



**PUBLIC MEETING NOTICE
OFFICE OF THE EASTHAMPTON CITY CLERK**

RECEIVED

By Office of the City Clerk at 2:22 pm, Apr 23, 2026

BOARD/COMMITTEE:	City Council Ordinance Committee		
DATE:	April 28th, 2026	TIME:	6:00 p.m.
BUILDING & ROOM: (HYBRID)	Room: Conf. Room 1 (First Floor), 50 Payson Ave. Meeting Link: https://meet.google.com/kqu-pnse-nez Join by Phone: +1 470-250-1293 PIN: 888 415 312#		
CLERK/BOARD MEMBER:	Kiam Jamrog-McQuaid, Chair kmcquaid@easthamptonma.gov		

LIST OF TOPICS TO BE DISCUSSED

1. Approval of Prior Meeting Minutes (3/12/26 & 4/6/26)
2. Public Speak
3. Old/Continuing Business
(** = will discuss at a future meeting)
 - i. General Ordinance Amendment proposing a Wetlands Protection Ordinance (3-18-26) (6-16-26)
 - ii. **Amend Exhibit A to Add New Pay Plan Position of Recreation Coordinator (3-18-26) (6-16-26)
 - iii. **Sandwich Board Signs in City and Zoning Ordinance (10-8-25) (6-5-26)
 - iv. **Request to review residency requirements for membership on committees (12-18-24) (6-11-26)
 - v. **Review of the Affordable & Fair Housing Partnership's Zoning Ordinance recommendations (12-18-24) (6-11-26)
 - vi. **Ordinance Review Committee's final report (12-4-24) (5-28-26)
4. New Business
 - i. 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 (4-8-26) (7-7-26)

- ii. Creation of a Cannabis Equity Ordinance to facilitate business participation
(4-8-26) (7-7-26)

5. Next Meeting: May 12th, 2026 at 6 pm, Conference Room 1

EASTHAMPTON WETLANDS PROTECTION
ORDINANCE

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Section xx. Definitions

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

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

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

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

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

- a. Removal, excavation, or dredging of soil, sand, gravel, or aggregate materials of any kind.
- b. Changing of preexisting drainage characteristics, flushing characteristics, salinity distribution, sedimentation patterns, flow patterns, or flood retention characteristics.
- c. Drainage, or other disturbance of water level or water table.
- d. Dumping, discharging, or filling with any material which may degrade water quality.
- e. Placing of fill, or removal of material, which would alter elevation.
- f. Driving of piles, erection, expansion or repair of buildings, or structures of any kind.
- g. Destruction of plant life including cutting or trimming of trees and shrubs.

- h. Changing temperature, biochemical oxygen demand, or other physical, biological, or chemical characteristics of any waters.
- i. Reducing the capacity of the resource areas to sequester and store carbon and/or ability to provide climate resilience benefits in mitigating extreme precipitation and/or localized cooling and/or drought conditions.
- j. Any activities, changes, or work which may cause or tend to contribute to pollution of any body of water or groundwater.
- k. Incremental activities which have, or may have, a cumulative adverse impact on the resource areas protected by the Ordinance.

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

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

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

City: The City of Easthampton, Massachusetts.

Conservation Commission: Means the Conservation Commission for the City.

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

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

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

Interests Protected By This Ordinance: See Section XX.

Ordinance: The Easthampton Wetlands Protection Ordinance.

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

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

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

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

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

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

Section 1. Purpose and Authority

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

- a. Protection of public or private water supply;
- b. Protection of groundwater supply;
- c. Flood control;
- d. Erosion and sedimentation control;
- e. Storm damage prevention;
- f. Protection of water quality;
- g. Prevention and control of pollution;
- h. Protection of fisheries, wildlife, and wildlife habitat;
- i. Protection of rare species and rare species habitat;
- j. Protection of agriculture and aquaculture;
- k. Protection of ecosystem services that contribute to Climate Change resilience.

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

1.3 This Ordinance utilizes the Home Rule authority of the City to create additional standards for protection of resource areas identified in the Wetland Protection Act, to protect additional resource areas beyond those recognized in the Act, and to impose additional procedures to those of the Act and the Regulations. This Ordinance shall be administered by the Conservation Commission, who may, from time to time, propose amendments to this Ordinance.

- 1.4 The Ordinance establishes standard definitions, uniform procedures, design specifications, and performance standards by which the Conservation Commission and its Agent may carry out its responsibilities under the Ordinance.

Section 2. Jurisdiction

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

Section 3. Exemptions

3.1 *Preamble*

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

3.2 *Exempt Activities*

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

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

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

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

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

- a. 310 CMR 10.02(2)(b)(2)(b) – Related to fencing. The exemption for this minor activity does not apply unless the proposed fence is shown to be in compliance with zoning requirements for the City then in effect and includes a 6 inch gap for wildlife passage along the bottom of the fence’s entirety.
- b. 310 CMR 10.02(2)(b)(2)(e) – Related to the conversion of lawn to uses accessory to residential structures. The exemption for this minor activity shall not apply to conversion over 200 square feet of lawn, but shall apply to other applications.
- c. 310 CMR 10.02(2)(b)(2)(n)(iv) – Related to removal of vegetation for road safety maintenance. The exemption for this minor activity does not apply to the option to chip and spread invasive plants found on the Massachusetts Invasive Plant Advisory Group (MIPAG) lists of invasive, likely invasive, or potentially invasive species, but does apply to other applications.

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

- a. Ecological Restoration Projects meeting the requirements of 310 CMR 10.11-10.13 for which a Restoration Order of Condition will be issued following 310 CMR 10.14, and Ecological Restoration Limited Projects following 310 CMR 10.54(4).
 - b. Native planting projects within resource areas. The project shall involve only plants listed as native to Hampshire County or Hampden County on the most recent edition of Vascular Plants of Massachusetts: A County Checklist or otherwise approved by the Conservation Agent. The work shall only utilize hand tools. No other work/ground disturbance activities can be included in the project to qualify for the exemption.
 - c. Stream/wetland area restoration projects. In order to be exempt, the project shall result in improved functions and values of the area over existing conditions, shall not include any new stream/wetlands crossings, shall not include any tree/vegetation clearing except for invasive plant species and/or the minimum vegetation clearing necessary to conduct restoration, and shall not include installation of any new impervious surfaces.
 - d. Projects that consist entirely of invasive vegetation removal and management or which include such management as part of another exempted restoration type of project. Exempt management of invasive vegetation can include herbicide treatment if the herbicides are approved for wetland use and are applied by a licensed pesticide applicator.
 - e. Excavation of historically filled wetland resource areas.
 - f. Large wood installations (such as chop & drop, beaver dam analogs) for restorative purposes of wetland functions.
 - g. Floodplain restoration/reconnection projects that adjust elevations specifically to create additional storage below the 100-year flood elevation only when such actions are not associated with meeting compensatory flood storage performance standard obligations of another project.
 - h. Fish passage projects including fish ladders and partial or full dam breaches.
 - i. Projects that have the sole purpose of evidence-based wildlife habitat enhancement. Projects shall base their efforts on scientifically defensible methods for which precedent can be demonstrated.
- 3.3 Stormwater Systems as described in Section 10.02(2)(c) and Section 10.04 definition for Stormwater Management System.
- 3.4 In all cases, the Commission shall have the discretion to review a project and determine whether it is exempt or subject to the protections of the Ordinance.

Section 4. Limited Projects

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

Section 6. Procedures/Applications & Fees

6.1 *Filing*

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

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

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

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

6.2 *Time Periods*

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

6.3 *Actions by the Conservation Commission*

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

6.4 *Public Hearings*

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

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

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

6.5 *Local Filing Fees*

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

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

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

- a. Fees shall be paid at the time of submission of an application in the form of a check made payable to the City of Easthampton and are nonrefundable.
- b. Fees shall be calculated by adding each applicable category and shall be calculated by the Commission or its Agent per this Ordinance.
- c. City, state, and federal projects shall be exempt from fees.
- d. Upon request and demonstration of compelling reason to do so, under which circumstances the Commission anticipates shall be rare, the Commission in its sole discretion may, following a request and public hearing, grant a waiver or variance from, or reduction of, filing fees.
- e. These filing fees shall be in addition to the local portion of the filing fees charged under the Wetlands Protection Act.
- f. Fees shall be deposited to a revolving account as established by City Council. These shall be managed separately from the Conservation Commission – "Wetlands WPA Fees Acct".

6.6 *Coordination with Other Boards*

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

Section 7. Employment of Outside Consultants

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

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

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

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

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

7.6 Payment of Fee. The fee must be received prior to the initiation of consulting services. The Commission may request additional consultant fees if necessary review requires a larger expenditure than originally anticipated or new information requires additional consultant services. Failure by the applicant to pay the consultant fee specified by the Commission within ten (10) business days of the request for payment, or refusal of payment, shall be cause for the Commission to deny the application based

on lack of sufficient information to evaluate whether the project meets applicable performance standards in the Regulations, this Ordinance or the Commission's regulations. An appeal stops the clock on the above deadline; the countdown resumes on the first business day after the appeal is either denied or upheld. A denial for lack of information may be based solely on the lack of the third party consultant review identified as necessary by the Commission. The Commission shall specify in its denial the nature of the information lacking which its chosen consultant would provide, e.g. the questions it needs answered.

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

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

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

Section 8. Permits, Conditions and Extensions

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

Section 9. Security

9.1 As part of a permit issued under this Ordinance, and in addition to any security required by any other municipal or state board, agency, or official, the Commission may require that the performance and observance of the conditions imposed thereunder (including

conditions requiring mitigation work) be secured wholly or in part by one or both of the methods described below:

- a. By a bond or deposit of money or negotiable securities or other undertaking of financial responsibility sufficient in the opinion of the Commission to secure performance of the agreed upon plans and conditions. Such bond or surety, if required to be filed or deposited, shall be approved as to form and manner of execution by the City Solicitor, and as to sureties by the City Treasurer, and shall be contingent upon the satisfaction of such conditions within the time frame of the permit and any approved extension(s). Such bonds shall be required and approved by the Commission by majority vote prior to the close of the public hearing on the application.
- b. By acceptance of a conservation restriction, easement, or other covenant enforceable in a court of law, executed and duly recorded in the Hampshire County Registry of Deeds by the owner of record, running with the land to the benefit of the City, whereby the permit conditions shall be performed and observed before any lot may be conveyed other than by mortgage deed (such method to be used only with the consent of the applicant).

Section 10. Enforcement

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

Violations include, but are not limited to:

- a. Unpermitted activities which remove, fill, dredge, build upon or otherwise alter resource areas protected by this Ordinance; or
- b. Unpermitted activities which cause, suffer, or allow significant negative impacts to resource areas and interests protected by this Ordinance; or
- c. Leave in place unauthorized fill; or
- d. Failure to comply with a permit or enforcement order issued pursuant to this Ordinance; or
- e. Failure to complete work described in a Permit, when such failure causes damage to the interests identified in the Ordinance; or
- f. Failure to obtain a valid Permit prior to conducting an activity subject to regulation under the Ordinance.

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

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

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

10.2 Fines

10.2.1 Any person who commits any Violation of this Ordinance may be fined not more than \$300.00 per offense. Each day or portion thereof during which the Violation continues shall constitute a separate offense, and each provision of the Ordinance, Regulations, or permit violated shall constitute a separate offense. The party in Violation, which may include both the landowner and his or her agent as applicable, shall be notified of the Violation by hand delivery by the Commission, any of its Agents/designees, or any police officer or by certified mail.

Fines paid under this Ordinance shall be deposited in

10.2.2 If a fine or an adjustment of fine for a Violation of this Ordinance is contemplated, the Commission shall hold a Public Hearing to discuss the Violation and to give the party charged with violating this Ordinance the opportunity to respond. The party alleged to have violated this Ordinance, and the landowner where the Violation occurred shall be given at least forty-eight (48) hours' notice in writing of the date, time, and place of the Public Hearing, by certified mail, return receipt requested or in hand

delivery. The party charged with violating this Ordinance or landowner may apply in writing for a continuation of the Public Hearing stating in full the reason for the request. The Commission may by majority vote of the Commissioners present at the Public Hearing grant a continuance for compelling and/or environmentally sound reasons.

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

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

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

Section 11. Appeal

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

Section 12. Severability

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

Section 13. Standards for Inland Wetlands

13.1 Bordering Vegetated Wetlands

13.1.1 Preamble

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

13.1.2 Definition, Critical Characteristics, and Boundary

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

13.1.3 Presumption

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

13.1.4 Performance Standards

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

- a. Notwithstanding 310 CMR 10.55(4), the Commission may issue a Permit allowing work which results in the loss of up to a total 5,000 square feet of BVWs and IVWs combined when it is replaced in accordance with the following general conditions and any additional, specific conditions the Commission deems necessary to ensure that the replacement area will function in a manner similar to the area that will be lost:
 1. All requirements as listed in the Wetlands Protection Act and 310 CMR 10.60(3).
 2. Best practices described in the latest edition of the Massachusetts Inland Wetland Replacement Guidelines. Including at a minimum:
 - i. Replacement of all impacted jurisdictional areas at a 2:1 replacement.

- ii. Demonstration of replicated wetland hydrology, hydric soils, establishment of wetland vegetation, and associated 3 years of monitoring reports.
- b. Notwithstanding the provisions of 310 CMR 10.55(4)(a),(b) and (c), no project may be permitted which will have any adverse effect on habitat sites of rare vertebrate, invertebrate, or plant species as identified on the most current Massachusetts Natural Heritage and Endangered Species Priority and Estimated Habitat Maps on file with the Commission and as identified by procedures established under 310 CMR 10.59.

13.2 Isolated Vegetated Wetlands

13.2.1 Preamble

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

13.2.2 Definition, Critical Characteristics, and Boundary

- a. Isolated Vegetated Wetlands are wetlands of greater than or equal to 400 sq ft that do not border on creeks, rivers, streams, ponds, lakes, or other water bodies. Some isolated depressions which hold standing water for extended periods of time, perhaps continuously, such as certain kettle holes too small to be called ponds or lakes, may be Isolated Vegetated Wetlands if so determined by the Commission.
- b. Isolated Vegetated Wetlands may occur in a depression or closed basin in otherwise flat topography. In these areas, water may pool above the surface at least once a year or may be contained in the top twenty-four (24) inches of soil. In addition, some Isolated Vegetated Wetlands occur down slope of side hill seeps, depending on the topography, soils and water regime.
- c. In most cases, the vegetative community in Isolated Vegetated Wetlands conforms to the characteristics specified in these Regulations for Bordering Vegetated Wetlands.
- d. The soils are annually saturated hydric soils meeting the characteristics specified in this Ordinance for Bordering Vegetated Wetlands.
- e. The boundary of an Isolated Vegetated Wetland shall be determined by two or more of the following, depending on the availability of information. Where more than one method is possible, that method leading to the largest area shall be used. The boundary of the Isolated Vegetated Wetland shall be:

1. The line enclosing that area having a vegetative cover consisting of 50% or more of wetland species, or;
2. The line enclosing the largest observed or recorded area of water confined in said area, or;
3. The area of hydric soils.

13.2.3 *Presumption*

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

13.2.4 *Performance Standards*

- a. No activity which will result in the building within or upon, removing, filling, dredging or altering of an Isolated Wetland shall be permitted by the Conservation Commission, except for activity which is allowed under a Permit.
- b. A proposed project which may result in alteration of an Isolated Vegetated Wetland shall not result in the following:
 1. Loss of flood storage capacity due to filling which causes lateral displacement of water that would otherwise be confined within said area.
 2. An adverse effect on public and private water supply or ground water supply.
 3. An adverse effect on the capacity of said area to prevent pollution of the ground water.
 4. An impairment of its capacity to provide wildlife habitat.
 5. An adverse effect on erosion or sedimentation control.
- c. The Commission may issue a permit allowing work which results in the loss of up to a total 5,000 square feet of BVWs and IVWs combined when it is replicated in accordance with the following general conditions and any additional, specific conditions the Commission deems necessary to ensure that the replication area will function in a manner similar to the area that will be lost:
 1. All requirements are listed in the Wetlands Protection Act 310 CMR 10.60(3).
 2. Best practices described in the latest edition of the Massachusetts Inland Wetland Replacement Guidelines. Including at a minimum:
 - i. Replacement of all impacted jurisdictional areas at a 2:1 replacement.

- ii. Demonstration of replicated wetland hydrology, hydric soils, establishment of wetland vegetation, and associated monitoring reports.
 - iii. Consideration of Wetland Replication Translocation Methodology.
- d. No project may be permitted which will have any adverse effect on habitat sites of rare vertebrate, invertebrate, or plant species as identified on the most current Massachusetts Natural Heritage and Endangered Species Priority and Estimated Habitat Maps on file with the Commission and as identified by procedures established under 310 CMR 10.59.

13.3 Riverfront Area

13.3.1 Preamble

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

13.3.2 Presumption

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

All streams that meet the definition criteria of 310 CMR 10.58(2) and all streams which appear on the City Stream Map (Appendix A) are to be presumed perennial and the performance standards associated with the 200 ft Riverfront Area included in the Wetlands Protection Act and these Regulations shall apply. The City Stream Map shall be reviewed and updated every 10 years by the Commission. This presumption may be overcome by an applicant if sufficient evidence is provided to the Commission. Sufficient evidence is defined by the following:

- a. A documented field observation made by a competent source; and,
- b. Shall be based upon an observation made at least once per day, over four days in any consecutive 12-month period; and,
- c. During a non-drought period; and,
- d. On a stream not significantly affected by drawdown from withdrawals of water supply wells, direct withdrawals, impoundments, or other human-made flow reductions or diversions; and,

- e. Field observations shall be documented by field notes and by dated photographs or video; and,
- f. All field observations shall be submitted to the Commission with a statement signed under the penalties of perjury attesting to the authenticity and veracity of the field notes, photographs or video and other credible evidence; and,
- g. MassDEP staff, Conservation Commissioners, and Conservation Commission staff are competent sources; and,
- h. The Conservation Commission may consider evidence from other sources that are determined to be competent.

13.3.3 *Definition, Critical Characteristics, and Boundary*

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

13.3.4 *Performance Standards*

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

13.4 Land Subject to Flooding (Bordering and Isolated)

13.4.1 *Preamble*

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

13.4.2 *Presumption*

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

13.4.3 *Definition, Critical Characteristics, and Boundaries*

- a. The Definition, Critical Characteristic in these Regulations shall be the same as in the Wetlands Protection Act Regulations 310 CMR 10.57(2). Except:

310 CMR 10.57(2)(b)(1). Vernal Pools and Isolated Vegetated Wetlands that hold any volume of water are by default also considered to be Land Subject to Flooding.

- b. The boundary of Land Subject to Flooding is to be set as the most recent 500-year floodplain as mapped by FEMA on the most recent flood insurance rate map or the estimated maximum lateral extent of flood water which will theoretically result from the statistical 100-year frequency storm. The boundary of Land Subject to Flooding shall be determined by engineering calculations which shall be based upon State Climate Projections, found on ResilientMass Climate Hub, for 100 year Storm, for the anticipated lifespan of the proposed projects.
- c. For isolated depression(s) or closed basin(s) without an inlet or an outlet, the boundary of Land Subject to Flooding shall be the same in 310 CMR 10.57 (2) (a) with the exception that the precipitation calculations must use the State Climate Projections, found on ResilientMass Climate Hub, for 100-year Storm, for the anticipated lifespan of the proposed projects.

13.4 *Performance Standards*

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

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

13.5 **Land Under Water Bodies**

13.5.1 *Preamble*

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

13.5.2 *Presumption*

Where a project involves removing, filling, dredging or altering of Land Under Water Bodies the Commission shall presume that such an area is significant to the interests

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

13.5.3 *Definition, Critical Characteristics, and Boundaries*

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

13.5.4 *Performance Standards*

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

13.6 Bank

13.6.1 *Preamble*

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

13.6.2 *Presumption*

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

13.6.3 *Definition, Critical Characteristics, and Boundary*

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

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

13.6.4 *Performance Standards*

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

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

13.7 Seasonal Wetlands / Vernal Pools

13.7.1 Preamble

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

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

13.7.2 Definition, Critical Characteristics, and Boundary

The term "Seasonal Wetland/Vernal Pool" shall include, in addition to scientific definitions found in the Regulations under the Wetlands Protection Act, any confined basin or depression not occurring in existing lawns, gardens, landscaped areas or driveways which, at least in most years, holds water for a minimum of two continuous months during the spring and/or summer, has no permanent outlet, contains at least 200 cubic feet of water at some time during most years, is free of adult predatory fish populations, and provides essential breeding and rearing habitat functions for amphibian, reptile, or other Vernal Pool community species, regardless of whether the site has been certified by the Massachusetts Division of Fisheries and Wildlife. The boundary of the resource area for Vernal Pools shall be 100 feet outward from the mean annual high-water line defining the depression. The presumption shall be that pools meeting all criteria except documented functioning as breeding and rearing habitat shall be presumed to be Vernal Pools unless an applicant can provide sufficient data showing the pool is not functioning as such.

13.7.3 Presumption

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

overcome, the Commission shall make a written determination to this effect, setting forth its grounds.

13.7.4 *Performance Standards*

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

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

Section 14. Standards for Buffer Zones

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

14.1.1 *Preamble*

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

14.1.2 *Definition, Critical Characteristics, and Boundary*

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

14.1.3 *Presumption*

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

14.1.4 *Performance Standards*

- a. Inner 50-foot Buffer Zone. A minimum of a fifty feet of undisturbed area shall be established adjacent to any other identified resource area (except Riverfront Area and Land Subject to Flooding), or the top of any slope steeper than 3 units horizontal run to 1 unit vertical rise when the base of the slope is within 10 feet of such resource area. No work, structure, vegetation removal, grading or other alterations shall be allowed within the inner 50- foot Buffer Zone area.
- b. Outer 50-foot Buffer Zone. No impervious surfaces including, but not limited to, driveways, walkways, parking lots, buildings, or structures, may be constructed or placed within the area which is 50 to 100 feet from the edge of any other resource area except when:
 1. There is no direct runoff from the impervious surfaces into the inner 50-foot buffer zone for a storm of any size; and
 2. Stormwater flows for the entire site for storms up to a 2-year event are managed entirely through infiltration; and
 3. Impervious cover in the Outer Buffer Zone does not exceed 20% of the total area of the Outer 50-foot Buffer Zone on the site.
- c. Components of stormwater management systems, landscaping, grading, and erosion control shall be allowed in the 50 to 100 foot Buffer Zone area regardless if 14.1.4 (b) is met.

d. Buffer Zone lawns shall not utilize any fertilizer or sprinklers on turf grass, except in the original establishment of vegetation. All lawns maintained within a resource area including Buffer Zone are recommended to be planted with drought tolerant turf mixes.

e. If 14.1.4 (b) is not met, de minimus alterations to the Outer Buffer Zone may be approved without relief if the proposed addition of impervious is below 30 square feet.

14.1.5 *Relief from Performance Standards.*

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

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

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

Section 15. Evaluation of Wildlife Habitat Effects

15.1 Wildlife Habitat Evaluations

15.1.1 *Preamble*

In 1986 the Massachusetts legislature recognized that wetlands can provide wildlife habitat and added “Wildlife Habitat” to the list of interests protected under the Wetlands Protection Act. The following year, MassDEP revised the Regulations to incorporate protection of wildlife habitat as a wetlands interest and adopted standards and procedures to protect important wildlife habitat functions in wetland resource areas. In 1996, the Rivers Protection Act was adopted, providing additional requirements for habitat protection under the Wetlands Regulations. All inland resource areas are presumed significant for protection of wildlife habitat. Field studies demonstrate that some unique landscape features have wildlife habitat values substantially greater than their extent would suggest and so the Commission has the authority to require wildlife habitat assessments at its discretion for any alteration to any type of resource area for

any project. For example, the particular characteristics of a 20-foot section of bank may be the only section with the combination of vertical relief and sandy soils that allows kingfisher nesting. Therefore, applicants are encouraged to avoid and minimize alterations to the maximum extent possible. The Commission welcomes and encourages future applicants to include a wildlife habitat assessment with their initial filing.

15.1.2 *Presumption*

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

15.1.3 *Measuring Adverse Effects on Wildlife Habitat*

- a. No alterations shall be allowed that will have an adverse effect on any unique habitat features.
- b. To the extent that a proposed project on inland Banks, Land under Water, Riverfront Area, or Land Subject to Flooding will alter Vernal Pool Habitat or will alter other wildlife habitat beyond the thresholds permitted under 310 CMR 10.54(4)(a)5., 10.56(4)(a)4., 10.57(4)(a)3. and 10.58(4)(d)1., such alterations may be permitted only if they will have no adverse effects on wildlife habitat. Adverse effects on wildlife habitat means the alteration of any habitat characteristic listed in 310 CMR 10.60(2), insofar as such alteration will, following two growing seasons of project completion and thereafter, substantially reduce its capacity to provide the important wildlife habitat functions listed in 310 CMR 10.60(2). Such performance standards, however, shall not apply to the habitat of rare species, which are covered by the performance standards established under 310 CMR 10.59.
- c. An evaluation by the applicant of whether a proposed project will have an adverse effect on wildlife habitat beyond permissible thresholds shall be performed by an individual with at least a Masters degree in Wildlife Biology or Ecological Science from an accredited college or university, or other competent professional with at least two years of experience in wildlife habitat evaluation.

- d. Any wildlife habitat management practices conducted by the Division of Fisheries and Wildlife, and any wildlife management practices of any individual or organization if reviewed and approved in writing by said Division, shall be presumed to have no adverse effect on wildlife habitat. Such presumption is rebuttable, and may be overcome by a clear showing to the contrary.
- e. The Commission has the discretion to require additional information be provided for the wildlife habitat assessment if it is determined to have been conducted during seasonal conditions/a time of year which is incompatible with acquiring sufficient data needed for the assessment. Applicants should plan for potential extended hearing proceedings if additional information is determined to be required.

15.1.4 *Wildlife Habitat Characteristics of Inland Resource Areas*

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

1. Food, shelter, overwintering and breeding areas for wildlife, including turtle nesting areas, nesting sites for birds which typically reuse specific nesting sites, cavity trees, and isolated depressions that function as Vernal Pools.
2. Migratory areas along the riparian corridor including the movement of wildlife unimpeded by barriers within the Riverfront Area.

15.1.5 *Restoration and Replication of Altered Habitat*

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

- a. The surface of the replacement area to be created ("the replacement area") shall be equal to that of the area that will be lost ("the lost area");
- b. The elevation of groundwater relative to the surface of the replacement area shall be approximately equal to that of the lost area;
- c. The replacement area shall be located within the same general area as the lost area. In the case of Banks and Land Under Water, the replacement area shall be located on the same water body or waterway if the latter has not been rechanneled or otherwise relocated. In the case of Bordering Land Subject to Flooding, the replacement area shall be located approximately the same distance from the water body or waterway as the lost area. In the case of Vernal Pool Habitat, the replacement area shall be located in close proximity to the lost area;
- d. Interspersion and diversity of vegetation, water and other wildlife habitat characteristics of the replacement area, as well as its location relative to neighboring wildlife habitats, shall be similar to that of the lost areas, insofar as necessary to maintain the wildlife habitat functions of the lost area;
- e. The project shall not alter ten or more acres of Land Subject to Flooding or Land Under Water found to be significant to the protection of wildlife habitat, or 2,000 feet or more of Bank found to be significant to the protection of wildlife habitat (in the case of a bank of a stream or river, this shall be measured on each side of said stream or river).
- f. If the replacement area is located in an area subject to M.G.L. c. 131, § 40, there shall be no adverse effect on the existing important wildlife habitat functions of said area as measured by the standards of 310 CMR 10.60;
- g. The "thresholds" established in 310 CMR 10.54(4)(a)5., 10.56(4)(a)4., 10.57(4)(a)3. and 10.58(4)(d)1.c. (below which alterations of resource areas are not deemed to impair capacity to provide important wildlife habitat functions) shall not apply to any replacement area; and

- h. The replacement area shall be provided in a manner which is consistent with all other General Performance Standards for each resource area in 310 CMR 10.51 through 10.60.

Section 16. An Evaluation of Ecological Climate Impacts

16.1 Preamble

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

16.2 Presumption

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

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

16.3.1 Prevention of Storm and Flood Damage

- a. The applicant shall describe project design considerations and measures to limit storm and flood damage during extended periods of disruption and flooding as might be expected in extreme weather events, using State Climate Projections.
- b. Project design considerations may include but are not limited to stormwater mitigation measures sized for increased precipitation expected due to climate change, additional compensatory flood storage replacement, and 2:1 or higher tree replacement/plantings.

16.3.2 Resilient Plantings

- a. The applicant shall describe project vegetation/planting plans and Operations and Maintenance plans to improve the likelihood of the successful establishment and long-term survival of a native plant community.

- b. Project design considerations may include but are not limited to diversity and abundance of replacement plantings, consideration of drought tolerance, salt tolerance, maintenance requirements, species subject to blight and infestation, and plantings whose native range extends south of Massachusetts and are hearty in zone 6a.

16.3.3 Localized Heating and Cooling

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

16.3.4 Carbon Sequestration and Storage

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

Section 17. Amendments and Effective Date

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



Emily Russo
Director of Human Resources

erusso@easthamptonma.gov
(413) 529-1466

April 2, 2026

To: City Council

From: Emily Russo, Director of Human Resources

Re: Amendment to Chapter 7, Section 7-17 - Exhibit A (Classification of Employees)

I am requesting approval of an amendment to Chapter 7, Section 7-17, Exhibit A (Classification of Employees), to remove certain positions from the classification plan.

These positions are proposed for removal as they have been incorporated into a collective bargaining unit pursuant to Massachusetts General Laws Chapter 150E and in accordance with determinations and procedures of the Massachusetts Department of Labor Relations, including 456 CMR 14.06. As a result of their unionization under the American Federation of State, County, and Municipal Employees (AFSCME), these positions are no longer appropriately included within the City’s non-union classification plan.

This amendment is administrative in nature and is intended to ensure that Exhibit A accurately reflects the current organizational and collective bargaining structure of the City.

The following positions are recommended for removal from Exhibit A due to their inclusion in the AFSCME bargaining unit:

- | | | |
|----------------------------|----------------------------|--------------------------|
| Principal Clerk | Assistant Tax Collector | Facilities Coordinator |
| Activities Coordinator | Assistant City Auditor | Senior Planner |
| Custodian | Assistant City Clerk | System Administrator |
| Administrative Assistant | Assistant Treasurer | Arts and Culture Program |
| Payroll Assistant (School) | Computer Technician | Director |
| Clerk | Bookkeeper | Health Agent |
| Senior Custodian | Council on Aging Program | Community Social Worker |
| Outreach Worker | Manager | Public Health Nurse |
| Data Collector | Associate Planner | Veterans Agent |
| Senior Outreach Worker | Purchasing Agent/Assistant | Planner |
| Arts Coordinator | Finance Director | |
| Conservation Agent | Grants Coordinator | |



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

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Easthampton, Massachusetts 01027-2260
Telephone #: (413) 529-1400, ext. 460
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CITY COUNCIL ACTION REQUEST FORM

Date Submitted: April 2, 2026

Title of proposal: Cannabis Equity Ordinance

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):

Addition of Cannabis Equity Ordinance

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

Please attach any additional information – resolution, etc.): Creation of a Cannabis Equity Ordinance to facilitate business participation.

AN ORDINANCE REGARDING EQUITY IN CANNABIS BUSINESS PARTICIPATION

Section 1: Legislative Authority

This ordinance is authorized pursuant to **St. 2022, c. 180, *An Act Relative to Equity in the Cannabis Industry*, M.G.L. c. 94G and M.G.L. c. 94I, and 935 CMR §§ 500.000 and 935 CMR §§ 501.000.**

Section 2: Purpose

The purpose of this ordinance is to develop clear requirements to encourage **full participation in the marijuana industry by individuals from communities that were disproportionately harmed** by marijuana prohibition and enforcement.

These policies and procedures will assist the **City of Easthampton** in negotiating **Host Community Agreements (HCAs)** with applicants for **marijuana establishments and medical marijuana treatment centers**, including but not limited to:

- Social equity businesses,
- Social Equity Program participants,
- Economic Empowerment Priority Applicants,
- Other local and minority-owned businesses.

Section 3: Applicability

This ordinance shall apply to all individuals and entities seeking to operate a **marijuana establishment or medical marijuana treatment center within the City of Easthampton.**

- No individual or entity may operate a marijuana establishment or medical marijuana treatment center unless **duly licensed** by the **Massachusetts Cannabis Control Commission (CCC)**.
- Nothing in this ordinance shall be construed to supersede applicable **federal or state law** governing the sale, distribution, or regulation of marijuana.

Section 4: Definitions

The definitions set forth in the following laws and regulations are incorporated herein by reference:

- **M.G.L. c. 94I, § 1**
- **M.G.L. c. 94G, § 1**
- **935 CMR §§ 500.002, 501.002**
- **935 CMR §§ 500.181(4)(a) and 501.181(4)(a)**

These definitions in MGL shall govern the interpretation and implementation of this ordinance unless otherwise specified.

Section 5: Transparency of Local Approval Process

1. The **City of Easthampton** shall make available the following data on its **total applicant pool** for marijuana businesses.

This data shall include:

- The total number of applicants received.
 - Identification of applicants by category (e.g., general applicant, Social Equity Program participant, Economic Empowerment applicant);
 - The number of Host Community Agreements executed with each category of applicant.
2. The City shall update this information on a **semi-annual basis**, ensuring that the public can monitor the City's commitment to equitable access and inclusion in the cannabis industry.

Section 6: Implementation and Oversight

1. The **Mayor's Office** or a designated city department (e.g., Planning) shall be responsible for administering and monitoring this ordinance.
2. A process for equitable negotiation of Host Community Agreements shall be developed in accordance with state law and local equity goals.
3. The City shall consider developing or partnering with local support services for equity applicants, including technical assistance, mentorship, and legal guidance.

Section 7: Severability

If any section, subsection, or provision of this ordinance is determined to be unlawful or unenforceable, such portion shall be severed, and the remaining portions shall continue in full force and effect.

Section 8: Effective Date

This ordinance shall take effect upon passage by the **Easthampton City Council** and approval in accordance with the **City Charter** and applicable state law.

Section 1:

The City of Easthampton Ordinances shall be amended by adding at the end thereof, the following new section and subsections:

Establishing the Equitable Regulation of the Cannabis Industry in the City of Easthampton.

8-13.1 Purpose

The purpose of this ordinance is to ensure equity in the City of Easthampton's cannabis industry. The policies enacted during the "War on Drugs" and its associated policies have had a disproportionate impact on people of Black, African American, Latino, and/or Hispanic descent. It would be unjust if, following the legalization of cannabis by the voters of the Commonwealth of Massachusetts, people from the affected groups were not allowed to receive the economic benefits of legalization.

Definitions

Area of disproportionate impact – means a geographic area identified by the Easthampton Cannabis Board or the Cannabis Control Commission, which has had historically high rates of arrest, conviction, and incarceration related to marijuana crimes between 1971 and 2016.

Cannabis Control Commission or CCC – as used herein, shall refer to the Massachusetts Cannabis Control Commission.

Close associate – a person who holds a relevant financial interest in, or is entitled to exercise power in, the business of an applicant or licensee and, by virtue of that interest or power, is able to exercise a significant influence over the management or operation of a marijuana establishment licensed under this chapter.

Controlling person – an officer, board member or other individual who has a financial or voting interest of 10 percent or greater in a marijuana establishment.

Craft marijuana cooperative – a marijuana 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 Marijuana Establishments, but not to consumers.

Investor – any person or entity who has provided a marijuana applicant with financial resources in exchange for an ownership stake in the business.

Licensee – a person or entity licensed by the Easthampton Cannabis Board and the Cannabis Control Commission to operate a marijuana establishment.

Marijuana applicant or applicant – any person, business, organization, or group that has submitted an application to the City of Easthampton to open a marijuana establishment.

Marijuana or cannabis all parts of any plant of the genus Cannabis, not excepted below and whether growing or not; the seeds thereof; and resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or resin including tetrahydrocannabinol as defined in section 1 of chapter 94C; provided, however,

that "marijuana" shall not include: (i) the mature stalks of the plant, fiber produced from the stalks, oil, or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture or preparation of the mature stalks, fiber, oil or cake made from the seeds of the plant or the sterilized seed of the plant that is incapable of germination; (ii) hemp; or (iii) the weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink or other products.

Marijuana cultivator – an entity licensed to cultivate, process and package marijuana, to deliver marijuana to marijuana establishments and to transfer marijuana to other marijuana establishments, but not to consumers.

Marijuana establishment – a marijuana cultivator, independent testing laboratory, marijuana product manufacturer, marijuana retailer, marijuana research facility, or any other type of licensed marijuana related business.

Marijuana independent testing laboratory – a laboratory that is licensed by the Cannabis Control Commission and is: (i) accredited to the most current International Organization for Standardization 17025 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 Cannabis Control Commission; (ii) independent financially from any medical marijuana treatment center or any licensee or marijuana establishment for which it conducts a test; and (iii) qualified to test marijuana in compliance with 935 CMR 500.160 and MGL c. 64C, sec. 34.

"Marijuana product manufacturer – an entity licensed to obtain, manufacture, process and package marijuana and marijuana products, to deliver marijuana and marijuana products to marijuana establishments and to transfer marijuana and marijuana products to other marijuana establishments, but not to consumers.

Marijuana products – products that have been manufactured and contain marijuana or an extract from 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.

Marijuana research facility – an entity licensed by the Cannabis Control Commission to engage in research projects. Such a facility may cultivate, purchase, or otherwise acquire cannabis for the purpose of conducting research regarding marijuana or marijuana products. A research facility may be an academic institution.

Marijuana retailer – an entity licensed to purchase and deliver marijuana and marijuana products from marijuana establishments and to deliver, sell or otherwise transfer marijuana and marijuana products to marijuana establishments and to consumers.

Marijuana social consumption operator – a marijuana retailer licensed to purchase marijuana and marijuana products from marijuana establishments and to sell marijuana and marijuana products on its premises only to consumers or allow consumers to consume marijuana or marijuana products on its premises only.

Marijuana transporter – a marijuana retailer that does not provide a retail location accessible to the public, but is authorized to deliver directly from a marijuana cultivator facility, craft marijuana cultivator cooperative facility, marijuana product manufacturer facility, or micro--business.

Microbusiness – a co-located marijuana establishment that can be either a marijuana cultivator of up to 5,000 square feet or product manufacturer or both, in compliance with the operating procedures for each license. A Microbusiness that is a Marijuana Product Manufacturer may purchase no more than 2,000 pounds of marijuana per year from other marijuana establishments.

Easthampton Equity Program

An applicant shall be designated by the Easthampton Cannabis Board as an equity applicant if at least 51 % of its ownership, meets at least 3 of the following criteria:

1. A person who has resided in an area of disproportionate impact, as defined by the Cannabis Control Commission, for at least 5 of the last 10 years.
2. A person who has a past arrest or conviction for the possession, sale, manufacturing, or cultivation of Marijuana between 1971 and 2016, who has been a resident of Easthampton for the past 5 years; OR a person who is the child of a person with a past arrest or conviction for the possession, sale, manufacturing, or cultivation of Marijuana between 1971 and 2016, who has been a resident of Easthampton for the past 5 years.
3. A person who has resided in the City of Easthampton for at least the past 7 years.
4. A person who is of Black, African American, Hispanic, Latino or Asian descent.
5. A person whose annual household income is at or below 100% of the area median income.
6. A person who has been certified by the Cannabis Control Commission as an Economic Empowerment Applicant and is a resident of Easthampton for at least one of the last three years.

A Department shall establish a program, known as the Easthampton Cannabis Equity Program to offer equity applicants services, which may include:

1. Technical assistance with business operations, including the development of business plans.
2. Technical assistance recruiting employees.

3. Guidance and assistance through the application process.
4. Technical assistance with legal compliance.
5. Accounting and tax preparedness assistance.
6. Best practices for operating in the marijuana industry.
7. Technical assistance with store security.
8. Technical assistance identifying and raising funds and capital and identifying vendors.

An applicant or licensee shall only be eligible for the benefits of the Easthampton Cannabis Equity Program if they continue to meet the above conditions. The City of Easthampton shall maintain an equal or greater number of equity applicant licensees to licensees who do not qualify as equity applicants.

Easthampton Cannabis Board

The Mayor shall establish a Cannabis Board.

Applicability

Any persons or entity seeking to operate any type of adult-use marijuana establishment shall require a local license issued by the City of Easthampton.

Application Requirements

An applicant in any category of cannabis establishment shall file, in a form and manner specified by the City of Easthampton, an application for licensure as a cannabis establishment. Applicants shall be required to submit the following information as part of their initial application:

1. The entity name and the trade name to be used, and business certificate.
2. The names, addresses, and contact information of the business owners, controlling persons, close associates, and investors.
3. The address of the proposed business, and proof of permission from the owner of the property to operate on the premises or lease information.
4. The name, mailing address, and contact information of the property owner.
5. The party responsible for managing the application and their contact information.
6. Whether the applicant has been designated as an Economic Empowerment applicant by the Massachusetts Cannabis Control Commission.
7. Whether the applicant has been designated as a Social Equity Program participant, or whether they are eligible for the program, by the Massachusetts Cannabis Control Commission.
8. Any other information or documents required by the Board.

Community Outreach, Host Community Agreements

A notice shall be issued which shall include the date, time, place, and subject matter of the meeting, including the proposed address of the marijuana establishment. It shall be published in a newspaper of general circulation at least seven calendar days prior to the meeting. A copy of the notice shall be filed with the City Clerk. Copies shall be mailed or delivered to all residents within 300 feet of the proposed location. The meeting shall include a discussion of the following topics: the type(s) of Marijuana Establishment to be located at the proposed address; information adequate to demonstrate that the location will be maintained securely and steps to be taken by the Marijuana Establishment to prevent diversion to minors; a plan by the Marijuana Establishment to positively impact the community; and information adequate to demonstrate that the location will not constitute a nuisance to the community.

All approved applicants shall be required to negotiate a host community agreement with the City of Easthampton, which must be kept current at all times. The City shall negotiate host community agreements and work in collaboration with the district city councilor. The precinct city councilor shall be responsible for providing a letter of support, non-opposition, or non-support.

The City shall hold at least one community meeting on the application near the proposed location of the establishment. The meeting must be held within 6 months of the initial application being filed.

Criteria

The City shall grant licenses with the goal of ensuring that licenses are granted with respect to equity, quality, and community safety. Licensees shall be expected to comply with the laws and regulations of the Commonwealth of Massachusetts and the City of Easthampton. Applications shall be evaluated based on the Applicant's score as follows:

Applications shall be evaluated based on the Applicant's:

1. Diversity and Inclusion Plan - 25%
2. Employment Plan - 20%
 - a. Plan for employment of Easthampton residents.
 - b. Plan for employment of minorities and women.
 - c. Plan for offering competitive wages and benefits for local residents.
 - d. Plan for employment of individuals with criminal records.
3. Community Feedback/Public Support - 20%
 - a. Letters of support from local elected officials.
 - b. Letters of support from local community organizations.
4. Location, Safety and Security - 20%
 - a. Plan for on-site security personnel.

- b. Plan for building and product security.
- c. Plan for protecting youth from accessing the product.
- 5. Parking and transportation Plan- 15%
 - a. Access to public transportation.
 - b. Accessibility and amount of on-site parking.
 - c. Plan for the transportation and delivery of product.
 - d. Plan for the transportation of monies to and from the site.

Fees

The Board may establish reasonable fees for licenses. The fee for a marijuana retail license shall not exceed the fee levied on an All Alcohol Retail Store. The Board may also establish a reasonable annual fee in conjunction with the annual renewal of a license.

Inspections and Enforcement

An applicant must secure the appropriate permits issued by the Cannabis Board, Inspectional Services Department and, if necessary, any other department or agency of the City of Easthampton. All licensed premises shall be subject to inspection by the Police Department of the City of Easthampton and other duly authorized agents of the Board. All licensees are subject to the General Rules of the Board as they may be amended at the Board's discretion. Upon citation from any City of Easthampton department or agency, that department or agency must notify the Cannabis Board.

Easthampton Equity Fund

The Department shall administer and support the Equity Program as described in Section Easthampton Equity Program through funding appropriated to it as the Easthampton Equity Fund. The Department shall make the funds in the Easthampton Equity Fund available to support Equity Applicants and Licensees, as defined by the Equity Program, and to establish and operate a cannabis business in the City of Easthampton. It is anticipated that the initial appropriation should be an amount equal to One Hundred Percent (100%) of revenue collected by the City under the Three percent (3%) gross sales revenue fee established in the Marijuana Host Community Agreements (HCA), up to \$1,000,000 (one million dollars). Subject to appropriation, once an aggregate initial amount of \$1,000,000 (one million dollars) has been deposited into the Easthampton Equity Fund, it is anticipated that the Easthampton Equity Fund shall be credited with an amount equal to one half of one percent (0.5%) of gross annual HCA revenue until 2024 or upon the Easthampton Equity Fund reaching \$5,000,000 (five million dollars), whichever occurs first.

Conditions

Licenses for Marijuana Establishments shall only be valid so long as each entity signs a Host Community Agreement with the City of Easthampton, receives a Final License from the Cannabis Control Commission and receives a license from the Cannabis Board within twelve months and their licensure with the CCC remains valid and current. The Board may impose additional reasonable restrictions and conditions as to the operation under the license, and may suspend the license if it deems that such restrictions or conditions have been violated.

Transferability of License

Any license granted under this ordinance shall be a personal privilege and shall not be assignable or transferable, without the approval of the Cannabis Board and the execution of a new Host Community Agreement with the City of Easthampton.

Revocation and Expiration

The Cannabis Board may modify, suspend, or revoke any license or fine any license owner for just cause, after reasonable notice and a hearing. The Board shall, within six months of initial appointment, publish and post electronically a written policy clarifying activities or business practices and any other such causes that may subject a license holder to scrutiny, changes to their license or license suspension, and may update such policy at the Board's discretion. Unless otherwise specified, each license shall expire annually after the issuance of such license. Licenses must be renewed annually by the Board.

Registry

The Department shall publish and maintain an online registry of applicants and licensees under this section, the applicant or licensees current status in the approval process, any close associates, any controlling persons, and any investors in the business, any management agreements entered into, the type(s) of license(s) held or applied for by each establishment, the owner(s) name(s), the physical address(es) of operation, and whether the applicant or licensee is a participant in the City's equity program. The registry shall include currently licensed applicants as well as all pending applicants. The registry shall be accompanied by a map, showing the locations of licensed establishments.

City Council Updates

The Department shall, each year, submit to the City Council an update on the City's equity program, the total number of licenses issued, and any recommended policy changes.

Severability

If any provision of this section is held to be invalid by a court of competent jurisdiction, then such provision shall be considered separately and apart from the remaining provisions, which shall remain in full force and effect.

Effective Date. The provisions of this ordinance shall be effective immediately upon passage.