No enclosure, structure, or waste location shall be closer than ten (10) feet to the property lines of any abutting property.
- 10.8.3.4 Animals shall be restricted to the property.
- 10.8.3.5 Animal waste shall be composted on-site or kept in an enclosed container until disposed of or transported off-premises.

10.8.4 Permit and Inspections Required

- 10.8.4.1 A permit shall be obtained from the Zoning Enforcement Officer or Zoning Board of Appeals for all farm animals allowed under this section of the ordinance.
- 10.8.4.2 The Zoning Enforcement Officer shall develop a permit application and set reasonable fees for their administration of this ordinance.
- 10.8.4.3 Permit and Special Permit applications shall include a scaled site plan that clearly shows:
 - 10.8.4.3.1 the boundary lines and lot size of the property
 - 10.8.4.3.2 the location and use of all existing structures on the property and on abutting properties
 - 10.8.4.3.3 the proposed structures, enclosures, and waste locations related to keeping of farm animals
 - 10.8.4.3.4 the total numbers of each type of animal (existing & proposed) kept on the property
- 10.8.4.4 Copies of the permit or special permit decision shall be sent to the Applicant, the Animal Inspector, and Zoning Enforcement Officer.
- 10.8.4.5 Residents keeping farm animals allowed by this Ordinance shall permit the Animal Inspector to access the property and conduct inspections of the property and animals as described in Massachusetts General Laws Ch. 129.

SECTION 10.9 MEDICAL MARIJUANA

(Sec. 10.9 added by the City Council on 02-12-2014; approved by the Mayor 02-13-2014; Amended by the City Council on 08-02-2017; approved by the Mayor 08-03-2017)

10.91 Purpose

It is recognized that the nature of the substance cultivated, processed, and/or sold by Medical Marijuana Treatment Centers and Off-Site Medical Marijuana dispensaries may have objectionable operational characteristics and should be located in such a way as to ensure the health, safety, and general well-being of the public as well as patients seeking treatment. The specific and separate regulation of Registered Marijuana Dispensaries (hereafter referred to as a RMD) as Medical Marijuana Treatment Centers and Off-site Medical Marijuana Dispensary (hereafter referred to as an OMMD) facilities is necessary to advance these purposes and ensure that such facilities are not located within close proximity of minors and do not become concentrated in any one area within the City of Easthampton.

Subject to the provisions of this Zoning Ordinance, Chapter 40A of the Massachusetts General Laws, and 105 CMR 725.000, Registered Marijuana Dispensaries and Off-site Medical Marijuana Dispensaries will be permitted to provide medical support, security, and physician oversight that meet or exceed state regulations as established by the Massachusetts Department of Health (DPH).

10.92 Application Requirements

In addition to the standard application requirements for Special Permits and Site Plan Approvals, such applications for an RMD or OMMD facility shall include the following:

- a. The name and address of each owner of the RMD or OMMD facility/operation;
- b. Documentation that demonstrates that said RMD or OMMD facility, and its owner/operators, qualify and are eligible to receive a Certificate of Registration and meet all of the requirements of a RMD in accordance with 105 CMR 725.000 of the Massachusetts Department of Public Health;
- c. Evidence that the Applicant has site control and right to use the site for a RMD or OMMD facility in the form of a deed or valid purchase and sales agreement or, in the case of a lease a notarized statement from the property owner and a copy of the lease agreement;
- d. A notarized statement signed by the RMD or OMMD organization’s Chief Executive Officer and corporate attorney disclosing all of its designated representatives, including officers, directors, shareholders, partners, members, managers, or other similarly-situated individuals and entities and their addresses. If any of the above are entities rather than persons, the Applicant must disclose the identity of all such responsible individual persons;
- e. In addition to what is normally required in a Site Plan, details showing all exterior proposed security measures for the RMD or OMMD including lighting, fencing, gates and alarms, etc. ensuring the safety of employees and patrons and to protect the premises from theft or other criminal activity;
- f. A detailed floor plan identifying the areas available and functional uses (including square footage);
- g. All signage;
- h. A traffic study to establish the RMD or OMMD impacts at peak demand times;

- i. A description of all activities to occur on site, including all provisions for the delivery of medical marijuana and related products to OMMDs or off-site direct delivery to patients.

10.93 Standards and Conditions

a. Use

1. RMD and OMMD facilities may only be involved in the uses permitted by its definition and may not include other businesses or services.
2. No marijuana shall be smoked, eaten or otherwise consumed or ingested within the premises.
3. The hours of operation shall be set by the Permit Granting Authority, but in no event shall an RMD or OMMD facility be open to the public, and no sale or other distribution of marijuana shall occur upon the premises or via delivery from the premises, between the hours of 11:00 p.m. and 6:00 a.m. (Amended by the City Council on 08-02-2017; approved by the Mayor on 08-03-2017)
4. RMD facilities that can demonstrate that they comply with the agricultural exemption under M.G.L. Chapter 40A, Section 3 must still apply for Site Plan Approval.

b. Physical Requirements

1. All aspects of the use/facility relative to the acquisition, cultivation, possession, processing, sales, distribution, dispensing, or administration of marijuana, products containing marijuana, related supplies, or educational materials must take place at a fixed location within a fully enclosed building and shall not be visible from the exterior of the business.
2. No outside storage is permitted.
3. No OMMD Facility shall have a gross floor area in excess of 2,500 square feet.
4. All RMD and OMMD facilities shall be ventilated in such a manner that:
 - a. No pesticides, insecticides or other chemicals or products used in the cultivation or processing are dispersed into the outside atmosphere, and;
 - b. No odor from marijuana or its processing can be detected by a person with an unimpaired and otherwise normal sense of smell at the exterior of the medical marijuana business or at any adjoining use or property.
5. Signage shall be displayed on the exterior of the RMD and OMMD facility's entrance in plain sight of clients stating that "Registration Card issued by the MA Department of Public Health required" in text two inches in height.

c. Location

1. No RMD and OMMD facility shall be located within two hundred feet (200') of any building housing:
 - a. an elementary, middle, preparatory, vocational or high school, or;
 - b. another RMD or OMMD facility, except that this limitation shall not apply in Industrial zones;
2. An RMD or OMMD facility shall not be located in buildings that contain any pharmacy, medical doctor offices or the offices of any other professional practitioner authorized to prescribe the use of medical marijuana. An exception shall be that the Permit Granting Authority may grant permission for palliative and therapeutic care uses, which are separate facilities from a RMD or OMMD facilities, in the same building;

3. An RMD or OMMD facility shall not be located within a building containing residential units, except mixed use buildings, including transient housing or group housing such as hotels, motels, lodging houses, or dormitories.

d. Reporting Requirements

1. All Special Permit and Site Plan Approval holders for an RMD or OMMD facility shall provide the Police Department, Fire Department, Building Inspector and the Permit Granting Authority with the names, phone numbers and email addresses of all management staff and key-holders, including a minimum of two (2) operators or managers of the facility identified as contact persons to whom one can provide notice if there are operating problems associated with the establishment. All such contact information shall be updated as needed to keep it current and accurate.
2. The local Building Inspector, Board of Health, Police Department, Fire Department and Permit Granting Authority shall be notified in writing by an RMD or OMMD facility owner/operator/ manager:
 - a. a minimum of 30 days prior to any change in ownership or management of that facility
 - b. A minimum of 12 hours following a violation or potential violation of any law or any criminal or potential criminal activities or attempts of violation of any law at the RMD or OMMD.
3. Permitted RMD and OMMD facilities shall file an annual report to the Permit Granting Authority no later than January 31st, providing a copy of all current applicable state licenses for the facility and/or its owners and demonstrate continued compliance with the conditions of the permit.
4. The owner or manager is required to respond by phone or email within twentyfour hours of contact by a city official concerning their RMD or OMMD at the phone number or email address provided to the City as the contact for the business.

e. Issuance/Transfer/Discontinuance of Use

1. Special Permits/Site Plan Approvals shall be issued to the RMD Operator.
2. Special Permits/Site Plan Approvals shall be issued for a specific site/parcel.
3. Special Permits/Site Plan Approvals shall be non-transferable to either another RMD Operator or site/parcel.
4. Special Permits/Site plan Approvals shall have a term limited to the duration of the applicant's ownership/control of the premises as a RMD or OMMD, and shall lapse:
 - a. if the permit holder ceases operation of the RMD, and/or
 - b. the permit holder's registration by DPH expires or is terminated
 - c. The permit holder shall notify the Building Inspector and Permit Granting Authority in writing within 48 hours of such lapse, cessation, discontinuance or expiration.
5. An RMD or OMMD facility shall be required to remove all material, plants equipment and other paraphernalia prior to surrendering its state Registration or ceasing its operation.

10.94 Findings

In addition to the standard Findings for a Special Permit or Site Plan Approval the Special Permit Granting Authority must also find all the following:

1. That the RMD or OMMD facility is designed to minimize any adverse visual or economic impacts on abutters and other parties in interest;

2. That the RMD or OMMD facility demonstrates that it will meet all the permitting requirements of all applicable agencies within the Commonwealth of Massachusetts and will be in compliance with all applicable state laws and regulations; and
3. That the applicant has satisfied all of the conditions and requirements of this Section and other applicable Sections of this Bylaw/Ordinance;
4. That the RMD or OMMD project meets a demonstrated need;
5. That the RMD or OMMD facility provides adequate security measures to ensure that no individual participant will pose a direct threat to the health or safety of other individuals, and that the storage and/or location of cultivation is adequately secured.
6. That the RMD or OMMD facility adequately addresses issues of traffic demand, circulation flow, parking and queuing, particularly at peak periods at the facility, and its impact on neighboring uses.

SECTION 10.10. Adult Use Cannabis Establishments.

(Approved by the City Council on 03-28-2018; approved by the Mayor on 03-29-2018)

10.10.1 Purpose. The purpose of this section is to regulate the time, place and manner of cannabis establishments. The zoning will create a place for the public to responsibly have access to legal cannabis while mitigating community impact. This ordinance should serve as a guide that will support the public’s right to access legal cannabis, protect the public health, safety, and well-being and expand new growth for the tax base.

10.10.2 Scope. This section 10.10 relates only to Cannabis Establishments authorized by General Laws, Chapter 94G, and not to medical cannabis treatment centers authorized by General Laws, Chapter 94I; the location and operation of which is governed locally by Section 10.9 of these bylaws, nor to cannabis-related businesses not required to be licensed by Chapter 94G, except as otherwise provided for herein.

10.10.3 Definitions.

For the purpose of this section the word cannabis is used in place of marijuana as found in MA General Laws, Chapter 94G, and 935 CMR 500, except where any potential conflict in terms appears the state regulations and purpose shall prevail.

Adult on-site cannabis social consumption operator: Means a Cannabis Retailer licensed to purchase cannabis and cannabis products from a cannabis establishment and to sell cannabis and cannabis products on its premises only to consumers or allow consumers to consume cannabis and cannabis products on its premises only. Note this term is not defined in 935 CMR 500.

Cannabis Cultivation: Means the use of land and/or buildings for planting, tending, improving, harvesting, processing and packaging, the preparation and maintenance of soil and other media and promoting the growth of cannabis by a cannabis cultivator, micro-business, research facility, craft marijuana cultivator cooperative, registered marijuana dispensary or other entity licensed by the Commission for cannabis cultivation. Such use is not agriculturally exempt from zoning. Note this term is not defined in 935 CMR 500.

Cannabis Cultivator: Means an entity licensed to cultivate, process and package cannabis, to transfer cannabis to other Cannabis Establishments, but not to consumers. A Craft Cannabis Cooperative is a type of Cannabis Cultivator.

Cannabis Establishment: Means a Cannabis Cultivator, Craft Marijuana Cooperative, Cannabis Product Manufacturer, Cannabis Retailer, Independent Testing Laboratory, Cannabis Research Facility, Cannabis Transporter, Cannabis Membership Club, Marijuana Delivery Operator, Marijuana Courier, or any other type of licensed cannabis-related business, except a medical marijuana treatment center. (amended by City Council 06-16-2021; approved by Mayor 06-21-2021)

Cannabis Membership Club: Means an organization, club, lodge, other private grounds (nonprofit and private) allowing on-site consumption of cannabis or marijuana products, but not operating as a licensed marijuana social consumption operator or where no sales occurs. Note this term is not defined in 935 CMR 500.

Cannabis Products: Means cannabis or marijuana and its products unless otherwise indicated. These include products that have been manufactured and contain cannabis or an extract from cannabis or marijuana or an extract from cannabis or marijuana, including concentrated forms of marijuana and products composed of marijuana and other ingredients that are intended for use or consumption, including edible products, beverages, topical products, ointments, oils and tinctures.

Cannabis Product Manufacturer: Means an entity licensed to obtain, manufacture, process and package cannabis or marijuana products and to transfer these products to other Cannabis Establishments, but not to consumers.

Cannabis Retailer: Means an entity licensed to purchase and transfer cannabis or marijuana product from Cannabis Establishments and to sell or otherwise transfer this product to Cannabis Establishments and to consumers. Retailers are prohibited from delivering cannabis or marijuana products to consumers; and from offering cannabis or marijuana products for the purposes of onsite social consumption on the premises of a Cannabis Establishment.

Cannabis Transporter: Means an entity, not otherwise licensed by the Commission, that is licensed to purchase, obtain, and possess cannabis or marijuana product solely for the purpose of transporting, temporary storage, sale and distribution to Cannabis Establishments, but not to consumers. Cannabis Transporters may be an Existing Licensee Transporter or Third Party Transporter.

Commission: Means the Massachusetts Cannabis Control Commission established by M.G.L. c. 10, § 76, or its designee. The Commission has authority to implement the state marijuana laws, which include, but are not limited to, St.2016, c. 334 as amended by St. 2017, c.55,, M.G.L. c. 94G, and 935 CMR 500.000.

Community Host Agreement: Means an agreement, pursuant to General Laws, Chapter 94G, Section 3(d), between a Cannabis Establishment and a municipality setting forth additional conditions for the operation of a Cannabis Establishment, including stipulations of responsibility between the parties and a up to 3% host agreement revenue sharing. Note this term is not defined in 935 CMR 500.

Craft Cannabis Cooperative: Means a Cannabis Cultivator comprised of residents of the Commonwealth and organized as a limited liability company, limited liability partnership, or cooperative corporation under the laws of the Commonwealth. A cooperative is licensed to cultivate, obtain, manufacture, process, package and brand cannabis or marijuana products to transport marijuana to Cannabis Establishments, but not to consumers.

Hemp cultivation: Means for the purposes of this section, the cultivation of hemp shall require a Site Plan Approval from the Planning Board and comply with all applicable sections herein, except that the use may be exempt from the licensing requirements of 935 CMR 500. Note this term is not defined in 935 CMR 500.

Independent Testing Laboratory: Means a laboratory that is licensed by the Commission and is:

Accredited to the International Organization for Standardization 17025 (ISO/IEC 17025:2017) by a third-party accrediting body that is a signatory to the International Laboratory Accreditation Cooperation mutual recognition arrangement or that is otherwise approved by the commission;

Independent financially from any Medical Marijuana Treatment Center (RMD), Marijuana Establishment or licensee for which it conducts a test; and

Qualified to test cannabis or marijuana in compliance with 935 CMR 500.000. A Marijuana Establishment may be eligible for a provisional or final license.

Marijuana Courier: Means an entity licensed to deliver Finished Marijuana Products, Marijuana Accessories and Branded Goods directly to Consumers from a Marijuana Retailer, or directly to Registered Qualifying Patients or Caregivers from an MTC, but is not authorized to sell Marijuana or Marijuana Products directly to Consumers, Registered Qualifying Patients or Caregivers and is not authorized to Wholesale, Warehouse, Process, Repackage, or White Label. A Marijuana Courier is an additional license type under G.L. c. 94G, § 4(b)(1) that allows for limited delivery of Marijuana or Marijuana Products to Consumers; and shall not be considered to be a Marijuana Retailer under 935 CMR 500.002: Definitions or 935 CMR 500.050: Marijuana Establishments and shall be subject to 935 CMR 500.050(1)(b): Control Limitations. (added by City Council 06-16-2021; approved by Mayor 06-21-2021)

Delivery Endorsement: Means authorization granted to Licensees in categories of Marijuana Establishments identified by the Commission to perform deliveries directly from the establishment to Consumers. (added by City Council 06-16-2021; approved by Mayor 06-21-2021)

Marijuana Delivery Operator or Delivery Operator: Means an entity licensed to purchase at Wholesale and Warehouse Finished Marijuana Products acquired from a Marijuana Cultivator, Marijuana Product Manufacturer, Microbusiness or Craft Marijuana Cooperative, and White Label, sell and deliver Finished Marijuana Products, Marijuana Accessories and Marijuana Branded Goods directly to Consumers, but is not authorized to Repackage Marijuana or Marijuana Products or operate a storefront under this license. A Delivery Operator is an additional license type under G.L. c. 94G, § 4(b)(1) that allows for limited delivery of Marijuana or Marijuana Products to Consumers; and shall not be considered to be a Marijuana Retailer under 935 CMR 500.002: Definitions or 935 CMR 500.050: Marijuana Establishments and shall be subject to 935 CMR 500.050(1)(b): Control Limitations. (added by City Council 06-16-2021; approved by Mayor 06-21-2021)

Medical Marijuana Treatment Center, also known as a Registered Marijuana Dispensary (RMD): Means a not-for-profit entity registered under 105 CMR 725.100: Registration of Registered Marijuana Dispensaries, that acquires, cultivates, possesses, processes (including development of related products such as edible cannabis or marijuana products, tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing cannabis or marijuana, related supplies, or educational materials to registered qualifying patients or their personal caregivers for medical use. Unless otherwise specified, RMD refers to the site(s) of dispensing, cultivation, and preparation of cannabis or marijuana for medical use.

Microbusiness: Means a co-located Cannabis Establishment that can be either a Tier 1 Marijuana Cultivator or Product Manufacturer or both, in compliance with the operating procedures for each license. A Microbusiness that is a Cannabis Product Manufacturer may purchase no more than 2,000 pounds of marijuana per year from other Cannabis Establishments.

Process or Processing: Means to harvest, dry, cure, trim and separate parts of the cannabis or marijuana plant by manual or mechanical means, except it shall not include manufacture as defined in 935 CMR 500.002.

Research Facility: Means an entity licensed to engage in research projects by the Commission.

10.10.4 Place

10.10.4.1 No Cannabis Establishment shall be located within 350 feet of pre-existing public or private school providing education in kindergarten or any of grades 1 through 12, in operation at the time of application for a special permit or site plan approval. Distance shall be measured in a straight line from the nearest point of the property line in question to the nearest point of the property line where the marijuana establishment is or will be located. In any case where the measurement is determined to be in question, the Planning Board may require verification of distances by a Registered Land Surveyor.

10.10.4.2 A Cannabis Retail Establishment is permitted by Special Permit in Highway Business (HB), Downtown Business (DB), Mixed-Use / Mill Industrial (MI) and industrial (I) zoning districts. Refer to Table 5-1, Easthampton Table of Use Regulations for all other Cannabis Establishments. In the Highway Business (HB) and Downtown Business (DB), any Cannabis Establishment other than retail must be located within an existing building (s) and comply with the requirements of Section 10.5 of the Zoning Ordinance. (amended by City Council 06-16-2021; approved by Mayor 06-21-2021)

- 10.10.4.3 Except in the MI and DB districts, no Cannabis Establishment shall be located within a building containing residential units containing residential units, including transient housing and group housing.
- 10.10.4.4 No more than six (6) Cannabis Retailers shall be allowed within the City. Special Permit applications will be considered in the order in which the Planning Department receives a completed Special Permit application and confirmation that a completed license application has been received by the Commission.
- 10.10.4.5 No Cannabis Retailer shall be located within 200 feet of another Cannabis Retailer, except within the MI zone. Distance shall be measured by a straight line from the nearest point of the property line in question to the nearest point of the property line where the marijuana establishment is or will be located.
- 10.10.4.6 No Cannabis Establishment shall be permitted to operate from a moveable, mobile or transitory location. Except as permitted for delivery operator and courier licensees in accordance with 935 CMR 500.000. (amended by City Council 06-16-2021; approved by Mayor 06-21-2021)

10.10.5 Time and Manner

- 10.10.5.1 No cannabis shall be smoked, eaten or otherwise consumed or ingested on the premises, except as may be allowed in a Cannabis Membership Club. All Cannabis Establishments permitted under this section shall comply with all state and local laws, rules and regulations governing the smoking of tobacco.
- 10.10.5.2 Odor: No Cannabis Establishment shall allow the escape of noxious odors or gases. They shall incorporate odor control technology and provisions, and ensure that emission do not violate MGL Chapter 111, Section 31 C.
- 10.10.5.3 Signage: All signage shall comply with the requirements of 935 CMR 500, and Section 10.0 of this zoning ordinance.
- 10.10.5.4 Hours: Cannabis Retailers shall be open to the public no earlier than 8:00 AM and no later than 11:00 PM. Marijuana Delivery Operator or Delivery Operator and Marijuana Courier operations shall only operate vehicles between 8:00 AM and delivery of orders placed prior to 11 PM. (amended 02-04-2021; amended by City Council 06-16-2021; approved by Mayor 06-21-2021)
- 10.10.5.5 Visual Impact: Cannabis plants, products, and paraphernalia shall not be visible from outside the building in which the cannabis establishment is located and shall comply with the requirements of 935 CMR 500. No outside storage is permitted. Any artificial screening device erected to eliminate the view from the public way shall also be subject to a vegetative screen and the Board shall consider the surround landscape and viewshed to determine if it is similar to other vegetative screens in the neighborhood.
- 10.10.5.6 Nuisance: Cannabis Establishment operations shall not create nuisance conditions in parking areas, sidewalks, streets and areas surrounding the premises and adjacent properties. "Nuisance" includes, but is not limited to, disturbances of the peace, public consumption of cannabis, excessive pedestrian or vehicular traffic, illegal drug activity under State or local law, harassment of passersby, excessive littering, excessive loitering, illegal parking, excessive loud noises, excessive citation for violations of State or local traffic laws and regulations, queuing of patrons (vehicular or pedestrian) in or other obstructions of the public or private way (sidewalks and streets).
- 10.10.5.7 Home Occupation: Cannabis Establishments, except for a Marijuana Courier, are not permitted as a Home Occupation, as defined in Section 10.4 in the Easthampton Zoning Ordinance. (amended by City Council 06-16-2021; approved by Mayor 06-21-2021)

10.10.5.8 Delivery Operator: Any application for a Special Permit shall include the anticipated number of vehicles operating from the location, number of employees for all operations including fulfillment, administration, and vehicle drivers shall be identified and may be conditioned as such. A copy of the Application of Intent and Management and Operations Profile submitted, to the extent permitted by law, as an integral part of the Special Permit application. (added by City Council 06-16-2021; approved by Mayor 06-21-2021)

10.10.5.9 Security: Every application for a Special Permit for the operation of a Cannabis Establishment shall include a security plan describing all security measures. This should include site security, security for the transportation of cannabis and cannabis products. Safety plans should mitigate any potential harm to the employees and the public including ensuring all customers are at least 21 years of age.

10.10.6 Adult On-Site Social Consumption. Intentionally left blank. Reserved for future use.

10.10.7 Other

10.10.7.1 Community Host Agreement: No Special Permit shall be granted without first having an executed Community Host Agreement with the City of Easthampton.

10.10.7.2 Community Outreach Meeting: No Special Permit application shall be deemed complete by the Planning Department until a Community Outreach Meeting in accordance with 935 CMR 500 has occurred.

10.10.7.3 State Law: Cannabis Establishment operations shall conform at all times to General Laws, Chapter 94G, and regulations issued thereunder.

10.10.7.4 License requirements:

10.10.7.4.1 The applicant shall submit proof that the application to the CCC has been deemed complete pursuant to 935 CMR 500.102. Copies of the complete application, to the extent legally allowed, shall be provided as integral component of the application to the planning board and no Special Permit application shall be deemed complete by the Planning Department until this information is provided.

10.10.7.4.2 No Special Permit shall be granted by the Planning Board to an applicant without the Cannabis Establishment first having been issued a Provisional License from the Commission pursuant to 935 CMR 500. For Delivery Operator and Courier applicants, a dated notice of approval of Pre-Certification from the CCC pursuant to 935 CMR 500.101(2)(b)(3) shall be accepted in lieu of a Provisional License. (amended by City Council 06-16-2021; approved by Mayor 06-21-2021)

10.10.7.4.3 No person shall operate a cannabis establishment without having a license in good standing from the Commission.

10.10.7.5 Energy Use: All Cannabis Cultivators shall submit an energy use plan to the Planning Board to demonstrate best practices for energy conservation. The plan shall include an electrical system overview, proposed energy demand, ventilation system and air quality, proposed water system and utility demand.

10.10.7.5.1 Hybrid emission/electric vehicles: Vehicles owned and operated by Delivery operators and Couriers must include in their fleet at least one third total vehicles of either hybrid, diesel, or electric vehicles, for licensees owning six (6) or more vehicles for the purpose of delivery. (added by City Council 06-16-2021; approved by Mayor 06-21-2021)

10.10.7.6 Line Queue Plan: The applicant shall submit a line queue plan to ensure that the movement of pedestrian and/or vehicular traffic along the public right of ways will not be unreasonably obstructed.

- 10.10.7.7 **Traffic Impact Statement:** Any cannabis establishment open to the general public shall submit a detailed Traffic Impact Statement in accordance with Section 7.4104.
- 10.10.7.8 **Parking:** Parking shall be in accordance with Section 10.1 (off-street parking and loading regulations) and Table 10.3 (off-street parking regulations).
- 10.10.7.9 **Permitting:** The Planning Board shall be the Special Permit Granting Authority. The application requirements and procedures shall be conducted pursuant to Section 12.7, Special Permits of the Zoning Ordinance.
- 10.10.7.10 **Waivers:** The applicant shall be required to submit specific information regarding any waivers from 935 CMR 500.000 granted by the Commission. The Planning Board shall approve or disapprove said waivers based on the following Commission criteria in 935.CMR.500:
- 10.10.7.10.1 Compliance would cause undue hardship to the requestor;
 - 10.10.7.10.2 If applicable, the requestor's non-compliance does not jeopardize the health or safety of any patient or the public;
 - 10.10.7.10.3 If applicable, the requestor has instituted compensating features that are acceptable to the planning board; and
 - 10.10.7.10.4 The requestor provides to the planning board written documentation, in a form and manner determined by the planning board, supporting its request for a waiver.
- 10.10.7.11 **Hemp:** The cultivation of industrial hemp, as same is regulated by the Massachusetts Department of Agricultural Resources pursuant to General Laws, Chapter 128, Sections 116-123, shall require a Site Plan Approval from the Planning Board and comply with all applicable sections herein, except that the use may be exempt from the licensing requirements of 935 CMR 500. Use of land or buildings for hemp processing and/or product manufacture shall be subject to such zoning controls as apply to other (noncannabis) processing and product manufacture operations.
- 10.10.7.12 **Notice of Enforcement Order:** Within twenty-four (24) hours of receipt of notice of it, a Cannabis Establishment shall file with the Mayor, Health Agent and the Building Commissioner any summary cease and desist order, cease and desist order, quarantine order, suspension order, revocation order, order limiting sales, deficiency statement, plan of correction, notice of a hearing, notice of any other administrative process or legal action, denial of a license, denial of a renewal of a license, or final action issued by a state agency (including, but not limited to, the Commission and Massachusetts Department of Public Health) regarding the Cannabis Establishment, the Cannabis Control Commission license, or the Department of Public Health Certificate of Registration.
- 10.10.7.13 **Annual Inspection:** Any operating Cannabis Establishment within the City shall be inspected annually by the Building Inspector, or their designee(s), to ensure compliance with this Section and with any conditions imposed by the Planning Board as a condition of the Special Permit approval.
- 10.10.8 Severability:** If any provision of this Section 10.10 is found to be invalid by a court of competent jurisdiction, the remainder of Section 10.10 shall not be affected but shall remain in full force. The invalidity of any provision of this Section 10.10 shall not affect the validity of the remainder of this zoning ordinance.

SECTION XI. NONCONFORMING USES, STRUCTURES AND LOTS

11.0 Nonconformity by Initial Enactment or Amendment

The provisions of this section affecting nonconforming uses, structures and/or lots cited herein and certain related nonconformities shall apply under the provisions of this Ordinance and established districts as enacted initially or as subsequently amended.

11.1 Extension, Alteration and Change

11.11 Pre-existing Nonconforming Uses

- a. Pre-existing nonconforming uses may be altered, extended or changed by a special permit issued by the Zoning Board of Appeals (ZBA) in accordance with this ordinance. The ZBA may issue such special permit after a public hearing and the extension, alteration or change shall be permitted if the ZBA finds that such extension, alteration, or change shall not be substantially more detrimental than the existing nonconforming use to the neighborhood.
- b. Any conforming use of a nonconforming structure may be extended throughout the existing structure.

11.12 Pre-Existing Nonconforming Single-Family or Two-Family Residential Structures⁵⁰

- a. Nonconforming single and two-family residential structures may be extended, altered, or structurally changed upon a determination by the Building Commissioner that the proposed changes comply with all required setback, yard, building coverage, and building height requirements. If the Building Commissioner finds that such proposed changes do not conform to all current applicable zoning ordinances, a review of the application shall be required by the Zoning Board of Appeals (ZBA).
- b. If the ZBA finds that the proposed changes would not significantly intensify any existing non-conformities or create any new non-conformities, and that the proposed changes would not cause the structure to become substantially more detrimental than the existing non-conforming structure to the neighborhood, it shall grant a special permit for the proposed changes.
- c. If the ZBA finds that any proposed change would create any new non-conformities a variance will be required for such changes.

11.13 Pre-Existing Non-Conforming Non-Residential Structures

⁵⁰ Sec. 11.12 amended by the City Council on 10-17-2012; approved by the Mayor 10-18-2012

- a. A pre-existing nonconforming non-residential structure may not be expanded, altered or changed except by a special permit from the Special Permit Granting Authority⁵¹.
- b. A special permit will be granted if the Special Permit Granting Authority⁵² finds:
 - (1) That the proposed alteration, extension or change complies with the zoning ordinance standards or has received a variance for such proposed alteration, extension or change from the ZBA;
 - (2) That the proposed alteration, extension or change will not be substantially more detrimental to the neighborhood than the existing nonconforming structure(s).

11.14 Pre-Existing Nonconforming Uses, Structures or Lots Changed to Conformity

- a. Any nonconforming structure or portion thereof or any nonconforming use which has come into conformity shall not be altered, extended, or changed so as to again become nonconforming.
- b. Any nonconforming lot which has come into conformity shall not again be changed to a nonconforming lot.

11.2 Restoration

Any non-conforming structure damaged by fire or other cause in excess of fifty (50) percent of its value may be repaired or rebuilt if otherwise in accordance with this ordinance, and used for its original use or a nonconforming use. If such action does not occur within six (6) months the repair or rebuilt structure shall not be used except for a conforming use.

11.3 Abandonment and Non-Use

Any nonconforming use structure, and/or lot which has been abandoned within the meaning of this ordinance or not used for a continuing period of two (2) years or more shall not be used again, unless such use, structure, and/or lot complies with the provisions of this ordinance.

11.4 Moving

Any nonconforming structure shall not be moved to any other location on the lot or any other lot unless every portion of such structure, the use thereof, and the lot shall be conforming.

11.5 Unsafe Structure

Any structure determined to be unsafe may be restored to a safe condition, provided such work on any nonconforming structure shall not place it in greater nonconformity, and provided further, if the cost

⁵¹ Amended by the City Council on 09-20-2023; approved by the Mayor on 09-25-2023

⁵² Amended by the City Council on 09-20-2023; approved by the Mayor on 09-25-2023

11-06-2024

to restore any structure shall exceed fifty (50) percent of its physical replacement value, it shall be reconstructed only as a conforming structure and used only for a conforming use.

11.6 Single Lot Exemption for Single-Family and Two-Family Uses

Residential Lot of Record - Any increase in area, frontage, width, yard, or depth requirements of this ordinance shall not apply to a lot for single- and two-family residential use, if at the time of recording or endorsement of such lot, whichever occurs sooner, the following conditions were met:

11.61 The lot was not held in common ownership with any adjoining land.

11.62 The lot conformed to the applicable zoning requirements at the time it was recorded or endorsed.

11.63 The lot had at least five thousand (5,000) square feet of area and fifty (50) feet of frontage.

(Bylaw of 5-31-79)

SECTION XII. ADMINISTRATION AND ENFORCEMENT

12.0 Zoning Enforcement Officer

It shall be the duty of the Zoning Enforcement Officer to administer and enforce the provisions of the ordinance and said duty may be delegated to an assistant Building Inspector as recommended by the Planning Board.

12.1 Permit Required

It shall be unlawful for any owner or person to erect, construct, reconstruct, or alter a structure or change the use or lot coverage, increase the intensity of use or lot coverage, increase the intensity of use, or extend or displace the use of any building, other structure or lot without applying for and receiving from the Building Inspector the required building permit therefor. In applying for the permit, the applicant shall submit a plan to show how all the pertinent regulations of this zoning ordinance are to be met.

12.2 Previously Approved Permits

The status of previously approved permits shall be as determined by the Zoning Act, Section 16.

12.3 Certificate of Use and Occupancy Required

It shall be unlawful to use or occupy any structure or lot thereafter erected or altered unless the building inspector has certified on the building permit, or if a building permit is not required, has issued a certificate of use and occupancy and has specified thereon, the use to which the structure or lot may be put.

12.4 Permit Time Limits

A permit shall be applied for to the building inspector, by the applicant. Construction or operations under a building or special permit shall conform to any subsequent amendment of this ordinance unless the use or construction is commenced within a period of not more than six (6) months after issuance of the permit, and in cases involving construction, unless such construction is continued through to completion as continuously and expeditiously as is reasonable.

12.5 Violations

12.51 The Building Inspector shall serve a notice of violation and order to any owner or person responsible for the erection, construction, reconstruction, conversion or alteration of a structure or change in use, increase in intensity of use, or extension or displacement of use of any structure or lot in violation of the provisions of this ordinance or in violation of any approved plan, information or drawing pertinent thereto, or in violation of a permit or certificate issued under the provisions of this ordinance, and such order shall direct the discontinuance of the unlawful action, use or condition and the abatement of the violation within a time to be specified by the building inspector. Any owner, who having been served with a notice, and who ceases any work or other activity, shall not leave any structure or lot, in such conditions as to be a hazard or menace to the public safety, health, morals or general welfare.

12.52 Criminal Disposition/Violation

Any persons violating any of the provisions of this ordinance, the conditions of a permit granted under this ordinance or any decisions rendered by the Board of Appeals or the Planning Board shall be liable to a fine of not less than twenty-five dollars (\$25) and not more than three hundred dollars (\$300.00) for each violation, any such fines to be enforceable through the Superior Court. Each day such violation continues shall constitute a separate offense.

The Mayor will be empowered to present summons for violation answerable in district court. After thirty (30) days' notice of a violation, each summons will result in a fine to the owner of not more than three hundred dollars (\$300.00) per day for each violation.

12.53 Prosecution of Violation

If the notice of violation and order is not complied with promptly, the Mayor shall institute the appropriate action or proceeding at law or in equity to prevent any unlawful action, use or condition and to restrain, correct or abate such violation.

12.6 Board of Appeals

12.61 Membership

There shall be a Board of Appeals of five (5) members and two (2) associate members.

12.62 Appointment

The Mayor shall make appointments to the Board of Appeals pursuant to the Zoning Act, Section 12. The terms of office of the Board of Appeals members shall be such length and so arranged that the term of one member shall expire each year.

12.63 Powers

The Board of Appeals shall have those powers granted under the Zoning Act.

12.64 Adoption of Rules

The Board of Appeals shall adopt rules to govern its proceedings pursuant to the Zoning Act.

12.65 Appeals of Decisions Made by the Board of Appeals

Any person, any municipal officer, or any municipal board, aggrieved by any of the following may appeal to the Hampshire County Superior Court or to the Hampshire County division of the district court department under the provisions of M.G.L., Chapter 40A, Section 17, as amended:

- a) a decision by the Board of Appeals; or
- b) the failure of the Board of Appeals to take final action concerning any appeal, application or petition within the required time.

Any such appeal must be taken within twenty (20) days after the decision is filed with the City Clerk.

12.7 Special Permit

12.7.1 Purpose

This section of the city ordinance is enacted under the authority of Chapter 40A, Section 9, of the Massachusetts General Laws to protect the health, safety, convenience and general welfare of the inhabitants of Easthampton. Special Permits are intended to provide detailed review of certain uses and structures which may have substantial impact upon traffic and environment, health and safety, property values, utility systems, among other things. The Special Permit review process is intended to ensure a harmonious relationship between proposed development and its surroundings, and ensure the proposals are consistent with the purpose and intent of the ordinance.

12.7.2 Projects Requiring Special Permits

Certain uses, structures, or conditions are designated within Section V, Table 5-1 Easthampton Table of Use Regulations as requiring a special permit. Such permit shall be granted only after written application to and a hearing by the Special Permit Granting Authority and subject to the provisions of Chapter 40A of the Massachusetts General Laws and this Ordinance. The Special Permit Granting Authority responsible for hearing a particular proposal shall be that board or other entity designated by the coding in the Table 5-1 Easthampton Table of Use Regulations.

12.7.3 Authorization

12.7.3.1 This ordinance authorizes the Board of Appeals and the Planning Board to be the Special Permit Granting Authority (SPGA), as specified in Section V Use Regulations. A Special Permit shall be granted only after written application to and a public hearing by the SPGA and subject to the provisions of Chapter 40A of the Massachusetts General Laws and this ordinance. The SPGA responsible for hearing a Special Permit shall be that board designated by the coding in Table 5.1, Easthampton Table of Use Regulations.

- a. This ordinance authorizes the Planning Board to have one member to be appointed in accordance with the Easthampton Home Rule Charter.
- b. The chairperson of the Planning Board may designate an associate member to sit on the board for the purposes of acting on a special permit application in the case of absence, inability to act, or conflict of interest on the part of any member of the Planning Board or in the event of a vacancy on the board.
(Subsections a. and b. approved by City Council 10-21-97; by Mayor 10-23-97)

12.7.3.2 All uses for which a Special Permit is granted shall satisfy the following:

- a. The Special District requirements set forth in Section VII, when applicable;
- b. The relevant Development Methods requirements set forth in Section VIII, when applicable;
- c. The relevant Land Use Regulations set forth in Section X, when applicable;
- d. The site plan standards set forth in this section of the ordinance; and

e. All other applicable requirements and standards of this ordinance.

12.7.3.3 In all instances where a Special Permit is required by this ordinance, no structure shall be erected or externally enlarged, altered, or used for activities or uses, nor shall land subject to such a permit be so used, nor shall any area for parking, loading, or vehicular service, including driveways giving access thereto, be established, used or changed, except in conformity with said Permit. All Special Permits granted by the Special Permit Granting Authority shall include an approved site plan bearing the endorsement of said Authority.

12.7.3.4 Nothing in this ordinance shall require a change in the plan, construction or designated use of any structure on land for which a Special Permit is in effect at the time of adoption of this ordinance, or on which a Building Permit has been issued; subject however, to any expiration term of such Special Permit or to Chapter 40A, Section 6, of the General Laws and to the requirement that construction or operations under a building or special permit shall conform to any subsequent amendment of the ordinance unless the use or construction is commenced within a period of not more than six (6) months after issuance of the permit, and on cases involving construction, unless such construction is continued through to completion as continuously and expeditiously as is reasonable. The SPGA may require any such Special Permit to conform with some or all requirements of the ordinance if it is amended, modified or transferred.

12.7.3.5 No Special Permit may be authorized for an activity or use not generally permitted in the district in which the land or structure is located.

12.7.4 Special Permit Application Procedures

12.7.4.1 All applications for uses requiring a special permit in Table 5.1, Easthampton Table of Use Regulation shall be made in writing by the current owner of record on forms furnished by the City Clerk and located in the City Clerk's office and shall be accompanied by a site plan and by the required fee.

a. The applicant shall provide the SPGA with one original special permit application and site plan and eight (8) copies of the application and site plan for distribution, as well as any required supporting materials.

The SPGA may request additional copies as it deems necessary.

b. When the application has been received in a complete form as designated by the SPGA, a copy of the application shall be forwarded to the City Clerk for the City Clerk's stamp. The stamp of the City Clerk shall designate the date of filing.

12.7.4.2 Misrepresentation of any of the required plan items or supporting materials shall be cause to revoke a special permit.

12.7.5 Special Permit Application

12.7.5.1 The Special Permit application shall include an official Special Permit form available from the City Clerk and an endorsed site plan.

All site plans shall be prepared by a registered professional engineer, surveyor, architect, or landscape at a scale of one inch equals twenty (2) feet, one inch equals forty (40) feet or one inch equals eighty (80) feet, whichever is appropriate to the size of the proposal, on standard twenty-four (24) inch to thirty-six (36) inch sheets. All of the following requirements shall be included:

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

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

- j. Plans to prevent pollution of surface or groundwater; erosion of soil both during and after construction; excessive run-off; excessive raising or lowering of the water table; and flooding of other properties, as applicable.
- k. Existing topography, indicated by dashed lines of two-foot contour intervals where slopes are greater than three (3) percent but less than fifteen (15) percent, and at five-foot contour intervals where slopes are fifteen (15) percent or more. All elevations shall be

referred to the nearest U.S. Coastal and Geodetic datum. Where any changes in topography are proposed, finished contours shall be shown as solid lines.

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

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

- l. A landscape plan showing all existing natural land features, major trees, forest cover, and water sources and all proposed changes to these features including size and type of plan material. Water sources will include ponds, lakes, brooks, streams, wetlands, floodplains and drainage retention areas. General soil types shall be indicated as part of the landscape plan.
- m. Zoning district boundaries within five hundred (500) feet of the site's perimeter shall be drawn and identified on the plan. Such features may be shown as a key map on the detail plan itself.
- n. Traffic flow patterns within the site, entrances and exits, loading and unloading areas, size and location of curb cuts on the site and within one hundred (100) feet of the site. Include the possible organization of traffic channels, acceleration and deceleration lanes, additional width or other means necessary to prevent difficult traffic situations.

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

- (1) The projected number of motor vehicle trips to enter or leave the site, estimated for daily and peak hour traffic levels;
- (2) The projected traffic flow pattern including vehicular movements at all major intersections likely to be affected by the proposed use of the site and entrances and egresses, loading and unloading areas, and curb cuts on site and within one hundred (100) feet of the site.
- (3) A detailed assessment of the traffic safety impacts of the proposed project or use on the carrying capacity of any adjacent highway or road, including the projected number of motor vehicle trips to enter or depart from the site estimated for daily hour and peak hour traffic levels, road capacities, and impacts on intersections.
- (4) A plan to minimize traffic and safety impacts through such means as physical design and layout concepts, staggered employee work schedules, promoting use of public transit or carpooling, or other appropriate means.
- (5) An interior traffic and pedestrian circulation plan designed to minimize conflicts and safety problems.

- o. For new buildings, uses or projects, a table containing the following information must be included:
 - (a) Area of building to be used for a particular use such as retail operation, office, storage, etc.;
 - (b) Maximum number of employees;
 - (c) Maximum seating capacity, where applicable;
 - (d) Number of parking spaces existing and required for the intended use.
- p. Elevation plans of a scale of one-quarter (1/4) inch equals one foot for all exterior facades indicating pertinent design features and type of materials to be used.
- q. A detailed financial impact statement is required in each case where a proposed new commercial building or project will contain more than 25,000 gross square feet, either as a single structure to be operated by a single tenant or a combination of structures to be operated by more than one tenant. The financial impact statement shall evaluate the project costs and benefits to the community resulting from the project including:
 - (1) Projected costs arising from increased demand for and required improvements to public services and infrastructure.
 - (2) Value of improvements to public services and infrastructure to be provided by the project.
 - (3) Projected tax revenue to be generated by the project.
 - (4) Projected impact of the project on the surrounding land values and any potential loss or increase in tax revenues to the City.
 - (5) Projected impact on employment levels in the City.
- r. A detailed community impact statement is required in each case where a proposed new commercial building or project that contains more than 25,000 gross square feet, either as a single structure to be opened by a single tenant or a combination of structures to be operated by more than one tenant. The community impact statement shall contain:
 - (1) Describe the surrounding neighborhood and the project's impact on any scenic, unique geological, historical, or archeological features and recreational areas on the site or in the vicinity of the site.
 - (2) Describe the layout of the proposed project in detail (site plans may be used) including scale, placement and design of buildings and structures, lighting, parking areas, open space, relationship to scenic views from the site, views of the project from distant vantage points and from adjacent properties and public ways.
 - (3) Describe how the project is consistent with existing architecture in Easthampton. (Sections q & r added by the City Council on April 19, 2005; approved by the Mayor on April 20, 2005)

The SPGA may require that additional information be shown on any site plan submitted with an application for a Special Permit. The SPGA may also waive any of the above requirements as they deem necessary or appropriate in particular cases.

12.7.6 Referral to City Boards and Departments

The SPGA shall within ten (10) days of receiving a Special Permit application, transmit one copy each to the Building Inspector, Board of Health, Conservation Commission, Highway Department, Historical Committee, Fire Department, Police Department, Planning Board, Zoning Board of

Appeals, who shall review the application and submit their recommendations to the SPGA concerning:

- a. the adequacy of the data and methodology used by the applicant to determine the impacts of the proposed developments;
- b. the effects of the projected impacts of the proposed development, and;
- c. recommended conditions or remedial measures to accommodate or mitigate the expected impacts of the proposed development.

Failure of boards to make recommendations within thirty-five (35) days of the referral of the application shall be deemed to be lack of opposition.

12.7.7 Public Hearing

- a. A public hearing shall be held within sixty-five (65) days after the filing of a Special Permit application, in accordance with the procedures in Massachusetts General Laws, Chapter 40A, Section 9. However, a public hearing will not be closed until a response has been received from the Boards/Departments as required under Section 12.76 or the required comment period has elapsed.
- b. Public Hearing Notice Requirement

In all cases when notice of a public hearing is required, the board holding such hearing shall cause to be given by publication in a newspaper of general circulation in the city once in each of two (2) successive weeks. The first publication to be not less than fourteen (14) days before the day of the hearing and by posting such notice in a conspicuous place in the city hall for a period of not less than fourteen (14) days before the date of such hearing. In all cases where notice to individuals or specific boards or other agencies is required, notice shall be sent by mail, postage prepaid.

12.7.8 Decision Timetable

The Special Permit Granting Authority shall take final action on an application for special permit within ninety (90) days following the close of the public hearing.

Failure to take final action upon an application for a special permit within said ninety (90) days shall be deemed to be a grant of the special permit applied for.

12.7.9 Special Permit Criteria for Approval

The Special Permit Granting Authority shall not grant a special permit unless it finds the reasonable fulfillment of the following criteria:

- a. Conformance with the provisions of the ordinances of the City of Easthampton, the General Laws of Massachusetts and all applicable rules and regulations of state and federal agencies;

- b. Protection of city amenities and abutting properties through the minimizing of any detrimental or offensive uses or destruction of unique or important natural, scenic or historic features on the site;
- c. Minimization of traffic and safety impacts of the proposed development on adjacent highways or roads, and maximizes the convenience and safety of vehicular and pedestrian movement within the site;
- d. Adequacy of the methods of disposal of sewage and refuse and the drainage of surface and subsurface water;
- e. Adequate means of protecting wetlands, watersheds, aquifers and well areas.
- f. Mitigation of adverse impacts on the city's resources including the effect on the city's water supply and distribution system, sewage collection and treatment systems, fire protection and streets.
- g. Provisions for the off-street loading and unloading of vehicles incidental to the normal operation of the establishment, parking, lighting and internal traffic control.
- h. Applicant's efforts to integrate the development into the existing landscape through design features such as vegetative buffers and retention of open space or agricultural land.
- i. Minimization of the area over which existing vegetation is to be removed. Where tree removal is required, special attention is to be given to the planting of replacement trees.
- j. The consistency of the development with respect to setback, area, placement of parking, architectural style and landscaping of the surrounding buildings and development.
- k. Adequacy of the measures to prevent pollution of surface or groundwater to minimize erosion and sedimentation and to minimize changes in groundwater levels, increased run-off and potential for flooding.
- l. Adequacy of the methods to ensure that the use will not constitute a nuisance by reason of unacceptable level of air or water pollution, excessive noise or visually flagrant structures and accessories.

12.7.10 Conditions, Safeguards, Limitations

In granting a Special Permit, the Special Permit Granting Authority may, in accordance with M.G.L., Chapter 40A, impose conditions, safeguards and limitations. Such conditions, safeguards and limitations may include but are not limited to the following:

- a. Front, side or rear yards greater than the minimum required by this ordinance, screening, buffers or planting strips, fences or walls, as specified by the Special Permit Granting Authority;
- b. Modification of the exterior appearance of the structures;

- c. Limitation upon the size, number of occupants, method and time of operation, time of duration of permit, or extent of facilities;
- d. Regulation of number and location of driveways or other traffic features;
- e. Off-street parking or loading or other special features beyond the minimum required by this ordinance;

Such conditions shall be imposed in writing. For all commercial projects and residential projects greater than six (6) units, the applicant shall file a performance bond secured by surety of deposit money or negotiable securities, or other security, sufficient to cover the cost of all or any part of the conditions, in an amount and form satisfactory to the Special Permit Granting Authority. If at any time during the term of the performance guarantee the Special Permit Granting Authority shall decide that a change in the surety or the bond is warranted, it may reduce the amount of the bond, if the conditions are being met satisfactorily, or increase the surety or bond if additional measures are deemed necessary to insure compliance with the conditions. The Special Permit Granting Authority may also, in its discretion, waive the necessity of a performance guarantee in appropriate cases upon a written request from the applicant. (Paragraph amended by vote of the City Council on May 20, 2009; approved by the Mayor on May 21, 2009).

The Special Permit Granting Authority may suspend any permit or license when work is not performed as required.

12.7.11 Expiration

Special Permits shall expire if a substantial use thereof has not commenced, except for good cause, within two (2) years of Special Permit approval (exclusive of time required to pursue or await the determination of an appeal referred to in Massachusetts General Laws, Chapter 40A, Section 17, from the grant thereof).

12.7.12 Modification, Amendment or Renewal

The Special Permit Granting Authority shall have the authority to modify, amend, or renew its approval of a Special Permit upon written application of the owner, lessee, or mortgagee of the premise; provided, however, that such action is consistent with the purposes and intent of this ordinance, and a public hearing has been held.

12.7.13 Document Distribution

When a Special Permit has been granted, one copy each of the decision, conditions, and approved plans shall be filed with the Planning Board, the Assessors, Zoning Enforcement Officer and the City Clerk and one copy shall be returned to the applicant. The set of documents on file with the City Clerk shall bear the endorsement of the Special Permit Granting Authority and certification that copies of the decision and related plans have been filed in accordance with this section.

12.7.14 Method of Appeal

Any person, any municipal officer, or any municipal board aggrieved by a decision of the Special Permit Granting Authority may appeal to the Hampshire County Superior Court or to the Hampshire County

11-06-2024

division of the district court, by bringing action within the number of days after the decision has been filed by the City Clerk, in accordance with M.G.L. Chapter 40A, Section 17.

12.9 SITE PLAN APPROVAL

12.90 Projects Requiring Site Plan Approval

The building permit shall not be issued for any of the following uses unless a site plan has been approved and endorsed in accordance with this section:

- a. New construction of any uses designed as "PA - Use Permitted with Site Plan Approval from the Planning Board" as designated by the coding in the Table 5.1, Easthampton Table of Use Regulations.
- b. Expansion of any existing use requiring a Site Plan Approval as designated by the coding in Table 5.1, Easthampton Table of Use Regulations resulting in a floor space increase of twenty-five percent (25%) or five thousand (5,000) square feet, whichever is less;
- c. Resumption of any use described above discontinued for more than two (2) years;

12.91 Purpose

This section of the city ordinance is enacted under the authority of Chapter 40A of the Massachusetts General Laws to protect the health, safety, convenience and general welfare of the inhabitants of the city. The site plan approval ordinance regulates the development of structures and sites in a manner which considers the following concerns and, where necessary, requires modification of development proposals to eliminate or minimize potential problems and nuisances.

In considering a site plan the Planning Board shall assure:

- a. Protection of adjacent areas against detrimental or offensive uses on the site by provision of adequate surface water drainage, buffers against light, sight, sound, dust and vibration, and preservation of light and air;
- b. Convenience and safety of vehicular and pedestrian movement within the site and in relation to adjacent areas;
- c. Adequacy of the methods of disposal for wastes;
- d. Protection of environment features, especially groundwater resources on the site and in adjacent sites.

12.92 Site Plan Approval Application

An applicant for site plan approval under this section shall file with the City Clerk ten (10) copies each of an application and a site plan, including the Mylar originals. Receipt of the documents shall be acknowledged by the City Clerk dating them. A copy of the site plan so endorsed shall be kept on file by the City Clerk.

Additional Site Plan Approval requirements are the same as Section 12.751.

12.93 Referral to City Boards and Departments

The Planning Board within five (5) days of receipt of the site plan approval application, shall transmit to the Building Inspector, the Conservation Commission, the Zoning Board of Appeals, and any other appropriate city boards, commissions or departments copies of the application and site plan. The Boards receiving these copies shall have up to thirty-five (35) days to make recommendations to the Planning Board.

Failure of boards to make recommendations within thirty-five (35) days of the referral of the application shall be deemed to be lack of opposition.

12.94 Public Meeting and Decision Timetable

- a. The Planning Board shall hold an open meeting within sixty (60) days of receipt of an application and shall take final action within sixty (60) days from the time of meeting, with public notice given as provided in General Laws, Chapter 40A, Sections 9 and 11, and this ordinance, relating to special permit procedures. (Subsection amended 10-15-08; approved by Mayor 10-16-08)
- b. Failure of the Planning Board to take final action upon an application for a site plan approval permit within said sixty (60) days shall be deemed to be a grant of the site plan approval permit applied for.

12.95 Site Plan Approval Criteria for Approval

The Planning Board shall review the site plan and supporting data taking into consideration the reasonable fulfillment of the following objectives:

- a. Conformance with the provisions of the ordinances of the City of Easthampton, the General Laws of Massachusetts and all applicable rules and regulations of state and federal agencies;
- b. Protection of city amenities and abutting properties through the minimizing of any detrimental or offensive uses or destruction of unique or important natural, scenic, or historic features on the site;
- c. Convenience and safety of vehicular and pedestrian movement within the site and in relationship to adjoining ways and properties;
- d. Adequacy of the methods of disposal and sewage and refuse and the drainage of surface and subsurface water;
- e. Adequate means of protecting wetlands, watersheds, aquifers and well areas;

- f. Mitigation of adverse impacts on the city's resources including the effect on the city's water supply and distribution system, sewage collection and treatment systems, fire protection and streets;
- g. Provisions for the off-street loading and unloading of vehicles incidental to the normal operation of the establishment, parking, lighting and internal traffic control;
- h. Applicant's efforts to integrate the development into the existing landscape through design features such as vegetative buffers, and retention of open space or agricultural land;
- i. Minimization of the area over which existing vegetation is to be removed. Where tree removal is required, special attention is to be given to the planting of replacement trees;
- j. The consistency of the development with respect to setback, area, placement of parking, architectural style and landscaping of the surrounding buildings and development.

12.96 Final Action

12.961 The Planning Board's final action shall consist of either:

- a. A determination that the proposed project meets the criteria of Section 12.95 for Site Plan Approval, stating the specific manner and criteria in which the proposed project conforms to this ordinance.
- b. A written denial of the application stating the reasons by which the submitted application and site plan are incomplete for sufficient review by the Planning Board and/or its agents; or
- c. Approval subject to any condition, modifications, and restrictions as the Planning Board may deem necessary.

12.962 The Planning Board's decision shall be sent by certified mail to the applicant and filed with the City Clerk. A copy shall also be sent to the Building Inspector's Office.

12.963 Approval may be made subject to conditions, modifications and restrictions as the Planning Board may deem necessary; and any construction, reconstruction, alteration or addition shall be carried on only in conformity to such conditions, modifications or restrictions and in conformity with the application and site plan.

12.97 Enforcement

- a. The Planning Board may require the posting of a bond to ensure compliance with the plan and conditions and may suspend any permit or license when work is not performed as required.
- b. Any site plan approval permit issued under this section shall lapse within one year if a substantial use thereof has not commenced sooner except for good cause. The time required to pursue and await determination of a judicial appeal pursuant to Chapter 40A of the General Laws shall be included within the one year time limit.

13.0 ADMINISTRATIVE APPEALS

13.01 The Board of Appeals shall hear and decide administrative appeals from:

- a. Any person aggrieved by reason of an inability to obtain a permit or enforcement action from any administrative officer under the provisions of the Massachusetts General Laws, Chapter 40A;
- b. Any person including any officer or board of the city or of any abutting community, if aggrieved by any order or decision of the Inspector of Buildings or other administrative official, in violation of any provision of the Massachusetts General Laws, Chapter 40A, or this ordinance.

13.02 Any appeal shall be filed by the petitioner with the City Clerk within thirty (30) days from the date of the order or decision which is being appealed. The notice of appeal shall specify the grounds for the appeal. A copy of the notice, including the date and time of the filing certified by the City Clerk, shall be filed immediately by the petitioner with the Board of Appeals and with the officer or board whose order or decision is being appealed in accordance with the Zoning Act, Massachusetts General Laws, Chapter 40A, Section 15.

13.03 In accordance with the Zoning Act, Massachusetts General Laws, Chapter 40A, Section 15, the Board of Appeals shall hold a public hearing within sixty-five (65) days from the receipt of notice by the Board of such appeal. The Board of Appeals shall make a decision on the appeal within one hundred (100) days after the date of the filing with the City Clerk.

13.1 VARIANCES

13.11 The Board of Appeals shall have the power to grant, upon appeal or upon petition with respect to particular land or structures, a variance from the terms of this ordinance where the board specifically finds that owing to circumstances relating to soil conditions, shape, or topography of such land or structures and especially affecting such land or structures but not generally affecting the zoning district in which it is located, a literal enforcement of the provisions of the ordinance would involve substantial hardship, financial or otherwise, to the petitioner or appellant, and that desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of this ordinance.

13.12 Public Hearing and Decision Timetable

In the case of every application for a variance made to it under the provision of this zoning ordinance, the Board of Appeals shall hold a public hearing to consider the application in question and shall cause a notice thereof to be published in the local newspaper and by posting a notice on the Bulletin Board in the City Office Building not less than fourteen (14) days before the day of such hearing, as specified in M.G.L. Chapter 40A, Section 10. A copy of the notice shall also be sent by registered mail to the petitioner, abutters, owners of land directly opposite on any public or private street or way, abutters to the abutters within three hundred (300) feet of the property line of the petitioner as they appear on the most recent applicable tax list, notwithstanding that the land of any such owner is located in another city or city, the planning board

of the city, the planning board of every abutting city or town, and any other person or persons who in the opinion of the board may be interested in such application.

13-1

A public hearing shall be held within sixty-five (65) days after the application for a variance has been filed with the Board of Appeals, as specified in M.G.L. Chapter 40A, Section 10, a copy of which shall forthwith be given to the City Clerk by the applicant. The Board of Appeals will take final action on the application for a variance within one hundred (100) days following the public hearing, as specified in M.G.L. Chapter 40A, Section 10. Failure to do so shall constitute approval. A unanimous vote of a three-member board and a vote of at least four members of a five-member board is required.

13.13 Findings

After giving public notice and holding a public hearing, the Board of Appeals may grant a variance. The following findings must be made by the Board of Appeals before a variance can be issued:

- a. The variance must be with respect to a particular parcel of land or to an existing building on the land.
- b. There must be circumstances relating to the soil conditions, shape or topography especially affecting such land or structure, but not affecting generally the zoning district in which it is located.
- c. Literal enforcement of the ordinance would involve substantial hardship, financial or otherwise, to the petitioner or appellant.
- d. Desirable relief may be granted if there will not be substantial detriment to the public good, or nullification or substantial derogation from the intent and purpose of this ordinance.

13.14 Conditions, Safeguard and Limitations

The Board of Appeals may impose conditions, safeguards and limitations on both time and use, including the continued existence of any particular structures by excluding any conditions, safeguard or limitation based upon the continued ownership of the land or structures to which the variance pertains by the applicant, petitioner or owner.

13.15 Permit Expiration

Rights granted by the Board of Appeals and not exercised within one (1) year shall lapse and may be reestablished only after notice and a new hearing.

(By-law of 04-30-1974; By-law of 04-26-1976; By-law 05-31-1970; By-law of 05-27-1981)

SECTION XIV. AMENDMENT, VALIDITY AND EFFECTIVE DATE

14.0 AMENDMENT

14.01 Amendments and Filing of Subdivision Plans

This ordinance may be attended from time to time in accordance with Section 5 of the Zoning Act. If a definitive subdivision plan, or a preliminary plan followed within seven (7) months by a definitive subdivision plan, is submitted to a Planning Board for approval under the subdivision control law, and written notice of such submission has been given to the City Clerk before the effective date of this ordinance or any amendment thereto, the land shown on such plan shall be governed by the applicable provisions of the zoning ordinance in effect when such plan is submitted.

14.02 Two Years Before Reconsideration

No proposed zoning ordinance which has been unfavorably acted upon by City Council shall be considered by City Council within two (2) years after the date of such unfavorable action unless the adoption of the proposed ordinance is recommended in the final report of the Planning Board.

14.1 VALIDITY

The invalidity, unconstitutionality or illegality of any provision of this ordinance or boundary shown on the zoning map shall not have any effect upon the validity, constitutionality, or legality of any other provision or boundary.

14.2 EFFECTIVE DATE

The effective date of this ordinance shall be the date on which Town Meeting or City Council voted such adoption or amendment, if publication in a city bulletin or pamphlet and posting has been made or publication in a newspaper has been made pursuant to Section 32 of M.G.L., Chapter 40.

(Bylaw of 05-31-1979)



Emily Russo
Director of Human Resources

erusso@easthamptonma.gov
(413) 529-1466

April 29, 2026

To: City Council

From: Emily Russo, Director of Human Resources

Re: Withdrawal of Request for Amendment to Chapter 7, Section 7-17

Given current circumstances within the City and taking this opportunity to further evaluate our employment structures and resources, I am formally withdrawing the request for an amendment to Chapter 7, Section 7-17, Exhibit A (Pay Plan), which proposed removing certain positions from the classification of employees.

The City remains committed to valuing its employees and supporting retention. At this time, we will focus on a more comprehensive review to ensure any future position and classification changes are thoughtful, strategic, and well-aligned with the City's overall needs.

In the immediate term, the City will prioritize its financial stability and will revisit and potentially reintroduce proposed changes following further analysis and consideration.

Thank you for your understanding.

CITY OF EASTHAMPTON, MASSACHUSETTS
SPECIAL CITY ELECTION – JUNE 9, 2026

Hampshire, ss.

In the name of the Commonwealth, you are hereby directed to notify the inhabitants of the City of Easthampton qualified to vote in elections, to meet at their respective polling places in said City, on Tuesday the 9th day of June, 2026 from 7:00 a.m. to 8:00 p.m. for the following purposes:

To answer “Yes” or “No” to the following question:

“Shall the City of Easthampton be allowed to assess an additional \$6,900,000 in real estate and personal property taxes for the purposes of operating the Municipal Government and Public Schools for the fiscal year beginning July first, Two Thousand and Twenty-Six?”

The polling place for all precincts (#1-5) will be at Easthampton High School, 70 Williston Avenue.

It is hereby directed that an attested copy of this Warrant be posted in a public place at the Easthampton Municipal Building, 50 Payson Avenue at least seven days prior to the date of said election.

Given under our hands this ____ day of May, 2026.

CITY COUNCIL - CITY OF EASTHAMPTON, MASSACHUSETTS

ATTEST: _____
Mary Ann Giza, City Clerk

Date

To whom it may concern:

I have this day posted a true and attested copy of the Warrant for the Special City Election to be held in the City of Easthampton, Massachusetts on Tuesday, the 9th day of June, 2026 in a public place in the Easthampton Municipal Building, 50 Payson Avenue.

Mary Ann Giza
City Clerk



Allyson Manuel, Director

amanuel@easthamptonma.gov
(413) 529-1400

Apr 30, 2026

RE: Authorization for Emerald Place Preliminary Eminent Domain Proceedings

Dear President Denham,

I am writing to respectfully request the City Council take action to authorize the Mayor, with the Planning Department's assistance, to complete the preliminary work necessary to effectuate an order of taking for easements associated with the Emerald Place slope stabilization project. This is the first step in the eminent domain process, and a future request will be submitted to the Council to order the takings and approve any associated payments to affected property owners.

Emerald Place is located in New City, and acts as a spine linking the neighborhood to adjacent arterial roads and resources. Critically, Emerald Place is perched above Lower Mill Pond atop a slope that has been undermined by drainage-driven erosion. The instability of the slope is a threat to the roadway, sidewalk and underground utilities that serve all 250+ neighborhood residents. The City has submitted a \$2.5 million grant to fund work to stabilize the slope and improve stormwater drainage to reduce future erosion. The project will require that the City acquire easements on two properties. We have been in contact with the affected property owners, who are supportive of the project.

Additional details about this project and the other work we have done in New City can be found on the City's website at the following link:

<https://www.easthamptonma.gov/568/New-City-Infrastructure-Improvements-des>

Thank you for your consideration of this request. I would be happy to provide any further information or answer any questions you may have.

Sincerely,

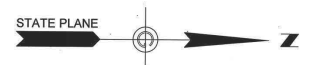
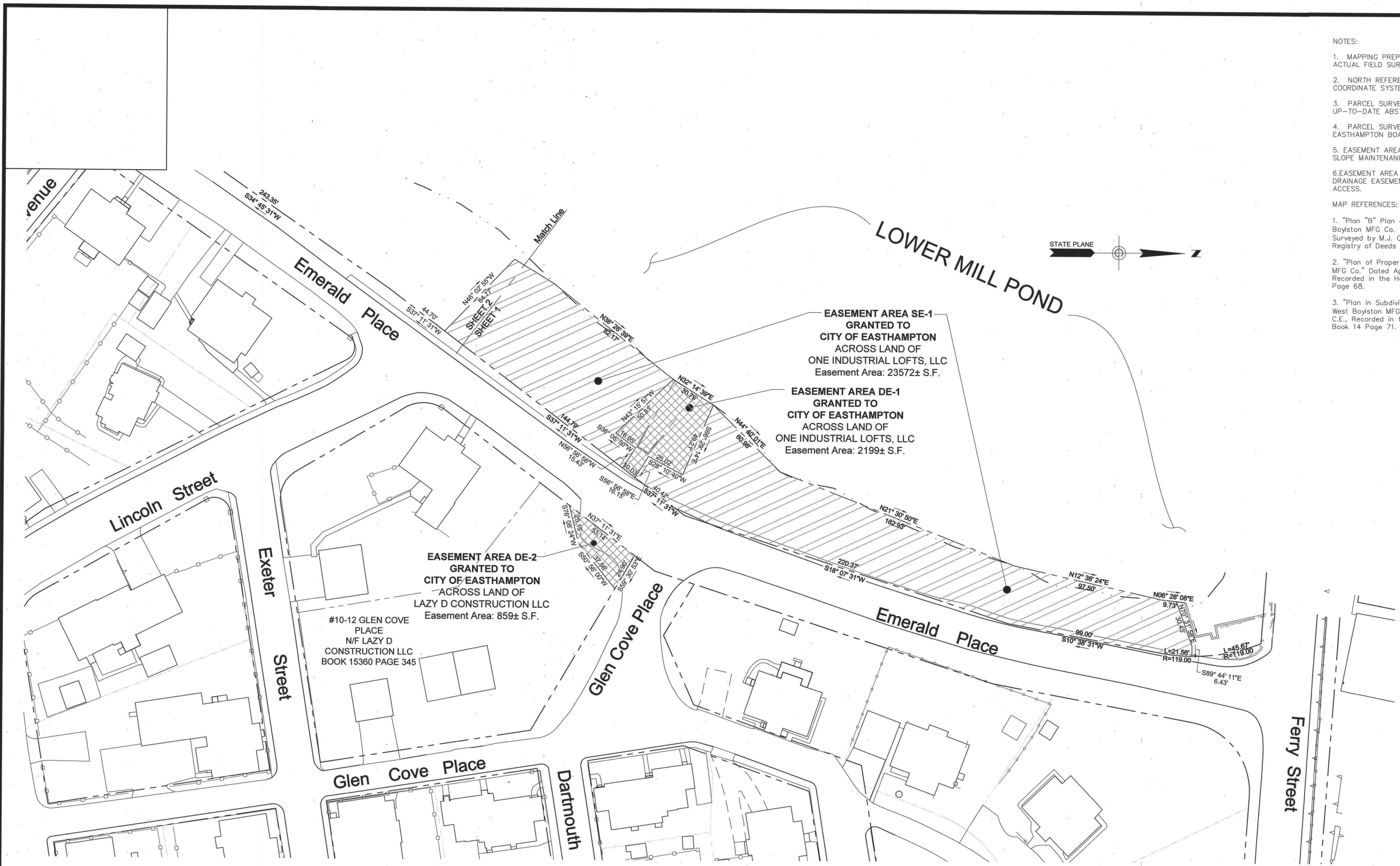
Allyson Manuel
Planning Director

NOTES:

- MAPPING PREPARED BY GUNTLOW & ASSOCIATES, INC. FROM AN ACTUAL FIELD SURVEY CONDUCTED IN JANUARY 2022 & APRIL 2025.
- NORTH REFERENCE USED HEREON IS BASED ON STATE PLANE COORDINATE SYSTEM.
- PARCEL SURVEYED WITHOUT BENEFIT OF AND IS SUBJECT TO AN UP-TO-DATE ABSTRACT OF TITLE.
- PARCEL SURVEYED IS FURTHER REFERENCED TO THE CITY OF EASTHAMPTON BOARD OF ASSESSORS MAP 135 LOT 242.
- EASEMENT AREA SE-1 IS PERMANENT OPEN AREA EASEMENT FOR SLOPE MAINTENANCE ACCESS.
- EASEMENT AREA DE-1, DE-2, DE-3, DE-4, ARE PERMANENT DRAINAGE EASEMENTS FOR OUTFALL AND HEADWALL MAINTENANCE ACCESS.

MAP REFERENCES:

- "Plan "B" Plan of Property in Easthampton, Mass. Convey by West Boylston MFG Co. to West Boylston Realty Co." Dated July 23, 1932. Surveyed by M.J. O'Neill Engineer, Recorded in the Hampshire District Registry of Deeds in Plan Book 17 Page 32.
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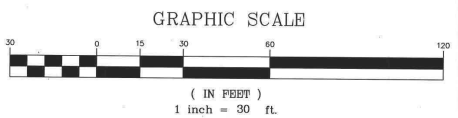
- LEGEND**
- Easement Line
 - Catch Basin
 - ⊗ Sewer Manhole
 - ⊙ Drain Manhole
 - ⊕ Utility Pole
 - Drainage Line
 - ⊕ Water Valve
 - ⊕ Water Shut Off
 - ⊕ Gas Valve
 - ⊕ Hydrant
 - Edge of Water
 - /// Open Area Easement
 - ⊗⊗⊗ Drainage Easement

LOCUS REFERENCE

HAMPSHIRE COUNTY DISTRICT
REGISTRY OF DEEDS

ONE INDUSTRIAL LOFTS, LLC
BOOK 13298 PAGE 54

Assessor Map 135 Parcel 54



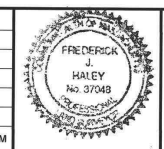
CERTIFICATION:

I CERTIFY THAT THE STREETS AND WAYS SHOWN ARE THOSE OF PUBLIC OR PRIVATE STREETS OR WAYS ALREADY ESTABLISHED, AND THAT NO NEW LINES FOR NEW WAYS ARE SHOWN.

I CERTIFY THAT THIS PLAN HAS BEEN PREPARED IN ACCORDANCE WITH THE RULES AND REGULATIONS OF THE REGISTERS OF DEEDS OF THE COMMONWEALTH OF MASSACHUSETTS.

Frederick J. Haley
FREDERICK J. HALEY PLS MA LIC. NO. 37048
DATE: March 2, 2026

DRAWN BY:		DATE:		REVISIONS		
LUV		3/2/2026				
CHECKED BY:		DRAWING NO.:		#	DESCRIPTION	DATE
F/JH						
JOB NO.:		SCALE:				
			1" = 30'			



GUNTLOW & ASSOCIATES, INC.
ENGINEERS • SURVEYORS • ARCHITECTS
55 NORTH STREET
WILLIAMSTOWN, MA. 01267
413-458-2198
413-458-2712 FAX

Easement Plan
PREPARED FOR
City of Easthampton
Emerald Place Easthampton, MA

SVI

LOWER MILL POND

- NOTES:
1. MAPPING PREPARED BY GUNTLOW & ASSOCIATES, INC. FROM AN ACTUAL FIELD SURVEY CONDUCTED IN JANUARY 2022 & APRIL 2025.
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**EASEMENT AREA DE-3
GRANTED TO
CITY OF EASTHAMPTON
ACROSS LAND OF
ONE INDUSTRIAL LOFTS, LLC
Easement Area: 4321± S.F.**

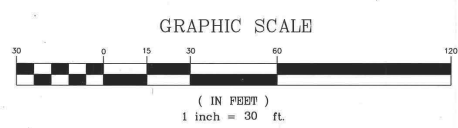
**EASEMENT AREA SE-1
GRANTED TO
CITY OF EASTHAMPTON
ACROSS LAND OF
ONE INDUSTRIAL LOFTS, LLC
Easement Area: 23572± S.F.**

**EASEMENT AREA DE-1
GRANTED TO
CITY OF EASTHAMPTON
ACROSS LAND OF
ONE INDUSTRIAL LOFTS, LLC
Easement Area: 2199± S.F.**

**EASEMENT AREA DE-2
GRANTED TO
CITY OF EASTHAMPTON
ACROSS LAND OF
LAZY D CONSTRUCTION LLC
Easement Area: 859± S.F.**

**#10-12 GLEN COVE
PLACE
N/F LAZY D
CONSTRUCTION LLC
BOOK 15360 PAGE 345**

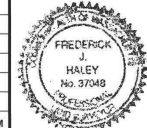

- LEGEND**
- Easement Line
 - Catch Basin
 - ⊙ Sewer Manhole
 - ⊙ Drain Manhole
 - ⊙ Utility Pole
 - Drainage Line
 - ⊙ Water Valve
 - ⊙ Water Shut Off
 - ⊙ Gas Valve
 - ⊙ Hydrant
 - Edge of Water
 - /// Open Area Easement
 - ⊘ Drainage Easement



CERTIFICATION:
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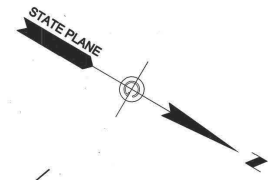
Frederick J. Haley
FREDERICK J. HALEY PLS MA LIC. NO. 37048
March 2, 2026
DATE

LOCUS REFERENCE
HAMPSHIRE COUNTY DISTRICT
REGISTRY OF DEEDS
ONE INDUSTRIAL LOFTS, LLC
BOOK 13290 PAGE 54
Assessor Map 135 Parcel 54

DRAWN BY: LUV		DATE: 3/2/2026		REVISIONS				GUNTLOW & ASSOCIATES, INC. ENGINEERS - SURVEYORS - ARCHITECTS 55 NORTH STREET WILLIAMSTOWN, MA 01267 413-458-2198 413-458-2712 FAX	Easement Plan PREPARED FOR City of Easthampton Emerald Place Easthampton, MA	SV2 SHEET 2 of 3
CHECKED BY: FJH	DRAWING NO.:	#	DESCRIPTION	DATE	WHOM					
JOB NO.:	SCALE: 1" = 30'									

- NOTES:
- MAPPING PREPARED BY GUNTLOW & ASSOCIATES, INC. FROM AN ACTUAL FIELD SURVEY CONDUCTED IN JANUARY 2022 & APRIL 2025.
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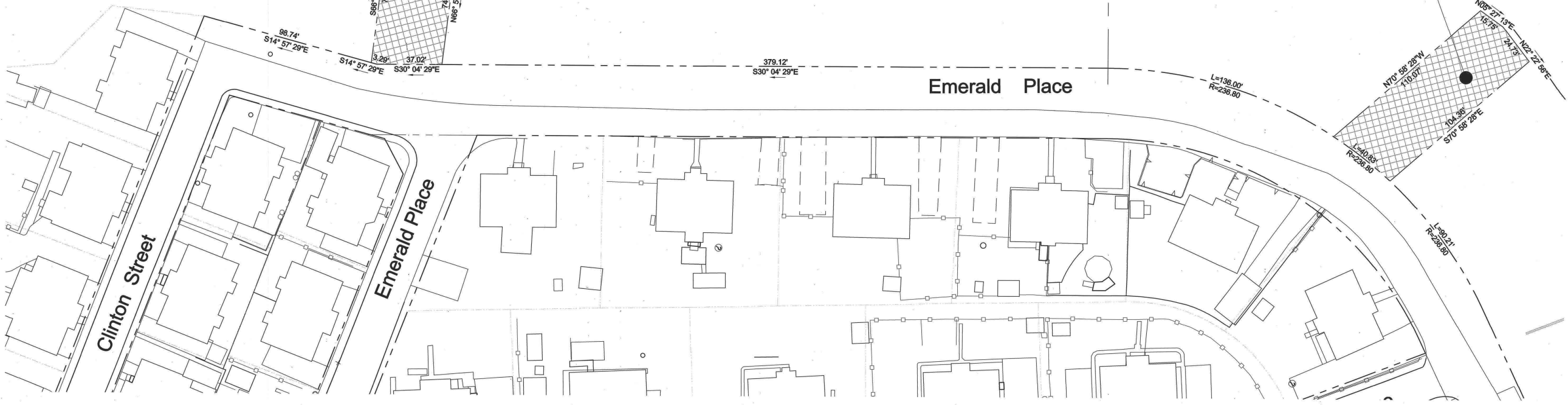
LOWER MILL POND

BRICKYARD BROOK

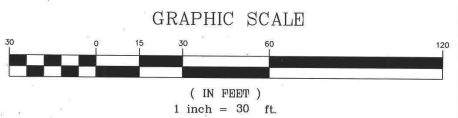
BRICKYARD BROOK

**EASEMENT AREA DE-4
GRANTED TO
CITY OF EASTHAMPTON
ACROSS LAND OF
ONE INDUSTRIAL LOFTS, LLC**
Easement Area: 3090± S.F.

**EASEMENT AREA DE-3
GRANTED TO
CITY OF EASTHAMPTON
ACROSS LAND OF
ONE INDUSTRIAL LOFTS, LLC**
Easement Area: 4321± S.F.



- LEGEND**
- Easement Line
 - Catch Basin
 - ⊙ Sewer Manhole
 - ⊙ Drain Manhole
 - ⊙ Utility Pole
 - Drainage Line
 - ⊙ Water Valve
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 - ⊙ Hydrant
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 - /// Open Area Easement
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Frederick J. Haley March 2, 2026
 FREDERICK J. HALEY PLS MA LIC No. 37048 DATE

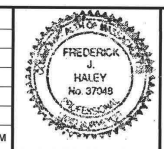
LOCUS REFERENCE

HAMPSHIRE COUNTY DISTRICT
 REGISTRY OF DEEDS

ONE INDUSTRIAL LOFTS, LLC
 BOOK 13298 PAGE 54

Assessor Map 135 Parcel 54

DRAWN BY: LUV		DATE: 3/2/2026	
CHECKED BY: FJH		DRAWING NO.:	
JOB NO.:		SCALE: 1" = 30'	
REVISIONS			
#	DESCRIPTION	DATE	WHOM



GUNTLOW & ASSOCIATES, INC.
 ENGINEERS • SURVEYORS • ARCHITECTS

55 NORTH STREET
 WILLIAMSTOWN, MA. 01267
 413-458-2198
 413-458-2712 FAX

Easement Plan

PREPARED FOR
City of Easthampton
 Emerald Place Easthampton, MA

SV3

**SCRIPT FOR VOTE TO AUTHORIZE WORK ON EMINENT DOMAIN TAKINGS
FOR EMERALD PLACE SLOPE STABILIZATION AND RESILIENCY
IMPROVEMENTS IN EASTHAMPTON, MASSACHUSETTS**

To Be Read Into the Record by City Councilor Moving to Authorize Preliminary Eminent Domain Proceedings.

The City of Easthampton, Massachusetts (“City”) desires to undertake slope stabilization and stormwater management improvements in and adjacent to portions of Emerald Place and Glen Cove Place shown on a plan of land entitled “Easement Plan Prepared for City of Easthampton Emerald Place Easthampton, MA” dated March 2, 2026 by Guntlow & Associates, Inc. and stamped by Frederick J. Haley, PLS (the “Plan”).

It is necessary for the City to acquire by eminent domain taking permanent and temporary easements over certain parcels of land as shown on the Plan; and

Chapter 40, Section 14; Chapter 79, Section 1 *et. seq.*; and Chapter 82, Section 24 of the Massachusetts General Laws and other applicable statutes, and of any and every power and authority to it, granted or implied, and the Charter for the City allow the City to acquire easements over real property by eminent domain for municipal purposes.

I move that the City Council for the City of Easthampton, Massachusetts vote to:
Authorize the Mayor of the City as necessary, to enter into all agreements and execute any and all instruments necessary to complete the preliminary work necessary to effectuate an order of taking.



Allyson Manuel, Director

amanuel@easthamptonma.gov
(413) 529-1400

Apr 30, 2026

RE: Authorization for Parsons and Ferry Preliminary Eminent Domain Proceedings

Dear President Denham,

I am writing to respectfully request the City Council take action to authorize the Mayor, with the Planning Department's assistance, to complete the preliminary work necessary to effectuate an order of taking for both temporary and permanent easements associated with improvements to the Parsons Street and Ferry Street intersection. This is the first step in the eminent domain process, and a future request will be submitted to the Council to order the takings and approve any associated compensation to affected property owners. Note that the City Council has already appropriated funds for this purpose, and thus no additional monetary request is being made.

The Parsons and Ferry Street intersection project represents an important investment in public safety and accessibility. Presently, the alignment of the intersection and topography of the area significantly limits visibility for vehicles exiting Parsons Street, which has caused numerous accidents at this location. This grant-funded project includes relocating the existing retaining wall along Ferry Street to improve sight lines for vehicles exiting Parsons Street. In addition, the project will establish a new sidewalk along Ferry Street, extending from its intersection with Parsons Street to Emerald Place, improving pedestrian safety and connectivity within the area.

These improvements are essential to supporting both current residents and future development, while aligning with the City's broader goals for infrastructure enhancement and safe, multimodal transportation.

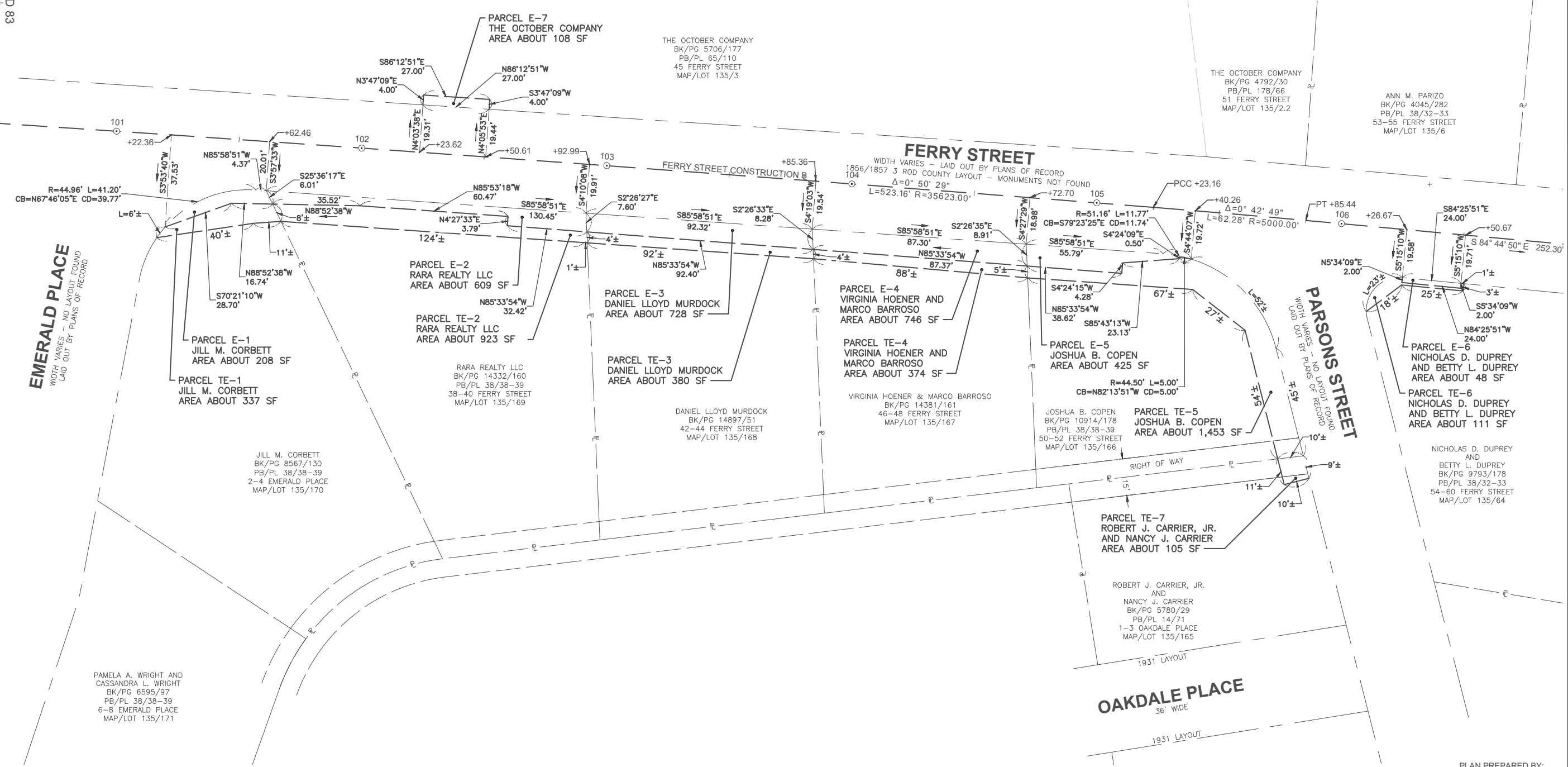
For your convenience, additional details about the project can be found on the City's website at the following link:

<https://www.easthamptonma.gov/978/Ferry-Street-HousingWorks-Infrastructure>

Thank you for your consideration of this request. I would be happy to provide any further information or answer any questions you may have.

Sincerely,

Allyson Manuel
Planning Director



EMERALD PLACE
WIDTH VARIES - NO LAYOUT FOUND
LAID OUT BY PLANS OF RECORD

PARSONS STREET
WIDTH VARIES - NO LAYOUT FOUND
LAID OUT BY PLANS OF RECORD

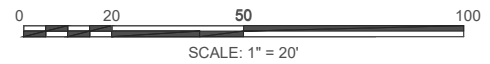
OAKDALE PLACE
36' WIDE

FOR REGISTRY USE ONLY

PAMELA A. WRIGHT AND
CASSANDRA L. WRIGHT
BK/PG 6595/97
PB/PL 38/38-39
6-8 EMERALD PLACE
MAP/LOT 135/171

Certification
I HEREBY CERTIFY THAT THE PROPERTY LINES SHOWN ON THIS PLAN ARE THE LINES DIVIDING EXISTING OWNERSHIPS, AND THE LINES OF THE STREETS AND WAYS SHOWN ARE THOSE OF PUBLIC OR PRIVATE STREETS OR WAYS ALREADY ESTABLISHED, AND THAT NO NEW LINES FOR DIVISION OF EXISTING OWNERSHIP OR FOR NEW WAYS ARE SHOWN.

4-23-2026
DATE
CHRISTOPHER C. DANFORTH, PLS #41604



- NOTES:
1. A FIELD SURVEY PERFORMED BY VHB, INC. NOVEMBER 2023. THE HORIZONTAL COORDINATE SYSTEM IS ON THE MASSACHUSETTS GRID SYSTEM NAD83.
 2. THE PURPOSE OF THIS PLAN IS TO SHOW PROPOSED PERMANENT AND TEMPORARY EASEMENTS FOR ROADWAY PURPOSES.

LEGEND	
TE	TEMPORARY EASEMENT
D	DRAINAGE EASEMENT
PUE	PUBLIC UTILITY EASEMENT
E	PERMANENT HIGHWAY EASEMENT
WM	WATER MAIN EASEMENT
UR	UNECONOMIC REMAINDER EASEMENT
C	TAKEN IN FEE BY THE CITY
T	TAKEN IN FEE BY THE MUNICIPALITY
EG	EASEMENT GRANT
N/F	NOW OR FORMERLY
SF	SQUARE FEET

PLAN PREPARED BY:
VHB
120 FRONT STREET
SUITE 500
WORCESTER, MA 01608
(508) 752-1001

**OWNED BY THE CITY OF EASTHAMPTON
EASTHAMPTON, MASSACHUSETTS
HAMSHIRE COUNTY**
LAYOUT PLANS
SHOWING LOCATION OF EASEMENTS
FOR THE PURPOSE OF RECONSTRUCTING
PARSONS STREET AT FERRY STREET
FOR THE CITY OF EASTHAMPTON

**SCRIPT FOR VOTE TO AUTHORIZE WORK ON EMINENT DOMAIN TAKINGS
FOR IMPROVEMENTS TO THE FERRY STREET AND PARSONS STREET
INTERSECTION IN EASTHAMPTON, MASSACHUSETTS**

To Be Read Into the Record by City Councilor Moving to Authorize Preliminary Eminent Domain Proceedings.

The City of Easthampton, Massachusetts (“City”) desires to expand and reconstruct all or portions of Ferry and Parsons Streets shown on a plan of land entitled “Layout Plans Showing Location of Easements for the Purpose of Reconstructing Parsons Street at Ferry Street for the City of Easthampton” dated April 23, 2026 by VHB, Inc. and stamped by Christopher C. Danforth, PLS (the “Plan”).

It is necessary for the City to acquire by eminent domain taking permanent and temporary easements over certain parcels of land as shown on the Plan; and

Chapter 40, Section 14; Chapter 79, Section 1 *et. seq.*; and Chapter 82, Section 24 of the Massachusetts General Laws and other applicable statutes, and of any and every power and authority to it, granted or implied and the Charter for the City allow the City to acquire easements over real property by eminent domain for municipal purposes.

I move that the City Council for the City of Easthampton, Massachusetts vote to:
Authorize the Mayor of the City as necessary, to enter into all agreements and execute any and all instruments necessary to complete the preliminary work necessary to effectuate an order of taking.



**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 5, 2026

Title of proposal: Adoption of MGL Chapter 60, Section 3D

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 purpose of this item is to explore adoption of MGL 60, Section 3D to establish a Neighbor in Need fund.



EASTHAMPTON

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

CITY OF EASTHAMPTON

OFFICE OF THE MAYOR

One Payson Avenue • Easthampton, MA 01027

TO: Easthampton City Council

FROM: Mayor Salem Derby

DATE: 4/27/26

RE: Proposed Order Accepting M.G.L. Chapter 60, Section 3D; Establishing a Neighbor in Need Fund; and Creating the Easthampton Community Partner Program "Keeping Easthampton Home"

PURPOSE

I am transmitting a proposed Order that creates a comprehensive voluntary donation framework with two parallel relief paths. Path A accepts M.G.L. Chapter 60, Section 3D for elderly and disabled homeowners. Path B establishes an independent Neighbor in Need Fund, authorized under M.G.L. Chapter 44, Section 53A, to assist any Easthampton homeowner experiencing extraordinary economic hardship that threatens their ability to remain in their home. Both paths are funded entirely by voluntary contributions with no impact on tax rates or levy limits. Both are supported by a structured Community Partner Program that invites businesses and organizations to give at named tiers in exchange for public recognition.

WHY TWO PATHS ARE NECESSARY

M.G.L. c. 60, §3D is the only state statute authorizing a property tax bill checkoff, but its eligibility is expressly limited to elderly and disabled persons. Extending relief to residents experiencing extraordinary economic hardship, job loss, catastrophic medical expenses, natural disasters, or other sudden financial crises requires a separate legal instrument. M.G.L. c. 44, §53A authorizes municipalities to accept gifts for any public purpose and hold them in a dedicated account without appropriation. By establishing the "Neighbor in Need Fund" under that authority, the City can provide a parallel relief channel governed by its own locally-defined eligibility criteria, with no state approval required.

EXTRAORDINARY ECONOMIC HARDSHIP - PROPOSED DEFINITION

Eligibility for the Neighbor in Need Fund (path B) would require all of the following:

- Ownership and occupancy of the property as primary residence;
 - Household income at or below 80% of the Amherst/Northampton Hampshire County Area Median Income (AMI);
-

- A documented triggering event within the past 24 months: involuntary job loss or reduction in hours, catastrophic medical or mental health expense, death of a primary earner, domestic violence displacement, natural disaster, or similar crisis demonstrably impacting housing stability;
- A finding by the Committee that, absent assistance, the applicant faces a material risk of tax delinquency, lien, or loss of their home.

The Committee may adopt additional criteria. Income thresholds should be reviewed annually, using the most recent HUD-published AMI data for Hampshire County.

LOTTERY MECHANISM FOR OVERSUBSCRIBED AWARD CYCLES

In years where qualified applicants exceed available funds, particularly in the path B hardship category, the Order authorizes the Committee to conduct a weighted lottery to allocate awards. The lottery is weighted rather than purely random: applicants are grouped into priority tiers based on severity of hardship, with higher-priority tiers having proportionally greater selection probability. This preserves fairness while ensuring that residents in acute crisis are not displaced by those facing moderate hardship. Full mechanics are detailed in the accompanying Implementation Plan.

COMMUNITY PARTNER PROGRAM

Both funds are supported by the Easthampton Community Partner Program, a tiered recognition program inviting businesses and organizations to contribute at four named levels: Cornerstone (\$2,500+), Champion (\$1,000–\$2,499), Friend (\$500–\$999), and Neighbor (\$100–\$499). Recognition includes the City website and the Mayor's yearly report listing, Mayoral Certificates of Appreciation, invitations to an annual recognition event, and, for multi-year Cornerstone partners, a permanent donor wall at City Hall. No property tax benefit is offered; recognition is civic appreciation only.

REQUEST

I respectfully request Council review this proposal. Upon passage, I will appoint Committee members, launch the Community Partner Program, and coordinate implementation in accordance with the attached Implementation Plan.

Respectfully submitted,

Mayor Salem Derby

City of Easthampton

**CITY OF EASTHAMPTON, MASSACHUSETTS
CITY COUNCIL**

**AN ORDER ACCEPTING M.G.L. CHAPTER 60, SECTION 3D; ESTABLISHING THE
NEIGHBOR IN NEED FUND UNDER M.G.L. CHAPTER 44, SECTION 53A; AND
CREATING THE EASTHAMPTON COMMUNITY PARTNER PROGRAM "KEEPING
EASTHAMPTON HOME"**

WHEREAS, M.G.L. Chapter 60, Section 3D authorizes cities and towns to establish a voluntary contribution fund via municipal tax bills for the purpose of aiding elderly and disabled persons of low income in defraying real estate taxes; and

WHEREAS, M.G.L. Chapter 44, Section 53A authorizes municipalities to accept gifts for any public purpose and hold those gifts in a dedicated account without appropriation, allowing the City to establish a broader hardship relief fund governed by locally-defined eligibility criteria; and

WHEREAS, a significant number of Easthampton homeowners, including working families experiencing job loss, catastrophic medical expense, or other sudden financial crisis, do not qualify as elderly or disabled but nonetheless face acute risk of tax delinquency or displacement from their homes; and

WHEREAS, establishing two parallel, voluntary-donation-funded relief paths, one statutory and one gift-based, provides the most legally sound and equitable approach to comprehensive property tax assistance; and

WHEREAS, formalizing a Community Partner Program will invite sustained business and organizational investment in both funds and provide a meaningful, transparent framework for public recognition of donors; and

WHEREAS, both paths require no appropriation, impose no cost on the City, and have no impact on the tax rate, levy limit, or Proposition 2½ compliance;

NOW, THEREFORE, BE IT ORDERED by the City Council of the City of Easthampton as follows:

SECTION 1. Acceptance of M.G.L. c. 60, §3D - Elderly and Disabled Taxation Fund.

The City of Easthampton hereby accepts the provisions of Massachusetts General Laws Chapter 60, Section 3D, as amended. There is hereby established the Easthampton Elderly and Disabled Taxation Fund (the 'Elderly/Disabled Fund'). All contributions received under this path shall be deposited into a separate special account in the City's general treasury in the custody of the City Treasurer and used solely to defray the real estate taxes of elderly and disabled persons of low income who are residents of the City, in accordance with M.G.L. c. 60, §3D.

SECTION 2. Voluntary Checkoff on Tax Bills - path A.

Subject to the approval of the Commissioner of Revenue, the City Collector of Taxes is authorized and directed to designate a place on the City's municipal real estate tax bills or to include a separate form mailed with such bills whereby any taxpayer may voluntarily contribute not less than \$1.00 to the Elderly/Disabled Fund. Such a contribution shall increase the total amount otherwise due.

SECTION 3. Establishment of the Neighbor in Need Fund - path B.

Pursuant to M.G.L. Chapter 44, Section 53A, there is hereby established the Easthampton Neighbor in Need Fund (the 'Hardship Fund'). The Hardship Fund shall accept voluntary contributions from any person, business, or organization at any time. All contributions shall be deposited into a dedicated gift account in the City's general treasury in the custody of the City Treasurer and used solely to defray the real estate taxes of Easthampton homeowners experiencing extraordinary economic hardship, as defined by the Committee pursuant to Section 5.

SECTION 4. Taxation Aid Committee.

There is hereby established the Easthampton Taxation Aid Committee (the 'Committee'), which shall administer both the Elderly/Disabled Fund and the Hardship Fund. The Committee shall consist of: (a) the Chair of the Board of Assessors; (b) the City Treasurer; and (c) three residents of the City appointed by the Mayor. The Committee shall adopt rules and regulations for each fund, including eligibility criteria, application procedures, award guidelines, and the lottery mechanism described in Section 6. Appointed resident members shall serve at the pleasure of the Mayor.

SECTION 5. Eligibility - Path B: Extraordinary Economic Hardship.

The Committee shall establish eligibility criteria for path B awards consistent with this Order. At a minimum, to qualify for a path B award an applicant must: (a) own and occupy the subject property as their primary residence; (b) have a household income at or below 80% of the HUD-published Hampshire County Area Median Income for the applicable fiscal year; (c) demonstrate a qualifying triggering event within the preceding 24 months, including but not limited to: involuntary job loss or significant reduction in earned income; catastrophic uninsured or underinsured medical or mental health expense; death or permanent disability of a primary household earner; displacement due to domestic violence; or natural disaster causing material financial disruption; and (d) demonstrate to the Committee's satisfaction that, absent assistance, the household faces a material risk of tax delinquency, imposition of a tax lien, or inability to remain in their home. The Committee may adopt additional criteria and shall review income thresholds annually.

SECTION 6. Award Allocation and Weighted Lottery.

The Committee shall determine individual award amounts based on available funds, the number of eligible applicants, and demonstrated need. In any award cycle where eligible applicants exceed available funds, the Committee is authorized to conduct a weighted lottery to allocate awards, subject to the following: (a) Priority Tier 1 (Acute Crisis): Applicants facing imminent tax lien or foreclosure proceedings, or who have received a statutory notice of tax taking, shall receive the highest selection weight; (b) Priority Tier 2 (High Need): Applicants with household income at or below 50% AMI or with a qualifying triggering event within the preceding 12 months; (c) Priority Tier 3 (Moderate Need): All other eligible applicants. The Committee shall establish the specific weighting formula in its rules and regulations and shall publish the formula before each award cycle. The lottery shall be conducted at a duly posted public meeting. All applications shall be held in confidence; lottery participants shall be identified by application number only.

SECTION 7. Direct Donations and Community Partner Program.

The Committee and the Mayor's office are authorized and directed to accept direct voluntary contributions to either Fund from any person, business, corporation, civic organization, religious institution, or other entity, at any time and by any payment method established by the City Treasurer. The Mayor is authorized to establish and administer the Easthampton Community Partner Program to provide public recognition to business and organizational donors at the following annual giving tiers: (a) Cornerstone Partner: \$2,500 or more - recognition at City Hall, Mayor's Annual Report, City website, press releases, and City-sponsored events; Mayoral

Certificate of Appreciation; priority invitation to an annual recognition event; and, for multi-year Cornerstone pledges, permanent recognition on a donor wall at City Hall; (b) Champion Partner: \$1,000–\$2,499 - recognition in Mayor's Annual Report, City website, and City events; Certificate of Appreciation; recognition event invitation; (c) Friend Partner: \$500–\$999 - Mayor's Annual Report and City website recognition; official acknowledgment letter; (d) Neighbor Partner: \$100–\$499 - City website recognition; official acknowledgment letter. Recognition is civic appreciation only and does not constitute any reduction, abatement, credit, or offset of any municipal tax obligation.

SECTION 8. No Tax Benefit; Charitable Deductibility.

Recognition provided under the Community Partner Program and any official acknowledgment letter issued by the City constitute an expression of civic appreciation only and shall not be construed as any form of tax benefit, reduction, or preference. The City is a governmental entity; contributions to both funds may be eligible for federal and state charitable deductions. Donors should consult their own tax advisors.

SECTION 9. Investment and Accounting.

The City Treasurer shall invest both funds in accordance with applicable law. Interest earned on each fund shall be credited to that fund and used for its designated purposes without further appropriation. The Treasurer shall maintain separate accounting for each fund.

SECTION 10. Annual Report.

The Committee shall submit an annual report to the Mayor and City Council by October 31 of each year, covering both funds and including: total contributions by fund and by channel; Community Partner donors by tier; total awards made, number of recipients, and average award amount; Fund balances; lottery summary (if conducted), including number of applicants per tier, selection rates, and total applications; and recommended adjustments to eligibility criteria, award guidelines, or Program tiers.

SECTION 11. Effective Date.

This Order shall take effect upon passage and shall be implemented as promptly as practicable in coordination with the Commissioner of Revenue and the City's tax billing cycle.

*Prepared by the Office of the Mayor • City of Easthampton, Massachusetts
mayor@easthamptonma.gov | (413) 529-1400*

**Supplemental Appropriation
FY 2026**

Date: 04/29/2026

Request is hereby made for approval of the following appropriation:

1. Amount requested: **\$870,000.00** *Natal 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 _____ 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

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		5742	5743	5600	5601		5742	5743	5600	5601	
	PO Amnt Encombered	\$2,100,000.00	\$570,000.00	\$3,009,000.00	\$798,000.00	\$6,477,000.00					\$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	\$48,905.50	\$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
 $870,000.00$