CITY OF WORCESTER

REVISED ORDINANCES OF 2008

Ordained by the City Council June 24, 2008

As amended through October 4, 2016

PART I REGULATORY ORDINANCES

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§ 1. Citation

These ordinances shall be known as the "Revised Ordinances of the city of Worcester" or the "Revised Ordinances of 2008" and, when reference is so made, shall include the text of chapters one through fifteen and, so far as apt, shall be construed as a continuation of the previously existing ordinances.

§ 2. Definitions

In the construction of the Revised Ordinances the following rules of construction shall be observed, unless such construction would be inconsistent with the manifest intent of the city council or the context of the ordinance.

agency - when used in reference to the city, shall mean any department, board, commission, or committee of the city established or reorganized as an organizational component of the city under Article VI of the Home Rule Charter.

chair - shall refer to the presiding officer of any group organized as a board, commission or committee by these Revised Ordinances.

c*harter* - shall refer to the Home Rule Charter as defined below.

chief - when used in reference to the police department, shall mean the chief of police or any other official acting under authority of the chief; when used in reference to the fire department, shall mean the chief engineer of the fire department, or any other official acting under authority of the chief engineer.

chief engineer - shall refer to the administrative head of the fire department.

city - shall mean the city of Worcester.

city council - shall mean the duly elected legislative body of the city.

city manager - shall mean the chief executive and administrative officer of the city.

commonwealth - shall mean the commonwealth of Massachusetts.

department - when used in reference to the city shall have the same meaning as "agency".

G.L. - shall mean the General Laws of Massachusetts.

gender - a word importing the masculine gender only shall extend and be applied to females and to firms, partnerships and corporations as well as to males.

Home Rule Charter - the home rule charter shall mean the legal instrument establishing and organizing the body politic and corporate known as the city which was adopted by the voters on November 5, 1985 and became effective on January 1, 1987.

number - a word importing the singular number only may extend and be applied to several persons and things as well as to one person and thing.

person - shall extend and be applied to associations, firms, partnerships and bodies politic and corporate as well as to individuals.

preceding, following - the words "preceding" and "following" mean next before and next after, respectively.

Revised Ordinances - the phrase "Revised Ordinances" shall refer to all ordinances of the city of Worcester codified herein and shall include any ordinance, schedule, attachment, and the like, as is referred to and incorporated herein.

sidewalk - shall mean that portion of the public way which lies between the property line and the portion of the public way dedicated for vehicular traffic and parking.

signature - if the written signature of a person is required, it may be in his or her own handwriting or, by a stamp, mark or facsimile impression made by a person expressly authorized by the signatory.

street or way - the words "street" or "way" shall include streets, avenues, roads, alleys, lanes, viaducts and all other public ways in the city, including any bridge which is a part thereof, all of which shall have been decreed public by the city council, or have otherwise been dedicated to public use in accordance with law.

term - the word "term", when used with reference to an appointment to any public office provided for by these Revised Ordinances, shall mean the length of time specified or until a successor is appointed and qualified.

§ 3. Catchlines of Sections

The catchlines of the several sections of the Revised Ordinances are intended as mere catchwords to indicate the contents of the section, and shall not be deemed to be taken to be titles of such sections, nor as any part thereof.

§ 4. Severability

It is hereby declared to be the intention of the city council that the sections, paragraphs, sentences, clauses and phrases of these Revised Ordinances are severable, and if any phrase, clause, sentence, paragraph or section of these Revised Ordinances shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of these Revised Ordinances.

§ 5. Enacting Style of Ordinances, Orders & Resolutions

(a) In all votes in which the city council expresses anything to have the force and effect of law, the enacting style shall be, "Be it ordained by the city council of the city of Worcester, as follows:" which shall be once recited in each ordinance.

(b) In all votes in which the city council expresses anything by way of command, the style of expression shall be "Ordered".

(c) In all votes in which the city council expresses an opinion, principle, fact or purpose, the style of expression shall be "Resolved".

§ 6. City Seal

(a) The seal of the city shall be of circular form, having in its center the figure of a heart encircled with a wreath, and having in the margin the words. "Worcester a Town, June 14, 1722; a City, February 29, 1848."

(b) The city clerk shall be the custodian of the seal of the city and is empowered to seal such instruments as city bonds, contracts, deeds and such other documents as are required to be sealed, or otherwise authenticated. Any document containing the words "executed under seal", or words of similar import, when executed by any duly authorized official of the city, shall have the same effect as a document containing the imprint of the city seal.

(c) Any deed, lease, indenture, conveyance or other document purporting to convey an interest in real property that may be given or required to be executed by the city shall, if signed by the city manager, be deemed to be sealed with the seal of the city.

(d) The seal of the city, eight inches in diameter, having the figure of the heart in its center colored red and having the encircling wreath colored green and the lettering colored gold, shall be prominently displayed on all municipally owned cars and trucks.

(e) No person or property shall use or display the city seal or any reproduction thereof, to announce, sponsor, promote, advertise, or otherwise call attention to, any event, location, business, charitable or civic activity, or otherwise use in any electronic or physical communication generated by any person, location, event, business, charitable or civic activity, without the prior written authorization of the city manager. For purposes

of this ordinance, the words "the city seal or any reproduction thereof" shall include any authentic reproduction in its exact likeness and any other depiction, variation or simulation thereof which would cause a reasonable person to believe that such other depiction or variation of the city seal implies the endorsement, support, approval, sponsorship, participation, involvement or association with the government of the city of Worcester or any department, agency, official or employee. The penalty for any violation of this subsection shall be a civil fine of $300.00 with each day or portion thereof constituting a separate offense. The city solicitor may also enforce this provision through applications for preliminary and permanent injunctions. *

(f) Unless specifically provided herein, the provisions of this section shall be enforced by any officer or employee of the city specifically authorized in writing by the city manager. Any such enforcing officer or person may utilize any and all available methods of enforcing the provisions of this section, including, but not limited to, the issuance of orders, criminal process, non-criminal disposition, injunctive relief, or any other administrative or judicial actions. *

***Amended September 16, 2014 # 46**

§ 7. City Flag

(a) The flag of the city shall bear on both sides a representation of the seal of the city upon a green field in the proportion of hoist to fly of one to one point nine. The diameter of the seal shall be one-half the hoist.

(b) The flag of the city may be displayed at such times and in similar manner as the flag of the United States of America and the flag of the commonwealth of Massachusetts.

§ 8. Legal Center of City

(a) The legal center of the city shall be the point formed by the intersection of the south line of Front Street and the east line of Main Street, and all circles, of whatever radius, used for denoting distance from the central portion of the city, shall have a common center at such point.

(b) All orders which in any way refer to a mile circle or any other radius used for denoting distance, as above described, shall be so amended that the circle intended shall be in each case a circle of the given radius having the point for a center.

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§ 1. Legislative and Executive Power

The legislative powers of the city of Worcester shall be vested in the city council and the executive power shall be vested in the city manager.

City Council

§ 2. Evaluation of the City Manager

Unless otherwise voted by the city council, the sole item of business at the last meeting of the city council in June of each year shall be the evaluation by of the performance in office of the city manager. The city council may from time to time establish the format and procedure for the conduct of such evaluation.

§ 3. Standing Committees

The standing committees of the city council shall not perform administrative or executive duties, but shall perform the duties usually performed by committees of deliberative bodies; and, in the performance of such duties, each committee on the affairs of the department relating to which it is constituted, shall at all proper times be afforded by the head of the department through the city manager such information and access to books, files and records as it may reasonably require to enable it to become acquainted and keep itself familiar with the condition and working of the various departments of the city government.

§ 4. City Council to Establish Rates of Fare

When no other provision is made by law or by ordinance, the city council may establish the rates of fare and fees to be charged by any and all persons licensed for any service performed by virtue of such license, and the city council may revise, change or amend the rates of fare or fees at any time.

§ 5. City Council to Levy and Apportion Assessments

When no other provision is made by law or by ordinance, the city council shall levy and apportion any and all assessments ordered to be levied by the city.

§ 6. City Council to Set Office Hours

(a) The several officers of the city shall occupy such offices in City Hall or elsewhere and keep such office hours as the city council designates.

(b) All departments, boards, commissions and offices in City Hall shall maintain office hours of 8:30 a.m. to 5:00 p.m. daily except Saturdays, Sundays and legal holidays; provided, however, that the assessing, city clerk and treasury and tax collection departments and the election commission shall observe the following hours as far as direct service to the public:

Monday 8:45 a.m. to 5:00 p.m.
Tuesday-Friday 8:45 a.m. to 4:15 p.m.

(c) All other departments, boards, commissions and offices located outside of City Hall, except the school department, shall maintain public office hours of not less than eight hours daily except for Saturdays, Sundays and legal holidays.

(d) Where it would be in the public interest, the city manager is authorized to permit any department to extend its hours beyond those specified in this section, including Saturdays, Sundays and legal holidays, to provide direct service to the public.

(e) Where it would be in the public interest, or where there is an emergency affecting the health, safety or public welfare, the city manager is authorized to permit any agency to close its offices notwithstanding the provisions of paragraphs one and two.

(f) Any provision of any previous ordinance or order of the city council providing for office hours shall be superseded by provisions of this section exclusively.

(g) The city manager may promulgate rules and regulations to administer the provisions of this section.

City Officers

§ 7. Appointment of Officers and Employees

To the extent provided by the Home Rule Charter and these Revised Ordinances, the city manager shall appoint all officers and employees to such offices and positions as may be established under authority of these Revised Ordinances or as may be required by law or order, or by the provisions of gifts, wills and trusts, except as it is otherwise specially provided in such gift.

§ 8. Residency of Officers and Employees

(a) Any individual who is promoted or appointed to any position listed on the "EM" schedule of the Salary Ordinance, or is promoted to the position of deputy chief within the police or fire departments, shall become a domiciled resident of the city within one year from the date of such promotion or appointment and shall remain a domiciled resident of the city during the term of such employment or appointment.

(b) The provisions of this section shall not apply: 1) to any individual who was an officer or employee of the city in any position or capacity on or before May 23, 1995; or, 2) to employees

specifically exempted by statute or collective bargaining agreements from such a residency requirement.

§ 9. Oath of Office; Bond

Every city officer before entering upon the discharge of the duties of any office provided for in these Revised Ordinances, shall be sworn to the faithful performance thereof, and shall give such bonds as the city council may from time to time require unless otherwise provided by law or order.

§ 10. Salaries

Unless otherwise provided by law, all salaries and other compensation of officers and employees of the city, except those in the School Department, shall be governed exclusively by the provisions of the Salary Ordinance.

§ 11. Administrative Authority of Department Heads and Executive Officers

(a) Subject to specific provisions of this chapter or rules and regulations of the city manager, department heads and executive officers shall have the authority and responsibility to direct, supervise, and control the operations of their department and its officers and employees, and to assign and schedule subordinate officers and employees in the performance of their duties.

(b) Department heads and executive officers in the administration of their departments shall be directly responsible to the city manager.

§ 12. Administration of Departments

Whenever these Revised Ordinances impose generally upon any city officer or employee under the jurisdiction of the city manager the duty and responsibility to "administer" an agency of the city, and unless the context appears to the contrary, the following specific duties and responsibilities shall be intended:

(a) to have care, custody and control of all of the property, including real property interests, personal property and tangible and intangible property, as has been, or may be, allocated to the agency by the city manager or the city council;

(b) to determine the priorities of the agency and to prepare long-range strategic plans and objectives consistent with the strategic direction of the city manager;

(c) to prepare, monitor and manage the budget for the agency, which shall include ordinary maintenance, salary and capital expenditures, in accordance with the format prescribed and the directives issued by the city manager;

(d) to prepare, implement, evaluate and improve agency operations, programs and projects in accordance with the goals and objectives established for the department by the city manager;

(e) to train agency employees and evaluate their performance in accordance with established standards or objectives;

(f) to implement established rules, policies and practices for the performance of employees and to impose appropriate disciplinary measures on those employees who do not perform in accordance with those rules, policies and practices;

(g) to prepare prompt and thorough responses to requests for reports, memoranda, opinions or other documents or actions as may be requested orally or in writing by the city manager;

(h) to perform such other tasks and functions as may be requested by the city manager, or anyone acting under authority of the city manager;

(i) to ensure that all actions of the agency are taken in accordance with all executive orders and administrative directives issued by the city manager, the financial procedures established by the city manager and the city auditor, the provisions of these Revised Ordinances, the Home Rule Charter, the Constitutions and laws of the Commonwealth and the United States of America.

§ 13. Budget Preparation and Submission

Every department head and executive officer, board, commission or committee of the city shall be responsible for preparing their annual budget request in accordance with the requirements of chapter 44 of the General Laws and the city manager, and shall submit the same to the city manager no later than the first day of December prior to the beginning of the fiscal year of the city.

§ 14. Books and Records

(a) All department heads and executive officers shall maintain books and records in such detail to furnish all information necessary for the operation of their agency and to permit analysis and report.

(b) All officers and clerks of boards, commissions or committees shall transfer to their successors in office all books, records and official papers of their office or board, commission or committee upon qualification of their successor.

§ 15. Public Records

(a) It is the intent of this section to provide for the orderly implementation of the statutes and regulations, as the same may be amended from time to time, governing the right of members of the public to inspect, examine and copy public records. This section shall be so interpreted, and words and phrases used herein shall be so defined, as to be consistent therein.

(b) It shall be the policy of the city that public records shall be made accessible to the public for inspection and examination at no charge. Any such inspection or examination shall be made within normal business hours.

(c) No person shall be permitted to remove or to take any public record from any city agency.

(d) The person who collects any charges for copying a public record shall furnish a receipt to the person charged and shall retain a copy thereof. All sums so received shall be paid over to the city treasurer and deposited in the general fund.

(e) The city manager is hereby authorized to issue appropriate rules and regulations, and to establish such charges for copying a public record, consistent herewith and with the applicable statutory and regulatory provisions.

§ 16. Annual Report

The annual report of the city shall consist of the annual budget as submitted by the city manager and approved by the city council, the comprehensive annual financial report prepared by the city auditor and the documents containing the evaluation of the city manager.

§ 17. Travel

(a) Officers and employees shall be reimbursed for authorized travel expenses directly connected with their official business in accordance with and subject to the annual appropriation by the city council. No person shall be reimbursed for any out-of-state travel expenses unless prior approval was obtained by the city manager for such travel.

(b) The city manager shall promulgate rules and regulations regulating in- and out-of-state travel.

§ 18. Officers to Permit or License

Whenever in any ordinance anything is prohibited to be done without the permission or license of any officer, officers, or board, such officer, officers or board shall have the power to permit or license such thing to be done.

§ 19. Hearings Officer Procedures

(a) Civil service hearings officers appointed under chapter 312 of the Acts of 1975 shall have the power, in their conduct of hearings under chapter 31 for the appointing authority, to grant applications for subpoena of witnesses, to compel their attendance, to administer oaths, and in connection therewith to require the production of any evidence relating to any matter in question before them.

(b) The city manager may issue rules of procedure and practice for the conduct of hearings by civil service hearing officers.

Boards And Commissions

§ 20. Rules and Regulations

The city manager may promulgate rules and regulations governing the conduct of meetings of boards, commissions or committees and the general administrative practices of the departments or agencies of the city, except the school committee and department.

§ 21. Executive Officers

Unless otherwise provided by statute, the administration of an agency headed by a board or commission shall be vested in the executive officer of the board or commission. Said administration shall be in accordance with the general policies of the board or commission.

§ 22. Limitation on Re-Appointment of Members of Boards and Commissions

Unless otherwise provided or required by statute, ordinance or the city charter, no person, having served thereon for the preceding six consecutive years, being a member of a board or commission of the city, shall be re-appointed to such board or commission; provided, however, that the city manager shall have the discretion to waive the provisions of this section in the best interests of the city.

§ 23. Vacancy in Offices

Any officer or member of a board, commission or committee shall hold office, unless he resigns or is removed, until his successor in office has been duly qualified. A vacancy in any office occasioned by death, resignation or otherwise shall, unless specific provision is otherwise made, be filled in the manner provided for in the original election or appointment to such office and shall be for the unexpired term. When a member of a board or commission or committee has been absent from three or more consecutive meetings, without proper explanation, and such absence has been determined by the remaining members of such board, commission or committee to interfere in the effective discharge of its duties, the chair, upon the vote of the members, shall inform the city manager of such absence. Upon receipt of such notice, the city manager shall take steps to remove such individual from office and to fill such vacancy in the manner provided for in the original election or appointment to such office.

City Fees & Charges

§ 24. Establishment of Fees

Unless specifically provided otherwise by any general or special law or other provision of these Revised Ordinances, whenever any city officer or agency is empowered or authorized to issue a license, permit or certificate, to render a service, or to perform work for a person or a class of persons, such officer or agency may, from time to time, establish reasonable fees for all such licenses, permits and certificates, and may establish reasonable charges for all such services or work to be performed; provided, that this section shall apply only where the entire proceeds of any such fees or charges remain with the city; and any fee or charge established under authority of this section shall not take effect until the city officer or agency establishing the fee or charge shall have filed a written notification and schedule of such fees and charges with the city manager and the city clerk. **Whenever the fee for any service rendered or work performed remains unpaid after the last date such fee is due and payable, the city treasurer and collector of taxes may add interest to such fee until it is paid in full. The rate of interest shall be one percent per month (twelve percent per year) and such interest shall begin to accrue on the day on which the fee becomes overdue and shall continue to accrue until fully paid.***

***Amended May 26, 2009 - 9329**

§ 25. Fee for Issuance of Affidavit of Voter Registration

Every person who is furnished a copy of an affidavit of registration by the Board of Election Commissioners shall pay a fee therefor of two dollars per copy.

§ 25A. Fee for Solemnization of Marriages – Ordained June 12, 2012 – 9759

The fee for lawfully solemnizing and certifying a marriage shall be seventy-five dollars, which fee shall include a certified copy of the marriage certificate; provided that there shall be no fee for the solemnization of a marriage and production of a certified copy of the marriage certificate if any party to the marriage is a member of the armed forces of the United States serving on active duty at the time the marriage takes place.

§ 26. Affordable Housing Fee Waiver

(a) Notwithstanding the provisions of any ordinance to the contrary, the city manager, with the approval of the city council, shall have the authority to waive the cost of any permit or approval fee for applicants proposing to construct qualified affordable housing units if: a) the applicant produces certification that the proposed units qualify as affordable housing under this section, and, b) the applicant pays a minimum fee of fifty dollars per department or office issuing permits or approvals. All requests for such relief shall be made to the city manager on an application form to be secured from the city manager's office. An applicant applying for a fee waiver under the provisions of this section must certify in writing under the pains and penalties of perjury that fees are not an eligible expense under any grant utilized to construct the qualified affordable housing units.

(b) For purposes of this section, a housing unit shall qualify as an affordable unit if it is subsidized, in whole or in part, by the federal or state government for low or moderate income persons, including the state chapter 667 program for the elderly, the state chapter 689 program for the disabled persons, the State chapter 705 program for disabled, State Housing Assistance for Rental Production (SHARP) Program, the State Tax Exempt Local Loans to Encourage Rental Housing (TELLER) Program, the state, county or municipal program which may be utilized for the production or restoration of housing for low or moderate income persons under the provisions of chapter 121B of the Mass. General Laws or other statute, regulation or ordinance. Only those units placed under rent restrictions by such programs shall qualify under this section as affordable housing units.

(c) All permits issued under this section shall be conditional upon the applicant maintaining such fee-waived housing units as qualified affordable housing units as defined in the second paragraph of this section. The applicant shall notify the city, in writing, sixty days in advance of its intention to convert any previously qualified affordable housing unit to market rate housing or any other non-qualifying use. Prior to any such conversion, the applicant shall pay the city the difference between the then current fees and the amount actually paid for any fee-waived permit issued under this section. For purposes of this section, "applicant" shall be the owner of the property where the units are to be constructed including any successors in interest.

(d) A housing unit shall also qualify under this section if a non-profit organization develops the property and organizes a construction process utilizing labor and materials volunteered or donated by members of the community and where a restrictive covenant is

recorded on the title to the property limiting the use of the property to affordable housing purposes.

(e) In the event that the applicant proposes to construct both affordable housing units and market rate housing units in the same building and the permit or approval fee cannot be entirely attributable to either type of housing unit, the normal fee shall be reduced only by the portion of affordable housing units relative to the aggregate number of housing units in the building.

§ 27. Worcester Housing Authority Fee Waiver

(a) Notwithstanding the provisions of any ordinance, rule or regulation to the contrary, the city manager, with the approval of the city council, shall have the authority to waive the cost of any permit of approval fee relating to the construction, reconstruction, rehabilitation or repair of any building, structure or facility, which is:

(1) located on land owned by the Worcester Housing Authority; and

(2) accessory to and, in support of, housing units owned and operated by the Worcester Housing Authority; and

(3) financed in whole or in part by state or federal grant funds.

Such buildings, structures and facilities shall include, but not be limited to: a gymnasium; recreation center; community center; heating, cooling or power plant; and the like.

(b) All requests for such relief shall be made to the city manager on an application form to be secured from the city manager's office.

(c) The approval of a request for a waiver of permit or approval fees under this ordinance shall be conditional upon the payment of a minimum fee of fifty dollars per department or office issuing permits or approvals.

(d) Notwithstanding the provisions of paragraphs (a), (b) or (c) above, the fees for permits issued by the city of Worcester or any department, agency, board or commission thereof, concerning the construction, reconstruction, rehabilitation or repair of any building, structure or facility, which is owned, operated or controlled by the Worcester Housing Authority shall be assessed in accordance with the following schedule:

- **From October 1, 2014 through October 1, 2019, the permit fees shall be zero on all projects financed predominantly with federal funds; and,**
- **From October 1, 2014 through October 1, 2019, the permit fees shall be sixty percent of the then-applicable fee on all projects financed predominantly with state funds.**
- **After October 1, 2019, the provisions of this subsection (d) shall expire.**

Notwithstanding the provisions of paragraphs (a), (b) or (c) above, any permit granting department, agency, board or commission of the city, upon presentation by the Worcester Housing Authority or its authorized agent of a statement demonstrating that it is qualified for a few waiver or reduction under this paragraph shall issue permits in

accordance with this paragraph and shall note in its records "Fee Waived in accordance with R.O. c. 2, § 27(d)". Nothing herein shall apply to any water or sewer use fees for water or sewer services. *

***Amended October 14, 2014 & Amended October 29, 2009 #9397**

§ 28. Rental Rehabilitation Fee Waiver

(a) Notwithstanding the provisions of any ordinance, rule, or regulation to the contrary, the city manager, with the approval of the city council, shall have the authority to waive the cost of any permit or approval fee for applicants proposing to rehabilitate rental housing units if:

(1) the applicant produces certification that the proposed rental rehabilitation units qualify under this section, and

(2) the applicant pays a minimum fee of Fifty Dollars per department or office issuing permits or approvals.

(b) All requests for such relief shall be made to the city manager on an application form to be secured from the city manager's office.

(c) For purposes of this section, a rental rehabilitation unit shall qualify for waiver if such rehabilitation is subsidized, in whole or in part, by the federal or State government. Only those units improved under a rental rehabilitation program shall qualify under this section fee waiver.

(d) In the event that the applicant proposes to engage in rehabilitation of units pursuant to a rental rehabilitation Agreement as well as market rate rehabilitation of units in the same building, and the permit or approval fee cannot be entirely attributable to either type of rehabilitation unit, the applicable fee shall be reduced only by the portion of rental rehabilitation program units relative to the aggregate number of rental units in the building.

§ 29. CitySquare Project Permit Fees

(a) The city council hereby finds and declares that Worcester Renaissance, LLC, is prepared to invest $470 million into downtown Worcester for the reconstruction of the former Worcester Center (a.k.a. Worcester Common Outlets) Mall property ("CitySquare Project") by demolishing large portions of the existing buildings, reestablishing the locations of public ways and spaces on and through the Project Property (as hereinafter defined), constructing 1.5 million square feet of new building space consisting of housing, commercial office, medical/clinical space, limited retail space and entertainment venues and renovating portions of the two existing office buildings and the remaining portions of the existing retail space and the existing parking garages (collectively, the "Private Project Elements").

(b) Notwithstanding the provisions of any ordinance, rule or regulation to the contrary, the fees for construction, building or utility permits issued by the City of Worcester or any department, agency, board or commission thereof, (hereinafter collectively referred to as "permits"), necessary for construction of the development program as stated in the attachment to a certain Memorandum of Agreement dated April 30, 2005 by and between

the City of Worcester and Worcester Renaissance, LLC, and Worcester Towers, LLC, shall be aggregated and reduced to two million dollars.

(c) Except as otherwise provided herein, the fee established by this ordinance shall be paid by or on behalf of Worcester Renaissance, LLC, as follows:

(1) Worcester Renaissance, LLC shall make an initial fee payment of $250,000 on the date that the First Disbursement is paid by the City under and pursuant to the Development Agreement between the City and Worcester Renaissance, LLC for the CitySquare Project (the "General Development Agreement"). Defined terms used in this section (c) shall have the meanings given such terms in the General Development Agreement.

(2) Worcester Renaissance, LLC shall make a second fee payment of $750,000 **upon the substantial completion of the construction of the core/shell of Building H. ****

(3) Worcester Renaissance, LLC shall make a third fee payment of $1,000,000 **in the following installments: (i) $333,333.00 payable on the Commencement of the Construction of the new building to be constructed on Parcel E, (ii) $333,333.00 payable on the Commencement of the Construction of the new building to be constructed on Parcels J and K and (iii) $333,334.00 payable within thirty (30) days after Substantial Completion of the Construction of the office building to be constructed on Parcel F.***

***Amended January 21, 2014 – 9978 - Amended April 28, 2009 – 9309 (sections (c) 2 and 3) – Amended April 28, 2014 – 127**

**** Amended September 21, 2010 - 9530**

Notwithstanding the foregoing, Worcester Renaissance, LLC shall not be obligated to make the fee payments set forth in Section (c)(2) and (c)(3) hereof, if, on or before the date such payment or payments are due, it has given a termination notice to the City in accordance with Section 4.18 of the General Development Agreement. If as a result of such a termination, the Enabling Work does not Commence, the City shall refund to Worcester Renaissance, LLC any payments made in accordance with Sections (c)(1) and (c)(2) hereof, which refund shall be made not later than thirty (30) days after receipt of written notice from Worcester Renaissance, LLC (1) that the Enabling Work will not Commence and (2) of termination of the General Development Agreement pursuant to Section 4.18 thereof; provided, however, that the City may deduct from the initial permit fee payment made pursuant to Section (c)(1) hereof, the actual costs incurred by the City for direct personnel expenses, excluding legal expenses.

The provisions of this ordinance shall apply to the Construction of the Private Project Elements and the Delegated Public Project Elements.

(d) Fee payments under this ordinance shall be made to the city manager, who shall issue appropriate documentation confirming payment of the fee. Any permit granting department, agency, board or commission of the city shall, upon presentation of such documentation by an applicant seeking a permit relative to the CitySquare Project, process the permit application without payment of additional fees and shall indicate on the permit application the following: "Fee paid pursuant to § 29, c. 2, R.O. 2008."

(e) Anticipating that Worcester Renaissance, LLC, shall construct and complete the Private Project Elements in phases and that the tenants of Worcester Renaissance, LLC, shall thereafter finish construction of each tenantable space within the CitySquare Project, this permit fee reduction shall apply to any permits necessary for such tenant fit-out but shall expire upon the date of issuance of the first permit for use and occupancy for each such portion of the Project Property (as defined in the General Development Agreement). Notwithstanding the previous sentence, this ordinance shall expire on **June 30, 2019*** and the fees otherwise then in effect shall apply to any permits issued after such date.

***Amended April 28, 2015 – 127**

§ 29A. Hunger Relief Fee Waiver

(a) Notwithstanding the provisions of any ordinance, rule or regulation to the contrary, the city manager, upon a recommendation of the commissioner of health and human services, shall have the authority to waive the cost of any permit or inspection for applicants proposing to conduct a qualified emergency food service operation.

(b) For purposes of this section, an emergency food service operation shall meet the following criteria in order to qualify for the fee waiver authorized in paragraph (a):

(1) The applicant must be a 26 U.S.C. §501(c)(3) non-profit corporation with a core mission and expressed purpose to alleviate hunger in the community, or a 26 U.S.C. §501(c)(3) faith-based organization customarily engaged in community outreach that includes hunger relief efforts, and

(2) The applicant does not charge a fee to the recipients of the food distributed or served pursuant to such operation.

(c) Each application for a fee waiver under this section shall also include a written financial and social services impact statement describing the impact the waiver will have on its operation.

§ 29B. Grand Palace Theatre Project Permit Fees

(a) The city council hereby finds and declares that Worcester Center for Performing Arts, Inc., a not-for-profit corporation, is prepared to undertake an approximately $22 million renovation and restoration of the former Loew's Poli/Showcase Theater at 2-16 Southbridge Street in downtown Worcester into a first-class, 2,300 seat performing arts center known as the Grand Palace Theatre Project (herein after the "project".

(b) Notwithstanding the provisions of any ordinance, rule or regulation to the contrary, the fees for construction, building or utility permits issued by the city of Worcester or any department, agency, board or commission thereof, (hereinafter collectively referred to as the "construction permits"), the city manager may waive the fee for such construction permits necessary for construction of the project totaling approximately $195,000. The proponent of the project shall apply for such waivers to the city manager.

(c) Any permit granting department, agency, board or commission of the city shall, upon presentation by the project proponent of an application for fee waiver approved by city manager process the permit application without payment of fees.

(d) This permit fee reduction shall apply to any permits necessary for the construction of project but this permit fee reduction shall expire upon the date of issuance of the first permit for use and occupancy of the premises where the project is located. Notwithstanding the previous sentence, this ordinance shall expire on June 30, 2009 and the fees otherwise then in effect shall apply to any permits issued after such date. Nothing herein can be construed to effect a waiver of any water or sewer use fees for water or sewer services.

§ 29C. Handicapped Accessibility Ramp Waiver

(a) Notwithstanding the provisions of any ordinance, rule or regulation to the contrary, the city manager, upon a recommendation of the commissioner of health and human services, shall have the authority to waive the fees associated with a building permit application when said permit is specific to the construction of handicapped accessible ramps that are to be constructed voluntarily.

(b) For purposes of this section, construction of handicapped accessible ramps shall meet the following criteria in order to qualify for the fee waiver authorized in paragraph (a):

(1) The applicant must be providing gratuitous services to property owners in need of accessibility.

(2) The applicant shall provide written documentation that the construction of said handicapped accessible ramps is provided at no cost to the property owner.

(c) Each application for a fee waiver under this section shall also include appropriate documentation confirming construction of a handicapped accessible ramp(s). Any permit granting department, agency, board or commission of the city shall, upon presentation of such documentation by an applicant seeking a permit relative to the waiver of a building permit fee described above, shall process the permit application without payment of fee and shall indicate on the permit application the following: "Fee waived pursuant to §29C, c. 2, R.O. 2008".

Miscellaneous

§ 30. Subrogation

Whenever a police officer or fire fighter is indemnified under the provisions of General Laws, chapter 41, § 100 or § 111F, as the same may be amended from time to time, for an injury which was caused under circumstances creating a legal liability in some person, other than the said indemnitee, to pay damages in respect thereof, the city of Worcester shall be subrogated to the said indemnitee's cause of action and may proceed to enforce the same. Any sum recovered shall be retained by the city up to the amount which it paid as indemnity, and any excess shall be retained by or paid over to the indemnitee. For the purposes of this section, "excess" shall mean the amount by which the total sum received in payment for the injury, exclusive of interest and costs, exceeds the indemnity paid. The city shall be entitled to any costs expended by it, from the said recovery. Any interest received in any action brought

pursuant to this section shall be apportioned between the city and the indemnitee in proportion to the amounts received by them respectively under this section.

§ 31. Affirmative Action Program

The city manager may establish an affirmative action program in accordance with law which shall be binding on all city agencies. The city manager may establish such rules and regulations as may be necessary to implement the affirmative action program and plan.

§ 32. Job Requirement for City Residents – Deleted in it's entirety – September 18, 2012 #9768

§ 33. Departmental Rules and Regulations Affecting the Public

(a) Every agency of the city shall file with the city clerk a copy of any general rules or regulations promulgated by said agency, which affects the public.

(b) Annually in January, said agency shall file any amendments to said rules and regulations with the city clerk. The city clerk shall compile said rules and regulations in a public document and make copies available to the public. He shall file a copy of said document with the city manager and city council, the Worcester Free Public Library, the Worcester County Law Library, and the Worcester County Bar Association.

(c) The city manager may establish rules of procedure to implement this section.

§ 34. Redemption of Mortgaged Property

Whenever any person having lawful authority to redeem any property mortgaged to the city shall pay to the city treasurer the amount due and payable by such mortgage, the city treasurer shall report the same in writing to the city manager. The city manager shall release, discharge or assign the mortgage without recourse to or liability of the city, and shall execute any deed or legal instrument that may be appropriate for such purpose. The city treasurer shall also report the amount of such payment in writing to the city auditor.

§ 35. Responsible Employer Ordinance – Ordained September 18, 2012 - 9768

(a) The City Council hereby finds and determines that taxpayer money is most efficiently and productively spent by awarding construction contracts to firms that include and enforce provisions requiring compliance with state laws governing the payment of prevailing wages, the provision of workers compensation coverage, and the proper classification of individuals as employees and not as independent contractors, as well as state law concerning health insurance coverage and state-certified apprenticeship programs. The City Council hereby further finds and determines that it is appropriate for it to exercise entrepreneurial discretion by requiring firms that are awarded such contracts to comply with this ordinance because a failure to comply is injurious to the life, health and happiness of individuals employed by such firms and is deleterious to the quality of life in the City where most of such individuals reside.

(b) Whenever the City of Worcester is procuring construction services subject to the provisions of G.L. chapter 149 and chapter 149A the following shall be incorporated into the procurement documents and made part of the specifications and contract. Any person,

company or corporation shall acknowledge, in writing, receipt of said requirements with their bid or proposal.

(c) All bidders or proposers and all subcontractors and trade contractors, including subcontractors that are not subject to G.L. c.149, §44F, under the bidder for projects subject to G.L. c.149, §44A(2), and, proposers under G.L. c 149A, shall as a condition for bidding or subcontracting verify under oath and in writing at the time of bidding or submittal in response to an RFP or in any event prior to entering into a subcontract at any tier, that they comply with the following conditions for bidding or subcontracting and, for the duration of the project, shall comply with the following obligations:

(1) The bidder or proposer and all trade contractors and subcontractors under the bidder or proposer must comply with the obligations established under G.L. c.149 to pay the appropriate lawful prevailing wage rates to their employees;

(2) The bidder or proposer and all trade contractors and subcontractors under the bidder or proposer must at the time of bidding maintain or participate in a bona fide apprentice training program as defined by G.L. c.23, §§11H and 11I for each apprenticeable trade or occupation represented in their workforce that is approved by the Division of Apprentice Standards of the Department of Labor and Workforce Development, regardless of whether or not the program qualifies as an employee welfare benefit plan under ERISA, and must register all apprentices with the Division and abide by the apprentice to journeyman ratio for each trade prescribed therein in the performance of any work on the project. This provision does not require the program to be an ERISA plan; the program need only have been approved by the Division of Apprentice Standards. All general bidders or proposers and all trade contractors and sub-bidders at every tier must submit with its bid or proposal an original, stamped Sponsor Verification letter from the Commonwealth of Massachusetts, Department of Labor and Workforce Development – Division Apprentice Standards, issued within the past 90 days, evidencing that at the time of submitting a bid or proposal, the bidder or proposer is currently an Approved Sponsor of Apprentices. Any bid or proposal submitted without the above documentation shall be rejected;

(3) The bidder or proposer and all trade contractors and subcontractors under the bidder or proposer must maintain appropriate industrial accident insurance coverage for all the employees on the project in accordance with G.L. c.152;

(4) The bidder or proposer and all trade contractors and subcontractors under the bidder must properly classify employees as employees rather than independent contractors and treat them accordingly for purposes of workers' compensation insurance coverage, unemployment taxes, social security taxes and income tax withholding. (G.L. c.149, §148B on employee classification);

(5) The bidder or proposer and all trade contractors and subcontractors under the bidder or proposer must at the time of bidding certify that, at the time employees begin work at the worksite, all employees will have successfully completed a course in construction safety and health approved by the United States Occupational Safety and Health Administration that is at least 10 hours in duration, and shall ensure that all employees working at the worksite possess such qualifications at all times throughout the duration of their work on the project and furnish documentation of successful completion of the course;

(6) The bidder or proposer and all trade contractors and subcontractors under the bidder or proposer must be in compliance with the health and hospitalization requirements of the Massachusetts Health Care Reform law established by Chapter 58 of the Acts of 2006, as amended, and regulations promulgated under that statute by the Commonwealth Health Insurance Connector Authority.

(7) The bidder or proposer and all trade contractors and subcontractors under the bidder or proposer must make arrangements to ensure that each employee of every contractor entering or leaving the project individually completes the appropriate entries in a daily sign-in/out log. The sign in/out log shall include: the location of the project; current date; printed employee name; signed employee name; and the time of each entry or exiting. The log shall contain a prominent notice that employees are entitled under state law to receive the prevailing wage rate for their work on the project. Such sign-in/out logs shall be provided to the City on a daily basis.

(8) The bidder or proposer and all trade contractors and subcontractors under the bidder or proposer, prior to bidding or, if not subject to bidding requirements, prior to performing any work on the project, shall sign under oath under oath and provide to the City a certification that they are not debarred or otherwise prevented from bidding for or performing work on a public project in the Commonwealth of Massachusetts or in the City.

(d) A proposal or bid submitted by any general bidder or by any trade contractor or subcontractor under the general bidder or proposer that does not comply with any of the foregoing conditions for bidding shall be rejected, and no subcontract for work outside the scope of G.L. c.149, §44F shall be awarded to a subcontractor that does not comply with the forgoing conditions.

(e) All bidders or proposers and all trade contractors and subcontractors under the bidder or proposer who are awarded or who otherwise obtain contracts on the projects subject to G.L. c.149, §44A(2) or c 149A, shall comply with each of the obligations set forth in this section thirty-five for the entire duration of their work on the project, and an officer of each bidder or subcontractor under the bidder shall certify under oath and in writing on a weekly basis that they are in compliance with such obligations.

(f) Any proposer, bidder, trade contractor or subcontractor under the bidder or proposer who fails to comply with any one of obligations set forth in this section thirty-five for any period of time shall be, at the sole discretion of the City, subject to one or more of the following sanctions: (1) cessation of work on the project until compliance is obtained; (2) withholding of payment due under any contract or subcontract until compliance is obtained; (3) permanent removal from any further work on the project; (4) liquidated damages payable to the City in the amount of 5% of the dollar value of the contract

(g) In addition to the sanctions outlined in subsection (h) above, a proposer, general bidder or contractor shall be equally liable for the violations of its subcontractor with the exception of violations arising from work performed pursuant to subcontracts that are subject to G.L. c.149, §44F. Any contractor or subcontractor that has been determined by the City or by any court or agency to have violated any of the obligations set forth in this section thirty-five shall be barred

from performing any work on any future projects for six months for a first violation, three years for a second violation and permanently for a third violation.

§ 36. Brownfields Tax Abatement Agreements

In exercising the authority granted by section fifty-nine A of chapter fifty-nine of the General Laws, the city manager shall negotiate and approve any agreement relative to the abatement of real estate taxes under said section fifty-nine A. The city manager may designate one or more of his or her subordinates to conduct such negotiations; provided however, that the city manager shall in all cases retain the authority to approve such agreements; and provided further that, the city assessor shall be a signatory to any such contract.

§ 37. Fair CORI Practices - Ordained June 23, 2009 – 9341

(a) *Purpose*. This Fair CORI Practices Ordinance is intended to encourage the full participation of motivated and qualified persons with criminal histories in our workforce, reduce recidivism, protect vulnerable populations and assure public safety. The Fair CORI Practice Ordinance accomplishes these ends by establishing practices that:

(1) Diminish the use of a criminal record as an automatic bar to employment;

(2) Deter the use of an application form that inappropriately excludes and discriminates against qualified job applicants;

(3) Promote the accurate use and interpretation of a criminal record; and

(4) Provide a qualified applicant with an opportunity to discuss any inaccuracies and explain the relevance and content of a criminal record.

The following sections are intended to apply to all persons and businesses supplying goods and/or services to the city of Worcester and are also intended to ensure that they deploy fair policies and practices in screening, hiring, and retaining persons with criminal histories.

(b) *Definitions*. The following words and phrases, when used in this section, shall have the following meanings:

Applicant - means any current or prospective employee, licensee, or volunteer and includes all persons included in 803 C.M.R. 2.03.

CHSB – means the Criminal History Systems Board as defined in M.G.L. c. 6 and 803 C.M.R. 2.00.

Contract Officer – means the city official other than the city manager who is responsible for the award and administration of any contract for goods and or services from a Vendor.

Otherwise Qualified – means any Applicant that meets all other criteria for a position or consideration for a position.

Vendor – means any vendor, contractor, or supplier of goods and/or services to the city of Worcester.

(c) *CORI-Related Standards Applicable to Vendors.*

(1) The city will do business only with Vendors that have adopted and employ written CORI related policies, practices, and standards that are consistent with city standards set forth in section (d) of this section.

(2) The city employs CORI-related policies, practices and standards that are fair to all persons involved and seeks to do business with Vendors that have substantially similar policies and practices. The Contract Officer shall review all Vendors' CORI policies and practices for consistency with standards of the city as expressed in this ordinance.

(3) The Contract Officer shall consider all Vendors' CORI standards as part of the criteria to be evaluated in the awarding of a contract and will consider a Vendor's execution of the CORI standards among the performance criteria in evaluating a contract.

(4) The Contract Officer shall consider any Vendor's deviation from the CORI standards as grounds for rejection, rescission, revocation, or any other termination of the contract.

(d) *CORI-Related Standards of the City*. The CORI-related policies, practices, and standards of the city administration include, but are not limited, to the following:

(1) The city has a policy of affording a rehabilitated individual with a criminal record with a fair opportunity to be employed and reintegrate successfully into the workforce, while protecting vulnerable populations and the public safety. Consistent with this policy, a criminal record will not automatically disqualify an Applicant from employment, unless explicitly mandated by law.

(2) The city will not conduct a CORI check or make any inquiry into an Applicant's possible criminal history, or include any such inquiry on any initial employment application form, until after an Applicant's credentials have been reviewed, it has determined that the Applicant is otherwise qualified for a position and a conditional offer of employment has been made. The city does not conduct a CORI check on an Applicant that is not otherwise qualified for a relevant position.

(3) The city will not check an Otherwise Qualified Applicant's CORI unless a CORI check is mandated by law or it determines that the position in question is of such sensitivity that a CORI check is warranted.

(4) The city requires that any personnel responsible for reviewing CORI be trained on reading and interpreting a CORI report. Such personnel shall be required to attend CORI training and be knowledgeable about educational materials made available by the CHSB.

(5) The city will conduct a CORI check only as authorized by the CHSB. The city will not rely on an improperly issued CORI and will return the record to the CHSB for issuance of the appropriate report, if any, whenever it might receive a report containing matters not requested or otherwise authorized for release to the city.

(6) The city will consider the result of a properly issued CORI report only in those instances where the content of the record is substantially relevant to the duties and qualifications of a position in question.

(7) The city follows the practices set forth below when it is inclined to deny an Applicant a position because of the results of a CORI:

(a) Ensure that the record received pertains to the individual for whom a request was made by comparing the Applicant's identifying information, such as that on a driver's license or government issued identification, or CORI request form, to the information on the CORI report;

(b) Provide the Applicant with a copy of the CORI;

(c) Notify him or her of the part or parts which appear to make him or her ineligible;

(d) Afford the Applicant with an opportunity for a private meeting to explain the accuracy and/or relevance of anything on the CORI report;

(e) Review the relevancy and accuracy of the CORI report by considering these factors:

(i) Nature, seriousness and circumstance of any past criminal conviction or pending charge;

(ii) Age of the candidate at the time of the offense;

(iii) Date of the offense;

(iv) Relevance of the offense to the duties and qualifications of the position in question;

(v) Sentence imposed and length of any period of incarceration;

(vi) Any reasonable available information concerning compliance with conditions of parole or probation, including orders of no contact with victim and witnesses;

(vii) The individual's conduct and experience in the time since the offense, including, but not limited to, education or professional certification obtained since the time of the offense;

(viii) Any other evidence of rehabilitation.

(f) If after review the city makes an adverse decision, it will promptly notify the Applicant in writing stating the reasons thereof.

(g) If the city determines that a CORI report received does not pertain to the individual for whom a request was made, it will notify the Applicant of the CHSB's regulations and process for correcting an inaccurate record, and will not rely on such a record in rendering an adverse decision. The city may contact the CHSB and request that it conduct a detailed search consistent with CHSB's policy.

(8) The city will provide a copy of its CORI standards to any Applicant or person who makes a request.

(9) The city, consistent with CHSB policy, will not disseminate or share CORI information except with those authorized personnel granted access to CORI.

(e) *Waiver*. Under extraordinary circumstances the city manager may grant a waiver of section (c) on a contract-by-contract basis and shall report all such waivers to the city council

on a quarterly basis. Such report shall include an identification of each contract for which a waiver was granted, the name of the Vendor(s) involved, identification of the specific CORI standard involved in each waiver and a statement by the city manager of the reasons justifying the waiver.

(f) *Complaint Procedure*.

(1) Any Applicant aggrieved by an adverse decision made by a Vendor, may file a complaint with the city manager who shall investigate any such complaint and take any appropriate action.

(2) The city manager, where appropriate, may refer complainants to the CHSB, and may notify the Contract Officer of such referral.

(3) The city manager may, upon request by a concerned person, or on his or her own initiative, conduct periodic reviews to determine Vendor compliance with this ordinance.

(4) Any Contract Officer, Vendor, Applicant, or other interested party may contact the city manager to report any problems, concerns, or suggestions regarding the implementation, compliance, and impacts of the Fair CORI Standards.

(5) The city manager shall make a report on all such complaints, investigations and reviews to the city council on a quarterly basis.

(g) *Data Collection.*

(1) The city manager shall record and log, including maintaining demographic data, all CORI-related complaints received.

(2) Any member of the general public may request review or copies of any record maintained by the city manager relating to this ordinance, provided that identifying information about complainants and any other information not considered a public record are kept confidential.

(h) *Applicability*. To the extent permitted by law, if any provision of these sections impose greater restrictions or obligations than those imposed by any other general law, special law, regulation, rule, ordinance, order, or policy, then the provisions of these sections shall control.

(i) *Rulemaking Authority*. The city manager shall have the authority to make rules necessary to implement and enforce this ordinance.

(j) *Implementation*. The provisions of this ordinance shall apply to all bids and requests for proposals issued after September 1, 2009.

§ 38. Gender Identity and Expression Policy - Ordained September 16, 2014 #44

(a) *Purpose*. It is the purpose and intent of this section to ensure that persons and businesses supplying goods and/or services to the city of Worcester deploy policies consistent with the city of Worcester concerning gender identity and expression.

(b) *Definitions*. The following words and phrases, when used in this section, shall have the following meanings:

Applicant - means any current or prospective employee, licensee, or volunteer and includes all persons included in 803 CMR 2.03.

Contract Officer – means the city official identified in any given or proposed contract as responsible for the administration of the contract.

Gender Identity & Expression – means those elements of the city's human rights policy concerning sex, gender identity, sexual orientation and genetic information as those terms are defined in sub-section (g) of section 13 of Article 1 of Part Two of the Revised Ordinances of 2008;

Otherwise Qualified – means any applicant that meets all other criteria for a position or consideration for a position.

Vendor – means any vendor, contractor, or supplier of goods and/or services to the city of Worcester.

(c) *Gender Identity Standards Applicable to Vendors*.

(1) The city will do business only with vendors that have adopted and employ written Gender Identity policies, practices and standards that are consistent with city standards set forth in section (d) of this ordinance.

(2) The city employs Gender Identity policies, practices and standards that are fair to all persons involved and seeks to do business with Vendors that have substantially similar policies and practices. The awarding authority shall review all vendors' Gender Identity policies and practices for consistency with city standards.

(3) The awarding authority shall consider all vendors' Gender Identity policies and practices as part of the criteria to be evaluated in the awarding of a contract and will consider a vendor's execution of the Gender Identity policies and practices among the performance criteria in evaluating a contract.

(4) The awarding authority shall consider any vendor's deviation from the Gender Identity policies and practices as grounds for rejection, rescission, revocation, or any other termination of the contract.

(d) *Gender Identity Policy of the City of Worcester*. The city of Worcester shall not deny to any person access to any opportunity, service, program or facility, including without limitation employment, educational, and recreational opportunities, solely by reason of sex or gender identity or expression. It shall be the policy of the city to afford to every person equal access to opportunity, including without limitation employment, educational and recreational opportunity, service, program or facility.

(e) Data Collection and Report. Any awarding authority, vendor, applicant, or other interested party may contact the city manager or his or her designee to report any problems, concerns, or suggestions regarding the implementation, compliance, and impacts of these sections, and city manager or his or her designee shall log every comment received with a summary of the comment and shall keep on file any written comments. Subsequent to logging any comment, the city manager or his or her designee may refer a complaint to the MCAD or the city human rights commission and shall notify the relevant awarding authority. The city manager or his or her designee shall prepare a written report including, but not limited to, a summary of any feedback regarding Gender Identity policies and

practices and any other information or analysis deemed noteworthy by the city manager or his or her designee. The city manager or his or her designee shall file the report with the Worcester city council via the Worcester city clerk every six (6) months from the implementation date of these sections.

(f) Applicability. If any provision of these sections imposes greater restrictions or obligations than those imposed by any other general law, special law, regulation, rule, ordinance, order, or policy then the provisions of these sections shall control.

(g) Regulatory Authority. The city manager or his or her designee shall have the authority to promulgate rules and regulations necessary to implement and enforce these sections.

(h) Severability. If any provision of these sections shall be 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.

(i) Implementation. The provisions of these sections shall be effective on August 27, 2014.

§ 39. Wage Theft Prevention – Ordained October 4, 2016 #327

(a) Section thirty-eight is enacted to ensure that employees of contractors doing business with the city of Worcester are paid, in full, for hours worked on a timely basis and that contractors doing business with the city of Worcester who pay their workers in compliance with applicable wage and hour laws are given an optimal environment to build and maintain their businesses and are not under-cut by non-compliant employers.

(b) Whenever the city of Worcester is procuring goods or services, section thirty-eight shall be incorporated into the procurement documents and made a part of the specifications and contract. Any person, company or corporation shall acknowledge, in writing, receipt of said requirements with their bid or proposal. Contracts between the city and the United States of America or a corporation wholly owned by the government of the United States of America or the Commonwealth of Massachusetts, its subdivisions and corporate bodies shall be exempt from this section.

(c) At the time of bidding or submittal in response to an RFP, all bidders or proposers and all trade contractors or subcontractors under any bidder or proposer shall provide the following certifications or disclosures in writing with their bid or proposals, and for multi-year contracts, annually upon the anniversary of the contract date until the expiration of the contract:

(1) The bidder or proposer and all trade contractors or subcontractors under the bidder or proposer must at the time of bidding, or if not subject to bidding requirements, prior to performing work on a project, certify that neither the bidder or proposer or any trade contractor or subcontractor under the bidder or proposer has been subject to a federal or state criminal or civil judgement, final administrative determination or debarment

resulting from a violation of G.L. c.149, G.L. c. 151 or the Fair Labor Standards Act within three (3) years prior to the date of submission of the bid or proposal. To the extent any bidder or proposer or any trade contractors or subcontractors under the bidder or proposer have been in business for less than three (3) years prior to the date of submission of the bid or proposal, then the certification shall be for the entire period of time for which the bidder or proposer and any trade contractor or subcontractor under the bidder or proposer has been in existence.

(2) In the event a bidder or proposer or any trade contractor or subcontractor under the bidder or proposer has been subject to a federal or state criminal or civil judgement, final administrative determination or debarment resulting from a violation of G.L. c.149, G.L. c. 151 or the Fair Labor Standards Act within three (3) years prior to the date of submission of the bid or proposal, then the bidder or proposer or any trade contractor or subcontractor under the bidder or proposer shall disclose any such criminal or civil judgement, final administrative determination, or debarment and provide a copy(ies) with the bid or proposal.

(d) All bidders or proposers or any trade contractor or subcontractor under any bidder or proposer shall report any such criminal or civil judgement, final administrative determination, or debarment resulting from a violation of G.L. c.149, G.L. c. 151 or the Fair Labor Standards Act while any bid or proposal is pending and if awarded a contract, during the term of the resulting contract, within five (5) days of receipt.

(e) All bidders or proposers and all trade contractors and subcontractors under any bidder or proposer, prior to bidding or, if not subject to bidding requirements, prior to performing work on a project, shall sign under oath and provide a certification that they are not debarred or otherwise prevented from bidding for or performing the work on a public project in the Commonwealth of Massachusetts or in the City.

(f) Any bidder or proposer awarded a contract who is required to make a disclosure of any criminal or civil judgement, final administrative determination or debarment under this section shall be required to post a wage bond or other form of suitable insurance in an amount equal to the aggregate of one year's gross wages, or for the term of the contract, whichever is less, for all employees, based on an average of its total labor cost for the past two years. Such bond shall be maintained for the entire term of the contract(s) and for all contracts of one year or more, proof of maintenance must be provided annually or upon request.

(g) Any bidder or proposer awarded a contract shall furnish monthly certified payroll records to the City for all employees working on any city contract, if requested by the City, and shall post in a conspicuous place notices to be provided by the City informing employees of the protections of section thirty-eight and applicable local, state and federal law. To the extent any employee would not have reasonable access to the notice if posted in a single location, the bidder or proposer shall notify the City of the number and location of postings in order to ensure that reasonable notice is provided to all employees. The bidder or proposer may be required to make additional postings at the request of the City.

(h) Any bidder, proposer, trade contractor or subcontractor under the bidder or proposer who fails to comply with any of obligations set forth in this section thirty-eight for any period of time shall be, at the sole discretion of the City, subject to one or more of the following sanctions: (1) cessation of work on the project until compliance is obtained; (2) withholding of payment due under any contract or subcontract until compliance is obtained; (3) termination of the contract; and (4) barred from performing any work on any future project for up to three (3) years.

Chapter Three - Personnel Leave Ordinance

§ 1. Definitions

Sick Leave

§ 2. Amount Allowed Annually
§ 3. Rate of Accumulation; Maximum Allowed
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§ 1. Definitions

The following words and phrases, when used in this chapter, shall have the following meanings:

authorized leave without pay - the status of any employee whose absence from scheduled duty has been authorized without pay under the provisions of this chapter;

continuous service - paid full-time employment in the service of the city which is not interrupted by resignation, termination or dismissal. "Continuous service" shall include all leave with pay;

full-time employee - any person whose name appeared on and who received pay from a city payroll for personal services for a minimum of thirty hours per week, provided, however, for purposes of personal leave, as provided for in this chapter, a full-time employee shall be one who is regularly scheduled for a minimum of forty hours per week;

holiday leave - the status of any employee who is absent from duty and entitled to holiday leave pay in accordance with the statutes, ordinances, collective bargaining agreement, or rules and regulations governing legal holidays;

intermittent or part-time employee - any person whose name appeared on and who received pay from a city payroll for personal services, which may be regular or irregular recurrent employment, as the needs of the service require, for not less than thirty weeks, one hundred and fifty days, or twelve hundred hours in the aggregate during the twelve month preceding the first day of June in each year. This definition shall not apply to sick leave provision of this chapter;

military leave - the status of any employee who is absent from duty under the authority of G.L. c. 33, § 59;

military leave without pay - the status of any employee who is absent from duty because of service in the military or naval forces of the United States in time of war or national emergency under the authority of chapter 708, Acts of 1941;

official leave - the status of any employee who is absent from his/her regular place of duty and entitled to pay pursuant to an ordinance of the city Council or a directive of the city manager;

pay - compensation, based on a unit of an hour, a day, a week, a month, or a year, earned by an employee in the performance of service to the city. "Pay" does not include allowances for room, meals, or laundry, or any other allowance;

sick leave - the status of any employee who is absent from duty and entitled to sick leave pay in accordance with statutes, ordinances, collective bargaining agreements, or rules and regulations governing sick leave;

unauthorized leave without pay - the status of any employee whose absence from scheduled duty has not been authorized under the provisions of general or special law, or under the provisions of this or any other ordinance, collective bargaining agreement, rule or regulation;

vacation leave - the status of any employee who is absent from duty and entitled to vacation leave pay in accordance with the statutes, ordinances, collective bargaining agreement, or rules and regulations governing vacation leave;

week - a period of seven consecutive calendar days; and, when used to describe the term of any vacation leave, shall mean five days;

work day - a regular scheduled day of work, commencing at midnight and ending at midnight of the following day.

Sick Leave

§ 2. Amount Allowed Annually

Any salaried official or employee of the city, irrespective of status, with the exception of officials and other employees under the jurisdiction of the school committee, and those employees on the temporary employment account, shall be allowed, without loss of pay, earned sick leave as provided for in this chapter, aggregating to not more than fifteen full work days in any year plus the accumulations hereinafter provided, except employees on the EM Schedule, who may accumulate ten and one half days in any year, effective June 1, 2003.

§ 3. Rate of Accumulation; Maximum Allowed

All persons entitled to sick leave by section two shall earn and accumulate earned sick leave credit at the rate of one and one-quarter days for each calendar month of service, except employees on the EM Schedule, who shall earn accumulate sick leave credit at the rate of 7 hours per calendar month. No person shall be allowed to accumulate unused sick leave to an amount in excess of one hundred and sixty-five days, except as authorized by

their respective collective bargaining agreement or for employees on the EM Schedule, who may accumulate unused sick leave to an amount of two hundred days, effective June 1, 2003.

§ 4. Sick Leave Extension

(a) Civilian employees, who have ten years of consecutive full-time service with the city and who have accumulated seventy days of earned sick leave at the date of first absence for illness or disability of a prolonged and uninterrupted nature, shall be compensated at half pay while absent from work for said sickness for the period of time commencing upon exhaustion of all accrued paid leaves, including sick leave. Said half pay under this ordinance shall terminate upon the first anniversary date of the absence. This subsection shall not apply to any employee in a collective bargaining unit unless specifically provided for in the bargaining agreement. Any sick leave extension for employees in bargaining units shall be governed by and limited to those benefits provided for in the respective bargaining agreements.

(b) Employees subject to this section shall accrue sick leave at the same rate as specified in section two.

(c) No sick leave credit may be used to compensate any absences under this chapter for the first six calendar months (or for the first thirty weeks if so provided for in a collective bargaining agreement) of employment with the city.

§ 5. Sick Leave for the City Manager

Notwithstanding the provisions of section two hereof, the city manager shall be credited with of sick leave upon appointment and upon each anniversary date of appointment and to the extent provided in his or her contract of employment as the same is authorized under Article III of the Home Rule Charter. The limitation on maximum allowable accumulation of unused sick leave set forth in said section two shall not apply to the city manager, however; the accumulation of sick leave by the city manager shall not exceed 180 days of sick leave.

§ 6. Deductions

(a) Any compensated sick leave actually taken by any person shall be deducted from his/her sick leave credit.

(b) Holidays and days not included in a normal work week shall not be deducted from sick leave credit. Not more than five days shall be deducted from the sick leave credit of any officer or member of the fire or police departments for absence from duty for any period of seven consecutive days because of disability.

§ 7. Part-Time Employees

Any part-time employee or official of the city, irrespective of status with the exception of employees under the jurisdiction of the school committee and those on the temporary employment account, shall be entitled, without loss of pay, to earned sick leave credit, accrued sick leave, and accumulations in an amount determined on the basis of the proportion between his/her part-time service and full-time service.

§ 8. Transfer within City Service

No transfer within the service of the city shall affect the amount of earned sick leave credit and accumulations which an employee or official has been entitled to under this chapter or the rules of the school committee.

§ 9. Termination of Employment

Sick leave payments, earned sick leave credit, and accumulations to any employee or official shall automatically cease upon such employee's or official's death, resignation, retirement, or permanent separation from the service of the city and no monetary allowance or adjustment shall be made for said sick leave credit or accumulations.

§ 10. Absences Compensated under State law

Persons entitled to sick leave under section two of this chapter shall not receive sick leave payments for any injury, accident or illness for which compensation is payable under the provisions of G.L. c. 152, except that such persons having accrued sick leave credit may be allowed upon request that amount of sick leave payment which, when added to the amount of compensation payable under G.L. c. 152, will result in the full payment of his/her salary or wages.

§ 11. Disability of Firefighters and Police Officers

Officers and members of the fire and police department not entitled to compensation under the provisions of G.L. c. 152 shall continue to receive their regular compensation during the period of their absence from duty because of temporary incapacity resulting from injury or illness arising out of and in the course of the performance of their duty. No sick leave payment or reduction in sick leave credit shall be made for any period of time during which regular compensation is paid under this section. No payment shall be made under this section until approved by the head of the respective department and the city manager.

§ 12. Administrative Leave for Officials and Employees to be Retired

(a) Any official or employee, not subject to subsection (b) hereunder, who is eligible to retire under the provisions of chapter 32 of the General Laws and who has completed twenty years of service with the city for purposes of retirement, or who is over the minimum age to retire for superannuation under chapter 32 of the General Laws may during the last year of his/her service with the city request his/her department head to convert his/her earned sick leave credit in excess of one hundred days to administrative leave to a maximum of twenty days, or in the case of an employee on the EM Schedule, to a maximum of thirty-five days, effective June 1, 2003. The department head, upon request, shall convert such credit to administrative leave and shall grant such leave to the employee or official during his/her last year of service with the city in accordance with the needs of the city, as determined by the department head.

(b) For any employee, upon the retirement of such employee, the department head shall pay the employee as a cash bonus his converted sick leave over one hundred days, said cash bonus not to exceed an amount equal to a maximum of twenty sick leave days of the employee, unless otherwise provided for by the respective collective bargaining agreement or if

the employee is on the EM Schedule, said cash bonus shall not exceed a maximum of thirty-five days, effective June 1, 2003.

§ 13. Earning of Sick Leave While in Sick Leave Status

Notwithstanding the provisions of any ordinance to the contrary, all persons entitled to sick leave under section two, shall earn sick leave credit notwithstanding being in the status of paid sick leave under this chapter.

§ 13A. Sick Leave Incentive Program for Executive Management (EM) Employees

Employees on EM Schedule who use five or less sick leave days during the sick leave year, June 1 – May 31 for all EM employees, except those in public safety departments whose sick leave year shall be January 1 – December 31, shall have the option to convert up to seven unused sick days minus the number of sick days actually used during the sick leave year at the rate of 75% of their then current pay, effective July 1, 2004.

Vacation Leave

§ 14. Excepted Classifications

All offices and positions in the government of the city shall be subject to this chapter, except the following:

(a) Those filled by popular election;

(b) Those under the jurisdiction of the school committee;

(c) Those temporary, intermittent, and part-time positions not meeting the definitional requirements set forth in this chapter, for such positions.

§ 15. Eligibility

Vacation shall be granted to every employee who is entitled to such leave under this Article. The duration of such vacation leave shall be computed as follows:

(a) <u>One Week Vacation</u>: Every qualifying full-time, intermittent, or part-time employee on Pay Schedule 1, 3A, 4A, 5, 6, 9P, 9M, or EM who has actually worked at least one day during the twelve months preceding the first day of June in any year shall be entitled to one week of vacation leave for such vacation year, provided however, that said employee shall not be allowed to take said vacation during vacation year unless he has actually worked thirty weeks or (1200 regular hours in the aggregate) with the city; if said employee fails to work thirty weeks or 1200 hours prior to the end of the vacation year, he shall not be eligible for any vacation for that vacation year.

(b) <u>Two Week Vacation</u>: Every qualifying full-time, intermittent or part-time employee on pay schedules 1, 3A, 4A, 5, 6, 9P, 9M, or EM and subject to subsection (a)(1) who has actually worked at least fifty-two weeks during the twelve months preceding the first day of June shall be eligible for two weeks vacation. Every full-time, intermittent, or part-time employee on a Pay Schedule other than 1, 3A, 4A, 5, 6, 9P, 9M, or EM who has actually worked at least thirty weeks (1200 hours in the aggregate) in the service of the city during the twelve months

preceding the first day of June in any year shall be entitled to two weeks vacation leave for such vacation year.

(c) Three Week Vacation: Every qualifying full-time, intermittent, or part-time employee who has actually completed at least five years but less than ten years of continuous service to the city during the twelve months preceding the first day of June in any year and who has actually worked thirty weeks (1200 regular hours) with the city during that same twelve month period shall be entitled to three weeks of vacation leave for such year.

(d) Four Week Vacation: Every qualifying full-time, intermittent, or part-time employee who has actually completed at least ten years of continuous service to the city during the twelve months preceding the first day of June in any year and who has actually worked thirty weeks (1200 regular hours) with the city during that same twelve month period shall be entitled to four weeks of vacation leave for such year.

(e) Four Week Vacation Leave For Public Health Personnel:

(1) Every full-time, intermittent, or part-time employee in any of the following classifications who actually worked at least thirty weeks (1200 regular hours) in the aggregate in the service of the city during the twelve months preceding the first day of July in any year shall be granted four weeks of vacation leave for such year:

Public Health Nurse
Supervising Public Health Nurse
Assistant Public Health Nursing Director
Public Health Nursing Director

(1) The vacation period for those employees in the classification of public health nurse shall be restricted to the months of July and August of such vacation year and shall be only as authorized by the department head, so that the department head shall not be handicapped thereby; provided, however, that the department head may, in his/her discretion, schedule the vacation period in whole or in part during the months other than July and August.

(3) Except in those instances where another provision of this chapter may be contrary to this vacation allowance, all sections of this chapter shall otherwise be applicable to these applications.

(f) Vacation Credit for Prior Experience. Notwithstanding the foregoing or any other ordinance or practice to the contrary, the city manager shall have the authority to credit employees in any position which is not governed by civil service and included in a collective bargaining group with all or part of the time that employee served in prior city employment, or in any other prior employment, when calculating the number of weeks of vacation leave granted by this ordinance. The authority granted by this section may be exercised annually or permanently and, in the case of employees under the jurisdiction of the city council, by the city council, and in no event shall result in any employee receiving vacation leave in excess of the maximum amount of vacation leave granted by these ordinances.

§ 16. Eligibility for Police Officers

Subject to the rules and regulations promulgated by the city manager, the chief of police shall grant vacation leave in accordance with the provisions of section five to police officers and officials as follows:

(a) Five Days of Vacation: Every qualifying police officer or police official with less than one year of service who has actually worked six months of full-time, continuous service preceding the first day of July in any year shall be entitled to five days of vacation leave for such year.

(b) Ten Days of Vacation: Every qualifying police officer or police official who has actually completed a minimum of one year but less than five years of full-time, completed a minimum of one year but less than five years of full-time, continuous service for the city during the twelve months preceding the first day of July in any year shall be entitled to ten days of vacation leave for such year.

(c) Twenty-One Days of Vacation: Every qualifying police officer or police official who has actually completed a minimum of five years but less than ten years of full-time, continuous service for the city during the twelve months preceding the first day of July in any year shall be entitled to twenty-one days of vacation leave for such year.

(d) Twenty-Eight Days of Vacation: Every qualifying police officer or police official who has actually completed a minimum of ten years of full-time continuous service for the city during the twelve months preceding the first day of July in any year shall be entitled to twenty-eight days of vacation leave for such year.

(e) Exclusive Application: Notwithstanding any provision of this chapter, the amount of vacation leave for police officers shall be governed exclusively by this section.

§ 17. Eligibility for Graduate Librarians

(a) Effective January, 1977, Graduate Librarians, Grades 1-5, employed by the Worcester Public Library for at least fifty-two weeks during the twelve months preceding the first of June who have actually worked for the Library at least 30 weeks (1200 hours) shall receive four weeks vacation for the vacation year.

(b) Notwithstanding the provisions of § 19 below, the head librarian is authorized to grant vacation leave at such times and for such duration (but in no event to exceed 20 days) which, in his opinion, will least interfere with the needs of the Library.

§ 18. Exceptions Authorized by the City Manager

Notwithstanding the limitations imposed by section 15, 16, 17 or 19, the city manager may continue to grant in any department in any leave year such vacation as had been granted by custom, practice, or rule prior to the effective date of this chapter; provided, however, that any employee, appointed in any department after July 24, 1955 shall henceforth be granted only such vacation leave as is or may be authorized by section 15, 16 or 17 exclusive of this section.

§ 19. Granting of Vacation Allowance

(a) Subject to the rules and regulations promulgated by the city manager, the head of each department shall be authorized to grant and to assign vacation leave to any employee eligible therefor at such time during the current leave year as, in his/her opinion, will cause the least interference with the performance of the regular work of the city.

(b) Notwithstanding anything in subsection (a) above, in no instance shall vacation leave be granted by the department head in periods other than as follows:

(1) If an employee is eligible for one week of vacation leave:

- The vacation leave shall be granted in a period of not less than one full week;

(2) If an employee is eligible for two weeks of vacation leave:

- Two full weeks of vacation leave may be granted at one time.
- At least one full week shall be granted at one time. The remaining week may be granted in period of not less than one full day at a time.

(3) If an employee is eligible for three weeks vacation leave:

- Three full weeks of vacation leave may be granted at one time.
- At least two full weeks shall be granted at one time. The remaining week may be granted in full separately or may be granted in periods of not less than one full day at a time.

(4) If an employee is eligible for four weeks of vacation leave:

- Not more than three full weeks of vacation leave may be granted at one time.
- One or two weeks may be granted in full separately.
- At least one week of these two weeks shall be granted in full. The remaining week may be granted in full separately or may be granted in periods of not less than one full day at a time.

§ 20. Scheduling of Vacation Leave

Notwithstanding the provisions of § 19, the department head, upon proper notice and request by the employee, may waive the restrictions of § 21 as to the number of days or weeks that may or may not be taken at one time and grant vacation leave at the department head's convenience; provided, however, a minimum of one full day must be taken at a time.

§ 21. Additional Day of Vacation Leave

If any of the holidays described in § 42 of this chapter falls within a full week of vacation leave taken by an employee, such employee shall be entitled to an extra day of vacation leave. Such extra day of vacation leave shall be taken by such employee forthwith and as part of his/her regular vacation leave. In no instance shall an employee be given an extra day of vacation leave, as herein provided, when the vacation leave of such employee is granted in periods of less than one full week.

§ 22. Vacation Leave in Advance Prohibited

No employee shall be granted vacation leave until he or she is eligible therefor under the provisions of this chapter. Vacation leave shall not be granted in anticipation of service.

§ 23. Vacation Leave Carry-Over Prohibited

(a) All vacation leave must be taken during the leave year in which the employee becomes eligible for vacation leave. Any vacation leave which is not taken then, in accordance with this chapter, shall be lost. Vacation leave may not, under any circumstances be accumulated or taken in a subsequent leave year.

(b) Notwithstanding the provisions of this section, the city manager may waive the prohibitions of § 8 for the personnel of the assessing department and the technical services division of the department of administration and finance for a period of not greater than one year if, in his opinion, it will be in the best interest of the city.

(c) Notwithstanding the provisions of this section, employees on the EM Schedule may buy back up to seven unused vacation leave days at the end of the vacation leave year, at 75% of their then current rate of pay, effective July 1, 2004.

§ 24. Vacation Leave for City Manager

The city manager shall be credited with vacation leave, exclusive of legal holidays, upon appointment and on each anniversary date of appointment, to the extent specified in his or her contract of employment as the same is authorized under Article III of the Home Rule Charter.

§ 25. Vacation Pay Computation

The rate of pay for any employee while in the status of vacation leave shall be the rate of pay for the primary classification of such employee. For those employees having a secondary classification, however, the rate of pay shall be based on the classification in which the employee actually worked, exclusive of overtime, for a minimum of twelve hundred hours in the aggregate during the twelve months preceding the first day of June in any leave year, provided, however, for the classification of motor equipment operator A, B, C, and D, the minimum hours shall be one thousand.

§ 26. Duty Concurrent with Vacation Prohibited

The head of a department shall not knowingly permit any employee to perform any service in his/her department for which such employee would be entitled to receive pay or other compensation while such employee is receiving pay or other compensation from any department for vacation leave or any other leave.

§ 27. Credit for Service in the Worcester Public School System

For purpose of eligibility for vacation leave, the term "in service of the city" shall be deemed to include credit for service in the Worcester Public School system.

§ 28. Terminated Employees

Employees whose service is terminated through resignation or dismissal for cause shall not be entitled to any earned but unused vacation nor to any compensation in lieu thereof.

Other Leaves

§ 29. Delegates to Conventions

A department head may, when requested by an employee in writing, grant a leave of absence without loss of pay or reduction of the vacation leave credit to any employee who furnishes an authenticated minute of his/her post indicating that he has been elected to a delegate to a state, regional, or national convention of any of the following organizations:

American Gold Star Mothers, Inc.
American Legion
American Portuguese War Veterans Association
American Veterans Committee, Inc.
American Veterans of World War II, AMVETS - Department of Massachusetts
Army and Navy Union of the United States of America
Daughters of Union Veterans of Civil War
Disabled American Veterans of the World War
Franco-American War Veterans, Inc.
Fleet Reserve Association, United States Navy
Grand Army of the Republic
Italian-American World War Veterans of the United States of America, Inc.
Jewish War Veterans of the United States
Kearsarge Association of Naval Veterans, Inc.
Marine Corps League
Massachusetts Society of the Sons of the American Revolution
Massachusetts State Guard Veterans
Military Order of the Purple Heart
Military Order of the World Wars
Reserve Officers Association of the United States, Inc.
Seabee Veterans of America, Inc. - Department of Massachusetts
Society of the War of 1812 in the Commonwealth of Massachusetts (Inc.)
Sons of Union Veterans of the Civil War
United Spanish War Veterans
Veterans of Foreign Wars of the United States
Yankee Division of Veterans' Association

provided that not more than two employees in any one department may be absent concurrently under this section, and provided further that the absence of any employee under this section does not inconvenience or cause additional expense to the city. No employee shall be authorized to attend more than one such convention in any twelve month period commencing on the first day of January.

§ 30. Compassionate Leave

(a) A department head shall, when so requested by an employee in writing, grant a leave of absence without loss of pay or reduction of vacation leave credit to said employee to enable him/her to properly attend the mourning and funeral of a person in accordance with and not to exceed the schedule enumerated below:

(1) Spouse of employee - not to exceed five days;
(2) Father, mother, son, daughter, of employee or employee's spouse, brother, or sister of employee; stepfather, stepmother, stepson, stepdaughter of employee, provided such person resided in employee's immediate household at time of death; person placed by authority of law under the care of employee as guardian - not to exceed three days;
(3) Brother or sister of employee's spouse; grandmother, grandfather, grandson, granddaughter of employee or employee's spouse; stepson, stepdaughter of employee residing outside of employee's home at time of death; blood aunt or uncle of employee - not to exceed one day;
(4) No compassionate leave is granted for death of stepfather, stepmother, stepson, stepdaughter, blood aunt or blood uncle of the employee's spouse.

(b) This section shall not apply to employees who are covered by a collective bargaining agreement, for whom the terms of the respective agreement shall be controlling.

(c) A department head may, when so requested by an employee in writing, grant a leave of absence not to exceed one-half working day without loss of pay or reduction of the vacation leave credit to said employee to enable him/her to attend the funeral of another employee or retired employee, providing such absence does not inconvenience or add to the expenditures of the city.

§ 31. Funerals of Veterans

A department head may, when so requested by an employee in writing, grant a leave of absence without loss of pay or reduction in the vacation leave credit for a period not to exceed one-half day to said employee for the purpose of attending the funeral or memorial services of a veteran or of any person dying other than under dishonorable circumstances while serving in the armed forces of the United States in time of war or insurrection, provided that not more than one employee in any department may be absent concurrently under this section and provided further that the absence of any employee under this section does not inconvenience or cause additional expense to the city.

§ 32. Military Training

A department head shall grant to any employee, without loss of pay or reduction in his/her vacation leave credit, a leave of absence of up to seventeen days as authorized under G.L. c. 33. § 59; provided that said employee shall furnish to said department head an authenticated copy of the orders issued to him/her and shall furnish an authenticated certificate showing the date or dates on which such duty was performed.

§ 33. Authorized Leave Without Pay

A department head may grant a leave of absence without pay to any employee for any purpose not specifically set forth in this Article, provided that no employee shall be absent

without pay for a period of time in excess of one week without receiving the approval of the city manager upon the recommendation of the department head and the director of the Office of Human Resources. Not more than thirty days in the aggregate shall be granted under this paragraph for absence without pay in any twelve month period commencing on the first day of January.

§ 34. Overtime Compensatory Leave

(a) The city manager may grant to officers of the city not in a bargaining unit, not eligible under any circumstances for paid overtime or compensatory time off, and with less than ten years of service with the city, a leave of absence without loss of pay or reduction of any vacation leave or personal leave credit, not to exceed five days per vacation year for such persons with five to ten years of service and not to exceed ten days per vacation year for such persons with less than five years of service.

(b) Said leave shall be granted by the city manager only to such officers who actually perform overtime work for the city without pay in excess of one-hundred-twenty hours per vacation year.

(c) No eligible officer shall be granted overtime leave unless he/she has actually completed one year of full-time continuous service with the city.

(d) Overtime leave shall be administered in accordance with the provisions of vacation leave and may not be accumulated or carried over to another vacation year.

§ 35. Unauthorized Leave Without Pay

(a) Any absence from regular duty which has not been authorized by general or special law, by this or any other ordinance, or by administrative rules and regulations promulgated by the city manager shall be unauthorized leave without pay.

(b) Any non-civil service employee who is absent from his/her regular duty for a period of one week (seven consecutive calendar days) in the aggregate without specific authorization for such absence and any civil service employee who is absent from his/her regular duty for a period of two weeks (fourteen consecutive calendar days) in the aggregate without specific authorization shall be deemed to have resigned from the service of the city and to have vacated permanently his/her position unless authorization is subsequently granted by the city manager.

§ 36. Maternity Leave

Maternity leave shall be granted in accordance with G.L. c. 149, § 105D, and G.L. c. 151B, § 4.

§ 37. Civil Service, Nursing Registration

A department head may, when so requested by an employee in writing, grant a leave of absence without loss or pay or reduction of the vacation leave credit to said employee for the purpose of taking a nurse registration examination, a licensed practical nurse examination or bar examination, or for the purpose of appearing before an examiner of the Division of Civil Service to take an oral, written, or practical examination or a physical examination for a

position in the employment of the city. Such leave of absence shall not exceed one-half day if the examination is conducted within city limits or one day of the examination is conducted outside the city.

§ 38. Personal Leave

(a) The city manager may, whenever he or she deems that it will serve the best interests of the city, grant, under such conditions as he or she may specify, a leave of absence, without loss of pay or reduction of the vacation leave credit to any or all employees for the proper observance of religious holiday, for special events, occasions or celebrations, for actual or impending inclement weather, or for any other situation, provided, however, that such leave shall not cause additional expense or inconvenience to the city.

(b) This section shall not apply to any employee in a collective bargaining unit unless so provided for and under the conditions established, by the terms of the respective bargaining agreement.

§ 39. Administrative Leave for Police Officers

(a) Subject to the provisions of § 11 of Appendix A of these Revised Ordinances, the chief of police shall grant employees with rank of police officer seventeen administrative leave days during the calendar year. The chief may schedule police officers on a work week of four working days and two days off and if necessary, one administrative leave day. The chief shall institute such a schedule for police officers of the police department no later than April 1, 1974, provided however, for such police officers, who in his/her judgment should not be on such a schedule, he may place them on such other schedule as he deems advisable and shall grant them their administrative leave days at an appropriate time as deemed by him/her.

(b) Upon the implementation of this chapter, no police officer shall receive personal leave from the city.

§ 40. Adjustment Leave for Police Officials

(a) Subject to the provisions of these Revised Ordinances, the chief of police shall grant employees with the rank of sergeant, lieutenant, captain, and deputy, adjustment leave as follows:

Employees who have completed one year of continuous service as of June 30, shall be granted fourteen adjustment leave days in the following fiscal year of the city.

(b) Adjustment leave days will be scheduled by the chief in advance of the fiscal year of entitlement. The chief shall retain the right to schedule such days in accordance with the needs of the department. Adjustment leave days not used in the fiscal year for which they are accrued may not be carried forward into any future fiscal year.

(c) Those employees assigned to a four & two schedule will not be granted adjustment leave days or personal days. Those employees assigned to a five & two schedule with adjustment leave days shall be granted three personal days.

§ 41. Administrative Leave for Civilian Employees

(a) Those employees who have actually completed ten years of full time, continuous service to the city shall be entitled to two administrative leave days annually.

(b) The granting and administering of administrative leave to employees who are entitled to receive it shall be in accordance with the provisions of this chapter relative to vacation leave.

(c) This section shall not apply to any employee in a collective bargaining unit unless so provided for, and under the conditions established, by the terms of the respective bargaining agreement.

§ 42. Holiday Leave

(a) Subject to the rules and regulations promulgated by the city manager, full-time civilian employees of the city shall be entitled to eleven paid holidays enumerated below in addition to any regular days off to which they may be entitled:

(1) First day of January or the day preceding when said day occurs on a Saturday, or the day following when said day occurs on a Sunday;

(2) Third Monday in January;

(3) Third Monday in February;

(4) Third Monday in April;

(5) Last Monday in May;

(6) Fourth day of July or the day preceding when said day occurs on a Saturday, or the day following when said day occurs on a Sunday;

(7) First Monday in September;

(8) Second Monday in October;

(9) Eleventh day of November or the day proceeding when said day occurs on a Saturday, or the day following when said day occurs on a Sunday;

(10) A day in November proclaimed as Thanksgiving Day;

(11) Christmas Day or the day preceding when said day occurs on a Saturday, or the day following when said day occurs on a Sunday.

(b) This section shall not apply to the following classifications in the Vocational School Department:

Department Head
Instructor

§ 43. Time and One-Half for Holiday Work

Employees who actually work on the three days enumerated below shall be entitled to time and one-half pay for any hours worked on said holidays, in addition to their regular holiday pay for said holidays:

(a) The first day of January or the day preceding when said day occurs on a Saturday, or the day following when said day occurs on a Sunday;

(b) A day in November proclaimed Thanksgiving Day;

(c) Christmas Day or the day preceding when said day occurs on a Saturday, or the day following when said day occurs on a Sunday.

§ 44. Eligibility for Holiday Leave

Upon completion of one year of service and subject to the rules and regulations promulgated by the city manager, part-time civilian employees of the city working regularly twenty or more hours per week shall be entitled to the eleven holidays enumerated in § 10 above in addition to any regular days off to which they may be entitled.

§ 45. Holiday Leave for the Police and Fire Departments

(a) All uniformed members of the fire department shall receive holiday leave in accordance with G.L. c. 48, § 57D, except that any uniformed member of the department whose tour either commences or ends on New Year's Day, Thanksgiving Day, or Christmas Day shall be compensated for all hours of such tour at the rate of time-and-one-half such employee's straight-time hourly rate of pay; provided, however, that such employee shall be entitled to such time-and-one-half pay only if such employee shall not have called in sick for a scheduled tour on the calendar day before or after such holiday. Any member who works two tours, both of which fall within one of the holidays listed above, shall be entitled to receive time-and-one-half holiday pay for only one tour.

(b) All uniformed members of the police department shall receive holiday leave in accordance with G.L. c. 147, § 17A, except that any uniformed member of the department who actually works on New Year's Day, Thanksgiving Day or Christmas Day shall be compensated therefor at the rate of time-and-one-half such employee's straight time hourly rate of pay for all hours worked on said holidays; provided, however, that such employee shall be entitled to time-and-one-half pay only if such employee shall not have called in sick on either the calendar day before or the calendar day after said holiday.

Miscellaneous

§ 46. Conflict with Collective Bargaining Agreements

If a collective bargaining agreement reached by the city and a recognized or certified union or association contains a conflict between matters which are within the scope of negotiations under § 6 of chapter 150E of the General Laws and any provision of this chapter, the terms of the collective bargaining agreement shall prevail.

§ 47. Rules and Regulations

The city manager is empowered to promulgate any rule and regulation not consistent with this chapter which he/she may deem necessary for the effectuation of this chapter.

§ 48. Interpretation

This chapter shall be construed as a grant of authority and not as a limitation thereof.

Chapter Four - Recycling & Solid Waste Collection

§ 1. Supervision
§ 2. Definitions
§ 3. Solid Waste Collection
§ 4. Recyclable Collection
§ 5. Placement of Items for Collection
§ 6. Prohibited Actions
§ 7. Rules and Regulations
§ 8. Enforcement

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§ 1. Supervision

The commissioner of public works and parks shall have the supervision, direction, and control of the collection and recycling of solid waste.

§ 2. Definitions

Unless otherwise required by the context, the following words shall be afforded the following definitions:

bulk item - any item which weighs more than thirty pounds or measures more than thirty-six inches in any one direction, and shall include, by example, the following items: Mattresses, furniture, lumber, trees, tree limbs, stoves, refrigerators, and tires.

commissioner - the commissioner of public works and parks of the city.

department - the department of public works and parks of the city.

recyclable - any item contained on a list of recyclable items issued and amended from time to time by the commissioner, and shall include, by example, the following items: newspapers, magazines, chip board, junk mail, glass bottles and jars, metal food and beverage cans, can lids, aluminum foil and trays, juice and milk cartons, drink boxes and plastic bottles classified as #1, #2 and #3 and whose bases are larger than their necks or mouths.

solid waste - any waste which is not designated by the commissioner as a "recyclable" item or as a "bulk" item and shall include, by example, the following items: plastics other than those classified as #1, #2 or #3, food waste, used or soiled paper products (paper towels, cardboard, napkins, etc.).

§ 3. Solid Waste Collection

(a) The department shall collect solid waste from single family dwellings and multiple family residential buildings containing up to six dwelling units. Solid waste shall be made on a weekly basis in areas designated by day, unless such collection is waived by the commissioner.

(b) Solid waste shall be collected only if placed in plastic bags approved by the commissioner. No bag shall be collected if its weight exceeds the weight limit for that bag. No solid waste shall be collected by the department from inside dwelling units or garages or any place other than the curbside area specified in this chapter.

(c) The department shall not collect bulk items placed on the curb for collection with the solid waste pick-up. Bulk items shall be the responsibility of the owner to dispose of and shall not be included within the regular collection.

(d) The department shall not collect residential solid waste collection bags or recycling bins if any of the following conditions exist:

(1) solid waste not contained in an approved collection bag;
(2) dangerous dog, or other animal, on premises;
(3) improper location of collection bag or recycling bin;
(4) collection bag exceeds weight limit;
(5) sharp object not properly wrapped, packaged or labeled;
(6) unsanitary conditions at the collection point resulting from ripped or torn collection bags or an improper recycling bin.

§ 4. Recyclable Collection

The commissioner shall collect, or cause to be collected, at least once every two weeks, recyclable items placed in recycling bins in accordance with any regulations governing such collections as he or she may from time to time issue.

§ 5. Placement of Items for Collection

(a) Any person desiring collection of solid waste or recycling items shall place approved solid waste bags or recycling bins at the curbside, or as near as possible, without interfering with pedestrian traffic. No person shall place solid waste bags or recycling bins on the roadway for collection.

(b) No solid waste bag or recycling bin shall be placed at curbside earlier than 6:00 a.m. or later than 7:30 a.m. of the day of collection. Solid waste bags and recycling bins must be in place prior to arrival of the collection trucks.

(c) Nothing of value shall be placed at or near the collection point for solid waste or recycling items.

(d) Owners, including tenants or designated agents, shall maintain safe and sanitary conditions at the collection point.

§ 6. Prohibited Actions

(a) No person shall place any building debris, explosives or hazardous materials in any solid waste collection bag for collection by the city.

(b) No person shall dispose of dead animals, other than those slaughtered for human consumption, in a solid waste collection bag for collection by the city.

(c) No person shall dispose of leaves or yard waste with the solid waste collection or in any collection bag placed for collection by the city.

(d) No person shall place any sharp objects such as broken glass, syringes or needles in any collection bag such that they will puncture the collection bag or otherwise endanger the person collecting the bag.

(e) No person shall place recyclable items in any solid waste bag placed out for collection.

(f) No person shall place solid waste in any recycling bin placed out for collection.

(g) No person shall violate any of the provisions of this ordinance, or the rules or regulations of the commissioner, concerning the disposal and collection of solid waste and recyclable items.

(h) No person, unless authorized by the commissioner shall sort, open, remove items from, place items in, or in anyway disturb the solid waste bag or recycling bin placed at curbside by another.

§ 7. Rules and Regulations

The commissioner may promulgate rules and enforcement and regulations relative to the administration, operation of solid waste collection and recycling activities of the city.

§ 8. Enforcement* - Amended September 13, 2016 – 313

This chapter may be enforced by civil process, criminal process or by non-criminal disposition as provided in General Laws, Chapter 40, § 21D. The penalty for a violation of §5(a) and §5(b) is as follows:

First violation:	$25.00
Second violation and subsequent violations:	$100.00

(2) For any other section of this chapter, the penalty for the first violation shall be one hundred dollars ($100.00), and three hundred dollars ($300.00) for any subsequent violation occurring in a single calendar year. Each violation shall be deemed a separate offense.

Chapter Five - Sewers And Storm Water Management

§ 1. Definitions

Permit & Application Requirements

§ 2. Permits Required
§ 3. Application Requirements
§ 4. Display & Duration
§ 5. Record of Permits

Fee Schedule

§ 6. Capacity Fee
§ 7. Costs of Connection

Connections & Discharges

§ 8. Separate Sewers
§ 9. Re-use of Existing Sewers
§ 10. Construction Methods and Materials
§ 11. Building Sewer Elevation
§ 12. Roof, Surface and Groundwater Connections
§ 13. Connection of Building Sewer to Public Sewer
§ 14. Notification for Inspection
§ 15. Sewer Excavations
§ 16. Drainlayer Requirements

Use of Public Sewers, Private Sewers, and Drains

§ 17. Certain Discharges Prohibited
§ 18. Permissible Discharges
§ 19. Temporary Discharge Permits
§ 20. Discharges Categorically Prohibited
§ 21. Discharges Prohibited by Commissioner
§ 22. Commissioner to Control Prohibited Discharges
§ 23. Obligations of Owners
§ 24. Measurement and Test Standards
§ 25. Special Agreements
§ 26. Sewer User Charge System
§ 27. Unpaid Bills – Interest

Enforcement

§ 28. Interference with Sewage Works
§ 29. Trespass
§ 30. Inspection Powers
§ 31. Safety and Indemnification
§ 32. Sewers Easements
§ 33. Notice of Violations Required
§ 34. Fines and Restitution

Grease Management Program

§ 35. Fat, Oil, and Grease Control

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§ 1. Definitions

Unless the context specifically indicates otherwise, the meaning of terms used in this chapter shall be as follows:

biochemical oxygen demand (BOD) - the quantity of oxygen used in the biochemical oxidation of organic matter in a specific time, at a specified temperature, and under specified conditions.

building drain - shall mean that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning ten (10) feet outside the inner face of the building wall.

building sewer - the extension from the building drain to the public sewer or other place of disposal; also called "house connection", “building service”, and/or “service connection”.

chemical oxygen demand (COD) - a measure of the oxygen consuming capacity of inorganic and organic matter present in water or wastewater expressed as the amount of oxygen consumed from a chemical oxidant in a specific test. It does not differentiate between stable and unstable organic matter and thus does not necessarily correlate with biochemical oxygen demand.

city official - means the commissioner or the individual(s) duly appointed by him or her for the performance of any of his or her functions or responsibilities under this ordinance.

combined sewer - a sewer intended to receive both sewage and storm (or surface) water.

commercial sewage waste - non-toxic, non-hazardous facilities, including but not limited to institutional self-service laundries, and animal holding facilities.

commissioner - the commissioner of public works and parks of the city.

composite sample - a combination of individual samples of water or wastewater taken at selected intervals, generally hourly, for a specified time period, to minimize the effect of variability of the individual sample. Individual samples may have equal volume or may be roughly proportioned to the flow at time of sampling.

ccf - cost per hundred cubic feet.

department - the department of public works and parks established by Article 5 of Part Two of these Revised Ordinances.

district - Upper Blackstone Water Pollution Abatement District (UBWPAD).

drain - (1) a conduit or channel constructed to carry off, by gravity, liquids other than wastewater, including surplus underground, storm or surface water. It may be an open ditch, lined or unlined, or a buried pipe. (2) in plumbing, any pipe which carries water or wastewater in a building drainage system.

drainage - (1) water which has been collected by a drain system and discharged into a natural watercourse. (2) water flowing in a drain, derived from ground, surface, or storm water.

drainlayer - a general term applied to one in the business of laying drains and/or sewers from existing public sewers to the building drain of homes, commercial buildings, industrial buildings, and similar structures and properties.

effluent - wastewater or other liquid flowing out of a basin, treatment plant, or industrial treatment plant, or part thereof.

entrails - the internal parts of animals such as the bowels, guts, and viscera.

equalization of waste flows - an averaging of variations in flow and composition of wastewaters from particular sources by an equalizing basin or other means, to provide a flow of reasonably uniform volume and composition prior to the discharge into a public sewer.

food service facility or facility – any food service facility that prepares and/or packages food or beverages for sale or consumption, on or off site, with the exception of private residences. Food service facilities shall include, but are not limited to: food courts, food manufacturers, food packagers, restaurants, grocery stores, bakeries, lounges, hospitals, hotels, nursing homes, churches, schools and all other food service facilities not listed above.

garbage - solid wastes from the domestic and commercial preparation, cooking, and dispensing of food.

garbage disposal - a device that shreds or grinds up food waste materials into smaller portions for discharge into the City's wastewater collection system.

grab sample - a single sample of sewage (wastewater).

gray water – (1) all of the liquid contained in a grease interceptor that lies below the floating grease layer and above the food solids layer. (2) Any water that has been used in the home, which includes dish, shower, sink, and laundry water, etc. and excludes water from toilets or urinals.

grease - means a material either liquid or solid, composed primarily of fat, oil, and grease from animal or vegetable sources. The terms "fats, oils, and grease (FOG), "oil and grease", or "oil and grease substances" shall all be included within this definition.

grease hauler - a licensed septage hauler who collects the contents of a grease interceptor or trap and transports it to an approved recycling or disposal facility. A grease hauler may also provide other services to a food service facility related to grease interceptor maintenance.

grease interceptor - a device located underground and outside of a food service facility designed to collect, contain, or remove food wastes and grease from the wastestream while allowing the balance of the liquid waste to discharge to the wastewater collection system by gravity. Grease Interceptors shall have a minimum of two (2) inspection hatches on the top surface to facilitate inspection, cleaning and maintenance by a grease hauler.

grease trap - a device located in a food service facility or under a sink designed to collect, contain, or remove food wastes and grease from the wastestream while allowing the balance of the liquid waste to discharge to the wastewater collection system by gravity. Traps shall have a removable lid on the top surface to facilitate inspection, cleaning, and maintenance.

groundwater - subsurface water occupying the saturation zone, from which wells and springs are fed.

industrial wastes - the liquid wastes from industrial manufacturing processes, trade or business, or activity listed in 310 CMR 15.004.

infiltration - groundwater that enters the sanitary sewer through defects.

inflow - rainwater that enters the sanitary sewer.

infiltration & inflow (I&I) – a combination of infiltration and inflow.

manhole - an opening in a sewer providing access to the sewer.

milligrams per liter (mg/L) - a unit of the concentration of water or sewage (wastewater) constituent. It is 0.001 gram of a constituent in 1,000 milliliters of water. It has replaced the unit formerly used commonly, parts per million, to which it is approximately equivalent, in reporting the results of water and wastewater analyses.

natural outlet - any watercourse, pond, ditch, lake, or other body of surface or groundwater.

neutralized - the condition of a solution existing after the reactions of acid or alkali with the opposite reagent until the concentrations of hydrogen and hydroxyl ions in the solution are approximately equal.

outfall - the conduit leading to the ultimate disposal area.

owner, homeowner, or property owner - shall include any agent of an owner.

paunch manure - the waste products of animals still found in the stomach or intestine upon slaughtering.

PDI - Plumbing and Drainage Institute.

person - any individual, firm, company, corporation, association, society, or group, including; any municipality, public authority or other public instrumentality.

pH - the logarithm of the reciprocal of the hydrogen ion concentration. The concentration is the weight of hydrogen ions, in grams, per liter of solution. Neutral water, for example, has a pH value of seven (7) and a hydrogen ion concentration of 1.0×10^{-7} moles per liter of solution.

pickling waste - the wastewater from cleaning of iron, usually containing high amounts of iron and chloride ions in hydrochloric acid.

plating solution - a solution of the salts of metals used in metal plating and electroplating, usually an acid or a cyanide base.

pretreatment - any treatment of sewage (wastewater) to make it suitable for discharge to a public sewer.

private sewer - any sewer not owned and maintained by the city.

properly shredded garbage - the wastes from the preparation, cooking, and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half (1/2) inch in any dimension.

public nuisance - a wrongful act which destroys or deteriorates the property, real or personal, of an indefinite number of persons, or interferes with their lawful use or enjoyment thereof.

public sewer - a sewer which is owned and maintained by the city.

sanitary sewer - a sewer that carries liquid and water-carried wastes from residence, commercial buildings, industrial plants, and institutions, together with minor quantities of groundwater, storm water, and surface water that are not admitted intentionally.

sewage - wastewater from homes, public buildings, commercial or industrial establishments, or any combination thereof, including surface or groundwater that may be present therein.

sewage treatment plant - shall mean any arrangement of devices and structures used for treating sewage.

sewage works - all-inclusive term for sewage (wastewater) collection, pumping, treatment, and disposal facilities.

sewer - a pipe or conduit that carries wastewater or drainage water.

sewer district - any community and/or sewer district that is a member of the Upper Blackstone Water Pollution Abatement District.

sewerage system" - a system of piping, with appurtenances, for collecting and conveying sewage (wastewater) from source to discharge.

slug - any discharge of water, sewage, or industrial waste which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than fifteen (15) minutes more than five (5) times the average twenty-four (24) hour concentration or flow during normal operation.

storm drain - (sometimes termed "storm sewer") shall mean a sewer which carries storm, surface waters, and/or drainage, but excludes sewage and industrial wastes, other than unpolluted cooling water.

suspended solids - (1) solids that either float on the surface of, or are in suspension in water, wastewater, or other liquids, and which are largely removable by laboratory filtering. (2) the quantity of material removed from wastewater in a laboratory test, as prescribed in "Standard Methods for the Examination of Water and Wastewater" and referred to as the portion of total solids retained by a filter.

trunk - refers to a sewer that receives many tributary branches and serves a large service area.

unpolluted waters - waters that require no treatment to meet the standards of water quality for discharge into natural outlets.

wastewater - the spent water of a community. A combination of the liquid and water-carried wastes from residences, commercial buildings, industrial plans, and institutions, together with any groundwater, surface water, and/or storm water that may be present.

watercourse - a channel in which a flow of water occurs, either continuously or intermittently.

Permit & Application Requirements

§ 2. Permits Required

(a) No unauthorized person shall uncover, make any connections with or any opening into, use, repair, alter, or disturb any public sewer or appurtenance thereof, or any building

sewer or other private sewer that connects to a public sewer without a sewer connection permit issued by the commissioner.

(b) No person shall make any new discharge, or increase the volume or change in the character of any previously permitted discharge, into the public sewers without a discharge permit issued by the commissioner.

(1) For purposes of this subsection (b), the term "previously permitted discharge" shall mean a discharge which has been authorized under a sewer discharge or connection permit issued by the commissioner under this chapter for which the capacity fee required by section six hereof has been paid; or, in the event that no sewer discharge or connection permit containing a maximum authorized discharge volume has been issued, the "gallons per day" as listed in the State Environmental Code, Title 5 (310 C.M.R. 15.203)(hereafter "Title Five") for the "type of establishment" listed in Title Five as determined by the commissioner shall be used. For the purpose of this section, the "type of establishment" will be that use limited to the previous 10 years. – Amended May 17, 2016 – 272

(2) An "increase in volume" shall mean and be calculated by subtracting the previously permitted discharge volume from the "gallons per day" as listed in the State Environmental Code, Title 5 (310 C.M.R. 15.203) for the appropriate category of use as determined by the commissioner.

(3) Any person owning property which is connected to the public sewers who expands or changes the use of that property so as to require or obtain a "certificate of use and occupancy" under the state building code or who changes the use from one to another "type of establishment" listed in Title Five shall file an application for a sewer discharge or connection permit with the commissioner under this chapter. Whenever the increase in volume is greater than one thousand five-hundred G.P.D., the commissioner shall not issue a sewer discharge or connection permit until the property owner pays the capacity fee established under section 6(b)(2) of this chapter for each new gallon per day by which the increase in volume exceeds the previously permitted discharge by one thousand five-hundred G.P.D. – Amended May 17, 2016 – 272

(4) In addition to the specific daily penalty provided in section 2(b)(9)(C) of chapter 15 of these revised ordinances, any person who owns property which is connected to the public sewers who increases the volume of the discharge without a permit as required by this section shall be deemed to have incurred the obligation to pay the capacity fee established herein and shall be subject to a municipal charges lien in the amount of the sewer capacity required described herein and the commissioner shall be authorized and obligated to record such a lien in the registry of deeds and shall, if such charge remains unpaid, certify such charge to the city assessor and committed on the warrant to the collector of taxes.*

***Amended January 6, 2009 - 9247**

(c) No person shall make a temporary discharge of treated, contaminated groundwater or surface water into the public sewer without a temporary discharge permit issued by the Commissioner.

§ 3. Application Requirements

(a) Application for permits to construct and/or connect a building sewer or other private sewer to the public sewers of the city shall be made by the owner in writing to the department at least forty-five (45) days prior to the new, increased, or changed discharge and shall be accompanied by the fee established by the commissioner pursuant to chapter two, § 24, hereof. Copies of all applications for permits shall be forwarded to the district. There shall be two classes of this type of permit: (1) for residential and commercial service, and (2) for service to establishments producing industrial wastes. In either case, the owner shall make application on such form as may be furnished by the commissioner. The owner shall supplement the application with any plans, specifications or other information considered pertinent in the judgment of the commissioner.

(b) Notwithstanding any provision to the contrary, the city shall be exempt from payment of any fee imposed under this chapter of the Revised Ordinances.

§ 4. Display and Duration

(a) No person shall commence or continue any work involving the laying or repairing of any building or private sewer for which a permit is required by this chapter unless the requisite permit is at the site of the work in the hands of the drainlayer authorized by the owner to perform the work.

(b) Any permit involving the laying or repairing of any building or private sewer shall be valid for sixty (60) calendar days from the issuance of the permit. If the work to be performed under the permit is not then completed, no further work may be performed without a new permit issued by the commissioner in the same manner as the original permit.

§ 5. Record of Permits

The commissioner shall keep a complete record, in books made for that purpose, of permits granted, giving the name of the street, the number of the estate if any, the name of the owner, the size, kind, and location of building sewers and other private sewers connected to the public sewers, the name of the drainlayer making the connection and such other facts in connection therewith as may be important as matters of record.

Fee Schedule

§ 6. Capacity Fee

(a) The city council does hereby make the following findings of fact: That, the capacity of the public sewers of the city is inadequate due to the extensive infiltration and inflow invasions of storm waters, groundwaters and drainwaters; that, said lack of capacity results in the discharge of pollutants into the waters of the city and the commonwealth and creates a

danger to public health and public nuisance; that, further connections to the public sewer would exacerbate the danger to the public health; that, a total moratorium on sewer connections would not serve the public interest or the citizens of the city, particularly with respect to the shortage of housing accommodations, and; that, those proposing to introduce additional wastewater to the public sewer must bear a portion of the expense of reducing infiltration and/or inflow.

(b) The commissioner shall grant permits to applicants to connect their private sewers to the public sewers in accordance with this chapter and any other applicable provision of law; provided, however, that the commissioner shall deny all applications for sewer connection permits unless:

(1) The director of health inspection certifies in writing to the commissioner that the proposed connection is necessary to eliminate or alleviate an existing or imminent public health nuisance caused by the failure of one or more septic systems and the applicant complies with (b)(2) below; or

(2) The applicant pays, in addition to the sewer connection permit fee established by the commissioner pursuant to chapter two, § 24, hereof, a capacity fee based on the number of gallons per day proposed to be introduced by the new connection. The amount of gallons per day to be introduced by the new connection shall be calculated in accordance with the sewage flow estimates contained in subsection (e) herein, or as determined by the commissioner. The capacity fee shall be adjusted each year, on or about July 1, based on the determined city of Worcester Transportation and Treatment (T&T) cost for the previous year. **When the capacity fee established herein exceeds ten thousand dollars the property owner may apply to the commissioner to apportion so much of the fee that exceeds ten thousand dollars pursuant to the provisions set forth below in subparts (A) and (B). The interest rate on such apportionments shall be the rate applied to apportioned betterments assessments. The commissioner shall notify the city treasurer of any such apportionments and the city treasurer shall bill and collect any such apportioned capacity fee.***

(A) When the capacity fee exceeds ten thousand dollars but is less than fifty thousand dollars the property owner shall pay the initial ten thousand dollars and the balance may be apportioned over an eight year period.**

(B) When the capacity fee exceeds fifty thousand dollars the property owner shall pay the initial ten thousand dollars and the balance may be apportioned over a ten year period.*

***Amended October 22, 2013 – 9930**

**** Amended May 17, 2016 – 272**

(3) Notwithstanding the above, the commissioner may refuse to grant any permit for any amount of additional wastewater whenever he or she determines that inadequacies in the design or capacity of the sewer system exist; or that the additional wastewater flow proposed to be introduced into the public sewer by the applicant exceeds the capacity of the public sewer, sewer works,

sewage treatment process or equipment, or would otherwise have an adverse effect on the sewer system or the public health. In support of its request for a permit, the applicant may be required to hire a professional engineer (P.E.) to evaluate impacts on the sanitary sewer and sewer works.

(c) The fees collected pursuant to this section shall be deposited into a separate account and, after recommendations by the city manager and appropriation by the city council, be expended by the commissioner to pay for the removal of infiltration and inflow, including eliminating illegal connections and improvements to pumping stations.

(d) For purposes of determining the additional flow to be introduced by any new connection, sewage flow shall be based on the State Environmental Code, Title 5 (310 CMR 15.203).

(e) For purposes of this section a "bedroom" means any portion of a dwelling, which is so designed as to furnish the minimum isolation necessary for use as a sleeping area. Such area shall not include kitchen, bathroom, dining area, halls, or unfinished cellar; but may include bedroom, den, study, sewing room, or sleeping loft.

§ 7. Costs of Connection

(a) Except as set forth in the following subsections (b), (c), (e) and (f), all costs and expense incident to the construction and connection of the building sewer or other private sewer shall be borne by the owner. The owner shall otherwise indemnify the city from any loss or damage that may directly or indirectly be occasioned by the installation and connection of the building sewer or other private sewer.

(b) For any connection, installation, alteration, repair or other disturbance of a building sewer or other private sewer connecting into a public sewer, which has been performed under a valid sewer connection permit and was inspected and approved by the city, including, where applicable, a water dye test, the homeowner shall not be personally liable for the cost to rectify any illicit connection between the sanitary and storm drain systems. In no event, however, shall the licensed drainlayer who performed such work be relieved of responsibility, but shall rectify the illicit connection, at its expense, upon order of the commissioner. If the licensed drainlayer shall fail or refuse to rectify the illicit connection, the city shall cause the work to be performed, and the cost thereof shall be assessed against the licensed drainlayer.

(c) Where an illicit connection between the sanitary and storm drain systems is the result of work performed by a licensed plumber under a validly issued plumbing permit, the homeowner shall not be personally liable for the cost to rectify such illicit connection. In that event, the commissioner shall notify the director of health inspection, who shall order the licensed plumber to rectify the illicit connection at the licensed plumber's expense. If the licensed plumber shall fail or refuse to rectify the illicit connection, the city shall cause the work to be performed, and the cost thereof shall be assessed against the licensed plumber.

(d) The provisions of paragraphs (b) and (c) shall apply to all permitted work occurring after March 1, 2000.

(e) The commissioner is authorized to establish a program to provide limited refunds, not exceeding fifty percent (50%), of the costs incurred by building owners who paid to

rectify an illicit connection that was installed prior to March 1, 2000, which has not been corrected as of March 21, 2000. Any such program established hereunder shall conform to the following minimum requirements, and such other requirements as the commissioner deems advisable and not inconsistent herewith.

(1) Refunds shall be available only to a current property owner who paid for the prior repair work;
(2) Applicants for refunds must provide proof of payment to a Worcester licensed drainlayer, or a licensed plumber, as the case may be. Furthermore, the owner must provide copies of its documentation from the commissioner or the commissioner of inspectional services ordering the owner to eradicate the illicit connection.
(3) The original installation must have been done pursuant to a validly issued sewer connection permit.

(f) The licensed drainlayer or licensed plumber, as the case may be, who performed the work shall rectify the illicit connection, at its expense, upon order of the commissioner or the director of health inspections, as appropriate. If the licensed drainlayer or licensed plumber shall fail or refuse to rectify the illicit connection, the property owner shall cause the work to be performed. Provided the original installation was done pursuant to a validly issued sewer connection permit, the owner may seek partial reimbursement under the program, if any, established pursuant to this subsection.

Connections & Discharges

§ 8. Separate Sewers

A separate and independent building sewer shall be provided for every building; except that where one (1) building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard, or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer. A manhole shall be constructed at the junction of the front building sewer and the rear building sewer.

§ 9. Re-Use of Existing Sewers (Amended January 6, 2009 – 9247)

Subject to obtaining a permit under the provisions of section two of this chapter, existing building sewers and other private sewers may be used in connection with new buildings or in connection with new public sewer construction, in whole or in part, only when they are found, on examination and test acceptable to the commissioner to meet all requirements of this chapter. Connection to same shall be upstream of any septic tank or cesspool.

§ 10. Construction Methods and Materials

The size, slope, depth, alignment, materials of construction of a building sewer, or other private sewer, and the methods to be used in excavating, placing of the pipe, jointing, testing, and backfilling the trench, shall all conform to the requirements of the building and plumbing codes, and other applicable provisions of this chapter, the city and the commissioner.

§ 11. Building Sewer Elevation

The building sewer, whenever possible, shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain may be lifted by an approved means and discharged to the building sewer.

§ 12. Roof, Surface, and Groundwater Source Connections

No person shall make connection of roof downspouts, exterior foundation drains, areaway drains, basement sump pumps, or other sources or surface runoff or groundwater to a building sewer directly or indirectly which in turn is connected directly or indirectly to a public sanitary sewer. The foregoing types of connections shall not be made, directly or indirectly, to the combined sewer, unless approved by the commissioner.

§ 13. Connection of Building Sewer to Public Sewer

The connection of the building sewer into the public sewer shall conform to the requirements of the building and plumbing codes, and other applicable provisions of this chapter. All such connections shall be made gas tight and watertight. Any deviation from the prescribed procedures and materials must be approved by the commissioner. The owner shall be responsible for cleaning, repairing, and if applicable, television inspection of the entire length of the building sewer, including any portion lying in the street.

§ 14. Notification for Inspection

The applicant or his authorized agent for the permit for a building sewer or other private sewer shall give timely notice to the commissioner when said sewer is ready for inspection and connection to the public sewer. Television inspection of the completed building sewer may also be required. The connection and television inspection shall be made under the supervision of the commissioner or his or her duly authorized representative.

§ 15. Sewer Excavations

All excavations for a building sewer or other private sewer construction shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the responsible official in charge of such property.

§ 16. Drainlayer Requirements

(a) No person shall lay any building sewer or other private sewer or make any connection into any public sewer unless such person is duly licensed by the commissioner to lay said sewer. Such person so licensed shall post a form of surety acceptable to the commissioner, in a sum of not less than five thousand dollars ($5,000), for the faithful performance of such work as he may execute, and to make good any defects in material or workmanship which may appear in any sewer on account of work done by said drainlayer, and to remunerate the city and any person connected to such work for loss or damage occurring in consequence of any act done under any permit granted said drainlayer.

(b) No drainlayer duly licensed to construct building sewers and other private sewers and to make connections with public sewers shall allow his name to be used by any other person, either for the purpose of obtaining permits or doing any work under his license.

(c) Any drainlayer violating any of the provisions of this chapter shall, in addition to the general penalty provided for the violation of the provisions of this chapter, forfeit his or her license.

Use of Public Sewers, Private Sewers, and Drains

§ 17. Certain Discharges Prohibited

No person shall discharge or cause to be discharged any storm water, surface water, groundwater, roof runoff, subsurface drainage, uncontaminated cooling water, or unpolluted industrial process waters to any public sanitary sewer of the city or to any public sanitary sewer of any member of the district, directly or indirectly. The foregoing types of connections shall not be made, directly or indirectly, to the combined sewer, unless approved by the commissioner.

§ 18. Permissible Discharges

Storm water and all other unpolluted drainage shall be discharged to such drains as are specifically designated as storm drains, combined sewers and drains (with approval) or to a natural outlet approved by the commissioner . Industrial cooling water or unpolluted process waters may be discharged, on approval of the commissioner, to a storm drain, combined sewer and drains or a natural outlet.

§ 19. Temporary Discharge Permits

(a) No person shall make any temporary connection or otherwise discharge treated, contaminated groundwater or surface water to the public sewer whether through an existing or new connection without first obtaining the permission of the commissioner. In granting such permission the commissioner shall have authority to set flow requirements, impose restrictions, and/or deny a proposed discharge in order to protect either receiving water bodies or facilities from possible degradation or impairment.

(b) The owner or his authorized agent shall make application on a form furnished by the commissioner. The permit application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgment of the commissioner.

(c) In addition to any permit and inspection fees established by the commissioner pursuant to §24 of chapter two of these Revised Ordinances, a sewer use charge shall be levied against the owner or his authorized agent for the temporary discharge of treated, contaminated groundwater or surface water to the public sewer system through either an existing or new connection. The charge shall be based on the metered amount of discharge to the sewerage system, and shall be equivalent to the current effective sewer use charge.

(d) The owner or his authorized agent shall meter the flow of the discharge on a continuous basis. Said metering devices shall be read monthly by the department. The

owner or his authorized agent shall be billed on a semi-annual basis, or more frequently if approved by the commissioner, for all recorded discharges to the sewerage system.

(e) Notwithstanding the provisions of any ordinance, rule or regulation to the contrary, the commissioner, upon request, shall have the authority to reduce the assessment of the sewer use fee pursuant to § 26 of this chapter in order to provide additional incentives for the cleanup and redevelopment of contaminated sites, and to assist in the management of groundwater cleanup operations of such sites. Such reductions in the sewer use charges shall be administered in accordance with the following:

(1) For an initial period not to exceed three (3) years from the date of issuance of the applicable temporary discharge permit, the sewer use fee for a qualifying groundwater treatment system shall be fifty percent (50%) of the fee otherwise established under § 26. Upon demonstrated need, the permittee may receive up to two, one (1) year extensions of reduced fee payments.
(2) The fees established under subparagraph (i) above, shall be determined for a maximum of three (3) one-year periods, maximum discharge rate anticipated for the system during the ensuing year. Under these provisions, the yearly discharge fee shall be calculated and paid in full upon approval of an application to the commissioner for the first year of discharge, and at the one and two year anniversaries of the permit, the permittee may submit a recalculated discharge request using revised flow estimates for the ensuing year.
(3) In order to operate under a temporary discharge permit as a qualified groundwater treatment system, the operator shall provide the commissioner with a copy of the proposed system's approval under the Massachusetts Contingency Plan (310 CMR 40.00).
(4) Once the groundwater treatment system becomes operational, the operator thereof shall provide the commissioner with monthly monitoring reports containing detailed information on the quality and quantity of system effluent, in accordance with the pertinent regulations of the city and the district.

§ 20. Discharges Categorically Prohibited

No person shall discharge or cause to be discharged any of the following described waters or wastes to any public sewers:

(a) Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid or gas;

(b) Any waters or wastes containing toxic or poisonous solids, liquids, or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters of the district's sewage treatment plant's effluent;

(c) Any waters or wastes having a pH lower than 6.5 or in excess of 9.5, or having any other corrosive property capable of causing damage or hazard to structures, equipment, and personnel of sewage works;*

***Amended January 20, 2009 – 9253**

(d) Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the sewage works such as, but not limited to ashes, cinders, sand, mud, straw, shavings, metals, sawdust, hair, oyster shells, lobster shells, clam shells, glass, rags, feathers, tar, plastics, wood, underground garbage, whole blood, paunch manure, fleshing, entrails, paper dishes, cups, milk containers, and similar paper or plastic containers (either whole or ground by garbage grinders), and other similar materials.

§ 21. Discharges Prohibited by Commissioner

(a) No person shall discharge or cause to be discharged the following described substances, materials, waters, or wastes if it appears likely in the opinion of the Commissioner that such wastes can harm either the sewers, sewage treatment process, or equipment, have an adverse effect in the receiving stream, or can otherwise endanger life, limb, public property, or constitute a nuisance.

(b) In forming an opinion as to the acceptability of these wastes, the commissioner shall give consideration to such factors as the quantities of subject wastes in relation to flows and velocities in the sewers, materials of construction of the sewers, nature of the sewage treatment process, capacity of the sewage treatment plant, degree of treatability of wastes in the sewage treatment plant, and other pertinent factors. The substances prohibited are:

(1) any liquid or vapor having a temperature higher than one hundred fifty degrees Fahrenheit (150° F).
(2) any water or waste containing fats, oils, or grease (FOG) or wax, whether emulsified or not, in excess of one hundred (100) milligrams per liter or containing substances which may solidify or become viscous at temperatures between thirty-two degrees Fahrenheit (32° F) and one hundred fifty degrees Fahrenheit (150° F).
(3) any garbage that has not been properly shredded. The installation and operation of any garbage grinder equipped with a motor of three-fourths (3/4) horsepower or greater shall be subject to the review and approval of the commissioner.
(4) any waters or wastes containing strong acid iron pickling wastes, or concentrated plating solutions whether neutralized or not.
(5) any waters or wastes containing iron, chromium, cadmium, copper, zinc, barium, arsenic, silver, mercury, lead, cyanide phosphates, sodium chlorate, and similar objectionable or toxic substances, or wastes exerting an excessive chlorine requirement, to such degree that any such material received in the composite sewage at the sewage treatment plant exceeds the limits established by the commissioner for such material.
(6) any waters or wastes containing phenols or other taste or odor producing substances, in such concentrations exceeding limits which may be established as necessary by the commissioner after treatment of the composite sewage to meet the requirements of the state, federal, and other public agencies or jurisdiction over such discharge to the receiving waters.

(7) any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the commissioner in compliance with applicable state or federal regulations.

(8) any waters or wastes having a pH lower than 5.5 or in excess of 9.5.

(9) materials which exert or cause:

(A) unusual concentrations of inert suspended solids (such as, but not limited to, Fullers earth, lime slurries, and lime residues) or of dissolved solids (such as, but not limited to, sodium chloride, sodium sulfate, and ferrous iron compounds);

(B) excessive discoloration (such as, but not limited to, dye wastes and vegetable tanning solutions);

(C) unusual biochemical oxygen demand (BOD), chemical oxygen demand (COD), or chlorine requirements in such quantities as to constitute a treatment problem for the sewage treatment plan;

(D) unusual volume of flow or concentration of wastes constituting "slugs" as defined herein.

(10) waters or wastes containing substances which are not amenable to treatment or reduction by the sewage treatment processes employed or are amenable to treatment only to such degree that the sewage treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge of effluent to the receiving waters.

(11) discharge sources in accordance with § 12 and § 17.

§ 22. Commissioner to Control Prohibited Discharges

(a) If any waters or wastes are discharged, or are proposed to be discharged to the public sewers, which waters or wastes contain the substances or possess the characteristics enumerated in the preceding section of this chapter, and which in the judgment of the commissioner, may have a deleterious effect upon the sewage works, processes, equipment or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the commissioner may:

(1) reject the waste;

(2) require pretreatment to an acceptable condition for discharge to the public sewers;

(3) require control over quantities and rates of discharge; and/or

(4) require payment of addition fees to cover the added cost of handling and treating the wastes.

(b) If the commissioner permits the pretreatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to the review and approval of the commissioner, and subject to the requirement of all applicable codes, ordinances, and laws.

§ 23. Obligations of Owners

(a) Grease traps and interceptors shall be provided in accordance with § 35 of this chapter.

(b) Where pretreatment or flow-equalizing facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at his or her expense.

(c) When required by the commissioner, the owner of any property serviced by a building sewer or other private sewer carrying industrial wastes shall install a suitable control manhole together with such necessary meters, and other appurtenances in said sewer to facilitate observation, sampling, and measurement of wastes. Such manhole, when required, shall be located in a safe and accessible place, and shall be installed by the owner so as to be safe and accessible at all times.

§ 24. Measurement and Test Standards

(a) All measurements, tests, and analyses of the characteristics of waters and wastes to which reference is made in this chapter shall be determined in accordance with the latest edition of "Standard Methods for the Examination of Water and Wastewater," published by the American Public Health Association Inc., and shall be determined at the control manhole provided, or upon suitable samples taken at said control manhole. Sampling shall be carried out by customarily accepted methods to reflect the effect of the constituents of the waters or wastes upon the sewage works and to determine the existence of hazards to life, limb, and property. The particular analyses involved will determine whether a twenty-four hour composite of all outfalls of a premise is appropriate or whether a grab sample or samples should be taken. Normally, but not always, biochemical oxygen demand (BOD) and suspend solids analyses are obtained from twenty-four hour composites of all outfalls, whereas pH measurements are determined from periodic grab samples. Where necessary, equipment shall be provided to allow for automatic sampling and measuring. The aforesaid "Standard Methods for the Examination of Water and Wastewater" shall be maintained in the office of the commissioner and shall be available for public examination at reasonable times.

(b) All industries discharging into a public sewer shall perform such monitoring of their discharges as the commissioner may reasonably require, including installation, use, and maintenance of monitoring equipment, keeping records and reporting the results of such monitoring to the commissioner. Such records shall be made available upon request by the commissioner and to other agencies having jurisdiction over discharges to the receiving waters.

§ 25. Special Agreements

No statement contained in this chapter shall be construed as preventing any special agreement or arrangement between the city and any industrial or commercial concern whereby waters or wastes of unusual strength or character may be accepted by the city for treatment, subject to payment therefore, by the industrial or commercial concern.

§ 26. Sewer User Charge System

(a) For the purposes of assuring that each recipient of wastewater collection and treatment of service within the city shall pay a proportionate share of the costs of operation and maintenance of the sewerage works, a user charge shall be levied against all those who discharge wastewater into the public sewer system. The revenue raised must cover at least the following expenses:

(1) operation and maintenance costs of the wastewater collection and treatment systems, which costs shall include labor, fuel, utilities, chemicals, supplies, tools, insurance, engineering and service contracts;
(2) administrative and debt service expenses of the systems, including supervisory, clerical, accounting, personnel, legal services, supplies, and general expenses;
(3) replacement or contingency amounts for the systems.
(4) fines and penalties incurred by the city.

(b) The charge per cubic foot shall be based upon a fraction (which may have the value of 1.0) of the metered amount of water used by each recipient who discharges wastewater into the sewerage system.

(c) All users of the wastewater systems, including tax-exempt property, will be charged at the same rate per hundred cubic feet (ccf).

(d) There may be a surcharge to commercial and industrial users when biochemical oxygen demand (BOD), suspended solids (SS) or other pollutant concentrations from a user exceed the range of concentration of these pollutants found in normal domestic wastewater, a surcharge added to the base charge shall be levied using the following formula.

Cs = (Bc(B) + Sc(S) + Pc(p)) Vu

Where:
Cs = a surcharge for wastewaters of excessive strength.
Vu = volume contribution from a user per unit of time.
Bc = Operation and Maintenance (O&M) cost for treatment of a unit of BOD.
B = concentration of BOD from a user above a base level.
Sc = O&M cost for treatment of a unit of SS.
S = concentration of SS from a user above a base level.
Pc = O&M cost for treatment of a unit of any pollutant.
P = concentration of any pollutant from a user above a base level.

(e) There shall be a user charge adjustment for large users of water, which users can prove that their fraction of wastewater to water is less than the fraction used. The percentage of reduction shall be based upon the following formula.

$$\frac{X\% - Y\%}{X\%} = \text{percent reduction}$$

Where:

X = the fraction of wastewater to water meter reading.
Y = the fraction of wastewater to water proven by any industry,

but not greater than 90%.

(f) Industries which pay an industrial cost recovery charge will be credited for the amount attributable to the operation and maintenance costs shown on that billing.

(g) The commissioner shall establish annually a sewer charge. Charges to users shall be levied at the same time as the water use billing.

Sewer User Charge (per ccf)	
Minimum Charge	$10.00
Basic Rate	**$6.92***

***Amended June 2, 2009 – 9332, Amended June 8, 2010 – 9489, Amended May 17, 2011 – 9612, Amended May 8, 2012 – 9725, Amended June 11, 2013 – 9891, Amended June 10, 2014 – 22, Amended June 16, 2015 – 140 and Amended May 17, 2016 – 273.**

(h) The sewer use charge for individuals ages 65 years and older who, (1) are owner occupiers of the residences in which they reside and, (2) qualify for the "Clause 41C, Elderly Person, Real Estate Exemption" under state law shall be subject to the exemption set forth in Chapter 7, § 16(e).

§ 27. Unpaid Bills - Interest

Bills for sewer use charges remaining unpaid after the due date shall bear interest at the rate of fourteen percent per annum computed from the first day after the due date of said bill and shall be paid on the unpaid balance. An additional charge of five dollars shall be due if a demand notice is issued. Where interest charges are payable, they shall be added to and become a part of the real estate tax bill. Application for abatement of said charge and interest shall be filed with the commissioner in accordance with the procedures and standards delineated by the General Laws, chapter 83, §16E.

Enforcement

§ 28. Interference with Sewage Works

No person shall maliciously, willfully or negligently, break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance, or equipment which is a part of the sewage works or any other property under the jurisdiction of the commissioner. Any person violating this provision shall be subject to immediate arrest under charge of disorderly conduct.

§ 29. Trespass

No unauthorized person shall enter or remain in or upon any land or structure under the jurisdiction of the commissioner. Any person violating this provision shall be subject to immediate arrest under charge of trespass.

§ 30. Inspection Powers

The commissioner and his or her duly authorized agents bearing proper credentials and identification shall be permitted to enter all properties connected with the public sewers for the purposes of inspection, observation, measurement, sampling, and testing, all in accordance with the provisions of this chapter and to the extent permitted by and under the General Laws. They may inquire into any processes including metallurgical, chemical, oil refining, ceramic, paper, plating, or other industrial activity that contribute waters or wastes to the public sewers, but shall not order or demand information concerning any patented process or trade secret beyond that necessary to determine the kind, source, and amount of wastewater discharge from the industrial or commercial plant to the public sewers.

§ 31. Safety and Indemnification

While performing the necessary work on private properties referred to in the foregoing section, the commissioner and his or her duly authorized agents shall observe all safety rules applicable to the premises established by the private property owners. Said private property owners shall be held harmless for injury or death to city personnel and the city shall indemnify the private property owner against loss or damage to its property by city personnel and against liability claims and demands for personal injury or property damage asserted against the private property owner and growing out of the gauging and sampling operation, except as such may be caused by negligence or failure of the private property owner to maintain safe conditions.

§ 32. Sewer Easements

The commissioner and his or her duly authorized agents bearing proper credentials and identification shall be permitted to enter all private properties through which the city holds a duly acquired easement for sewer purposes, which shall include, but not be limited to, inspection, observation, measurement, sampling, repair, and maintenance of any portion of the sewage works lying within said easement. All entry and subsequent work, if any, on said easement, shall be done in full accordance with the terms of the duly acquired easement pertaining to the private property involved.

§ 33. Notice of Violations Required

Any person found to be violating any provision of this chapter, except as expressly provided otherwise, shall be served by the commissioner with written notice that states the nature of the violation and that provides a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.

§ 34. Fines & Restitution

(a) Any person who shall continue any violation beyond the time limit provided for in the foregoing section shall be guilty of a misdemeanor, and on conviction thereof shall be fined in any amount not exceeding three-hundred dollars ($300.00) for each violation and shall be liable to the city for any expense, loss, or damage suffered by the city by reason of such offense.

(b) Each day in which any such violation shall continue shall be deemed a separate offense.

Grease Management Program

§ 35. Fat, Oil and Grease Control

(a) Purpose: This section establishes uniform maintenance and monitoring requirements for controlling the discharge of grease from food service and other facilities discharging into the city's wastewater collection system and commercial grease haulers. The objectives of this section are:

(1) to prevent the introduction of excessive amounts of grease into the wastewater collection system.
(2) to prevent clogging or blocking of the city's sewer lines e build-up causing backup and flooding of streets, residences, and commercial or industrial buildings.
(3) to implement a procedure to recover the costs incurred in cleaning and maintaining sewer lines and disposing of grease blockages,
(4) to implement a procedure to recover costs for any damage incurred by the city caused by grease blockages resulting in the flooding of streets, residences, or commercial and industrial buildings.
(5) to establish administrative review procedures and reporting requirements.

(b) Applicability: The provisions of this section shall apply to all existing food service facilities that are located within the municipal boundaries of the city and to all food service facilities that begin operations within the municipal boundaries of the city on or after the effective date of this section. The provisions of this section shall also apply to all grease haulers providing service to any food service facility located within the city.

(c) Grease Traps and Interceptors. All food service facilities are required to have a grease trap or grease interceptor. The requirements in this section are in addition to any applicable requirements of the Uniform State Plumbing Code (248 CMR 10.00) and the State Environmental Code, Title 5 (310 CMR 15.230).

(1) New Facilities On or after the effective date of this section, food service facilities which are newly proposed or constructed, or existing facilities which will be expanded or renovated to include a food service facility, where such facility did not previously exist, shall be required to install, operate, and maintain a grease interceptor or grease trap, if permissible, according to the requirements contained in this section. Grease interceptors or grease traps shall be installed and permitted prior to the issuance of a certificate of occupancy.

(2) Existing Facilities For the purposes of sizing and installation of grease interceptors, all food service facilities existing within the city prior to the effective date of this section shall be permitted to operate and maintain existing grease interceptors or grease traps, if permissible, provided their

grease interceptors or grease traps are in efficient operating condition and comply with the requirements of this Section.

On or after the effective date of this section, the city shall require an existing food service facility to install, operate, and maintain a new grease interceptor or trap that complies with the requirements of this section or to modify or repair any noncompliant plumbing or existing interceptor or trap within ninety (90) days of written notification from the city when any one or more of the following conditions exist:

(A) The facility is found to be contributing oils and grease in quantities sufficient to cause line stoppages or necessitate increased maintenance of the wastewater collection system.

(B) The facility does not have a grease interceptor or trap.

(C) The facility has an undersized, irreparable or defective grease interceptor or trap.

(D) Remodeling of the food preparation or kitchen waste plumbing system is performed which requires a plumbing permit to be issued by the city.

(E) The existing facility is sold or undergoes a change of ownership.

(F) The existing facility does not have plumbing connections to a grease interceptor or trap in compliance with the requirements of this section.

(G) The facility has not operated as a food service facility for 12 consecutive months prior to receiving Food Service Permit.

(3) Plumbing Connections: Grease interceptors or traps shall be located in the food service facility's lateral sewer line between all fixtures which may introduce grease into the sewer system and the connection to the city's wastewater collection system. Such fixtures shall include but not be limited to, sinks, dishwashers, garbage disposals, automatic hood wash units, floor drains in food preparation and storage areas, and any other fixture which is determined to be a potential source of grease. Wastewater from sanitary facilities and other similar fixtures shall not be introduced into the grease interceptor or trap under any circumstances.

(4) Grease Traps: Grease traps shall be prohibited for new food service facilities, except for those facilities where inadequate space is available for the installation of a grease interceptor. Approval of the installation of a grease trap in lieu of a grease interceptor at a new food service facility shall meet the following criteria:

(A) Trap design and location Grease traps shall conform to the standards in the Plumbing and Drainage Institute (PDI) Standards G101. Grease traps shall be installed in strict accordance with the manufacturers' instructions. Grease traps shall be equipped with a cover that can be opened for inspection and sampling and a mechanism for a secure closing.

(B) Trap capacity The capacity of the grease trap shall be related to the flow rate as indicated in Table 1 of the PDI Standard G101 document.

(C) Flow-through rate Flow-through rates shall be calculated in accordance with the procedures in the PDI Standard G101.

(D) Flow control device Grease traps shall be equipped with a device to control the rate of flow through the unit. The rate of flow shall not exceed the manufacturers' rated capacity recommended in gallons per minute for the unit.

(E) Particle Separator Grease traps shall be equipped with a device, prior to the grease trap, to control the amount of solids through the unit.

(F) Venting The flow-control device and the grease trap shall be vented in accordance with the local and state plumbing codes.

(G) Inspection, cleaning, and maintenance Each food service facility shall be solely responsible for the cost of trap installation, inspection, cleaning and maintenance. Each food service facility may contract with a grease hauler for cleaning services or it may develop a written protocol and perform its own grease trap cleaning and maintenance procedures, which must be approved by the department. Cleaning and maintenance must be performed when the total volume of captured grease and solid material displaces more than 25% of the total volume of the unit. Each food service facility shall determine the frequency at which their grease trap shall be cleaned, but all grease traps shall be opened and inspected, at least once per week, and cleaned and maintained at least once per month.

(H) Inspection Grease traps shall be inspected by a city official, as necessary, to assure compliance with this section and to assure proper cleaning and maintenance schedules are being followed.

(I) Repairs The food service facility shall be responsible for the cost and scheduling of all repairs to its grease trap(s). Repairs required by a city official shall be completed within 90 calendar days after receipt of the written notice of required repairs, unless the city approves a different schedule in writing.

(J) Disposal Grease and solid materials removed from a grease trap shall be disposed of in a proper disposal container that will prevent its discharge during storage and transportation to a solid waste facility. The name and location of the disposal facility shall be verified by the food service facility, which shall be responsible for obtaining such information from the grease hauler.

(K) Record keeping Each food service facility shall maintain a bound logbook in which a record of all grease trap maintenance is entered,

including the date and time of the maintenance, amount of grease present, details of any repairs required and dates of repair completion and any other records pertaining to the grease trap. This logbook shall be made available for review upon request by the city official. Each food service facility shall also maintain a file on site which contains the following information:

1. the (as-built) drawings of the plumbing system for new or renovated buildings and (if available) for existing buildings
2. records of inspections
3. copies of annual reports (submitted with Food Service Permit)
4. receipts (pumping, maintenance, repairs, etc.)
5. log of pumping activities
6. log of maintenance activities
7. grease hauler information
8. disposal information (including site name and location of disposal facility obtained from grease hauler)
9. monitoring data (including amount of grease present during inspection)

The file shall be available at all times for inspection and review by the city official.

(5) Grease Interceptors: Grease interceptors shall be installed at all new food service facilities except where physical space is limited as described in subsection ©(3), above. All new and existing grease interceptors shall meet the following criteria:

(A) Interceptor design and location Grease interceptors shall have a minimum of two compartments and shall be capable of separation and retention of grease and storage of settled solids. Interceptor design shall conform to the requirements of the State Environmental Code, Title 5 (310 CMR 15.230), Pretreatment Units – Grease Traps, and the interceptors shall be PDI certified. A control manhole over each compartment for monitoring purposes shall be required and installed at the owner/operators sole expense. Covers shall have a gas tight fit. The grease interceptor shall be designed, constructed and installed for adequate load-bearing capacity. Flow control devices shall be required where the water flow through the interceptor may exceed its rated flow. Interceptors shall be installed in a location outside of the building, which provides easy access at all times for inspections, cleaning, and proper maintenance, including pumping.

(B) Interceptor capacity Grease interceptor capacity calculations shall be performed by each food service facility based on size and type of operation in accordance with State Environmental Code, Title 5 (310 CMR 15.230), Pretreatment Units – Grease Traps. Grease interceptors shall have a minimum depth of four feet and a minimum capacity of 1,000 gallons for any one unit, and shall have sufficient capacity to provide at least a 24-hour detention period for all kitchen flow. Where sufficient capacity cannot be achieved with a single unit, installation of

grease interceptors in series is required. Interceptor capacity calculations shall be approved by the city official prior to the installation of the interceptor(s).

The capacity of the grease interceptor required for food manufacturing or processing facilities which are not covered by the State Environmental Code, Title 5 (310 CMR 15.230) shall be approved by the city official according to the mass and type of food prepared, the wastewater volume produced from food preparation or manufacture, total hours of operation per day and a load factor depending on the installed equipment.

(C) Inspection, pumping, and maintenance Each food service facility shall be responsible for the costs of installing, inspecting, pumping, cleaning, and maintaining its grease interceptor. All food service facilities that have grease interceptors shall utilize a licensed septage hauler who has been approved by the city for pumping services. Pumping services shall include the initial complete removal of all contents, including floating materials, wastewater, and bottom sludges and solids from the interceptor. The return of gray water back into the grease interceptor from which the wastes were removed is allowable, provided that grease and solids are not returned to the interceptor and further provided that the licensed grease hauler has written authorization from the food service facility to return the gray water. Grease interceptor cleaning shall include scraping excessive solids from the walls, floors, baffles and all pipework. The licensed grease hauler shall wait at least 20 minutes to allow for inspection of the interceptor bottom and to allow for the interceptor waste to separate in the truck tank before attempting to re-introduce the gray water to the interceptor. It shall be the responsibility of each food service facility to inspect its grease interceptor during the pumping procedure to ensure that the interceptor is properly cleaned out and that all fittings and fixtures inside the interceptor are in working condition and functioning properly.

(D) Interceptor pumping frequency Each food service facility shall have its grease interceptor(s) inspected at least once a month and pumped at least every three (3) months. There shall be a minimum period of eight (8) weeks between each required pumping. In addition to required quarterly pumping, each food service facility is required to pump its grease interceptor whenever one of the following conditions occurs:

1. When the floatable grease layer exceeds six inches (6”) in depth as measured by an approved dipping method, or;

2. When the settleable solids layer exceeds eight inches (8”) in depth as measured by an approved dipping method or;

3. When the total volume of captured grease and solid material displaces more than 25% of the capacity of the interceptor as calculated using an approved dipping method, or;

4. When the interceptor is not retaining/capturing oils and greases, or the removal efficiency of the device, as determined through sampling and analysis, is less than eighty percent (80%).

(6) Inspection Grease interceptors shall be inspected by a city official, as necessary, to assure compliance with the requirements of this section and to determine if proper cleaning and maintenance schedules are being adhered to.

(7) Repairs Each food service facility shall be responsible for the cost and scheduling of all repairs to its grease interceptor(s). Repairs required by a city official shall be completed within 90 calendar days after receipt of the written notice of required repairs, unless the city approves a different schedule in writing.

(8) Disposal Wastes removed from each grease interceptor shall be disposed of at a facility permitted to receive such wastes or at a location designated by the city for such purposes. Neither grease nor solid materials removed from interceptors shall be returned to any grease interceptor, private sewer line, or to any portion of the city's wastewater collection system or any other facility without prior written permission from the commissioner. The name and location of the disposal facility shall be verified by the food service facility, which shall be responsible for obtaining such information from the grease hauler.

(9) Record keeping Each food service facility shall maintain a bound logbook in which a record of all interceptor maintenance is entered, including the date and time of the maintenance, amount of grease present, details of any repairs required, dates of repair completion and any other records pertaining to the interceptor. This logbook shall be made available for review upon request by the city official. Each food service facility shall also maintain a file on site which contains the following information:

(A) the (as-built) drawings of the plumbing system for new or renovated buildings and (if available) for existing buildings
(B) records of inspections
(C) copies of annual reports (submitted with Food Service Permit)
(D) receipts (pumping, maintenance, repairs, etc.)
(E) log of pumping activities
(F) log of maintenance activities
(G) grease hauler information
(H) disposal information (including site name and location of disposal facility obtained from grease hauler)
(I) monitoring data (including amount of grease present during inspection)

The file shall be available at all times for inspection and review by the city official.

(10) Interceptor additives Any chemicals, enzymes, emulsifiers, live bacteria or other grease cutters or additives shall be approved by the commissioner prior to their use by the food service facility or the grease hauler. MSDS sheets and any other applicable information concerning the composition, frequency of use and mode of action of the proposed additive shall be sent to the city together with a written statement outlining the proposed use of the additive(s). Based upon the information received and any other information solicited from the potential user or supplier, the city shall permit or deny the use of the additive in writing. Permission to use any specific additive may be withdrawn by the city at any time.

(11) Alternative grease removal devices or technologies Alternative devices and technologies such as automatic grease removal systems shall be subject to written approval by the Commissioner prior to installation. Approval of the device shall be based on demonstrated (proven) removal efficiencies and reliability of operation. The City may approve these types of devices depending on manufacturers specifications on a case-by-case basis. The food service facility may be required to furnish analytical data demonstrating that grease discharge concentrations to the city's wastewater collection system will not exceed the limitation established in § 21 (b)(2).

(d) Food Service Facility Reporting

(1) Reporting requirements for food service facilities All food service facilities shall be required to submit maintenance and cleaning reports and other documentation of grease traps/interceptors as required in the city's Application for Permit to Operate a Food Establishment.

(2) Annual reports of record keeping information shall be furnished with Food Application Renewals.

(e) Inspections

(1) Entry Each food service facility shall allow the city official and other duly authorized employees or agents of the city bearing proper credentials and identification access at all reasonable times to all parts of the premises for the purpose of inspection, observation, photographing, records examination, measurement, sampling, and testing in accordance with the provisions of this Section. The refusal of any food service facility to allow the city official entry to or upon the facility's premises for purposes of inspection, sampling effluents, or inspecting and copying records, or performing such other duties as required by this section shall constitute a violation of this section.

(2) First-time inspections The city official shall inspect food service facilities on both an unscheduled and unannounced basis or on a scheduled basis to verify compliance with the requirements of this section. All food service facilities shall be inspected. Each food service facility will be inspected a first time by the city to collect information about the facility's grease traps/interceptor. During the inspection, information will be verified and the grease interceptor or trap will be inspected. Inspections shall also include all

equipment, food processing, and storage areas and shall include a review of the processes that produce wastewater discharged from the facility through the grease interceptor/trap. The city official shall also inspect the interceptor/trap maintenance logbook and file, other pertinent data, the grease interceptor/trap and may check the level of the interceptor/trap contents and/or take samples as necessary. The city official shall record all observations in a written report.

(f) Administrative enforcement and abatement

(1) No Further Action Required If all information is verified and the grease interceptor or trap is of proper type/size and in proper working condition in accordance with the provisions of this section, no further action will be required.

(2) Written Notice If the grease interceptor or trap requires any maintenance, repairs, replacement, or corrections, the city official shall provide a written notice of violation within five (5) days of inspection. The food service facility shall have ninety (90) calendar days to correct all deficiencies identified by the city. Failure to do so may result in the suspension of the facility's Permit to Operate a Food Establishment.

(3) Access Each food service facility shall provide clear access to its grease trap or interceptor for inspection and maintenance. Each food service facility shall have the necessary tools and/or equipment onsite and within clear view of grease traps to allow for quick access in the event of an emergency or for inspections. Upon the request of the city official, a representative from the food service facility shall open its grease trap and/or interceptor for inspection by the city official.

(4) Notice of Violation A Notice of Violation (NOV) shall be issued to a food service facility for any one or more of the following reasons:

(A) Failure to properly maintain the grease interceptor or trap in accordance with the provisions of this section.

(B) Failure to report significant changes in operations, or wastewater constituents and characteristics.

(C) Failure to maintain a file of records on site at all times.

(D) Failure to provide logs, files, records, or access for inspection or monitoring activities.

(E) Any other failure to comply with the requirements of this section.

(F) Discharge of grease into the sewer system in excess of 100 mg/L or resulting in sewer blockage.

(5) Notice of Violation Response Any food service facility issued a notice of violation shall respond to the Public Health Division in writing (ATTN: GREASE PROGRAM DEPT.) within fourteen (14) calendar days of receipt of the notice of violation and submit information describing how the noncompliance occurred and what steps shall be taken to correct the deficiencies and/or prevent the re-occurrence of the noncompliance. Requirements for submittal shall include maintenance records, plans for installation or upgrade of grease interceptors, including time frames for preparation of plans, acquisition of necessary equipment, initiation of construction (including time for permit approval, where required), completion of construction, and a date for achievement of final compliance with this section

(6) The food service facility shall have ninety (90) days from the Notice of Violation to perform corrective work. Once corrective actions have been made, the food service facility shall contact (within 90 days of notice of violation) the Public Health Division in writing (ATTN: GREASE PROGRAM DEPT.). The city shall perform a re-inspection to confirm that all deficiencies have been corrected.

(7) Time-Extension If the food service facility cannot complete the required repairs or maintenance within ninety (90) days from the Notice of Violation to perform corrective work, the food service facility may apply for a one-time extension. The facility must provide proof that a "good faith effort" was made to contact/schedule a contractor to perform work. The time extension procedure shall be as follows:

(A) The food service facility shall submit an application for a time extension on a form provided by the city along with the appropriate application fee identified in the city's Fee Schedule.
(B) The application shall include proof that a "good faith effort" was made to contact/schedule a contractor to perform work.
(C) The application shall include the next date and time the facility intends to have the corrective work completed.

(8) Re-inspections The city official shall re-inspect food service facilities which received deficiency notices after the original inspection. The city official shall inspect any repairs or other deficiencies and shall provide written notice of compliance or non-compliance as the case may be. In the event that the food service facility has returned to compliance with all of the deficiencies, there shall be no further action required. If the facility is not in compliance at the second inspection, the city official shall provide a written notice of suspension proceedings of the Permit to Operate a Food Establishment.

(9) Suspension Proceedings The food service facility shall be required to attend a hearing before the Director of Public Health and will be allowed to dispute the notice to suspend the Permit to Operate a Food Establishment. The Director of Public Health shall determine if the food service facility's Permit to Operate a Food Establishment shall be revoked or whether to allow the

establishment to operate with conditions. The food service facility will not be allowed to operate without a valid Permit to Operate a Food Establishment.

(10) Re-apply for Permit to Operate a Food Establishment The food service facility shall be required to re-apply for a Permit to Operate a Food Establishment once this permit has been revoked by the Director of Public Health. The food service facility shall provide proof that all previous violations have been corrected and shall be subject to a re-inspection by the city prior to permit approval.

Chapter Six - Wetlands Protection

§ 1. Purpose
§ 2. Jurisdiction
§ 3. Exceptions
§ 4. Application
§ 5. Notice and Hearing
§ 6. Coordination
§ 7. Permits, Determinations and Conditions
§ 8. Appeals
§ 9. Certificate of Compliance
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§11. Definitions
§12. Time of Receipt
§13. Security
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§ 16. Wetlands Protection Act
§ 17. Prior Violations

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§ 1. Purpose

The purpose of this ordinance is to protect the wetlands, related water resources, and adjoining land areas in the city by controlling activities deemed by the conservation commission likely to have a significant or cumulative effect upon wetland values, including but not limited to the following: public or private water supply, groundwater, flood control, erosion and sedimentation control, storm damage prevention, water pollution, fisheries, and wildlife habitat (collectively, the "wetland values protected by this chapter").

§ 2. Jurisdiction

Except as permitted by the conservation commission or as provided in this ordinance, no person shall remove, dredge, build upon, or alter the following areas: within one hundred feet of any freshwater wetland, bordering vegetated wetland, marsh, wet meadow, bog or swamp; within one hundred feet of any bank; any lake, river, pond, or stream; within one hundred feet of any lake river, pond, or stream; any land under said waters; any land subject to flooding; or within one hundred feet of any existing or proposed inlet to any storm drain, catch basin, or other storm drain system component discharging to any lake, pond, river stream, or wetland. In addition, any project in progress, which is not serviced by a combined sewer system, and from which a visible occurrence of silted/polluted effluent is entering any of the jurisdictional areas in the previous sentence, regardless of any exceptions in section three, shall be placed under the jurisdiction of the conservation commission and is subject to the permit and application required by this ordinance.

§ 3. Exceptions

(a) The permit and application required by this ordinance shall not be required for certain categories of work that are within one hundred feet of any existing or proposed inlet to any storm drain, catch basin, or other storm drain system component, but are not within any other

areas of jurisdiction as described in § 2 herein. These categories of work include maintaining, repairing, or replacing, but not substantially changing or enlarging, an existing and lawfully located structure or facility used in the service of the public to provide electricity, gas, water, telephone, telegraph, or other telecommunication services. These categories of work shall also include the following activities when performed by the city, its agents, servant, or employees: street resurfacing and reconstruction; maintenance of private streets; sidewalk maintenance and construction; sanitary and surface sewer line maintenance and construction; maintenance of storm drainage systems, including catch basins; and the maintenance and construction of water mains. Notwithstanding the above, the work specifically excepted under this paragraph shall be performed in such a manner so that sediment shall be prevented from entering catch basins or the other areas of jurisdiction described in section two herein.

(b) The permit and application required by this ordinance shall not apply to any project which involves no ground disturbance.

(c) For any project to be serviced by a combined sewer system which is placed under the jurisdiction of the conservation commission in section two by its location "within one hundred feet of any existing or proposed inlet to any storm drain, catch basin, or other storm drain system component," the permit and application required by this ordinance shall not apply. For the purposes of this ordinance an area serviced by combined sewer system consists of any area where storm water normally enters the sewer system and flows to the Upper Blackstone Water Pollution Abatement District treatment facility where it is treated along with sanitary sewage.

(d) For any project involving less than 10,000 square feet of ground disturbance in areas with slopes less than 15% which is placed under the jurisdiction of the conservation commission in section two by its location "within one hundred feet of any existing or proposed inlet to any storm drain, catch basin, or other storm drain system component," the permit and application required by this ordinance shall not apply.

(e) For any project within the Downtown Commercial Area Revitalization District (CARD) which is placed under the jurisdiction of the conservation commission in section two by its location "within one hundred feet of any existing or proposed inlet to any storm drain, catch basin, or other storm drain system component", the permit and application required by this ordinance shall not apply. The CARD boundaries shall be those designated by the Executive Office of Communities and Development.

(f) The permit and application required by this chapter shall not apply to emergency projects necessary for the protection of the health or safety of the public, provided that the work is to be performed by or has been ordered to be performed by an agency of the commonwealth or a political subdivision thereof; provided that advance notice, oral or written, has been given to the commission prior to commencement of work or within twenty-four hours after commencement; provided that the conservation commission or its agent certifies the work as an emergency project; provided that the work is performed only for the time and place certified by the conservation commission for the limited purposes necessary to abate the emergency; and provided that within twenty-one days of commencement of an emergency project a permit application shall be filed with the commission for review as provided in this ordinance. Upon failure to meet these and other requirements of the commission, the commission may, after notice and a public hearing, revoke or modify an emergency project approval and order restoration and mitigation measures.

(g) The conservation commission may, by regulations adopted by the commission pursuant to section eight of this chapter, establish categorical exceptions of activities proposed to be conducted in areas within 100-feet of any existing or proposed inlet to any storm drain, catch basin, or other component of a stormdrain system for which categories of activities the permit and application required by this chapter shall not be required.

(h) Other than stated in this section, the exceptions provided in the wetlands protection act shall not apply.

§ 4. Applications

(a) Written application shall be filed with the commission to perform activities regulated by this chapter affecting resource areas protected by this chapter. The application shall include such information and plans as are deemed necessary by the commission to describe proposed activities and their effects on the environment. No activities shall commence without receiving and complying with a permit issued pursuant to this chapter. For activities occurring on any priority development site designated by the city council pursuant to G.L. c. 43D, the aforesaid application shall be filed at the time of application for a special permit or for site plan review.

(b) The commission in an appropriate case may accept as the application and plans under this ordinance the notice of intent and plans under the wetlands act.

(c) Any person desiring to know whether or not a proposed activity or an area is subject to this chapter may in writing request a determination from the commission. Such a request for determination shall contain data and plans specified by the regulations of the commission.

(d) At the time of an application or request the applicant shall pay a filing fee specified in regulations of the commission. In addition, the commission may require the applicant to pay the costs and expenses of any expert consultant chosen by the commission and deemed necessary by the commission to review the application or request. Costs to the applicant under this section may not exceed a maximum of two thousand five hundred dollars.

§ 5. Notice and Hearings

(a) Any person filing a notice of intent or a request for determination of applicability with the commission at the same time shall provide notice thereof in accordance with the wetlands act.

(b) The commission shall conduct a public hearing on any application or request for determination, with notice given at the expense of the applicant, five working days prior to the hearing, in a newspaper of general circulation in the city.

(c) The commission shall commence the public hearing within forty-five days from receipt of a completed application or request for determination; provided, however, that said public hearing shall be commenced within twenty-one days of receipt thereof for activities occurring on any priority development site designated by the city council pursuant to G.L. c. 43D. If the commission fails to comply with this provision, the project shall be deemed a constructive grant approval under this chapter by the commission.

(d) The commission shall issue its permit or determination in writing within thirty-five days of the close of the public hearing thereon; provided, however, that the public hearing shall normally be closed and a determination and permit, if necessary, shall normally issue no later than 150 days following commencement of said public hearing for activities occurring on any priority development site designated by the city council pursuant to G.L. c. 43D. If the commission fails to comply with this provision, the project shall be deemed a constructive grant approval under this chapter by the commission.

(e) Where appropriate jurisdiction exists, the commission shall combine its hearing under this ordinance with the hearing conducted under the wetlands act.

(f) The commission shall have the authority to continue the hearing to a date announced at the hearing, for reasons stated at the hearing, which may include receipt of additional information offered by the applicant or others, information and plans required of the applicant, deemed necessary by the commission in its discretion, or comments and recommendations of boards and officials listed in section six herein. In the event the applicant objects to a continuance, the hearing shall be closed and the commission shall take action on such information as is available. If a continued hearing is postponed for more than thirty-five days due to a lack of quorum for the conservation commission, the project shall be deemed a constructive grant approval under this chapter by the commission.

(g) For any constructive grant approval, the applicant, who seeks such approval shall notify the commission, in writing, by certified mail or hand delivery, within fourteen days from the expiration of the applicable deadline.

§ 6. Coordination

Any person filing a notice of intent with the commission shall provide a copies thereof to the city boards and officials as required by the regulations of the commission. The commission reserves the right to solicit comments from city boards and officials to assist in evaluation of notices of intent. The applicant shall have the right to receive any such comments and recommendations and to respond to them at a public hearing of the commission.

§ 7. Permits, Determinations and Conditions

(a) If the commission after a public hearing determines that the activities which are the subject of the application are likely to have a significant effect upon the wetland values protected by this chapter, the commission, within thirty-five days of the close of the hearing, shall issue or deny a permit for the activities requested. If it issues a permit, then the commission shall impose conditions which the commission deems necessary or desirable to protect those values, and all activities shall be done in accordance with those conditions. One such condition shall be that the person agrees to allow the commission, its agents, servants, and employees to enter said property for periodic inspections to monitor compliance with such conditions.

(b) The commission may deny a permit for failure to meet the requirements of this chapter; for failure to submit necessary information and plans requested by the commission; for failure to meet the design specifications, performance standards, and other requirements in regulations of the commission; for failure to avoid or prevent unacceptable significant effects upon the wetland values protected by this chapter; and where no conditions are adequate to

protect said values. Due consideration shall be given to any demonstrated hardship on the applicant by reason of denial, as presented at the public hearing.

(c) A permit shall expire three years from the date of issuance. Notwithstanding the above, the commission, in its discretion, may issue a permit expiring five years from the date of issuance for recurring or continuous maintenance work, provided that annual notification of time and location of work is given to the commission. Any permit may be renewed for additional one year periods, provided that a request for a renewal is received in writing by the commission prior to thirty days of expiration.

(d) The commission may revoke or modify a permit issued under this chapter after public notice and public hearing, and notice to the holder of the permit, if in the opinion of the commission the person is acting contrary to G.L. c. 131 or this chapter.

(e) The commission in an appropriate case may combine the permit or other action on application issued under this ordinance with the order of conditions issued under the wetlands act.

§ 8. Appeals

(a) Appeal from a decision of the conservation commission acting under authority of G.L. c. 131, § 40A is to the department of environmental protection pursuant to the code of Massachusetts regulations. Appeal from a decision of the conservation commission acting under authority of this chapter shall be taken in accordance with law to the superior court or other body of competent jurisdiction. Any such appeal shall be taken within ten days from the date from the receipt of such decision and shall not relieve the individual of the responsibility of taking an appeal to department of environmental protection if such is required under said regulations.

(b) If the commission issued a positive determination of applicability, then no work may proceed until the appeal has been decided, and all appeal periods have elapsed. If the commission issued a negative determination of applicability, then work may proceed at the applicant's risk upon written notice to the commission. No work may proceed until the appeal on the commission's decision on a notice of intent has been decided and all appeal periods have elapsed.

§ 9. Certificate of Compliance

Within twenty-one days of the receipt of a written request by the applicant or the owner of the property for a certificate of compliance, the commission shall grant such request if the activity or portions thereof described in the notice of intent and plans complies with the order of conditions imposed pursuant to requirements solely under this ordinance. The certificate of compliance shall state that the activity, or portions thereof, has been completed in accordance with such order.

§ 10. Regulations

After public notice and public hearing the commission shall promulgate rules and regulations to effectuate the purposes of this ordinance. These regulations shall be promulgated prior to the effective date of this chapter. A failure by the commission to

promulgate such rules and regulations or a legal declaration of their invalidity by a court of law shall not act to suspend or invalidate the effect of this ordinance.

§ 11. Definitions

The following definitions shall apply in the interpretation and implementation of this chapter. For any terms not defined in this ordinance or the regulations thereunder, the definitions used in the Wetlands Protection Act and its subsequent regulations shall apply:

person - shall include any individual, group of individuals, association, partnership, corporation, company, business organization, trust, estate, the Commonwealth or political subdivision thereof to the extent subject to municipal ordinances, administrative agency, public or quasi-public corporation or body, this municipality, and any other legal entity, its legal representatives, agents, or assigns.

alter - shall include, without limitation, the following activities when undertaken to, upon, within or affecting resource areas protected by this chapter:

(1) removal, excavation or dredging of soil, sand, gravel, or aggregate materials of any kind;
(2) changing of preexisting drainage characteristics, sedimentation patterns, flow patterns, or flood retention characteristics;
(3) dumping, discharging or filling with any material which may degrade water quality;
(4) placing of fill, or removal of material, which would alter elevation;
(5) driving of piles, erection of or additions to buildings or structures of any kind;
(6) placing of obstructions or objects in water;
(7) removal of vegetation from a combined total area exceeding ten thousand square feet on a single or adjacent lots;
(8) changing water temperature, biochemical oxygen demand, or other physical or chemical characteristics of water; but specifically excluding the use of de-icing materials and chemicals for roadway maintenance during the winter months;
(9) any activities, changes or work which may cause or tend to contribute to the pollution of any body of water or ground water.
(10) for the purposes of this ordinance more than one contiguous area under development constitutes a single project.

land subject to flooding - shall include:

(1) bordering land subject to flooding defined as a low, flat area adjacent to and inundated by flood waters rising from creeks, rivers, streams, ponds, or lakes, also defined in the wetlands act;
(2) isolated land subject to flooding defined as an isolated depression or closed basin without an inlet or an outlet which at least once a year confines standing water to a volume of at least 1/8 acre-feet.

wetlands protection act, or *wetlands act* - shall refer to G.L. c. 131, § 40.

§ 12. Time of Receipt

The date of receipt of any request for determination, notice of intent, or other filing requesting action by the commission shall be the date it is received by the office of the commission.

§ 13. Security

(a) As part of a permit issued under this chapter, 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 hereunder be secured wholly or in part by one or more of the methods described below:

(1) by a proper bond or deposit of money or other undertaking of financial responsibility sufficient in the opinion of the commission and subject to approval by the city manager and the city solicitor;
(2) by a conservation restriction, easement or other covenant enforceable in a court of law, executed and duly recorded by the owner of record, running with the land to the benefit of this municipality whereby the permit conditions shall be performed and observed before any lot may be conveyed other than by mortgage deed.

(b) Where appropriate jurisdiction exists, the commission may accept one form of security to bind performance under this ordinance and the wetlands act.

§ 14. Enforcement

(a) The commission, its agents, officers, and employees shall have authority to enter upon privately owned land for the purpose of performing their duties under this chapter and may make or cause to be made such examinations, surveys or samplings as the commission deems necessary.

(b) The commission shall have the authority to enforce this chapter, its regulations, and permits issued thereunder by violation notices, administrative orders, and civil and criminal court actions.

(c) The city solicitor shall represent the commission in any judicial proceeding in which it is a party.

(d) Upon request of the commission, the city manager and the city solicitor shall take legal action for enforcement.

(e) Any person who violates any provision of this chapter, regulations thereof, or permits issued thereunder, shall be punished by a fine of not more than three hundred dollars. Each day or portion thereof during which a violation continues shall constitute a separate offense, and each provision of this chapter, regulations, or permit violated shall constitute a separate offense.

(f) In the alternative to criminal prosecution, the commission may elect to utilize the non-criminal disposition procedure set forth in G.L. c. 40, § 21D and chapter fifteen of these Revised Ordinances.

§ 15. Burden of Proof

The applicant for a permit shall have the burden of proving by a preponderance of the credible evidence that the work proposed in the application will not have an unacceptable significant effect upon the wetland values protected by this chapter. Failure to provide adequate evidence to the commission supporting this burden shall be sufficient cause for the commission to deny a permit or grant a permit with conditions.

§ 16. Wetlands Protection Act

This chapter is adopted under the Home Rule Amendment of the Massachusetts Constitution and the home rule statutes, independent of the wetlands act and regulations thereunder.

§ 17. Prior Violations

Any such person who purchases, inherits or otherwise acquires real estate upon which work has been done in violation of the provisions of this ordinance or in violation of any order issued pursuant to this ordinance shall forthwith comply with any such order, or restore such real estate to its condition prior to any such violation; provided however that no such action, civil or criminal, shall be brought against such person unless commenced within three years following the date of acquisition of the real estate by such person.

Chapter Seven - Safe Drinking Water

§ 1. Powers and Duties of Commissioner
§ 2. Water Operations Property
§ 3. Repair in Lines
§ 4. Height of Reservoirs
§ 5. Record of Water Users
§ 6. Examination of Bills and Expenditures
§ 7. Reports
§ 8. Applications for Use of Water
§ 9. Cost of Furnishing and Maintaining Service Pipes
§ 10. Furnishing, Laying and Repairing Pipes
§ 11. Injuries to Service Pipes
§ 12. Opening or Closing Service Stops at Mains
§ 13. Access to Premises of Users
§ 14. Prevention of Waste
§ 15. Meters
§ 16. Water Rate Schedule
§ 17. Payment of Water Bills
§ 18. Shut-Offs
§ 19. Fire Suppression Pipes
§ 20. Cross Connection Control and Distribution System Protection (Amended August 16, 2016 – 309)
§ 21. Water Connection Permit Fee
§ 22. Regulations

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§ 1. Powers and Duties of Commissioner

(a) The commissioner of public works and parks ("commissioner") shall have the care and control of all ponds, streams, waters, reservoirs, aqueducts and other property acquired or held by the city for the purpose of obtaining or furnishing a supply of pure water for the use of its inhabitants and shall maintain the same in good order and condition, shall use and operate the same and furnish all supplies required therefor, shall take all measures necessary to protect and preserve the purity of all waters, shall establish a drought contingency and water emergency management plan to maintain a safe and robust water supply, shall purchase or requisition and lay and maintain all pipes, conduits and other fixtures and appliances necessary for obtaining or supplying water for the inhabitants of the city, and shall furnish, test, set and repair all water meters.*

***Amended August 16, 2016 – 309**

(b) The commissioner shall:

(1) render bills for the use of water according to such tariffs as may be established by the city council;

(2) submit such bills to the city treasurer for collection;

(3) see that all water meters in use measure accurately;

(4) order off all meters that in his judgment may need repairing;

(5) make abatements of charge for water in all proper cases;

(6) see that all water service is provided through metered lines;
(7) exercise a constant supervision over the use of water and may employ such assistants as may be required.

§ 2. Water Operations Property

The commissioner shall keep an inventory of all tools, pipes, materials and other property under the care custody and control of the department of public works and parks (water operations).

§ 3. Repair in Lines

The commissioner shall repair all leaks or breaks from any cause in any main, pipe, hydrant, gate valve, or other appurtenance attached to the works, and when, in the performance of these repairs, it becomes necessary to shut off the water from any hydrant, shall give immediate notice to the fire department, as well as notify all takers thus to be deprived of water, except in case of emergency. The commissioner shall report to the fire department when the repairs have been completed, and the water supply turned on; and shall repair all damage done to any street, sidewalk, sewer or other public property.

§ 4. Height of Reservoirs

The commissioner shall keep a daily record of the height of the water in the reservoirs of the city.

§ 5. Record of Water Users

The commissioner shall keep suitable records, in which shall be entered the names of all persons who take water, the kind of building in which it is taken, the name of the street and the number thereon, the nature of the use and the amount assessed.

§ 6. Examination of Bills and Expenditures

The commissioner shall examine and approve all bills for expenditures in water operations before they shall be approved by the city auditor.

§ 7. Reports

(a) The commissioner shall, annually, report to the city manager the amount of pipe laid, giving the name of the street, the number of gates and hydrants set during the year and the number of service pipes put in. The report shall also include the appraisal value of all real and personal property in his charge and a statement of the number of water takers, the number and kind of meters supplied during the previous municipal year, the number and kinds of meters in use, the number of cases where the water has been shut off and the number and amount of abatements which have been made during the preceding municipal year.

(b) The commissioner shall report to the fire department the location or relocation of any hydrant or water main as soon as it is in service.

§ 8. Applications for Use of Water

All applications for the use of city water must be made at the office designated by the commissioner, in the form prescribed, stating truly and fully the various uses to which the water is to be applied, and signed by the owner of the premises to be supplied or his or her properly authorized agent. The applicant shall make the required deposit.

§ 9. Cost of Furnishing and Maintaining Service Pipes

All service pipe and its appendages laid in the streets shall be furnished and maintained at the expense of the city.

§ 10. Furnishing, Laying and Repairing Pipes

(a) All pipes and other fixtures on the premises from the property line to the outlet side of the meter shall be furnished and laid by the city at the expense of the owner of the property, or the commissioner may authorize the owner to have this work done by the owner's plumber, in which case all materials used and work done shall be subject to the specifications, inspections and tests of the department of public works and parks. Such pipes shall be maintained and kept in repair by the department of public works and parks at the expense of the owner, or may be maintained and kept in repair by the owner's plumber at the expense of the owner if so ordered by the commissioner.

(b) All water takers shall be liable for such repairs of the fixtures upon the premises occupied or owned by them as shall be deemed necessary by the commissioner to prevent waste of water.

§ 11. Injuries to Service Pipes

All damages to service pipe, street mains, hydrants or other fixtures caused by excavation in putting in any sewer, drain or other pipe, shall be chargeable to the owner of the premises for whom such work is done.

§ 12. Opening or Closing Service Stops at Mains

All persons shall be prohibited from opening or closing any service stop at the mains without permission from the commissioner.

§ 13. Access to Premises of Users

The commissioner, or any employee or agent acting under authority of the commissioner, shall have access at all reasonable times to all premises where water is used, for the inspection or repair of the fixtures, setting, testing or repairing meters, and shutting off the water from any delinquent taker by closing any faucet or cutting any pipe or pipes necessary to effect the object desired.

§ 14. Prevention of Waste

It shall be the duty of the commissioner at all times to be diligent to prevent waste of city water and to make such examinations, investigations and tests as to such waste, arising from

all causes, as shall cause the most economical use of water, and no person shall permit or allow any waste of water.

§ 15. Meters

(a) The size, type and location of all water meters shall be determined by the commissioner.

(b) All new construction requiring the use of metered water, including the rehabilitation, remodeling, modification or redesign of existing structures, shall provide for the installation of remote reading water meter. The cost of equipment and installation of such meter shall be at the expense of the property owner.

(c) The commissioner shall be responsible for all repair, replacement and maintenance, including the expense thereof, of water meters.

(d) No person except an agent authorized by the commissioner shall at any time remove or repair any meter or fixture connected therewith, which has been set or used by the department of public works and parks.

(e) The commissioner shall assess a charge of twenty-three dollars against water takers for the removal and testing of any residential water meter which has been found to register water usage accurately.

(f) The commissioner shall keep a history of each meter showing make, the style, size, number, date purchased, location, date when set, reading at such date and record of tests, and the location, reading and date when reset, and also a description of all repairs.

§ 16. Water Rate Schedule

(a) Unless otherwise provided by these Revised Ordinances, no person shall take water supplied by the city without payment of the fees and charges established by this section. On all premises where meters have been set, the owner of the premises shall pay the rates according to the schedule contained herein for the entire amount of water used upon such estates, irrespective of leases or individual consumers.

(b) The rates for the supply of water established by this section shall have the following definitions:

Minimum - a charge to maintain a water service connection for any one calendar month period regardless of the amount of water taken.

Basic - a charge for each one hundred cubic fee of water supplied through any one meter servicing property located within the geographic boundaries of the city.

Outside City Limits - a charge for each one hundred cubic feet of water supplied through any one meter servicing property located outside of the geographic boundaries of the city of Worcester, in the event such service is authorized by vote of the city council.

Fire Suppression - an annual charge per diameter inch of the pipe utilized to supply water to any fire suppression system in any structure or building located within the geographic boundaries of the city.

Fire Suppression - Outside City Limits - an annual charge per diameter inch of the pipe utilized to supply water to any fire suppression system in any structure or building located outside of the geographic boundary of the city.

(c) The rates for water shall be as follows:

1. Minimum . . . . . .$ 1.50
2. Basic . . . . . **$ 3.60***
3. Outside City Limits . . . . . **$ 3.86****
4. Fire Suppression . . . . . $ 89.00
5. Fire Suppression (Outside City Limits). . . . $149.00

***Amended June 2, 2009 – 9331, Amended June 8, 2010 – 9488, Amended May 17, 2011 – 9611, Amended May 8, 2012 – 9726, Amended June 11, 2013 – 9890, Amended June 10, 2014 and Amended June 16, 2015 - 139.**

****Amended May 8, 2012 – 9726, Amended June 11, 2013 – 9890 and Amended June 16, 2015 – 139.**

(d) No charge shall be made against the city for water taken for its use; nor shall any charge be made for water used from hydrants for extinguishing fires.

(e) The water use charges assessed herein, and the sewer use charges assessed under Chapter 5, § 26, for individuals ages 65 years and older, who (1) are owner occupiers of the residences in which they reside and, (2) qualify for the "Clause 41C, Elderly Person, Real Estate Exemption" under state law shall be automatically exempted up to forty-two dollars and fifty cents ($42.50) per each three month water and sewer use charges bill. The exemption shall be applied first to the applicable water use charges, and the balance of the forty-two dollars and fifty cents exemption, if any, shall be applied against the sewer use charges. *

***Amended June 16, 2015 – 139 and Amended August 11, 2015 - 166**

(f) Unless otherwise specified in its text, any amendment to the rates established herein, or the sewer use rates established by section twenty-six of chapter five of these Revised Ordinances, shall be effective when adopted and shall apply to all bills issued after such effective date regardless of the date the water was consumed or the sewer system utilized.

(g) Nothing herein shall prevent the city from establishing by contract with such individual towns, districts or entities as may be located outside of the geographic boundaries of the city a contract rate for water delivered outside of the city limits if any such contract rate is approved by order of the city council.

§ 17. Payment of Water Bills

(a) Water bills shall be issued to water takers upon such schedule and with such frequency as may be established from time to time by the commissioner; provided, however, that no initial water bill shall cover a period of time less than one calendar month or greater than one

year. An such water bill schedule established by the commissioner may specify a different billing schedule for metered rates, flat rates, minimum charges and other charges.

(b) The due date for any water bill, including bills for meters or service pipe, materials and labor furnished, shall be the thirtieth day after the mailing of notice by the city treasurer to the person liable therefore that the bill for the same is ready for payment at the office of the city treasurer.

(c) Bills for metered water rates remaining unpaid after the due date shall bear interest at the rate of fourteen per cent per annum computed from the first day after the due date of said bill and shall be paid on the unpaid balance. An additional charge of five dollars shall be due if a demand notice is issued. Where interest and charges are payable, they shall be added to and become a part of the real estate tax bill. Application for abatement for said interest charges shall be filed with the commissioner of public works and parks in accordance with the procedures and standards delineated in G.L. c. 40, § 42E.

§ 18. Shut-Offs

(a) No damages shall be allowed any taker for shutting off water for the purpose of doing ordinary repairs on pipes, gates, hydrants or other fixtures, adding or inserting new ones, changing pipes at any time from one size to another, or lowering and raising pipes in any street or highway.

(b) Twenty-four hours' notice shall be given to all takers before their supply of water shall be cut off for purposes set out in the preceding section, except in cases of great emergency.

(c) If bills for water, meters or service pipe, materials or labor furnished are not paid within forty days notice from the city treasurer that the same are at his office, ready for payment, the water may be shut off from the premises, supplied and shall not be turned on again until all bills are paid or a payment plan acceptable to the city treasurer is arranged, and in addition thereto, any fees established by the commissioner for the expense of shutting off and for the expense of letting on the water shall be added to the amount due from the delinquent water taker.

(d) Once the commissioner, or any employee authorized by him, has posted notice on the premises that water is to be shut off for the nonpayment of bills, any fee established by the commissioner for the expense of shutting off the water shall become due and payable and shall be part of the bill.

(e) The provisions of this section shall apply to all premises supplied with water, whether the premises are occupied at the time the bills accrued or by other persons.

(f) In addition to the imposition of any penalty provided for in these Revised Ordinances, the commissioner may order the supply of water shut off from any water taker who fails to comply with any requirement of this chapter, including the requirements imposed by sub-section (g) of this section.

(g) All water-takers shall comply with the requirements and restrictions imposed as part of a drought or water supply emergency declared under the city's Drought Contingency and Water Emergency Management Plan or a state of water emergency

declared under G.L. c.21G, §15 or G.L. c.40, §41A. Each day that any such violation occurs shall constitute a separate offense.*

***Amended August 16, 2016 – 309**

(h) Water takers shall be charged for shutting off and for turning on water at the street mains when said work is required by said water takers. Water takers shall be charged for all services rendered upon their premises for thawing frozen pipes, repairing the same in any manner or removing obstructions therefrom.

§ 19. Fire Suppression Pipes

The entire expense of installation and maintenance of fire suppression pipes, including labor and materials **furnished*** in connection therewith, in any street or way shall be borne by the property owner receiving the benefit of such fire suppression pipes.

***Amended August 16, 2016 – 309**

§ 20. Cross Connection Control and Distribution System Protection

The commissioner, or his or her duly authorized agents bearing proper credentials and identification, shall be permitted to enter all properties where water is used for the purpose of inspection, observation and testing of all fixtures related to cross connection control and backflow prevention all in accordance with the provisions of this chapter and to the extent permitted by and under the General Laws. For each backflow prevention device inspection and test conducted by the city pursuant to the provisions of this chapter, the regulations of the Massachusetts Department of Environmental Protection and the General Laws, the property owner shall pay the fee established by the commissioner.*

***Amended August 16, 2016 – 309**

§ 21. Water Connection Permit Fee

No person shall make or attempt to make any connection or repairs, or undertake any project, involving the water system of the city without first obtaining a written permit from the department of public works and parks. Applications for a water connection work permit shall be made on a form prescribed by the commissioner. The commissioner may impose reasonable conditions and limitations concerning work to be performed under such permit, including a requirement that the applicant post a bond or other forms of surety, indemnity and evidence of adequate insurance coverage with the commissioner before such permit is issued. No permit shall be issued unless the applicant has paid the fee established by the commissioner.

§ 22. Regulations

The commissioner is hereby authorized to promulgate regulations to implement this chapter.

Chapter Eight - Public Health

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§ 3. Tobacco Control Ordinance
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Miscellaneous

§ 42. Nuisances on Property
§ 43. Graffiti on Private Property
§ 44. Clothing Donation Receptacles

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§ 1. Enforcement

Unless specifically provided otherwise herein, the provisions of this chapter shall be enforced by the commissioner of public health, the director of public health, the commissioner of inspectional services, the building commissioner, the director of housing, any duly authorized member of the department of inspectional services, by any police officer, or by any other officer or employee of the city specifically authorized in writing by the city manager. Any such enforcing officer or person may utilize any and all available methods of enforcing the provisions of this chapter including, but not limited to: criminal process, non-criminal disposition, the issuance of orders or any other administrative actions.*

***Amended July 20, 2010 #9057**

§ 2. [Reserved] – Amended July 20, 2010 #9057

§ 3. Tobacco Products Control Ordinance - Amended November 24, 2015 - 202

(a) *Statement of Purpose.*

The city of Worcester, acting by and through its City Council, hereby makes the following findings:

(1) There exists conclusive and voluminous evidence that tobacco causes cancer, respiratory and cardiac diseases, negative birth outcomes, irritations to the eyes, nose and throat;

(2) The U.S. Department of Health and Human Services has concluded that nicotine is as addictive as cocaine or heroin and the Surgeon General found that nicotine exposure during adolescence, a critical window for brain development, may have lasting adverse consequences for brain development, and that it is addiction to nicotine that keeps youth smoking past adolescence;

(3) There are an estimated 31,488 smokers who reside in the city of Worcester;

(4) 18.1% of adults in the city of Worcester over 18 years of age smoke, a level which is 21% higher than the statewide average of 15%;

(5) Lung cancer incidence is 19% higher among males in Worcester compared to the state level – The age-adjusted lung cancer incidence (per 100,000) for males is 97.6 in Worcester and 82.2 in Massachusetts;

(6) Lung cancer incidence is 19% higher among females in Worcester compared to the state level - The age-adjusted lung cancer incidence (per 100,000) for females is 70.8 in Worcester and 665.5 in Massachusetts;

(7) Mortality from lung cancer is 17% higher in Worcester compared to Massachusetts;

(8) Tobacco causes an estimated 438,000 deaths annually in the United States and over 8,000 deaths annually in the commonwealth of Massachusetts;

(9) The death rate of Worcester residents from tobacco on a per capita basis is approximately 250 individuals annually, or five human lives lost per week;

(10) At least one-half of all smokers begin smoking before the age of eighteen and an estimated 3,000 minors begin smoking every day in the United States;

(11) The sale of tobacco products is incompatible with the mission of health care institutions because it is detrimental to the public health and undermines efforts to educate patients on the safe and effective use of medication;

(12) There are certain tobacco products such as blunt wraps that are frequently marketed and sold to the youth and are also known to be used as drug paraphernalia;

(13) Among the 15.7% of students nationwide who currently smoke cigarettes and were less than 18 years old, 14.1% usually obtained them by buying them in a store (i.e. convenience store, supermarket, or discount store) or gas station;

(14) The U.S. Surgeon General recognized in his 2014 report that a complementary strategy to assist in eradicating tobacco related death and disease is for local governments to ban categories of products from retail sale;

(15) The U.S. Centers for Disease Control and Prevention has reported that current electronic cigarette use among middle and high school students tripled from 2013 to 2014;

(16) Nicotine solutions, which are consumed via electronic or battery-operated delivery smoking devices such as electronic cigarettes, are sold in dozens of flavors that appeal to youth, such as cotton candy and bubble gum;

(17) The Massachusetts Department of Environmental Protection has classified liquid nicotine in any amount as an "acutely hazardous waste" (310 CMR 30.136);

(18) In a lab analysis conducted by the FDA, electronic cigarette cartridges that were labeled as containing no nicotine actually had low levels of nicotine present in all cartridges tested, except for one;

(19) According to the CDC's youth risk behavior surveillance system, the percentage of high school students in Massachusetts who reported the use of cigars within the past 30 days was 10.8% in 2013;

(20) In Massachusetts, youth use of cigars and smokeless tobacco (12.3%) is higher than the rate of current cigarette use (10.7%) for 2013 and has remained elevated since 2009;

(21) The Massachusetts Supreme Judicial Court has held that " . . . [t]he right to engage in business must yield to the paramount right of government to protect the public health by any rational means.";

Now, Therefore, the city council of the city of Worcester, in recognition of the death and devastating effects of tobacco products on the residents of the city of Worcester, is compelled to exercise the authority granted it under its city charter to protect and promote the public health and the authority granted it by the Federal Family Smoking Prevention and Tobacco Control Act of 2009, P.L. 111-31, to regulate the sale of tobacco products.

(b) ***Definitions.*** **For purposes of this section the following words and phrases shall have the following meanings:**

Blunt Wrap: Any tobacco product manufactured or packaged as a wrap or as a hollow tube made wholly or in part from tobacco that is designed or intended to be filled by the consumer with loose tobacco or other fillers.

Board of Health (or "board"): the public body re-established under Chapter 120 of the Acts of 2014 and Article Six of the Home Rule Charter, as described in further detail in section 14 of Article 10 of Part Two of the Revised Ordinances of the city of Worcester.

Business Agent: An individual who has been designated by the owner or operator of any establishment to be the manager or otherwise in charge of said establishment.

Cigar: Any roll of tobacco that is wrapped in leaf tobacco or in any substance containing tobacco with or without a tip or mouthpiece not otherwise defined as a cigarette under G.L. c. 64C, § 1, Paragraph 1.

Coupon: Any card, paper, note, form, statement, ticket or other issue distributed for commercial or promotional purposes to be later surrendered by the bearer so as to receive an article, service or accommodation without charge or at a discount price.

Director: the director of public health in the division of public health in the department of health & human services of the city of Worcester;

Educational Institution: Any public or private college, school, professional school, scientific or technical institution, university or other institution furnishing a program of higher education.

Employee: Any individual who performs services for compensation for an employer at the employer's workplace and as otherwise defined in section twenty-two (a) of chapter two hundred seventy of the General Laws.

Employer: Any individual, partnership, association, corporation, trust or other organized group of individuals, including the city of Worcester or any agency or authority thereof, which uses the services of one (1) or more employees and as otherwise defined in section twenty-two (a) of chapter two hundred seventy of the General Laws.

Health Care Provider - Institutional: An individual, partnership, association, corporation, trust, or any person or group of persons that provides an institutional setting for the delivery of health care services and employs health care providers licensed, or subject to licensing, by the Massachusetts Department of Public Health under G.L. c. 112. *Health Care Provider - Institutional* includes, but is not limited to, hospital and all associated doctor offices, medical practices, pharmacies, clinics, optician/optometrist offices and dentist offices located within any hospital complex.

Health Care Provider – Non-Institutional: An individual, partnership, association, corporation, trust, or any person or group of persons which is subject to the provisions of 247 CMR 6.00 or that owns or operates any stand-alone health care facility, including, but not limited to, any health center or clinic, doctors office, optician/optometrist office, dentist offices, and any retail establishment that provides pharmaceutical goods and services, and any pharmacy located within any Institutional HealthCare Provider.

Liquid Nicotine Container: A bottle or other vessel which contains nicotine in liquid or gel form, whether or not combined with another substance or substances, for use in a tobacco product. The term does not include a

container containing nicotine in a cartridge that is sold, marketed, or intended for use in a tobacco product, if the cartridge is prefilled and sealed by the manufacturer and not intended to be open by the consumer or retailer.

Listed or non-discounted price: The higher of the price listed for a tobacco product on its package or the price listed on any related shelving, posting, advertising or display at the place where the tobacco product is sold or offered for sale plus all applicable taxes if such taxes are not included in the state price, and before the application of any discounts or coupons.

Minimum Legal Sales Age (MLSA): The age an individual must be before that individual can be sold a tobacco product in the municipality.

Minor: Any individual under the age of eighteen (18).

Non-Residential Roll-Your-Own (RYO) Machine: A mechanical device made available for use (including to an individual who produces cigars, cigarettes, smokeless tobacco, pipe tobacco, or roll-your-own tobacco solely for the individual's own personal consumption or use) that is capable of making cigarettes, cigars or other tobacco products. RYO machines located in private homes used for solely personal consumption are not Non-Residential RYO machines.

Permit: The tobacco product sales permit issued by the board of health pursuant to this ordinance.

Permit Holder: Any person engaged in the sale or distribution of tobacco products that applies for and receives a tobacco product sales permit, or any person that is required to apply for a Tobacco Product Sales Permit pursuant to this ordinance, or his or her business agent.

Person: Any individual, firm, partnership, association, corporation, company or organization of any kind, including but not limited to, an owner, operator, manager, proprietor or person in charge of any establishment, business or retail store.

Regulations: Legally binding and enforceable provisions, requirements and prohibitions adopted by the board of health pursuant to any lawful authority it may possess, including authority derived from this ordinance and/or pursuant to section thirty-one of chapter one hundred and eleven of the General Laws.

Retail Tobacco Store: An establishment that is not required to possess a retail food permit whose primary purpose is to sell or offer for sale, but not for resale, tobacco products and tobacco paraphernalia, in which the sale of other products is merely incidental, and in which the entry of persons under the minimum legal sales age is prohibited at all times, and maintains a valid

permit for the retail sale of tobacco products as required to be issued by the city.

Retailer : shall mean any person who is the owner or operator of any establishment in the business of selling or distributing tobacco products.

Self-Service Display: Any display from which customers may select a tobacco product, as defined herein, without assistance from an employee or store personnel.

Schools: Public or private elementary or secondary schools.

Smoking Bar: An establishment that primarily is engaged in the retail sale of tobacco products for consumption by customers on the premises and is required by G.L. c. 270, §22 to maintain a valid permit to operate a smoking bar issued by the Massachusetts Department of Revenue. "Smoking bar" shall include, but not be limited to, those establishments that are commonly known as "cigar bars" and "hookah bars".

Tobacco Product: Any product containing, made, or derived from tobacco or nicotine that is intended for human consumption, whether smoked, chewed, absorbed, dissolved, inhaled, vaped, snorted, sniffed, or ingested by any other means, including, but not limited to: cigarettes, cigars, little cigars, chewing tobacco, pipe tobacco, snuff, or electronic cigarettes, electronic cigars, electronic pipes, electronic hookah, or other similar products, regardless of nicotine content, that rely on vaporization or aerosolization. "Tobacco product" includes any component or part of a tobacco product. "Tobacco product" does not include any product that has been approved by the United States Food and Drug Administration either as a tobacco use cessation product or for other medical purposes and which is being marketed and sold or prescribed solely for the approved purpose.

Vending Machine: Any automated or mechanical self-service device, which upon insertion of money, tokens or any other form of payment, dispenses or makes cigarettes or any other tobacco products.

(c) ***Tobacco Sales to Persons Under the Minimum Legal Sales Age Prohibited.***

(1) No retailer shall sell, attempt to sell, or otherwise distribute or attempt to distribute a tobacco product to a minor.

(2) The minimum legal sales age in the city of Worcester is eighteen.

(3) No retailer shall sell or permit the sale of tobacco products unless the location at which the tobacco products are available for purchase is posted with a

notice at least six inches by eight inches in size which is clearly visible to anyone purchasing such products and which states:

> "Whoever sells a cigarette, chewing tobacco, snuff or any tobacco in any of its forms to any person under the age of eighteen or, not being his parent or guardian, who gives a cigarette, chewing tobacco, snuff or tobacco in any of its forms to any person under the age of eighteen (18) shall be punished by a fine of three hundred ($300) dollars for any offense."

(4) The owner or other person in charge of a shop or other place used to sell tobacco products at retail shall conspicuously post signage provided by the city that discloses current referral information about smoking cessation.

(5) The owner or other person in charge of a shop or other place used to sell tobacco products shall conspicuously post a sign stating that **"The sale of tobacco products, including e-cigarettes, to anyone under the age of 18 years is prohibited**." The notice shall be no smaller than 8.5 inches by 11 inches and shall be posted conspicuously in the retail establishment or other place in such a manner so that they may be readily seen by a person standing at or approaching the cash register. The notice shall directly face the purchaser and shall not be obstructed from view or placed at a height of less than four feet or greater than nine feet from the floor.

(6) *Identification:* Each retailer selling or distributing tobacco products shall verify the age of the purchaser by means of valid government-issued photographic identification showing the purchaser is not a minor. Verification is required for any person under the age of twenty seven.

(7) All retail sales of tobacco products, as defined herein, must be face-to-face between the seller and the buyer and occur at the permitted location.

(d) ***Smoke Free Workplace/Municipal Buildings.*** Smoking or otherwise consuming any tobacco product or any other combustible product is hereby prohibited in the municipal buildings and workplaces located the city of Worcester in accordance with section twenty-two of chapter two hundred seventy of the General Laws (commonly known as the "Massachusetts Smoke-free Workplace Law"). For the purposes of this section, municipal buildings shall include any building owned or leased by the city of Worcester, its agencies and authorities, including, but not limited to, City Hall, Union Station and all city libraries. Any person who violates the provisions of this subsection shall be fined $100.00. The foregoing prohibition notwithstanding, the Worcester Redevelopment Authority is not prohibited from authorizing the operation of a hookah bar within commercially leased premises at Union Station.

(e) ***Smoking Prohibited at Certain Entrances and Exits.***

Smoking, or otherwise consuming any tobacco product or any other combustible product, is also hereby prohibited in the following:

(1) within fifty (50) feet of all municipal building entrance and exit ways. For the purposes of this section, municipal buildings shall include any building owned or leased by the city of Worcester, its agencies and authorities, including, but not limited to, City Hall, Union Station (including its bus terminals) and all city libraries.

(2) (a) on the property or campus that contains any Health Care Provider – Institutional; or, (b) on the grounds of any city-owned library; provided, that, the health care provider or library shall install appropriate signage and/or demarcations giving notice of any such no-smoking, tobacco free area; and, provided further, that, in addition to the campus-wide and library grounds prohibitions, smoking or otherwise consuming any tobacco product or any other combustible product that forms smoke is prohibited within fifty (50) feet of every entrance and exit way of every Health Care Provider - Institutional or city-owned library regardless of whether such fifty foot zone extends to any adjoining property, including any adjoining public or private street.

(3) within fifty (50) feet of any entrance and exit way of a Health Care Provider – Non-Institutional; provided, that, such Health Care Provider shall install appropriate signage and/or demarcations giving notice of any such no-smoking, etc., area; and, provided further, that no ash tray or similar receptacle shall be located within such 50 foot area.

(4) As provided below, any person who violates the provisions of this subsection shall be issued a civil citation carrying a penalty of $100.

(f) ***Smoking Prohibited at Certain Municipal Owned Establishments.*** In addition to any location governed by the Massachusetts Smoke-free Workplace Law, smoking tobacco, consuming tobacco products, or smoking any combustible product that forms smoke, is hereby prohibited in city owned parks and playgrounds, including the City Hall Common; city or publically-owned athletic fields, beaches and other swimming areas; any open space preservation or similar areas in which the city holds any property interest; and, any, bus, taxi area, including any bus shelter waiting area.

(g) ***Smoking Bars.*** The operation of "smoking bars", as defined in section twenty-two of chapter two hundred seventy of the General Laws, which includes but is not limited to those establishments that are commonly known as "cigar bars" and "hookah bars," are hereby further regulated such that they shall:

(1) comply with all of the requirements of section twenty-two of chapter two hundred seventy of the General Laws, including any regulations adopted thereunder;

(2) comply with the terms and conditions set out in any regulations promulgated by the board of health to minimize the damage to public health and the health of patrons using the services of a smoking bar;

(3) prohibit the entry of minors at all times,

(4) maintain a valid permit issued by the board of health, or a designee,

(5) provide the director at the time of its first filing of its application with proof of a current tobacco sales license issued by the Massachusetts Department of Revenue before a permit may be issued; and,

(6) post signs at conspicuous locations warning patrons of the dangers of environmental tobacco smoke in the manner and form specified by the board of health, or a designee, at all entrances and on all tobacco selection menus.

(h) ***Sale and Distribution of Tobacco Products Regulated***

(1) No retailer may sell or cause to be sold or distribute or cause to be distributed, any cigarette package that contains fewer than twenty cigarettes, including single cigarettes.

(2) All self-service displays of tobacco products are prohibited. All humidors including, but not limited to, walk-in humidors must be locked. The only exception is self-service displays that are located in facilities where the retailer ensures that no minor is present, or permitted to enter, at any time.

(3) No retailer shall sell, attempt to sell, or otherwise distribute tobacco products in any building or facility owned or operated by the city.

(4) No retailer shall distribute, or cause to be distributed, any free samples of tobacco products.

(5) No retailer shall accept or redeem any coupon that provides any tobacco product without charge or for less than the listed or non-discounted price.

(6) No retailer shall sell a tobacco product to consumers through any multi-pack discounts (e.g., "buy-two-get-one-free") or otherwise provide or distribute to consumers any tobacco product without charge or for less than the listed or non-discounted price in exchange for the purchase of any other tobacco product.

(7) No health care provider, institutional or non-institutional, shall sell tobacco products or cause or allow tobacco products to be sold on its premises. No retail establishment that operates maintains or employs a health care provider within it, such as a pharmacy or drug store, shall sell tobacco products or cause tobacco products to be sold.

(8) No educational institution shall sell or cause to be sold tobacco products. This includes all educational institutions as well as any retail establishments that operate on the property of an educational institution.

(9) No retail establishment or entity shall sell or cause to be sold blunt wraps.

(10) All tobacco vending machines are prohibited in the city of Worcester.

(11) No retailer shall sell or distribute tobacco products in any form other than an original factory-wrapped package is prohibited, including the repackaging or dispensing of any tobacco product for retail sale.

(12) A retailer of Liquid Nicotine Containers must comply with the provisions of 310 CMR 30.000, and must provide the director with a written plan for disposal of said product, including disposal plans for any breakage, spillage or expiration of the product.

(13) All Non-Residential Roll-Your-Own machines are prohibited.

(i) ***Tobacco Product Sales Permit.***

(1) No retailer shall sell or otherwise distribute tobacco products within the city of Worcester without first obtaining a permit issued annually by the board of health, or its designee. Only owners of establishments with a permanent, non-mobile location in Worcester are eligible to apply for a permit and sell tobacco products at a specified location in Worcester. The board of health, or its designee, shall issue a permit to any applicant only after determining that the applicant demonstrates compliance with this ordinance and any regulations the board of health may adopt to implement this ordinance.

(2) As part of the permit application process, the applicant will be provided with this ordinance. Each applicant is required to sign a statement declaring that he or she has received the ordinance and agrees to be responsible for instructing all employees engaged in tobacco product sales about state law governing tobacco product sales and this ordinance. No permit holder shall allow any employee to sell tobacco products until the employee acknowledges, in writing, receipt of this ordinance and the state law regarding the sale of tobacco, a copy of which will be placed on file in the office of the employer and made available to the director upon request.

(3) Each applicant shall provide the director with proof of a current tobacco sales license issued by the Massachusetts Department of Revenue before a permit may be issued.

(4) The board of health, or its designee, shall issue permits to any applicant only after the director determines that the application is in compliance with this ordinance and any rules or regulations the board of health implementing this ordinance. The first permit issued to any applicant shall be an "initial" permit, which shall expire on the thirty-first day of December next after the date of issuance. Thereafter, permits issued shall be an "annual" permit which shall be valid for one calendar year beginning on the first day of January and ending on the thirty-first day of December. The "annual" permit is renewable to the same permit holder each year by the thirty-first day of December upon receipt of an application in compliance with this ordinance and the applicable rules and regulations. Any permit holder that fails to renew a permit by the thirty-first day of December and continues to operate shall be subject to penalty and enforcement under this section.

(5) A separate permit is required for each retail establishment selling tobacco products.

(6) Each permit shall be displayed at the retail establishment in a conspicuous location and consistent with regulations adopted by the board of health.

(7) Permits holders shall have no property interest in any permit issued under this ordinance. No permit shall be transferable, except as set forth herein.

(A) Permits may be transferred incident to the relocation of a retail establishment by the existing permit holder upon prior written notification to the director of the relocation and any change in address.

(B) No existing permit may be transferred unless and until all requirements of this ordinance and any regulations are satisfied and any outstanding penalties are satisfied in full.

(8) A permit will not be renewed or transferred if the permit holder has failed to pay any outstanding fines, penalties or fees due to the city of Worcester for any reason unless such fines, penalties or fees are the subject of a lawful and pending legal appeal.

(9) A permit will not be renewed or transferred if the permit holder has sold a tobacco product to a minor three times within the previous twenty-four months and the time period to appeal has expired. Any violator may request a hearing to refute such allegations in accordance with section (j) of this ordinance.

(j) ***Fines, Penalties and Enforcement Authority.***

(1) This ordinance may be enforced by civil process, criminal process or by non-criminal disposition as provided in General Laws, Chapter 40, § 21D.

(2) The provisions of this ordinance may be enforced by any authorized agent or officer of the city of Worcester on any public property, on any private property which is subject to any permit required by this ordinance or any private property which is open to public use.

(3) Every day or part thereof in which any person is in violation of these provisions shall constitute a single and separate offense.

(4) Any person who violates any provision in any of the following subsections of this ordinance:

(d) *Smoke Free Workplace/Municipal Buildings*,

(e) *Smoking Prohibited at Certain Entrances and Exits,* or

(f) *Smoking Prohibited at Certain Municipal Owned Establishments*,

shall be punished with a civil penalty of $100.

(5) Any person who violates any provision in any of the following subsections of this ordinance:

(c) *Tobacco Sales to Persons Under the Minimum Legal Sales Age Prohibited)*,

(g) *Smoking Bars*,

(h) *Sale and Distribution of Tobacco Products Regulated,* or

(i) *Tobacco Product Sales Permit,*

shall be punished with a civil penalty of $300 or a criminal fine of up to $300.

(6) In addition to the monetary fines and penalties described above, any person who violates any of the provisions of subsections (g), (h) or (i) of this ordinance shall be subject to the suspension or revocation of any permit issued under authority of those subsections by the board of health as further provided herein.

(7) Refusal to cooperate with inspections pursuant to this ordinance shall result in the suspension of the permit for up to thirty consecutive business days.

(8) In addition to the fines and penalties set forth above, any permit holder who engages in the sale or distribution of tobacco products while his or her permit is suspended or revoked shall be subject to the suspension or revocation of all board of health issued permits for thirty consecutive business days.

(9) The director shall provide notice of the intent of the board of health to suspend or revoke any permit, which notice shall contain the reasons therefor together with documentation of the alleged violations. The notice shall establish a time and date for a hearing which date shall be no earlier than seven days after the date of said notice. The hearing shall be conducted by the board of health, or its designee, as the board in its sole discretion may determine. The alleged violator, permit holder or its business agent and legal counsel shall have an opportunity to be heard at such hearing. The alleged violator or permit holder shall be notified of the decision and the reasons therefore in writing. For purposes of any such suspension or revocation, the board of health, or its designee, shall make the determination notwithstanding any separate criminal or non-criminal proceedings brought in court hereunder or under the General Laws for the same offense. All tobacco products shall be removed immediately from the retail establishment upon suspension or revocation of any tobacco sales permit. Failure to remove all tobacco products shall constitute a separate violation of this ordinance with each day constituting a separate offense punishable by a fine or penalty of $300 or by injunctive relief.

§ 4. Use of Gasoline Motors on Patch Reservoir

(a) No person shall operate or allow to be operated a gasoline motored or diesel powered boat or other type of gasoline powered vehicle upon Patch Reservoir.

(b) Any person who violates the provisions of this section shall be punished by a fine of three hundred dollars for each violation.

(c) The provisions of this section shall not apply to any emergency vehicles.

§ 5. Temporary Fencing

(a) Pursuant to the authority granted under § 3006.0 of the State Building Code, (780 CMR et seq.) the building commissioner shall require the placement of temporary metal fencing around the perimeter of the following each excavations and resultant earth mounds:

(1) excavations for underground storage tanks, including but not limited to, construction holes for gasoline tanks, oil tanks, and septic tanks; and

(2) excavations for the erection of a structure or building; and

(3) excavations or construction holes resulting from the demolition or removal of a structure of building.

(b) The provisions of this ordinance shall not apply to residential construction excavation where the foundation area, as determined by the building commissioner from the application for a building permit, does not exceed 1,800 square feet and where the excavation is filled within 21 days from the date excavation activities began; provided that the building commissioner shall require temporary perimeter fencing on a non-metal nature around such excavations and resulting earth mounds.

(c) Any person who fails to comply with requirements of the building commissioner issued under sub-section (a) herein shall be punished by a fine of one-hundred dollars with each day of such failure constituting a separate offense.

§ 6. Illegal Dumping

(a) No person, on any public or private property shall deposit, drop or throw upon such public or private property and suffer to remain there, any filth, rubbish or refuse unless it is deposited and dropped or thrown into a receptacle provided for the purpose or unless such activity is pursuant to a lawful permit or license issued by the city or the commonwealth of Massachusetts.

(b) This section may be enforced by civil process, criminal process or by noncriminal disposition as provided in General Laws, chapter 40, **§** 21D. The penalty for each violation of this ordinance enforced by the noncriminal disposition process shall be two hundred ($200.00) dollars. The penalty for each violation of this ordinance enforced by civil or criminal process shall be determined by the court and shall not be more than two thousand ($2,000.00) dollars for each offense.

(c) This section shall apply to any filth, rubbish, refuse, furniture or personal items, such as televisions, left on a public or private way, with a sign labeling items as “free”.*

***Amended September 13, 2016 – 312**

§ 6A. Public Trash Receptacles – Ordained August 10, 2010 - 9511

(a) The following words and phrases, when used in this section, shall have the following meanings:

c*ommercial garbage* – all refuse, incidental to the ordinary conduct of a commercial business, including without limitation, papers, packaging, construction materials, metal articles, chemicals, fuels or mineral substances, such as ordinarily accumulate in the operation of a commercial business establishment.

household garbage – all refuse, incidental to the ordinary conduct of the household, including without limitation, tin cans, tinware, bottles, glassware, earthenware, metal articles, cleaning supplies or chemicals, plastic or paper containers, food waste and paper products, such as ordinarily accumulate in the operation or maintenance of dwellings.

public trash receptacle – a receptacle owned or maintained by the City and placed by the City in parks and on sidewalks, streets and other city property for the reception of litter other than household or commercial garbage.

(b) No person shall deposit any household or commercial garbage in a public trash receptacle.

(c) No person shall deposit any litter, garbage, trash, rubbish or waste, of any kind, in a public trash receptacle except in such a manner as to prevent it from being scattered or carried by the elements onto any street, sidewalk or property.

(d) This Ordinance may be enforced by civil process, criminal process or by noncriminal disposition as provided in General Laws, Chapter 40, §21D. Any person in violation of this ordinance shall be subject to the following fines:

First violation:	$50.00
Second violation:	$100.00
Third violation:	$200.00
Fourth and each subsequent violation:	$300.00

§ 7. Verification of Construction Debris Disposal

(a) In furtherance of the requirements set forth in G.L. c. c. 40, § 54, and § 114.1.3 of the State Building Code, the building commissioner shall require any person who obtains a permit for the demolition, renovation, rehabilitation, or alteration of a building or structure to provide verification that the debris resulting from such activities was disposed of at the licensed solid waste disposal facility named in conjunction with the permit application.

(b) The verification required under sub-section (a), above, shall consist of the following:

(1) a dated receipt, signed by the owner/operator of the licensed solid waste disposal facility where the debris was deposited.

(2) the receipt shall contain a description of the debris disposed of, and its weight, or volume.

(3) the permit holder shall also provide the building commissioner with an affidavit that the receipt submitted is true and accurate to the best of the permit holder's knowledge.

(4) if the permit holder cannot dispose of the debris at the location indicated, it shall be the permit holder's obligation to obtain an amendment to the permit reflecting the new disposal location. The building commissioner shall be so notified, and the permit amended, prior to the disposal of the debris at the new disposal location.

(c) this section shall not apply to the construction of a new building or structure.

§ 8. Commercial Metal Containers

(a) For purposes of this section,

commercial metal containers - shall mean any large metal container for refuse which by mechanical means is capable of being emptied into or being loaded onto a truck which is designed to perform this operation and to accommodate the contents of the container; and,

contractor - shall mean any individual or individuals, corporation, or other entity however formed, who provides or empties commercial metal containers for any owner.

owner - shall mean every person who alone or severally with others has:

(1) legal title or interest in any dwelling, dwelling unit, building or parcel of land, vacant or otherwise; or

(2) care, charge or control of any dwelling, dwelling unit, building or parcel of land vacant or otherwise.

(b) Use of commercial metal containers shall be permitted for the storage of refuse provided the owner of the property where the container is located and the contractor supplying the container complies with all rules and regulations of the fire department, the department of health and human services, the department of inspectional services and all other municipal, state, and federal laws, ordinances, rules and regulations relating to such use or location. In no event shall the owner allow, nor shall any contractor empty, any commercial metal container between the hours of 10:00 P.M. and 7:00 A.M. This prohibition shall not apply to those containers servicing primary or secondary schools.

(c) Any contractor supplying commercial metal containers in the city is required to provide the department of inspectional services with the name and address of the person ordering the container, the location of the container and the description of the type of container. All commercial metal containers so supplied shall be in conformity with regulations adopted by the fire department, the department of health and human services, the department of inspectional services, including but not limited to, regulations regarding identification of the container and condition of the container. After one written warning, any contractor violating this provision shall be subject to a $200.00 fine. Each day of violation shall constitute a separate offense.

(d) Every owner having a commercial metal container on its premises shall comply with all regulations relative to commercial metal containers issued by the fire department, the department of health and human services and the department of inspectional services; including but not limited to, regulations pertaining to sanitary maintenance of the area around the containers, keeping container doors and covers closed, causing the containers to be emptied at such intervals as will prevent overflowing and placement of the container in an appropriate location on the lot. No container shall be placed at any location such that it becomes an obstacle to the egress of persons from buildings or to vehicular traffic or as to obstruct the operations of the fire department personnel during a fire or other emergency.

(e) No owner, lessee or refuse generator shall maintain on any premises a commercial metal container or containers with a capacity aggregating six cubic yards or more of compacted or un-compacted combustible rubbish and which are emptied by mechanical assistance without first obtaining a permit from the chief of the fire department. Each permit shall expire one year from the date of issuance. No such permit, however, shall be required for containers which are delivered to a location and removed in the course of a single business day.*

***Amended June 1, 2010 – 9485**

§ 9. Certificate of Fitness

(a) As used in this section the following terms are defined:

State Sanitary Code - shall refer to chapters I and II of the State Sanitary Code, 105 C.M.R. § 400.00 *et. seq.*, as may be amended from time to time, adopted by the Massachusetts department of public health pursuant to G.L. c.111. The terms used in this section shall have the meanings ascribed to them in chapters I and II of the state sanitary code.

Certificate of fitness or *certificate* - shall mean a certification issued following an inspection by the department of inspectional services ("department") attesting to the conformance of the dwelling unit with minimum standards of fitness for human habitation as prescribed under the state sanitary code.

(b) Any owner of a dwelling unit or authorized agent of the owner may request the commissioner of inspectional services to issue a certificate, which certificate shall be issued by the director of housing if said director determines, upon receipt of inspection reports, that the dwelling unit meets the minimum standards set forth in the state sanitary code. Prior to requesting a certificate under this section, the owner or authorized agent must present proof that the dwelling unit complies with the deleading requirements of G.L. c.111, §§ 190-199a and the State Sanitary Code, chapter 1, § 400.200(b).

(c) No certificate shall be issued if the inspection reports reveal that any violation of the state sanitary code exists in the dwelling unit.

(d) If, after any inspection pursuant to this section, the director of housing refuses to issue a certificate, the director of housing shall cause to be issued an order setting forth the violations of the state sanitary code existing in the dwelling unit which must be corrected before a certificate may be issued. It shall be the responsibility of any owner receiving such order to remedy such violation and to notify the department issuing any such order when such violation has been remedied and request a reinspection. Any corrective orders shall be in conformance with the requirements of the state sanitary code and shall be enforced according to the provisions of the state sanitary code.

(e) It shall be the duty and responsibility of any owner, agent or lessor acting on behalf of the owner of any dwelling unit to notify the director of housing, on forms provided by the director of housing, that any violation noted during an inspection by director of housing has been corrected. If within ten full working days after receipt of such notice, the director of

housing fails to reinspect such unit, it shall issue a notice of permission to rent, permitting such unit to be occupied.

(f) For any dwelling unit which has been inspected and found in compliance with the requirements of this section, a certificate shall be issued subject to the following conditions:

(1) For occupied dwelling units, the tenants name shall be recorded with the certificate at the time of issuance. The certificate shall be valid for twenty-four months or until the tenant discontinues occupancy of the dwelling unit, which ever occurs first.

(2) For vacant dwelling units the owner or authorized agent shall be issued a letter stating the certificate will be issued at the time of occupancy within six months of the inspection. The certificate will be issued subject to conditions in (a) above. Units not occupied within six months will require a reinspection prior to the issuance of the certificate. Upon reinspection dwelling units found in compliance with the requirements of this section will be issued a certificate subject to the conditions of (a) above. Dwelling units found not to be in compliance, will be subject to a reinspection fee and all other requirements of this section.

(3) All certificates are issued subject to continued compliance with conditions listed in this section. The department may revoke the certificate if upon an inspection a violation of any of the requirements specified herein are not met. Reinstatement of the certificate will require a reinspection and payment of a reinspection fee.

(g) Application for such certificate under this section shall be by the owner or authorized agent of the owner and shall be accompanied by a fee established by the commissioner of inspectional services pursuant to §24 of chapter two of these Revised Ordinances. Such fee shall be for initial inspection and will include one reinspection if required. If after one reinspection the director of housing refuses to issue a certificate because of any violation of the state sanitary code and the owner or authorized agent of the owner has notified the director of housing that any violation has been remedied, any reinspection, shall be made following payment of an additional fee for each subsequent reinspection. No request for inspection or reinspection shall be deemed to have been received by the director of housing until the required fee has been paid in full.

(h) A certificate shall not be issued unless tax bills for the property have been paid, or the owner has complied with the requirements of these Revised Ordinances regarding amounts overdue to the city.

(i) Units let for rent in a licensed lodging house are exempt from the provisions of this section.

§ 9A. Storage of Unregistered Motor Vehicles

(a) The storage, parking, abandonment or keeping of more than one unregistered motor vehicle, or of motor vehicle parts, on private real property, and not within a garage or other closed structure, is prohibited and hereby declared a public nuisance.

(b) No person owning, leasing, occupying or otherwise in control of any private real property shall cause, maintain, or allow the maintenance or existence thereon of any activity prohibited under subsection (a).

(c) The provisions of subsection (a) shall not apply to any activities conducted by a person holding a valid license under General Laws, chapter 140 and/or chapter eleven of these Revised Ordinances, or as may be allowed under the Worcester Zoning Ordinance.

(d) The provisions of subsection (a) shall not apply to the storage, parking or keeping of unregistered antique motor cars (as such term is defined by the General Laws, chapter 90, § 1, as amended). Provided, however, that any unregistered antique motor car not stored within a garage or other closed structure,

(1) shall not be within the ordinary view of abutters or those traveling upon the ways abutting the property, or
(2) shall be covered with a standard vehicle cover of a type manufactured and sold for that purpose.

(e) The storage, parking, or keeping of one unregistered vehicle, other than within a garage or other closed structure, shall be allowed on any property provided that,

(1) the vehicle is not within the ordinary view of abutters or those traveling upon the ways abutting the property, or
(2) shall be covered with a standard vehicle cover of a type manufactured and sold for that purpose.

(f) Upon inspection and a determination that a violation of subsections (a), (d) or (e) exists, a written notice shall be sent certified mail to the owner of the property, and when known, to any other person leasing, occupying or otherwise in control of the property, notifying such person(s) of the violation, that a public nuisance exists and ordering its removal within a time specified in the notice.

(g) At the expiration of the time specified in the notice under subsection (f), if the nuisance has not been fully abated the property owner, lessee, occupant or person in control thereof shall be in violation of this ordinance and subject to prosecution therefore. Each successive day that a violation continues shall constitute a separate offense.

§ 9B. Regulation of Feeding or Baiting of Waterfowl

(a) **No person, except as otherwise provided by the Massachusetts General Laws, shall feed or bait any gulls (birds in the family Laridae often informally called seagulls) or any waterfowl of the family Anatidae (including, but not restricted to ducks, geese, and swans) at any place within the city.*** As used in this ordinance, "feeding" and "baiting" shall mean the placing, exposing, depositing, distributing, or scattering, directly or indirectly, of any shelled, shucked, or unshucked corn, wheat, or other grain, bread, or salt, or any other feed or nutritive substances, in any manner or form, so as to constitute for such birds a lure, attraction, or enticement to, on, or over any areas where such feed items have been placed, exposed, deposited, distributed, or scattered.

***Amended May 24, 2011 - 9613**

(b) Nothing in this ordinance shall be construed to limit the feeding of domesticated waterfowl, as defined by the division of fisheries and wildlife of the Massachusetts department of fish and game, by a farmer, as said term is defined in section 1A of chapter 128, on property owned or leased by a farmer, or the feeding of waterfowl or other birds by propagators licensed under section 23 of chapter 131 of the General Laws when such waterfowl or other birds are confined in such a manner as may be required pursuant to said section 23 and any rules and regulations issued under any authority thereof; or the feeding by any person or his agents, invitees or licensees of waterfowl lawfully kept as a pet by such person.

(c) Any person who violates any provision of this section shall be subject to a fine of one hundred dollars ($100.00) for each offense thereof.

§ 9C. Parking and Storage of Recreational and Commercial Vehicles

(a) No person shall allow, permit, or suffer a recreational vehicle, which is a vehicle or piece of equipment intended for recreational use, including but not limited to boats, boat trailers, camping or travel trailers, motor homes, and other mobile vehicular structures designed for recreational use having motor power or mounted onto and drawn by another vehicle, or a commercial vehicle, bus, or trailer having a gross weight of 11,000 pounds or more to be parked within the setback requirements, as set forth in Table 4.2 of the Zoning Ordinance, for the district where the property is located.

(b) Upon determination that a violation of this subsection exists, a written notice shall be sent certified mail to the person notifying such person of the violation and ordering the removal of the recreational or commercial vehicle within seven (7) days after service of notice of the violation. The commissioner of inspectional services may seek an injunction from a court of competent jurisdiction to restrain any violation of this section.

(c) This section may also be enforced by civil process, criminal process, or by non-criminal disposition as provided in General Laws, chapter 40D, §21D. Each day on which a violation exists shall be deemed to be a separate offense and any person in violation of this section shall be subject to a fine of twenty-five dollars for each offense.

Licensing and Regulation of Dogs, Cats and ferrets to State Law – (Ordained December 11, 2012 #9824)

§ 10. Dog Regulation & Licensing To Be Governed By State Law - (Ordained December11, 2012 – 9824)

(a) The city shall implement to the fullest extent possible the provisions of sections 136A through 174D of chapter 140 of the General Laws, as may be amended from time to time, as concerns the licensing and regulation of dogs and dog kennels, and, where applicable, cats and ferrets. The provisions of this ordinance shall be interpreted in accordance with 1) said sections of chapter 140 of the General Laws, including the defined terms contained therein, and, 2) the city charter. In the event of any conflict between any part of this ordinance and any provision in sections 136A through 174D of chapter 140 of the General Laws, the provisions of the General Laws shall prevail.

(b) For purposes of implementing sections 136A through 174D of chapter 140 of the General Laws, the "hearing authority" as stated in the General Laws shall be a "hearing officer" designated by the city manager, such hearing officer may be an animal control officer or any other officer or employee of the city in any department under the jurisdiction of the city manager.

(c) All fees, funds, fines and penalties collected pursuant to both this ordinance and sections 136A through 174D of chapter 140 of the General Laws shall be deposited with the city treasurer who shall credit them to the general fund of the city. The city treasurer shall keep an accurate and separate account of all money received and expended by the treasurer under this chapter and under chapter 140 of the General Laws relating to animals.

§ 11. Additional Requirements (Ordained December 11, 2012 – 9824)

Pursuant to section 173 of chapter 140 of the General Laws, the city hereby makes the following additional requirements concerning the licensing and regulation of dogs, kennels, cats and ferrets:

(a) Dog and kennel licenses shall be valid from April first through March thirty-first each year and shall be renewed annually only during the month of March.

(b) The city clerk shall furnish with every license issued hereunder, tags containing the words "city of Worcester" and the license number and the year issued. The owner or keeper of every dog shall cause it to wear around its neck or body a collar or harness of leather of other suitable material, to which such tag shall be securely fastened.

(c) The city clerk shall not issue any dog or kennel license to any person under the age of eighteen, nor issue more than two dog licenses for any single dwelling unit, nor issue any kennel license for any multi-family dwelling or on the premises thereof, or any location which does not comply with the zoning ordinances of the city with respect to kennels. Each license shall be issued upon the condition that the owner or keeper shall comply with the provisions of this ordinance and any law, rule or regulation relating to the ownership and control of dogs.

(d) Under authority of section 139(a) of chapter 140 of the General Laws, the fee for every license, except as otherwise provided in subsections (h) and (i) herein, shall be as follows:

Females:	**$30.00**
Males:	**$30.00**
Spayed females:	**$25.00**
Neutered males:	**$25.00***

***Amended September 13, 2016 – 314**

(e) Any person who fails to obtain an annual dog license on or before May 31st shall be charged when applying for a license, in addition to the license fee, a late fee of fifteen ($15.00) dollars.

(f) Pursuant to section 139 of chapter 140 of the General Laws no fee shall be charged for a license issued under section 137 of said chapter 140 for a service dog as defined by the Americans with Disabilities Act or regulations promulgated thereunder.*

***Amended February 5, 2013 - 9843**

(g) No fee shall be charged for a license for a dog owned by a person aged 70 years or over.

(h) No license fee or portion thereof shall be refunded because of the subsequent death, loss, spaying or removal from the commonwealth or other disposal of the dog, nor shall a license fee or portion thereof paid by mistake be paid or recovered after it has been paid over to the city under this section.

(i) The city clerk, commissioner of inspectional services, or their designee, or any police officer or animal control officer, may at any time inspect or cause to be inspected any kennel licensed under this section and if, in his or her judgment, the kennel is not being maintained in a sanitary or humane manner, or if records are not properly kept as required by this ordinance or other applicable law, or is in violation of any provision of this ordinance, the city clerk shall by order revoke or suspend, and in the case of suspension may reinstate, such license.

(j) The city clerk, chief of police and commissioner of inspectional services shall have the authority to make operational regulations appropriate for the implementation and enforcement of this ordinance.

§ 12. Dangerous & Nuisance Dogs, Hearings, Appeals - (Ordained December 11, 2012 – 9824)

(a) In addition to any member of the public, the chief of police, any animal control officer, the commissioner of inspectional services or any inspector under his or her supervision, or any other city officer or employee as may be designated by the city manager may initiate the complaint and hearing procedures of section 157(d) of chapter 140 of the General Laws relative to declaring dogs nuisance dogs or dangerous dogs.

(b) Pending any appeal filed in the district court by an owner or keeper, the hearing officer may, with the representation of the law department, file a petition in the court to request an order of impoundment at a facility the city uses to shelter animals for a dog complained of as being a dangerous dog and may likewise take any and all appropriate actions to defend the order and advance the interests of this ordinance in court.

§ 12A. Responsible Pit Bull Ownership – 9514 (Repealed Dec. 11, 2012 – 9824)

§ 13. Duties of Dog Owners - (Ordained December 11, 2012 – 9824)

(a) It shall be unlawful for any person to:

(1) keep or harbor any dog without the license required by law; or violate any requirement imposed as a condition to the issuance of a license by law; or

(2) permit any dog he or she owns or keeps to run or roam at large off the premises of the owner or keeper without either being secured by a leash which does not exceed six feet in length or secured in an enclosed animal transportation cage;

(3) fail to cause any dog to be vaccinated as required by law;

(4) maintain a kennel in violation of the zoning ordinance or in any multi family dwelling or on the premises thereof;

(5) use any license for a dog other than for the dog for which it was issued; or

(6) withhold or falsify any information on an application for a dog or kennel license;

(7) allow any dog, except a registered service dog, to be in any city park, public cemetery or playground, excepting only such city park as may be designated by the parks and recreation commission as being open to on-leash dog use.*

(8) allow any dog, except a registered service dog, to be in or on any place open to the public within that area of the city surrounded by and including both sides of Irving, Linden and Harvard Streets to the west, Madison Street to the south, Route I-290 to the east and Concord Street to the north, unless the dog is licensed at an address within said area; except that nothing herein shall prohibit any dog from participating in, being transported to or from, or being exercised or board in connection with, any dog show, act or event for which an entertainment license has been issued by the city under G.L. c. 140, or for which a permit has been issued pursuant to division of public health regulations for the keeping or exhibition of animals, which is conducted by any corporation organized primarily for the promotion of dogs, so long as any such dog is secured in a cage or by a leash which does not exceed six feet in length while on any street open to the public, and so long as, at no time shall any such dog be taken into the Worcester Common or any city park, playground or schoolyard, expecting only such city parks designated as being open to on-leash dog use in accordance with subsection (7) herein.*

(9) permit any dog he or she owns or keeps to deposit any excreta on any property, whether public or privately owned, which is open to the public, without immediately removing such excreta for disposition in a sanitary manner;

(10) permit dog excreta to accumulate on his/her property;

(11) cause or permit any dog, whether leashed or unleashed, to hang from or otherwise damage any tree, whether public or private;

(12) subject any animal to abuse, inhumane care, or unsafe or unsanitary conditions; or

(13) chain or tether a dog to a stationary object including, but not limited to, a structure, dog house, pole or tree for longer than 24 consecutive hours.

***Amended February 5, 213 – 9843 and September 13, 2016 – 314**

(b) The owner or keeper of a domestic animal shall properly dispose of the animal within seventy-two hours of its death.

§ 14. Enforcement (Ordained December 11, 2012 – 9824)

(a) The city manager, acting through the chief of police, police officers, animal control officers, or any officer or employee of the city under the jurisdiction of the city manager, shall have authority to enforce the provisions of this chapter and shall have all the powers and duties afforded by chapter 140 of the General Laws as it relates to the regulation of dogs, dog kennels and dog, cat and ferret owners, including, but not limited to: the filing of an action of forfeiture and relinquishment of ownership under section 139A of chapter 140, and may exercise such powers and duties to the fullest extent possible to secure compliance with this ordinance and said General Laws.

(b) This ordinance may be enforced by civil process, criminal process, or by non-criminal disposition as provided in General Laws, chapter 40, §21D. Each day on which a violation exists shall be deemed to be a separate offense and any person in violation of this chapter shall be punished by a fine of fifty dollars for each offense. Any person who is punished under this chapter for three or more violations in any two year period shall immediately forfeit any license issued under sections ten through sixteen of this chapter and shall be ineligible to hold any dog or kennel license for one year from the date of the third conviction or imposition of a civil penalty.

§ 15. Repealed December 11, 2012 in accordance with Ordinance #9824

§ 16. Repealed December 11, 2012 in accordance with Ordinance #9824

§ 17. Repealed December 11, 2012 in accordance with Ordinance #9824

Note: Amendments to sections 10-17 that are no longer in effect are #9328, 9486, 9514

Biomedical Research

§ 18. Definitions

For purposes of sections 28 through 35 of this chapter the following definitions shall apply:

DNA - means deoxyribonucleic acid

recombinant DNA ("*RDNA*") or *recombinant DNA molecules* - means either (1) molecules which are constructed outside living cells by joining natural or synthetic DNA segments to DNA molecules that can replicate in a living cell, or (2) DNA molecules which result from the replication of a molecule described in (1) above.

NIH guidelines - means the following:

1. *Guidelines for Research Involving Recombinant DNA Molecules* promulgated by the National Institutes of Health (NIH) of the United States Department of Health and Human Services and published in 46 F.R. 34463-34487 on July 1, 1981, as may be amended by the NIH; and

2. *Recombinant DNA Research; Physical Containment Recommendations for Large-Scale Uses of Organisms Containing Recombinant DNA Molecules (NIH Large Scale Recommendations*) promulgated by the National Institutes of Health of the United States Department of Health and Human Services and published in 45 F.R. 24968-24971 on April 11, 1980, as may be amended by the NIH.

institution - means any single individual, group of individuals, partnership, association, organization, corporation, educational institution or medical facility.

§ 19. Scope

This chapter shall apply to all institutions in the city which experiment with or use RDNA technology.

§ 20. Restrictions

RDNA use classified by NIH guidelines as requiring P4 level of containment shall be prohibited in the city.

§ 21. Regulations

All use of RDNA by institutions in the city shall be undertaken only in conformity with current and applicable NIH guidelines, as promulgated in the federal register and as may be amended from time to time by the NIH or by any successor agency.

§ 22. Administrative Requirements

Each institution in the city which experiments with or uses RDNA technology shall comply with the administrative practices set forth in the NIH guidelines, including but not limited to the following:

(a) The establishment of an Institutional Biosafety Committee (IBC) which shall contain at least five members, of whom at least two (but not less than 20%) shall not be affiliated with the institution and shall represent the interests of the community with respect to health and the protection of the environment.

(1) The IBC shall contain at least one representative from the institution's bio-technician staff.

(2) The non-affiliated representatives on the IBC shall be appointed by the institution with notice to the commissioner of public health.

(3) The non-affiliated representatives on the IBC shall be persons active in medical, occupational health or environmental concerns in the community.

(4) The non-affiliated representatives on the IBC shall be bound by the same rules prohibiting use and disclosure of proprietary information and trade secrets as the other members of the IBC.

(5) The IBC shall establish a set of rules and administrative procedures governing its operations in accordance with the NIH guidelines.

(b) The provision of safety plans and manuals which shall be subject to the approval of the IBC.

(c) The provision of proper training and appropriate safeguards and procedures for minimizing potential environmental and personal exposure.

(d) If the institution is engaged in RDNA research at the P3 containment level, the appointment of a biological safety officer who shall be a member of the IBC.

(e) If the institution is engaged in RDNA use on a 'large scale' (as defined in the NIH large scale recommendations), compliance with all additional administrative requirements contained in the NIH large scale recommendations.

§ 23. Permits and Inspections

(a) No institution may employ RDNA technology in the city without a permit issued by the director of public health ("director").

(b) Such permit shall be issued upon certification by the IBC to the commissioner that the institution is in compliance with the provisions of this chapter and the NIH guidelines. No other permit or certification shall be required, provided, however, that IBC shall each six months renew the certification that the institution is in compliance with this chapter and the NIH guidelines.

(c) Any institution aggrieved by a final decision to deny or to grant a permit may seek relief in any court of competent jurisdiction, as provided by the laws of the commonwealth.

(d) The director shall inspect at least annually each institution holding such a permit to ensure compliance with the provisions of this chapter and the NIH guidelines.

(e) The director may require from an institution such information and data as is necessary to ensure compliance with this chapter.

§ 24. Environmental Surveillance

(a) All institutions employing RDNA technology within the city shall provide appropriate medical and environmental surveillance programs in accordance with the NIH guidelines.

(b) The environmental surveillance program shall include a plan for the systematic monitoring of waste to ensure that recombinant organisms will not be released into the environment.

(c) The environmental surveillance program shall include a plan to train representatives of the division of public health of the department of health & human services, the department of inspectional services, the fire department and the police department in the procedures to be used in the event of an emergency.

(d) Any releases into the environment of recombinant organisms posing a threat to public health shall be immediately reported to the director.

§ 25. Penalties

Any person or institution who violates any provisions of this chapter shall be punished by a fine of up to $300.00 for each separate violation.

Weights and Measurers

§ 26. Establishment of Public Scales

The city council shall, from time to time, as the public good may require, establish a sufficient number of public scales, furnished with decimal weights, for the weighing of hay and other articles.

§ 27. Duties of Weighers

It shall be the duty of every weigher to attend to the scales that may be assigned to him, to deliver to the driver or owner of every load of hay, straw or other article weighed, a certificate specifying the name of the driver or owner, his place of residence, the article or merchandise weighed, weight and fare, the fees charged and received, and the date and number of the certificate. He shall keep a record, in a book to be furnished by the city, of all hay and other articles weighed by him and shall deliver the book to the city clerk at the expiration of his term of office. The record shall contain all the particulars that are required to be stated in the certificate aforesaid.

§ 28. Measurers of Wood, Bark or Charcoal

Every measurer of wood, bark or charcoal in the city shall keep a record of all the tickets issued by him, with the date thereof, the names and places of residence of the respective drivers and the quantity of each load, which record shall at all times be subject to the inspection of the city manager and city council, and at the expiration of his term of office it shall be delivered to the city clerk.

§ 29. Weighers to Receive Fees

No weigher of coal, hay or other articles of merchandise, other than those appointed to attend the public scales established by the city council, shall weigh for hire or receive fees by weighing any coal, hay or other articles of merchandise, except such as are bought or sold in the regular course of the business transacted by the proprietors of the yards or places respectively where private scales may be established.

§ 30. Fees of Public Weighers

The fees of public weighers for all commodities for each and every weighing is established at $4.00.

§ 31. Weighers and Measurers Certificates

(a) No weigher of hay or straw, or measurer of wood, bark or charcoal shall give or permit to be given a ticket of any measurement or weight not made by himself in person.

(b) All certificates or tickets that may be issued by any weigher or hay or straw, or any measurer of wood, bark or charcoal shall express the quantity of weight thereof measured or weighed in words at length, and not in figures only, and the same shall be written or printed with ink and not in pencil marks.

§ 32. Reports

The weighers of hay or straw shall make reports to the city auditor before the 10th day of every month of all fees received by them by virtue of their office, during the month preceding.

§ 33. Fees of Schedules

For sealing the weighing or measuring devices the sealers shall receive fees in the amounts established by the commissioner of inspectional services under authority of § 24 of chapter two of these Revised Ordinances.

Noise Control

§ 34. Regulation of Construction Noise

(a) It shall be unlawful for any person, firm, corporation, partnership, or other entity to operate powered construction equipment or to build, erect, construct, demolish, alter, repair, excavate or engage in hoisting, grading, site work, including tree and brush removal, dredging or pneumatic hammering, or to deliver construction equipment and/or supplies to the site on any building, road, tower, parking lot, machine, pipe, sewer, sidewalk, or any other construction project (hereafter collectively the "construction project"), except between the hours of 7:00 a.m. and 9:00 p.m. on weekdays and Saturday, except for "emergency work" which is performed in the interest of public safety or welfare and for which a permit has been issued by the commissioner of public works and parks or the commissioner of inspectional services.

It shall be unlawful for any person, firm, corporation, partnership, or other entity to engage in a construction project activity on Sundays or legal holidays without a permit from the police chief issued pursuant to G.L. c.136, §§ 7 or 15 and a permit issued by the commissioner of inspectional services hereunder.

(b) Emergency work permits may be issued in:

(1) cases of urgent necessity and for the interests of health, safety and convenience of the public. The commissioner of inspectional services shall determine whether the reasons given for the urgent necessity are valid and reasonable, and whether the health, safety and convenience of the public will

be protected or better served by granting the permit requested and whether the manner and amount of loss or inconvenience to the party in interest imposes a significant hardship; or,

(2) cases where because the location and nature of the work the noise caused by said work will not be heard by anyone not working on the project. The commissioner of inspectional services shall consider whether supplying machinery and/or materials to the construction project site will cause unreasonable noise along the routes to the construction project site, and whether such activity will impact residential neighborhoods, and shall not grant any emergency work permit unless unreasonable noise in residential areas will be prevented.

(c) Emergency work permits may be issued to the general contractor on a blanket basis that applies to all of the contractors working on the job, or may be issued to specific contractors on the construction project, at the discretion of the commissioner of inspectional services. Emergency work permits may be issued for not more than one week at a time, and may be renewed for additional one week periods at the discretion of the commissioner of inspectional services.

(d) Prior to issuing or reissuing said emergency work permit the commissioner of inspectional services shall review the work being conducted and all attendant circumstances, and shall prescribe whatever limitations possible to minimize the generation of noise, and to minimize the impact of noise on the neighbors to the construction project.

(e) Emergency repair work performed by the department of public works and parks and/or any public utility is exempt from this section.

(f) The fee for each such emergency work permits issued under this section shall be set in accordance with chapter 2, § 24 of these ordinances.

(g) On any project for the construction, reconstruction, installation, demolition, maintenance or repair of any building, or public work, to be funded in whole or in part by city funds, or funds which, in accordance with a federal or state grant, program, or otherwise, the city expends or administers, or any such project to which the city is a signatory to the contract therefor, the provisions of this section shall apply and the same shall be referenced in every invitation to bid for such project and, the following paragraphs shall be contained in every resulting contract therefrom:

> "It shall be a material breach of this contract if the contractor and each subcontractor on shall not at all times adhere to the provisions of § 34 of chapter eight of the Revised Ordinances of the city, by limiting their on-site, noise producing construction and related work to the hours specified by the ordinance.
>
> A waiver from the above requirements may, in certain circumstances, be granted in accordance with subsections (b), (c) and (d) of § 34 of chapter eight of the Revised Ordinances of the city."

(h) the commissioner of inspectional services shall have the authority to adopt any rules and regulations he or she deems necessary to implement this section.

(i) Nothing in this section shall be deemed to prevent an individual from performing work on his or her own property, so long as the work is being done by the owner of the property or by direct relative(s) of the owner, and said work is not being done for profit.

(j) This section may be enforced by the commissioner of inspectional services, the building commissioner, the chief of police or their subordinates.

(k) Any violation of this section by any person, firm, corporation, partnership, or other entity, shall be individually punished with a fine of $100.00. Each day upon which a violation of this section occurs shall be considered a separate violation. Employers shall be deemed the violator for violations committed by their employees.

Mercury Fever Thermometers

§ 35. Declaration of Finds and Policy

(a) Mercury is a persistent and toxic pollutant that bioaccumulates in the environment and the food chain. The incineration of medical and municipal waste, which contains whole or broken thermometers, is a major source of atmospheric deposition of mercury in the Northeast resulting in contamination of air and water. Mercury from mercury fever thermometers can also directly enter the environment through vaporization and/or spillage when a fever thermometer breaks during use, transportation of disposal.

(b) The United States Environmental Protection Agency (US EPA) estimated that for the year 2000, 17 tons of elemental mercury from thermometers will be disposed of as municipal solid waste – this does not include additional mercury that finds its way into the medical waste stream. Accidental mercury spills, breakages, and releases have occurred at schools throughout the Northeast. In addition to the threat of health risks to students and staff and potential for adverse environment impact, these discharges are costly, Harvard University has sited that it costs $110 to properly clean up a single thermometer breakage in a laboratory. These incidences have proven costly to clean up and have exposed students, teachers and/or administrators to mercury emissions.

(c) Due to the bioaccumulation of mercury in fish, the Massachusetts Department of Public Health has issued a statewide native fresh water fish advisory, warning pregnant women, women of childbearing age and children not to consume any fish.

(d) Pharmacy chains of Rite-Aid, K-Mart, Brooks, Target, Wal-Mart, Albertson, Kinney, Toys 'R' Us, Safety First, The First Years and Meijers among others have joined a Mercury Free Thermometer campaign, pledging to discontinue the sale of mercury basal and fever thermometers.

(e) The New England States and Eastern Canadian Provinces are implementing a bi-national mercury plan, which was unanimously adopted in June of 1998 by the Conference of New England Governors and Eastern Canadian Premiers (and signed by Governor Cellucci in June 1998). The mercury action plan is an ambitious program to virtually eliminate the

emissions of mercury in the region. The regional goal of this action plan supports the virtual elimination of anthropogenic mercury.

(f) The "Massachusetts Zero Mercury Strategy", formed by Environmental Affairs Secretary Robert Durand, adopted in the summer of 2000 an ambitious strategy that calls for virtual elimination of the use and discharge of mercury including mercury fever thermometers.

(g) It is the intent of this ordinance to protect and promote the public health and safety of Worcester residents by significantly reducing the discharge of mercury into the environment.

§ 36. Definitions

Mercury-Fever Thermometer – A mercury-containing product that is used to measure body temperature. A mercury-containing product is a product, device, instrument or equipment into which elemental mercury or mercury compounds are intentionally added during its formulation or manufacture and in which the continued presence of mercury is desired to provide a specific characteristic or to permit a specific function.

Health Care Facility – Any hospital, nursing home, extended care facility, long-term facility, clinic or medical laboratory, state or private health or mental institution, clinic, physician's office, or health maintenance organization.

Manufacturer – Any person, firm, association, partnership, corporation, governmental entity, organization, combination, or joint venture that produces a mercury fever thermometer. If the mercury thermometer is produced in a foreign country, the manufacturer is the importer or domestic distributor.

§ 37. Retail Sales Prohibited

No mercury fever thermometers shall be sold or supplied to consumers or patients in the city of Worcester without a prescription therefor. The manufacturers of mercury fever thermometers shall supply clear instruction on the careful handling of the mercury fever thermometer to avoid breakage and proper cleanup should a breakage occur with all mercury fever thermometers sold through prescriptions.

§ 38. Manufacturing Prohibited

It shall be unlawful for any person to manufacture a mercury fever thermometer in the city.

§ 39. Importation Prohibited

It shall be unlawful for any facility to import, purchase, or distribute a mercury fever thermometer in the city except in the case of medical necessity as determined by a licensed physician.

§ 40. Restriction on the Sale of Mercury Thermometers

Effective January 1, 2002, no person shall sell or supply mercury fever thermometers to consumers or patients in the city.

§ 41. Penalty

Any person violating sections thirty-seven, thirty-eight, thirty-nine or forty shall be subject to a fine of not more than three hundred ($300.00) dollars per unit supplied, sold or unlawfully delivered. The commissioner of inspectional services or his or her designee shall be the enforcing person for purposes of this provision.

Miscellaneous

§ 42. Nuisances on Property

(a) *Purpose and Intent*. It is the purpose and intent of this section to eliminate nuisances in the city. Nuisances, such as dilapidated buildings, overgrowth, debris, trash, stagnant pools of water, property having defective weather protection and vacant or abandoned buildings, cause and contribute to blight within neighborhoods and commercial areas of the city and adversely affect the property values for adjacent and surrounding property. Such nuisances on property also impair the public health and safety. This ordinance is intended to further the objectives of and to act in concert with any existing state or local laws.

(b) *Property Standards.* All property in the city of Worcester shall be maintained in the accordance with the following property standards:

(1) *General.* All property, whether occupied or vacant, shall be maintained in good repair and a safe and sanitary condition as provided herein, so as to not cause or contribute to the creation of a hazardous or blighted area or to affect adversely the public health and safety or property value of adjacent or surrounding property.

(2) *Overgrowth.* All property shall be maintained free of vegetation over twelve (12) inches high that is or may reasonably become infested with rodents, vermin, or other animals, conceal pools of stagnant water, or create a fire safety hazard. All property shall be kept free of overgrown, decayed, dead, or hazardous trees, shrubs, or any other vegetation that poses a hazard to the health and safety of any person in the vicinity of the property, including any persons traveling on any portion of any public way, or any surrounding property.

(3) *Structures.* All structures, including any buildings, fences, storage sheds, or any element thereof shall be maintained in a structurally sound condition and in good repair, including proper weather protection and waterproofing, and shall be maintained in a condition so as to not cause or contribute to creation of a fire safety hazard. All property shall be maintained free of extensive peeling, flaking, or chipped paint. All property with siding shall be maintained in a weather resistant and watertight condition.

(4) *Accumulation of Trash, Rubbish or Debris.* All property shall be maintained in a clean and sanitary manner and free from the accumulation of litter, rubbish, trash or other debris, except in closed receptacles intended for such use.

(5) *Pools of Stagnant Water.* All property shall be maintained to prohibit the formation of stagnant pools of water, which may affect adversely the public health by attracting and harboring mosquitoes and other insects.

(c) *Removal of Nuisance.* It shall be unlawful for the owner of any property in the city to violate any one or number of the property standards contained in section (b) and any such property in violation shall be deemed to be a public nuisance. The commissioner of inspectional services, the building commissioner, the director of housing, the director of health inspections or the fire chief shall declare the property a public health nuisance and order the property owner to remove the nuisance within ten (10) days after service of notice of the violation. Such notice shall be served in accordance with G.L. c. 111, § 124. The notice shall contain the following information:

(1) The street address and description of the property sufficient for identification of the property.

(2) A statement that the property has been declared a public nuisance because of the presence of a nuisance on the property.

(3) A concise description of the conditions on the property that have lead to the determination that the property is a public nuisance.

(4) A statement that the nuisance shall be removed from the property within ten days from service of the notice and that if the owner fails to remove the nuisance within the time frame specified that the owner will be in violation of this ordinance and subject to the penalties described therein.

(d) *Violations.*

(1) If the owner fails to remove such nuisance within the time frame provided in the section (c), the city may enter the property and remove or caused to be removed the nuisance and the owner shall reimburse the city for the expense incurred for such removal. The sum so expended may be recovered by the city as provided in G.L. c. 111, § 125 or in an action of contract by the city against the owner.

(2) This section may also be enforced by civil process, criminal process or by non-criminal disposition as provided in General Laws, chapter 40, §21D. Each day on which a violation exists shall be deemed to be a separate offense and any person in violation of this section shall be subject to the following fines:

First violation:	$ 50.00
Second violation:	$100.00
Third violation:	$200.00
Fourth and each subsequent violation:	$300.00

(3) In addition to the penalties set forth above, the commissioner of the department of health and human services, the commissioner of inspectional services, or the fire chief may seek an injunction from a court of competent jurisdiction to restrain any violation of this section.

(4) This section shall not be enforced against the city or the commonwealth of Massachusetts, its authorities, departments, or agencies.

(e) *Definitions.* The following words and phrases, when used in this section, shall have the following meanings:

Nuisance – a failure to satisfy any one or more of the property standards set forth in section (b) herein.

Owner - any person who owns, possesses, manages, or controls any property and shall be sufficiently identified by the name and address appearing in the records of the city assessor.

Property – any land, building, structure of real property, including any fixtures attached hereto, or any personal property located within the city.

Person – means any individual, voluntary association of individuals, business entity, or organization whether incorporated or not.

§ 43. Graffiti on Private Property

(a) *Purpose And Intent*. It is the purpose and intent of this section to eliminate graffiti. Graffiti on buildings, walls, signs, and other structures or places or other surfaces causes and contributes to blight within neighborhoods and commercial districts of the city and constitutes a public nuisance. Graffiti impairs public health and safety and degrades the value, condition, or appearance of real or personal property and contributes to the general deterioration of property and business values for adjacent and surrounding property. The purpose of this ordinance is to provide the city with enforcement tools to eliminate graffiti on private property and to impose penalties upon private property owners who fail to remove graffiti from their property in a timely manner. This ordinance is not intended to supersede any existing vandalism and anti-graffiti state laws.

(b) *Definitions.* The following words and phrases, when used in this section, shall have the following meanings:

Graffiti - the intentional painting, marking, scratching, coloring, tagging or other defacement of any property without the consent of the owner.

Person - any individual, voluntary association of individuals, business, entity, organization whether incorporated or not.

Owner - any person who owns, manages or controls any property and shall be sufficiently identified by the name and address appearing in the records of the city assessor.

Property - any land, building, structure of real property, including any fixtures attached thereto, or any personal property located within the city of Worcester.

(c) *Removal of Graffiti*. It is the responsibility of the owner of the property to which graffiti has been applied to promptly remove the graffiti. No owner of property shall allow graffiti to remain on the property for a period of seven days after service of notice of the graffiti from the commissioner of the department of health and human services, or his or her designee. The notice shall contain the following information:

(1) The street address and description of the property sufficient for identification of the property;

(2) A statement that the property has been declared a public nuisance because of the presence of graffiti on the property;

(3) A concise description of the conditions on the property that have lead to the determination that the property is a public nuisance;

(4) A statement that the graffiti shall be removed from the property within seven days from service of the notice and that if the owner fails to remove the graffiti within the time frame specified that the owner will be in violation of this ordinance and subject to penalties described therein.

(d) *Violations*. This section may be enforced by civil process, criminal process or by non-criminal disposition as provided in General Laws, Chapter 40, § 21D. Any person in violation of this section shall be punished by a fine of not more than twenty-five dollars ($25.00). Each day on which a violation exists shall be deemed to be a separate offense. The commissioner of inspectional services or his or her designee may seek an injunction from a court of competent jurisdiction to restrain any violation of this section. This section shall not be enforced against the city or the commonwealth, its authorities, departments or agencies.

§ 44. Clothing Donation Receptacles – Ordained January 3, 2012 - 9706

(a) *Purpose and Intent.* It is the purpose and intent of this section to eliminate the unregulated placement, installation and inadequate maintenance of clothing donation receptacles in the city, which contribute to blight within neighborhoods and commercial districts of the city. Poor maintenance, unguided placement and illegal dumping at clothing donation receptacles create unsanitary conditions, impairs public health and safety, degrades the value, condition and appearance of real property, causing in a detriment effect on property values for adjacent and surrounding properties, thereby constituting a public nuisance. The provisions contained in this section are in pursuance of and for the purpose of securing and promoting the public health, safety and general welfare of persons in the city of Worcester.

(b) *Definitions***.** For purposes of this section the following words and phrases shall have the following meanings::

Clothing Donation Receptacle – any box, bin, container or similar device that is held out to the public as a place for people to drop off articles of used or new clothing and for the temporary storage of said clothing until it is carted away.

Person – any individual, company, partnership, corporation, association, or other legal entity.

Registrant – any person who is issued a permit authorizing the placement and operation of a clothing donation receptacle pursuant to this section.

Property Owner – the owner, lessee or other person or legal entity in control of the real property on which the clothing donation receptacle is located.

(c) *Permit Requirement.* It shall be unlawful for any person to place, maintain, or cause or suffer to be placed or maintained a clothing donation receptacle within the city of Worcester without first having obtained a permit issued by the Department of Inspectional Services.

(1) A permit issued under this section shall be valid for the period July 1 through June 30 of the following year. Permits may be renewed annually provided the registrant maintains the clothing donation receptacle at the permitted location in accordance with the requirements of this section.

(2) If the applicant for the permit is not the property owner, the written permission of the property owner to place the clothing donation receptacle on the property shall accompany the application.

(3) The applicant shall complete a permit application in such form as issued by the inspectional services department. The permit application shall include but not be limited to the name, address and telephone number of the applicant, the proposed location of the clothing donation receptacle, the name, address and telephone number of the property owner, if different from the applicant, and the schedule for emptying the receptacle.

(4) The applicant for each permit shall pay a fee in the amount established by the commissioner of inspectional services under authority of § 24 of chapter two of these Revised Ordinances.

(5) A separate application and permit is required for each clothing donation receptacle.

(6) No permit shall be transferrable except as set forth in subsection (d). Registrants shall have no property interest in a permit.

(7) Each registrant and property owner shall be jointly and severally liable for any violation of the provisions of this section.

(d) *Transfer of Permit*. The transfer of a permit may be allowed when there is a change of ownership of the property upon which the clothing donation receptacle is located, subject to the new property owner providing the written permission required under subsection (c)(2), or when a registrant sells the clothing donation receptacle, subject to the new owner of the receptacle providing the information required under subsection (c)(3).

(e) *Clothing donation receptacles shall comply with the following requirements*:

(1) The clothing donation receptacle shall be made of metal, steel or other noncombustible material, enclosed by use of a receiving door/chute and locked so that access to its contents is restricted to the registrant for removal of the contents.

(2) The clothing donation receptacle shall be maintained in good condition and appearance with no structural damage, holes or visible rust and shall be kept free from graffiti.

(3) The clothing donation receptacle shall be neutral in color and not cause distraction to passersby. No reflective material, metallic or fluorescent colors shall be allowed.

(4) Each clothing donation receptacle shall have affixed to it in a permanent manner, on the same side of the bin as the receiving door/chute used for the deposit of the clothing, a legible notice in no less than 2 inch block letters containing the following information:

(A) the name, address and local telephone number of the registrant;

(B) the name, address and local telephone number of the property owner;

(C) the name of the charity or organization that benefits from the donated clothing.

(5) Upon a transfer authorized under subsection (d), the registrant and/or property owner information shall be updated accordingly.

(6) The clothing donation receptacle shall be no larger than 3 cubic yards nor more than 6 feet in height.

(7) The contents deposited in the receptacle shall be limited to clothing.

(8) No receptacle shall be used for advertising signs or publicity purposes other than that dealing with the organization and or charity to which it is related.

(9) The receptacle shall have clearly visible language discouraging the placement of donations on the ground.

(10) A clothing donation receptacle shall be regularly emptied of its contents so that it does not overflow and result in clothing donations being strewn about the surrounding area.

(11) The registrant shall maintain the area around the receptacle clean and free of trash.

(f) *Permitted Locations.*

(1) Clothing donation receptacles are not allowed on properties located in the residential zoning districts depicted on the Worcester Zoning Map or on public property.

(2) A clothing donation receptacle shall not be permitted on a vacant parcel of land. The receptacle may not be the primary use of a property but shall be incidental to the primary use of the property.

(3) A clothing donation receptacle shall be located so as to not to interfere with sight triangles, on-site circulation, ingress and egress into and out of the property, or any other safety hazard to the public.

(4) A clothing donation receptacle shall not be located in any setbacks, landscaping or parking required under the Worcester Zoning Ordinance.

(5) The location of a clothing donation receptacle shall be approved by the inspectional services department and designated in the permit issued pursuant to subsection (c).

(6) There shall be no more than three (3) clothing donation receptacles allowed per parcel.

(g) *Violations*.

(1) Any violation of the terms of this section shall be remedied by the registrant or property owner within twenty-four (24) hours of receiving notice of the violation.

(2) If the registrant or property owner fails to correct a violation within said twenty-four (24) hours, the City may enter the property to remove or cause the clothing donation receptacle to be removed, clean the area of accumulated trash and donations, or both. The registrant and/or the property owner shall reimburse the City for the expenses incurred to correct the violation, including removal and storage charges. The sum so expended may be collected in an action of contract by the city.

(3) This section may also be enforced by civil process, criminal process or by non-criminal disposition as provided in General Laws, chapter 40, §21D. Each day a violation exists shall be deemed a separate offense and any person in violation of this section shall be subject to a fine of one hundred dollars ($100.00) per offense.

(4) This section shall not be enforced against the city or the commonwealth of Massachusetts and their authorities, departments and agencies.

Chapter Nine - Public Safety

§ 1. Disorderly Behavior
§ 1A. Excessive and Unreasonable Noise
§ 2. Bathing in Public
§ 3. Distribution of Commercial Advertising Material
§ 4. Open Alcoholic Beverages Containers
§ 5. Conduct and Attire in Places Licensed to Sell Alcoholic Beverages
§ 6. Spray Paint Cans and Indelible Markers
§ 7. Air Guns
§ 8. Firearms
§ 8A. Possession of Knives and Similar Weapons
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§ 11. Testing of Equipment
§ 12. Penalties
§ 13. Historic Building Demolitions
§ 14. Securing and Maintaining Vacant Properties and Foreclosing Properties
§ 14A. Facilitating Mediation of Mortgage Foreclosures of Owner Occupied Residential Real Property in City of Worcester
§ 15. Abandoned Shopping Carts
§ 16. Aggressive Begging, Soliciting and Panhandling

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§ 1. Disorderly Behavior

No person shall engage in fighting, threatening or violent or tumultuous behavior; or conduct that creates a riotous commotion and excessively unreasonable noise so as to constitute a public nuisance; or conduct that creates a hazardous or physically offensive condition; which behavior or conduct has the purpose of causing public inconvenience, annoyance or alarm, or recklessly creating a risk thereof, and which serves no legitimate purpose of the actor.

§ 1A. Excessive and Unreasonable Noise

(a) Findings and Declaration of Policy

(1) *Findings.* The city council hereby finds that excessive and unnecessary noise is a significant threat to the health, welfare, safety, and the quality of life of the public; that excessive and unnecessary noise over an extended period of time leads to hearing loss; that excessive and unnecessary noise may interfere with personal communication, cause sleep disturbances, create anxiety and distress and aggressive behavior. The city council further finds that a substantial body of science and technology exists by which excessive and unnecessary noise may be substantially abated.

(2) *Declaration of Policy.* In consideration of the above findings, and recognizing that Amendment Article 97 to the Constitution of the commonwealth of

Massachusetts establishes that the people have a right to be free from excessive and unnecessary noise, it is hereby declared to be the public policy of the city to reduce the ambient noise level in the city to safe and reasonable levels and to eliminate the episodic creation of excessive and unnecessary noise so as to preserve, protect and promote the public health, safety, welfare and peace and quiet of the inhabitants of the city, to prevent injury to human, plant and animal life and property, to foster the convenience and comfort of its inhabitants, and to facilitate the enjoyment of the natural attractions of the city.

(b) Definitions - For purposes of this section 1A, the following words shall have the meanings respectively set forth below:

"A" level - means the total sound level of all noise as measured with a sound level meter using the "A" weighting network. The unit of measurement is the dB(a).

Ambient - means the background level of sound immediately preceding the sound produced by the object or person under scrutiny and, when measured mechanically or electronically, is the A-weighted sound level that is exceeded 90% of the time measured during equipment operating hours.

Device - means any mechanism which actually produces sound when operated or handled.

Motorcycle - means any motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground, including any bicycle with a motor or driving wheel attached, except a tractor or a motor vehicle designed for carrying golf clubs and not more than four persons, an industrial three-wheel truck, or a motor vehicle on which the operator and passengers ride within an enclosed cab.

Motor Vehicle - means any device which is propelled by an engine, other than a motorcycle, in or upon which a person or material may be transported on the ground and which is intended to be operated upon a public highway.

Person - means any individual, partnership, company, corporation, association, firm, organization, governmental agency, administration or department, or any other group of individuals, or any officer or employee thereof.

Plainly Audible - means any sound that can be detected by a person using his or her unaided hearing faculties. (As an example, if the sound source under investigation is a portable or personal vehicular sound amplification or reproduction device, the enforcement officer need not determine the title of a song, specific words, or the artist performing the song. The detection of the rhythmic base component of the music is sufficient to constitute a plainly audible sound).

Public Place - shall include any public way, any private way open to public use and on the official map of the city or any way for vehicular travel in any city

park, playground, public school property or land under the control of any city department.

Sound Level Meter - means any instrument including a microphone, amplifier, an output meter, and frequency weighting networks for the measurement of noise and sound levels in a specific manner.

Sound Reproduction Device - means any device, electronic or otherwise, which is capable of producing, reproducing or amplifying sound, including but not limited to any musical instrument, radio, television, tape recorder, compact disc or DVD player, public address ("P.A.") or other sound amplifying system.

Sound Signal - means any sound produced by an electronic sound signal device designed to transmit information.

(c) Sound Levels for Motor Vehicles

(1) No person shall operate any motor vehicle or any sound reproduction device within any motor vehicle in such a manner that the vehicle or sound reproduction device is plainly audible in a public place at a distance of 50 feet or more in any direction from the vehicle.

(2) Except where necessary to avoid a collision with another motor vehicle or with a pedestrian, no person shall operate a horn or warning device from any motor vehicle or motorcycle such that the sound emanating from such act is plainly audible in a public place at a distance of 125 feet or more from said vehicle or motorcycle.

(3) No person shall operate any siren in any public place except authorized employees of public entities providing law enforcement, fire suppression, first responder or advanced life support services in the immediate act of responding to an emergency or engaged in a training exercise.

(d) Sound Levels for Motorcycles

(1) No person shall accelerate a motorcycle in such a manner as to cause any sound which is plainly audible over the ambient noise level in a public place at a distance of 50 feet or more in any direction from the vehicle.

(2) No person shall operate a motorcycle in such a manner as to exceed 82 dB(A) when operated at a speed of 45 mph or less, or in such a manner as to exceed 86 dB(A) when operated within a speed zone of over 45 mph. The sound level shall be measured by a sound level meter at a distance of fifty-five feet or more from the center lane of travel, as provided in G.L. c. 90, § 7U.

(3) No person shall operate a motorcycle whose exhaust system, muffler or any other equipment or element of design incorporated into the motorcycle in compliance with federal or state laws or regulations pertaining to motorcycle noise or air pollution emissions has been removed or rendered inoperative by any person.

(e) Sound Levels Generally

(1) No person shall operate any electronic sound reproduction device so as to create sound which is plainly audible in a public place at a distance of 25 feet or more in any direction from the device or the premises containing the device, whichever is greater.

(2) No person shall operate any self-contained, portable, hand-held sound reproduction device in such a manner as to be plainly audible in a public place at a distance of 25 feet or more in any direction from the operator.

(3) No person shall create any sound on any street adjacent to a hospital or medical treatment facility at any time which is plainly audible at any place within 25 feet of the property of such hospital or facility or which unreasonably disturbs the comfort or repose of any person of normal sensitivities in such hospital provided a plainly visible sign has been displayed on such street indicating the presence of such hospital or medical treatment facility.

(4) No person shall create any sound on any street adjacent to any public or private school, institution of higher learning or court whenever the same is in session which is plainly audible at any place within 25 feet of the property of such hospital or facility or which disturbs the operation of any such school or the proceedings in any such court provided a plainly visible sign has been displayed on such street indicating the presence of such school or court.

(5) No person shall engage in persistent or repeated yelling, shouting, hooting, whistling, singing, or the making of other loud noises between the hours of 9:00 p.m. and 7:00 a.m. in such a manner as to be plainly audible in any public place at a distance of 25 feet or more in any direction or so as to annoy or disturb the reasonable quiet, comfort or repose of persons in any dwelling, hotel, hospital, or other type of residence, or in any office, or of any persons in the vicinity of any such person in or on the public sidewalks, ways or other public places.

(6) No person shall operate any sound reproduction device for commercial or business advertising purposes or for the purpose of attracting attention to any performance, show or sale or display of merchandise, in connection with any commercial or business enterprise in front or outside of any building, place or premises abutting on or adjacent to a public street, park or place where the sound therefrom is plainly audible on any public street, park or place, or from any stand, platform or other structure or anywhere on the public streets, parks or places.

(7) No person shall make or cause or permit to be made or caused any music or sound originating from or in connection with the operation of any commercial establishment or enterprise when the level of sound increases the broad band sound level, when measured at the property line of the establishment, by more than 10 dB(A) above ambient, or produces a pure tone condition (a condition is created when any octave band center frequency sound pressure level exceeds the two adjacent center frequency sound pressure levels by three decibels or more).

(8) No person shall operate any power saw, drill, grinder, lawn mower, lawn or garden tool, or similar tool at any time between the hours of 9:00 p.m.

and 7:00 a.m. on weekdays and Saturday or between the hours of 9:00 p.m. and 9:00 a.m. on Sunday and legal holidays, such that the sound emanating from any such activity is plainly audible in a public place at a distance of 50 feet or more.

(9) No person shall operate any powered construction equipment or build, erect construct, demolish, alter, repair, excavate or engage in hoisting, grading, site work, including tree and brush removal, dredging or pneumatic hammering, or deliver construction equipment and/or supplies to the site on any building, road, tower, parking lot, machine, pipe, sewer, sidewalk, or any other construction project, except between the hours of 7:00 a.m. and 9:00 p.m. on weekdays and Saturday, and between the hours 9:00 a.m. and 7:00 p.m. on Sundays except for work performed by a public service or municipal utility department or "emergency work" performed with the express written permission of the commissioner of inspectional services or the commissioner of public works and parks. Emergency work shall be limited to such work that is clearly essential to response to a sudden and unexpected threat to public health or public safety. Emergency work permission may be granted to a general or sub-contractor on a blanket basis governing all persons working on a specified portion of a particular job. Emergency work permission may be granted for not more than one week at a time, and may be renewed for additional one week periods at the discretion of the commissioner who granted the initial permission.

(f) City Contracts

(1) On any project for the construction, reconstruction, installation, demolition, maintenance or repair of any building, or public work, to be funded in whole or in part by city funds, or funds which, in accordance with a federal or state grant, program, or otherwise, the city expends or administers, or any such project to which the city is a signatory to the contract therefor, the provisions of this section shall apply and the same shall be referenced in every invitation to bid for such project and, the following paragraphs shall be contained in every resulting contract therefrom:

"It shall be a material breach of this contract if the contractor and each subcontractor shall not at all times adhere to the provisions of § 1A(e)(9) of chapter nine of the Revised Ordinances of the city by limiting their on-site, noise producing construction and related work to the hours specified by said ordinance."

(2) The director of purchasing, commissioner of inspectional services and the head of any department shall have the authority to adopt any rules and regulations they deem necessary to implement this subsection with respect to contracts generally and the head of the department awarding any such contract shall have the authority to adopt any rules and regulations he or she deems necessary to implement this subsection with respect to any particular project.

(g) Exemptions

This ordinance shall not apply to:

(1) Sound from activities in the public parks, playgrounds, playing fields, or public property or buildings of the city used under the written permission of the municipal official or body charged with the care, custody and control of said facility; provided that, any amplified sound generated by such activities shall not be plainly audible at a distance of 50 feet or more from said public park, playground, playing field, or public property or building.
(2) Sound from parades, rallies, public assemblies, demonstrations, special events, sporting events or sound trucks may for brief periods reasonably exceed the sound level limits contained herein; provided, however, that no person shall increase the amplification level of the sound generated by such activities to the point where it is consistently and plainly audible in a public place at a distance of more than 50 feet from the perimeter of the property containing such activity.
(3) Sound from bells, chimes, or carillons from a structure operated for non-commercial purposes between the hours of 8:00 a.m. and 9:05 p.m., and during special events.
(4) Sound from snow blowers, snowplows, and other snow removal equipment during or immediately after a snowfall, and the use of power equipment necessary for emergency repairs or debris removal due to severe weather.
(5) Sound from trains, boats and personal watercraft operated in compliance with state law.
(6) Sound from aircraft landing, taking-off, or taxiing at Worcester Regional Airport.
(7) Sound from lawfully permitted fireworks displays.

(h) Enforcement and Penalties

The penalty for each violation of this section 1A shall be fifty ($50.00) dollars. The provisions of this section 1A shall be enforced using the noncriminal disposition process as provided in General Laws, chapter 40, § 21D by the chief of police and every city police officer and official and any other individual listed as an "enforcing person" under the relevant provision of chapter 15 of the Revised Ordinances.

§ 2. Bathing in Public

No person shall swim or bathe, unless properly clothed, in any of the waters within the city, so as to be exposed to the view of spectators from any building, highway, street or railroad.

§ 3. Distribution of Commercial Advertising Material

(a) It shall be unlawful for any person to distribute or cause to be distributed any advertising matter whether printed or written or any sample or device, circular, leaflet,

pamphlet, paper, booklet or other advertising material at a home within the city or other than at the home of the person distributing the same, by placing such material at the home, or upon the property of the person owning or occupying the home, unless the distributor obtains the written consent of the person occupying the home.

(b) The foregoing provisions shall apply solely to commercial advertising and shall not prohibit the distribution of newspapers regularly sold by the copy or by subscription for a period of time; nor shall they apply to any person engaged in distribution of materials for charitable, benevolent, fraternal, religious or political activities or to any person exempted by any General Law or to the distribution of advertising through the mail.

§ 4. Open Alcoholic Beverages Containers

(a) No person shall drink any alcoholic beverages as defined in chapter 138, § 1 of the General Laws nor shall have in his possession any open containers or containers whose seal has been broken and recapped of such beverages, while on, in, or upon any public way or sidewalk, or upon any way to which the public has a right of access, or any place to which the members of the public have access as invitees or licensees, park or playground, or private land or place, without the consent of the owner or person in control thereof. The burden of proving such consent shall be on the defendant.

(b) All alcoholic beverages being used in violation of this ordinance shall be seized and safely held until final adjudication of the charge against the persons so arrested or summoned before the court, at which time they shall be disposed of as directed by the court.

(c) A police officer witnessing a violation of this ordinance shall have the right to arrest such person without a warrant and shall bring the person so arrested before the court within twenty-four hours, Sundays and holidays excepted.

(d) The penalty for violation of this ordinance shall not exceed fifty dollars for each offense.

§ 5. Conduct and Attire in Places Licensed to Sell Alcoholic Beverages

(a) No person shall offer to view, set up, maintain, carry on, engage in or perform the following acts or conduct in or on premises licensed in accordance with General Laws chapter 140, §§ 181 or 183A, such acts or conduct being deemed as contrary to the public need, the common good and the preservation of public order.

(b) Except as otherwise authorized by law, it is forbidden to employ or permit any person including entertainers in or on licensed premises while unclothed or in such attire so as to expose to view or to display the naked aureola, pubic hair, the cleft of the buttocks, the anus, vulva or genitals.

(c) It is forbidden to employ or permit any person including entertainers to mingle with patrons while unclothed or in attire proscribed in this section.

(d) It is forbidden for any person including entertainers in or on the licensed premises to touch, caress or fondle the breasts, buttocks or genitals of any other person.

(e) It is forbidden for any person including entertainers to wear or use any device openly exposed to view as described in paragraph (a) which simulates the breasts, buttocks, pubic hair, genitals, vulva, anus or any portions thereof.

(f) It is forbidden to employ or permit any persons including entertainers in or on the licensed premises to perform an act or acts, or simulate the act or acts, of:

(1) sexual intercourse, masturbation, sodomy, bestiality, cunnilingus, fellatio, flagellation or other sexual acts prohibited by law;

(2) touching, caressing or fondling of the breasts, buttocks or genitals of another.

(g) It is forbidden to employ or permit any person including entertainers in or on the licensed premises to show motion picture films, television type cassettes, still pictures or other photographic reproductions depicting any of the acts, or simulation of the acts, prohibited by this section.

(h) In addition to the foregoing, no person licensed under General Laws, chapter 140, section 181 or 183A or chapter 138, §12 shall employ, use the services of or permit upon licensed premises any employee including entertainers or other person who by lack of attire or conduct violates any like General Law, special act, or ordinance of the city.

§ 6. Spray Paint Cans and Indelible Markers

(a) As used in this section:

indelible marker - means any felt tip marker, china marker or similar device that is not water soluble and which has a flat or angled writing surface one-half inch or greater.

minor - means any person under the age of eighteen years.

person - includes any retail establishment.

(b) No person shall sell or offer for sale, transfer or offer to transfer any spray paint container or indelible marker unless such spray paint container or indelible marker is held for sale or transfer in an enclosed device which is constructed to prevent removal of the merchandise except by authorized attendants or is stored, out of sight, in such a way as to prevent free access to the merchandise by the public.

(c) No person shall sell or otherwise transfer any spray paint container or indelible marker to a minor, unless the minor is accompanied by his or her parent or legal guardian at the time of the purchase or transfer.

(d) No minor shall, at the time of purchase of items specified in subsection (b) of this section, knowingly furnish fraudulent evidence of maturity including, but not limited to, a motor vehicle operator's license, a registration certificate issued under the Federal Selective Service Act, an identification card issued to a member of the armed forces, or any document issued by a federal, state, county or municipal government.

(e) Any person who violates the provisions of this section shall be subject to a fine or penalty not less than fifty dollars nor more than three hundred for each offense.

§ 7. Air Guns

No person shall fire or discharge any air gun, bow gun, spring gun, any instrument discharging a projectile or any other similar weapon, in or across any of the streets, highways, squares or public parks or near any dwelling house within the city.

§ 8. Firearms, Air Rifles and BB Guns

(a) No person shall fire or discharge any gun, pistol or other firearm, that shall be loaded with ball, or shot or bullet or with powder only, in or across any of the streets, highways, or public parks, or squares or near any dwelling house within the city; provided that this section shall not apply to the use of such weapons at any military exercise or review under the authority of a commissioned or non-commissioned officer of the of the militia or of the military, or in the lawful defense of the person, family or property of any person, or in the performance of any duty authorized by law including discharge of a firearm by any member to the Worcester Police Department, nor to any person firing a salute of cannon or artillery or firearm by leave of the city manager.

(b) No person shall sell to a minor under the age of eighteen any air rifle or so-called BB gun and no person not being the parent, guardian, or adult teacher or instructor shall furnish to minor under the age of eighteen any air rifle or so-called BB gun. Whoever violates this provision shall be punished by a fine of one hundred fifty ($150.00) dollars.

(c) No minor under the age of eighteen shall have any air rifle or so-called BB gun in his possession while in any place to which the public has a right of access unless he is accompanied by an adult or unless he is the holder of a sporting or hunting license and has on his person a permit from the chief of police of the town in which he resides granting him the right of such possession. Whoever violates this provision shall be punished by a fine of one hundred ($100.00) dollars.

(d) No person shall discharge a BB shot, pellet or other object from an air rifle or so called BB gun in or across any of the streets, highways, public parks or squares or across any railroad or railway right of way. No minor under the age of eighteen shall discharge a BB shot, pellet or other object from an air rifle or BB gun in any area not otherwise prohibited unless he is accompanied by an adult or is the holder of a sporting or hunting license. Whoever violates this provision shall be punished by a fine of one hundred ($100.00) dollars.

(e) Any police officer witnessing a violation of subsections (b) or (c) or (d) of this section which also constitutes a violation of section 12B of chapter two hundred sixty-nine of the general laws shall have the right to arrest such person without a warrant and shall bring the person so arrested before the court within twenty-four (24) hours, Sundays and holidays excepted. Upon conviction of such violation the air rifle or BB gun or other weapon shall, by written authority of the court, be forwarded to the colonel of the state police, who may dispose of said article in the manner as prescribed in section 10 of chapter two hundred sixty-nine of the general laws.

§8A. Possession of Knives and Similar Weapons - Ordained January 6, 2009 – 9221

(a) No person, except as otherwise provided by law, when arrested while committing a breach or disturbance of the public peace, or when arrested upon a warrant for any alleged crime, is armed with or has on his person or under his control in a vehicle, any knife or cutting device of any kind or mechanical operation with a blade over two and one-half inches; or, any other object or tool so redesigned, fashioned, prepared or treated that the same may be used to penetrate body armor or to otherwise inflict bodily harm or injury to another, except:

(1) When actually engaged in hunting or fishing or any employment, trade or lawful recreational or culinary activity which customarily involves the carrying or use of any type of knife, or
(2) In going directly to and/or returning directly from such activities, or
(3) If the knife is being transported directly to or from a place of purchase, sharpening, or repair, and if packaged in such a manner as not to allow easy access to the knife while it is being transported.

(b) This section shall not apply to persons who, through entities or establishments engaged in a recognized retail or wholesale business, are involved in the sale, purchase or repair of knives for trade, sport, hobby or recreation, including without limitation persons engaged in the transportation to or from such entities or establishments. This section shall also not apply to any person who possesses either a valid class A or class B license issued under section one hundred thirty-one of chapter one hundred-forty of the General Laws.

(c) No person shall sell, give, or deliver to any person under 18 years of age any of the items listed in subsection (a). This provision shall not prohibit parents, adult siblings, and grandparents from selling, giving, or delivering such items to their children, siblings, and grandchildren.

(d) Every violation of this section shall be punished by a fine of $300. Enforcement of this penalty shall be through a non-criminal disposition as provided by G.L. c. 40, § 21D or by the filing of a criminal complaint.

§ 9. Alarm Systems Regulations

(a) For the purpose of §§ 9 through 12, the following terms, phrases, words and their derivations shall have the meanings given herein.

alarm system - means an assembly of equipment and devices, or a single device such as a solid state unit which connects directly into a 110 volt AC line, arranged to signal the presence of a hazard requiring urgent attention and to which the police are expected to respond. fire alarm systems, alarm systems on motor vehicles, and alarm systems which monitor temperature, smoke, humidity, or any other condition not directly related to the detection of an unauthorized intrusion into a premises or an attempted robbery at a premises are specifically excluded from the provisions of this section.

alarm user or *user* - means any person on whose premises an alarm system is maintained within the city. Excluded from this definition are:

(1) municipal, county, state and federal agencies;
(2) central station personnel;

(3) persons who use alarm systems to alert or signal persons within the premises in which the alarm system is located of an attempted unauthorized intrusion or holdup attempt. However, if such an alarm system employs an audible signal or a flashing light outside the premises, the user of such an alarm system shall be within the definition of "alarm user" and shall be subject to this ordinance.

central station - means an office to which remove alarm and supervisory signaling devices are connected, where operators supervise circuits or where guards are maintained continuously to investigate signals.

false alarm - means the a) the activation of an alarm system through mechanical failure, malfunction, improper installation, or negligence of the user of an alarm system or of his employees or agents; or b) any signal or oral communication transmitted to the police department requesting, or requiring, or resulting in response on the part of the police department when in fact there has been no unauthorized intrusion or attempted unauthorized intrusion into a premises or no attempted robbery or burglary at a premises. Excluded from this definition are activations of alarm systems caused by power outages, hurricanes, tornadoes, earthquakes and similar conditions.

public nuisance - means anything which annoys, injure or endangers the comfort, repose, health or safety of any person or of any community or neighborhood.

(b) The chief of police may promulgate such rules as may be necessary for the implementation of this ordinance.

§ 10. Control of Alarm Systems

(a) Every alarm user shall submit to the chief of police the names, addresses and telephone numbers of the user and at least two other persons who can be reached at any time, day or night, and who are authorized to respond to an emergency signal transmitted by an alarm system, and who can open the premises where the alarm system is installed. The list of names, addresses and telephone numbers of the responders must be kept current at all times by the alarm user and shall be submitted during the first month of each year.

(b) All alarm systems which use an audible bell or horn shall be equipped with an automatic shut off device which will deactivate the alarm system within ten minutes. All alarm users with an audible bell or horn must comply with this section within ninety days of the adoption of this ordinance.

(c) Any alarm system which fails to comply with the above paragraph (b) and emits a continuous signal for more than thirty minutes which cannot be shutoff or otherwise curtailed due to the absence or unavailability of the alarm user or those persons designated by him under paragraph (a) of this section, and which disturbs the peace, comfort or repose of a community, or a neighborhood of the area where the alarm system is located, shall constitute a public nuisance. Upon receiving complaints regarding such a continuous uninterrupted signal, the police chief shall endeavor to contact the alarm user, or members of the alarm user's family, or those persons designated by the alarm user under paragraph (a) of this section in an effort to abate the nuisance. The police chief shall record the time each complaint was made.

(d) In the event that the chief of police is unable to contact the alarm user or those persons designated by the alarm user under paragraph (1) of this section, or if the aforesaid persons cannot or will not curtail the audible signal being emitted by the alarm system, and if the chief of police is otherwise unable to abate the nuisance, he may direct a police officer or a firefighter or a qualified alarm technician to enter upon the property outside the home or building in which the alarm system is located and take any reasonable action necessary to abate nuisance.

(e) After an entry upon property has been made in accordance with this section and the nuisance abated, the chief of police shall have the property secured, if necessary. The reasonable costs and expense of abating a nuisance in accordance with this section may be assessed to the alarm user, said assessment not to exceed fifty-dollars.

§ 11. Testing of Equipment

No alarm system designed to transit emergency messages directly to the police department shall be worked on, tested or demonstrated without obtaining permission from the police department communications section. Permission is not required to test or demonstrate alarm devices not transmitting emergency messages directly to the police department. An unauthorized test constitutes a false alarm.

§ 12. Penalties

The following acts and omissions shall constitute violations of §§ 10 and 11 of this chapter and shall be punishable by the fines as herein provided:

(a) An alarm user whose alarm system transmits or otherwise causes more than two false alarms in a twelve month period shall be assessed a fine of $25.00 for the second false alarm in any twelve month period, $50.00 for the fourth false alarm in any twelve month period, and $100.00 for each subsequent false alarm in any twelve (12) month period.

(b) An alarm user who fails to comply with any of the requirements of §10 of this chapter relative to control and curtailment of signals emitted by alarm systems shall be punishable by a fine of $25.00.

(c) An alarm user who fails to comply with any of the requirements of §11 of this chapter relative to the testing of equipment shall be punished by a fine of $25.00.

§ 13. Historic Building Demolitions

(a) This section thirteen is enacted to preserve and protect historically significant buildings, landmarks and places within the city and to encourage owners of such buildings to seek out persons who might be willing to purchase, preserve, rehabilitate or restore such buildings rather than demolish them.

(b) The following words and phrases, when used in this section thirteen, shall have the following meanings:

building - any combination of materials forming a shelter for persons, animals or property.

commission - the Worcester Historical Commission established by section 17 of Article 3 of Part II of these Revised Ordinances.

demolition - any act of pulling down, destroying, removing or razing a building or any designated historic portion thereof, or commencing the work of total or substantial destruction with the intent of completing the same.

designated historic building - any building or portion thereof, including those within any historic district established by the city under the provisions of c. 40C of the General Laws and § 17(b) of Article 3 of Part II of these Revised Ordinances, and which is listed on, or within an area listed on, the National Register of Historic Places, or the State Register of Historic Places, or is the subject of a pending application for listing on said Registers, or is listed on the National Register Eligible List established by the commission pursuant to its designation as a certified local government by the Massachusetts Historical commission.

(c) No person shall demolish any designated historic building without the approval of the commission as herein provided. The building commissioner shall not issue any permit for the demolition of any designated historic building unless the applicant for any such permit presents evidence of the approval of the commission as provided herein. The provisions of this subsection (c) shall not apply to the demolition of any designated historic building which has been approved in a Final Environmental Impact Report issued by the Secretary of Environmental Affairs under the Massachusetts Environmental Protection Act, G.L. c.30, § 61 - § 62H.

(d) The commission shall maintain a list of every designated historic building and shall keep a copy of such list on file with the building commissioner. The commission shall notify the building commissioner whenever it makes any changes to the list of designated historic buildings in Worcester.

(e) Any person may request the commission for approval of the demolition of a designated historic building. Such requests shall be filed in accordance with the procedure established by the commission. The commission shall designate an officer responsible for the receipt of such requests who shall establish a date and time for a public hearing on the application. Such hearing shall occur not more than forty-five days from the date the application for approval has been received by the commission. The commission shall publish a notice of the hearing in a local newspaper not less than fourteen days before the date of the hearing. The commission shall send by regular mail at least fourteen days before the hearing a notice of the hearing to any person whose property abuts the property of the applicant as determined from the records of the city assessor. The commission shall also notify the building commissioner of any such hearing and shall send notice by regular mail to any person who files a written request with the commission to receive such notices.

(f) At such hearing, the commission may receive information regarding the current condition of the building, its conformity with the standards for designation as a designated historic building, the cost to repair or maintain the building, the ability of the owner to provide such funds either directly or through third party financing, the economic viability of the current or potential uses of the building, as well as any other factor relevant to the application of this ordinance to the building.

(g) If, after such hearing, the commission determines either (1) that the demolition of the designated historic building would not be detrimental to the historical or architectural heritage or resources of the city, or (2) that the issuance of a demolition approval is necessary to avoid an undue economic hardship to the property owner, the commission shall approve the request and forthwith notify the applicant and the building commissioner of such determination. Upon receipt of such notification, or upon the failure by the commission to make the determinations described herein after forty-five days from the date the application was filed with the commission, the owner may, upon receipt of a permit from the building commissioner, proceed with the demolition of the building.

(h) If, after such hearing, the commission determines both (1) that the demolition of the designated historic building would be detrimental to the historical or architectural heritage or resources of the city, and (2) that the immediate demolition of the building is not necessary to avoid an undue economic hardship to the property owner, the building may not be demolished until twelve months after the date upon which the request was filed with the commission. In notifying the property owner of its decision the commission shall specify the date upon which the twelve-month delay period expires. The twelve-month delay period established herein may be reduced at any time by the commission whenever it is satisfied that there is no reasonable likelihood that either the owner or some other person or group is willing to purchase, preserve, rehabilitate, or restore such building. During the twelve-month delay period, the commission shall assist the owner in efforts to locate a purchaser to preserve, rehabilitate and restore the subject building.

(i) The approval of the commission, whether granted directly by vote of the commission or constructively by the passage of the forty-five day or twelve-month periods established herein, shall be valid for one year from the date of such approval.

(j) The commission is authorized to institute any and all proceedings in law or equity as it deems necessary and appropriate to obtain compliance with the requirements of this section, or to prevent violation thereof. The city solicitor shall represent the commission in all such proceedings.

(k) Any person who, without the actual or constructive approval of the commission as required by this section, demolishes or attempts to demolish any designated historic building, either as the owner of the building or acting as an agent or independent contractor engaged under authority of the owner, shall be punished by a fine of $300.00. Each day that any portion of a designated historic building remains demolished, in whole or in part, shall constitute a separate offense.

(l) The provisions of subsection (c) of this section shall not apply if such building is the subject of an emergency order issued under authority of G.L. c. 143, §§ 6-9, or § 124 of the state building code, or an *Executive Order Concerning Demolition Procedures*, as issued and revised from time to time by the city manager. The provisions of subsection (c) of this section shall also not apply whenever, in the opinion of the building commissioner, the condition of any designated historic building requires immediate emergency action to abate a threat to the health or safety of the public. Nor shall the provisions of said subsection (c) apply to the demolition of a designated historic building located on any priority development site designated by the city council pursuant to G.L. c. 43D.

§ 14. Securing and Maintaining Vacant Properties and Foreclosing Properties – Amended June 23, 2015 – 141*

(a) Certain unsecured or unmaintained vacant properties, foreclosing properties, and foreclosed properties present a danger to the safety and welfare of public safety officers, the public, occupants, abutters and neighborhoods, and as such, constitute a public nuisance. This section is enacted to promote the health, safety and welfare of the public, to protect and preserve the quiet enjoyment of occupants, abutters and neighborhoods, and to minimize hazards to public safety personnel inspecting or entering such properties. This section shall apply to:

(1) Unsecured or unmaintained vacant properties;

(2) Unsecured or unmaintained occupied properties that are foreclosing.

(3) Unsecured or unmaintained vacant or occupied properties that have foreclosed and a deed is recorded in the name of a bank, credit union, mortgage servicer, financial institution, REO, government corporation such as Government National Mortgage Association ("Ginnie Mae"), government-sponsored enterprise such as the Federal National Mortgage Association (Fannie Mae) or the Federal Home Loan Mortgage Corporation (Freddie Mac), the Secretary of Housing and Urban Development, the Veterans Administration, or other such entity.

(b) The following words and phrases, when used in this section, shall have the following meanings:

building – any combination of materials having a roof and enclosed within exterior walls or firewalls, built to form a structure for the shelter of persons or property.

certificate of closure – certificate issued by the director to the owner of a vacant or foreclosing property upon compliance with the provisions of paragraph (c) herein.

director – the director of health and housing inspection.

days – consecutive calendar days.

fire chief – the chief of the Worcester Fire Department or his or her designee.

foreclosed – when a new deed is recorded with the registry of deeds following the foreclosure process and is recorded in the name of a bank, credit union, mortgage servicer, financial institution, REO, government corporation such as Government National Mortgage Association ("Ginnie Mae"), government-sponsored enterprise such as the Federal National Mortgage Association (Fannie Mae) or the Federal Home Loan Mortgage Corporation (Freddie Mac), the Secretary of Housing and Urban Development, the Veterans Administration, or other such entity.

foreclosing – the process by which a property, placed as security for a real estate loan, is prepared for sale to satisfy the debt if the borrower defaults.

initiation of the foreclosure process – taking any of the following actions:

(1) taking possession of a residential property pursuant to General Laws chapter 244 § 1;
(2) delivering the mortgagee's notice of intention to foreclose to borrower pursuant to General Laws chapter 244 § 17B;
(3) commencing a foreclosure action on a property in any court of competent jurisdiction; or
(4) recording a complaint to foreclose with the registry of deeds.

local – within twenty miles of the property in question

mortgagee – the creditor, including but not limited to, service companies, lenders in a mortgage agreement and any agent, servant or employee of the mortgagee, or any successor in interest and/or assignee of the mortgagee's rights, interests or obligations under the mortgage agreement.

owner – every person, entity, service company or property manager who alone or severally with others:

(1) has legal or equitable title to any real property, including, but not limited to a dwelling, dwelling unit, mobile dwelling unit, or parcel of land, vacant or otherwise, including a mobile home park; or
(2) has care, charge or control of real property, including but not limited to any dwelling, dwelling unit mobile dwelling unit or parcel of land, vacant or otherwise, including a mobile home park, or any administratrix, trustee, or guardian of the estate of the holder of legal title; or
(3) is a mortgagee of any such property;
(4) is an agent, trustee or other person appointed by the courts and vested with possession or control of any such property; or
(5) is an officer or trustee of the association of unit owners of a condominium. Each such person is bound to comply with the provisions of these minimum standards as if he were the owner. However, "owner" shall not mean a condominium association created pursuant to General Laws chapter 183A to the extent that such association forecloses on or initiates the foreclosure process for unpaid assessment due or owning to the association; or
(6) every person who operates a rooming house; or
(7) is a trustee who holds, owns or controls mortgage loans for mortgage-backed securities transactions and has initiated the foreclosure process; or
(8) has recorded a complaint to foreclose with the registry of deeds.

property – any real property, or portion thereof, located in the city, including buildings or structures situated on the property; provided, however, that "property" shall not include property owned or under the control of the city, the commonwealth or the United States of America.

secured, securing – making the property inaccessible to unauthorized persons.

vacant – any property not currently legally occupied and not properly maintained or secured.

(c) Any owner of a vacant and/or foreclosing property shall forthwith:

1. Provide written notification to the director and the fire chief of the status of such property, including in such notice, the name, address and telephone number of the owner; the location of the property; the length of time the building has been vacant; the estimated time the building will remain vacant; and the nature of the contents of the building.

2. As may be required by the fire chief, file one set of space utilization floor plans for any buildings on said property with the fire chief and one set of said plans with the director. The owner shall certify space utilization plans as accurate twice annually, in January and July; and

3. Remove from the property to the satisfaction of the fire chief, conditions likely to cause a fire or explosion or conditions that create imminent danger.

4. At the discretion of the fire chief or director, secure all windows and door openings and ensure that the building is secured from all unauthorized entry continuously in accordance with the United States Fire Administration, National Arson Initiative Board up Procedures or provide twenty-four (24) hour on-site security personnel on the property. When a vacant, foreclosed, or foreclosing property is located within a complex of buildings owned by a single owner, twenty-four (24) hour on-site security shall be provided within the building or within the complex wherein the building is located; and

5. Post "No Trespassing" signs on the property. Said signs shall be no smaller than 8 inches by 11 inches with lettering no smaller than 2 inches high, and shall be visible from the street. However, this requirement may be waived upon written request from the owner or designee; and

6. Maintain the property in accordance with Chapter 8, § 42 of these Ordinances, free of overgrowth, trash and debris, and pools of stagnant water, and ensure that structures are maintained in a structurally sound condition; and

7. If the property is vacant, drain all water from the plumbing and turn off all electricity between September 15 and June 15 of each calendar year to guard against burst pipes and fires; however this requirement may be waived by the director upon written request from the owner or designee; and

8. Maintain the property in accordance with all other relevant state codes and local regulations concerning the maintenance of property; and,

9. Provide the fire chief and director with the name, local address and telephone number of a responsible person who can be contacted in case of emergency. The owner shall cause the name and contact number to be marked on the front of the property as may be required by the fire chief or director; and

10. Maintain liability insurance on the property and furnish the director with a copy of said certificate of insurance; and,

11. Pay a registration fee in the amount of three thousand dollars ($3,000) to defray the City's enforcement-related expenses.

12. Notify the director and fire chief in writing when the property is sold or transferred.

Upon satisfactory compliance with the above provisions, the director shall issue a certificate of building closure. Said certificate shall be valid for the length of time prescribed by the director and noted thereon; provided however, the certificate shall be subject to continued compliance with the provisions of this section.

(d) Signs/Markings – When required pursuant to this section, signs or markings on buildings determined to be especially unsafe in case of fire shall be applied on the front of the property, and elsewhere as the fire chief may require, at or above the second floor level and shall not be placed over doors, windows or other openings. All signs/markings shall be visible from the street and, when requested by the fire chief, shall be placed on the sides and rear of the property. Signs/markings shall be a minimum of 24 inches by 24 inches, with lines of 2-inch width, and shall have a reflective background, or be painted with reflective paint, in contrasting colors. Signs/markings shall be applied directly on the surface of the property and shall state the date of posting and the most recent date of inspection by the fire chief and director.

(e) Enforcement – Failure to comply with any provisions of paragraph (c) above shall be punished by a fine of three hundred ($300.00) dollars with each day of violation constituting a separate offense. This section may be enforced by civil, criminal process or non-criminal process, including injunctive relief. The director and/or the fire chief shall be enforcing persons for the purposes of this section.

(f) The director or fire chief, upon being informed of the existence of a vacant, foreclosed, or foreclosing property without a certificate of building closure, shall cause notice to issue to the owner of the status of said property and shall order said person to immediately obtain a certificate of building closure. If any person fails to comply with said order, the fire chief or director may enter the premises to inspect, secure, maintain and mark the property. The fire chief or director may also seek enforcement pursuant to paragraph (e).

(g) Expenses – The owner of a vacant, foreclosed, or foreclosing property who fails to obtain a certificate of building closure as required herein, shall be liable to the city for expenses incurred by the city in inspecting, securing, maintaining, and marking such property., The director shall record the notice of claim in the Worcester District Registry of

Deeds (or the Land Court Department) forthwith, establishing a lien on the property for the balance due.

(h) No owner of a vacant, foreclosed, or foreclosing property shall allow said property to become or remain unsecured, unmaintained, or unmarked. If it appears that any vacant, foreclosed, or foreclosing property is unsecured, unmaintained or unmarked, the director shall send written notification to the owner, requiring that the owner promptly secure, maintain or mark the property. If the owner fails to comply with any order issued pursuant to this provision (h), the fire chief or director may immediately enter upon the premises and cause the property to be inspected, secured, maintained and marked.

(i) All unsecured vacant, foreclosed, or foreclosing properties shall be immediately referred to the director for a determination relative to whether the property is a nuisance or dangerous pursuant to G.L. Chapter 139 and procedures promulgated thereunder.

(j) Notices required pursuant to this section shall be served in the following manner:

1. Personally on any owner as defined in this section, or on the contact person specified pursuant to paragraph (c)(9); or

2. Left at the last and usual place of abode of any owner, or contact person as specified pursuant to paragraph (c)(9), if such place of abode is known and is within or without the commonwealth; or,

3. By certified or registered mail, return receipt requested, to any owner, or the contact person specified pursuant to paragraph (c)(9).

***Section 14 previously amended on October 15, 2013 -9929**
§ 14A. Facilitating Mediation of Mortgage Foreclosures of Owner Occupied Residential Real Property in City of Worcester –Ordained December 3, 2013 – 9956

(a) *Declaration of Findings and Policy.* Unsecured and unmaintained properties and especially vacant properties present a danger to the safety and welfare of public safety officers, the public, occupants, abutters and neighborhoods, and as such, constitute a public nuisance. This section is enacted to promote the health, safety and welfare of the public, to protect and preserve the quiet enjoyment and health of occupants, abutters and neighborhoods, and to minimize hazards to public safety personnel inspecting or entering such properties.

(b) *Definitions.* For the purposes of this ordinance, the following words shall, unless the context clearly requires otherwise, have the following meanings:

"certificate of mediation completion" shall mean a certificate issued by the mediation program manager upon good faith effort in mediation if a mutually-agreeable commercially reasonable alternative to foreclosure cannot be reached.

"commercially reasonable alternative" – an alternative based on a comparison of the net present value of receiving payments pursuant to a modified mortgage loan or the likely financial recovery from other foreclosure alternatives to the anticipated net recovery following foreclosure incorporating an assessment of the borrower's current circumstances, including without limitation the borrower's current income, debts and obligations.

"days" shall mean consecutive calendar days.

"entity" shall mean a business organization, or any other kind of organization, including without limitation, a corporation, partnership, trust, limited liability corporation, limited liability partnership, joint venture, sole proprietorship, or any other category of organization, and any employee, agent, servant or other representative of such entity.

"foreclosure" shall mean termination of a mortgagor's equity of redemption in property, by action, bill in equity, entry, and/or power of sale.

"foreclosure sale" shall mean the foreclosure of a mortgage of a residential property pursuant to a power of sale in a mortgage and as described in M.G.L. c. 244.

"good faith effort" shall mean each party to the mediation is present, has decision-making authority to negotiate and agree upon a commercially reasonable alternative to foreclosure, provides required documentation, and actively participates in the mediation process.

"mediation conference" shall mean the formal discussion and negotiation undertaken by the parties in a good faith effort to negotiate and agree upon a commercially reasonable alternative to foreclosure, and held in the city of Worcester or at a location mutually convenient to the parties. Both the mortgagor and mortgagee or its mortgage servicer must be physically present for the mediation conference unless telephone participation is mutually agreed upon and the mediation program manager certifies that the mortgagor has been made aware of his or her right to an in-person mediation conference. The mortgagor shall be allowed to have a lawyer, an interpreter, and up to three additional persons of his or her choosing present at the mediation conference. The mortgagor shall be notified of this right at the time the mediation conference is scheduled by the mediation program manager.

"mediation program" shall mean the foreclosure mediation program established in the city of Worcester as described in this ordinance and implemented in accordance section (d) of this ordinance.

"mediation program manager" shall mean a neutral not-for-profit organization or an organizational unit of the city, as the same may be determined and designated by the city manager in accordance with law. Any such mediation program manager shall be

experienced in the mediation of the foreclosure process, familiar with all programs available to help homeowners avoid foreclosure, knowledgeable of the mortgage foreclosure laws of the commonwealth of Massachusetts, and have no ownership interest or management interest in residential housing in the city of Worcester other than their primary residence. The mediation program manager shall ensure the security and confidentiality of any and all information received or exchanged under the program to the maximum extent permitted or required by the public records law, G.L. c. 66 § 10, or any other applicable state or federal law or regulation.

"mediator" – an individual (a) whose training complies with the qualifications standards for neutrals specified in the guidelines for training mediators adopted by the Supreme Judicial Court of Massachusetts pursuant to rule 8 of the uniform rules for dispute resolution; and (b) who has completed training on foreclosure mediation; and (c) who has a working knowledge of all federal, state, and city of Worcester programs available to help homeowners retain their homes.

"mortgagee" shall mean an entity that is the present holder of the mortgage loan.

"mortgage documents" shall include the promissory note, including any allonges, additional pages, and other evidence of all endorsements; mortgage; loan agreement; assignments (recorded and unrecorded); powers of attorney granted by the mortgagee or homeowner to entities acting on its behalf; and any other documents evidencing or securing a mortgage loan.

"mortgage loan" shall mean a loan, in the form of a promissory note, to one or more natural persons, or to a nominee trust or residential trust on behalf of one or more natural persons, made for non-commercial purposes and secured wholly or partially by a mortgage on residential property in the city of Worcester which is the principal residence of one or more borrowers of the loan or their family members, or in the case of a nominee trust, one or more of the beneficiaries of the trust.

"mortgage servicer" shall mean an entity which administers or services or at any point administered or serviced the mortgage loan; provided, however, that such administration or servicing shall include, but not be limited to, calculating principal and interest due on the mortgage loan, assessing fees and costs onto a mortgagor's loan account, collecting regular payments from the mortgagor, acting as escrow agent for the owner of the mortgage loan or foreclosing on a mortgage loan in the event of a default.

"mortgagor" shall mean a natural person or residential trust who received a mortgage loan secured by a residential property located in the city of Worcester, and for whom such residential property is his/her principal residence.

"net recovery following foreclosure" shall mean a monetary value that includes, but is not limited to, projected costs from:

(1) delinquency, interest, fees incurred by the date of foreclosure sale based on average length of Massachusetts foreclosure process;

(2) costs of all legally required actions to foreclose and percentage loss from foreclosure sale;

(3) meeting all sanitary code requirements;

(4) property maintenance;

(5) eviction; and

(6) other ownership costs until projected sale or re-sale to third party purchaser.

"ordinance" shall mean section 14A of chapter nine of Part One of the Revised Ordinances of 2008.

"parties" shall mean the mortgagor and the mortgagee or its mortgage servicer.

"residential property" shall mean real property located in the city of Worcester that is either a single-family dwelling or a structure containing not more than four residential units, and shall also include a residential condominium unit or a residential co-op unit.

(c) *Mediation Program Requirement*. Notwithstanding any general or special law to the contrary, all mortgagees who have sent the Notice of the Right to Cure pursuant to M.G.L. c. 244, § 35A pertaining to residential property in the city of Worcester shall be required to engage in a mediation program as set out in this ordinance.

(d) *Mediation Program Authorization.* The city of Worcester is hereby empowered to establish a mortgage mediation program in accordance with this ordinance and implemented in accordance with an organizational ordinance adopted under article six of the city charter, together with such salary ordinance amendments and budget appropriations as may be recommended by the city manager and approved by the city council.

(e) *Mediation Program Elements.*

(1) The mediation program shall provide mediation prior to all foreclosures of residential property in which the mortgagor(s) or mortgagor(s)'s family resides. The program shall address all issues reasonably related to a foreclosure on residential property, including but not limited to all commercially reasonable alternatives to foreclosure. The parties are required to make a good faith effort in mediation as defined in this ordinance. Mediations conducted pursuant to the program shall use the calculations, assumptions and forms that are established by or are a made available through:

(i) The Federal Deposit Insurance Corporation and published in the Federal Deposit Insurance Corporations Loan Modification Program Guide available on the Federal Deposit Insurance Corporation's publicly accessible website;

(ii) The Home Affordable Modification Program;

(iii) Any modification program that a mortgagee may use which is based on accepted principles and the safety and soundness of the institution and recognized by the National Credit Union Administration, the Division of Banks;

(iv) The Federal Housing Authority; or

(v) Similar federal loan modification programs.

(2) The mediation program shall provide a means for the city manager to evaluate and select qualified mediation program managers. The mediation program shall provide a means of assessing and evaluating annually the mediation program, including reports and data related to:

(i) The number of mortgagors who are notified of mediation;

(ii) The number of mortgagors who attend mediation and who receive counseling or assistance;

(iii) The number of certificates of mediation completion issued under the program; and

(iv) The results of the mediation program, including the number of loans restructured, number of principal write-downs, total value of principal write-downs, number of interest rate reductions and, to the extent such information is available, the number of mortgagors who default on mortgages within a year after restructuring, and the number of short sales and any other alternatives to foreclosure.

(f) *Confidentiality of Program Information.* Any financial statements or information provided to the mediation program or provided to the mortgagee or its mortgage servicer or mortgagor during the course of mediation in accordance with this ordinance shall be confidential and shall not be available for public inspection, unless otherwise required by law.

(g) *Notice to the City*. For the purpose of the mediation program established by the city of Worcester, a mortgagee shall send a copy of all notices given to a mortgagor pursuant to G.L. c. 244 § 35A(g), (h) which relate to residential property in the city of Worcester, to the city of Worcester, within ten (10) days of giving such notices to a mortgagor. The city of Worcester shall obtain a copy of all notices filed pursuant to G.L. c. 244 § 35A(g) and (h) within ten (10) days of receipt by the commissioner of the division of banks pursuant to G.L. c. 244, §35A(k) that relate to residential properties in the city of Worcester. The receipt by the city of Worcester of said notice, or of a request for mediation from the mortgagor made within fifteen (15) days of receipt of a mortgagor's notice pursuant to G.L. c. 244 § 35A(g) or

(h) shall constitute the beginning of the mediation process as set forth in this ordinance. At that time the city of Worcester will notify a mortgagee and a mortgagor of their rights and responsibilities under this ordinance regarding mediation. It is the intent and purpose of this ordinance that mediation commence within 45 days of the mortgagor receiving notice of his or her right to cure as provided in G.L. c. 244, § 35A(g) and (h). The city of Worcester will refer the matter for mediation to an approved mediation program manager, which shall have the responsibility of assigning a mediator and scheduling the parties to immediately commence mediation pursuant to this ordinance. The mediation shall proceed with the parties' good faith effort to negotiate and agree upon a commercially reasonable alternative to foreclosure. The mediation shall continue without delay until completion, but shall in no way constitute an extension of the foreclosure process, nor an extension of the right to cure period. Notwithstanding the limitation in the previous sentence, the mediation may be extended by mutual agreement.

(h) *Mediation Process*. The mediation program established by this ordinance shall include, and be not limited to, the following steps:

(1) The parties shall participate in a mandatory mediation conference at a location mutually convenient to the parties. All parties and/or their respective representatives present at said mediation conference must have authority to enter into any agreements renegotiating the mortgage that is the subject of the foreclosure, or to otherwise resolve the pending foreclosure.

(2) Said mediation conference shall be scheduled at a time and place to be determined by the mediation program manager, but not later than 45 days following the mortgagor's receipt of his or her notice of right to cure under G.L. c. 244, §35A (g) and (h). The parties will be sent notice under the mediation program by certified and first class mail at the parties' last known address(es), if any, or if none, then to the address to which the tax collector last sent the tax bill for the property. The notice shall contain the following declaration on the first page in English, Spanish, Cambodian, Russian, Greek, Vietnamese, French, Haitian Creole, and in any other language which the mortgagee or its mortgage servicer knows is the mortgagor's primary language, and any other language deemed appropriate by the mediation program manager: "The city of Worcester has a mediation program that may help you negotiate more affordable mortgage payments and avoid foreclosure however there is no express or implied guarantee foreclosure will be avoided. Have this notice translated at once and contact us for help." If a mortgagor does not respond to the initial notice, the mediation program manager shall, to the extent possible, utilize additional outreach methods to supplement mailed notices.

(3) Prior to the scheduled mediation conference, the mortgagor will be assigned a city of Worcester-approved loan counselor. If the mortgagor is already working with a city of Worcester-approved loan counselor, no assignment is necessary. However, such loan counselor must agree to work with the mortgagor during the mediation process in accordance with the provisions of this ordinance.

(4) The mortgagor and mortgagee or its mortgage servicer shall cooperate in all respects with the mediation program manager. The mortgagor shall complete any and all loan resolution proposals and applications as appropriate and provide evidence of all current income. The mortgagee or its mortgage servicer's representative shall bring and make available the mortgage documents, as well as a detailed accounting of the outstanding balance, costs and fees.

(5) If, after two attempts by the mediation program manager to contact the mortgagor by mail, the mortgagor fails to respond to the mediation program manager's request to appear for the mediation conference, the requirements of this ordinance will be deemed to be satisfied upon verification by the city of Worcester-approved mediation program manager that the required notice was sent. If these conditions are met, a certificate of mediation completion shall be issued immediately by the mediation program manager certifying that the mortgagee or its mortgage servicer has satisfied the mediation requirements of this ordinance.

(6) If it is determined, after a good faith effort, that the parties cannot come to a mutually agreeable, commercially reasonable alternative to foreclosure, such good faith effort on behalf of the mortgagee or its mortgage servicer and/or on the behalf of the mortgagor shall be deemed to satisfy the requirements of this ordinance. A certificate of mediation completion pursuant to this ordinance shall be issued immediately and without delay by the mediation program manager to the mortgagee or its mortgage servicer and/or to the mortgagor. The certificate for the mortgagee or its mortgage servicer, will allow the mortgagee proceed with a foreclosure in accordance with the terms of the mortgage and the relevant statutes.

(i) *Fees.* The city of Worcester is hereby authorized to adopt and from time to time revise a reasonable and appropriate mediation registration fee to be charged to the mortgagee or its mortgage servicer for the services attendant to administering the mediation program established under this ordinance. Any fees assessed pursuant to this ordinance shall not be charged to the mortgagor. It is intended there will be no cost of this mediation program to be borne by the city of Worcester.

(j) *Recording Certificate of Mediation Completion.* In the case of a foreclosure by sale of a residential property in the city of Worcester, either prior to or simultaneous with the recording requirements of G.L. c. 244, § 15, a seller shall file the certificate of mediation completion with the Worcester District Registry of Deeds. The city of Worcester will periodically request from the Worcester District Registry of Deeds information regarding attempts to record pursuant to G.L. c. 244, § 15 without complying with the recording requirements of this ordinance.

(k) *Entry Without Judgment, Memorandum or Certificate, Recording.* In the case of foreclosure by entry of a residential property in the city of Worcester either prior to or simultaneous with the recording requirements of G.L. c. 244, § 2, a copy of the certificate of mediation completion shall be filed with the Worcester District Registry of Deeds. The city of

Worcester will periodically request from the Worcester District Registry of Deeds information regarding attempts to record pursuant to G.L. c. 244, § 2 without complying with the recording requirements of this ordinance.

(l) *Penalties*

(1) A mortgagee or its mortgage servicer's failure to comply with any applicable provision of this ordinance shall result in a fine of three hundred ($300) dollars payable to the city of Worcester, for each instance of a violation, to be charged to the mortgagee or its mortgage servicer in accordance with G.L. c. 40, § 21.

(2) Every calendar day of noncompliance with any applicable provision of this ordinance shall constitute a separate violation subject to the penalties described under this section, up until the end of the right-to-cure period given under a lawful notice pursuant to G.L. c. 244, § 35A (g) and (h).

(3) Said fine or fines under this section shall be recovered by indictment or complaint pursuant to G.L. c. 40, § 21.

(4) No fines pursuant to this ordinance shall be charged to the mortgagor either directly or indirectly.

(m) *Effective Date*. This ordinance shall take effect thirty-one (31) days after its final adoption. Excepting that mortgagors who (1) have received their notices pursuant to G.L. c. 244 § 35A (g) or (h) related to residential property in the city no more than 100 days before enactment of this ordinance and (2) notify the city more than 45 days before the end of their 150 day right to cure period as defined by G.L. chapter 244, section 35A shall be eligible for mediation.

§ 15. Abandoned Shopping Carts

(a) Introduction. Commercial establishments, for the convenience of their customers, provide shopping carts. However, they often end up being abandoned on streets (public and private), sidewalks, in public parks and cemeteries and other public property other than that of the commercial establishment. When this happens, the carts constitute a hazard and a nuisance. Municipalities have tried a number of approaches to combat this problem in an attempt to keep carts on the respective premises. Legislation is enacted to require shoppers to promptly return the cart; to declare abandonment of carts unlawful; to require that carts are permanently identified, including the name of the establishment, the address and telephone number; to require that signs are posted, stating that it is illegal to remove carts from the premises; and to require that no carts can remain unsecured in the parking lot after business hours. Furthermore, the city is authorized to impound abandoned carts. The establishment, upon payment of a fee, may retrieve them and any unclaimed carts become the property of the city.

(b) Legislative Intent. The city council of the city finds and declares that the unlawful taking, misuse and abandonment of shopping carts and similar conveyances constitute a hazard to the health, safety and general welfare of the populace of the city adversely affecting the legitimate conduct of business in the city and constitute a nuisance detrimental to individual neighborhoods and the community at large. The purpose of this section is to

reduce the incidences of unlawful taking, misuse and abandonment of these devices through reasonable safeguards, by discouraging and preventing their removal from the property of the owner and by the establishment of penalties for violations of this section.

(c) Definitions. As used in this section, the following words and terms shall have the meanings indicated. The meaning of all other terms and words not specifically defined shall be their generally accepted definition:

abandoned - the leaving, discarding, dumping or placing of private property, which shall include shopping carts, in a public place other than the place of the person who makes the shopping cart available to the public.

department - the department of public works and parks.

establishment - a person owning, making available or having control of a place where shopping carts are utilized; the place of a person owning, making available or where shopping carts are utilized.

logo - a name, symbol, or trademark designed for easy and definite recognition.

owner - the owner of an establishment if it is owner-operated or the manager of an establishment if it is not owner-operated.

person - an individual, corporation, partnership, association, joint-stock company, society or other legal entity.

parking lot - any parcel of land owned, leased, or otherwise under the direction and control of the owner and used for parking motor vehicles related to the daily operations of the establishment and shall include the areas of ingress and egress.

public place - any public or private street, sidewalk, public parking lot, public park, public cemetery and other areas publicly owned and operated or a segment thereof, excluding the interior or parking area of any building where a shopping cart was obtained.

remove - to take, transport or otherwise convey from one place to another for any purpose, a shopping cart from the interior (if the building should have no parking area accessible to the public) or parking area of the place of the person who makes the shopping cart available to the public. removal or transport of a shopping cart by the owner or agent of the owner for repair, shipment to another location or for any other legal purpose shall not constitute a violation of this ordinance.

secure, secured - to fasten (fastened) together or to a permanent structure such that an individual cart cannot be removed.

shopping cart - a basket, which is mounted on wheels, or a similar device, generally used in a retail establishment by a customer for the purpose of transporting goods of any kind.

(d) Removal of Shopping Carts from Property of Owner Prohibited. It shall be unlawful for any person to remove, for any purpose, a shopping cart, with identification markings as set forth in subsection (g) of this section, from the interior of any establishment that does not contain a parking area or from the parking area of any establishment where a shopping cart was obtained. The possession of a shopping cart so marked by a person, other than the owner or agent of the owner, in a place other than that from which the shopping cart was legally made available to the public shall constitute a presumption that such person did unlawfully remove such shopping cart from the premises of the owner. Whoever violates this subsection is subject to penalty as set forth in subsection (l)(1).

(e) Carts in Parking Lots After Business Hours. No establishment shall allow any shopping carts to remain unsecured in its parking lot after the establishment's normal business hours. Any establishment that is found to have failed to secure all shopping carts in its parking lot after the establishment's normal business hours shall be in violation of this section and is subject to penalty as set forth in subsection (l) (2).

(f) Abandoning Shopping Carts Prohibited. It shall be unlawful for any person who obtains possession of a shopping cart from an establishment to leave or abandon the shopping cart in any public place other than the property of the establishment. Any person found in violation of this subsection is subject to penalty as set forth in subsection (l)(3).

(g) Identification Markings Required. Every establishment, regardless of its size or the number of shopping carts on its premises, shall mark or cause to be marked any and all shopping carts in a conspicuous and permanent manner with the name of and/or company logo, the address and telephone number of the establishment from which it was made available or permitted to be utilized. Such identification shall be in the form of a waterproof tag or imprint securely affixed to the frame of the shopping cart or in some other equally noticeable and permanent manner. Any establishment with shopping carts not affixed with the identifying markings required by this subsection while their shopping carts are still on their premises shall be in violation of this subsection and is subject to penalty as set forth in subsection (l)(4).

(h) Posting of Signs Required. Any person owning, making available or having control of a place where shopping carts are utilized, regardless of its size or the number of shopping carts on its premises, shall conspicuously post signs at said establishment, said signs to be posted in the interior of the establishments and in the parking lots of such establishments. The signs shall notify the public that the unauthorized removal of a shopping cart from the premises or parking area and/or the abandonment of a shopping cart is a violation of city ordinances. Such signs shall also list an address and telephone number for returning the shopping cart to the establishment. The department shall provide the owner of each such establishment with the wording and form for the required signs, as well as indicate the number of signs that must be posted on each owner's property. The number of signs required will vary by store, depending on the number of entrances and exits and the number of shopping cart corrals in the parking lot. It shall be a violation of this section for any person to own, make available or permit shopping carts to be utilized in an establishment without first posting the signs required by this subsection. Whoever violates this subsection is subject to penalty as set forth in subsection (l)(5).

(i) Removal of Shopping Carts. Abandoned shopping carts are declared to be a nuisance and a hazard. The commissioner of public works and parks ("commissioner") may, without notice, call for the removal, from time to time, of any abandoned shopping cart found in any public place. The impounded shopping carts will be transported to the department storage yard and recycling facility at 1065 Millbury Street or any other storage facility so designated by the commissioner.

(j) Retrieval of Shopping Carts. For those establishments that have implemented a theft deterrent system, per subsection (k) herein, there will be no impound fee and its carts will be returned to the owner free of charge. The owner shall be responsible for retrieving any and all impounded carts from the department storage facility. If a cart does not have an identification marking then the commissioner may attempt to identify the owner of the cart and store it with other carts, if any, belonging to that owner. Any cart that does not have the identification marking attached pursuant to subsection (g) herein and which is impounded pursuant to these subsections is deemed to be abandoned property and the commissioner may sell any such cart at public auction and the proceeds shall inure to the city, or may destroy or otherwise dispose of any such cart. For those establishments that have *not* implemented a theft deterrent system for their shopping carts or are not required to, per subsection (k) of this section, impounded shopping carts may be retrieved by the establishment upon payment of a $20 impound fee per cart. Such payments shall be in the form of a store check in the amount of $20 times the number of carts being retrieved and made payable to the "Department of Public Works and Parks". All establishments, whether their carts are subject to impound fees or not, shall contact the department storage facility on a regular basis to determine if any of their shopping carts have been impounded and if so, how many and to schedule a retrieval appointment. Any shopping cart that has not been retrieved by an owner within forty-five (45) days of the date it was impounded shall be deemed to be permanently abandoned and the commissioner may, in said commissioner's sole discretion: (i) continue to release such carts to the owner in accordance with this section, (ii) sell such carts at public auction and the proceeds shall inure to the city, or (iii) destroy or otherwise dispose of such carts.

(k) Mitigation Requirements.

(1) Beginning 180 days after the adoption of this section, all establishments that own, make available or have utilized more than 50 shopping carts shall be required to install a system that causes a wheel of the shopping cart to lock when the conveyance is moved near or across an antenna located at the perimeter of the establishment's parking area or other system deemed acceptable by the commissioner that would prevent the removal of shopping carts from the premises.

(2) Establishments that own, make available or have utilized between 20 and 50 shopping carts shall have the option of installing the system described above or a shopping cart handle lock system deactivated through the introduction of a coin or coins that may be redeemed by the user upon return of the shopping cart or other system deemed acceptable by the commissioner that would prevent the removal of the shopping carts from the premises.

(3) Establishments that own, make available or have utilized less than 20 shopping carts are not subject to the requirements of (1) or (2) above.

(4) Establishments, owners or persons that fail to comply with this section are subject to penalty as set forth in subsection (l)(6) of this section.

(l) Penalties For Offenses. This section may be enforced by civil process, criminal process or by non-criminal disposition as provided in General laws, Chapter 40, § 21D. Each day on which any violation exists shall be deemed to be a separate offense. Any fines and/or fees that remain unpaid by an owner for more than twelve (12) months may become liens against the real estate of the establishment. The penalty for each violation of this section shall be as follows:

(1) Removal of a shopping cart from the property of the owner: $25.00;

(2) Establishment allowing any shopping carts to remain unsecured in its parking lot after the establishment's normal business hours: $100.00 each occurrence;

(3) Abandoning a shopping cart in any public place other than the property of the establishment: $25.00;

(4) Establishment failing to mark its shopping carts as per subsection (g) of this section: $100 each occurrence;

(5) Establishment failing to post signs as per subsection (h) of this section: $100 each occurrence;

(6) Establishment failing to implement a shopping cart theft deterrent system within 180 days of the adoption of this section per subsection (k): $300 each occurrence.

(m) Appeal.

(1) An owner who has incurred a shopping cart-related fee under these Sections may obtain a hearing regarding the propriety of the fee by making a written petition to the commissioner of public works and parks for a hearing within fifteen (15) calendar days after retrieval of the impounded carts and payment of the impound fee pursuant to subsection (i). The commissioner of public works and parks shall provide written notice to the owner of the date, time and location of the hearing, and the hearing shall be held within thirty (30) calendar days from the date of the hearing request.

(2) The commissioner or his or her designee shall act as the hearing officer and the decision resulting there from shall be final and subject only to judicial review allowed by law.

(3) The commissioner shall notify the owner of the decision in writing within thirty (30) calendar days of the hearing.

(4) Proceedings for review of the decision of the commissioner may be instituted in any court of competent jurisdiction within the commonwealth of Massachusetts as allowed by law from the date of notice of decision of said commissioner. The commencement of an action shall not operate as a stay of enforcement of said commissioner's decision, but the commissioner, at his or her discretion, may stay enforcement pending the outcome of any appeal as allowed by law.

§ 16. Aggressive Begging, Soliciting and Panhandling – Ordained January 29, 2013 - 9839

(a) *Declaration of Findings and Policy.*

The city of Worcester, acting by and through its City Council, hereby makes the following findings:

(1) The City of Worcester has a duty to protect the rights of all people to exercise their First Amendment rights safely. The City of Worcester has a compelling governmental interest in imposing certain reasonable time, place and manner regulations whenever potential First Amendment activities such as begging, solicitation and panhandling occur on streets, highways, sidewalks, walkways, plazas, and other public venues within the City;

(2) This ordinance is not intended to limit any persons from exercising their constitutional right to solicit funds, picket, protest or engage in constitutionally protected activities. The provisions of this division are expressly established to most narrowly tailor any such restrictions to protect the First Amendment rights of all people within the City as well as the rights of non-participating people and their property, and to ensure the rights and safety of all people and/or property to the extent possible;

(3) Persons approached by individuals asking for money, objects or other things of any value are particularly vulnerable to real, apparent or perceived coercion when such request is accompanied by or immediately followed or preceded with aggressive behavior such as:

(A) continuing to beg or solicit from a person after the person has given a negative response to such solicitation;

(B) touching another person or their property in the course of begging or soliciting without that person's consent;

(C) blocking or interfering with the safe or free passage of a pedestrian or vehicle by any means;

(D) using violent or threatening gestures which are likely to provoke an immediate violent reaction from the person who is the subject of the solicitation or request for money;

(E) closely following behind, ahead or alongside a person who has been solicited or asked for money after that person has given a negative response to such solicitation;

(F) using profane, threatening, or abusive language, either during the solicitation or begging or following a refusal;

(G) begging or soliciting money from anyone who is waiting in line for tickets, entering a public building or riding on public transportation;

(H) begging or soliciting in a manner with conduct, words or gestures intended or likely to cause a reasonable person to fear imminent bodily harm, danger or damage to or loss of property or otherwise to be intimidated into giving money or any other thing of value; or

(I) begging or soliciting in a group of two or more persons in an intimidating fashion.

(4) The City desires to respect a person's potential right to solicit, beg or panhandle while simultaneously protecting another's right to not be unduly coerced.

(5) The City further finds that aggressive soliciting, begging or panhandling of persons within 20 feet of any outdoor seating area of any cafe, restaurant or other business, bank, automated teller machine, automated teller machine facility, check cashing business, mass transportation facility, mass transportation stop, or pay telephone also subjects people being solicited to improper and undue influence and/or fear and should not be allowed.

(6) Persons approaching other individuals in an aggressive manner asking for money, objects or other things of any value after dark in public places inspire alarm and fear, which coupled with the inherent difficulty of establishing identity should not be allowed.

(b) *Purpose and Intent.*

The public purpose of this ordinance is to protect the rights of all peoples to exercise their First Amendment rights as well as the people and/or property of those who chose to be non-participating.

(c) *Definitions.*

As used in this section, the following words and terms shall have the meanings indicated. The meaning of all other terms and words not specifically defined shall be their generally accepted definition:

"Beg," "begging" or *"panhandling"* shall be synonymous and shall mean asking for money or objects of value, with the intention that the money or object be transferred at that time, and at that place. "Solicit" or "Soliciting" shall include using the spoken, written, or printed word, bodily gestures, signs, or other means of communication with the purpose of obtaining an immediate donation of money or other thing of value the same as begging or panhandling and also include the offer to immediately exchange and/or sell any goods or services.

"Aggressive manner" shall mean:

(1) approaching or speaking to a person, or following a person before, during or after soliciting if that conduct is intended or is likely to cause a reasonable person to fear bodily harm to oneself or to another, or damage to or loss of property or otherwise to be intimidated into giving money or other thing of value;

(2) continuing to solicit from a person after the person has given a negative response to such soliciting;

(3) intentionally touching or causing physical contact with another person or their property without that person's consent in the course of soliciting;

(4) intentionally blocking or interfering with the safe or free passage of a pedestrian or vehicle by any means, including unreasonably causing a pedestrian or vehicle operator to take evasive action to avoid physical contact;

(5) using violent or threatening language and/or gestures toward a person being solicited, or toward their property, which are likely to provoke an immediate violent reaction from the person being solicited;

(6) following the person being solicited, with the intent of asking that person for money or other things of value;

(7) soliciting money from anyone who is waiting in line for tickets, for entry to a building or for any other purpose;

(8) soliciting in a manner with conduct, words or gestures intended or likely to cause a reasonable person to fear immediate bodily harm, danger or damage to or loss of property or otherwise be intimidated into giving money or any other thing of value;

(9) begging in a group of two or more persons in an intimidating fashion;

(10) soliciting any person within 20 feet of the entrance to, or parking area of, any bank, automated teller machine, automated teller machine facility, check cashing business, mass transportation facility, mass transportation stop, public restroom, pay telephone or theatre or place of public assembly, or of any outdoor seating area of any cafe, restaurant or other business;

(11) soliciting any person in public after dark, which shall mean the time from one-half hour before sunset to one-half hour after sunrise.

"Automated teller machine" shall mean a device, linked to a financial institution's account records, which is able to carry out transactions, including, but not limited to: account transfers, deposits, cash withdrawals, balance inquiries, and mortgage and loan payments which are made available to banking customers.

"Automated Teller Machine Facility" shall mean the area comprised of one or more automatic teller machines, and any adjacent space which is made available to banking customers during and after regular banking hours.

"Public place" shall mean a place to which the public has access, including, but not limited to: a place which a governmental entity has title, any street open to public use, bridge, sidewalk, walkway, driveway, parking lot, plaza, transportation facility, school, park, or playground, and the doorways and entrances to building and dwellings.

"*Bank"* shall mean the same as defined in M.G.L. c. 167, § 1.

"*Check cashing business*" shall mean the same as that defined by M.G.L. c. 169A, § 1.

(d) *Prohibited Activity.*

It shall be unlawful for any person to beg, panhandle or solicit any other person in an aggressive manner. Any police officer observing any person violating this provision may request or order such person to cease and desist in such behavior and may arrest such person if they fail to comply with such request or order.

(e) *Penalty*

Any person found guilty of violating this subsection (d) of this ordinance shall be punished by a fine not to exceed $50.00 for each such day during which the violation is committed, continued or permitted, or, that the Court may impose such community service as it shall determine in lieu of a monetary fine.

Chapter Ten - Fire Safety

§ 1. Hydrants
§ 2. Smoke Detectors in Certain Buildings
§ 3. Open Flame Devices
§ 4. Malicious Bonfires
§ 5. Fireworks
§ 6. Inflammable Fluids
§ 7. Garages and Lubritoriums
§ 8. Light and Power Companies
§ 9. Communications Equipment
§ 10. Interference with Firefighters
§ 11. Removal of Vehicles
§ 12. Alarm Systems
§ 13. Fees for Certain Licenses, Permits and Services
§ 14. Fire Alarm Service Fees
§ 15. Priority Site Development License & Permits

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§ 1. Hydrants

(a) The location, relocation or discontinuance of all fire hydrants in the city, including such private hydrants as may be constructed to be used for fire purposes, shall be under the authority of the commissioner of public works and parks, subject to the approval of the fire chief.

(b) No person, except a firefighter or fire officer in the legitimate discharge of his or her duties as a firefighter, shall open any hydrant without the consent of the commissioner of public works and parks, and no person shall place any building material or other article, or rubbish of any kind so as to hinder the free access to the use of any hydrant nor shall any person maliciously destroy, deface or otherwise injure any hydrant.

(c) Any person who violates any provision of this section shall be fined three hundred dollars.

§ 2. Smoke Detectors in Certain Buildings

(a) Every building or structure occupied in whole or in part for residential purposes and containing not less than three nor more than five dwelling units, (as that term is defined in 780 CMR 201.0), as amended), shall be equipped with an approved monitored battery powered smoke detector or an approved primary smoke detector, (as defined by the General Laws, chapter 148, § 26D, as amended).

(b) The said approved monitored battery powered smoke detector or approved primary powered smoke detector shall be installed in each dwelling unit outside each separate sleeping area, (as such term "separate sleeping area" is defined by the General Laws chapter 148, § 26D, as amended); provided, however, that the fire chief shall allow the installation of approved monitored battery powered smoke detectors; and provided further, that in all common

hallways, (as such term is defined by the General Laws chapter 148, § 26D, as amended), of said residential buildings or structures, a series of interconnected approved primary powered smoke detectors shall be installed. The fire chief shall enforce the provisions of this section.

§ 3. Open Flame

(a) No charcoal cooker, brazier, hibachi or grill or any gasoline or other flammable liquid or liquified petroleum gas-fire stove or similar device shall be ignited or used on the front porch, rear porch, or on the balconies of any multi-family residential building or similar occupancy. The owners or management of said buildings which have such porches or balconies shall notify their tenants in writing of this ordinance at the time the tenant initially occupies the apartment and from time to time thereafter as may be necessary to ensure compliance. The provisions of this section shall not apply to townhouses, row houses, or other multi-family dwellings where all dwelling units are side by side and none are superimposed above another.

(b) Any person who violates the provisions of this section shall be punished by a fine of not less than twenty (nor more than fifty) dollars for each violation.

§ 4. Malicious Bonfires

(a) No person, on any public or private property in Worcester, shall willfully and maliciously set or attempt to set fire to, or burn or otherwise destroy or injure by burning, or cause to be burned or otherwise so destroy or injure, or aid, counsel or procure, the burning of any real or personal property.

(b) The placing or distribution of any flammable, explosive or combustible material or substance or any device in or against any real or personal property in an arrangement or preparation with intent eventually to willfully and maliciously set fire to or burn such real or personal property, or to procure the setting fire to or burning of such real or personal property shall constitute an attempt. Any person who violates the provisions of this section shall be punished by a fine of three hundred dollars for each violation.

§ 5. Fireworks

(a) No persons shall sell, use or authorize the sale or use of fireworks or firecrackers within the city, except that persons having a permit issued under the authority of G.L. c. 148, § 10A, may purchase fireworks and display them in accordance with the provisions of G.L., c. 148, and in compliance with the rules and regulations of the department of public safety.

(b) Any person who violates the provisions of this section shall be punished by a fine of three hundred dollars for each violation.

§ 6. Inflammable Fluids

(a) No person shall keep, store, use or sell inflammable fluids without a license or permit issued by the fire chief under the provisions of General Laws, chapter 148, § 13 and acts in amendment thereof.

(b) The fees for such licenses shall be established by the chief acting under authority of G.L. c. 40, § 22F, and shall be set by categories and capacities as established by the fire chief.

(c) The fees for permits issued by the fire chief shall be equal to those established for licenses. The fees to be charged for registration of certificates shall be one-half of the fee established by this section.

§ 7. Garages and Lubritoriums

(a) No person shall operate any garage, auto repair garage, auto body facility, auto body or spray booth and lubritoriums without an annual license issued by the fire chief.

(b) The fees for such annual licenses shall be established by the fire chief acting under authority of G.L. c. 40, § 22F, and shall be set by categories of facilities as established by the fire chief.

(c) Garages, auto repair garages, auto body facilities, auto body and spray booths and lubritoriums licensed in the city that wish to contain volatile inflammable fluids, to keep, use, or sell, shall apply to the fire chief for a separate license to keep, use, or sell the same and shall pay a fee for the license in accordance with the preceding section.

§ 8. Light and Power Companies

(a) Light and power companies shall provide and maintain suitable switches or cut-out boxes as directed by the fire chief.

(b) All light and power companies shall send to all alarms of fire from boxes, designated by the fire chief, competent workers with suitable tools to remove and care for dangerous wires. Such personnel at such alarms shall immediately report to the officer in charge and shall be under his direction and control.

§ 9. Communications Equipment

(a) No person maintaining poles to which are attached wires or communications equipment of the city, shall remove or replace such poles without giving reasonable notice of the time and place thereof to the department of communications.

(b) No person shall place any wire over or above, or otherwise interfere with, the wires or communications equipment of the city without permission in writing first obtained from the department of communications.

(c) No person moving a building, under a permit therefor, shall interfere in any manner with the communications equipment of the city, unless by the permission and under the direction of the department of communications. In case any such interference is permitted as above, all expense incurred in connection therewith shall be borne by the person causing such interference.

§ 10. Interference with Firefighters

(a) No person shall insult, menace, hinder, obstruct, oppose or without authority give an order to any officer or firefighter while on duty.

(b) No person shall drive any vehicle upon or over any hose, in use at any fire, placed in any street or highway except by order of an officer of the fire department.

(c) No person, except emergency personnel, shall enter into the area closed off at a fire, except with the permission of the fire officer in charge.

§ 11. Removal of Vehicles

At any time during fire fighting operations the officer of the fire department in charge at the scene of a fire, may remove or cause to be removed, any vehicle left unattended or parked in such a manner as to interfere with the fire fighting operations, such distances or places as necessary to enable fire fighting operations to proceed without interference.

§ 12. Alarm Systems

(a) For purposes of this section the following terms are defined:

alarm system - an assembly of equipment and devices, or a single device such as a solid state unit which connects directly into a 110 volt AC line, arranged to signal the presence of a hazard involving fire, smoke or a related change in temperature requiring urgent attention and to which the fire department is expected to respond. Alarm systems on motor vehicles, and police alarm systems which are directly related to the detection of an unauthorized intrusion into a premises or an attempted robbery at a premises are specifically excluded from the provisions of this section.

alarm user or *user* - any person on whose premises an alarm system is maintained within the city. Excluded from this definition are:

(1) municipal, county, state and federal agencies;
(2) central station personnel;
(3) persons who use alarm systems to alert or signal persons within the premises in which the alarm system is located of a possible fire. However, if such an alarm system employs an audible signal or a flashing light outside the premises, the user of such an alarm system shall be within the definition of "alarm user" and shall be subject to this ordinance.

central station - an office to which remote alarm and supervisory signaling devices are connected, where operators supervise circuits or where guards are maintained continuously to investigate signals.

false alarm - means the activation of an alarm system through mechanical failure, malfunction, improper installation, or negligence of the user of an alarm system or of his employees or agents, but excluding activations of alarm systems caused by power outages, hurricanes, tornadoes, earthquakes and similar conditions.

fire chief - the chief engineer of the fire department or his or her designated representative.

fire department - the Worcester Fire Department, or any authorized agent thereof.

public nuisance - anything which annoys, injures or endangers the comfort, repose, health or safety of any person or of any community or neighborhood.

(b) The fire chief may promulgate such rules as may be necessary for the implementation of this section.

(c) Every alarm user shall submit to the fire chief the names, addresses and telephone numbers of the user and at least two other persons who can be reached at any time, day or night, and who are authorized to respond to an emergency signal transmitted by an alarm system, and who can open the premises wherein the alarm system is installed. The list of names, addresses and telephone number of the responders must be kept current at all times by the alarm user and shall be submitted during the first month of each year.

(d) All alarm systems which use an audible bell or horn shall be equipped with an automatic shut off device which will deactivate the alarm system within ten minutes. All alarm users with an audible bell or horn must comply with this section within ninety days of the adoption of this ordinance.

(e) Any alarm system which fails to comply with the provisions of this section and emits a continuous and uninterrupted signal for more than thirty minutes which cannot be shutoff or otherwise curtailed due to the absence or unavailability of the alarm user or those persons designated by him under this section, and which disturbs the peace, comfort or repose of a community, or a neighborhood of the area where the alarm system is located, shall constitute a public nuisance. Upon receiving complaints regarding such a continuous and uninterrupted signal, the fire chief shall endeavor to contact the alarm user, or members of the alarm user's family, or those persons designated by the alarm user under of this section in an effort to abate the nuisance. The fire chief shall record the time each complaint was made.

(f) In the event that the fire chief is unable to contact the alarm user, or members of the alarm user's family, or those persons designated by the alarm user under this section, or if the aforesaid persons cannot or will not curtail the audible signal being emitted by the alarm system, and if the fire chief is otherwise unable to abate the nuisance, he may direct a police officer or a firefighter or a qualified alarm technician to enter upon the property outside the home or building in which the alarm system is located and take any reasonable action necessary to abate nuisance.

(g) After an entry upon property has been made in accordance with this section and the nuisance abated, the fire chief shall have the property secured, if necessary. The reasonable costs and expense of abating a nuisance in accordance with this section may be assessed to the alarm user, said assessment not to exceed fifty-dollars.

(h) No alarm system designed to transit emergency messages directly to the fire department shall be worked on, tested or demonstrated without obtaining permission from the fire department communications section. Permission is not required to test or demonstrate

alarm devices not transmitting emergency messages directly to the fire department. An unauthorized test constitutes a false alarm.

(i) The following acts and omissions shall constitute violations of this ordinance punishable by the fines as herein provided:

(1) An alarm user whose alarm system transmits or otherwise causes more than three false alarms in a six month period shall be assessed a fine according to the following scheduled:

fourth false alarm	$ 25.00
fifth false alarm	$ 50.00
sixth false alarm	$ 75.00
seventh false alarm	$100.00
eighth false alarm	$125.00
ninth and any subsequent false alarm	$150.00

(2) An alarm user who fails to comply with any of the requirements of subsection (c) relative to control and curtailment of signals emitted by alarm systems shall be punishable by a fine of twenty-five dollars.

(3) An alarm user who fails to comply with any of the requirements of subsection (h) relative to the testing of equipment shall be punished by a fine of twenty-five dollars.

§ 13. Fees for Certain Licenses, Permits and Services - (Amended June 1, 2010 – 9487)

(a) The fire chief shall grant such permits for use in the city as may be required by these revised ordinances or any applicable fire safety rules and regulations and the chief shall make such inspections and have and exercise such powers and duties in connection therewith as these revised ordinances, or any applicable fire safety rules and regulations or as the state marshal may direct. The fire chief shall keep a record of every permit so issued, and shall furnish the state fire marshal with such information in respect to such permits as he or she may require. The chief may revoke any such permit for cause.

(b) Except as otherwise expressly provided for in these revised ordinances or by any general law or special act, the fire chief shall, acting under authority of the Revised Ordinances, Part One, Article Two § 24 and G.L. c. 40, § 22F, establish such fees and charges for any license, permit, inspection or other service issued or provided by the department. For such permits, licenses, inspections or other services provided under G.L. c. 148, § 10A, except for smoke detector and carbon monoxide alarm inspections as provided in subsection (c) herein, the fire chief may establish a fee not to exceed $50 or any other such amount as may be established in G.L. c. 148, § 10A from time to time.
(c) If a smoke detector inspection, conducted pursuant to section 26F, and a carbon monoxide alarm inspection, conducted pursuant to section 26F 1/2, are conducted simultaneously, the owner shall not be subject to an additional fee for the carbon monoxide alarm inspection. The fee for either a carbon monoxide alarm inspection or a smoke detector inspection, conducted separately, shall not exceed: $50 for a single-family dwelling or a single dwelling unit; $100 for a 2-family dwelling; $150 for any building or structure

with 6 or fewer residential units; and $500 for any building or structure with more than 6 units.

§ 14. Fire Alarm Service Fees – (Amended June 1, 2010 – 9487)

(a) Every person utilizing the telephonic fire alarm service shall pay annually a service fee established by the fire chief acting under authority of the Revised Ordinances, Part One, Article Two § 24 and G.L. c. 40, § 22F. City buildings, including the city school department buildings, shall be exempt from payment of the service fee. The service fee payment shall be made to the city treasurer. The chief of the fire department shall thereupon issue a permit for use of the fire alarm facilities by the payee.

(b) The fee for a permit issued by the chief of the fire department for approval of plans and inspection of the installation of fire alarm systems in residential and commercial buildings shall be established by the chief acting under authority of the Revised Ordinances, Part One, Article Two § 24 and G.L. c. 40, § 22F. This subsection shall not apply to municipal projects.

§ 15. Priority Site Development License & Permits

Any license or permit required hereunder in connection with the development of any priority development site designated by the city council pursuant to G.L. c. 43D shall be applied for and the application fee paid, if any, no later than thirty days following submittal of a special permit or site plan review application. The appropriate authority shall normally take action of said application no later than twenty-one days following filing of a special permit or site plan review approval decision with the city clerk, subject to extension as per 400 C.M.R. 2.09.

Chapter Eleven - Licenses

§ 1. Licensing Authorities

License Commission

§ 2. Entertainment
§ 3. Street Performers (Repealed)
§ 4. Bowling Alleys and Billiard, Pool or Sippio Tables
§ 5. Coin Operated Pool Tables
§ 6. Gasoline Stations
§ 7. Newsracks
§ 8. Public Parking Lots
§8A. Shooting Gallery Licenses

Police Department

§ 9. Firearms Sales
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§ 11. Fortune Tellers
§ 12. Secondhand Motor Vehicles
§ 13. Solicitors and Canvassers
§13A. Tag Day Permits (Repealed January 29, 2013 – 9840)
§ 14. Beano License
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§ 22. Expiration and Transferability of Licenses
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Licensing Procedures – Payments of Any Outstanding Local Taxes, Fees, Assessments, Betterments, or Other Charges

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§ 27. Delinquent List
§ 28. Application Requirements
§ 29. Notice and Hearing
§ 30. Payment Agreement
§ 31. Effect of Denial or Suspension
§ 32. Waiver of denial, Suspension or Revocation
§ 33. Exempted Licenses and Permits
§ 34. Regulations

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§ 1. Licensing Authorities

(a) The License Commission, chief of police and chief of the fire department and commissioner of public works and parks ("licensing authorities"), are hereby vested with jurisdiction over the granting and revoking of licenses otherwise possessed by the city manager, including the licensing powers formerly exercised by the board of public welfare under G.L. c. 101, § 33.

(b) No license shall be issued to any applicant who the applicable licensing authority has reason to believe is not of good moral character or has a reputation for using fraudulent business practices in his contractual relationships.

License Commission

§ 2. Entertainment

(a) No person shall allow the use of any automatic amusement device without first receiving a license from the license commission.

(b) No inn holder, common victualler, keeper of a tavern, or person owning, managing, or controlling any club, restaurant or other establishment required to be licensed under section twelve of chapter one hundred and thirty-eight or under section two, twenty-one A or twenty-one E of chapter one hundred and forty, and no person owning, managing, or controlling any concert, dance exhibition, cabaret or public show of any description to be conducted on any premises required to be licensed under the sections described above, shall, as a part of its usual business, offer to view, set up, set on foot, maintain or carry on a concert, dance exhibition, cabaret or public show of any description, unless and until a license therefore has been issued by the license commission.

(c) No person owning, managing, or controlling any establishment not otherwise governed by section twelve of chapter one hundred and thirty-eight or under section two, twenty-one A or twenty-one E of chapter one hundred and forty, and no person owning, managing, or controlling any concert, dance exhibition, cabaret or public show of any description to be conducted on any premises not otherwise governed by the sections described above, shall, as a part of its usual business, offer to view, set up, set on foot, maintain or carry on a concert, dance exhibition, cabaret or public show of any description, unless and until a license therefore has been issued by the license commission.

(d) No person owning, operating, managing or controlling any theatrical exhibition, public show, public amusement or exhibition of any description, to which admission is obtained upon payment of money or upon the delivery of any valuable thing, or which, after free admission, amusement is furnished upon a deposit of money in a coin, card or currency controlled apparatus, shall conduct such entertainment unless and until a license therefore has been issued by the license commission.

(e) The license commission after notice to the licensee and reasonable opportunity to be heard by them, may modify, suspend, revoke or cancel any license issued under this section upon satisfactory proof that the licensee, or the licensee's employees, agents or servant, has violated or permitted a violation of any condition thereof, or any law of the commonwealth. Nothing in this section shall diminish the authority of the department of inspectional services or the chief of police to pursue any other remedy available to them to address violations of city ordinances or laws of the commonwealth.

(f) The license commission shall have the authority to adopt any rules and regulations it deems necessary to implement this section.

(g) The fee for each such license issued under this section shall be set in accordance with chapter 2, § 24 of these ordinances.

§ 3. Deleted - (See c. 12 § 26(h))

§ 4. Bowling Alleys & Billiard, Pool or Sippio Tables

(a) No person shall keep or operate a billiard, pool or sippio table, or bowling alley for hire, gain or reward, unless a license is issued therefore by the license commission, in accordance with General Laws, chapter 140, § 177.

(b) The annual fee for any license issued under this section shall be thirty dollars for the first table or alley and fifteen dollars for each additional table or alley.

§ 5. Coin Operated Pool Tables

(a) No person shall keep a coin operated pool table for hire, gain or reward unless a license is issued therefor by the license commission, in accordance with General Laws, chapter 140, § 177.

(b) The annual fee for any license issued under this section shall be fifty dollars for each coin operated pool table.

§ 6. Gasoline Stations

No person shall operate a gasoline station, either full service or self service, unless a license is issued therefor by the license commission and the applicant has obtained any other licenses required by this chapter. The license commission may revoke gasoline licenses of stations that are closed for a period of thirty successive days, or are not offering services to the general public for a period of thirty successive days or more, and shall notify the fire chief prior to any revocation.

§ 7. Newsracks

(a) The unregulated placement, installation and maintenance of newsracks on public ways presents a danger to the safety and welfare of persons using such ways, including pedestrians, the physically impaired, school children, persons entering and leaving buildings or vehicles, and to persons performing essential utility, traffic control, and emergency services and, as such, constitutes a public nuisance. The provisions contained in this section are in pursuance of and for the purpose of securing and promoting the public safety and general welfare of persons in the city, including their use of public ways.

(b) For purposes of this section the following words are defined as:

distributor - means the person responsible for placing and maintaining a newsrack in a public right-of-way.

newsrack - means any self-service or coin operated box, container, storage unit or other dispenser installed, used or maintained for the sale or distribution of printed published material of any nature. The use of the singular therein shall include the plural.

roadway - means that portion of a street or highway between the regularly established curb lines or that part improved or intended to be used for vehicular traffic.

sidewalk - means that portion of a street between the curb lines, or the lateral lines of a roadway, and the adjacent property lines, intended for use by pedestrians.

street or *highway* - means the entire width between property lines of every way open to the use of the public for the purposes of vehicular or pedestrian travel.

crosswalk - means that portion of a roadway ordinarily included within the prolongation or connection of curb lines and property lines at intersections, or any portion of a roadway indicated for pedestrian crossing by lines on the road surface or by other markings or signs.

curb return - means the point at which the radius of the curb meets the lateral lines of a roadway.

intersection - means the area between the two curb return points on the radius of any two intersecting streets.

(c) No person shall place, install or maintain any self-service or coin operated box, container or other dispenser of goods, merchandise or commodities of any nature, except newsracks as provided herein, on any public way or sidewalk within the city.

(d) No distributor or person shall place, install or maintain any newsrack upon any street or highway without first having obtained a written newsrack location permit for same from the license commission. Said permit shall remain in effect for as long as the licensee maintains, in accordance with the requirements of this section, a newsrack at the permitted location. The applicant shall submit with its application a schematic diagram showing the proposed location of the newsrack and all relevant physical features in the vicinity of the proposed location. The license application shall be approved if the diagram demonstrates a location consistent with the requirements of this section. The fee for a permit issued pursuant to this section shall be one dollar per newsrack location.

(e) Distributors may use one permit application for multiple newsrack locations. Where circumstances arise requiring additional newsracks, any valid permit holder may place such additional newsracks in accordance with the standards established by this section on the condition that the permit holder file an application for an amended permit within five business days after the first additional newsrack was placed. Immediately upon such deployment the licensee shall provide notice to the license commission of the additional newsrack locations. Upon removal of any newsrack from a location approved and permitted under this section and in no event more than fifteen days thereafter, the distributor shall forward to the license commission notice of such removal. The fee for the addition to or removal from the permit of a newsrack location shall be one dollar per newsrack location.

(f) All newsrack locations shall satisfy the following requirements:

(1) Newsracks shall be parallel to or perpendicular to the sidewalk and adjacent to either edge of the sidewalk.
(2) Newsracks shall not overhang or rest upon the curb or roadway.
(3) Newsracks shall not overhang or rest upon private property without the written consent of the owner of the property.
(4) Newsracks shall be physically secured by chains, anchor bolts or any other method to the ground or other permanent structure, but shall not be chained, bolted or otherwise attached to any:

(A) traffic control boxes,

(B) any traffic control pole containing a pedestrian crosswalk button; or

(C) any traffic signal pole or any other object, or otherwise located on the sidewalk adjacent to an intersection.

(5) Newsracks shall not exceed five feet in height, thirty inches in width, or two feet in depth.
(6) Unless otherwise prohibited by this section, newsracks may be chained or otherwise attached to one another; however, when joined or attached together, a group of newsracks shall not exceed ten feet in total width and a space of no less than thirty-six inches shall separate each group of newsracks so attached.
(7) Newsracks shall not be located within twenty feet of any fire hydrant or within five feet of any fire alarm or other emergency communication device, including public telephones.
(8) Newsracks shall not be located within five feet of any:

(A) marked crosswalk;

(B) curb return at any intersection with an unmarked crosswalk;

(C) public or private driveway; or

(D) handicapped accessible curb cut; except that, where a pre-existing pole or other lawful obstruction is located within the five feet area described above and, if otherwise permissible under this section, a newsrack may be located within such five feet area so long as the placement of a newsrack at such a location does not further reduce the distance between the pre-existing pole or other lawful obstruction and the items described in subsections (i) through (iv) above.

(9) Newsracks shall not be located within twenty feet of any designated school crosswalks or school bus stops or on any side of a street adjacent to any private or public school property where signs are erected giving notice of prohibited vehicular parking in such areas.
(10) Newsracks shall not be located on a sidewalk in an area adjacent to a bus stop - prohibited parking zone. Where two signs are utilized to indicate a bus stop, no newsrack shall be located between the two signs, unless there exists within this area a pole or other lawful obstruction and the addition of a newsrack to this area does not reduce the clear space to less than five feet. Where one sign is utilized to indicate a bus stop, no newsrack shall be located within ten feet of such sign.

(11) No newsrack shall be located within ten feet of a sign designating a taxi stand or handicapped or disabled veteran parking space.

(g) Each newsrack location permit issued by the license commission shall contain the following conditions:

(1) Every distributor receiving a permit hereunder shall execute a written agreement to indemnify and hold harmless the city against all damages or cost by reason of any claim for damages, or any process, either civil or criminal, on account of said placement, installation or maintenance or any injury to any person or damage to any property occasioned thereby; provided, however, that such obligation to indemnify and hold harmless the city shall not extend to any damages, or process, either civil or criminal, or to any injury to any person or damage to any property resulting from the acts or the failure to act, of a third party. The distributor shall annually provide a surety company bond or insurance policy in an amount not to exceed one hundred thousand dollars per claimant with a per occurrence maximum of three hundred thousand dollars in such form and with such companies as shall be reasonably and customarily acceptable to the commissioner of public works and parks and the city solicitor.

(2) No newsracks shall be used for sale, offer for sale, advertisement or display of any publication which is prohibited by the laws of the commonwealth from sale or distribution to minors unless such newsrack is maintained and controlled in the presence of an attendant who shall be an adult and who has authorization and ability to prevent the purchase of such publication by a minor.

(3) Each newsrack shall be equipped with a coin return mechanism in good working order, so as to permit a person inserting a coin to secure an immediate refund in the event the newspaper or news periodical offered for sale therein is not received by that person for any reason.

(4) Each newsrack shall have affixed to it, in a permanent manner, a visible, legible notice in substantially the following form:

IN CASE OF MALFUNCTION OF THIS
NEWSRACK OR AN ACCIDENT
INVOLVING IT OR TO SECURE A
REFUND THE DISTRIBUTOR WHO HAS
PLACED AND MAINTAINED IT IS:

Name of Distributor
Number, Street or P.O. Box
City, State, Zip Code
Telephone number (including area code)

(5) No distributor who places or maintains a newsrack on the sidewalk of the city of Worcester shall permit such newsrack to remain unused for a period of one month or more.

(6) Each newsrack shall be maintained in a clean and neat condition and in good repair at all times.

(7) No newsrack shall be used for advertising signs or publicity purposes, other than that dealing with the display, sale or purchase of the goods, merchandise or services offered for sale therein by the publisher.

(h) Any newsrack, found in violation of any of the provisions of this section, may be removed by the city in accordance with the provisions contained herein.

(1) Prior to removal, the city shall give written notice to the distributor placing or maintaining the newsrack on the sidewalk that the newsrack is in violation of this ordinance and that the violation must be corrected within a specified time (not to exceed fifteen days) and that, if not corrected, the violation carries a $200.00 fine and the newsrack may be removed by the city and disposed of pursuant to this section.

(2) The notice shall be mailed, by certified mail, to the distributor, at the address indicated on the identification placed on the newsrack. If there is no such identification, a copy of the notice shall be firmly attached to the newsrack.

(3) Any person having an interest in the newsrack may object to its removal if, before expiration of the period specified in the notice, a request for a hearing is filed with the license commission. Such hearing, if requested, shall be conducted by the license commission. Any person may present evidence at the hearing. At the conclusion of the hearing, the license commission shall determine whether removal of the newsrack is justified under the provisions of this ordinance and shall make any order necessary and appropriate in connection with such determination.

(4) After a newsrack has been removed pursuant to the provisions of this section, the city may dispose of the newsrack by destruction of the newsrack, by sale at public auction or by appropriation to use by the city, whichever is most appropriate under the circumstances; provided, however, that the owner of the newsrack may, within thirty days after its removal, redeem the newsrack by paying to the city all costs incurred by the city in connection with the removal and storage of the newsrack. At or before the time of removal, the city shall give written notice to the owner of the newsrack of his right to redeem. This notice shall be given in the same manner as provided in sub-section (3) of this section.

(i) Any distributor or person placing or maintaining a newsrack on a public way or on the public property of the city without a permit under this section or the authorization of the officer in control of such public property shall be assessed a non-criminal penalty of two-hundred dollars.

(j) Any distributor or person holding a license under this section who fails to correct a violation in accordance with and within the time specified by the notice sent pursuant to sub-section (f) of this section shall be assessed a non-criminal penalty of two-hundred dollars.

(k) Any distributor or person who knowingly submits false or misleading information on any permit application shall be assessed a non-criminal penalty of two-hundred dollars.

§ 8. Public Parking Lots

(a) No person shall operate a public parking lot unless a license is issued therefor by the license commission.

(b) A public parking lot is any space, lot, parcel of land or yard use in whole or in part for the parking of three or more motor vehicles and for which a fee is charged. Additionally, any space, lot, parcel of land or yard used or intended to be used for the parking of motor vehicles of the customers or patrons of a business or commercial establishment, whether such facilities are intended for the customers or patrons of the party maintaining the same or for the accommodation of the customers or patrons of another business or commercial establishment, shall be considered a public parking lot regardless of whether a fee is charge.

(c) The fee for a license for any space, lot, parcel or yard, used in whole or in part for parking three or more motor vehicles and where a parking fee is charged therefore, shall be ten dollars plus two dollars for each parking space in excess of four, but not in excess of one hundred, and one dollar for each parking space in excess of one hundred. The fee for a license for any space, lot, parcel or yard having parking facilities intended for the accommodation of the customers or patrons of any business, whether said facilities are intended for the accommodation of the customers or patrons of the business of the party maintaining the same or for the accommodation of the customers or patrons of another business, where there is no parking fee charged, shall be ten dollars.

(d) No person shall operate a public parking lot under any license granted under this section unless he shall cover the lot with such substance as the license commission shall approve to prevent effectively any nuisance from dust, except that lots temporarily used as parking lots shall be exempt from this requirement.

(e) Notwithstanding the provisions of any ordinance, rule or regulation to the contrary, the city manager may waive the parking lot license fee on those parking lots owned and operated by the Worcester Redevelopment Authority.

(f) No person shall operate a public parking lot under any license granted under this section unless such lot shall conform to the conditions imposed upon the license by the license commission. Such conditions include but are not limited to the regulation of: hours of operation; days of operation; notification of parking lot patrons of the towing policy, including towing fees and payment practices; capacity; and security, including adequacy of lighting.

(g) The license commission may from time to time promulgate rules and regulations for the administration and enforcement of this section.

(h) In addition to any other penalty which may be imposed by the enforcing persons for a violation of this section, the license commission may, after notice to the licensee and reasonable opportunity to be heard by them, modify, suspend, cancel, revoke or declare forfeited any license granted under this section, or may refuse to issue, transfer, renew or reissue a license under this section. No portion of the fee paid for a public parking lot license will be refunded upon adverse action by the license commission.

§ 8A. Shooting Gallery Licenses

(a) No person shall operate a shooting gallery unless a license is issued therefor by the license commission in accordance with G.L. c. 140, § 56A. The license commission may

grant, suspend and revoke at pleasure a license to conduct a shooting gallery upon such terms and conditions as it deems proper.

(b) The term "shooting gallery" shall mean a public resort equipped with appliances for target shooting, whether or not such public resort is incorporated under the laws of the commonwealth for the possession, storage or use of large or non-large capacity weapons or ammunition therefor.

(c) All applications for licenses under this provision shall be made on a form or forms to be prescribed by the license commission and shall include a sworn statement by the applicant giving the names and addresses of all person having a direct or indirect beneficial interest in the license. Every applicant shall be at least twenty-one (21) years of age, of good character as determined by the license commission, and the holder of a valid class A firearms license issued pursuant to with G.L. c. 140, § 131.

(d) The fee for each original license for a shooting gallery shall be one hundred twenty ($120.00) dollars. The fee for an annual license renewal shall be one hundred five ($105.00) dollars. No license shall be transferred without the prior consent of the license commission and all licenses shall be posted on the licensed premises so that the same may be easily observed.

(e) Every license issued under this section shall expire on May first following the date of issue, unless sooner revoked.

(f) No license shall be issued under this provision until a bond, approved by the city treasurer, is filed with the city clerk. Said bond shall be in the sum of five thousand ($5,000.00) dollars to secure the payment of any injuries or damages that may result from the operation of a licensed shooting gallery.

(g) Licensed premises shall be closed between the hours of eleven o'clock post meridian (11:00 P.M.) and ten o'clock ante meridian (10:00 A.M.) every day. All persons shall be off the premise by 11:30 P.M. The licensee, facility manager or employees of the licensee may be on the premises after business hours but only if they are actively engaged in cleaning, making repairs to, or providing security for such premises, or opening or closing premises for the business day. No other persons, friends, or relatives may be on the premises with the licensee, facility manager, or licensee's employees during the hours when the public is excluded from the premises.

(h) No person shall engage in target shooting or enter a live fire area unless such person holds a valid firearm identification card or firearms license issued under G.L. c. 140.

(i) The licensee shall be responsible for determining the age of patrons and ensuring compliance with this section.

(j) All licensees shall ensure adherence to the following rules:

(1) No targets shall depict human images, human effigies, or human silhouettes, unless said target is used by public safety personnel performing in line with their official duties.

(2) All persons shall wear eye and ear protection at all times while in the live fire area.

(3) No person shall fire other than in designated fire lanes. Any person aiming or pointing a loaded or unloaded weapon at another person or object outside of the firing range lane shall be immediately expelled from the premise.

(4) No person shall exit the firing range area until and unless his firearm is completed unloaded.

(5) The licensee shall ensure that all weapons not in use shall be safely stored and locked and shall only be shown or handled by legally authorized persons in the presence of an under the direct supervision of an employee or agent of licensee who holds a valid class A firearms license.

(6) The licensed premise shall be alarmed in a manner acceptable to the license commission and the alarm system shall be activated during all non-business hours.

(7) After business hours, all weapons shall be stored in a locked and alarmed vault.

(k) Each licensee shall designate, immediately, in writing, a full-time facility manager, satisfactory to the license commission, who shall have authority and control of the licensed premises. Said facility manager shall be a suitable person as determined by the license commission and shall be the current holder of a valid class A firearms license issued under G.L. c. 140, § 131. The license commission shall be notified immediately, in no event more than twenty-four hours, after the removal or vacancy of an approved facility manager. Licensee shall also maintain a current list of all employees and shall have said list available at all times for inspection by a police officer or any authorized agent of the license commission.

(l) The licensee shall be responsible for ensuring that a high degree of supervision is exercised over the conduct of the licensed establishment at all times. Licensee shall be held responsible for safety infractions and legal violations occurring on the licensed premises. The Licensee shall report any violation of state or federal law or these rules and regulations to the Worcester Police Department within a reasonable time but in no event more than twelve (12) hours after the occurrence of said violation.

(m) Licensee shall keep all entrance and exit doorways in a closed position at all times when not actively being used by persons to enter or exit the establishment. Licensee shall provide adequate lighting within and outside the premises. Licensee shall not alter the premises without the prior approval of the license commission.

(n) The licensed premises shall be subject to inspection al all times by the police or authorized agents of license commission.

(o) No person shall operate a shooting gallery under any license granted under this section unless such shooting gallery conforms to the conditions imposed by the license commission. Such conditions include but are not limited to ensuring adequate security for the premises, including the firearms contained thereon.

(p) The license commission may from time to time promulgate rules and regulations for the administration and enforcement of this section.

(q) Any person operating a shooting gallery without a license issued under this section or in violation of any laws, or rules or regulations, or condition imposed by the License Commission shall be assessed a fine of one hundred ($100.00) dollars. Each day of unlicensed operation shall constitute a separate violation.

(r) In addition to any other penalty that may be imposed by the enforcing persons for a violation of this section, any federal, state or local rules or regulation or any license condition imposed by the license commission, the commission may, after notice to the licensee and a reasonable opportunity to be heard by them, modify, suspend, cancel, or otherwise revoke any license granted under this section, or may refuse to issue, renew or reissue a license under this section. The license commission shall refund no portion of the fee paid for a shooting gallery license upon adverse action.

CHIEF OF POLICE

§ 9. Firearm Sales

(a) No person shall sell any firearm without a license issued by the chief of police pursuant to the provisions of G.L. c. 140, § 122. The fee shall be twenty dollars per year. Such licenses shall be issued consistent with the provisions of G.L. c. 140, §§ 121 to 131I.

(b) The penalty for each violation of this section shall be three hundred dollars.

§ 10. Ammunition Sales

(a) No person shall sell any ammunition for any firearm without a license issued by the chief of police pursuant to the provisions of G.L. c. 140, § 122B. The fee shall be twenty-five dollars. The fee for a renewal license shall be one dollar per year.

(b) The penalty for each violation of this section shall be three-hundred dollars.

§ 11. Fortune Tellers

(a) No person shall tell fortunes for money unless a license is issued therefor by the chief of police in accordance with General Laws, chapter 140, § 185I.

(b) The fee for such license shall be ten dollars.

§ 12. Second-Hand Motor Vehicle Sales

(a) The chief of police may issue either a class 1, class 2 or class 3 license for the sale of second-hand motor vehicles, whichever is applicable under the provisions of General Laws, chapter 140, §§ 57 to 59.

(b) The annual fee to be charged for the license in each class shall be established by the License Commission, in accordance with General Laws, chapter 140, § 59.

§ 13. Solicitors & Canvassers

(a) It shall be unlawful for any solicitor or canvasser as defined in this section to engage in such business within the city without first obtaining a license therefor in compliance with the provision of this section. The provisions of this section shall not apply to any person engaged in the pursuit of soliciting for charitable, benevolent, fraternal, religious or political activities, nor to any person exempted under chapter 101 of the General Laws, or to any person duly licensed under chapter 101 of the General Laws, or to any person exempted by any other General Law, nor shall this section be construed to prevent route salesperson or other persons having established customers to whom they make periodic deliveries from calling upon such customers or from making calls upon prospective customers to solicit an order for future periodic route deliveries.

(b) A "solicitor" or "canvasser" is defined as any person who, for himself or for another person, firm or corporation, travels by foot, automobile, or any other type of conveyance from place to place, from house to house, or from street to street, taking or attempting to lease or to take orders for retail sale of goods, wares, merchandise, or services, including, without limiting, the selling, distributing, exposing for sale or soliciting orders for magazines, books, periodicals or other articles of a commercial nature, the contracting of all home improvements, or for services to be performed in the future whether or not such individual has, carries or exposes for retail sale a sample of the subject of such sale or whether he is collecting advance payment of such retail sales.

(c) Applicants for a license shall file with the chief of police, on a form issued by the chief of police, a written application signed under the penalties of perjury, containing the following information:

(1) name of applicant
(2) address of applicant (local and permanent address)
(3) applicant's height, weight, eye and hair color
(4) applicant's social security number
(5) the length of time for which the right to do business is desired
(6) a brief description of the nature of the business and the goods to be sold
(7) the name and home address of the applicant's employer. If self-employed, it shall so state
(8) a photograph of the applicant which picture shall be submitted by the applicant and be 2" x 2" showing the head and shoulders of the applicant in a clear and distinguishing manner
(9) a statement as to whether or not the applicant has been convicted of any crime or misdemeanor, except violations of the motor vehicle law, and the nature of the offense
(10) if operating a motor vehicle; the year, make, model, motor number, registration number, state of registration, vehicle's owner and address.

(d) At the time of filing the application, each applicant shall pay a fee of ten dollars to the police department.

(e) Upon receipt of the application, an investigation of the applicant's reputation as to morals and integrity shall be conducted by the police department. After an investigation of the applicant's reputation for honesty and lack of fraudulent business practices in his contractual

relationships with others, the chief of police shall approve or disapprove the application and notify the applicant of the decision. In the event the application is approved, a license shall issue. In the event the application is disapproved, the applicant shall be provided with a statement in writing of the reasons therefor.

(f) A license when issued shall contain the signature of the issuing officer and shall show the name, address and photograph of the licensee, the date of issuance and the length of time the license shall be operative, as well as the license number. The police department shall keep a record of all licenses issued for a period of six years. Solicitors and canvassers when engaged in the business of soliciting or canvassing are required to display an identifying badge issued by the police department, by wearing said badge on an outer garment. The identifying badge shall contain the same information previously listed in this paragraph. Every individual solicitor or canvasser shall possess an individual license.

(g) The police officers of the city shall enforce this section and shall arrest and prosecute every individual whom they may have reason to believe guilty of violation of any provision of this chapter.

(h) No license issued under this section shall be transferred without the prior written approval of the chief of police.

(i) Each license issued under the provisions of this section shall continue in force from the date of its issue until the thirty-first day of December following, unless sooner revoked.

(j) A license issued under the provisions of this section may be renewed by the chief of police. An applicant requesting a renewal of a license must apply in person for such license renewal, and provide such material as required by the chief of police.

(k) No solicitor or canvasser, licensed or exempted from license, may misrepresent, in any manner, the buyer's right to cancel as stipulated by chapter 255D of the General Laws.

(l) No solicitor or canvasser, licensed or exempted from licensing, may use any plan, scheme or ruse which misrepresents the true status or mission of the person making the call in order to gain admission to a prospective buyer's home, office or other establishment with the purpose of making a sale of consumer goods or services.

(m) Any person violating any provision of this sections shall, upon conviction thereof, be punished by a fine not to exceed fifty dollars for each and every offense.

§13A. Tag Day Permits – Repealed January 29, 2013 - 9840

(a) Notwithstanding any contrary provision of the Revised Ordinances, the chief of police may issue a permit to any nonprofit charitable organization to allow agents of such an organization to solicit contributions from motorists in vehicles stopped on any public way by reason of a mechanized traffic signal; provided, that:

(1) every such permit shall specify a particular calendar day and the particular hours of such day, which shall not exceed four consecutive hours between sunrise and sunset, during which solicitation may be conducted; and,

(2) no such permit shall be issued to any nonprofit charitable organization which has conducted any similar solicitation event in the city within three hundred sixty five days preceding the day upon which the solicitation is to be conducted; and,

(3) each tag day permit shall list the specific intersections at which the organization is authorized to solicit and no solicitation shall be conducted at any intersection not so specified; and,

(4) each such permit shall be issued on the condition that the organization obtaining the permit shall indemnify and hold the city harmless without regard to any degree of culpability assessed against the city from any claims which are filed against the city as a result of the activities of the organization and its agents in the conduct of such solicitation day; and,

(5) each person engaged in such solicitation shall:

(A) be age sixteen years of age or older; and,

(B) display identification specifying the name of the individual, the organization named in the permit and the charitable purpose for .which contributions are sought; and,

(C) conduct such solicitation only from sidewalks or traffic islands and shall not stand upon any traveled portion of any public way except to receive a contribution offered by a motorist.

(6) The name of a representative of the organization seeking authorization to solicit shall be listed on the tag day permit and said representative shall be present at the specific intersection listed on the tag day permit during the authorized hours of solicitation to control and supervise persons soliciting or the organization. Said representative shall be twenty-one years of age or older. When solicitation is permitted at more than one specific intersection, designated supervisors, twenty-one years of age or over, shall be listed on the tag day permit and at least one such supervisor shall be present at each intersection listed on the tag day permit during the authorized hours of solicitation to control and supervise person soliciting for the organization.

(b) The chief may impose such other terms or conditions as he or she may from time to time determine are reasonable to advance the public safety.

(c) Any permit issued under this section may be revoked or suspended without notice by any police officer acting under authority of the chief of police.

(d) Any person soliciting contributions in any public way either without the permit required by this section, or in violation of any provision of this ordinance, shall be punished by a fine of fifty dollars for each offense. Any person who solicits contributions on any public way of the city in the company of any person under the age of sixteen shall be punished by a fine of one hundred dollars for each offense.

§ 14. Beano License

Every person applying for a beano license issued under the authority of G.L. c. 10, § 38, shall pay a non-refundable processing fee of twenty-five dollars. Such fee shall be paid at the time the application is submitted and shall be in addition to any other fee required by state law.

§ 15. Taxicabs and Liveries – (Amended September 17, 2013 – 9923)

The chief of police of the city may from time to time grant licenses upon such terms and conditions to such persons as he may deem expedient to set up, employ, use or drive taxicabs and liveries for the conveyance of persons for hire subject to the provisions of these ordinances or regulations issued pursuant to these ordinances. No person shall set up, employ, use or drive any vehicle for the purposes aforesaid without such license, nor shall the owner of such vehicle or the proprietor of the business in which such vehicle is being used allow any person not licensed as aforesaid to drive or operate such vehicle. Every vehicle used as a taxicab or as a livery vehicle shall require a separate license from the chief of police. The fees for any such license issued shall be as follows:

(1). For every license granted to the owner of a taxicab there shall be paid a fee of one hundred dollars.

(2). For every license granted to the owner of a livery operator vehicle there shall be paid a fee of one hundred dollars.

(3). For every license granted to the driver of a taxicab or a livery vehicle driver there shall be paid a fee of twenty five dollars.

The city council reserves the right to amend said ordinances regarding taxi cabs and liveries at any time.

§ 16. Taxicab Requirements – (Amended September 17, 2013 – 9923)

Every person licensed under the provisions of § 15 above as a taxicab owner or taxicab driver shall at all times observe and comply with the following regulations:

(a) each licensed vehicle shall be conspicuously marked with the number assigned to it by the chief of police in figures not less that one and a half inches in size, and of such color as to be readily seen and read, and the names of the owner and the driver and the number of the vehicle, together with the rates of fare duly established, shall be conspicuously posted on a printed card in every such vehicle.

(b) No owner, driver or other person having charge of any taxicab shall stand or wait for employment with such vehicle, in any street, square, lane, court, or public place within the city, other than the stands assigned to such vehicles by the city council.

(c) No owner, driver or other person having charge of any taxicab shall demand or receive any more than the price or rate of fare established by this chapter or by the license commission under the provisions as mentioned in the above paragraph, under penalty of forfeiting his license in addition to the general penalty provided for in these Revised Ordinances.

(d) For unreasonably refusing to carry any passenger to any point within the city, the owner, driver or other person having charge of a taxicab shall be subject to the penalty provided for in chapter 1 of these Revised Ordinances.

(e) Every owner, driver or other person having charge of any taxicab shall at all times, when driving or waiting for employment, wear on the upper left front of his or her chest a badge as provided by the chief of police.

(f) No driver of a taxicab or motor vehicle equipped with a taximeter while carrying passengers or under employment shall display the signal affixed to such taximeter so as to denote that such vehicle is not employed, or in such a position as to denote that he or she is employed at a rate of fare in excess of that to which he is entitled under this chapter.

(g) No person shall use or permit to be used or drive for hire a public taxicab or motor vehicle equipped with a taximeter not having the case sealed and the cover and gear thereof intact.

(h) The chief of police and the license commission may, either jointly or independently, adopt rules and regulations concerning the issuance of a license or medallion to any taxicab owner and to any taxicab driver, and for the regulation of taxicab service in the city. Such rules and regulations shall become effective 30 days after the chief of police or the license commission, as the case may be, sends notification of the amended regulations to the city manager and files a copy of the same with the city clerk. All taxicab service in the city shall conform to the rules and regulations issued by the chief of police and/or the license commission and which are on file with the city clerk. Any violation of such rules and regulations issued hereunder shall be a violation of this ordinance.

(i) The chief of police shall refer to the license commission any and all complaints, whether received from the general public or generated from the work of the police department or from any other law enforcement or regulatory organization, concerning the suitability of any taxicab owner or any taxicab driver. The chief may, but shall not be required to, include in any such referral his or her recommendation as to the disposition of any particular complaint. After notice and hearing the license commission shall have the authority to suspend or revoke any license or medallion issued to any taxicab owner or to any taxicab driver for: (1) violation of any criminal law after issuance of such license which renders the licensee unfit; (2) failure to pay or lawfully contest any fine, penalty or ticket issued under pursuant to this section or to pay any taxes assessed to the licensee; or (3) any violation of this section or the rules and regulations established hereunder which constitutes a danger to the health or safety of the public in the exercise of any license issued under this section.

(j) Notwithstanding the provisions of subsection (i) above, whenever the chief of police has reason to conclude that any taxicab owner or any taxicab driver has engaged in any conduct which would render the operator or driver unfit to hold such a license or present a danger to public safety, the chief may, without prior notice or hearing, suspend any taxicab owner or any taxicab driver license issued hereunder. Immediately upon any such suspension, the chief shall notify the license commission who shall, if requested by the taxicab owner or taxicab driver whose license was suspended, conduct a post-suspension hearing to determine: A) whether there were reasonable grounds to suspend the license and, if so, whether such suspension should be terminated as of a date certain or extended to include a revocation of the license.

§ 17. Liveries – (Amended September 17, 2013 – 9923)

(a) Definitions:

livery service - providing transportation for hire for a prearranged fare on a prearranged basis by means of a livery vehicle which does not contain a rate meter and does not charge for service based on miles traveled if the trip is less than twenty-five (25) miles. Excluded from this definition are services provided by a licensed taxicab and by a common carrier licensed under the provisions of c. 159A of the General Laws;

livery operator - a person or entity which owns or has legal control of a livery vehicle and provides livery service by means of such vehicle;

livery vehicle - a motor vehicle used to provide livery service and displaying a livery registration number plate issued by the registry of motor vehicles;

livery vehicle driver - any person driving a livery vehicle while providing livery service.

prearranged – a period of not less than two hours between the time the transportation service is requested of a livery operator and the time when the first passenger enters the livery vehicle.

(b) No person shall provide livery service in the city until the livery operator has obtained from the chief of police a license to operate such livery service.

(c) No person shall drive a livery vehicle in the city until that person has obtained from the chief of police a license to drive such livery service vehicle.

(d) Every person licensed under the provisions of this section 17 as a livery operator or a livery vehicle driver shall at all times observe and comply with the following regulations:

1) livery operators must own and control licenses for livery drivers and that drivers will only be able to have a livery driver's license if they are employed by a livery operator;

2) drivers who own and operate their own vehicles, which are licensed livery vehicles, can only operate as liveries if affiliated with a livery operator;

3) livery operators and livery vehicle drivers comply with the two-hour "prearranged" rule;

4) livery operators be required to maintain a physical office with log books and pertinent records;

5) a special work order be drafted by the license commission which livery drivers can produce when required to do so while waiting to pick up customers who have previously placed a pick-up reservation with a livery company at Union Station or the Worcester Regional Airport.

(e) The chief of police and the license commission, either jointly or independently, may adopt rules and regulations concerning the conduct of livery service operators and livery vehicle drivers and the provision of livery service in the city in general. Such rules and regulations shall become effective 30 days after the chief of police or the license commission, as the case may be, sends notification of the amended regulations to the city manager and files a copy of the same with the city clerk. All livery service licensees in the city shall

conform to such rules and regulations. The license commission may also adopt policies and practices governing the conduct of its meetings and hearings, as well as its internal practices, concerning livery service and livery service licensees.

(f) The chief of police shall refer to the license commission any and all complaints, whether received from the general public or generated from the work of the police department or from any other law enforcement or regulatory organization, concerning the suitability of any livery service operator or livery vehicle driver. The chief may, but shall not be required to, include in any such referral his or her recommendation as to the disposition of any particular complaint. After notice and hearing the license commission shall have the authority to suspend or revoke any livery service operator license or any livery vehicle driver's license for: (1) violation of any criminal law after issuance of such license which renders the licensee unfit; (2) failure to pay or lawfully contest any fine, penalty or ticket issued under pursuant to this section or to pay any taxes assessed to the licensee; or (3) any violation of this section or the rules and regulations established hereunder which constitutes a danger to the health or safety of the public in the exercise of any license issued under this section.

(g) Notwithstanding the provisions of subsection (f) above, whenever the chief of police has reason to conclude that any livery service operator or livery vehicle driver has engaged in any conduct which would render the operator or driver unfit to hold such a license or present a danger to public safety, the chief may, without prior notice or hearing, suspend any livery service operator or livery vehicle driver license issued hereunder. Immediately upon any such suspension, the chief shall notify the license commission who shall, if requested by the livery owner or livery driver whose license was suspended, conduct a post-suspension hearing to determine: A) whether there were reasonable grounds to suspend the license and, if so, whether such suspension should be terminated as of a date certain or extended to include a revocation of the license.

§ 18. Transportation of Goods – (Amended September 17, 2013 – 9923)

(a) The chief of police of the city may from time to time grant licenses to such persons and upon such terms as it may deem expedient, to employ or use any truck, wagon or other vehicle which may be necessary for the conveyance from place to place, for hire, of any goods, wares, furniture, merchandise or rubbish, and the chief of police may designate the public stand or stands which such vehicles may occupy, and no person shall use any of the vehicles mentioned in this section for the purposes herein specified without a license for each vehicle.

(b) Every person licensed under this section shall have placed upon the outside and upon each side of the vehicle he or she may use the name of the owner and the number of the license, in plain, legible letters and figures not less than one and a half inches in size, so that the same may be distinctly seen.

§ 19. Solicitation of Passengers – (Amended September 17, 2013 – 9923)

No person, except holders of taxicab licenses issued under § 15 above, shall solicit passengers on public ways or from public taxicab stands, or in any way solicit passengers in violation of the prearranged rule as provided herein; nor shall operate any vehicle over any

route in such manner that it would result in conflict with any common carrier licensed under the provision of G.L. c. 159A. A violation of any of the terms of this section by any person holding a livery license under this chapter shall constitute grounds for revocation of such license under § 17 above.

§ 20. Behavior of Licensees – (Amended September 17, 2013 – 9923)

No person while engaged in the operation of a taxicab or livery vehicle shall behave in a rude and disorderly manner or use any indecent, profane or insulting language towards any person.

§ 21. License Valid Only for Person or Vehicle for Which Issued – (Amended September 17, 2013 – 9923)

No license granted under §§ 15 - 18 of this chapter shall apply to any vehicle, owner or driver, except the particular one designated therein by its number or otherwise made certain.

§ 22. Expiration and Transferability of Licenses – (Amended September 17, 2013 – 9923)

(a) All licenses granted under the provisions of sections 15-18 of this chapter shall expire on the thirtieth day of April next after the date thereof. Any license held by the owner of a taxicab or by a livery operator may be assigned or transferred provided that the chief of police has approved such assignment or transfer, and the transferee has paid the a fee of fifty dollars, provided however, that if such transfer is to be effective on the first day of May in any year, the transferee shall pay the fee specified in §15 for the type of license transferred and renewal thereof. The chief of police shall approve such transfer if the chief finds, after investigation including but not limited to any criminal or sexual offender registry information, that the transferee is suitable, in accordance with rules and regulations adopted pursuant to sections 16 and 17 above, to hold such license. The license granted to the driver of a taxicab or to a livery vehicle driver shall not be transferable.

(b) Every licensed taxicab shall have affixed thereto a metal medallion of such size, design and at such location as the chief of police may direct.

(c) The number of taxicab licenses and medallions shall be limited to one hundred and eight, including those which have expired for less than one year, and may in accordance with public need be increased or decreased by the city council. Notwithstanding the foregoing, the chief of police may grant two additional taxicab licenses and medallions on the condition that the licensee holding each such license shall operate said taxicabs in compliance with taxicab handicapped accessibility regulations adopted by the city commission on disability. The chief of police may grant such licenses only to such persons who shall otherwise qualify for such a license and medallion under this ordinance and who shall comply with the laws, ordinances, regulations, license conditions and terms otherwise applicable to the holder of a taxicab license and medallion issued under this chapter.

(d) Subject to the approval of the chief of police such licenses and medallions while in effect, as of right, may be assigned or transferred unless it appears to the chief of police, after a hearing thereon that the chief of police has good cause in accordance with the Rules and

Regulations of the chief of police for ownership or operation of taxis and liveries and provisions of law to refuse such assignment or transfer.

§ 23. Suspension or Revocation of License – (Amended September 17, 2013 – 9923)

Any license granted under the provisions sections 15 - 18 of this chapter may be suspended in accordance with the provisions of sections 16 and 17 above.

§ 24. Minors as Drivers – (Amended September 17, 2013 – 9923)

No taxicab or other vehicle mentioned in this chapter shall be driven by a minor unless he or she is specially licensed.

§ 25. Manner of Parking – (Amended September 17, 2013 – 9923)

All drivers, owners or persons having the care of any such vehicles as are described in section 16, while at the stands designated by the chief of police, shall place their respective vehicles next to the sidewalk, in a single line so as to leave sufficient space for travelers along the streets and passageways, and so as not to obstruct or encumber the crossing places of any street.

Licensing Procedures – Payments of Any Outstanding Local Taxes, Fees, Assessments, Betterments, or Other Charges

§ 26. Definitions

licensing authority - each department, board, commission or division that issues licenses or permits including renewal and transfers.

party - any person, corporation, or business enterprise that has neglected or refused to pay any local taxes, fees, assessments, betterments or other municipal charges, or with respect to any activity, event or other matter which is the subject of such license or permit and which activity, event or matter is carried out or exercised or is to be carried out or exercised on or about real estate whose owner has neglected or refused to pay any local taxes, fees, assessments, betterments, or any other municipal charges, for not less than twelve months.

§ 27. Delinquent List

(a) Any and all municipal officials responsible for all records of all municipal taxes, assessments, betterments and other municipal charges shall furnish annually to the city treasurer a listing of any persons, corporations, or business enterprises (hereinafter referred to as "party") that have neglected or refused to pay any local taxes, fees, assessments, betterments other municipal charges for a twelve month period.

(b) The city treasurer shall compile a master list containing the name and address of any party, that has neglected or refused to pay any local taxes, fees, assessments, betterments or other municipal charges for not less than a twelve month period and that has not filed in good faith a pending application for an abatement of such tax or a pending petition before the Appellate Tax Board. The master list shall also contain both the amount owed and a description of the local taxes, fees, assessments, betterments or other municipal charges which the party has failed or refused to pay.

(c) The city treasurer shall annually furnish to each licensing authority of the city a copy of the master list.

(d) Upon receipt of the master list the licensing authority may, in accordance with the terms of this article, deny, revoke or suspend any license or permit, including renewals and transfer of the same, of any party whose name appears on the master list or with respect to any activity, event or other matter which is the subject of such license or permit and which activity, event or matter is carried out or exercised or is to be carried out or exercised on or about real estate owned by any party whose name appears on said list furnished to the licensing authority from the city treasurer.

§ 28. Application Requirements

(a) Any party seeking a license or permit from a licensing authority, shall submit, at the time of such application, a certificate of compliance with the Revised Ordinances governing revenue collection (hereinafter "certification") on a form approved by the city manager.

(b) These certification forms shall be available from the licensing authority.

(c) Failure to include a fully completed certification form with the application or request to the licensing authority shall result in such application being deemed incomplete and not eligible for further processing by the licensing authority.

§ 29. Notice and Hearing

(a) The licensing authority shall not deny, revoke or suspend any license or permit, unless it first gives written notice to the party and the city treasurer and unless the licensing authority holds a hearing concerning the denial, revocation or suspension. The hearing shall be held no sooner than fourteen days from the date of the notice.

(b) The notice shall be mailed to the party and shall contain the time, place and date of the hearing. The notice shall also inform the party of the purpose of the hearing and shall list any and all taxes, fees, assessments, betterments or other municipal charges applicable to the party which are contained on the master list.

(c) If the licensing authority determines that (1) any taxes, fees, assessments, betterments or other municipal charges contained on the master list have not been paid; and (2) that the party has not filed in good faith an application for an abatement of the amount owed, or (3) that the party does not have a pending petition before the Appellate Tax Board, the licensing authority may deny, revoke or suspend any license or permit or refuse to transfer the same.

(d) Except as provided in § 32 below, the licensing authority shall give the party an opportunity at the hearing to enter a payment agreement.

(e) The master list provided by the city treasurer shall be prima facie evidence to support a denial, revocation or suspension of a license or permit to any party whose name appears on the master list.

(f) The city treasurer, or his designee, shall have the right to intervene in any hearing conducted concerning the denial, revocation and suspension of any license or permit.

(g) Any findings made by the licensing authority with respect to the denial, revocation or suspension shall be made only for the purpose of such proceeding and shall not be relevant to or introduced in any other proceeding at law, except for an appeal from such permit or license denial, revocation or suspension.

§ 30. Payment Agreement

(a) The licensing authority shall give the party an opportunity to enter into a payment agreement under such terms and conditions as are satisfactory to the licensing authority and the city treasurer.

(b) Upon entering into a payment agreement the licensing authority shall issue a certificate indicating any agreed upon limitations to the license or permit. The validity of any such license or permit shall be conditioned upon satisfactory compliance with the agreement.

(c) Failure to comply with the payment agreement shall be grounds for suspension or revocation of the party's license or permit, provided that the holder be given notice and a hearing by the licensing authority. In no event shall any hearing concerning a failure to comply with a payment agreement entitle the party to an additional opportunity to enter into a new payment agreement.

§ 31. Effect of Denial or Suspension

Any license or permit denied, suspended or revoked pursuant to § 27 of this chapter shall not be renewed until the license authority receives a certificate issued by the city treasurer indicating that all local taxes, fees, assessments, betterments or other municipal charges payable to the city have been paid as of the date of the issuance of the certificate.

§ 32. Waiver of Denial, Suspension or Revocation

The city council may waive any denial, suspension or revocation of a permit or license if it finds that there is no direct or indirect business interest by the party or members of the party's immediate family, as defined in section one of chapter 268A of the General Laws, in the business or activity conducted in or on said property.

§ 33. Exempted Licenses and Permits

The provisions of § 27 above shall not apply to the following licenses and permits:

(a) open burning permit as provided in G.L. c. 48, § 13;
(b) bicycle permits as provided in G.L. c. 85, § 11A;
(c) temporary license to sell articles for charitable purposes under G.L. c. 101, § 33;
(d) children work permits issued under G.L. c. 149, § 69;
(e) clubs or associations licensed under G.L. c. 140, § 21E;
(f) dog licenses issued pursuant to G.L. c. 140, § 137;
(g) fishing, hunting and trapping licenses issued pursuant to G.L. c. 131, § 13;
(h) marriages licenses issued under G.L. c. 207, § 28;
(i) public exhibition permits issued under G.L. c. 140, §1 81.
(j) Smoke and Carbon Monoxide Inspection Permits issued to comply with G.L. c. 148, § 26F and G.L. c. 148, § 26F1/2.*

***Amended February 24, 2015 - 95**

§ 34. Regulations

The city manager shall have the authority to adopt any rules and regulations he deems necessary to implement §§ 26 through 33 of this chapter.

Chapter Twelve - Streets And Sidewalks

§ 1. General Superintendence
§ 2. Sidewalk Construction and Repair
§ 3. Expense Estimate Required
§ 4. Procedure for Laying Out Public Ways
§ 5. Temporary Footpaths or Walks
§ 6. Prior Notice of Paving Work
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§ 10. Street Names
§ 11. Street Opening Permits
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§ 15. Removal of Poles
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§ 17. Work on Utilities in Private Streets
§ 18. Replacing Disturbed Portion of Street
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§ 22. Sidewalk Vaults
§ 23. Sidewalk Snow Removal
§ 24. Directing Snow or Water on Street
§ 25. Sidewalks & Crosswalks
§ 26. Prohibited Activities
§ 27. Littering of Streets
§ 28. Protection of Public Trees

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§ 1. General Superintendence

(a) The commissioner of public works and parks ("commissioner") shall have the general superintendence of the public streets, sidewalks, lanes and bridges of the city, attend to the construction, alteration, grading, paving, repairing and cleaning of same, remove all obstructions or encroachments made thereon, and have the care of all vehicles, machinery, implements of labor and buildings of the department of public works and parks pertaining to any of the above.

(b) Whenever any provision of this chapter prohibits any action without the permission or permit from the commissioner, or requires the issuance of any permit or license, or for any work or service to be performed by the commissioner or employees of the department of public works and parks ("department"), the commissioner may exercise the authority granted under § 24 of chapter two of these Revised Ordinances and establish a fee or charge for such permit, license, work or service.

§ 2. Sidewalk Construction and Repair

(a) When any sidewalk shall have been laid out, established and ordered, the commissioner shall grade and construct the sidewalk of such material as the city council shall deem expedient and shall set, curb and pave gutters whenever the same shall be ordered by the city council.

(b) It shall be the duty of the commissioner to keep an exact account of all expenses and outlays required or incurred in performing the work authorized in each order and report the same in writing within thirty days of the completion of the same, with the names of the owners of the estates abutting thereon and chargeable with the whole or any part of such expense, to the auditor, who shall at once report the same to the city council, and it shall forthwith proceed to assess upon the owners their just and proportionate part of the expense. The report shall contain in separate items the expense of paving the walk, setting the curb and paving the gutter.

(c) Whenever the public convenience and safety require that any sidewalk be repaired, the city council shall order, through the city manager, the commissioner to repair the same, and he shall forthwith cause the same to be repaired.

§ 3. Expense Estimate Required

Whenever any change of grade or alteration is required to be made in any public street, sidewalk or bridge, which may occasion damage to abutters or others, or may render the city liable to a suit or claim therefor, or when any bridge is to be rebuilt, or other specific work is to be done, involving an expenditure of more than three hundred dollars, the commissioner, before commencing the work, shall make, or cause to be made a full and particular estimate of the expense of such proposed repairs, alteration or work, and the plans thereof and shall ascertain as near as may be the damage the abutters or others will be justly entitled to claim or demand to the city in case the proposed alteration is made or work done, and shall report through the city manager such plans, with an estimate of the cost and damage to the city council. He shall also cause the level of the way or sidewalk altered to be ascertained with reference to permanent objects in the vicinity.

§ 4. Procedure for Laying Out Public Ways

Whenever any petition for laying out, making public, widening, altering, relocating, grading or discontinuing any way is presented to the city council and referred by the city council to the committee on public works thereof, it shall be the duty of the commissioner, when requested through the city manager to do so by such committee, to prepare a plan and estimate showing the probable cost of the work, apportioned to the several estates liable for the same, together with the estimated cost of other assessable improvements such as sewers and sidewalks that may be reasonably expected to be necessitated by such proposed alteration, the cost being likewise apportioned to the respective estates. The plan and estimate shall be furnished complete, with the names and addresses of the owners of the several estates and the amounts assessable upon each of them through the city manager to the city clerk, who shall submit the same to the committee on public works on the part of the city council, and at their request and upon blanks approved by them shall notify the owners of the probable assessments to be levied upon them, enclosing a blank form with each notification upon which the owner

shall be requested to state whether or not, in view of all the facts stated, he or she desires the petition to be granted. The city clerk shall preserve the replies when any are received and submit the same to the committee on public works on the part of the city council, who may then determine whether or not a hearing on the petition ought to be granted.

§ 5. Temporary Footpaths or Walks

The city council may cause temporary footpaths or walks to be graded or constructed, at the expense of the city, in front of vacant lots or elsewhere where the public convenience or interest does not require that permanent sidewalks shall be laid out and established as hereinbefore provided, and such temporary walks shall be subject to all the restriction and regulations contained in this chapter.

§ 6. Prior Notice of Paving Work

It shall be the duty of the commissioner, before constructing or reconstructing the surface of any street with macadam or paving, to give a written notice to all abutters on the portion of street to be improved, and to all departments and persons whatsoever who may do work in or upon such street, requesting them to execute forthwith any work that they may then or in the near future desire to do therein. The surface of such street so macadamized or paved shall not thereafter for a period of five years be opened or dug up without a special license therefor granted by the commissioner of public works and parks after the applicant has filed a bond with conditions and sureties satisfactory to the city manager.

§ 7. Monumentation

Whenever any street or way shall be laid out and established, it shall be the duty of the commissioner to cause to be placed at all the angles thereof good and substantial stone monuments, with a hole of suitable size and depth drilled near the center of the uppermost end. In all cases where circumstances may require that the monument shall be sunk even with the surface of the ground or pavement, the distance from the hole in the monument to one or more permanent objects in the immediate proximity of the same shall, if practicable, be ascertained and constitute a part of the record of the laying out of the street.

§ 8. Reports to City Manager

The commissioner shall make to the city manager annually a detailed report of the work done and money expended in street operations during the preceding financial year, specifying as near as may be the amount expended upon different streets, number of feet of curbstones and yards of paving laid, and cost of same, and such other information as considered desirable, together with an account and appraisal of the public property under the charge of the commissioner.

§ 9. Numbering Buildings

The city council, or the commissioner acting under the authority of the city council, shall have the power to cause numbers of regular series to be affixed to or inscribed on all dwelling houses and other buildings erected or fronting on any street, lane, alley or public court in the city, and shall have the power to determine the form, size and material of such numbers, and the mode, place, succession and order of affixing them on such houses or other buildings, and

the owner, agent or person having control of any building or part of a building, shall affix to the same the number designated by the city council, or the commissioner acting under its authority, and shall not affix to the same, nor permit to remain thereon more than one day, any number contrary to the direction of the city council or of the commissioner acting as aforesaid.

§ 10. Street Names

The several streets shall continue to be called and known by the names by which they are now called and known until the same shall be changed by the city council. The name of any street or public square shall not be changed until after a public hearing before the public works committee of the city council or such other body as the city council may direct upon such proposed change. Notice thereof, giving the time and place of such hearing, shall be mailed postpaid to all abutters as shown on the current assessor's lists and shall be published in a newspaper published in the city not less than fourteen days before such hearing.

§ 11. Street Opening Permits

(a) No person and no department of the city, except the department of public works and parks, shall break or dig up the ground or pavement in any street or erect thereon any staging for building, or place thereon any material or any goods, wares or merchandise, or any coal, dirt, glass, rubbish, sharp or pointed substance of metal, porcelain or earthenware, or any obstruction of any kind, or occupy any portion of a street for the purpose of erecting, repairing or moving any building without a written permit from the commissioner; provided that, in case of an emergency, the head of a department may proceed to act without such license, but shall, as soon as may be, notify the commissioner. Any person applying for a license under this section for work within one hundred feet of a traffic control signal location shall file a copy of the application with the traffic engineer. Such license shall contain such lawful restrictions and limitations as the commissioner, or the traffic engineer, when applicable, may deem necessary for the protection, convenience and safety of the public.

(b) No such license to remove the ground or pavement in any street, for the purpose of constructing a cellar, vault coalhole, or other underground area within street lines nor to maintain such underground areas shall be issued until plans in triplicate of the proposed construction, in detail, have been filed with and approved by the commissioner, but in no case shall the commissioner approve plans for underground construction extending under the streets from the abutting estate for a distance greater than one-half the width of the sidewalk, unless the plans are also reviewed by the department's engineers.

§ 12. Permit for the Construction of Ways

(a) No person shall construct, repair, alter or otherwise open a way for use by the inhabitants thereon or the general public unless 1) the way has been approved by the planning board pursuant to the subdivision control law; or 2) unless the location of the way is in accordance with the official map of the city as amended from time to time; or 3) has been approved by the planning board pursuant to § 81G of chapter 41 of the General Laws; and, in the case of 2) and 3) above, unless the planning board has approved the grading, surfacing and drainage of such way.

(b) No person shall construct, repair, alter or otherwise open a way for use by the inhabitants thereon or the general public as described in subsection (a) above without first obtaining an inspection permit from the commissioner. The commissioner may impose reasonable conditions and limitations concerning work to be performed under such permit which shall include, but not be limited to, the following:

(1) unless the completion of the proposed work is validly secured under the subdivision control law, the commissioner shall require the applicant to secure the work in any one or combination of the methods set forth in said subdivision control law (G.L. c. 41, § 81U);
(2) a permit issued hereunder shall be valid for one construction season only, which shall commence on April 1st and end on November 15th. The commissioner, in his sole discretion, may allow the issuance of a permit for work to be undertaken during the time period from December 1st to the end of February;
(3) the applicant shall establish a time period and schedule for the completion of the permitted work, but in no event shall such time period exceed the term of the permit;
(4) the applicant shall provide the commissioner a detailed schedule of construction activities;
(5) the applicant shall submit an erosion control plan, which must be approved by the commissioner, relative to the work to be undertaken pursuant to the permit;
(6) all related inspection fees must be paid in full prior to issuance of the permit;
(7) a pre-construction conference with the engineering division of the department of public works and park shall be held prior to issuance of the permit.

§ 13. Annual License to Obstruct Streets

Whenever a permit is required under this chapter to occupy any portion of a street for the purpose of erecting, repairing, maintaining or moving any building or for the purpose of erecting, maintaining or repairing any sign either freestanding or attached to any building, upon written application the commissioner may issue a written blanket license covering all locations specified in the application subject to the following provisions:

(a) issuance of the blanket license shall be within the discretion of the commissioner;

(b) any blanket license issued under this section shall be valid from the date of issuance through December thirty-first of the year in which the blanket license is issued; thereafter, in the discretion of the commissioner, the blanket license may be renewed after written application by the license holder for the following period, January first through December thirty-first;

(c) the hours of operation under the license shall be between 7:00 a.m. to 7:00 p.m. local time;

(d) all requirements of the department of public works and parks permit manual, as may be amended, are hereby deemed to be incorporated in and made of requirement of each blanket license;

(e) the commissioner may revoke any blanket license issued under this section for any violation of subsections (c) and (d) above, or for any conditions relating to such blanket license which in the opinion of the commissioner shall constitute a threat to the health and safety of any person using the street or to any person or property in proximity thereto.

§ 14. Pole Locations

(a) The commissioner shall have authority, except as is otherwise expressly provided by law or ordinance, to locate all electric line and all other poles which may properly be located within the streets or ways.

(b) If any person shall have cause to petition the city council for the removal or relocation of street light poles obstructing access to his or her property, said petitioner shall be charged by the commissioner a charge equal to the total costs of said removal or relocation, including restoration of the disturbed street or sidewalk, pavement or way, and such charges shall be a condition of approval of said petition by the city council. Such charges shall be in addition to any charges levied in accordance with §16 of this chapter. The commissioner shall require each petitioner, as a condition for the commencement of any work authorized under this section, to post a sum of money in an amount which the commissioner shall determine, and which shall be applied as a partial payment toward the full charges for the work authorized.

§ 15. Removal of Poles

(a) Any person who removes an electric line or other pole, which was located in accordance with this chapter and with G.L. c. 166, § 22, shall comply with the following requirements in the removal thereof:

(1) The pole, including its appurtenant fixtures and structures, shall be removed in its entirety, and no temporary replacement pole, or so-called "half-pole", shall be installed in place thereof.
(2) Prior to removal of the pole, the person shall notify the commissioner and obtain such permits or licenses as may otherwise be required under this chapter.
(3) In accordance with § 16 of this chapter, temporary repairs to the disturbed street or sidewalk caused by the pole removal operation shall be made immediately upon removal of the pole. Permanent repairs to the disturbed area shall be completed no later than thirty days after removal of the pole.

(b) The provisions of this section shall not apply to the removal of an electric line or other pole when such removal is for routine maintenance or replacement with a similar size and type pole, and the use of the location previously granted is to continue in accordance with the original or amended approval.

§ 15A. Veterans Memorials

(a) No memorial, monument or metal plaque which is placed or designed as a memorial for any veteran of the armed forces of the United States shall be located or relocated on any

public street, meaning the full width of the right-of-way including any sidewalk or traffic island, without the prior approval of the city made under the terms of this section.

(b) Any person seeking to locate or relocate any veterans memorial shall file a petition with the city council identifying the memorial, stating its proposed location and, for any new memorial, containing the text of the inscription proposed for the memorial. Any petitioner seeking a new veterans memorial shall submit a birth certificate establishing the residency of the veteran in whose memory the memorial is concerned and a casualty report (Form 1330) providing evidence that the veteran was either killed in action, missing in action or lost at sea. The city council may accept such other documentation as it deems acceptable to establish these qualifications. By filing any such petition, the petitioner shall agree to be bound by the terms of this ordinance should the petition be adopted by the city council and the memorial located or relocated as a result thereof.

(c) Each petition for the location or relocation of a veterans memorial shall be referred for a public hearing to the Committee on Public Health & Human Services of the city council or such other committee or body as the city council may direct. Notice thereof, giving the time and place of such hearing, shall be mailed postpaid to all abutters and abutters to abutters to the proposed location as identified on the current assessor's lists, to the Worcester Veterans Council, to any other veterans organization designated by order of the city council. Said notice shall also be published in a newspaper published in the city not less than fourteen days before such hearing. In the event of a petition seeking the relocation of a memorial, notice shall also be sent to the family or other suitable representative of the individual responsible for the existing location of the memorial to the extent that the identity and address of such individual is reasonable ascertainable by the city clerk.

(d) Upon the conclusion of its proceedings and deliberations, the committee may amend either the proposed location for any new or relocated memorial or the proposed inscription for any new memorial and shall report its recommendation on the petition to the city council. The city council may conduct further proceedings, may further amend the petition, and shall otherwise act upon the petition in accordance with its rules. The adoption of any such petition shall be deemed to include the acceptance of a gift in trust from the petitioner of an amount, in the case of a new memorial, of one thousand five hundred dollars or such other sum as the city council may by order establish, or, in the case of the relocation of a memorial, the actual cost to the city to relocate the memorial. All such gifts shall be held in trust by the city treasurer and expended for the procurement and installation of a granite black plaque and the maintenance, repair, or replacement of a new memorial or for the personnel, overhead and equipment necessary to relocate a memorial, as the case may be.

(e) Upon the adoption of any such petition and the establishment of a trust fund with the city treasurer, the city manager may authorize the procurement of the materials for the memorial and the installation thereof and commissioner shall have authority to impose reasonable conditions, including performance and payment bonds, on any permit issued in connection with the installation of any such memorial.

(f) In the event any member of the city council files any such petition on behalf of another person, the obligations of the petitioner under this ordinance shall be borne by the person on whose behalf the petition was filed.

(g) In the event that the city manager, or any of the city officers under the jurisdiction of the city manager, deems it advisable to locate or relocate any such memorial, the obligations of

this section shall apply except that in lieu of a petition the city manager may transmit his or her recommendation to that effect to the city council.

(h) The city manager or the head of any department involved in the location or relocation of memorials may adopt regulations consistent with the terms of this section.

§ 16. Petitions to Locate Tracks or Conduits

Any person who petitions the city council for authority to locate or relocate street railway tracks, railroad tracks, or to construct and maintain telephone, telegraph, electric light or electric power underground conduits, in the public streets of the city, shall file with the city clerk thirteen copies of such petition and the plan accompanying the same, and the city clerk shall mail or deliver to each member of the city council a copy of such petition and plan immediately after such copies have been filed with him. Any such person shall also file a copy of such petition and plan with the commissioner together with any fee established in accordance with these Revised Ordinances.

§ 17. Work on Utilities in Private Streets

(a) No person shall, except in an emergency, contract for or make an excavation to place, install, repair or construct in, on, along, under and upon any private ways, pipes, conduits, manholes, and other appurtenances, necessary for the transmission of gas, electricity, telephone, television, water and sewer service, unless at least seventy-two hours, exclusive of Saturdays, Sundays and legal holidays, but not more than thirty days, before the proposed excavation is to be made, such person has given notice of the proposed excavation to the commissioner, on a form acceptable to the commissioner. In the case of an emergency, notice shall be given as soon as may be practicable. The commissioner shall forthwith forward copies of this completed notification form to the police and fire departments.

(b) The form of notification shall include the following information:

(1) type of service being installed, relocated or repaired, along with the name and address of the owner thereof;
(2) name and business address of excavating contractor;
(3) name and address of property owner authorizing the work;
(4) reasonably accurate description of the location of the excavation and underground facility installed, relocated or repaired;
(5) statement certifying that all abutters to the private street have been given notice of the proposed excavation work.

(c) Any person convicted of violating this section shall be punished by a fine of not more than fifty dollars.

§ 18. Replacing Disturbed Portion of Street

(a) Whenever any person, or any department of the city shall remove or disturb any portion of a street, way, pavement or sidewalk for any purpose whatsoever, such street, way, pavement or sidewalk shall be replaced in a safe and suitable condition for the public travel as may be directed by the commissioner, it shall be so replaced by the commissioner at the

expense of the person so disturbing or removing the same, or in the event of its being done by a department of the city, the expense thereof shall be charged to such department.

(b) The person or department so digging or disturbing any portion of a street, way, pavement or sidewalk shall be responsible for any settlement or imperfect condition of the same for twenty-four months after the same shall have been replaced as aforesaid, and in the event of their failure to keep the same in a condition satisfactory to the commissioner, he or she shall repair the same, and they shall pay for the expenses thereof in the same manner as for replacing the same.

§ 19. Safeguards

(a) In all cases in which a permit may be given for opening any street, the commissioner may impose such conditions and limitations as he or she shall see fit with regard to erecting barriers, maintaining lights and taking other precautions for the security of travelers and other persons.

(b) In cases in which a license is given for obstructing or excavating any street and parking meters are involved, the commissioner may order to be temporarily taken out of operation any such parking meter, the same to be done in accordance with said license by the traffic engineering division.

(c) Any permit required by any provisions of this chapter shall also express the time for which it shall continue in force.

(d) Every person holding a permit issued by the commissioner shall install and maintain appropriate barricades or other safety warning devices at every work site for which such permit is issued.

(e) The commissioner shall require as a condition prior to the issuance of any permit that the applicant agree to pay a fee to the department whenever the department is required by the failure of the permit holder to comply with this section to install appropriate barricades or other safety warning devices at any work site for which a permit has been issued.

(f) The commissioner shall refuse to issue any permit to any person who has failed to pay in full any fees or charges imposed by this section.

(g) Every person receiving a permit or license required by any provision of this chapter shall execute a written agreement to indemnify and save harmless the city against all damage or cost by reason of any claim for damages, or any process, civil or criminal, on account of the existence of such obstruction or excavation, or any injury to any person occasioned thereby and such person shall be required to obtain an insurance policy of sufficient coverage, including completed operations, to carry out the agreement to indemnify. The sufficiency of said insurance shall be approved by the commissioner and the city solicitor.

(h) The commissioner may require any person receiving a permit or license required by any provision of this chapter to post security, in a form and of an amount acceptable to the commissioner, for purposes of ensuring completion of the permitted or licensed project work.

§ 20. Exceptions

Nothing in this chapter shall prevent the unloading or temporary deposit in the street or sidewalk of merchandise, fuel, building material, or other articles in course of carriage to or from premises adjacent or neighboring; provided, that such articles shall be removed forthwith on request of the commissioner and shall in no case be suffered to remain more than six hours.

§ 21. Encroachments

(a) No person shall erect, set up or maintain any fence, portico, platform or door step extending into any street, and no person shall hoist any material from any street into a building adjoining the same so that the material while so being hoisted shall overhang any part of the street, after notice from the chief of police that the apparatus used for that purpose, or the manner of doing the same, is, in his opinion, unsafe, until the party shall have obtained apparatus therefor, and until he shall do the same in a manner satisfactory to the chief of police.

(b) No person shall suffer a cellar door or cellar doorway, from any sidewalk or street, into any cellar or basement, to be kept open when not in immediate use, nor when in immediate use, after the beginning of twilight, unless a good and sufficient light be constantly kept at the entrance of such door or doorway.

(c) No person shall allow any cellar, vault, cistern or well to be uncovered in or near any street, unless the same be enclosed by a safe and sufficient fence, curb or guard, and every opening or area in any street or public place shall be covered and guarded in such manner is directed by the commissioner.

(d) No person shall allow any gate belonging to premises owned or occupied by him or under his legal control, and adjoining any street to swing on, or into the street.

(e) No person shall establish or maintain any shade or awning over any part of a street or sidewalk unless the same be securely and safely supported and unless the lowest part thereof be not less than seven feet above such street or sidewalk.

(f) No person shall erect or cause to be erected any fence or building adjoining any street or public ground in the city without having first ascertained the bounds of the same by application to the commissioner.

(g) No person shall cause, allow or maintain any growth of shrubs, brush or trees to extend onto or over any portion of any public way, including the sidewalk area between the traveled portion of the way and the boundary between the abutting property and the way, so as to impair the safety of pedestrians traveling on the way. Any person found in violation of this subsection shall be penalized by a fine of twenty-five ($25.00) dollars with each calendar day constituting a separate offense.

(h) No person shall erect, set up or maintain any structure or shelter in or extending into any street, provided, however, that the commissioner may issue a revocable license to the Worcester Regional Transit Authority to maintain a bus shelter(s), which may contain advertising within such shelter, on the sidewalk portion of any street adjacent to a designated bus stop location(s). Each such bus shelter shall be subject to a separate license. All

requirements of the department of public works and parks manual, as amended, are hereby deemed to be incorporated in and made a requirement of each license.

§ 22. Sidewalk Vaults

(a) For purposes of this section the phrase "structure, excavation, or conduit" shall include, but is not limited to a cellar, vault, coalhole, manhole, hyatt light, post, pole, hole for post or pole, sign, awning, wire or pipe.

(b) One who owns, possesses or controls any structure, excavation or conduit in, under, over, or upon a public way, by such ownership, possession or control of the structure, excavation or conduit, shall be deemed to have entered into the following agreement with the city:

(1) to maintain the structure, excavation or conduit and cover thereof, if any, in good repair and condition;
(2) to maintain any gas or electric boxes and tubes in any way connected with said structure, excavation or conduit in good repair and condition;
(3) to maintain the public way directly above or adjacent to said structure, excavation or conduit, as the case may be, in good repair and condition; and
(4) to indemnify, defend and hold the city harmless against any and all damages, costs, or expenses the city may sustain or be required to pay, whether as a result of a judgment and execution issued by a court of competent jurisdiction or otherwise, by reason of such structure, excavation, conduit, cover, gas or electric boxes and tubes, or public way being in disrepair, improperly or inadequately maintained, or defective during such ownership, possession, or control as the case may be; and;
(5) to maintain any above ground structure connected to or related to a conduit in good repair and condition and to remove any graffiti or defacement from such structure.

§ 23. Sidewalk Snow Removal – Amended September 30, 2014 - #50*

(a) The owner or occupant of land which is bounded by any street, including state highways, whereon there is a sidewalk shall within ten hours after any winter storm, cause all snow, ice or other forms of freezing precipitation to be removed from such sidewalk to a width of not less than four feet for the entire distance that the sidewalk abuts the land. Wherever a sidewalk, which is required to be shoveled or treated under this ordinance, provides, in the absence of snow or ice, access to a crosswalk in the traveled portion of any adjacent street, whether or not that access includes any form of accessibility ramping, the owner or occupant shall shovel and treat an area at least four feet in width from the shoveled sidewalk to the crosswalk so as to provide access to the adjacent street or streets. In the event that any crosswalk includes an electronic crosswalk system activated by pedestrians, the owner or occupant shall shovel a similar path to any button or switch activating such a system. After shoveling, to the extent that snow, ice or freezing precipitation shall remain on any sidewalk or area required to be shoveled by this section, the owner or occupant shall treat the same with sand, salt or other suitable material. This Ordinance shall not apply to sidewalks abutting the rear lot line of any property along a state highway which is maintained by the state as the same shall from time to time be identified and published by the commissioner.

(b) If the owner or occupant fails to remove such snow within the time provided in the preceding section, the city may assess a civil penalty pursuant to chapter fifteen for each calendar day upon which such snow, ice or freezing precipitation is nor removed or treated as herein provided. In addition to the civil penalty, the city may remove or cause such snow, ice or other forms of freezing precipitation to be removed or treated and the owner or occupant shall reimburse the city for the expense incurred for such removal or treatment. Any sums so expended may be recovered in an action of contract by the city against the owner or occupant. The city may also impose a municipal charges lien on the property pursuant to G.L. c. 40, § 58. The civil penalty, removal expense and municipal charges lien shall be cumulative remedies exercised at the discretion of the city.

(c) For purposes of this section, "sidewalk" shall mean any paved area that is immediately adjacent to the area of a public or private way designated for vehicular travel whether or not such paved area is separated from the traveled way by any green space or planting area.

***also previously Amended December 23, 2008 – 9245 and Amended October 25, 2011 - 9687**

Reference Note: A Moratorium was imposed on Certain Sidewalk Snow Removal (see Ordinance #9571 January 25, 2011) for 120 days.

§ 24. Directing Snow or Water on Street

(a) No person, either directly or indirectly through agents or employees, shall place or cause to be placed snow, except for immediate removal, on (1) any public way, or (2) any private way on the official map so as to leave available less than twelve feet in width for the clear and unobstructed passage of emergency vehicles.

(b) The owner of any building near the line of any street, where the roof of the building slops towards the street, shall cause all the snow and ice to be removed from such roof within twenty-four hours after the same shall have ceased falling or forming, or shall cause such roof to be provided with suitable barriers to prevent the fall of snow or ice therefrom upon persons traveling in such street.

(c) No person owning or having the control of a building upon land adjoining a street through which a common sewer is laid shall suffer any water from the roof, gutters, conductors or waterspouts of such building to be discharged or to flow over or upon any street or sidewalk, but shall cause all such water to be conducted by suitable pipes, properly laid, into the common sewer, in accordance with all other applicable provisions of the Revised Ordinances and the State Building Code.

§ 25. Sidewalks and Crosswalks

(a) No person shall drive any motor vehicle, motorcycle, snowmobile or any other motor-powered vehicle on the sidewalk or footway of any street or public grounds of the city, except for the purpose of crossing as near as may be at right angles to such sidewalk, and in order to go into or out of some adjoining enclosure.

(b) No person shall stand, or place any obstruction of any kind, upon any street, sidewalk or crosswalk in such a manner as to obstruct a free passage for travelers thereon.

§ 26. Prohibited Activities

(a) No person, other than musicians in a lawful parade or procession, or street performers acting in accordance with sub-section (h) hereof, shall, in any street, except as a warning of danger, ring or cause to be rung, any bell, or use, or cause to be used, or played upon, any musical or noise-making instrument.

(b) No person, except persons selling newspapers, shall stand in any street for the purpose of selling any article, or for the exercise of any business or calling, unless otherwise provided by law.

(c) No person shall stand or walk upon the street or sidewalk in front of any place of business or amusement, for the purpose of advertising or soliciting patronage for such business or amusement.

(d) No person shall, in any street, place, post up or paint any placard, handbill, poster, notice or advertising sign, or cut or carve any such notice or advertising sign upon any object, nor shall any person erect or maintain bulletin boards in any street without a license from the license commission.

(e) No person shall place a directional sign upon any post or sidewalk, street or highway or project a directional sign over any sidewalk, street or highway, except on order of the city council. Such order may contain such lawful restrictions and limitations as to sign, place, type, size and such other conditions that the city council may deem necessary for the protection, convenience, and safety of the public, together with an agreement by the person to keep the signs in good repair and condition at all times and to indemnify and save harmless the city against any and all damages, costs, expenses or compensation which it may sustain or be required to pay whether as a result of a judgment or execution issued by a court of competent jurisdiction or otherwise, by reasons of the sign being in, over or upon the way or being unfastened, out of repair or defective during such ownership or control as the case may be. Each person seeking permission to post such signs shall pay one dollar for each authorization. The city council, prior to granting any license under this section, shall refer any request for a license to the traffic engineer through the city manager for his or her recommendation and advice. Any sign erected without approval of the city council shall subject the person placing or authorizing the said sign to a fine of five dollars for each day during which said sign is maintained without a permit or in violation of any of the terms and conditions set by the city council.

(f) No person shall wantonly mar, injure, deface or destroy any fence, guidepost, signboard, lamp post, lamp, lantern, electric light post or electric light in any street, and no person shall destroy or extinguish any street light.

(g) No person shall, within the limits of any street, play at any game of ball or football, throw any snowball, stones or other hard substance, drive or roll a hoop, fly any kite, or engage in any other amusement game or exercise interfering with the free, safe and convenient

use of such street by any person traveling or passing along the same, nor shall any person promote or encourage the fighting of birds or animals in any street.

(h) No person shall act or perform as an itinerant musician on any public street or private way shown on the official map of the city, or in any public park, playground, or the Worcester Common, where such person conducts such activity:

(1) within one hundred feet of any: (A) elementary or secondary school; (B) library; (C) church while in session; (D) hospital or nursing home; or, (E) other street performer or group of street performers; or,

(2) in such a manner as to block roadways, sidewalks, crosswalks, driveways, stairways, curb cuts, handicapped access ramps nor block access to buildings, parks, public conveyances, businesses, crosswalks, traffic control poles containing pedestrian crosswalk button(s), or within twenty feet of a fire hydrant or within five feet of any fire alarm or other emergency communication devise, including public telephones, either by the performer's location, or by the location of any crowd that the performer may draw (for purposes of this ordinance "block" shall mean to reduce the width of an area for pedestrian passage or access to less than thirty-six inches or, in the case of motor vehicles, to an area less than twelve feet); or,

(3) on any portion of a public street which has been closed to usual vehicular or pedestrian traffic for any reason, except that where an authorized street fair or public festival is being conducted, such activities may be conducted only with the permission of the sponsor of such fair or festival; or,

(4) at any time outside of the hours of 8:00 a.m. to 9:00 p.m.; or,

(5) so as to generate noise exceeding a median sound level of eighty decibels measured at a distance of fifty feet from the performer or group of performers; or,

(6) where such activity is conducted within any public park, playground, or the Worcester Common, without the written permission of the Parks & Recreation Commission.

Nothing in this subsection (h) shall prevent any street performer from requesting contributions of money or property at a performance, provided that no sign requesting contributions shall exceed twelve inches by eighteen inches.

(i) No person shall cause, allow or maintain any personal property of any sort which is not registered as a motor vehicle under chapter ninety, section one, of the General Laws of Massachusetts (A) to occupy any area in excess of six square feet within the limits of any public way within the city or (B) to occupy any area within the limits of any public way in such a manner as to impair the health and safety of persons traveling upon the way, unless such occupation has otherwise been permitted under authority of any other ordinance or law. Any person found in violation of either portion of this subsection shall be penalized by a fine of twenty-five ($25.00) dollars with each calendar day constituting a separate offense.

§ 27. Littering of streets

(a) No person in any public street or way under the jurisdiction of the city shall, whether in or upon a vehicle or on foot, deposit, drop or throw upon such street or way or walk thereof,

and suffer to remain there, any filth, rubbish or refuse unless it is deposited, dropped or thrown into a receptacle provided for the purpose. No person shall throw from any building onto a public way or other public place, or sweep, throw or otherwise remove into any public way or other public place or into any roadway or walk, any filth, rubbish, or other substance and suffer the same to remain there.

(b) Any person convicted of violating this section shall be punished by a fine of not more than two thousand dollars.

§ 28. Protection of Public Trees – (Ordained October 20, 2009 - 9396)

(a) *Purpose*. The city council recognizes the importance of an urban forest and that, in the city's ecosystem, trees contribute to air quality, reduce noise and visual pollution, help to moderate climatic extremes and conserve energy. The city's public trees enhance the visual and aesthetic attributes of streets, parks and other public places for residents, businesses and visitors. The city council recognizes the role of trees in enhancing property values and the overall quality of life. The city council further recognizes that the city has suffered severe tree loss due to efforts to eradicate the Asian Longhorn Beetle infestation and the severe ice storm of December 2008. It is the purpose of this section to promote and protect the public health, safety and general welfare by providing for the regulation of the planting, maintenance and removal of public trees in Worcester, Massachusetts.

(b) *Definitions.* The following words and phrases, when used in this section, shall have the following meanings:

Park Trees - means any trees, shrubs, bushes and all woody vegetation on land lying within public parks having names and in all other areas owned by the city of Worcester and to which the public has access.

Public Shade Tree - shall have the meaning set forth in G.L. c. 87, §§ 1 through 8.

Topping - means the severe cutting back of limbs to stubs within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree.

(c) *Public Shade Trees.* No Public Shade Tree shall be cut, trimmed, or removed, in whole or in part, without the prior written approval of the tree warden, or his/her designee, in accordance with the requirements of G.L. c. 87, §§ 1 through 8.

(1) The person requesting the cutting, trimming or removal of any Public Shade Tree shall pay the costs of advertising and notification of the hearing required by G.L. c. 87. If the cutting, trimming or removal of a healthy Public Shade Tree is approved by the tree warden, then the person requesting the same, as a condition of such approval, shall pay a fee reflecting the city's full costs related thereto.

(A) Notwithstanding subsection (c)(1) above, in light of the city's priority to establish off street parking, the fee for cutting, trimming or removal of a healthy public shade tree shall be reduced by fifty (50%) percent if such cutting, trimming or removal is deemed necessary by the tree warden to allow for the construction of a driveway and the person requesting such removal has first obtained a permit for a curb cut from the city, in compliance with the department of public works & parks permit manual.

(2) In addition to the cost of cutting, trimming or removal set forth in subsection (c)(1), if cutting, trimming or removal of a healthy Public Shade Tree is approved by the tree warden, the person requesting cutting, trimming or removal also shall pay a fee reflecting the cost of the replacement of the tree, as a condition of removal. The fee shall be established annually by the commissioner of the department of public works & parks. The cost of purchase and planting shall be determined by the diameter in inches at breast height (DBH) of the tree removed.

(3) If a healthy public shade tree is damaged, destroyed or for any reason removed without the consent of the tree warden, the individual or other entity responsible shall pay the full removal fee and the full cost of replacement, as set forth in subsections (c)(1) and (2) above, in addition to any and all applicable fine(s).

(d) *Park Trees*. No person shall plant, cut, trim, remove, or otherwise disturb any Park Tree unless that person has first obtained written permission from the tree warden. The person making such request shall be required to pay any and all costs related to the allowed activity, including the fee for the replacement tree in accordance with the subsection (c) above, as applicable.

(e) *Planting Trees.* No person shall plant any tree within the public way or the boundaries thereof, or within any city park, without the prior written permission of the tree warden. The department of public works & parks shall maintain a list of species of trees that are suitable trees for planting along streets. All trees shall be planted in compliance with the tree warden's instructions, including but not limited to the minimum distance from any curb, sidewalk, street, structure or other tree.

(1) *Planting Trees Abutting the Layout.* The tree warden, if he or she deems it expedient, may plant shade trees on land adjoining the public way at a distance of not more than twenty feet from the layout of the public way for the purpose of improving, protecting, shading or ornamenting the same; provided, however, that the written consent of the owner of such adjoining land shall first be obtained.

(f) *Authorization to Plant, Cut, Trim, Remove, Spray or Otherwise Treat Public Shade Trees*. Except as set forth expressly herein, only the tree warden, his/her designee or a contractor retained by the city, may cut, trim or remove any Public Shade Tree. The tree warden may authorize an individual or entity to cut, trim or remove a Public Shade Tree or Park Tree if said individual or entity is an International Society of Arboriculture (ISA) certified arborist and provides evidence of insurance acceptable to the city.

(1) *Topping.* Except as set forth in this subsection, no Public Shade Tree or Park Tree shall be topped. Trees damaged by storms or other causes, or particular trees under utility wires or other obstructions where other pruning practices are impractical may be topped with the prior written approval of the tree warden.

(g) *Utilities*. In compliance with the applicable franchise agreements with the city and other applicable law, the electric utility company may cut or trim tree limbs or remove trees that interfere with high voltage electrical conductors, provided said electric utility company first notifies the tree warden in writing and submits a plan for such cutting, trimming or removal acceptable to the tree warden. The electric utility company shall further submit a utility tree

trimming policy that shall be reviewed by a designated representative of the electric utility company and the tree warden, or his/her designee prior to the commencement of any cutting, trimming or removal by any electric utility company.

(h) *Shade Tree Protection During Construction, Repairs, Utility Work*. Public Shade Trees and Park Trees shall be protected to the full extent feasible from damage during construction, street and sidewalk repair, utilities work above and below ground, and other similar activities. The area of protection shall include the ground beneath the canopy of the tree. Prior to commencing construction, Contractors shall obtain a permit from the tree warden including a plan acceptable to the tree warden showing how the relevant Public Shade Trees and/or Park Trees will be protected.

(i) *Removal of Diseased, Infested Trees*. As set forth in G.L. c. 132, § 13, the tree warden shall be designated as the Superintendent of Shade Tree Management and Pest Control.

(j) *Provide Support and Information to Planning Board*. In new subdivisions or when the development of commercial property occurs, the tree warden will review landscaping plans and may recommend that Public Shade Trees or Park Trees be planted in any of the streets, parking lots, parks and other public places abutting lands to be developed and/or subdivided.

(k) *Rulemaking Authority*. The commissioner of the department of public works & parks shall have the authority to make rules and regulations necessary to implement and enforce this section.

(l) *Enforcement*. The commissioner of the department of public works & parks shall have the power to enforce this section.

(m) *Violations*. Any person who violates any provision of this section or who fails to comply with any notice issued pursuant to provisions of this section, upon being found guilty of violation, shall be subject to a fine not more than three hundred ($300.00) dollars for each separate offense. Each day during which any violation of the provisions of this section shall occur or continue shall be a separate offense.

If, as a result of the violation of any provision of this section, a Public Shade Tree, Park Tree or other plant covered by this section located on city-owned property is damaged or dies, the cost of repair or replacement of such Public Shade Tree, Park Tree or other plant covered by this section shall be borne by the party in violation. The replacement value of trees shall be as set forth above, and the value of other plants shall be determined in accordance with the then latest revision of *A Guide to the Professional Evaluation of landscape Trees, Specimen Shrubs, and Evergreens,* as published by the International Society of Arboriculture.

(n) *Applicability*. To the extent permitted by law, if any provision of these sections imposes greater restrictions or obligations than those imposed by any other general law, special law, regulation, rule, ordinance, order, or policy, then the provisions of these sections shall control.

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§ 1. Definitions

(a) For the purpose of this chapter, the words and phrases used herein shall have the following meanings except in those instances where the context clearly indicates a different meaning.

bicycle - any wheeled vehicle propelled by pedals and operated by one or more persons.

bus – any motor vehicle operated for the carriage of passengers for hire in such a manner as to afford a means of transportation by indiscriminately receiving and discharging passengers along the route on which the vehicle is operated or may be running, or for transporting passengers for hire as a business, or under a charter license, special service or school service. Excluding passenger or station wagon type motor vehicles whose gross weight is less than five thousand pounds.

bus stop - an area adjacent to the edge of a roadway reserved for the boarding of or alighting from buses.

commercial loading zone - a space adjacent to the edge of a roadway reserved for the exclusive use of commercial vehicles during the loading or unloading of freight.

commercial vehicle - any vehicle designed, maintained or used in the transportation of goods, wares, or merchandise for commercial purposes and registered for commercial activity.

crosswalk - that portion of a roadway ordinarily included within the prolongation or connection of curb lines and property lines at intersections, or any portion of a roadway clearly indicated for pedestrian crossing by lines on the road surface or by other markings or signs.

driveway - a private way connecting a house, garage or other building or area requiring a vehicular access with the street and designated by a proper curb cut approved by the department of public works and parks.

emergency vehicle - vehicles of the fire department or police department, or ambulances and emergency vehicles of federal, state and municipal departments or public service corporations when the vehicles are responding to an emergency in relation to the public safety.

intersection - the area embraced within the prolongation or connection of the lateral curb lines, or, if none, then the lateral boundary lines of the roadways of two or more streets which join one another or the area within which vehicles traveling upon different streets joining at an angle may come in conflict. (The rules and regulations herein contained governing and restricting the movement of vehicles at and near intersecting ways shall apply at any place along any way at which drivers are to be controlled by traffic control signals whether or not such place is an intersection as herein defined.)

lane - a longitudinal division of a roadway into a strip of sufficient width to accommodate the passage of a single line of vehicles.

officer - any uniformed member of the police department or any other officer authorized to direct or regulate traffic or to make arrests for the violation of traffic regulations.

official traffic control devices - all signs, signals, markings, and devices conforming to the standards as prescribed by the Massachusetts Highway Department not inconsistent with these ordinances placed or erected by authority of a public body or official having jurisdiction, for the purpose of regulating, directing, warning, or guiding traffic.

parking - the standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in the receiving or discharging of passengers, or in obedience to the orders of a police officer or traffic control sign or signal.

parking meter - any mechanical device placed or erected on any public way within the city for the control of traffic by the regulation of parking. A parking meter shall be so constructed as to display a signal showing legal parking upon the deposit therein of the proper coin or coins of the United

States as indicated by the instructions on the parking meter and for such period of time as is or shall be permitted by the ordinances. Such signal shall remain in evidence until expiration of the parking period designated at which time a dropping of a signal automatically or some other mechanical operation shall indicate expiration of the parking period.

parking meter space - a space within the parking meter zone adjacent to a parking meter which is duly designated for the parking of a single vehicle by markings on the surface of the street adjacent to a parking meter.

parking meter zone - that part of any street upon which the parking of vehicles is regulated by parking meters.

handicapped person / disabled veterans parking space - a parking space designed for the parking of vehicles owned and operated by a disabled veteran or handicapped person whose vehicle bears a license plate displaying the "International Symbol of Access," or special parking identification plate bearing the "International Symbol of Access" in the left portion of the windshield authorized by General Laws c. 90, § 2, as may be amended from time to time. Said parking spaces may also be used by vehicles bearing the official identification of a handicapped person issued by another state.

passenger zone - a place adjacent to the edge of a roadway reserved for the exclusive use of vehicles during the loading or unloading of passengers.

pedestrian - any person afoot or riding on a conveyance moved by human power, except bicycles.

roadway - that portion of a street or highway between the regularly established curb lines or that part improved and intended to be used for vehicular traffic.

rotary traffic - counterclockwise operation of vehicles around an object or structure.

sidewalk - that portion of a street between the curb lines, or the lateral lines of a roadway, and the adjacent property lines, intended for the use of pedestrians.

standing - the halting of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in receiving or discharging passengers, or in compliance with the instructions of a police officer or traffic control sign or signal.

street or *highway* - the entire width between property lines of every way open to the use of the public for the purpose of vehicular travel.

taxicab stands - a space adjacent to the edge of a roadway in which taxicabs are required to park while waiting to be engaged.

through-way - any way within the jurisdiction of the city where vehicular traffic from intersecting streets or highways is required to stop before entering or crossing.

traffic - pedestrians, ridden or herded animals, vehicles or other conveyances either singly or together while using any street or highway for the purpose of travel.

traffic island* - any area or space within a roadway which is set aside by the use of materials or paint for the purpose of separating or controlling the flow of traffic and which is not constructed or intended for use by vehicular traffic or by pedestrians, unless such area or space is marked or otherwise designated as a crosswalk.

"u" turn - the turning of a vehicle by means of a continuous turn whereby the direction of such vehicle is reversed.

vehicle - every device in, upon or by which any person or property is or may be transported, or drawn upon a street or highway, including bicycles when the provisions of these ordinances are applicable to them.

***Amended January 29, 2013 – 9840**

§ 2. Approval of Massachusetts Highway Department

The city clerk shall submit for the approval of the Massachusetts Highway Department all amendments to this chapter which may require the approval of the Massachusetts Highway Department. The city clerk shall duly retain such amendments thereto and they shall be open to public inspection and published at least once in a local newspaper.

§ 3. Penalties

(a) Any person violating §§ 13, 14, 17, 18, 21, 22, 65, 69, or 70 of this chapter shall be punished by a fine according to the following schedule:

First offense in any 12 month period	$ 50.00
Second offense in any 12 month period	$ 75.00
Third and any subsequent offense in any 12 month period	$100.00

(b) Unless a penalty is expressly stated in this chapter, any person violating any other provisions of this chapter shall be punished by a fine of not more than fifty dollars.

§ 4. Push Carts and Riding Animals

Every person propelling any push cart or riding an animal upon a roadway, and every person driving an animal-drawn vehicle, shall be subject to the provisions of this chapter applicable to the driver of any vehicle, except those provisions of this chapter which by their nature can have no application.

§ 5. Sleds and Roller Skates

No person upon roller skates or riding in or by means of any sled, toy vehicle, or similar device, shall go upon any roadway except while crossing a street on a crosswalk, and when so crossing such person shall be granted all of the rights and shall be subject to all of the duties applicable to pedestrians. This section shall apply any street or roadway open to public use as such unless the same is closed by issuance of a permit from the commissioner of public works and parks and under such restrictions as the city council shall prescribe.

§ 6. Exemptions from Traffic Ordinances

The provisions of this chapter shall not apply to operators, lawfully open, or actually engaged in work, upon a street or highway closed to travel or under construction or repair, or to officers when engaged in the performance of public duties, or to operators of emergency vehicles while operating in an emergency and in performance of public duties, when the nature of the work of any of these activities necessitates a departure from any part of this chapter. These exemptions shall not, however, protect the operator of any vehicle from the consequences of any disregard of the safety of others.

§ 7. Experimental Regulations

For the purposes of experiment, the city council may make temporary rules regulating traffic for a period not exceeding ninety days, so that the effect may be studied under actual conditions, notwithstanding that the temporary regulations so made are inconsistent with the provisions of this chapter. No such temporary regulation shall be in force unless official signs, signals, markings or other devices are displayed.

§7A Recreational Vehicles – (Amended May 24, 2016 – 287 and July 19, 2016 – 300)

(a) Definitions. For the purpose of this ordinance, the phrase "recreational vehicle" shall have the following meaning (except in those instances where the context clearly indicates a different meaning):

any wheeled device used to carry persons or property which is powered by any means other than muscular power alone and which is designed or modified for use over unimproved terrain for recreation or pleasure including, but not limited to, all-terrain vehicles, off-highway motorcycles, dirt bikes, and recreation utility vehicles.

"Recreational vehicle" shall not include any wheelchair operated by a person with physical disabilities or any similar mobility-assisting device used or by a person whose ambulatory mobility has been impaired by age, illness or physical ailment; nor shall it include the operation of any electric vehicle not capable of speeds in excess of twelve and one-half miles per hour on any paved sidewalk or marked pedestrian crosswalk; nor any vehicle owned or leased or operated by any government entity, including the city of Worcester and the commonwealth of Massachusetts.

(b) *Recreational vehicle registration.* Pursuant to G.L. c. 90B, § 22, no recreational vehicle, as defined by G.L. c. 90B, § 20, may be operated unless it is registered with the Boat, Recreation Vehicle & Snowmobile Registration Bureau of the Massachusetts Environmental State Police and a valid registration number is displayed on the vehicle.

(c) *Unregistered vehicles.*

1. No person shall place, store, or keep more than one (1) unregistered recreational vehicle that, in order to be operated, is required to be registered under the laws or regulations of the commonwealth of Massachusetts, including but not limited to G.L. c. 90B, upon public or private land, including any buildings thereon, zoned or used for residential purposes.
2. This subsection (c) shall not apply to vehicles stored in compliance with the Worcester Zoning Ordinance or to vehicles stored, parked, or displayed on property duly licensed in accordance with G.L. c. 140, §§ 57 through 69.

(d) *Public Property/Property of Another*. No person shall operate, maintain or possess a recreational vehicle the property of another without written permission of the land owner on their person. For purposes of this subsection, "property of another" shall include any property owned or leased by the city of Worcester, including any Worcester Public School property, playgrounds, parks or conservation areas, or any land in which the city holds any conservation restriction.

(e) *Hazardous Operation.* No person shall engage in trick or stunt riding upon any public space in the City upon any recreational vehicle.

1. An operator of any recreational vehicle shall not cause such vehicle to ride with its front wheel or wheels raised from the surface of the road or ground while operated in any public space.
2. An operator of any recreational vehicle shall not cause such vehicle to ride with its rear wheel or wheels raised from the surface of the road or ground while operated in any public space
3. An operator of any recreational vehicle shall not cause any side wheels of such vehicle to rise from the surface of the road or ground while operated in any public space.
4. An operator of any recreational vehicle shall not ride such vehicles with his or her feet or knees planted on the seat while operating in any public space.
5. An operator of any recreational vehicle shall not operate such vehicle in a manner commonly associated with trick or stunt riding.
6. An operator of any recreational vehicle shall not operate such vehicle with a passenger if designed for a single rider.
7. No passenger shall ride upon any recreational vehicle that is designed for a single rider.

8. An operator of any recreational vehicle shall not operate such vehicle with a passenger sitting or riding upon the handle bars or forward of the operator.
9. No person shall operate any recreational vehicle wearing a facial mask between March 15 and November 15 of any year or any other time when the ambient air temperature is 45 degrees or greater measured on the Fahrenheit scale.

(f) *Flammable Fluids*. No person under the age of eighteen years shall cause gasoline or other flammable or volatile fluid to be loaded into any recreational vehicle, on any public or private street of the city or at any location which is open to the public. Any person in charge of any gasoline or filling station shall not allow any person under the age of eighteen years to cause gasoline or other flammable or volatile fluid to be loaded into any recreational vehicle.

(g) *Penalties.* A violation of any provision of this section shall be subject to a fine of two hundred-fifty ($250.00) dollars and, when applicable, with each day constituting a separate offense.

(h) *Enforcement.* The Worcester Police Department shall have the authority to enforce any provision of this ordinance and to promulgate rules and regulations necessary to implement and enforce this ordinance. Additionally, the commissioner of Inspectional Services and the commissioner of Public Works and Parks shall have authority to enforce subsection (c) (Unregistered Vehicles) and subsection (d) (Public Property/Property of Another) herein. The Worcester Fire Department shall have the authority to enforce the provisions of this ordinance, or any statute, regulation of code as relates to this ordinance, involving the storage or use of flammable fluids. Nothing herein shall prevent any city official, agency, department, board or commission with care, custody and control of any public property from enforcing any provision of this ordinance or from promulgating rules and regulations necessary to implement and enforce any provision of this ordinance as it may relate to any such property. The provisions of G.L. c. 40, s. 21D may be used to punish violations of this section.

(i) *Impoundment.* The Worcester Police Department shall have the authority to impound any recreational vehicle found in violation of this ordinance and shall not release any impounded vehicle until final disposition of all criminal and/or civil charges relating to the operation or storage of any recreational vehicle, nor until proof of ownership and proper registration under G.L. c. 90B §22 is verified. The Worcester Police Department shall have the authority to obtain warrants authorizing entry upon private lands and into private buildings whether or not covered by water, to enforce this ordinance.

(j) *Applicability.* If any provision of these sections imposes greater restrictions or obligations than those imposed by any other general law, special law, regulation, rule, ordinance, order, or policy, then the provisions of these sections shall control.

Operation of Vehicles

§ 8. Clinging to Moving Vehicles

No person traveling upon a sled, roller skates, coaster, bicycle or any toy vehicle shall cling to, or attach himself or such conveyance to any other moving vehicle upon any roadway.

§ 9. Riding on Vehicle Prohibited

(a) No person shall ride on any portion of a motor vehicle not designated or intended for the use of passengers except that an employee or invitee of the owner of a truck may be permitted to ride in that part of the truck within which the load is usually carried.

(b) No person shall board or alight from a vehicle while it is in motion.

§ 10. Vehicle Weight Exclusion

(a) When official signs are erected giving notice thereof, no commercial vehicle of the authorized carrying capacity shall be permitted upon streets listed in schedule XI, on file in the office of the city clerk, and which schedule XI is specifically incorporated in this section by reference.

(b) Exception is made for the delivery and the reception of materials to the premises abutting upon the respective streets, or to adjacent streets which cannot be reached by other public ways. This section shall not apply to emergency vehicles as herein defined, or to buses.

(c) Any person violating this section shall be punished by a fine of one hundred dollars.

§ 11. Vehicle Length Exclusion

(a) When official signs are erected giving notice thereof, no commercial vehicle having an overall length in excess of 28 feet, between the hours of 4:00 p.m. and 6:00 p.m. shall be permitted upon streets or parts of streets listed in schedule XII, on file in the office of the city clerk, and which schedule XII is specifically incorporated in this section by reference.

(b) This section shall not apply to emergency vehicles as herein defined or to buses.

§ 12. Restricting Collection and Deliveries

When official signs are erected giving notice thereof, there shall be no collection or delivery of goods or materials of any kind between the hours of 4:00 p.m. and 6:00 p.m. on streets or parts of streets listed in schedule XIII, on file in the office of the city clerk, and which schedule XIII is specifically incorporated in this section by reference; except in an emergency, and then only as authorized by the chief of police covering one day's delivery or collection.

§ 13. Keep to the Right of Roadway Division

Upon such roadways as are divided by a parkway, grass plot, reservation, viaduct, subway or by any structure or area, operators shall keep to the right of such a division except when otherwise directed by an officer, signs, signals or markings.

§ 14. Overtaking Other Vehicles

The operator of a vehicle shall not overtake and pass a vehicle proceeding in the same direction unless there is sufficient clear space ahead on the right side of the roadway to permit the overtaking to be completed without impeding the safe operation of any vehicle ahead and without causing the operator of any such vehicle to change speed or alter course, except as provided in G.L. c. 89, § 2.

§ 15. Sound Horn When Necessary

The operator of a vehicle shall give an audible warning with his horn or other suitable warning device whenever necessary to ensure safe operation.

§ 16. Obstructing Intersection or Crosswalk

No operator shall enter an intersection or a marked crosswalk unless there is sufficient space on the other side of the intersection or crosswalk and on the right half of the roadway to accommodate the vehicle that he is operating without obstructing the passage of other vehicles or pedestrians notwithstanding any traffic control signal indication to proceed.

§ 17. Following too Closely

The operator of a vehicle shall not follow another vehicle more closely than is reasonable and prudent, having due regard to the speed of such vehicle and the traffic upon and condition of the street or highway.

§ 18. Care in Starting, Stopping, Turning or Backing

The operator of any vehicle before starting, stopping, turning from a direct line, or backing shall first see that such movement can be made in safety. If the operation of another vehicle should be affected by a stopping or turning movement, the operator of such vehicle shall be given a plainly visible signal.

§ 19. Operation at Underpasses or Overpasses and at Intersections with Islands

At any junction or crossing of ways where the roadway grade has been separated and where the ways are connected by ramps, and at any intersection of ways in which there are traffic islands, operators of vehicles shall proceed only as indicated by official signs, signals, or markings.

§ 20. Driving on Roads Under Construction

(a) No operator of a vehicle shall enter upon the road surface of any street or highway or section thereof when, by reason of construction, surface treatment, maintenance or the like, or because of some unprotected hazard, such road surface is closed to travel and one or more signs, lights or signals have been erected to indicate that all or part of the road surface of the street or highway is not to be used, or when so advised by an officer, watchperson, member of a street or highway crew or employee of the city, either audibly or by signals.

(b) Whenever traffic signs are erected or warning lights are displayed in or adjacent to a street or highway to notify the presence of personnel and equipment in such street, every operator shall regulate the speed of his vehicle in a manner and to a degree consistent with the particular condition.

§ 21. Driving on Sidewalks

The operator of a vehicle, including bicycles, shall not drive upon any sidewalk except at a permanent or temporary driveway.

§ 22. Emerging from Alley, Private Driveway, or Building

The operator of a vehicle emerging from an alley, driveway, or building shall stop such vehicle immediately prior to driving upon the sidewalk extending across such alley or driveway, and shall yield the right of way to any pedestrian as may be necessary to avoid collision, and upon entering the roadway shall yield the right of way to all vehicles approaching upon the roadway.

§ 23. Opening Vehicle Doors

No person shall open the door of a motor vehicle on the side available to moving traffic unless and until it is reasonably safe to do so, nor shall any person leave a door open on the side of a motor vehicle available to moving traffic for a period of time longer than necessary to load and unload passengers.

§ 24. Funeral Processions

(a) A funeral composed entirely or partly of a procession of vehicles shall be identified as such by means of turned on driving headlights and taillights of all vehicles in the procession.

(b) It shall be the duty of each operator in a funeral or other procession to keep as near to the right edge of the roadway as is feasible and to follow the vehicle ahead as closely as is practicable and safe.

(c) At an intersection where a traffic control signal is operating or a stop or yield sign is located, the operator of the first vehicle in a funeral or other procession shall be the only one governed by the traffic signal indication or the stop or yield sign.

§ 25. Permits for Parades

No person, group of persons or group of vehicles shall march or parade upon any street or part thereof except under a permit of the chief of police designating the route of such parade, and there shall be no deviation from the route designated by the chief of police and such other regulations as are set forth herein which may apply. This section shall not apply to § 24 of this chapter, the police and fire departments of the city, nor to the units described in G.L. c. 33, §§ 47, 49 and 50 dealing with the military and naval forces of the United States, or veterans and affiliated organizations.

§ 26. Obedience to Traffic Signs and Signals

The operator of any vehicle or bicycle shall obey the instructions of any official traffic control sign, parking meter, signal, device, marking or legend, unless otherwise directed by a police officer or firefighter in the performance of his duty. Every such operator shall comply with the order, signal or direction of a police officer, any ordinance in this chapter to the contrary notwithstanding.

§ 27. Obedience to Stop Signs

(a) In accordance with the provisions of chapter 89, § 9 of the General Laws, every operator of a vehicle approaching an intersection of ways where there exists facing him an official "stop" sign, or an official flashing red signal indication, shall bring such vehicle to a complete stop at such point as may be marked by a sign or line, or if a point is not so marked, before entering the crosswalk; but if none, then at the point nearest the intersecting roadway where the operator has a view of approaching traffic on the intersecting roadway before entering the intersection.

(b) This section shall not apply when the traffic is otherwise directed by a police officer or traffic control signals, or as provided in § 26 of this chapter.

§ 28. Through Streets Designated

(a) In accordance with G.L. c. 89, § 9, the erection and maintenance of official stop signs is authorized upon ways intersecting those streets and parts of streets designated as through streets, as listed in schedule XIV, on file in the office of the city clerk, and which schedule XIV is specifically incorporated in this section by reference.

(b) This section shall not apply when the traffic is otherwise directed by a police officer or traffic control signals.

§ 29. Isolated Stop Signs Designated

In accordance with G.L. c. 89, § 9, the following streets are designated as stop streets at the intersections and in the direction indicated as provided for in schedule V on file in the office of the city clerk, and which schedule V is specifically incorporated in this section by reference.

§ 30. Flashing Red Signal Intersections Designated

The streets listed in schedule V-A are on file in the office of the city clerk and are hereby declared to constitute flashing red signal intersections. Said schedule V-A is hereby specifically incorporated in this section by reference.

§ 31. Obedience to Yield Signs

(a) In accordance with G.L. c. 89, § 9, the following streets are designated as “yield” streets at the intersections and in the direction indicated as provided for in schedule VIII on file in the office of the city clerk, and which schedule VIII is specifically incorporated in this section by reference.

(b) Every operator of a vehicle approaching an intersection of ways where there exists facing him an official “yield” sign, shall surrender to oncoming traffic his right to enter the

intersection until such time as he has brought his vehicle to a complete stop at a point between the said "yield" sign and the nearer line of the street intersection, provided, however, that this requirement to stop before entering the intersection shall not apply when an operator approaching a "yield" sign can enter the intersection in safety without causing interference to approaching traffic.

(c) This section shall not apply when the traffic is otherwise directed by a police officer or traffic control signal, or as provided in § 26 of this chapter.

§ 32. Zones of Quiet

(a) All of the territory within two hundred feet of the premises of each hospital in this city is hereby created and established as a zone of quiet. The traffic engineer is hereby authorized to erect and maintain in a conspicuous manner within these areas such signs and markings as are necessary to designate them as zones of quiet.

(b) No person operating a motor vehicle within any designated and posted zone of quiet shall sound a horn or other warning device on the vehicle except in an emergency, nor shall such person make any loud or unusual noise in the zone of quiet.

Traffic Signs, Signals, Markings, and Devices

§ 33. Traffic Control Signal Legend

(a) Colors and arrow indications in traffic control signals shall have the commands ascribed to them in this section, and no other meanings; and every operator of a vehicle or other conveyance shall comply therewith, except when otherwise directed by an officer or by a lawful traffic regulating sign, other than a "stop" sign, signal or device, or except as provided in § 26 of this chapter.

(b) In no case shall an operator enter or proceed through an intersection without due regard to the safety of other persons within the intersection regardless of what indications may be given by traffic control signals.

(c) While the green lens is illuminated, operators facing the signal may proceed through the intersection, but shall yield the right of way to pedestrians and vehicles lawfully within a crosswalk or the intersection at the time such signal is exhibited. Operators of vehicles making a right or left turn shall yield the right of way to pedestrians crossing with the flow of traffic.

(d) When a right green arrow is illuminated, operators facing the signal may turn right. When a left green arrow is illuminated, operators facing the signal may turn left. When a vertical green arrow is illuminated, operators facing the signal may go straight ahead. When a green arrow is exhibited together with a red or a yellow lens, operators may enter the intersection to make the movement permitted by the arrow, but shall yield the right of way to vehicles and pedestrians proceeding from another direction on a green indication.

(e) While the yellow lens is illuminated, waiting operators shall not proceed and any operator approaching the intersection or a marked stop line shall stop at such point unless so close to the intersection that a stop cannot be made in safety; provided, however, that if a green

arrow is illuminated at the same time, operators may enter the intersection to make the movement permitted by such arrow.

(f)(1) Traffic facing a steady circular red signal alone shall stop at a clearly marked stop line, or if none before entering the crosswalk on the near side of the intersection or if none then before entering the intersection and shall remain standing until an indication to proceed is shown except as allowed by chapter 89, § 8 of the General Laws.

(f)(2) No driver of a vehicle facing a circular red signal indication shall make a right turn, or a left turn from a one-way street into another one-way street, where official traffic signs are installed and maintained prohibiting such a turn where listed in schedule X.

(g) While the red and yellow lenses are illuminated together, operators shall not enter the intersection and during such time the intersection shall be reserved for the exclusive use of pedestrians.

(h) A flashing red lens shall indicate those intersections at which an operator is required by law to stop before entering.

(i) A flashing yellow lens shall indicate the presence of a hazard and operators may proceed only with caution.

(j) A flashing green lens shall indicate an intersection or pedestrian crosswalk in use or subject to use by entering or crossing traffic. Operators may proceed only with caution and shall be prepared to comply with a change in the signal to a yellow and red indication.

§ 34. Display of Unauthorized Signs, Signals and Markings

No person shall place, or maintain or display upon or in view of any street any unofficial sign, signal, device or marking which purports to be or is an imitation of, or resembles an official traffic sign, signal, device or marking, or which attempts to direct the movement of traffic or which hides from view any official sign or signal. The chief of police is authorized to remove every such prohibited sign, signal, device or marking or cause it to be removed without notice, and he shall receive the cooperation of the traffic engineering division of the department of public works and parks in the performance of this duty.

§ 35. Interference with Signs, Signals and Markings

Any person who willfully defaces, injures, moves, obstructs or interferes with any official traffic sign, parking meter, signal, device or marking shall be liable to a penalty not exceeding twenty dollars for each and every offense.

Stopping, Standing and Parking

§ 36. Responsibility and Penalties for Parking Violations –
(Amended May 26, 2009 – 9330)

(a) A fine of fifteen dollars shall be imposed for each violation of the parking meter and of the time limits provisions of § 42 as designated in schedule I and schedule VI and § 60, and for

each violation of § 59 and for each violation of § 54 and any regulation of the Off-Street Parking Board concerning metered parking in off-street lots.

(b) A fine of twenty dollars shall be imposed for each violation of § 37 (first para.), § 37(b), § 37(d), § 37(g), § 37(k), § 37(m), § 37(o), § 45, § 46, § 49, § 51, § 52(b), § 54, and § 59.

(c) A fine of twenty-five dollars shall be imposed for each violation of § 37(a), §37(c), § 37(e), § 37(h), § 37(l) and § 37(p), §38, § 40, §42A, §44, §47(b) and any regulation of the Off-Street Parking Board, except those described in subsection (a) above.

(d) A fine of thirty dollars shall be imposed for each violation of § 37(c), § 37(e), § 37(i) and § 37(j), and § 41, §43(a), § 47 and § 57A(b).

(e) A fine of thirty-five dollars shall be imposed for each violation of § 37(k), § 37(q) and § 53.

(f) A fine of fifty dollars shall be imposed for each violation of § 37(f) and § 65(a), § 65(b) and § 57A(a).

(g) A fine of one hundred dollars shall be imposed for each violation of § 39(a) and § 52(a).

(h) A fine of two hundred dollars shall be imposed for each violation of § 39(b).

(i) Every fine imposed in this section shall be increased by five dollars if not paid within 21 days from the date of issuance. Thereafter, upon notice by the parking administrator to the Registrar of Motor Vehicles pursuant to chapter 90, § 20A½ of the General Laws, the fine shall be increased by an additional fifteen dollars.

§ 37. Prohibited Parking

No person shall allow, permit or suffer a vehicle to be parked in any of the places listed herein. Vehicles found in violation of the provisions of this section may be moved by or under he direction of a police official, and the owner of the vehicle so removed or towed away, shall be liable for the cost of such removal and storage charges if any, and liable for parking penalties.

(a) Within an intersection or rotary, except within an area thereof where departure from these rules is indicated by signs or except where installation of parking meters is approved by the Massachusetts Highway Department.
(b) Upon any sidewalk.
(c) Upon any crosswalk.
(d) Upon a roadway where parking is permitted unless both wheels on the right side of the vehicle, or both wheels on the curb side of the vehicle on a one-way street and headed in the direction of travel, are within twelve inches of the curb or edge of the roadway. This shall not apply to such locations where angle parking is permitted by this chapter.
(e) Upon any roadway, or in a fire lane established by authority of the fire department or within a private way or alley open to public use or furnishing means of access for fire apparatus or other emergency equipment to any dwelling, building, or any other place that might require services of such fire apparatus or other emergency

equipment in such a manner as to leave available less than twelve feet for clear and unobstructed passage of vehicular traffic. No person shall stop, stand or park a vehicle within a private way or alley in such a position as to block the driveway entrance to any abutting property.

(f) Upon any roadway within ten feet of a fire hydrant.

(g) Upon any roadway within five feet of any private road or driveway.

(h) Upon any roadway within twenty feet of a crosswalk, marked or unmarked, at any intersection.

(i) On the street side of any vehicle stopped or parked at the edge of a roadway (double parking).

(j) Within fifteen feet of the wall or driveway of a fire station or directly across the street from such fire station provided signs are erected acquainting the driver of such regulation or restriction.

(k) Alongside or opposite any street excavation or obstruction when such stopping, standing or parking would obstruct traffic.

(l) At a bus stop as posted by official signs designating the limit of the bus stop at the edge of the sidewalk.

(m) On or adjacent to the center division strip or island placed upon and being a part of any public way.

(n) (Repealed November 14, 2000)

(o) Upon or under a bridge.

(p) No person shall park a commercial vehicle, bus or trailer having a gross weight of 11,000 pounds or more on any residentially zoned street where parking is permitted for a period of time longer than one hour between the hours of 1:00 A.M. and 6:00 A.M. of any day, or any time on Sunday, except that such vehicles may be parked for periods in excess of this restriction while actually being loaded or unloaded.

(q) When official signs are erected giving notice of parking restrictions and a tow-away zone, parking is prohibited or restricted as to time, space and streets in accordance with the schedule of streets designated in schedule IX, on file with the office of the city clerk and schedule IX is specifically incorporated in this section by reference.

(r) No vehicle parked in a prohibited area shall be allowed to remain in a street, way or city parking facility for more than five consecutive days.

§ 38. Trespass by Parking on City Land

(a) Whoever parks a motor vehicle upon land or premises belonging to the city or the Worcester Housing Authority after notice that parking in the area in unauthorized, either directly by a police officer or a special police officer of the city or by a notice posted thereon, or by other appropriate markings, shall be punished by a fine of fifteen dollars.

(b) In any prosecution under this section, proof that the person named in the complaint was at the time of such parking the registered owner of such vehicle, shall be prima facie evidence that such person was the person who parked such vehicle upon such land at such time.

§ 39. Parking in Handicapped Person/Disabled Veteran Parking Space Prohibited

(a) Any person or body that has lawful control of a public or private way or of improved or enclosed property used as off-street parking areas for businesses, shopping malls, theaters, auditoriums, sporting or recreational facilities, cultural centers, residential dwellings, or for any other place where the public has a right of access as invitees or licensees, shall reserve parking spaces in said off-street parking areas, in conformity with the provisions and requirements of section twenty-one of chapter forty and section two of chapter ninety of the General Laws, as may be amended from time to time, for any vehicle which bears the distinguishing license plate or which displays the special parking identification plate authorized by G.L. c. 90, § 2, or which bears the official identification of a handicapped person issued by any other state, according to the following formula:

> If the number of parking spaces in any such area is more than fifteen but not more than twenty-five, one parking space; more than twenty-five but not more than forty, five percent of such spaces but not less than two; more than forty but not more than one hundred, four percent of such spaces but not less than three; more than one hundred but not more than two hundred, three percent of such spaces but not less than four; more than two hundred but not more than five hundred, two percent of such spaces but not less than six; more than five hundred, but not more than one thousand, one and one-half percent of such spaces, but not less than ten; more than one thousand, but not more than two thousand, one percent of such spaces but not less than fifteen; more than two thousand but less than five thousand, three-fourths of one percent of such spaces but not less than twenty; and more than five thousand, one-half of one percent of such spaces but not less than thirty.

(b) No vehicle that does not bear the distinguishing Handicapped Persons/Disabled Veterans license plate or the special parking identification plate as authorized by G.L. c. 90, § 2, or the official identification of a handicapped person authorized by any other state shall stand or be left in any parking space within the city designated for handicapped parking, nor shall any unauthorized vehicle be left in such a manner as to obstruct a curb or ramp designed for use by handicapped persons as a means of egress to a street or public way.

(c) The police chief or his or her designee may remove, or cause to be removed, to some convenient place, or to a municipal or public garage, any vehicle parked, standing of left in a parking space located on the public way designated for use by disabled veterans or handicap persons, or any unauthorized vehicle left on the public way in such a manner as to obstruct a curb or ramp designed for use by disabled veterans or handicapped persons as a means of egress to a street or public way. Vehicles owned by the commonwealth of Massachusetts or a political subdivision thereof or registered by a member of a foreign diplomatic corps or by a foreign consular officer and bearing a distinctive number plate or otherwise conspicuously marked as so owned or registered, shall not be subject to removal. In addition to the fine set forth in section 36(e) herein, the actual and reasonable costs of such removal and storage charges, if any, shall be charged to the owner or person in whose name the vehicle is registered, provided however that such charges shall not exceed the maximum rate established by the department of telecommunications and energy.

(d) Upon complaint or when requested by a person who has lawful control of an off-street parking area, the chief of police or his or her designee, may remove or cause to be removed, to

some convenient place, or to a municipal or public garage, any vehicle parked, standing or left in a parking space located in said private off-street parking area and designated for use by disabled veterans or handicap persons, where such space is properly identified by the use of above grade signs with white lettering against a blue background, bearing the words "Handicapped Parking: Special Plate Required. Unauthorized Vehicles May Be Removed At Owner's Expense". In addition to the fine set forth in section 36(e) herein, the actual and reasonable costs of such removal and storage charges, if any, shall be charged to the owner or person in whose name the vehicle is registered, provided however that such charges shall not exceed the maximum rate established by the department of telecommunications and energy.

§ 40. Residents Parking Program

(a) No person shall park any vehicle in any area posted "resident parking only" without a properly displayed, valid and current resident parking sticker issued under the provisions of this section.

(b) Where official signs are erected giving notice thereof, parking is prohibited or restricted as to time, space and streets in accordance with the schedule of streets designated as schedule XX on file with the city clerk, and which schedule XX is specifically incorporated in this section by reference.

(c) The parking administrator shall issue a resident parking sticker upon payment of a fee of $10.00, to the non resident owner of property which is located within the resident only parking zone and to any resident, owner/user of motor vehicles who meet the qualifications of this ordinance. Only vehicles containing a resident parking sticker under this ordinance shall be authorized to park in the appropriate zone of the city posted "parking by resident permit only". The resident parking sticker shall not be construed so as to waive or annul any other parking ordinances or regulations of the city. No resident parking sticker shall be issued unless the vehicle is registered in the commonwealth under General Laws, chapter 90, § 2, in the city, with a registered gross weight of under one ton and owned or used by a person residing in the city at the address on the registration.

(d) No resident sticker shall be valid unless it is located on the rear window, driver's side, lower left corner of the vehicle. On station wagons and convertibles, the resident sticker shall not be valid unless it is located on the glass on the left side of the vehicle, as far back towards the rear as possible.

(e) No resident sticker shall be issued unless the owner presents proof of residency in the form of one of the following:

(1) A current registration certificate issued by the Registry of Motor Vehicles stating the required information by sub-section (c).

(2) As required above along with a current paid Worcester excise tax bill.

(f) A photocopy of a registration will be accepted following the requirements of sub-section (e) providing it can be verified by the parking administrator through the Registry of Motor Vehicles. The parking administrator may rely upon such other information and documentation as is reasonable to establish the lawful residency of the applicant. In all cases, the parking administrator's decision as to the residency of the applicant shall be final.

(g) The parking administrator shall issue one visitor permit upon payment of an additional fee of to any resident who meets one of the following qualifications.

(1) The resident owns a vehicle which qualifies for a parking sticker under subsection (c) providing no other person in the same household has been issued a visitors permit; or
(2) In a household where the resident do not have a motor vehicle, a current utility or phone bill or a lease inclusive of utilities (valid for at least one year), provided no other person in the same household has been issued a visitor permit; or
(3) A household in which the resident own or control a motor vehicle which is not registered as specified in subsection (c), may be issued one visitor permit for use on their visitor's vehicle only. All motor vehicle registrations must be shown before visitor permits will be issued.
(4) Visitor permits shall not be issued to anyone residing in any building owned by a college or university or other educational institution and used for residential purposes by students and affiliates of any such university or college.

(h) Additional visitor permits of a number specified by the parking administrator may be issued to doctors of medicine, dentists and funeral directors, or any other home occupation or business use authorized as an accessory use in a residential zone under the Zoning Ordinance, upon written application, providing the practice is conducted in an area posted "parking by resident permit only", and the traffic engineer determines that no parking is available in this area. The holder of such additional visitor permits shall not allow employees or anyone other than clients and patients to use the permits. Applications shall be sent to the parking administrator on the applicant's professional letterhead. The parking administrator may require additional information verifying the legality of the use from the building commissioner.

(i) Parking stickers shall automatically expire when a car ceases to qualify under subsection (c), if affixed to a car other than the one so designated at the time of application, or if the registration number on the resident sticker is different than the one of the vehicle. Any vehicle bearing a revoked parking sticker and parked on a posted street will be subject to the same penalty as a vehicle without a parking sticker or a visitor permit.

(j) Visitor permits and parking stickers will expire on December 31 of each year. Any vehicle bearing an expired visitor permit or parking sticker and parked on a posted street will be subject to the same penalty as a vehicle parked without a parking sticker or visitor's permit.

(k) Visitors permit regulations: One visitor permit shall be issued per household for use by visitors only, while visitors are actually visiting the household to which they were issued. The visitor permits shall be displayed on the front dashboard, above the steering wheel, and shall be fully readable from the exterior of the vehicle. Any extended use (more than 10 days) of a visitor permit must have prior approval of the parking administrator. Visitor permits must be returned to the resident at the conclusion of the visit. No replacement visitor permits shall be issued by the parking administrator. In the event a resident of Worcester moves from one section of the city to another, the issued visitor permit shall be returned to the parking officer along with the proof of the new address as required in subsection (e) in order to obtain a new sticker or permit.

(l) Visitor permit shall expire and be revoked by the parking administrator under the following circumstances:

(1) It is used on any vehicle owned or controlled by a resident.
(2) It is used on an employee's car.
(3) It is used for more than ten days by a visitor without prior approval of the parking office.

(m) Temporary Parking Permits: Temporary parking permits shall be issued by the parking administrator to residents upon payment of a fee and under the following circumstances:

(1) A resident with a resident sticker whose vehicle was stolen or is being repaired, and has a rental car. The parking administrator shall issue a city-wide temporary permit at no charge for the length of the rental agreement.
(2) A resident with a vehicle who is transferring a registration shall be issued a temporary permit for seven days to allow time to change over. This will be valid only in the area in which he/she resides. A valid registration along with a proof of residency shall be required in order to obtain a permit.
(3) A resident, who owns no vehicle and is renting or leasing one, must submit proof of residency along with a rental or lease agreement. A temporary permit shall be issued for the length of the rental or lease agreement.

(n) No permit under this ordinance shall be issued unless all parking fines and/or penalties and all excise taxes and/or penalties due to the city on all vehicles registered to household members have to be paid in full prior to issuance of any stickers or permits to household members.

(o) The parking administrator may issue city-wide temporary parking permits in a number specified by the parking administrator after payment of a fee for each permit to non-profit social service agencies for use by employees of such agencies providing medical or other services to elderly or disabled residents in the homes of such residents. Such permits shall expire on June 30 of each year and may be renewed by the non-profit social service agency for additional periods after payment of the appropriate fee. Applications shall be provided to the parking administrator on the applicant's professional letterhead. Such permit shall only be used when the employee of the non-profit social service agency is actually providing services to an elderly or disabled resident and shall be displayed on the front dashboard above the steering wheel and shall be fully readable from the exterior of the vehicle.*

***Amended July 19, 2011 - 9651**

§ 41. Misuse of Resident Parking Stickers - (Amended July 19, 2011 – 9651)

(a) No person shall sell, offer for sale, give, trade or otherwise transfer any resident parking sticker issued under these Revised Ordinances to another person or affix said sticker to a motor vehicle other than the designated vehicle, or alter said sticker in any manner.

(b) No person shall sell, offer for sale, give, trade or otherwise transfer a resident visitor permit issued under said chapter to anyone, or in any manner alter said permit.

(c) No person shall use any residents parking permit, visitor's permit, temporary permit, or medical/social service agency permit in violation of the provisions of the residents parking ordinance or the regulations of the parking administrator.

(d) Any person who violates this section shall be subject to a fine of not more than three hundred dollars for each offense and any permit used in violation of the terms of the residents parking permit ordinance shall be subject to revocation and confiscation.

§ 42. Time-Limited Parking

(a) Parking is prohibited, restricted or limited as to time, space and streets in accordance with schedules of streets designated as schedule I and schedule VI on file in the office of the city clerk, and which schedule I and schedule VI are specifically incorporated in this section by reference.

(b) When official signs are erected giving notice thereof, no operator shall park a vehicle in a location where parking is prohibited or in a location where parking is restricted for a period of time longer than is designated in schedule I and schedule VI.

(c) The provisions for a time limitation on parking and the provisions for the prohibition of parking from 7:00 a.m. to 6:00 p.m. in schedule I shall not apply on Sundays and holidays. The provision for a time limitation on parking in schedule VI (parking meter schedule) shall not apply on Sundays and Holidays and no parking fees shall be required. The provision that no parking fees shall be required shall be further extended to Saturdays to meters on those streets in the central business district at the locations listed in schedule VI.

§ 42A. Parking Spaces for Vehicles Rented or Leased to the General Public on an Hourly Basis

(a) Where official signs are erected giving notice thereof, parking is restricted in such spaces designated by such signs to vehicles leased or rented on a hourly basis to the general public by a legal entity authorized to do business in the Commonwealth of Massachusetts and engaged in such rental business and which has designated such vehicles to the Commissioner of the Department of Public Works and Parks and the Commissioner has authorized such vehicles to use to such restricted parking spaces. The Commissioner of the Department of Public Works and Parks is authorized to make such reasonable regulations to implement this ordinance, including but not limited to the location of such restricted parking spaces and to file such regulations with the city clerk as Schedule XXI. After filing with the city clerk such Schedule XXI is specifically incorporated into this section.

(b) No vehicle shall park in any such restricted space unless authorized to do so under subsection (a) above.

(c) Any vehicle authorized under subsection (a) above to park in any such restricted space shall comply with all other applicable provisions of these ordinances including but not limited to provisions relating to snow removal and street sweeping.

§ 43. Winter Parking Ban

(a) No person shall allow, permit or suffer a vehicle to be parked on any street in violation of the winter parking ban parking restrictions of this ordinance.

(b) The winter parking ban parking restrictions applicable to any particular location shall depend upon whether that location is governed by the "general even side ban" or listed within one of the "zone bans" as follows:

(1) *General Even Side Ban*. Parking is prohibited on all public streets on that side of which buildings are designated with even numbers, except as otherwise provided in subsections (2) - (5) below; provided, however, that, on any street or portion of street where there is "no parking anytime" on the odd numbered side and parking is normally permitted on the even numbered side, parking will continue to be permitted on the even numbered side.

(2) *Arterial Streets*. Parking is prohibited on both sides of any street listed under Zone A in Schedule VII, which is on file in the office of the city clerk and is specifically incorporated in this section by this reference.

(3) *Odd Side Ban*. Parking is prohibited on that side of the streets where buildings are designated by odd numbers on any street listed under Zone B in Schedule VII.

(4) *Both Sides Allowed*. Parking is permitted on both sides of any street listed under Zone C in Schedule VII.

(5) *Both Sides Prohibited*. Parking is prohibited on both sides of the streets listed under Zone D in Schedule VII.

(6) *Streets with Extraordinary Parking Conditions*. Streets are listed under Zone E in Schedule VII. *

***Amended March 31, 2009 - 9302**

(c) Each street listed within the categories contained in subsection (b) above shall be designated as either a "declared ban" or "permanent ban" street. On those streets designated as a declared ban street, the parking restrictions specified within each zone shall be in effect only during the dates and times specified in a "winter parking ban declaration" issued by the city manager or his delegate in accordance with subsection (d) hereof. On those streets designated as a permanent ban street, the parking restrictions shall be in effect as follows:

(1) *Zone A*. Between 2:00 a.m. and 6:00 a.m. during the period during December, January, February, March and April and whenever snow accumulates to a depth greater than two inches, or when ice or freezing rain require street clearing operations, or until the street has been cleared of snow or ice to within twelve inches of the curb line, or until street treatment operations have been completed.

(2) *All Others*. Between 2:00 a.m. and 6:00 a.m. during the period during December, January, February and March and whenever snow accumulates to a depth greater than two inches, or when ice or freezing rain require street clearing operations, or until the street has been cleared of snow or ice to within twelve inches of the curb line, or until street treatment operations have been completed.

(d) Whenever winter weather conditions require, or are likely to require, plowing, sanding, or other street clearing operations, the city manager, or his delegate, is hereby granted authority to issue a "winter parking ban declaration." Such declaration shall cause the parking prohibitions contained in subsection (b) of this section to become effective for the duration of such declaration. The city manager may delegate the authority to issue declarations under this section to any official under his jurisdiction by filing a letter with the city clerk giving notice of such delegation. The city manager may rescind any such delegation at any time, without notice, and shall as soon as practicable thereafter file a notice of such rescission with the city clerk. Any such declaration shall state the date and time when the full winter parking ban is to become effective and the official issuing said declaration shall give notice of the declaration to radio, television, cable and daily newspaper operators serving the city. The official issuing of any declaration shall also give notice thereof to the ranking officer on duty in the police department. The full winter parking ban shall remain in effect until the person possessing the authority to make declarations under this section rescinds such declaration. Notice of any such rescission shall be given in the same manner as the issuance of any such declaration. Each declaration and rescission made under this section shall be filed with the city clerk.

§ 44. Parking of Commercial Vehicles on Public Streets Adjacent to Parks Prohibited

When official signs are erected giving notice thereof, no person shall park a commercial vehicle upon that side of the street adjacent to a public park or playground

§ 45. Passenger Curb Loading Zone

When official signs are erected giving notice thereof, no person shall stop, stand or park any vehicle at any curb adjacent to the entrance of a building housing twelve or more apartments, bank, church, hospital, hotel, railroad station, bus station, or terminal, theater, public building or any place of public assemblage, except for the purpose of receiving or discharging passengers. Such entrance shall be designated as a passenger zone by the city council, and it shall be authorized to remove such signs if they no longer serve a building of such specified use.

§ 46. Commercial Curb Loading Zone

When official signs are erected giving notice thereof, no person shall stop, stand or park any commercial vehicle at any curb designated as a commercial loading zone for any purpose or for any length of time other than for the expeditious unloading or delivery or pick up and loading of material not to exceed thirty minutes during the hours when provisions applicable to loading zones are in effect. Such a zone shall be designated by the city council.

§ 47. Parking at Schools

(a) When official signs are erected giving notice thereof, no person shall park a vehicle upon that side of the street adjacent to any private or public school property between the hours of 7:00 a.m. to 6:00 p.m.

(b) When official signs are erected giving notice thereof, no person shall park a vehicle within twenty feet of a designated school crosswalk.

§ 48. Parking for Certain Purposes Prohibited

No person shall park a vehicle upon any roadway for the purpose of: (a) displaying such vehicle for sale; or, (b) washing, greasing, or repairing such vehicles except repairs necessitated by an emergency.

§ 49. Vehicles Engaged in Selling Prohibited from Standing in Roadway

No person operating or having charge of any vehicle engaged in the selling of refreshments, food, flowers or any other merchandise for sale shall stand or park such vehicle in any public roadway in the city so as to interfere with the free, safe and convenient movement of traffic of the roadway.

§ 50. Vehicles Used for Advertising

No person shall operate or park on any street a vehicle for the primary purpose of displaying advertising without first obtaining a permit therefor from the chief of police.

§ 51. Stopping, Standing and Parking of Buses and Taxicabs Regulated

(a) The operator of a scheduled bus shall not stop, stand or park such a vehicle upon any street at any place other than at a bus stop so designated, such location shall be designated by the city council.

(b) The operator of a taxicab shall not stand or park such vehicle upon any street other than at a taxicab stand so designated. This provision shall not prevent the operator of a taxicab from temporarily stopping in accordance with other stopping or parking regulations at any place for the purpose of, and while actually engaged in, the expeditious loading or unloading of passengers.

(c) Taxicabs may be stationed at the locations designated in schedule II, on file with the city clerk, to which reference is made and which schedule II, is specifically incorporated in this section. Buses may be stationed at the locations designated in the inbound and outbound bus stop list, on file in the department of traffic engineering, to which reference is made and which the inbound and outbound bus stop lists are specifically incorporated in the section. Such locations referred to in this section shall be designated by the city council.

§ 52. Restricted Use of Bus and Taxicab Stands – (Amended May 26, 2009 – 9330)

(a) Bus Stops. No person shall stop, stand or park a vehicle in a bus stop, other than a bus or except as otherwise posted, when such bus stop has been officially designated and appropriately indicated with a sign; provided, however, that the operator of a passenger vehicle may temporarily stop therein for the

purpose of, and while actually engaged in, loading or unloading passengers when such stopping does not interfere with any bus waiting to enter or about to enter such zone.

(b) Taxi Stands. No person shall stop, stand or park a vehicle in a taxicab stand other than a taxicab or except as otherwise posted, when such taxicab stand has been officially designated and appropriately indicated with a sign; provided, however, that the operator of a passenger vehicle may temporarily stop therein for the purpose of, and while actually engaged in, loading or unloading passengers when such stopping does not interfere with any taxicab waiting to enter or about to enter such zone.

§ 53. Obstructing Travel by Stopping Vehicle

No person shall stop any vehicle on any street in such a manner as to hinder or obstruct public travel.

§ 54. Diagonal Parking

Diagonal parking is permitted upon certain sections of streets designated in schedule I, on file in the office of the city clerk, and which schedule I relative to diagonal parking is herewith specifically incorporated in this section by reference. Where such diagonal parking is permitted, vehicles shall be parked with one wheel within 12 inches of the curb and at the angle to the curb indicated by official marks and signs. The vehicle shall be parked so that all four wheels thereof shall be placed wholly within the area indicated for parking, and headed to the curb.

§ 55. Temporary Prohibited Parking

When official signs are erected giving notice thereof, the chief of police is authorized to prohibit, temporarily, parking on or closing of any street or highway or part thereof or to alter the direction of traffic flow in an impending or existing emergency, or for a lawful assemblage, demonstration or procession or in the event of extraordinary circumstances, provided there is a reasonable justification for such prohibition. Vehicles parked in places where parking is prohibited temporarily may be moved by or under the direction of a police officer.

§ 56. Installation of Immobilization Device, Towing and Impoundment to Enforce Parking Violations

(a) Whenever it is determined that there is recorded with the parking clerk notice that a motor vehicle has outstanding five or more parking violations which have occurred in the city, and that such violations have incurred monetary penalties not paid in accordance with law, such motor vehicle may be immobilized by the parking clerk or his or her designee where located upon any street, way, parking lot or other location open to the use of the public, whether or not such vehicle is legally parked, by attachment hereto of an immobilization device.

(b) The parking clerk or his designee shall, upon installation of the said immobilization device, conspicuously place upon such motor vehicle a written notice to the owner thereof or other person in charge of said vehicle stating the following:

(1) That by authority of this chapter 9, the motor vehicle has been rendered immobile by the attached device;
(2) That the device may be removed upon the payment of the outstanding monetary penalties described in paragraph a, together with an immobilization fee of fifty dollars;
(3) That such payment may be made to the parking clerk during regular business hours or at such other location as authorized by the clerk; and
(4) That the owner or person in charge of said vehicle may request a hearing before the said clerk to determine whether or not the motor vehicle was immobilized in accordance with law.

(c) The immobilization device shall not be removed until either (1) the owner or other person in charge of the motor vehicle has paid a fee of fifty dollars, and paid all outstanding penalties of which may be levied for parking violations; or (2) upon a request in writing and in accordance with law to the parking clerk for a hearing to determine the legality of such immobilization, provided that there is posted with such request sums sufficient to defray the amount of such penalties and immobilization fee; provided that after hearing thereon and a finding by the clerk that the motor vehicle was legally immobilized the said cash shall be forfeited; (3) upon a finding of the parking clerk that said vehicle was not immobilized legally.

(d) Whenever it is determined by the chief of police or his designee that public safety requires immediate removal of any motor vehicle hereunder, or whenever a motor vehicle has remained immobilized hereunder for twelve hours or more, the parking clerk shall cause the motor vehicle to be towed pursuant to this chapter to a designated storage area where it shall be impounded until released in accordance with paragraph (c).

(e) Whenever any motor vehicle has been impounded hereunder reasonable effort shall be made to determine the name of the registered owner and within a reasonable time after impoundment written notice shall be furnished to him by either (1) certified mail, postage prepaid, to the address shown on the registration, or (2) delivery to him in hand or at his last known address.

(f) If it is necessary to enter a locked or unlocked motor vehicle in order to tow or impound it, such entry shall be made by a police officer in the presence of the sector sergeant of police, or, if the sector sergeant is unavailable another police officer. They shall make an inventory of the contents therein, shall take such measures as they may deem necessary to protect the same, and shall take into their possession for safekeeping such contents as they may deem necessary. They shall forthwith deliver to their superior such inventory and those articles that they have taken into their possession.

(g) While immobilized hereunder, the vehicle shall be exempt from any further parking violation tickets.

(h) Anyone who, without authority, attempts to free a vehicle which has been immobilized hereunder or who damages the immobilization device, shall be fined not more than two hundred dollars.

(i) The parking clerk is hereby authorized to promulgate such rules and regulations as may be necessary to implement the provisions of this section.

§ 57. Removal and Storage of Motor Vehicles

(a) Except as otherwise provided by law, the chief of police, or his designee may, for the purpose of facilitating the flow of traffic, to lessen congestion on the public ways, and to further protect the safety of the public, to remove or cause to be removed from any public way in the city, to some convenient place or to a municipal or public garage, any motor vehicle which has become abandoned, or which has become disabled, or which following its theft or unauthorized taking has been recovered by the police department, or which otherwise is to be removed in accordance with the law. The cost of such removal and the storage charges, if any, shall be borne by the owner.

(b) No independent tow contractor shall perform any services hereunder unless he has been selected on the basis of competitive bids, the invitation for which shall have been issued by the purchasing department, which invitation shall specify the amount to be charged by the contractor to the owner of said vehicle for removal and for storage. The contractor shall not charge any fee or sum in excess thereof. Said invitation may provide for bidding for services to be rendered in designated zones of the city, and may require the successful bidder to offer road service at the scene to the vehicle.

§57A. Parking Vehicles on Public Ways Without a Valid Registration or Certificate of Inspection

(a) No person shall park a vehicle that is unregistered or invalidly registered as required by G.L. c. 90 upon any public way whether or not such vehicle is in an otherwise permissible parking space.

(b) No person shall park a vehicle not bearing a valid certificate of inspection as required by G.L. c. 90 upon any public way whether or not such vehicle is in an otherwise permissible parking space.

Parking Meters

§ 58. Parking Meter Legend

Each parking meter shall bear thereon a legend indicating the days and hours when the requirement to deposit coins therein shall apply, the value of the coins to be deposited, and the limited period of time for which parking is lawfully permitted in the parking meter zone in which such meter is located.

§ 59. Manner of Parking

No person shall stop or park a vehicle within a parking meter space unless such vehicle is wholly within the marked lines at such space and only one vehicle shall park within the marked stall lines.

§ 60. Deposit of Coins and Time Limit

(a) No person shall park a vehicle in a parking meter space during the restricted and regulated time applicable to the parking meter zone unless the appropriate coin or coins of United States currency as designated on the accompanying parking meter shall have been deposited or previously deposited therein for an unexpired interval of time. This provision shall not apply to the act of parking or the necessary time which is required to deposit immediately thereafter a coin or coins in such meter.

(b) No person shall park a vehicle in any parking meter space for a consecutive period of time longer than the limited period of time for which parking is lawfully permitted in the parking meter zone irrespective of the number or amounts of the coins deposited in the meter for such space.

§ 61. Commercial Vehicle Exemption

Except as provided in § 12 of this chapter, operators of commercial vehicles may park in a metered space without depositing a coin or coins for a period not to exceed thirty minutes while loading or unloading.

§ 62. Tampering with Meter Prohibited

No unauthorized person shall tamper with, break, injure or destroy any parking meter, or insert, or cause to be inserted in such meter, any slug, device or other substance in substitution for the coins required.

§ 63. Reservation of Powers

Nothing contained in these parking meter sections shall be constructed to prohibit the proper city authority from making provisions for bus stops, taxicab stands, loading zones and passenger zones as authorized by other sections of this chapter on any street or portion of street which has been or may hereafter be designated as a parking meter zone.

Parking Restrictions for Snow Removal and Street Cleaning

§ 64. Leaving Vehicles on Streets After a Two Inch Accumulation of Snow or Ice

(Repealed November 14, 2000 – Ordinance # 7983)

§ 65. Parking so as to Interfere with Snow Removal, Street Cleaning or Leaf Collection Operations

(a) The owner of a vehicle or person in whose name it is registered shall not allow, permit or suffer such vehicle to stand or park in any street, way, highway or parkway under the control of the city in such a manner as to interfere with the work of plowing, removing snow or ice, or leaf collection operations.

(b) The owner of a vehicle or person in whose name it is registered shall not allow, permit or suffer such vehicle to stand or park in any street, way, highway or parkway under the control of the city in such a manner as to interfere with the work of street cleaning operations.

(c) In any case of removal of snow or ice, street cleaning operations, or leaf collection operations, reasonable notice by temporary signs or markers shall be give of such operations.

§ 66. Parking Prohibited on Streets Listed in Schedule XIX During Street Cleaning Operations.

(a) Where official signs are erected giving notice thereof, parking is prohibited or restricted as to time, space and streets in accordance with the categories of streets contained herein and as identified on the schedule of streets designated as schedule XIX which is filed with the city clerk, and which schedule XIX is specifically incorporated in this section by reference.

(1) CENTRAL BUSINESS DISTRICT (CBD) ZONE

(A) Parking is prohibited Monday through Saturday on both sides of the streets listed in schedule XIX under zone CBD-1 between 12:01 a.m. and 7:00 a.m.

(B) Parking is prohibited Monday and Thursday on both sides of the streets listed in schedule XIX under zone CBD-2 between 12:01 a.m. and 7:00 a.m.

(C) Parking is prohibited Tuesday and Friday on both sides of the streets listed in schedule XIX under zone CBD-3 between 12:01 a.m. and 7:00 a.m.

(D) Parking is prohibited Wednesday and Saturday on both sides of the streets listed in schedule XIX under zone CBD-4 between 12:01 a.m. and 7:00 a.m.

(E) Parking is prohibited Sunday on both sides of the streets listed in schedule XIX under zone CBD-5 between 12:01 a.m. and 7:00 a.m.

(2) Parking is prohibited on Monday on both sides of the arterial streets listed in schedule XIX under zone A between 12:01 a.m. and 7:00 a.m.

(3) Parking is prohibited on Tuesday on both sides of the arterial streets listed in schedule XIX under zone B between 12:01 a.m. and 7:00 a.m.

(4) Parking is prohibited on Wednesday on both sides of the arterial streets listed in schedule XIX under zone C between 12:01 a.m. and 7:00 a.m.

(5) Parking is prohibited on Thursday on both sides of the arterial streets listed in schedule XIX under zone D between 12:01 a.m. and 7:00 a.m.

(6) Parking is prohibited on Friday on both sides of the arterial streets listed in schedule XIX under zone E between 12:01 a.m. and 7:00 a.m.

(7) Parking is prohibited on Thursday on the odd numbered sides of the arterial streets and on Friday on the even numbered side of the arterial streets listed in schedule XIX under zone F between 12:01 a.m. and 7:00 a.m.

(b) Whenever the commissioner of public works and parks designates certain streets, not listed in schedule XIX, for the street cleaning operations, the commissioner shall cause to have

erected temporary signs or markers giving reasonable notice that parking on such streets is prohibited during street cleaning operations.

(c) The owner of a vehicle or person in whose name it is registered shall not allow, permit or suffer each vehicle to stand or park in any street, listed in schedule XIX on which signs prohibiting parking have been erected, or on streets on which temporary signs or markers have been erected pursuant to sub-section (2), so as to interfere with street cleaning operations. Any person who violates sub-sections (1) or (2) of this section shall be fined fifteen dollars.

§ 67. Removal of Vehicle by City

For the purpose of removing or plowing snow or ice from any public way in the city, or for the purposes of street cleaning or leaf collection operations on any public way in the city, the commissioner of public works and parks may remove, or cause to be removed, to some convenient place, or to a municipal or public garage, any vehicle parked in such a manner as to interfere with such work referred to in the preceding section. In addition to the fine set forth in the preceding section, the actual and reasonable cost of such removal and storage charges, if any, shall be charged to the owner or person in whose name the vehicle is registered.

Circulation Restrictions

§ 68. One-Way Streets

The streets or portions thereof designated in schedule III, on file in the office of the city clerk and specifically incorporated in this section by reference, are declared to be one-way streets. All vehicular traffic shall move on those streets or portions thereof in the direction designated in schedule III when official signs are erected at every intersection where movement in the opposite direction is prohibited.

§ 69. Rotary Traffic

With the areas known as Billings Square, Newton Square and Washington Square, vehicular traffic shall move in a rotary counterclockwise direction.

§ 70. Prohibited Left Turns Listed in Schedule IV

When official signs are erected giving notice thereof, the operator of any vehicle or other conveyance shall not make a left turn from one street into another at the street intersections listed on schedule IV, on file with the city clerk, and which schedule IV is specifically incorporated in this section by reference.

§ 71. Turning Movements

(a) Where official traffic control devices are erected directing specific traffic to use a designated lane or designating lanes to be used by traffic moving in a particular direction regardless of the center of the roadway, or to prohibit a turn or to make a required turn at an intersection of roadways, drivers of vehicles shall obey the direction of every device.

(b) In accordance with the foregoing, the streets listed on schedule IV-A and IV-B on file with the city clerk, and which schedule IV-A and IV-B are specifically incorporated in this section by reference.

§ 72. Left Turn Only

When official signs are erected giving notice thereof, the operator of any vehicle shall make a left turn only when proceeding in the direction indicated at intersections listed in schedule XV, on file with the city clerk, and which schedule XV is specifically incorporated in this section by reference.

§ 73. Prohibited Right Turns

When official signs are erected giving notice thereof, the operator of a vehicle or other conveyance shall not make a right turn from one street into another on streets listed in schedule XVI, on file with the city clerk, which schedule XVI is specifically incorporated in this section by reference.

§ 74. Right Turn Only

When official signs are erected giving notice thereof, the operator of a vehicle shall make a right turn only when proceeding in the direction indicated at intersections listed in schedule XVII, on file with the city clerk, and which schedule XVII is specifically incorporated in this section by reference.

§ 75. "U" Turns

(a) The operator of any vehicle shall not make a "U" turn unless such movement can be made in safety and without interfering with other traffic.

(b) When official signs are erected giving notice thereof, the operator of a vehicle shall not make a "U" turn within any area of streets listed in schedule XVIII, on file with the city clerk, and which schedule XVIII is specifically incorporated in this section by reference.

Special Speed Regulations

§ 76. Special Speed Regulations

When signs are erected giving notice thereof, the following speed limits are established at which motor vehicles may be operated in the areas described in the following ways:

(a) NON-STATE HIGHWAY SECTION OF AUTO ROUTE TWELVE

Name of Highways:

West Boylston Street	Grove Street
Gold Star Boulevard	Park Avenue
Webster Street	Hope Avenue
Southbridge Street	

(1) West Boylston Street - Southbound Traffic

Beginning on West Boylston Street at the end of the State Highway,
thence southerly . . . . . 0.82 miles at 35 miles per hour
thence . . . . . 0.84 miles at 30 miles per hour
thence . . . . . 0.40 miles at 35 miles per hour
thence . . . . . 0.49 miles at 30 miles per hour
Ending at Grove Street, the total distance being 2.55 miles.

(2) Grove Street - Southbound Traffic

Beginning on Grove Street at West Boylston Street,
thence southerly . . . . . 0.27 miles at 30 miles per hour
Ending at Park Avenue, the total distance being 0.27 miles

(3) Park Avenue - Southwest Bound Traffic

Beginning at Park Avenue at Grove Street,
thence southwesterly. . . . 0.74 miles at 35 miles per hour
thence. . . . . 2.13 miles at 30 miles per hour
Ending at Mill Street, the total distance being 2.87 miles.

(4) Webster Street - Southbound Traffic

Beginning on Webster Street 216 feet south of the southerly side of Webster Square,
thence southerly . . . . . 0.46 miles at 30 miles per hour
thence . . . . . 0.31 miles at 35 miles per hour
thence . . . . . 0.08 miles at 30 miles per hour
Ending at Hope Avenue, the total distance being 0.85 miles.

(5) Hope Avenue - Eastbound Traffic

Beginning on Hope Avenue at Webster Street,
thence easterly. . . . . 0.08 miles at 30 miles per hour
thence . . . . . 0.56 miles at 35 miles per hour
thence . . . . . 0.11 miles at 30 miles per hour
Ending at Southbridge Street, the total distance being 0.75 miles.

(6) Southbridge Street - Southbound Traffic

Beginning on Southbridge Street at Hope Avenue,
thence southerly . . . . . 0.08 miles at 30 miles per hour
Ending at the Auburn Town Line; the total distance being 0.08 miles.

(7) Southbridge Street - Northbound Traffic

Beginning on Southbridge Street at the Auburn Town Line,
thence northerly . . . . . 0.08 miles at 30 miles per hour
Ending at Hope Avenue, the total distance being 0.08 miles.

(8) Hope Avenue - Westbound Traffic

Beginning on Hope Avenue at Southbridge Street,
thence westerly. . . . . 0.11 miles at 30 miles per hour
thence . . . . . 0.56 miles at 35 miles per hour
thence . . . . . 0.08 miles at 30 miles per hour
Ending at Webster Street, the total distance being 0.75 miles.

(9) Webster Street - Northbound Traffic

Beginning on Webster Street at Hope Avenue,
thence northerly . . . . . 0.08 miles at 30 miles per hour
thence . . . . . 0.31 miles at 35 miles per hour
thence . . . . . 0.46 miles at 30 miles per hour
Ending at a point 216 feet south of the southerly side of Webster Square, the total distance being 0.85 miles.

(10) Park Avenue - Northeastbound Traffic

Beginning on Park Avenue at Mill Street,
thence northeasterly . . . . 2.13 miles at 30 miles per hour
thence . . . . . 0.74 miles at 35 miles per hour
Ending at Grove Street, the total distance being 2.87 miles.

(11) Gold Star Boulevard - Northbound Traffic

Beginning on Gold Star Boulevard at Grove Street,
thence northerly . . . . . 0.07 miles at 35 miles per hour
thence . . . . . 0.38 miles at 40 miles per hour
thence . . . . . 0.49 miles at 35 miles per hour
Ending at West Boylston Street, the total distance being 0.94 miles.

(12) West Boylston - Northbound Traffic

Beginning on West Boylston Street at Gold Star Boulevard,
thence northerly . . . . . 0.22 miles at 35 miles per hour
thence . . . . . 0.84 miles at 30 miles per hour
thence . . . . . 0.82 miles at 35 miles per hour
Ending at the beginning of the State Highway, the total distance being 1.88 miles.

(b) NON-STATE HIGHWAY SECTIONS OF AUTO ROUTE #9

Name of Highways:

Belmont Street Park Avenue
Salisbury Street Main Street

(1) Belmont Street - Westbound Traffic

Beginning on Belmont Street, at the end of the State Highway,
thence westerly. . . . . 0.19 miles at 30 miles per hour
thence . . . . . 1.11 miles at 35 miles per hour
thence . . . . 0.29 miles at 30 miles per hour
thence . . . . . 0.42 miles at 25 miles per hour
Ending at the easterly side of Lincoln Square, the total distance being 2.01 miles.

(2) Salisbury Street - Northwest Bound Traffic

Beginning on Salisbury Street at Lancaster Street,
thence northwesterly . . . . 0.42 miles at 30 miles per hour
Ending at Park Avenue at junction with auto route #12 the total distance being 0.42 miles.

(3) Park Avenue - Southwest Bound Traffic

Beginning on Park Avenue at Mill Street, at junction with auto route #12:
thence southwesterly . . . . 0.21 miles at 30 miles per hour
Ending at Main Street, the total distance being 0.21 miles.

(4) Main Street - Westbound Traffic

Beginning on Main Street at Park Avenue
thence westerly. . . . . 0.19 miles at 30 miles per hour
thence . . . . . 1.25 miles at 35 miles per hour
Ending at the Leicester Town Line, the total distance being 1.44 miles.

(5) Main Street - Eastbound Traffic

Beginning on Main Street at the Leicester Town Line,
thence easterly. . . . . 1.25 miles at 35 miles per hour
thence . . . . . 0.19 miles at 30 miles per hour
Ending at Park Avenue, the total distance being 1.44 miles.

(6) Park Avenue - Northeastbound Traffic

Beginning on Park Avenue at Main Street,
thence northeasterly . . . . 0.21 miles at 30 miles per hour
Ending at Mill Street at junction with auto route #12, the total distance being 0.21 miles.

(7) Salisbury Street - Southeastbound Traffic

Beginning on Salisbury Street at Park Avenue at junction with auto route #12,
thence southeasterly . . . . 0.42 miles at 30 miles per hour
Ending at Lancaster Street, the total distance being 0.42 miles.

(8) Belmont Street - Eastbound Traffic

Beginning on Belmont Street at the easterly side of Lincoln Square,
thence easterly. . . . . 0.42 miles at 25 miles per hour

thence . . . . . 0.29 miles at 30 miles per hour
thence . . . . . 1.11 miles at 35 miles per hour
thence . . . . . 0.19 miles at 30 miles per hour
Ending at the State Highway, the total distance being 2.01 miles.

(c) STAFFORD STREET

(1) Stafford Street - Southwestbound Traffic

Beginning on Stafford Street at a point 0.05 miles southwest of Main Street,
thence southwesterly . . . . 0.80 miles at 35 miles per hour
thence . . . . . 0.17 miles at 25 miles per hour
thence . . . . . 0.43 miles at 35 miles per hour
Ending at the Leicester Town Line, the total distance being 1.40 miles.

(2) Stafford Street - Northeastbound Traffic

Beginning on Stafford Street at the Leicester Town Line,
thence northeasterly . . . . 0.43 miles at 35 miles per hour
thence . . . . . 0.18 miles at 25 miles per hour
thence . . . . . 0.74 miles at 35 miles per hour
thence . . . . . 0.10 miles at 25 miles per hour
Ending at Main Street, the total distance being 1.45 miles.

Pedestrian Control Regulations

§ 77. Crossing Ways or Roadways

(a) Pedestrians shall obey the directions of police officers directing traffic. Whenever there is an officer directing traffic, or whenever there is a traffic control signal within three hundred feet of a pedestrian, no such pedestrian shall cross a way or roadway except at such controlled location. Pedestrian crossings shall be made within the limits of marked crosswalk and as hereinafter provided. **No person shall, after having been given due notice warning by a police officer, persist in walking or standing on any traffic island or upon the roadway of any street or highway, except for the purpose of crossing the roadway at an intersection or designated crosswalk or for the purpose of entering or exiting a vehicle at the curb or for some other lawful purpose. Any police officer observing any person violating this provision may request or order such person the remove themselves from such roadway or traffic island and may arrest such person if they fail to comply with such request or order. ***

(b) It shall be unlawful for any person to actuate a pedestrian control signal or to enter a crosswalk unless a crossing of the roadway is intended.

***Amended January 29, 2013 - 9840**

§ 78. Actuation of Traffic Control Signals

(a) At a traffic control signal location where pedestrian indications are provided but which are shown only upon actuation by means of a pedestrian push button, no pedestrian shall cross

a roadway unless or until the pedestrian control signal push button has been actuated and then cross only on the proper pedestrian signal indication. At traffic control signal locations where no pedestrian indication is provided, pedestrians shall cross only on the green indication for such crossing. If necessary, the green indication shall be actuated by the pedestrian by means of a push button.

(b) At a traffic control signal location, pedestrians shall yield the right of way to vehicles of a funeral or other procession or authorized emergency vehicle while in performance of emergency duties regardless of the signal indication given, and they shall not attempt to cross the roadway until such vehicles or procession has passed, at which time pedestrians shall then cross the roadway only as provided in these regulations.

§ 79. Obedience to Traffic Control Signals

Traffic control signal color indications and legends shall have the commands ascribed to them in this section and not other meanings, and every pedestrian shall comply therewith, except when otherwise directed by an officer.

(a) Red and yellow or the word “walk” - Whenever the red and yellow lenses are illuminated together or the single word “walk” is illuminated, pedestrians facing such indication may proceed across the roadway and in the direction of such signals only.

(b) Red alone, “wait” or “don't walk” - At locations where pedestrian indications are provided, whenever the words “wait” or “don't walk” or any indication other than red and yellow shown together are illuminated in a traffic control signal, pedestrians approaching or facing such indication shall wait on the sidewalk, edge of roadway or in the pedestrian refuge area of a traffic island and shall not enter upon or cross a roadway until the proper indication is illuminated in the traffic control signal; but any pedestrian who has partially completed his crossing on the walk indication shall either proceed or return to the nearest sidewalk or safety island on the yellow indication, the red indication, the “wait” indication or when the words “don't walk” are illuminated by rapid intermittent flashes.

(c) Green alone - At traffic control signal locations where no pedestrian indication is given or provided, pedestrians facing the signal may proceed across the roadway within any marked crosswalk in the direction of the green indication.

(d) Yellow alone, red alone, “wait” or flashing “don't walk” - pedestrians approaching or facing yellow, red, “wait” or flashing “don't walk” illuminated indications shall not start to cross a roadway.

(e) Flashing red, flashing yellow or flashing green - At any traffic control signal location where a flashing red, flashing yellow or flashing green indication is being given facing a crosswalk, pedestrians shall actuate, where provided, the pedestrian indication signal indication, and cross the roadway only on the red-yellow or "walk" indication when such indication is in operation. If no pedestrian signal is provided, pedestrians shall cross within crosswalks with due care.

§ 80. Operators to Exercise Due Care

(a) The provisions of these ordinances shall in no way abrogate the provisions of chapter 90, §§ 14 and 14A of the General Laws.

(b) Notwithstanding the provisions of these ordinances, every operator of a vehicle shall exercise due care to avoid colliding with any pedestrian upon the roadway and shall give warning by sounding the horn when necessary and shall exercise proper precautions which may become necessary for safe operation.

§ 81. Exemptions

The provisions of these ordinances governing the use of ways by pedestrians shall not apply to pedestrians actually engaged in work upon a roadway closed to travel or under construction or repair, by municipal, state, federal or public service corporation employees while in the performance of their duties, to officers engaged in the performance of their public duties, or to pedestrians acting in an emergency when such emergency necessitates departure from any part of these ordinances.

Chapter Fourteen - Street Vendors And Pawnbrokers

§ 1. Transient Vendors
§ 2. Street Vendors
§ 3. Open Air Sales Vendors
§ 4. Sidewalk Food Sales
§ 5. Sidewalk Merchandise Sales§
§ 6. Temporary Charitable Events
§ 7. Pawnbrokers
§ 7A Junk Dealers and Dealers in Second Hand Articles
§ 8. Junk Collectors
§ 9. General Provisions
§ 10. Sales of Food Items
§ 11. Restrictions on Areas of Selling
§ 11A. Stationary Vendor Licenses
§ 11B. Food Truck Permitting
§ 12. Penalties for Violations of this Chapter
§ 13. Enforcement
§ 14. Miscellaneous Regulations
§ 15. Limitation of Application

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§ 1. Transient Vendors

(a) No person, either principal or agent, who engages in a temporary or transient business selling any goods, wares or merchandise, either in one location or in traveling from place to place, shall conduct such business within the city without first having obtained any license required under G.L. c. 101 and a local transient vendor license issued by the chief of police. Subject to law, no license shall be granted to any person who is not a citizen of the United States unless such person is authorized to work in the United States by the federal Immigration and Naturalization Service, nor shall a license be issued to any entity that is not duly registered with the commonwealth.

(b) "Temporary or transient business" means any exhibition and sale of any goods, wares or merchandise which is carried on in any tent, booth, building or other structure, unless such location is open for business during usual business hours for a period of at least twelve consecutive months.

(c) Every license issued under this section shall be in full force and effect until the date of expiration stated on such license, and in any event, shall expire on the next January 1st following the date of issuance, unless sooner revoked.

(d) The fee for every license issued under this § 1 of this chapter shall be two hundred dollars.

§ 2. Street Vendors - (Amended September 9, 2008 – 9201)

(a) No person, either principal or agent, who, either on foot, or using any animal or vehicle located on any public or private way appearing on the official map, including any

sidewalk, traffic island or similar area located within any public street layout, or any private property within twenty yards of any such public or private way, sells or barters, or carrying for sale or barter or exposing therefor, any goods, wares, merchandise (including flowering plants and flowers), beverages, food (including fruits, nuts or berries), ice cream or frozen foods, or meals or lunches prepared for consumption by the purchaser, shall conduct such business without first having obtained a license issued by the chief of police in accordance with the provisions of this chapter.

(b) Subject to law, no license shall be granted to any person who is not a citizen of the United States unless such a person is authorized to work in the United States under federal law, nor shall a license be issued to any entity that is not duly registered with the commonwealth.

(c) Every license issued under this section shall be in full force and effect until the date of expiration stated on such license, and in any event, shall expire on the next May 1st following the date of issuance, unless sooner revoked.

(d) The fee for licenses issued under this section shall be fifty-four dollars except that, unless otherwise authorized by law, there shall be no fee for hawkers and peddlers who have obtained a license from the state under G.L. c. 101.

(e) The provisions of this section shall not apply to wholesalers or jobbers selling to dealers only, nor to commercial agents or other persons selling by sample, lists, catalogues, or otherwise for future delivery, nor to any person who peddles only fish obtained by his own labor or that of his family, or fruits, vegetables or other farm products raised or produced by himself or his family. However, such persons shall comply with all other applicable provisions of this chapter.

(f) In addition to the requirements of this chapter, the chief of police may issue regulations or adopt operating procedures, including additional license restrictions, as may in his or her discretion be necessary or advisable to reduce the threat to the physical safety of patrons, purchasers or passers-by and to promote the good and efficient administration of this chapter.

§ 3. Open Air Sales Vendors

(a) No person, either principal or agent, who sells from a fixed or temporary location and who is not required to be licensed under G.L. c. 101 as a transient vendor or a hawker and peddler, shall vend, sell, dispose of, or display any goods, wares, or merchandise upon any public or private sidewalk, street, alley, passageway, or anywhere else within the city without first having obtained a license from the commissioner of public works and parks.

(b) Subject to law, no license shall be granted to any person who is not a citizen of the United States unless such a person is authorized to work in the United States by the federal Immigration and Naturalization Service, nor shall a license be granted to any entity that is not duly registered with the commonwealth; provided, however, that this section shall not apply to the selling of goods, wares and merchandise on the Worcester Common by organizations authorized to do so in writing by the commissioner of public works and parks.

(c) Every license issued under the provisions of this section shall be in full force and effect until the date of expiration stated on such license, and in any event, shall not be valid for a period in excess of thirty days from the date of issuance, unless sooner revoked.

(d) The fee for every license issued under the provisions of this section shall be two hundred fifty dollars.

(e) At or prior to the date of the hearing on a license applied for under the provisions of this section, the vendor shall obtain an insurance policy for personal injury and property damage in the amount of $100,000.00 per person and $300,000.00 per incident. This insurance policy shall name the city as an additional named insured party.

(f) The issuance of a license under this section is conditioned upon the vendor's agreement to hold the city harmless from any and all causes of action which arise from the vendor's conducting of business.

(g) The provisions of this section shall not apply to any person licensed under section five of this chapter.

§ 4. Sidewalk Food Sales

(a) No person, either principal or agent, shall extend his or her restaurant sales and displays onto the public or private sidewalk adjoining said restaurant without first having obtained a license under the provisions of section three of this chapter. A restaurant may not be extended onto any street, way, alley, or other passageway.

(b) No license shall issue under this section unless the applicant shall have (1) received a permit from the director of public health authorizing the sale and display of food and beverage items on sidewalks; and (2) if applicable, has received a permit or license from the license commission allowing the sale, display, and consumption of alcoholic beverages on sidewalks.

§ 5. Sidewalk Merchandise Sales

(a) For the purpose of this section, "merchant" shall be defined as a person who operates a business out of a building located in the city which the person owns or in which he rents space. The merchant shall conduct business in the building not less than two hundred fifty days a year.

(b) No merchant shall vend, sell, dispose of, or display the goods, wares or merchandise on tables or racks placed on the sidewalk directly in front of the building in which his or her business is located without first obtaining a license from the commissioner of public works and parks. Subject to law, no license shall be granted to any person who is not a citizen of the United States unless such a person is authorized to work in the United States by the federal Immigration and Naturalization Service nor shall any license issue to any entity that is not duly registered with the commonwealth.

(c) Every license issued under this section shall be in full force and effect until the next January 1st following the date of issuance, unless sooner revoked. The license shall be in affect for a period of not more than one year.

(d) The fee for every license issued under this section shall be two hundred dollars. This fee shall be used by the Worcester Chamber of Commerce, with the approval of the city manager, for general advertising and promotion of the merchants.

(e) Every license issued under this section shall entitle a merchant to conduct a sale on a sidewalk, as described in subsection (b) above, for a maximum of thirty-three days during a calendar year. The merchant shall advise the police department of his or her intent to conduct such a sale prior to or on the day of the sale and shall have a licensing inspector at the police department check-off and initial the license in the appropriate space to indicate the number of times the merchant has conducted such sales.

(f) The issuance of a license under this section is conditional upon the merchant's agreement to hold the city harmless from any and all causes of action which arise from the merchant's conducting a sidewalk sale.

(g) At or prior to the date of the hearing on a license applied for under the provisions of this section, the merchant shall obtain an insurance policy for personal injury and property damage in the amount of $100,000.00 per person and $300,000.00 per incident. This insurance policy shall name the city as an additional named insured party. This subsection shall not apply to merchants who conduct the sales on sidewalks solely on their own property.

(h) Notwithstanding any provision in this section to the contrary, the commissioner of public works and parks may issue a license to any not-for-profit corporation organizing a "street fair" where vendors will sell goods, wares and merchandise, including food and non-alcoholic beverages, for a period of no more than five consecutive days on any public street in the city on such terms and conditions as the commissioner may require; provided that, the commissioner of public works and parks and chief of police approve in writing of the closure of that portion of the public street providing the location of the fair. The fee for any license granted by the commissioner of public works and parks under this section shall be two hundred dollars.

§ 6. Temporary Charitable Events

(a) The provisions of this chapter requiring licenses for transient vendors, hawkers and peddlers or open air sales vendors shall not apply to sales conducted under the control of any:

(1) organization engaged in charitable work; or,
(2) incorporated organization of veterans who served in the military or naval service of the United States in time of war or insurrection; or,
(3) department, board, commission, agency, authority or officer of the city; if such charitable organization, veterans organization or city department, etc., has received a special license from the chief of police under authority of this section.

(b) Any special license issued by the chief of police under this section shall authorize any such organization described above to conduct such sales for a particular time period not to exceed a total of four days and shall state the charitable purposes for such license.

(c) For purposes of this section, an organization shall be considered as engaged in charitable work if it is:

(1) organized for a purpose specified in § 4 of G.L. c. 180; and,

(2) eligible for the property tax exemption found in § 5 (third) of G.L. c. 59; and,

(3) qualified as charitable and income tax exempt under the Internal Revenue Code, 26 U.S.C. §§ 170(c) and 501(c)(3).

(d) The chief of police shall require any organization seeking a license under this section to submit not less than thirty days prior to the first day of the event the names and addresses of vendors who are to make sales under the control of the organization licensed under this section.

(e) Every organization applying for a license under this section shall identify the geographical area within which the organization proposes that its vendors are to make sales and shall demonstrate to the satisfaction of the chief that the organization will have control over said area during the proposed even either through ownership of the site, or by lease, license, permit or other authority. Every license issued under this section shall specify the geographic area within which the organization's vendors are to make sales, such area shall either be the area proposed by the organization or an area designated by the chief of police in the license.

(f) No vendor making sales under a license issued pursuant to this section shall make or attempt to make any sales outside of the area approved for such sales under this ordinance. Violation of this provision shall be punishable by a fine of two hundred dollars with each such sale or attempted sale constituting a separate offense.

(g) No otherwise licensed transient vendor, hawker and peddler or any other person not identified in the license issued by the chief of police under this section shall make or attempt to make any sales in any area subject to a license issued under this ordinance, or on any way open to the public use within 500 feet of any entrance thereto. Violation of this provision shall be punishable by a fine of two hundred dollars with each such sale or attempted sale constituting a separate offense.

(h) The chief of police may adopt and enforce such rules and regulations as he deems necessary or prudent to implement this section, or may issue such special licenses with additional conditions, as the chief deems necessary or prudent to preserve the peace and good order.

(i) Notwithstanding the provisions of section of this chapter, the fee for a special license issued under this section shall be two hundred fifty dollars regardless of the number of individual vendors operating under the control of the organization holding the special license.

§ 7. Pawnbrokers (Amended October 14, 2008 – 9217)

(a) No person shall carry on a business of a pawnbroker without a license issued by the chief of police, in accordance with G.L. c. 140, §§ 70 to 85.

(b) The fee for such license shall be one hundred dollars. No license shall be transferred without the prior consent of the chief of police and all licenses shall be posted on the licensed premises in a conspicuous place and manner.

(c) Every license issued under this section shall expire on May first following the date of issue, unless sooner revoked.

(d) No license shall be issued under this section until a bond is filed with chief of police. Said bond shall be in the sum of three hundred dollars and shall be executed by the licensee and by two good and sufficient sureties approved by the chief of police. Said bond shall be payable to the city for the benefit of any person aggrieved and shall be condition upon the faithful observation of the licensee of all applicable statues, ordinances and regulations.

(e) The chief of police may from time to time promulgate rules and regulations for the administration and enforcement of this section. Any violation of any of the rules and regulations promulgated hereunder shall constitute a violation of this section.

(f) Any person carrying on the business of a pawnbroker without a license or in violation of this section shall be assessed a fine of fifty dollars. Each day on which a violation exists shall constitute a separate offense.

§7A Junk Dealers and Dealers in Second Hand Articles - (Ordained October 14, 2008 – 9217)

(a) No person shall carry on the business of being a scrap metal processor, collector of, dealer in or keeper of a shop for the purchase, sale or barter of junk, scrap metal commodities, old metals or second hand articles without a license issued by the chief of police, in accordance with G.L. c. 140, § 54.

(b) All applications for licenses under this section shall be made on a form or forms to be prescribed by the chief of police and shall set forth the name of the licensee, the nature of the business and the building or place in the city in which it is to be carried on.

(c) The fee for such license shall be one hundred dollars. Societies, associations or corporations organized solely for religious or charitable purposes shall not be required to pay a fee for such license. No licenses shall be transferred without the prior consent of the chief of police and all licenses shall be posted on the licensed premises in a conspicuous place and manner.

(d) Every license issued under this section shall expire on May first following the date of issue, unless sooner revoked.

(e) Any person who carries on the business of being a scrap metal processor, collector of, dealer in or keeper of a shop for the purchase, sale or barter of junk, scrap metal commodities, old metals or second hand articles shall keep a bound book with consecutively numbered pages in which, at the time of each transaction, shall be written or entered the following information:

(1) name, date of birth and residence of the person with whom such transaction was made,
(2) the date and time when such transaction occurred,
(3) the price paid for the article,
(4) a description of the article, including type and approximate weight and quantity,

(5) the license plate number and state of issue of the vehicle being used by the person offering the article to transport the article to the licensee's place of business, and
(6) a written statement from the person offering the article stating that he or she is in lawful possession of the article being offered.

The form of such book shall be prescribed or approved by the chief of police and no entry made therein shall be erased, destroyed, removed or defaced. Such book at all times shall be kept on the licensed premises and be open to the inspection of the chief of police whenever the business is operating and open. The licensee shall also keep a legible copy of a state issued identification bearing the photograph of the person with whom any transaction is made. All records required under this section shall be retained by the licensee for a period of three years from the date of the transaction.

(f) The chief of police or his designee may enter upon the licensed premises and examine all articles, books or inventories kept or stored upon said premises by the licensee whenever the business is operating and open.

(g) The chief of police may grant an exemption to any one or more of the requirements in paragraphs (e) for a particular transaction. A request for an exemption must be made by the licensee in writing to the chief of police stating the reason for the request. The chief of police shall approve or disapprove the request and send written notification of the decision to the licensee. The chief of police, in his discretion, may impose any terms, conditions or restrictions on any exemption granted under this section.

(h) Any person carrying on the business of being a collector of, dealer in or keeper of a shop for the purchase, sale or barter of junk, old metals or second hand articles without a license or in violation of this section shall be assessed a fine in the amount established by the General Laws. Each day on which a violation exists shall constitute a separate offense.

§ 8. Junk Collectors

(a) No person shall go about the city gathering, collecting or dealing in junk, secondhand articles, bottles, clothes or rags without first being licensed therefor by the chief of police. The fee for every such license shall be a fee of fifty dollars.

(b) Every person so licensed shall wear in plain sight a badge bearing the number of his or her license thereof, in figures of not less than one-half inch in height.

(c) No person licensed under the provisions of this section shall purchase any article from any minor, knowing or having reasonable cause to believe that such person is a minor.

§ 9. General Provisions

(a) Every license issued under the provisions of this chapter shall contain the name, residential address and business address of the licensee; the hours of operation; the location(s) of the site where the sales will be conducted; a description of the goods, wares, merchandise, food, beverages or flowers being sold; the names and residential addresses of any persons who will be assisting the licensee with conducting business at the site; and if

applicable, the vehicle identification number and description of any vehicles used by the licensee in conducting business at the site. The licensee shall immediately report to the appropriate chief of police any changes in the information listed in this section.*

***Amended September 9, 2008 – 9201**

(b) All licenses issued under the provisions of this chapter shall be displayed by the vendor in a conspicuous place and manner at the sales site.

(c) Any license issued under the provisions of this chapter may not be transferred or assigned to any other person, or used by any person other than the person to whom it had been issued.

(d) Any vendor required to be licensed under this chapter or hawker or peddler not required to be licensed under this chapter, shall be subject to all applicable provisions herein, regardless of whether said vendor's sales location is on public or private property.

(e) Any violation of any provision of this chapter may result in the revocation or suspension of the license by the licensing authority. A licensee may make a written request for hearing before the licensing authority on any such revocation or suspension, which shall be held by the licensing authority within fifteen days of receipt of the request.*

***Amended September 9, 2008 – 9201 and October 14, 2008 - 9217**

§ 10. Sales of Food Items

(a) No license shall issue under the provisions of this chapter to any vendor selling meat, butter, cheese, fish and fresh fruit or vegetables, or other foods and beverages, who has not received a permit from the director of public health allowing such sales.

(b) No license shall issue under the provisions of this chapter to any vendor selling meat, butter, cheese, fish, fresh fruit or vegetables, or other foods and beverages who has not received a certificate from the sealer of weights and measures of the city to the effect that all weights, scales and measures to be used by the vendor in the sale of such foods and beverages have been tested and sealed according to law.

(c) Meat, butter, cheese, fish, fresh fruit or vegetables, or other foods and beverages carried and conveyed by a vendor licensed under the provisions of this chapter shall be so carried and conveyed that they shall not tend to injure or annoy the public health or comfort, and only in vehicles or receptacles which are neat and clean.

§ 11. Restrictions on Licenses – (Amended September 9, 2008)

(a) Licenses Restricted. Every street vendor license issued under this chapter shall include the restrictions contained in this section and the chief of police may include any or all of the following restrictions on any license issued to a transient vendor, open air sales vendor (including sidewalk food sales establishments), sidewalk merchandise merchant and every special license issued to every temporary charitable event organization (including every vendor, peddler & merchant operating under such a special license).

(b) Restriction on Areas. No sale, barter, display for sale, or carrying for sale shall be permitted and no street vendor shall operate upon Foster Street, Commercial Street, Major Taylor Boulevard, Exchange Street, M.L.K. Jr. Boulevard, Front Street, Mercantile Street, or on private property that is contiguous to such streets on those days when events are scheduled at the DCU Center.

(c) Restriction on Proximity to Other Licensed Establishments. No sale, barter, display for sale, or carrying for sale shall be permitted, and no street vendor shall operate, within five hundred feet of any location that holds, or has held within the twelve months preceding the application date, a common victualler's license issued pursuant to section two, subsection twenty-one A or subsection twenty-one E of chapter one hundred and forty of the General Laws.

(d) Threats to Safety Prohibited. No sale, barter, display for sale, or carrying for sale shall be permitted by and street vendor, transient vendor, open air sales vendor (including sidewalk food sales establishments), sidewalk merchandise merchant or special temporary charitable event licensee (including every vendor, peddler & merchant operating under such a special license) if such activities create a threat to the physical safety of patrons, purchasers or passers-by, or if the activities of patrons or purchasers create a threat to the physical safety of others. For purposes of this provision a "threat" shall include the assemblage of any number of people in the traveled portion of any public or private way within three hundred feet of the vendor, peddler or merchant.

(e) Restriction on Length of Stopping Time. Unless approved as a stationary vendor under section 11A herein, no street vendor licensed under section two of this chapter shall remain in any one location on any public or private way on the official map for more than five minutes without making a sale and must move at least five hundred feet every five minutes while actively making sales; provided however, that no licensee shall move to any place where the licensee has operated in the preceding sixty minutes.

(f) Restriction on Hours of Operation. No sale, barter, display for sale, or carrying for sale shall be permitted, and no street vendor shall operate, between the hours of midnight and five o'clock a.m.; provided, however, upon the request of any street vendor who gives written assurances as to the maintenance of public safety, the chief of police may allow such street vendor to operate between the hours of midnight and 2:30 a.m.

(g) City Park Land. No sale, barter, display for sale, or carrying for sale shall be permitted, and no street vendor shall operate, upon city park land, including the city common downtown, or any city land dedicated as a city square or any city land dedicated, but not actively in use, as a city street for the movement of vehicles and pedestrians, without a license issued under this chapter and the written permission of the commissioner of public works and parks. Notwithstanding the requirements of section two of this chapter, in granting such permission the commissioner may authorize a street vendor to operate within twenty yards of any abutting public or private way. A copy of such written permission shall be maintained in the possession of each street vendor during business operations and shall be provided to any police officer or city enforcement official upon request.

(h) Private Property. No sale, barter, display for sale, or carrying for sale shall be permitted, and no street vendor shall operate, upon private property within twenty yards of any abutting public or private way without a stationary vendor license issued under this chapter and the written permission of the owner of said property. A copy of such written

permission shall be maintained in the possession of each street vendor during business operations and shall be provided to any police officer or city enforcement official upon request.

§ 11A. Stationary Vendor Licenses (Ordained September 9, 2008 – 9201)

(a) Approval of Commissioner of Public Works & Parks. Notwithstanding any of the provisions of this chapter to the contrary, a street vendor licensed by the chief of police in accordance with this chapter may conduct the activities authorized under such license at a stationary location within any public way, including the sidewalk area, traffic islands, pedestrian control areas, and the traveled portion thereof, if such person also obtains the approval of the commissioner of public works and parks ("commissioner") under this section.

(b) Abutters' Consent – General. The commissioner shall not approve a stationary vendor license unless the owner or owners of all properties within fifty feet of the proposed stationary location consent in writing to the location. For purposes of this subsection, "owner or owners" shall include the first floor tenants.

(c) Abutters' Consent – Food Sales. In addition to the requirement of subsection (b) above, the commissioner shall not approve a stationary vendor license requested by any vendor proposing to sell food of any type where the proposed stationary location is within two hundred-fifty feet of any location that holds, or has held within the twelve months preceding the application date, a common victualler's license issued pursuant to section two, subsection twenty-one A or subsection twenty-one E of chapter one hundred and forty of the General Laws unless the holder of such common victualler's license consents in writing to the location. Where the location involves a common victualler's license which has ceased operation within the preceding twelve months, the consent of the owner of the property may be substituted for the consent of the holder of the common victualler's license.

(d) Distance Measurements. In determining compliance with the distance requirements contained in subsections (b) and (c) above, measurements shall be made from the proposed stationary vendor location and running on the boundary between the public street layout and the private property shown on the most recent assessing maps on both sides of the street for the specified distance. Where such measurement reaches an intersecting public street before achieving the specified distance, the measurement shall continue both along the street of the proposed stationary vendor location and around the corner of the intersecting street. Notwithstanding the above, in determining compliance with the distance requirements contained in subsection (b) above where the proposed stationary location abuts city park land, the measurement shall be limited to the side of the street containing the park.

(e) Safety Restrictions – Vehicular Traffic. In reviewing applications for stationary street vendor locations where the proposed location is within the portion of any public way traveled by motor vehicles the commissioner shall take into consideration the risk to public safety and the safe and efficient movement of traffic on the street, including emergency vehicles. No stationary street vendor location approval shall be granted for any proposed location utilizing any restricted parking space, including metered spaces on any public street and no stationary street vendor location approval shall be granted unless the point of sale on the vehicle is facing the sidewalk portion of the public way such that patrons need not step off of any curb stone or curbing to make a sales transaction.

(f) Safety Restrictions – Pedestrians. In reviewing applications for stationary street vendor locations where the proposed location is outside of the portion of any public way traveled by

motor vehicles, the commissioner shall take into consideration the danger to the safety and welfare of pedestrians using the sidewalk and public ways, including physically impaired pedestrians, school children, persons entering and leaving buildings, vehicles entering and leaving the public way and to persons performing essential utility, traffic control, and emergency services. The commissioner shall not approve a stationary vendor license where the proposed location interferes with access to any traffic control pole containing a pedestrian crosswalk button.

(g) Safety Restrictions – Emergency Communications. No stationary location shall be approved if it is located: within twenty feet of any fire hydrant; or, within five feet of any fire alarm box or other emergency communication device, including public telephones; or, within five feet of any marked crosswalk, curb return at any intersection with an unmarked crosswalk, any public or private driveway; or handicapped accessible curb cut.

(h) Safety Restrictions – Schools. No stationary location shall be approved if it is located within twenty feet of any designated school crosswalks or school bus stops or on any side of a street adjacent to any private or public school property where signs are erected giving notice of prohibited vehicular parking in such areas.

(i) Indemnity & Insurance Required. Each stationary vendor location approval shall be made upon the condition that the stationary vendor shall execute a written agreement to indemnify and hold harmless the city against all damages or cost by reason of any claim for damages, or any process, either civil or criminal, on account of said placement, installation or maintenance or any injury to any person or damage to any property occasioned thereby; provided, however, that such obligation to indemnify and hold harmless the city shall not extend to any damages, or process, either civil or criminal, or to any injury to any person or damage to any property resulting from the acts or the failure to act, of a third party. The stationary vendor shall provide a surety company bond or insurance policy in an amount not to exceed one hundred thousand dollars per claimant with a per occurrence maximum of three hundred thousand dollars in such form and with such companies as shall be reasonably and customarily acceptable to the commissioner and the city solicitor.

(j) Unrelated Advertising Prohibited. No stationary vendor location shall be used for advertising signs or publicity purposes, other than that dealing with the display, sale or purchase of the goods, merchandise or services offered for sale therein by the stationary vendor; provided that, any such sign shall not exceed twelve square feet and may not be located in such a manner as to obscure or otherwise interfere with the effectiveness of an official traffic sign, signal or device, or obstruct or interfere with driver or pedestrian visibility.

(k) Other Restrictions Authorized. The commissioner may impose such other conditions or restrictions on the stationary vendor as he or she may deem in the public interest, but not including restrictions on the hours of operation beyond those established by the chief of police under section 11(f) hereof.

(l) The commissioner may establish a reasonable fee for the review and approval of applications for stationary street vendor location approvals.

§11B. Food Truck Permitting – (Amended May 17, 2016 – 274)

(a) Establishment. Notwithstanding section 11A or any other provision of this chapter, or these Revised Ordinances to the contrary, the permitting for food trucks located in Food Truck Friendly Zones established in subsection (c) below shall be governed by this section. Food Truck Permits issued under this section will be coordinated and administered by the Executive Office of Economic Development ("the department") in conjunction with the necessary city departments.

(b) "Food Truck "means a walk-on vehicle, either motorized or pulled by a motorized vehicle, where food is prepared, cooked and served for retail sale in individual portions and which would otherwise require a stationary street vendor license under section 11A of this chapter.

(c) Food Truck Friendly Zones – Establishment. The city manager shall have the sole authority to designate Food Truck Friendly Zones, in which the siting and operation of a food truck shall be allowed. Such zones may be located on public or private property.

(d) Food Truck Friendly Zones – Approval. Once a new Food Truck Friendly Zone is proposed and deemed acceptable by the city manager, the department will hold a meeting, either at City Hall or in the neighborhood of the proposed Food Truck Friendly Zone, to gather feedback from the respective stakeholders. All abutters within two hundred fifty feet (250) shall receive written notification of the public meeting and such notice shall be posted on the city's website.

(e) Food Truck Permit – Required.

1. No person or business may operate a food truck without having first obtained a permit.
2. A Food Truck Permit is required for each individual food truck operating in a Food Truck Friendly Zone.
3. Food Truck Permits issued by the department shall be valid from the date of issuance until the last day of the calendar year.
4. Food Truck Permits shall be displayed inside the food truck, in such a manner as to be plainly visible from outside the food truck.

(f) Food Truck Permit Application – Official Form. The department shall issue a single application form for each Food Truck Permit containing the following:

1. A description of all prerequisite licenses and/or permits, including but not limited to, a hawkers and peddlers license from the chief of police or designee and a permit from the director of public health or designee;
2. A list of the designated Food Truck Friendly Zones;
3. A list of required documents to be attached to the application; and,
4. A space for the signatures of the inspectors from Inspectional Services and the Fire Department verifying inspections were performed, even if no permit was issued.

(g) Food Truck Permit Application – Required Submittals. Each Permit application shall contain the following information:

1. The name of the business and owner, or owners, and the mailing address of the business and the residential address of the owner or owners;

2. A description of the proposed business plan for the food truck operation;
3. The proposed vending location(s) and time(s);
4. The vehicle identification number;
5. Proof of commercial general liability insurance, naming the City of Worcester as an additional insured, in the amount of $500,000 per occurrence / $1,000,000 general aggregate; and
6. Proof of commercial auto liability insurance, naming the City of Worcester as an additional insured, in the amount of $1,000,000 combined single limit.

(h) Permit Fee. The fee for a Food Truck Permit shall be one hundred dollars ($100.00) annually. If the permit is issued after the first day of July, the permit fee shall be fifty dollars ($50.00).

(i) Days and Hours of Operation. The days and hours of operation for each Food Truck Friendly Zone shall be determined by the city manager, unless there is a lawfully permitted special event in a certain location in which case food trucks shall only operate with the permission of the special event organizer.

(j) Restriction on the Number of Food Trucks in a Food Truck Friendly Zone.
1. The city manager shall have the sole authority to determine the maximum number of food trucks permitted in any one Food Truck Friendly Zone.
2. No two food truck vendors in any one zone shall offer substantially similar fare unless agreed upon by the food truck vendors.
3. In the event that the number of applications per zone exceeds the available number of vending spaces, the department will give preference to Worcester residents and existing Worcester-based restaurants that own and operate a food truck.

(k) Vending Area Cleanliness. Each food truck shall provide a trash receptacle of sufficient capacity that shall be changed as necessary, but at least at the end of every day of operations. Prior to leaving its location, each food truck operator shall pick up, remove and dispose of all trash or refuse within twenty-five feet of the food truck which consists of materials originally dispensed from the food truck, including any packages or containers, or parts of either, used with or for dispensing its product.

(l) Safety Restrictions. The point of sale from each food truck shall face the sidewalk portion of the public way such that patrons need not step off of any curb, stone, or curbing to make a sales transaction. No food truck shall be located within twenty feet of any fire hydrant; or, within five feet of any fire alarm box or other emergency communication device, including public telephones; or, within five feet of any marked crosswalk, curb return at any intersection with an unmarked crosswalk, any public or private driveway; or handicapped accessible curb cut.

(m) Unrelated Advertising Prohibited. No food truck location shall be used for advertising signs or publicity purposes, other than that dealing with the display, sale or purchase of the goods, merchandise or services offered for sale therein by the food truck vendor; provided that, any such sign shall not exceed twelve square feet and may not be located in such a manner as to obscure or otherwise interfere with the effectiveness of an official traffic sign, signal or device, or obstruct or interfere with driver or pedestrian visibility.

(n) Any Food Truck Permit may be suspended or revoked without prior notice in the event that the department determines that the food truck vendor is in breach of the requirements of this section 11B, or any rule or regulation of the city of Worcester, or otherwise an unreasonable risk to public health and safety.

(o) Any person or business operating a food truck in a location other than a designated Food Truck Friendly Zone shall be governed by the other applicable sections of this chapter.

§ 12. Penalties for Violations of this Chapter - (Amended September 9, 2008 – 9201; October 24, 2008 – 9217; December 16, 2008 - 9244)

(a) Any violation of the provisions of this chapter may be enforced by civil process, criminal process, by non-criminal disposition as provided in General Laws, c. 40D, § 21D or by the revocation of any license issued under this chapter as provided herein. Except as provided in subsection (b) herein, each sales transaction conducted in violation of these provisions shall constitute a separate offense and any person in violation of the provisions of this chapter shall be penalized by a fine of two-hundred dollars for each offense. Any license issued under this chapter shall be subject to revocation upon the occurrence of any three or more violations over any three day period. Any notice of revocation shall be effective upon receipt by the licensee if it is in writing, signed by the issuing authority and delivered by police officer, constable or by regular mail and contains a statement that the licensee so notified of any such license revocation shall be entitled to a hearing before the issuing authority or his or her designee in accordance with the provisions of section 9(e) of this chapter.

(b) The penalty for selling any flowering plants and flowers, fruits, nuts or berries as are wild or uncultivated in violation of this chapter shall be twenty dollars.

§ 13. Enforcement - (Amended September 9, 2008 – 9201)

The provisions of this chapter shall be enforced by the chief of police, the commissioner of inspectional services, the commissioner of public works and parks, or their designees.

§ 14. Miscellaneous Regulations

Any vendor licensed under the provisions of this chapter or hawkers and peddlers not required to obtain a license under this chapter, shall conduct business in accordance with the following regulations:

(a) Applications for any license required by this chapter shall be filed no later than two weeks prior to the desired sales date.

(b) The foods, goods, wares, or merchandise being sold or displayed shall be placed upon racks or tables which are clean, sturdy, and in good condition. The tables shall be covered with a clean linen cloth or clean plastic covering when foods or other edible goods are being sold or displayed.

(c) The total sales area shall not be larger than twenty-five square feet, unless the licensing authority approves a larger sales area.

(d) For sales occurring on sidewalks, a minimum clearance of four feet of sidewalk shall be maintained between the street and the sales area to ensure the safe passage of pedestrians.

(e) For sales occurring on sidewalks, no sales area shall occupy more than forty percent of the width of the sidewalk.

(f) No street, sidewalk, crosswalk, curb, passageway, handicap access ramp, storefront, or alley shall be blocked by any foods, goods, wares, or merchandise offered for sale or displayed hereunder. Such sales shall not be operated in any manner which would cause a nuisance, create a fire hazard, or diminish the public safety.

(g) The foods, goods, wares, or merchandise being offered for sale or displayed hereunder shall be securely and adequately placed so that they will not endanger passersby, or fall or extrude into or over any crosswalk, curb, passageway, handicap access ramp, storefront, or alley.

§ 15. Limitation of Application

The provisions of this chapter apply only to those circumstances specified hereunder and this chapter shall in no way infringe upon or affect the authority of the commissioner of public works and parks over public streets, sidewalks, and ways for all other ordinances, rules and regulations.

Chapter Fifteen - Fines And Penalties

§ 1. General Penalty for Violation of Ordinances
§ 2. Non-Criminal Disposition
(b)(1) Police Department Alarm System Regulations
(b)(2) Temporary Metal Fencing Requirement
(b)(3) Board of Health Regulations
(b)(4) Illegal Dumping
(b)(5) Zoning Ordinance Violations
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(b)(7) Airport Commission Regulations
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(b)(12) Parks Rules and Regulations
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(b)(14) License Commission Regulations
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(b)(16) Construction Debris Disposal
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(b)(18) Commercial Metal Containers
(b)(19) Storage of Unregistered Motor Vehicles
(b)(20) Noise Ordinance
(b)(21) Taxicab & Livery Regulations
(b)(22) Abandoned Shopping Cart Ordinance
(b)(23) Feeding or Baiting Waterfowl
(b)(24) Nuisance Ordinance
(b)(25) Graffiti Ordinance
(b)(26) Commercial/Recreational Vehicles Parking
(b)(27) Knife Ordinance
(b)(28) Protection of Public Trees

§ 3. Disposition of Fines and Penalties

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§ 1. Penalty for Violation of Ordinances

Any person violating the provisions of any section of these Revised Ordinances, the prohibitions or mandates of which pertain to all or any part of the general public, where no specific penalty is stated shall, upon conviction, be fined not less than twenty-five dollars nor more than three hundred dollars for each offense. Each day on which any violation exists shall be deemed to be a separate offense.

§ 2. Non-Criminal Disposition

(a) Whoever violates any provision of these Revised Ordinances, the violation of which is subject to a specific penalty, may be penalized by a noncriminal disposition as provided in General Laws, chapter 40, § 21D. The noncriminal method of disposition may also be used

for violations of any rule or regulation of any municipal officer, board or department which is subject to a specific penalty.

(b) Without intending to limit the generality of the foregoing, it is the intention of this provision that the following ordinances, rules or regulations are to be included within the scope of this subsection, that the specific penalties as listed hereunder shall apply in such cases, and that in addition to the chief of police and police officers, who shall in all cases be considered enforcing persons for the purpose of this provision, the city officers, including their subordinates and designees, listed below for each ordinance, rule or regulation, shall also be enforcing persons for such ordinances, rules or regulations. Nothing herein shall limit or restrict any enforcing person's authority to seek criminal prosecution of any violation of any ordinance, rule or restriction listed herein. Each day on which any violation exists shall be deemed to be a separate offense.

(1) Police Department Alarm System Regulations - R.O. c. 9 §§ 9-12

Enforcing person: Chief of Police
Penalties: (Varies as follows)

(A) False Alarms (within any 12 month period):

2nd false alarm	$ 25.00
3rd false alarm	$ 25.00
4th false alarm	$ 50.00
5th or more false alarm	$100.00
(B) No Current List of Responders	$ 25.00
(C) No Automatic Shut Off Device	$ 25.00
(D) Causing a Public Nuisance	$ 25.00
(E) Improper Testing	$ 25.00

(2) Temporary Metal Fencing Requirement – R.O. c. 8 § 5

Enforcing person: Building Commissioner
Penalty: $100.00

(3) Board of Health Regulations - G.L. c. 111 §§ 31, 31B and 155

Enforcing persons: Director of Health Inspection
Building Commissioner
Penalty: $100.00

(4) Illegal Dumping - R.O. c. 8, § 6

Enforcing Persons: Commissioner of Inspectional Services
Building Commissioner
Director of Health Inspection
Commissioner of Public Works & Parks
Penalty: $200.00

(5) Zoning Ordinance Violations - R.O. Appendix D

Enforcing Persons: Commissioner of Inspectional Services
Building Commissioner

Penalty: $100.00

(6) Violation of Special Permit Conditions or Variances - R.O. Appendix D

Enforcing Persons: Commissioner of Inspectional Services
Building Commissioner

Penalty: $100.00

(7) Airport Commission Regulations – G.L. c. 90 § 51J

Enforcing Person: Airport Commission
Penalties:
(A) Parking regulations $ 25.00
(B) All other regulations $100.00

(8) Streets and Sidewalks

(A) Snow & Ice Removal – R.O. c. 12 § 23*: **$ 75.00**
Enforcing Person: Commissioner of Public Works & Parks
*** Amended December 23, 2008 - 9246**

(B) Placing snow or Water on Street - R.O. c. 12 § 24 $100.00
Enforcing Person: Commissioner of Public Works & Parks

(C) Obstructing Sidewalk - R.O. c. 12 § 25 $ 25.00
Enforcing Person: Commissioner of Public Works & Parks

(D) Prohibited Activities - R.O. c. 12 § 26 $ 25.00
Enforcing Person: Commissioner of Public Works & Parks

(E)Washing, etc., While Parked in Street - R.O. c. 13 § 48 $ 25.00
Enforcing Person: Commissioner of Public Works & Parks

(F) Newsrack Ordinance - R.O. c. 11§ 7 $200.00
Enforcing Persons: Commissioner of Public Works & Parks
License Commission

(G) Encroachment on the Public Ways - R.O. c. 12 § 21 $ 25.00
Enforcing Persons: Commissioner of Public Works & Parks
Commissioner of Inspectional Services
Building Commissioner
Director of Housing
Director of Health Inspections
Others Authorized by the City Manager

(9)Public Utilities Ordinances

(A)Water Meters – R.O. c. 7 § 15: $ 25.00
Enforcing Person: Commissioner of Public Works & Parks

(B)Street Openings - R.O. c. 12 § 11: $ 25.00
Enforcing Person: Commissioner of Public Works & Parks

(C) Sewers & Storm Drains - R.O. c. 5 § 2 $ 200.00
Enforcing Person: Commissioner of Public Works & Parks

(D)Water Mains - R.O. c. 7 § 21 $ 200.00
Enforcing Person: Commissioner of Public Works & Parks

(E)Street & Sidewalk Repairs - R.O. c. 12 § 18 $ 200.00
Enforcing Person: Commissioner of Public Works & Parks

(F) Declared Droughts and Water Emergencies – R.O. c. 7 § 18(g)

Enforcing Person: Commissioner of Public Works & Parks
Penalty: Varies Depending on Stage of Emergency and Number of Offenses as follows:

Emergency Stage	I	II	III	IV
1st offense in a calendar year	$0	$100.00	$200.00	$200.00
2nd offense in a calendar year	$50.00	$200.00	$250.00	$250.00
3rd offense in a calendar year	$100.00	$250.00	$300.00	$300.00
4th and subsequent offense in a calendar year *	$200.00	$300.00	$300.00	$300.00

***Amended August 16, 2016 – 309**

(10) Fire Safety Ordinances

(A)Any Provision of Chapter 10 $200.00
Enforcing Person: Fire Chief

(B)Fire Alarm Regulations – R.O. c.10 § 12 (Varies Depending on Number of Offenses as follows)

False alarms in any 6 month period:

4th false alarm	$ 25.00
5th false alarm	$ 50.00
6th false alarm	$ 75.00
7th false alarm	$100.00
8th false alarm	$125.00
9th or more false alarm	$150.00

(C)Fire Regulations – G.L. c. 148 § 10 $100.00
Enforcing Person: Fire Chief

(D)Fire Escapes G.L. c. 143 §§ 22 or 23 $100.00
Enforcing Person: Fire Chief

(E) Fire Prevention Code – R.O. Appendix F $100.00
Enforcing Person: Fire Chief

(F) False Report of Fires - G.L. c. 269 §§ 1 3 or 14 $100.00
Enforcing Person: Fire Chief

(G) Interference with Fire Operations - G.L. c. 268 §§ 32 or 32A $100.00
Enforcing Person: Fire Chief

(H)Hotel Managers - G.L. c. 266 §13A $100.00
Enforcing Person: Fire Chief

(I) Piling Snow on Fire Hydrants – G.L. c. 148 § 27B $100.00
Enforcing Person: Fire Chief

(11) Tobacco Products Control - Amended November 24, 2015 #202

(A) Violations of the following subsections of R.O. c. 8 § 3:

(d) *Smoke Free Workplace/Municipal Buildings*,
(e) *Smoking Prohibited at Certain Entrances and Exits,* or
(f) *Smoking Prohibited at Certain Municipal Owned Establishments*,

Penalty: $100.00

Enforcing Persons: Commissioner of Health & Human Services
Director of Public Health

(B) Violations of the following subsections of R.O. c. 8 § 3:

(c) *Tobacco Sales to Persons Under the Minimum Legal Sales Age Prohibited)*,
(g) *Smoking Bars*,
(h) *Sale and Distribution of Tobacco Products Regulated,* or
(i) *Tobacco Product Sales Permit,*

Penalty: $300.00

Enforcing Persons: Commissioner of Health & Human Services
Director of Public Health

(12) Parks Rules and Regulations – R.O. Part Two, Art. 5 § 17(c)(2) & G.L. 45.

Enforcing Person: Commissioner of Public Works & Parks
Penalties: $25.00 - first offense
$50.00 - second offense
$100.00 - third and subsequent offenses

(13) Recycling and Disposal of Solid Waste - R.O. c. 4

Enforcing Persons: Commissioner of Public Works & Parks
Commissioner of Inspectional Services

Penalties*:

Violations of R.O. c. 4, §§ 3, 4, 5(c), (d), and 6:

(a) First offense $100.00
(b) Second and subsequent offenses in a calendar year $300.00

Violations of R.O. c. 4 § 5(a)(b):

(a) first offense: $25.00
(b) second and subsequent offenses: $100.00"

***Amended September 13, 2016 – 313**

(14) License Commission Regulations

Enforcing Persons: Commissioner of Inspectional Services
Police Chief
Fire Chief
Commissioner of Public Works & Parks
Building Commissioner
Director of Housing
Director of Health Inspection

Penalties:
First offense: $100.00
Second and subsequent offenses $200.00

(15) Transient Vendors, Hawkers and Peddlers, etc.

(A)Operating Without Permit – R.O. c. 14 § 1(a) $50.00
Enforcing Persons: Police Chief
Commissioner of Inspectional Services
Director of Health Inspection

(B)Operating With Expired Permit – R.O. c. 14 § 1(c) $200.00
Enforcing Persons: Police Chief

Commissioner of Inspectional Services
Director of Health Inspection

(C)Any Other Provision of c. 14 – R.O. c. 14 $100.00

Enforcing Persons: Police Chief
Commissioner of Inspectional Services
Director of Health Inspection

(16) Construction Debris Disposal - R.O. c. 8 § 7

Enforcing Person: Building Commissioner

Penalty: $100.00

(17) Wetland Ordinance & Regulations – R.O. c. 6

Enforcing Persons: Conservation Commission
Building Commissioner
Commissioner of Public Works & Parks

Penalty: $100.00

(18) Commercial Metal Containers - R.O. c. 8 § 8

Enforcing Persons: Commissioner of Inspectional Services
Fire Chief
Director of Health Inspections
Building Commissioner
Director of Housing
Commissioner of Public Works & Parks

Penalties:

First offense in a calendar year	$ 25.00
Second offense in a calendar year	$ 50.00
Third offense in a calendar year	$100.00
Fourth and subsequent offenses in a calendar year	$200.00

(19) Storage of Unregistered Motor Vehicles – R.O. c. 8 § 9A

Enforcing Persons: Commissioner of Inspectional Services
Police Chief
Building Commissioner
Director of Housing
Director of Health Inspections

Penalties:

First offense in a calendar year	$ 50.00
Second offense in a calendar year	$ 75.00

Third offense in a calendar year	$100.00
Fourth and subsequent offenses in a calendar year	$150.00

(20) Noise Ordinance – R.O. c. 9 § 1A.

Enforcing Persons: Police Chief
Commissioner of Inspectional Services
Director of Public Health
Others Authorized by the City Manager

Penalty: $50.00

(21) Taxicab & Livery Regulations – R.O. c. 11 §§15 through 25 – **(Amended September 17, 2013 – 9923)**

Enforcing Persons: Police Chief
License Commission

Penalties:

First Offense	$100
Second Offense	$200
Third and Subsequent Offenses	$300

(22) Abandoned Shopping Cart Ordinance - R.O. c. 9 §15

(A) Removal of Shopping Cart from the Property of Owner $ 25.00
Enforcing Person: Commissioner of Public Works & Parks
Commissioner of Inspectional Services

(B)Unsecured Shopping Carts After Business Hours: $100.00
Enforcing Person: Commissioner of Public Works & Parks
Commissioner of Inspectional Services

(C) Abandoning Shopping Cart in Public Place $ 25.00
Enforcing Person: Commissioner of Public Works & Parks
Commissioner of Inspectional Services

(D)Unmarked Shopping Carts - R.O. c. 9 §15(g) $100.00
Enforcing Person: Commissioner of Public Works & Parks
Commissioner of Inspectional Services

(E)Failure to Post Signs - R.O. c. 9 §15(h) $100.00
Enforcing Person: Commissioner of Public Works & Parks
Commissioner of Inspectional Services

(F) Failure to Implement Theft Deterrent - R.O. c. 9 §15(k) $300.00
Enforcing Person: Commissioner of Public Works & Parks

Commissioner of Inspectional Services

(23) Feeding or Baiting Waterfowl - R.O. c. 8 § 9B

Enforcing Persons: Director of Health Inspection
Commissioner of Public Works & Parks
Commissioner of Inspectional Services

Penalties:

First offense in a calendar year	$ 25.00
Second offense in a calendar year	$ 50.00
Third and subsequent offenses in a calendar year	$100.00

(24) Nuisance Ordinance – R.O. c. 8, § 42

Enforcing Persons: Commissioner of Public Works & Parks
Commissioner of Inspectional Services
Building Commissioner
Director of Housing
Director of Health Inspections
Fire Chief
Others Authorized by the City Manager

Penalties:

First offense in a calendar year	$50.00
Second offense in a calendar year	$100.00
Third offense in a calendar year	$200.00
Fourth and subsequent offenses in a calendar year	$300.00

(25) Graffiti Ordinance – R.O. c. 8 § 43

Enforcing Persons: Commissioner of Inspectional Services
Commissioner of Public Works & Parks
Others Authorized by the City Manager

Penalty: $25.00

(26) Commercial/Recreational Vehicles Parking - R.O. c. 8 § 9C

Enforcing Persons: Building Commissioner

Penalty: $25.00

(27) Knife Ordinance – R.O. c. 9 § 8A. **– Ordained January 6, 2009 - 9221**

Enforcing Persons: Police Chief

Penalty: $300.00

(28) Protection of Public Trees – R.O. c 12 § 28. **– Ordained October 20, 2009 - 9396**

Enforcing Persons: Commissioner of Public Works & Parks

Penalty: $300.00

(29) Public Trash Receptacles, R.O. c. 8, § 6A. – Ordained August 10, 2010 - 9512

Enforcing Persons: Commissioner of Public Works & Parks
Commissioner of Inspectional Services
Other Authorized by City Manager

Penalties:

First offense in a calendar year:	$50.00
Second offense in a calendar year:	$100.00
Third offense in a calendar year:	$200.00
Fourth and subsequent offenses in a calendar year:	$300.00

(30) Clothing Donation Receptacles, R.O. c. 8, § 44 – Ordained January 3, 2012 - 9706

Enforcing Persons Commissioner of Inspectional Services
Commissioner of Public Health
Police Chief

Penalties:

Each day on which a violation exists shall be deemed a separate offense and any person in violation of this section shall be subject to a fine of one hundred dollars ($100.00) per offense.

(31) Recreational Vehicle Ordinance – R.O. c. 13 § 7A. – Amended May 24, 2016 – 287

Enforcing Persons: Police Chief; Fire Chief;
Commissioner of Inspectional Services;
Commissioner of Public Works & Parks;
Any city official, agency, department, board or commission with care, custody and control of any public property with respect to that property.

Penalty (for each separate offense): $250.00

(32) Intentionally Left Blank

(33) Food Truck Permits and Regulations, R.O. c. 14, §§ 11A and 11B – Ordained April 26, 2016 - 254

Enforcing Persons: Commissioner of Public Works;
Any Person Authorized in Writing
by the City Manager.

Penalty:	$200.00 (with each day constituting A separate violation).

§ 3. Disposition of Fines and Penalties

All fines and penalties for the violation of these Revised Ordinances or any order of the city council shall, when recovered, inure to the use of the city, and be paid into the city treasury, unless otherwise directed by law or ordinance.

APPENDIX – AMENDMENTS TO THE REVISED ORDINANCES OF 2008

Amendment 9176

AN ORDINANCE RELATIVE TO TAXI AND LIVERY SERVICE

Be it Ordained by the City Council of the City of Worcester, as follows:

Section 1. Chapter 11 §15, of the Revised Ordinances of 2008 is hereby amended deleting the existing §15 in its entirety and by inserting in lieu thereof the following new section as follows:

§15. Taxicabs and Liveries

The chief of police of the City may from time to time grant licenses upon such terms and conditions to such persons as he may deem expedient to set up, employ, use or drive taxicabs and liveries for the conveyance of persons for hire subject to the further regulation specified in these ordinances or in regulations issued pursuant to these ordinances. No person shall set up, employ, use or drive any such vehicle for the purposes aforesaid without such license, nor shall the owner of such vehicle or the proprietor of the business in which such vehicle is being used allow any person not licensed as aforesaid to drive or operate such vehicle. Every vehicle used as a taxicab or as a livery vehicle shall require a separate license. The fees for any such license issued shall be as follows:

(i) For every license granted to the owner of a taxicab there shall be paid a fee of one hundred dollars.
(ii) For every license granted to the owner of a livery operator vehicle there shall be paid a fee of one hundred dollars.
(iii) For every license granted to the driver of a taxicab or livery there shall be paid a fee of twenty five dollars.

The City Council reserves the right to amend said ordinances regarding taxi cabs and liveries at any time.

Section 2. Chapter 11 §16(h) of the Revised Ordinances of 2008 is hereby amended by inserting in the second sentence immediately following the word "effective" the phrase "30 days after notifying the City Council and filing with the city clerk" so that the amended second sentence shall read: Such rules and regulations issued by the Chief of Police shall become effective 30 days after notifying the City Council and filing with the City Clerk.

Section 3.

A. Chapter 11 §17(f) of the Revised Ordinances of 2008 is hereby amended by inserting in the second sentence immediately following the word "effective" the phrase "30 days after notifying the City Council and filing with the City Clerk" so that the amended second sentence shall read: Such rules and regulations issued by the Chief of Police shall become effective 30 days after notifying the City Council and filing with the City Clerk.

B. Chapter 11 §17(b) of the Revised Ordinances of 2008 is hereby amended by deleting the last sentence of said subsection (b).

C. Chapter 11 §17(c) of the Revised Ordinances of 2008 is hereby amended by deleting the last sentence of said subsection (c).

Section 4.

A. Chapter 11 §22(a) of the Revised Ordinances of 2008 is hereby amended by deleting the existing subsection (a) and inserting in lieu thereof the following new subsection (a) as follows:

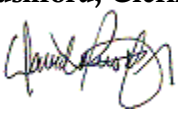
> §22(a) All licenses granted under the provisions of §§ 15-18 of this chapter shall expire on the thirtieth day of April next after the date thereof. Any license held by the owner of a taxicab or by a livery operator may be assigned or transferred provided that the chief of police has approved such assignment or transfer, and the transferee has paid the a fee of fifty dollars, provided however, that if such transfer is to be effective on the first day of May in any year, the transferee shall pay the fee specified in §15 for the type of license transferred and renewal thereof. The chief of police shall approve such transfer if the chief finds, after investigation including but not limited to any criminal or sexual offender registry information, that the transferee is suitable, in accordance with rules and regulations adopted pursuant to sec 16(h) and sec 17(f), to hold such license. The license granted to the driver of a taxicab or to a livery vehicle driver shall not be transferable.

B. Chapter 11 §22(d) of the revised ordinances of 2008 is hereby amended by deleting in the first sentence after the phrase "such licenses and medallions while in effect" the phrase "or within one year after the expiration thereof,".

Section 5. Chapter 11 §23 of the Revised Ordinances of 2008 is hereby amended by deleting the words "License Commission" in said section and inserting in lieu thereof the words "Chief of Police."

In City Council July 8, 2008
Passed to be ordained by a yea and nay vote of Ten Yeas and One Nay.

A Copy. Attest: **David J. Rushford, Clerk**



City Clerk

Amendment 9201

AN ORDINANCE AMENDING CHAPTER FOURTEEN OF THE REVISED ORDINANCES OF 2008 RELATIVE TO STREET VENDORS

Be it ordained by the city council of the city of Worcester, as follows:

1. Chapter fourteen of the Revised Ordinances of 2008 is hereby amended by deleting section two in its entirety and inserting in lieu thereof the following new section two:

§ 2. Street Vendors

(a) No person, either principal or agent, who, either on foot, or using any animal or vehicle located on any public or private way appearing on the official map, including any sidewalk, traffic island or similar area located within any public street layout, or any private property within twenty yards of any such public or private way, sells or barters, or carrying for sale or barter or exposing therefor, any goods, wares, merchandise (including flowering plants and flowers), beverages, food (including fruits, nuts or berries), ice cream or frozen foods, or meals or lunches prepared for consumption by the purchaser, shall conduct such business without first having obtained a license issued by the chief of police in accordance with the provisions of this chapter.

(b) Subject to law, no license shall be granted to any person who is not a citizen of the United States unless such a person is authorized to work in the United States under federal law, nor shall a license be issued to any entity that is not duly registered with the commonwealth.

(c) Every license issued under this section shall be in full force and effect until the date of expiration stated on such license, and in any event, shall expire on the next May 1st following the date of issuance, unless sooner revoked.

(d) The fee for licenses issued under this section shall be fifty-four dollars except that, unless otherwise authorized by law, there shall be no fee for hawkers and peddlers who have obtained a license from the state under G.L. c. 101.

(e) The provisions of this section shall not apply to wholesalers or jobbers selling to dealers only, nor to commercial agents or other persons selling by sample, lists, catalogues, or otherwise for future delivery, nor to any person who peddles only fish obtained by his own labor or that of his family, or fruits, vegetables or other farm products raised or produced by himself or his family. However, such persons shall comply with all other applicable provisions of this chapter.

(f) In addition to the requirements of this chapter, the chief of police may issue regulations or adopt operating procedures, including additional license restrictions, as may in his or her discretion be necessary or advisable to reduce the threat to the physical safety of patrons, purchasers or passers-by and to promote the good and efficient administration of this chapter.

2. Section nine of chapter fourteen of the Revised Ordinances of 2008 is hereby amended by deleting paragraphs (a) and (e) and inserting in lieu thereof the following:

(a) Every license issued under the provisions of this chapter shall contain the name, residential address and business address of the licensee; the hours of operation; the location(s) of the site where the sales will be conducted; a description of the goods, wares, merchandise, food, beverages or flowers being sold; the names and residential addresses of any persons who will be assisting the licensee with conducting business at the site; and if applicable, the vehicle identification number and description of any vehicles used by the licensee in conducting business at the site. The licensee shall immediately report to the appropriate chief of police any changes in the information listed in this section.

(e) Any violation of any provision of this chapter may result in the revocation or suspension of the license by the chief of police. A licensee may make a written request for a hearing before the chief of police on any such revocation or suspension which shall be held by the chief of police within fifteen days of receipt of the request.

3. Section eleven of chapter fourteen of the Revised Ordinances of 2008 is hereby amended by deleting said section in its entirety and inserting in lieu thereof the following new section:

§ 11. Restrictions on Licenses

(a) Licenses Restricted. Every street vendor license issued under this chapter shall include the restrictions contained in this section and the chief of police may include any or all of the following restrictions on any license issued to a transient vendor, open air sales vendor (including sidewalk food sales establishments), sidewalk merchandise merchant and every special license issued to every temporary charitable event organization (including every vendor, peddler & merchant operating under such a special license).

(b) Restriction on Areas. No sale, barter, display for sale, or carrying for sale shall be permitted and no street vendor shall operate upon Foster Street, Commercial Street, Major Taylor Boulevard, Exchange Street, M.L.K. Jr. Boulevard, Front Street, Mercantile Street, or on private property that is contiguous to such streets on those days when events are scheduled at the DCU Center.

(c) Restriction on Proximity to Other Licensed Establishments. No sale, barter, display for sale, or carrying for sale shall be permitted, and no street vendor shall operate, within five hundred feet of any location that holds, or has held within the twelve months preceding the application date, a common victualler's license issued pursuant to section two, subsection twenty-one A or subsection twenty-one E of chapter one hundred and forty of the General Laws.

(d) Threats to Safety Prohibited. No sale, barter, display for sale, or carrying for sale shall be permitted by and street vendor, transient vendor, open air sales vendor (including sidewalk food sales establishments), sidewalk merchandise merchant or special temporary charitable event licensee (including every vendor, peddler & merchant operating under such a special license) if such activities create a threat to the physical safety of patrons, purchasers or passers-by, or if the activities of patrons or purchasers create a threat to the physical safety

of others. For purposes of this provision a "threat" shall include the assemblage of any number of people in the traveled portion of any public or private way within three hundred feet of the vendor, peddler or merchant.

(e) Restriction on Length of Stopping Time. Unless approved as a stationary vendor under section 11A herein, no street vendor licensed under section two of this chapter shall remain in any one location on any public or private way on the official map for more than five minutes without making a sale and must move at least five hundred feet every five minutes while actively making sales; provided however, that no licensee shall move to any place where the licensee has operated in the preceding sixty minutes.

(f) Restriction on Hours of Operation. No sale, barter, display for sale, or carrying for sale shall be permitted, and no street vendor shall operate, between the hours of midnight and five o'clock a.m.; provided, however, upon the request of any street vendor who gives written assurances as to the maintenance of public safety, the chief of police may allow such street vendor to operate between the hours of midnight and 2:30 a.m.

(g) City Park Land. No sale, barter, display for sale, or carrying for sale shall be permitted, and no street vendor shall operate, upon city park land, including the city common downtown, or any city land dedicated as a city square or any city land dedicated, but not actively in use, as a city street for the movement of vehicles and pedestrians, without a license issued under this chapter and the written permission of the commissioner of public works and parks. Notwithstanding the requirements of section two of this chapter, in granting such permission the commissioner may authorize a street vendor to operate within twenty yards of any abutting public or private way. A copy of such written permission shall be maintained in the possession of each street vendor during business operations and shall be provided to any police officer or city enforcement official upon request.

(h) Private Property. No sale, barter, display for sale, or carrying for sale shall be permitted, and no street vendor shall operate, upon private property within twenty yards of any abutting public or private way without a stationary vendor license issued under this chapter and the written permission of the owner of said property. A copy of such written permission shall be maintained in the possession of each street vendor during business operations and shall be provided to any police officer or city enforcement official upon request.

4. Chapter fourteen of the Revised Ordinances of 2008 is hereby amended by inserting a new section 11A as follows:

§ 11A. Stationary Vendor Licenses

(a) Approval of Commissioner of Public Works & Parks. Notwithstanding any of the provisions of this chapter to the contrary, a street vendor licensed by the chief of police in accordance with this chapter may conduct the activities authorized under such license at a stationary location within any public way, including the sidewalk area, traffic islands, pedestrian control areas, and the traveled portion thereof, if such person also obtains the approval of the commissioner of public works and parks ("commissioner") under this section.

(b) Abutters' Consent – General. The commissioner shall not approve a stationary vendor license unless the owner or owners of all properties within fifty feet of the proposed stationary location consent in writing to the location. For purposes of this subsection, "owner or owners" shall include the first floor tenants.

(c) Abutters' Consent – Food Sales. In addition to the requirement of subsection (b) above, the commissioner shall not approve a stationary vendor license requested by any vendor proposing to sell food of any type where the proposed stationary location is within two hundred-fifty feet of any location that holds, or has held within the twelve months preceding the application date, a common victualler's license issued pursuant to section two, subsection twenty-one A or subsection twenty-one E of chapter one hundred and forty of the General Laws unless the holder of such common victualler's license consents in writing to the location. Where the location involves a common victualler's license which has ceased operation within the preceding twelve months, the consent of the owner of the property may be substituted for the consent of the holder of the common victualler's license.

(d) Distance Measurements. In determining compliance with the distance requirements contained in subsections (b) and (c) above, measurements shall be made from the proposed stationary vendor location and running on the boundary between the public street layout and the private property shown on the most recent assessing maps on both sides of the street for the specified distance. Where such measurement reaches an intersecting public street before achieving the specified distance, the measurement shall continue both along the street of the proposed stationary vendor location and around the corner of the intersecting street. Notwithstanding the above, in determining compliance with the distance requirements contained in subsection (b) above where the proposed stationary location abuts city park land, the measurement shall be limited to the side of the street containing the park.

(e) Safety Restrictions – Vehicular Traffic. In reviewing applications for stationary street vendor locations where the proposed location is within the portion of any public way traveled by motor vehicles the commissioner shall take into consideration the risk to public safety and the safe and efficient movement of traffic on the street, including emergency vehicles. No stationary street vendor location approval shall be granted for any proposed location utilizing any restricted parking space, including metered spaces on any public street and no stationary street vendor location approval shall be granted unless the point of sale on the vehicle is facing the sidewalk portion of the public way such that patrons need not step off of any curb stone or curbing to make a sales transaction.

(f) Safety Restrictions – Pedestrians. In reviewing applications for stationary street vendor locations where the proposed location is outside of the portion of any public way traveled by motor vehicles, the commissioner shall take into consideration the danger to the safety and welfare of pedestrians using the sidewalk and public ways, including physically impaired pedestrians, school children, persons entering and leaving buildings, vehicles entering and leaving the public way and to persons performing essential utility, traffic control, and emergency services. The commissioner shall not approve a stationary vendor license where the proposed location interferes with access to any traffic control pole containing a pedestrian crosswalk button.

(g) Safety Restrictions – Emergency Communications. No stationary location shall be approved if it is located: within twenty feet of any fire hydrant; or, within five feet of any fire alarm box or other emergency communication device, including public

telephones; or, within five feet of any marked crosswalk, curb return at any intersection with an unmarked crosswalk, any public or private driveway; or handicapped accessible curb cut.

(h) Safety Restrictions – Schools. No stationary location shall be approved if it is located within twenty feet of any designated school crosswalks or school bus stops or on any side of a street adjacent to any private or public school property where signs are erected giving notice of prohibited vehicular parking in such areas.

(i) Indemnity & Insurance Required. Each stationary vendor location approval shall be made upon the condition that the stationary vendor shall execute a written agreement to indemnify and hold harmless the city against all damages or cost by reason of any claim for damages, or any process, either civil or criminal, on account of said placement, installation or maintenance or any injury to any person or damage to any property occasioned thereby; provided, however, that such obligation to indemnify and hold harmless the city shall not extend to any damages, or process, either civil or criminal, or to any injury to any person or damage to any property resulting from the acts or the failure to act, of a third party. The stationary vendor shall provide a surety company bond or insurance policy in an amount not to exceed one hundred thousand dollars per claimant with a per occurrence maximum of three hundred thousand dollars in such form and with such companies as shall be reasonably and customarily acceptable to the commissioner and the city solicitor.

(j) Unrelated Advertising Prohibited. No stationary vendor location shall be used for advertising signs or publicity purposes, other than that dealing with the display, sale or purchase of the goods, merchandise or services offered for sale therein by the stationary vendor; provided that, any such sign shall not exceed twelve square feet and may not be located in such a manner as to obscure or otherwise interfere with the effectiveness of an official traffic sign, signal or device, or obstruct or interfere with driver or pedestrian visibility.

(k) Other Restrictions Authorized. The commissioner may impose such other conditions or restrictions on the stationary vendor as he or she may deem in the public interest, but not including restrictions on the hours of operation beyond those established by the chief of police under section 11(f) hereof.

(l) The commissioner may establish a reasonable fee for the review and approval of applications for stationary street vendor location approvals.

5. Chapter fourteen of the Revised Ordinances of 2008 is hereby amended by deleting section twelve in its entirety and inserting in lieu thereof the following new section twelve:

§ 12. Penalties for Violations of this Chapter *

(a) Any violation of the provisions of this chapter may be enforced by civil process, criminal process, by non-criminal disposition as provided in General Laws, c. 40D, § 21D or by the revocation of any license issued under this chapter as provided herein. Except as provided in subsection (b) herein, each sales transaction conducted in violation of these provisions shall constitute a separate offense and any person in violation of the provisions of this chapter shall be penalized by a fine of two-hundred dollars for each offense. Any license

issued under this chapter shall be subject to revocation upon the occurrence of any three or more violations over any three day period. Any notice of revocation shall be effective upon receipt by the licensee if it is in writing, signed by the chief of police and delivered by police officer, constable or by regular mail and contains a statement that the licensee so notified of any such license revocation shall be entitled to a hearing before the chief of police or his designee in accordance with the provisions of section 9(e) of this chapter.

(b) The penalty for selling any flowering plants and flowers, fruits, nuts or berries as are wild or uncultivated in violation of this chapter shall be twenty dollars.

*** See Amendment 9244 for Technical Correction**

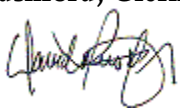
6. Section thirteen of chapter fourteen of the Revised Ordinances of 2008 is hereby amended by deleting said section in its entirety and inserting in lieu thereof the following section:

§ 13. Enforcement

The provisions of this chapter shall be enforced by the chief of police, the commissioner of inspectional services, the commissioner of public works and parks, or their designees.

In City Council September 9, 2008
Passed to be ordained by a yea and nay vote of Six Yeas and Four Nays

A Copy. Attest: David J. Rushford, Clerk



City Clerk

Amendment 9217

AN ORDINANCE RELATIVE TO PAWNBROKERS, JUNK DEALERS AND DEALERS IN SECOND HAND ARTICLES

Be it ordained by the City Council of the City of Worcester, as follows:

Section 1 Chapter 14, § 7 of the Revised Ordinances of 2008 is hereby amended by deleting § 7 in its entirety and inserting a new § 7, as follows:

§ 7 Pawnbrokers

(a) No person shall carry on a business of a pawnbroker without a license issued by the chief of police, in accordance with G.L. c. 140, §§ 70 to 85.

(b) The fee for such license shall be one hundred dollars. No license shall be transferred without the prior consent of the chief of police and all licenses shall be posted on the licensed premises in a conspicuous place and manner.

(c) Every license issued under this section shall expire on May first following the date of issue, unless sooner revoked.

(d) No license shall be issued under this section until a bond is filed with chief of police. Said bond shall be in the sum of three hundred dollars and shall be executed by the licensee and by two good and sufficient sureties approved by the chief of police. Said bond shall be payable to the city for the benefit of any person aggrieved and shall be condition upon the faithful observation of the licensee of all applicable statues, ordinances and regulations.

(e) The chief of police may from time to time promulgate rules and regulations for the administration and enforcement of this section. Any violation of any of the rules and regulations promulgated hereunder shall constitute a violation of this section.

(f) Any person carrying on the business of a pawnbroker without a license or in violation of this section shall be assessed a fine of fifty dollars. Each day on which a violation exists shall constitute a separate offense.

Section 2 Chapter 14 of the Revised Ordinances of 2008 is hereby amended by inserting a new § 7A as follows:

§7A Junk Dealers and Dealers in Second Hand Articles

(a) No person shall carry on the business of being a scrap metal processor, collector of, dealer in or keeper of a shop for the purchase, sale or barter of junk, scrap metal commodities, old metals or second hand articles without a license issued by the chief of police, in accordance with G.L. c. 140, § 54.

(b) All applications for licenses under this section shall be made on a form or forms to be prescribed by the chief of police and shall set forth the name of the licensee, the nature of the business and the building or place in the city in which it is to be carried on.

(c) The fee for such license shall be one hundred dollars. Societies, associations or corporations organized solely for religious or charitable purposes shall not be required to pay a fee for such license. No licenses shall be transferred without the prior consent of the chief of police and all licenses shall be posted on the licensed premises in a conspicuous place and manner.

(d) Every license issued under this section shall expire on May first following the date of issue, unless sooner revoked.

(e) Any person who carries on the business of being a scrap metal processor, collector of, dealer in or keeper of a shop for the purchase, sale or barter of junk, scrap metal commodities, old metals or second hand articles shall keep a bound book with consecutively numbered pages in which, at the time of each transaction, shall be written or entered the following information:

(1) name, date of birth and residence of the person with whom such transaction was made,
(2) the date and time when such transaction occurred,
(3) the price paid for the article,
(4) a description of the article, including type and approximate weight and quantity,
(5) the license plate number and state of issue of the vehicle being used by the person offering the article to transport the article to the licensee's place of business, and
(6) a written statement from the person offering the article stating that he or she is in lawful possession of the article being offered.

The form of such book shall be prescribed or approved by the chief of police and no entry made therein shall be erased, destroyed, removed or defaced. Such book at all times shall be kept on the licensed premises and be open to the inspection of the chief of police whenever the business is operating and open. The licensee shall also keep a legible copy of a state issued identification bearing the photograph of the person with whom any transaction is made. All records required under this section shall be retained by the licensee for a period of three years from the date of the transaction.

(f) The chief of police or his designee may enter upon the licensed premises and examine all articles, books or inventories kept or stored upon said premises by the licensee whenever the business is operating and open.

(g) The chief of police may grant an exemption to any one or more of the requirements in paragraphs (e) for a particular transaction. A request for an exemption must be made by the licensee in writing to the chief of police stating the reason for the request. The chief of police shall approve or disapprove the request and send written notification of the decision to the licensee. The chief of police, in his discretion, may impose any terms, conditions or restrictions on any exemption granted under this section.

(h) Any person carrying on the business of being a collector of, dealer in or keeper of a shop for the purchase, sale or barter of junk, old metals or second hand articles without a license or in violation of this section shall be assessed a fine in the amount established by the General Laws. Each day on which a violation exists shall constitute a separate offense.

Section 3 Chapter 14, § 9 of the Revised Ordinances of 2008 is hereby amended by deleting paragraph (e) in its entirety and inserting a new paragraph (e) as follows:

(e) Any violation of any provision of this chapter may result in the revocation or suspension of the license by the licensing authority. A licensee may make a written request for hearing before the licensing authority on any such revocation or suspension, which shall be held by the licensing authority within fifteen days of receipt of the request.

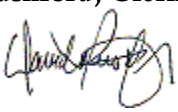
Section 4 Chapter 14, § 12* of the Revised Ordinances of 2008 is hereby amended by deleting paragraph (c)(3) in its entirety and inserting a new paragraph (c)(3) as follows:

(3) Two hundred dollars for all other vendors, except those licensed under §§ 7 and 7A.

***See Amendment 9244 for Technical Correction**

In City Council October 14, 2008
Passed to be ordained by a yea and nay vote of Seven Yeas and No Nays

A Copy. Attest: **David J. Rushford, Clerk**



City Clerk

Amendment 9221

AN ORDINANCE REGULATING THE POSSESSION OF KNIVES AND SIMILAR WEAPONS IN THE CITY OF WORCESTER

Be It Ordained by the City Council of the city of Worcester as follows:

1. Chapter Nine of the Revised Ordinances is hereby amended by inserting the following new section 8A immediately following section 8:

§8A. Possession of Knives and Similar Weapons

(a) No person, except as otherwise provided by law, when arrested while committing a breach or disturbance of the public peace, or when arrested upon a warrant for any alleged crime, is armed with or has on his person or under his control in a vehicle, any knife or cutting device of any kind or mechanical operation with a blade over two and one-half inches; or, any other object or tool so redesigned, fashioned, prepared or treated that the same may be used to penetrate body armor or to otherwise inflict bodily harm or injury to another, except:

1. When actually engaged in hunting or fishing or any employment, trade or lawful recreational or culinary activity which customarily involves the carrying or use of any type of knife, or
2. In going directly to and/or returning directly from such activities, or
3. If the knife is being transported directly to or from a place of purchase, sharpening, or repair, and if packaged in such a manner as not to allow easy access to the knife while it is being transported.

(b) This section shall not apply to persons who, through entities or establishments engaged in a recognized retail or wholesale business, are involved in the sale, purchase or repair of knives for trade, sport, hobby or recreation, including without limitation persons engaged in the transportation to or from such entities or establishments. This section shall also not apply to any person who possesses either a valid class A or class B license issued under section one hundred thirty-one of chapter one hundred-forty of the General Laws.

(c) No person shall sell, give, or deliver to any person under 18 years of age any of the items listed in subsection (a). This provision shall not prohibit parents, adult siblings, and grandparents from selling, giving, or delivering such items to their children, siblings, and grandchildren.

(d) Every violation of this section shall be punished by a fine of $300. Enforcement of this penalty shall be through a non-criminal disposition as provided by G.L. c. 40, § 21D or by the filing of a criminal complaint.

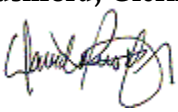
2. Chapter 15, Section 2(b), of the Revised Ordinances of the city of Worcester (2008) is hereby amended by inserting the following new subsection (27) at the conclusion thereof as follows:

(27) Knife Ordinance – R.O. c. 9 § 8A.

Enforcing Persons:	Police Chief
Penalty:	$300.00

In City Council January 6, 2009
Passed to be ordained by a yea and nay vote of Eleven Yeas and No Nays

A Copy. Attest: **David J. Rushford, Clerk**



City Clerk

Amendment 9244

AN ORDINANCE MAKING A TECHNICAL CORRECTION TO SECTION TWELVE OF CHAPTER 14 OF THE REVISED ORDINANCES OF 2008

Whereas, Chapter 14, § 12 of the Revised Ordinances of 2008 was amended by the Council on September 9, 2008, by deleting section twelve in its entirety and inserting in lieu thereof two new sections 12(a) and 12(b);

Whereas, Chapter 14, § 12 of the Revised Ordinances of 2008 was further amended by the Council on October 14, 2008, by inserting a new section 12(c)(3);

Whereas, Section 12(c) was deleted by the amendment of September 9, 2008, a technical correction is necessary to correct the scrivener's error; and,

Whereas, Both the September 9 and October 14 ordinances amended section 9(e) of chapter 14 using different terminology to make revocation hearings a function, not of the license commission, but rather of the official who issued the permit in question.

Now Therefore, Be It Ordained by the City Council of the City of Worcester, as follows:

Chapter fourteen of the Revised Ordinances of 2008 is hereby amended by deleting section twelve in its entirety and inserting in lieu thereof the following new section twelve:

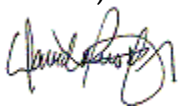
§ 12. Penalties for Violations of this Chapter

(a) Any violation of the provisions of this chapter may be enforced by civil process, criminal process, by non-criminal disposition as provided in General Laws, c. 40D, § 21D or by the revocation of any license issued under this chapter as provided herein. Except as provided in subsection (b) herein, each sales transaction conducted in violation of these provisions shall constitute a separate offense and any person in violation of the provisions of this chapter shall be penalized by a fine of two-hundred dollars for each offense. Any license issued under this chapter shall be subject to revocation upon the occurrence of any three or more violations over any three day period. Any notice of revocation shall be effective upon receipt by the licensee if it is in writing, signed by the issuing authority and delivered by police officer, constable or by regular mail and contains a statement that the licensee so notified of any such license revocation shall be entitled to a hearing before the issuing authority or his or her designee in accordance with the provisions of section 9(e) of this chapter.

(b) The penalty for selling any flowering plants and flowers, fruits, nuts or berries as are wild or uncultivated in violation of this chapter shall be twenty dollars.

In City Council December 16, 2008
Passed to be ordained by a yea and nay vote of Nine Yeas and No Nays

A Copy. Attest: David J. Rushford, Clerk



City Clerk

Amendment 9245

AN ORDINANCE AMENDING CHAPTER TWELVE SECTION TWENTY-THREE OF THE REVISED ORDINANCES OF 2008 RELATIVE TO SIDEWALK SNOW REMOVAL

Be it ordained by the City Council of the City of Worcester, as follows:

Section 1: Chapter 12, § 23 of the Revised Ordinances of the city of Worcester is hereby amended by deleting it in its entirety and inserting in lieu thereof the following new § 23 as follows.

§ 23. Sidewalk Snow & Ice Removal

(a) The owner or occupant of land bounded by any street, including state highways, whereon there is a sidewalk shall within ten hours after any winter storm, cause all snow, ice or other forms of freezing precipitation to be removed from such sidewalk to a width of not less than four feet for the entire distance that the sidewalk abuts the land. To the extent that snow, ice or freezing precipitation shall remain on any shoveled sidewalk, the owner or occupant shall treat the same with sand, salt or other suitable material.

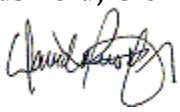
(b) If the owner or occupant fails to remove such snow within the time provided in the preceding section, the city may assess a civil penalty pursuant to chapter fifteen for each calendar day upon which such snow, ice or freezing precipitation is nor removed or treated as herein provided. In addition to the civil penalty, the city may remove or cause such snow, ice or other forms of freezing precipitation to be removed or treated and the owner or occupant shall reimburse the city for the expense incurred for such removal or treatment. Any sums so expended may be recovered in an action of contract by the city against the owner or occupant. The city may also impose a municipal charges lien on the property pursuant to G.L. c. 40, § 58. The civil penalty, removal expense and municipal charges lien shall be cumulative remedies exercised at the discretion of the city.

(c) For purposes of this section, "sidewalk" shall mean any paved area that is immediately adjacent to the area of a public or private way designated for vehicular travel and shall include any accessibility ramping connecting a sidewalk to the traveled portion of any adjacent street.

Section 2: This ordinance shall be effective January 1, 2009.

In City Council December 23, 2008
Passed to be ordained by a yea and nay vote of Ten Yeas and No Nays

A Copy. Attest: **David J. Rushford, Clerk**



City Clerk

Amendment 9246

AN ORDINANCE AMENDING CHAPTER FIFTEEN SECTION TWO OF THE REVISED ORDINANCES OF 2008 RELATIVE TO FINES AND PENALTIES

Be it ordained by the City Council of the City of Worcester, as follows:

Section 1. Chapter 15, § 2(b)(8)(A) of the Revised Ordinances of the City of Worcester is hereby amended by deleting it in its entirety and inserting in lieu thereof the following new § 2(b)(8)(A) as follows.

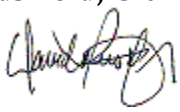
(8) Streets and Sidewalks

(A)Snow & Ice Removal – R.O. c. 12 § 23: $ 75.00
Enforcing Person: Commissioner of Public Works & Parks

Section 2. This ordinance shall be effective January1, 2009.

In City Council December 23, 2008
Passed to be ordained by a yea and nay vote of Ten Yeas and No Nays

A Copy. Attest: David J. Rushford, Clerk



City Clerk

Amendment 9247

AN ORDINANCE AMENDING CHAPTER FIVE OF THE REVISED ORDINANCES OF 2008 CONCERNING SEWER DISCHARGE AND CONNECTION PERMITS

Be it ordained by the City Council of the City of Worcester, as follows:

Section 1. Chapter 5, § 2(b) of the Revised Ordinances of 2008 is hereby amended by deleting subsection (b) in its entirety and inserting a new subsection (b), as follows:

(b) No person shall make any new discharge, or increase the volume or change in the character of any previously permitted discharge, into the public sewers without a discharge permit issued by the commissioner.

(1) For purposes of this subsection (b), the term "previously permitted discharge" shall mean a discharge which has been authorized under a sewer discharge or connection permit issued by the commissioner under this chapter for which the capacity fee required by section six hereof has been paid; or, in the event that no sewer discharge or connection permit containing a maximum authorized discharge volume has been issued, the "gallons per day" as listed in the State Environmental Code, Title 5 (310 C.M.R. 15.203)(hereafter "Title Five") for the "type of establishment" listed in Title Five as determined by the commissioner shall be used. For the purpose of this section, the "type of establishment" will be that use limited to the previous 5 years.

(2) An "increase in volume" shall mean and be calculated by subtracting the previously permitted discharge volume from the "gallons per day" as listed in the State Environmental Code, Title 5 (310 C.M.R. 15.203) for the appropriate category of use as determined by the commissioner.

(3) Any person owning property which is connected to the public sewers who expands or changes the use of that property so as to require or obtain a "certificate of use and occupancy" under the state building code or who changes the use from one to another "type of establishment" listed in Title Five shall file an application for a sewer discharge or connection permit with the commissioner under this chapter. Whenever the increase in volume is greater than five-hundred G.P.D., the commissioner shall not issue a sewer discharge or connection permit until the property owner pays the capacity fee established under section 6(b)(2) of this chapter for each new gallon per day by which the increase in volume exceeds the previously permitted discharge by five-hundred G.P.D.

(4) In addition to the specific daily penalty provided in section 2(b)(9)(C) of chapter 15 of these revised ordinances, any person who owns property which is connected to the public sewers who increases the volume of the discharge without a permit as required by this section shall be deemed to have incurred the obligation to pay the capacity fee established herein and shall be subject to a municipal charges lien in the amount of the sewer capacity required described herein and the commissioner shall be authorized and

obligated to record such a lien in the registry of deeds and shall, if such charge remains unpaid, certify such charge to the city assessor and committed on the warrant to the collector of taxes.

Section 2. Chapter 5, § 6 of the Revised Ordinances of 2008 is hereby amended by inserting the following three sentences at the conclusion of subsection (b)(2):

When the capacity fee established herein exceeds twenty-five thousand dollars the property owner may apply to the commissioner to apportion so much of the fee that exceeds twenty-five thousand dollars over sixty months. The interest rate on such apportionments shall be the rate applied to apportioned betterments assessments. The commissioner shall notify the city treasurer of any such apportionments and the city treasurer shall bill and collect any such apportioned capacity fee.

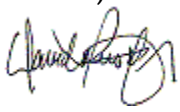
Section 3. Chapter 5, § 9 of the Revised Ordinances of 2008 is hereby amended by deleting section nine in its entirety and inserting a new section nine as follows:

§ 9. Re-Use of Existing Sewers

Subject to obtaining a permit under the provisions of section two of this chapter, existing building sewers and other private sewers may be used in connection with new buildings or in connection with new public sewer construction, in whole or in part, only when they are found, on examination and test acceptable to the commissioner to meet all requirements of this chapter. Connection to same shall be upstream of any septic tank or cesspool.

In City Council January 6, 2009
Passed to be ordained by a yea and nay vote of Eleven Yeas and No Nays

A Copy. Attest: **David J. Rushford, Clerk**



City Clerk

Amendment 9253

AN ORDINANCE AMENDING CHAPTER FIVE OF THE REVISED ORDINANCES OF 2008 CONCERNING SEWER DISCHARGES CATEGORICALLY PROHIBITED

Be it ordained by the city council of the city of Worcester, as follows:

Section 1. Chapter 5, § 20 (c) of the Revised Ordinances of 2008 is hereby amended by deleting subsection (c) in its entirety and inserting a new subsection (c), as follows:

(c) Any water or wastes having a pH lower than 6.5 or in excess of 9.5 , or having any other corrosive property capable of causing damage or hazard to structures, equipment, and personnel of sewerage works;

In City Council January 20, 2009
Passed to be ordained by a yea and nay vote of Eight Yeas and No Nays

A Copy. Attest: **David J. Rushford, Clerk**

City Clerk

Amendment 9302

AN ORDINANCE AMENDING SECTION 43 OF CHAPTER 13 OF THE REVISED ORDINANCES OF 2008 TO REMOVE THE WINTER BAN ON THE EVEN NUMBERED SIDE OF INDIAN LAKE PARKWAY FROM NUMBER 10 THRU NUMBER 34 INDIAN LAKE PARKWAY. SAID NEW PROVISION, SUBSECTION (b) (6) ZONE "E" IS TO BE ESTABLISHED AND INSERTED AFTER SUBSECTION (b) (5) ZONE "D" FOR STREETS WITH EXTRAORDINARY PARKING CONDITIONS.

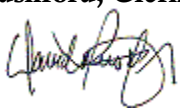
Be it Ordained by the City Council of the City of Worcester as follows:

Section 43 of Chapter 13 of the Revised Ordinances of 2008 be and is hereby amended by inserting in Schedule VII, a new subsection (b)(6) ZONE "E", "STREETS WITH EXTRAORDINARY PARKING CONDITIONS" to be established and inserted thereof after the provision for subsection (b)(5) Zone "D".

The following new provision is to be inserted in Schedule VII, ZONE "E": "INDIAN LAKE PARKWAY IN FRONT OF #10 INDIAN LAKE PARKWAY TO #34 INDIAN LAKE PARKWAY NO BAN."

In City Council March 31, 2009
Passed to be ordained by a yea and nay vote of Eleven Yeas and No Nays

A Copy. Attest: David J. Rushford, Clerk



City Clerk

Amendment 9309

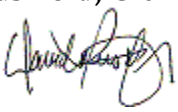
AN ORDINANCE AMENDING THE PERMIT AND INSPECTION FEE ORDINANCE FOR THE CITYSQUARE PROJECT

Be it Ordained by the City Council of the City of Worcester, as follows:

Section twenty-nine of Chapter two of the Revised Ordinances of 2008 is hereby amended by substituting the word "later" for the word "earlier" as it appears in subsections (c)(2) and (c)(3) thereof .

In City Council April 28, 2009
Passed to be ordained by a yea and nay vote of Eleven Yeas and No Nays

A Copy. Attest: **David J. Rushford, Clerk**



City Clerk

Amendment 9328

AN ORDINANCE AMENDING CHAPTER EIGHT OF THE
REVISED ORDINANCES OF 2008 RELATIVE TO
FEES FOR DOG LICENSE

Be it ordained by the city council of the city of Worcester, as follows:

Chapter 8 of the Revised Ordinances of the city of Worcester (2008) be and is hereby amended by deleting section ten, subsection (e) in its entirety and inserting the following in lieu thereof:

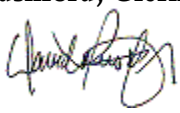
(e) The fee for every license, except as otherwise provided, shall be as follows:

Females	$20.00
Males	$20.00
Spayed females	$17.00
Neutered male	$17.00

Any person who fails to obtain an annual dog license on or before May 31st shall be charged when applying for a license, in addition to the license fee, a late fee of fifteen ($15.00) dollars.

In City Council May 26, 2009
Passed to be ordained by a yea and nay vote of Eleven Yeas and No Nays

A Copy. Attest: **David J. Rushford, Clerk**



City Clerk

Amendment 9329

AN ORDINANCE AMENDING PART ONE A, CHAPTER TWO SECTION TWENTY –FOUR OF THE REVISED ORDINANCES OF 2008

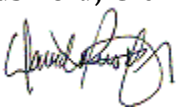
Be it ordained by the City Council of the City of Worcester as follows:

Part 1A, Chapter 2 Section 24 of the Revised Ordinances of 2008 is hereby amended by inserting the following new sentences after the words "the city clerk." at the end Section 24:

Whenever the fee for any service rendered or work performed remains unpaid after the last date such fee is due and payable, the city treasurer and collector of taxes may add interest to such fee until it is paid in full. The rate of interest shall be one percent per month (twelve percent per year) and such interest shall begin to accrue on the day on which the fee becomes overdue and shall continue to accrue until fully paid.

In City Council May 26, 2009
Passed to be ordained by a yea and nay vote of Eleven Yeas and No Nays

A Copy. Attest: **David J. Rushford, Clerk**



City Clerk

Amendment 9330

AN ORDINANCE AMENDING CHAPTER THIRTEEN OF THE REVISED ORDINANCES OF 2008 RELATIVE TO FINES FOR PARKING VIOLATIONS

Be it ordained by the city council of the city of Worcester, as follows:

Section 1. Chapter 13 of the Revised Ordinances of the city of Worcester (2008) be and is hereby amended by deleting section thirty six in its entirety and inserting the following in lieu thereof:

§ 36. Responsibility and Penalties for Parking Violations

(a) A fine of fifteen dollars shall be imposed for each violation of the parking meter and of the time limits provisions of § 42 as designated in schedule I and schedule VI and § 60, and for each violation of § 59 and for each violation of § 54 and any regulation of the Off-Street Parking Board concerning metered parking in off-street lots.

(b) A fine of twenty dollars shall be imposed for each violation of § 37 (first para.), § 37(b), § 37(d), § 37(g), § 37(k), § 37(m), § 37(o), § 45, § 46, § 49, § 51, § 52(b), § 54, and § 59.

(c) A fine of twenty-five dollars shall be imposed for each violation of § 37(a), §37(c), § 37(e), § 37(h), § 37(l) and § 37(p), §38, § 40, §42A, §44, §47(b) and any regulation of the Off-Street Parking Board, except those described in subsection (a) above.

(d) A fine of thirty dollars shall be imposed for each violation of § 37(c), § 37(e), § 37(i) and § 37(j), and § 41, §43(a), § 47 and § 57A(b).

(e) A fine of thirty-five dollars shall be imposed for each violation of § 37(k), § 37(q) and § 53.

(f) A fine of fifty dollars shall be imposed for each violation of § 37(f) and § 65(a), § 65(b) and § 57A(a).

(g) A fine of one hundred dollars shall be imposed for each violation of § 39(a) and § 52(a).

(h) A fine of two hundred dollars shall be imposed for each violation of § 39(b).

(i) Every fine imposed in this section shall be increased by five dollars if not paid within 21 days from the date of issuance. Thereafter, upon notice by the parking administrator to the Registrar of Motor Vehicles pursuant to chapter 90, § 20A½ of the General Laws, the fine shall be increased by an additional fifteen dollars.

Section 2. Section 52 of chapter 13 of the Revised Ordinances of the city of Worcester (2008) be and is hereby amended by deleting this section in its entirety and inserting in lieu thereof the following new section 52:

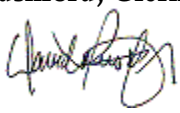
§ 52. Restricted Use of Bus and Taxicab Stands

(a) Bus Stops. No person shall stop, stand or park a vehicle in a bus stop, other than a bus or except as otherwise posted, when such bus stop has been officially designated and appropriately indicated with a sign; provided, however, that the operator of a passenger vehicle may temporarily stop therein for the purpose of, and while actually engaged in, loading or unloading passengers when such stopping does not interfere with any bus waiting to enter or about to enter such zone.

(b) Taxi Stands. No person shall stop, stand or park a vehicle in a taxicab stand other than a taxicab or except as otherwise posted, when such taxicab stand has been officially designated and appropriately indicated with a sign; provided, however, that the operator of a passenger vehicle may temporarily stop therein for the purpose of, and while actually engaged in, loading or unloading passengers when such stopping does not interfere with any taxicab waiting to enter or about to enter such zone.

In City Council May 26, 2009
Passed to be ordained by a yea and nay vote of Eleven Yeas and No Nays

A Copy. Attest: **David J. Rushford, Clerk**



City Clerk

Amendment 9331

AN ORDINANCE AMENDING CHAPTER SEVEN SECTION SIXTEEN OF THE REVISED ORDINANCES OF 2008 RELATIVE TO WATER RATES USE CHARGES (FY 2010)

Be it ordained by the City Council of the City of Worcester, as follows:

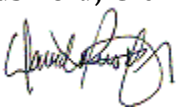
1. Chapter 7, § 16 of the Revised Ordinances of the City of Worcester, as most recently amended, is hereby further amended by deleting in paragraph (c) thereof, the rate for "Basic" and inserting in lieu thereof the new rate as follows.

Basic . . . . . $ 2.99

2. This amendment shall be effective as of July 1, 2009 and shall apply to all bills issued after such effective date in accordance with subsection (f) of section sixteen of Chapter 7 of the Revised Ordinances of 2008.

In City Council June 2, 2009
Passed to be ordained by a yea and nay vote of Ten Yeas and No Nays

A Copy. Attest: David J. Rushford, Clerk



City Clerk

Amendment 9332

AN ORDINANCE AMENDING CHAPTER FIVE
SECTION TWENTY-SIX OF THE REVISED ORDINANCES OF 2008
RELATIVE TO SEWER USER CHARGE
(FY 2010)

Be It Ordained by the city council of the city of Worcester as follows:

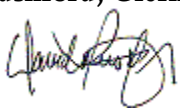
1. Chapter 5, § 26 of the Revised Ordinances, as most recently amended, is hereby further amended by deleting in paragraph (g) thereof, the rate for "Basic Rate" and inserting in lieu thereof the new rate as follows.

Basic Rate. . . . . $ 4.61

2. This amendment shall be effective as of July 1, 2009 and shall apply to all bills issued after such effective date in accordance with subsection (f) of section sixteen of Chapter Seven of the Revised Ordinances of 2008.

In City Council June 2, 2009
Passed to be ordained by a yea and nay vote of Ten Yeas and No Nays

A Copy. Attest: **David J. Rushford, Clerk**



City Clerk

Amendment 9341

AN ORDINANCE RELATIVE TO FAIR CORI PRACTICES BY CITY VENDORS

Be it ordained by the City Council of the City of Worcester, as follows:

Chapter Two of the Revised Ordinances of 2008 is hereby amended by inserting after section thirty-six thereof a new section, thirty-seven, as follows:

§ 37. Fair CORI Practices

(a) *Purpose*. This Fair CORI Practices Ordinance is intended to encourage the full participation of motivated and qualified persons with criminal histories in our workforce, reduce recidivism, protect vulnerable populations and assure public safety. The Fair CORI Practice Ordinance accomplishes these ends by establishing practices that:

(1) Diminish the use of a criminal record as an automatic bar to employment;

(2) Deter the use of an application form that inappropriately excludes and discriminates against qualified job applicants;

(3) Promote the accurate use and interpretation of a criminal record; and

(4) Provide a qualified applicant with an opportunity to discuss any inaccuracies and explain the relevance and content of a criminal record.

The following sections are intended to apply to all persons and businesses supplying goods and/or services to the city of Worcester and are also intended to ensure that they deploy fair policies and practices in screening, hiring, and retaining persons with criminal histories.

(b) *Definitions*. The following words and phrases, when used in this section, shall have the following meanings:

Applicant - means any current or prospective employee, licensee, or volunteer and includes all persons included in 803 C.M.R. 2.03.

CHSB – means the Criminal History Systems Board as defined in M.G.L. c. 6 and 803 C.M.R. 2.00.

Contract Officer – means the city official other than the city manager who is responsible for the award and administration of any contract for goods and or services from a Vendor.

Otherwise Qualified – means any Applicant that meets all other criteria for a position or consideration for a position.

Vendor – means any vendor, contractor, or supplier of goods and/or services to the city of Worcester.

(c) *CORI-Related Standards Applicable to Vendors.*

(1) The city will do business only with Vendors that have adopted and employ written CORI related policies, practices, and standards that are consistent with city standards set forth in section (d) of this section.

(2) The city employs CORI-related policies, practices and standards that are fair to all persons involved and seeks to do business with Vendors that have substantially similar policies and practices. The Contract Officer shall review all Vendors' CORI policies and practices for consistency with standards of the city as expressed in this ordinance.

(3) The Contract Officer shall consider all Vendors' CORI standards as part of the criteria to be evaluated in the awarding of a contract and will consider a Vendor's execution of the CORI standards among the performance criteria in evaluating a contract.

(4) The Contract Officer shall consider any Vendor's deviation from the CORI standards as grounds for rejection, rescission, revocation, or any other termination of the contract.

(d) *CORI-Related Standards of the City*. The CORI-related policies, practices, and standards of the city administration include, but are not limited, to the following:

(1) The city has a policy of affording a rehabilitated individual with a criminal record with a fair opportunity to be employed and reintegrate successfully into the workforce, while protecting vulnerable populations and the public safety. Consistent with this policy, a criminal record will not automatically disqualify an Applicant from employment, unless explicitly mandated by law.

(2) The city will not conduct a CORI check or make any inquiry into an Applicant's possible criminal history, or include any such inquiry on any initial employment application form, until after an Applicant's credentials have been reviewed, it has determined that the Applicant is otherwise qualified for a position and a conditional offer of employment has been made. The city does not conduct a CORI check on an Applicant that is not otherwise qualified for a relevant position.

(3) The city will not check an Otherwise Qualified Applicant's CORI unless a CORI check is mandated by law or it determines that the position in question is of such sensitivity that a CORI check is warranted.

(4) The city requires that any personnel responsible for reviewing CORI be trained on reading and interpreting a CORI report. Such personnel shall be required to attend CORI training and be knowledgeable about educational materials made available by the CHSB.

(5) The city will conduct a CORI check only as authorized by the CHSB. The city will not rely on an improperly issued CORI and will return the record to the CHSB for issuance of the appropriate report, if any, whenever it might receive a report containing matters not requested or otherwise authorized for release to the city.

(6) The city will consider the result of a properly issued CORI report only in those instances where the content of the record is substantially relevant to the duties and qualifications of a position in question.

(7) The city follows the practices set forth below when it is inclined to deny an Applicant a position because of the results of a CORI:

(a) Ensure that the record received pertains to the individual for whom a request was made by comparing the Applicant's identifying information, such as that on a driver's license or government issued identification, or CORI request form, to the information on the CORI report;

(b) Provide the Applicant with a copy of the CORI;

(c) Notify him or her of the part or parts which appear to make him or her ineligible;

(d) Afford the Applicant with an opportunity for a private meeting to explain the accuracy and/or relevance of anything on the CORI report;

(e) Review the relevancy and accuracy of the CORI report by considering these factors:

(i) Nature, seriousness and circumstance of any past criminal conviction or pending charge;

(ii) Age of the candidate at the time of the offense;

(iii) Date of the offense;

(iv) Relevance of the offense to the duties and qualifications of the position in question;

(v) Sentence imposed and length of any period of incarceration;

(vi) Any reasonable available information concerning compliance with conditions of parole or probation, including orders of no contact with victim and witnesses;

(vii) The individual's conduct and experience in the time since the offense, including, but not limited to, education or

professional certification obtained since the time of the offense;

(viii) Any other evidence of rehabilitation.

(f) If after review the city makes an adverse decision, it will promptly notify the Applicant in writing stating the reasons thereof.

(g) If the city determines that a CORI report received does not pertain to the individual for whom a request was made, it will notify the Applicant of the CHSB's regulations and process for correcting an inaccurate record, and will not rely on such a record in rendering an adverse decision. The city may contact the CHSB and request that it conduct a detailed search consistent with CHSB's policy.

(8) The city will provide a copy of its CORI standards to any Applicant or person who makes a request.

(9) The city, consistent with CHSB policy, will not disseminate or share CORI information except with those authorized personnel granted access to CORI.

(e) *Waiver*. Under extraordinary circumstances the city manager may grant a waiver of section (c) on a contract-by-contract basis and shall report all such waivers to the city council on a quarterly basis. Such report shall include an identification of each contract for which a waiver was granted, the name of the Vendor(s) involved, identification of the specific CORI standard involved in each waiver and a statement by the city manager of the reasons justifying the waiver.

(f) *Complaint Procedure*.

(1) Any Applicant aggrieved by an adverse decision made by a Vendor, may file a complaint with the city manager who shall investigate any such complaint and take any appropriate action.

(2) The city manager, where appropriate, may refer complainants to the CHSB, and may notify the Contract Officer of such referral.

(3) The city manager may, upon request by a concerned person, or on his or her own initiative, conduct periodic reviews to determine Vendor compliance with this ordinance.

(4) Any Contract Officer, Vendor, Applicant, or other interested party may contact the city manager to report any problems, concerns, or suggestions regarding the implementation, compliance, and impacts of the Fair CORI Standards.

(5) The city manager shall make a report on all such complaints, investigations and reviews to the city council on a quarterly basis.

(g) *Data Collection.*

(1) The city manager shall record and log, including maintaining demographic data, all CORI-related complaints received.

(2) Any member of the general public may request review or copies of any record maintained by the city manager relating to this ordinance, provided that identifying information about complainants and any other information not considered a public record are kept confidential.

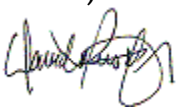
(h) *Applicability*. To the extent permitted by law, if any provision of these sections impose greater restrictions or obligations than those imposed by any other general law, special law, regulation, rule, ordinance, order, or policy, then the provisions of these sections shall control.

(i) *Rulemaking Authority*. The city manager shall have the authority to make rules necessary to implement and enforce this ordinance.

(j) *Implementation*. The provisions of this ordinance shall apply to all bids and requests for proposals issued after September 1, 2009.

In City Council June 23, 2009
Passed to be ordained by a yea and nay vote of Eleven Yeas and No Nays

A Copy. Attest: **David J. Rushford, Clerk**



City Clerk

Amendment 9396

An Ordinance Relative to the Protection of Public Trees

Be it ordained by the city council of the city of Worcester, as follows:

Section 1. Chapter 12 of the Revised Ordinances of 2008 is hereby amended by inserting after Section 27 thereof the following new Section 28, as follows:

§ 28. Protection of Public Trees

(a) *Purpose*. The city council recognizes the importance of an urban forest and that, in the city's ecosystem, trees contribute to air quality, reduce noise and visual pollution, help to moderate climatic extremes and conserve energy. The city's public trees enhance the visual and aesthetic attributes of streets, parks and other public places for residents, businesses and visitors. The city council recognizes the role of trees in enhancing property values and the overall quality of life. The city council further recognizes that the city has suffered severe tree loss due to efforts to eradicate the Asian Longhorn Beetle infestation and the severe ice storm of December 2008. It is the purpose of this section to promote and protect the public health, safety and general welfare by providing for the regulation of the planting, maintenance and removal of public trees in Worcester, Massachusetts.

(b) *Definitions.* The following words and phrases, when used in this section, shall have the following meanings:

Park Trees - means any trees, shrubs, bushes and all woody vegetation on land lying within public parks having names and in all other areas owned by the city of Worcester and to which the public has access.

Public Shade Tree - shall have the meaning set forth in G.L. c. 87, §§ 1 through 8.

Topping - means the severe cutting back of limbs to stubs within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree.

(c) *Public Shade Trees.* No Public Shade Tree shall be cut, trimmed, or removed, in whole or in part, without the prior written approval of the tree warden, or his/her designee, in accordance with the requirements of G.L. c. 87, §§ 1 through 8.

(1) The person requesting the cutting, trimming or removal of any Public Shade Tree shall pay the costs of advertising and notification of the hearing required by G.L. c. 87. If the cutting, trimming or removal of a healthy Public Shade Tree is approved by the tree warden, then the person requesting the same, as a condition of such approval, shall pay a fee reflecting the city's full costs related thereto.

(A) Notwithstanding subsection (c)(1) above, in light of the city's priority to establish off street parking, the fee for cutting, trimming or removal of a healthy public shade tree shall be reduced by fifty (50%) percent if such cutting, trimming or removal is deemed necessary by the tree warden to allow for the construction of a driveway and the person requesting

such removal has first obtained a permit for a curb cut from the city, in compliance with the department of public works & parks permit manual.

(2) In addition to the cost of cutting, trimming or removal set forth in subsection (c)(1), if cutting, trimming or removal of a healthy Public Shade Tree is approved by the tree warden, the person requesting cutting, trimming or removal also shall pay a fee reflecting the cost of the replacement of the tree, as a condition of removal. The fee shall be established annually by the commissioner of the department of public works & parks. The cost of purchase and planting shall be determined by the diameter in inches at breast height (DBH) of the tree removed.

(3) If a healthy public shade tree is damaged, destroyed or for any reason removed without the consent of the tree warden, the individual or other entity responsible shall pay the full removal fee and the full cost of replacement, as set forth in subsections (c)(1) and (2) above, in addition to any and all applicable fine(s).

(d) *Park Trees*. No person shall plant, cut, trim, remove, or otherwise disturb any Park Tree unless that person has first obtained written permission from the tree warden. The person making such request shall be required to pay any and all costs related to the allowed activity, including the fee for the replacement tree in accordance with the subsection (c) above, as applicable.

(e) *Planting Trees.* No person shall plant any tree within the public way or the boundaries thereof, or within any city park, without the prior written permission of the tree warden. The department of public works & parks shall maintain a list of species of trees that are suitable trees for planting along streets. All trees shall be planted in compliance with the tree warden's instructions, including but not limited to the minimum distance from any curb, sidewalk, street, structure or other tree.

(1) *Planting Trees Abutting the Layout.* The tree warden, if he or she deems it expedient, may plant shade trees on land adjoining the public way at a distance of not more than twenty feet from the layout of the public way for the purpose of improving, protecting, shading or ornamenting the same; provided, however, that the written consent of the owner of such adjoining land shall first be obtained.

(f) *Authorization to Plant, Cut, Trim, Remove, Spray or Otherwise Treat Public Shade Trees*. Except as set forth expressly herein, only the tree warden, his/her designee or a contractor retained by the city, may cut, trim or remove any Public Shade Tree. The tree warden may authorize an individual or entity to cut, trim or remove a Public Shade Tree or Park Tree if said individual or entity is an International Society of Arboriculture (ISA) certified arborist and provides evidence of insurance acceptable to the city.

(1) *Topping.* Except as set forth in this subsection, no Public Shade Tree or Park Tree shall be topped. Trees damaged by storms or other causes, or particular trees under utility wires or other obstructions where other pruning practices are impractical may be topped with the prior written approval of the tree warden.

(g) *Utilities*. In compliance with the applicable franchise agreements with the city and other applicable law, the electric utility company may cut or trim tree limbs or remove trees that interfere with high voltage electrical conductors, provided said electric utility company first

notifies the tree warden in writing and submits a plan for such cutting, trimming or removal acceptable to the tree warden. The electric utility company shall further submit a utility tree trimming policy that shall be reviewed by a designated representative of the electric utility company and the tree warden, or his/her designee prior to the commencement of any cutting, trimming or removal by any electric utility company.

(h) *Shade Tree Protection During Construction, Repairs, Utility Work*. Public Shade Trees and Park Trees shall be protected to the full extent feasible from damage during construction, street and sidewalk repair, utilities work above and below ground, and other similar activities. The area of protection shall include the ground beneath the canopy of the tree. Prior to commencing construction, Contractors shall obtain a permit from the tree warden including a plan acceptable to the tree warden showing how the relevant Public Shade Trees and/or Park Trees will be protected.

(i) *Removal of Diseased, Infested Trees*. As set forth in G.L. c. 132, § 13, the tree warden shall be designated as the Superintendent of Shade Tree Management and Pest Control.

(j) *Provide Support and Information to Planning Board*. In new subdivisions or when the development of commercial property occurs, the tree warden will review landscaping plans and may recommend that Public Shade Trees or Park Trees be planted in any of the streets, parking lots, parks and other public places abutting lands to be developed and/or subdivided.

(k) *Rulemaking Authority*. The commissioner of the department of public works & parks shall have the authority to make rules and regulations necessary to implement and enforce this section.

(l) *Enforcement*. The commissioner of the department of public works & parks shall have the power to enforce this section.

(m) *Violations*. Any person who violates any provision of this section or who fails to comply with any notice issued pursuant to provisions of this section, upon being found guilty of violation, shall be subject to a fine not more than three hundred ($300.00) dollars for each separate offense. Each day during which any violation of the provisions of this section shall occur or continue shall be a separate offense.

If, as a result of the violation of any provision of this section, a Public Shade Tree, Park Tree or other plant covered by this section located on city-owned property is damaged or dies, the cost of repair or replacement of such Public Shade Tree, Park Tree or other plant covered by this section shall be borne by the party in violation. The replacement value of trees shall be as set forth above, and the value of other plants shall be determined in accordance with the then latest revision of *A Guide to the Professional Evaluation of landscape Trees, Specimen Shrubs, and Evergreens,* as published by the International Society of Arboriculture.

(n) *Applicability*. To the extent permitted by law, if any provision of these sections imposes greater restrictions or obligations than those imposed by any other general law, special law, regulation, rule, ordinance, order, or policy, then the provisions of these sections shall control.

Section 2. Chapter 15, Section 2(b), of the Revised Ordinances of the city of Worcester (2008) is hereby amended by inserting the following new subsection 28 at the conclusion thereof as follows:

(28) Protection of Public Trees

Enforcing Persons: Commissioner of Public Works & Parks

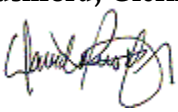
Penalty: $300.00

Section 3. When inserting the foregoing sections into the Revised Ordinances of the city, the city clerk, in consultation with the city solicitor, shall have authority to revise the numbering or formatting of any section, article, chapter or similar reference to be consistent with the numbering and format of the Revised Ordinances of the city.

Section 4. These sections shall take effect on passage.

In City Council October 20, 2009
Passed to be ordained by a yea and nay vote of Eleven Yeas and No Nays

A Copy. Attest: David J. Rushford, Clerk



City Clerk

Amendment 9397

An Ordinance Amending Chapter Two Section Twenty-Seven of the Revised Ordinances of 2008 Concerning Fees to be Charged to the Worcester Housing Authority

Be it ordained by the City Council of the City of Worcester, as follows:

1. Chapter 2, § 27 of the Revised Ordinances of the city of Worcester is hereby amended by inserting after paragraph (c) thereof a new paragraph (d) as follows:

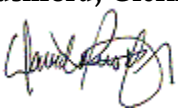
(d) Notwithstanding the provisions of paragraphs (a), (b) or (c) above, the fees for permits issued by the city of Worcester or any department, agency, board or commission thereof, concerning the construction, reconstruction, rehabilitation or repair of any building, structure or facility, which is owned, operated or controlled by the Worcester Housing Authority shall be assessed in accordance with the following schedule:

- From July 1, 2009 through June 30, 2010, the permit fees shall be zero;
- From July 1, 2010 through October 1, 2014, the permit fees shall be zero on all projects financed predominantly with federal funds; and,
- From July 1, 2010 through October 1, 2014, the permit fees shall be sixty percent of the then-applicable fee on all projects financed predominantly with state funds.
- After October 1, 2014, the provisions of this subsection (d) shall expire.

Notwithstanding the provisions of paragraphs (a), (b) or (c) above, any permit granting department, agency, board or commission of the city, upon presentation by the Worcester Housing Authority or its authorized agent of a statement demonstrating that it is qualified for a few waiver or reduction under this paragraph shall issue permits in accordance with this paragraph and shall note in its records "Fee Waived in accordance with R.O. c. 2, § 27(d)". Nothing herein shall apply to any water or sewer use fees for water or sewer services.

In City Council October 29, 2009
Passed to be ordained by a yea and nay vote of Eleven Yeas and No Nays

A Copy. Attest: David J. Rushford, Clerk



City Clerk

Amendment 9415

AN ORDINANCE RELATIVE TO VACANT PROPERTIES AND FORECLOSING PROPERTIES

Be it ordained by the City Council of the City of Worcester as follows:

Chapter Nine, section fourteen of the Revised Ordinances of 2008 is hereby amended by deleting the section and inserting the following new section:

Section 14. Securing and Maintaining Vacant Properties and Foreclosing Properties

(a) Unsecured and unmaintained vacant properties and foreclosing properties present a danger to the safety and welfare of public safety officers, the public, occupants, abutters and neighborhoods, and as such, constitute a public nuisance. This section is enacted to promote the health, safety and welfare of the public, to protect and preserve the quiet enjoyment of occupants, abutters and neighborhoods, and to minimize hazards to public safety personnel inspecting or entering such properties.

(b) The following words and phrases, when used in this section, shall have the following meanings:

building - any combination of materials having a roof and enclosed within exterior walls or firewalls, built to form a structure for the shelter of persons or property.

certificate of closure - certificate issued by the director to the owner of a vacant or foreclosing property upon compliance with the provisions of paragraph (c) herein.

director - the director of health and housing inspection.

days – consecutive calendar days.

fire chief - the chief of the Worcester Fire Department or his or her designee.

foreclosing – the process by which a property, placed as security for a real estate loan, is prepared for sale to satisfy the debt if the borrower defaults.

initiation of the foreclosure process – taking any of the following actions:

(i) taking possession of a residential property pursuant to General Laws chapter 244 § 1;
(ii) delivering the mortgagee's notice of intention to foreclose to borrower pursuant to General Laws Chapter 244 § 17B;
(iii) commencing a foreclosure action on a property in any court of competent jurisdiction; or
(iv) recording a complaint to foreclose with the registry of deeds.

local – within twenty miles of the property in question

mortgagee – the creditor, including but not limited to, service companies, lenders in a mortgage agreement and any agent, servant or employee of the mortgagee, or any

successor in interest and/or assignee of the mortgagee's rights, interests or obligations under the mortgage agreement.

owner – every person, entity, service company, or property manager who alone or severally with others:

(1) has legal or equitable title to any real property, including, but not limited to a dwelling, dwelling unit, mobile dwelling unit, or parcel of land, vacant or otherwise, including a mobile home park; or
(2) has care, charge or control of real property, including but not limited to any dwelling, dwelling unit, mobile dwelling unit or parcel of land, vacant or otherwise, including a mobile home park, or any administratrix, trustee or guardian of the estate of the holder of legal title; or
(3) is a mortgagee of any such property;
(4) is an agent, trustee or other person appointed by the courts and vested with possession or control of any such property; or
(5) is an officer or trustee of the association of unit owners of a condominium. Each such person is bound to comply with the provisions of these minimum standards as if he were the owner. However, "owner" shall not mean a condominium association created pursuant to General Laws chapter 183A to the extent that such association forecloses on or initiates the foreclosure process for unpaid assessments due or owing to the association; or
(6) every person who operates a rooming house; or
(7) is a trustee who holds, owns or controls mortgage loans for mortgage-backed securities transactions and has initiated the foreclosure process; or
(8) has recorded a complaint to foreclose with the registry of deeds.

property – any real property, or portion thereof, located in the city, including buildings or structures situated on the property; provided, however, that "property" shall not include property owned or under the control of the city, the commonwealth or the United States of America.

secured, securing – making the property inaccessible to unauthorized persons.

vacant – any property not currently legally occupied and not properly maintained or secured.

(c) Any owner of a vacant and/or foreclosing property shall forthwith:

1. Provide written notification to the director and the fire chief of the status of such property, including in such notice, the name, address and telephone number of the owner; the location of the property; the length of time the building has been vacant; the estimated time the building will remain vacant; and the nature of the contents of the building; and,

2. As may be required by the fire chief, file one set of space utilization floor plans for any buildings on said property with the fire chief and one set of said plans with the director. The owner shall certify space utilization plans as accurate twice annually, in January and July; and,

3. Remove from the property, to the satisfaction of the fire chief, hazardous material, as that term is defined in Massachusetts General Laws, chapter 21K, as that statute may be amended from time to time; and,

4. At the discretion of the fire chief or director, secure all windows and door openings and ensure that the building is secured from all unauthorized entry continuously in accordance with the United States Fire Administration, National Arson Initiative Board up Procedures or provide twenty-four (24) hour on-site security personnel on the property. When a vacant or foreclosing property is located within a complex of buildings owned by a single owner, twenty-four (24) hour on-site security shall be provided within the building or within the complex wherein the building is located; and,

5. Post "No Trespassing" signs on the property. Said signs shall be no smaller than 8 inches by 11 inches with lettering no smaller than 2 inches high, and shall be visible from the street. However, this requirement may be waived by the director upon written request from the owner or designee; and,

6. Maintain the property in accordance with Chapter 8, § 42 of these Ordinances, free of overgrowth, trash and debris, and pools of stagnant water, and ensure that structures are maintained in a structurally sound condition; and,

7. If the property is vacant, drain all water from the plumbing and turn off all electricity between September 15 and June 15 of each calendar year to guard against burst pipes and fires; however, this requirement may be waived by the director upon written request from the owner or designee; and,

8. Maintain the property in accordance with all other relevant state codes and local regulations concerning the maintenance of property; and,

9. Provide the fire chief and director with the name, local address, and telephone number of a responsible person who can be contacted in case of emergency. The owner shall cause the name and contact number to be marked on the front of the property as may be required by the fire chief or director; and,

10. Maintain liability insurance on the property and furnish the director with a copy of said certificate of insurance; and,

11. Provide a cash bond acceptable to the director, in the sum of not less than five thousand dollars, to secure the continued maintenance of the property throughout its vacancy and remunerate the city for any expenses incurred in inspecting, securing, marking or making such building safe. A portion of said bond shall be retained by the city as an administrative fee to fund an account for expenses incurred in inspecting, securing and marking other such buildings that are not in compliance with this Section. Any owner of a vacant or foreclosing property providing a bond pursuant to this section must also provide bonds for all other vacant or foreclosing properties it owns in the City.

12. Notify the director and fire chief in writing when the property is sold or transferred.

Upon satisfactory compliance with the above-provisions, the director shall issue a certificate of building closure. Said certificate shall be valid for the length of time prescribed by the director and noted thereon; provided however, the certificate shall be subject to continued compliance with the provisions of this section.

(d) Signs/Markings - When required pursuant to this section, signs or markings on buildings determined to be especially unsafe in case of fire shall be applied on the front of the property, and elsewhere as the fire chief may require, at or above the second floor level and shall not be placed over doors, windows, or other openings. All signs/markings shall be visible from the street and, when requested by the fire chief, shall be placed on the sides and rear of the property. Signs/markings shall be a minimum of 24 inches by 24 inches, with lines of 2-inch width, and shall have a reflective background, or be painted with reflective paint, in contrasting colors. Signs/markings shall be applied directly on the surface of the property and shall state the date of posting and the most recent date of inspection by the fire chief and director.

(e) Enforcement - Failure to comply with any provision of paragraph (c) above shall be punished by a fine of three hundred ($300.00) dollars with each day of violation constituting a separate offence. This section may also be enforced by civil, criminal process or non-criminal process, including injunctive relief. The director and/or the fire chief shall be enforcing persons for purposes of this section.

(f) The director or fire chief, upon being informed of the existence of a vacant or foreclosing property without a certificate of building closure, shall cause notice to issue to the owner of the status of said property and shall order said person to immediately obtain a certificate of building closure. If any person fails to comply with said order, the fire chief or director may enter the premises to inspect, secure and mark the property, and/or remove rubbish or overgrowth, or to abate a stagnant pool of water. The fire chief or director may also seek enforcement pursuant to section (e).

(g) Expenses - The owner of a vacant or foreclosing property who fails to obtain a certificate of building closure as required herein, shall be liable to the city for expenses incurred by the city in securing such property, for removing rubbish and overgrowth, and/or for abating stagnant pools of water. The director shall provide the owner with a written statement of all costs associated with inspecting, securing and marking the property, and removing rubbish or overgrowth, or abating stagnant pools of water. If the owner fails to pay or reimburse the city within seven days of notice of expenses, the city shall draw down upon the bond paid by the owner as required in subsection 10, above. If there is no bond available, the director shall record the notice of claim in the Worcester District Registry of Deeds (or the Land Court Department) forthwith, establishing a lien on the property for the balance due.

(h) No owner of a vacant or foreclosing property shall allow said property to become or remain unsecured, or to contain an accumulation of rubbish, or to contain overgrowth, or to have a stagnant pool of water. If it appears that any vacant or foreclosing property is unsecured, contains rubbish, overgrowth, or a stagnant pool of water, the director, shall send

written notification to the owner, requiring that the owner promptly secure the property, remove the rubbish or overgrowth, or abate the stagnant pool of water.

If the owner fails to comply with any order issued pursuant to this provision (h), the fire chief or director may immediately seek to obtain the proceeds secured by the bond filed pursuant to paragraph (c) (11) herein and shall enter upon the premises and cause the property to be inspected, secured and marked, or to remove rubbish, overgrowth, or stagnant pools using said proceeds.

(i) All unsecured vacant or foreclosing properties shall be immediately referred to the director for a determination relative to whether the property is a nuisance or dangerous pursuant to chapter 139 and procedures promulgated thereunder.

(j) Notices required pursuant to this section shall be served in the following manner:

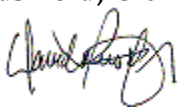
1. Personally on any owner as defined in this section, or on the contact person specified pursuant to paragraph (c)(9); or,

2. Left at the last and usual place of abode of any owner, or contact person as specified pursuant to paragraph (c)(9), if such place of abode is known and is within or without the commonwealth; or,

3. By certified or registered mail, return receipt requested, to any owner, or the contact person specified pursuant to paragraph (c)(9).

In City Council December 15, 2009
Passed to be ordained by a yea and nay vote of Eleven Yeas and No Nays

A Copy. Attest: **David J. Rushford, Clerk**



City Clerk

Amendment 9485

AN ORDINANCE AMENDING CHAPTER EIGHT SECTION EIGHT OF THE REVISED ORDINANCES OF 2008 RELATIVE TO COMMERCIAL METAL CONTAINERS

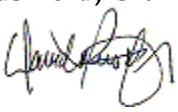
Be it ordained by the City Council of the City of Worcester, as follows:

Chapter 8, § 8 of the Revised Ordinances of the city of Worcester is hereby amended by deleting subsection (e) thereof it in its entirety and inserting in lieu thereof the following new subsection (e) as follows:

(e) No owner, lessee or refuse generator shall maintain on any premises a commercial metal container or containers with a capacity aggregating six cubic yards or more of compacted or un-compacted combustible rubbish and which are emptied by mechanical assistance without first obtaining a permit from the chief of the fire department. Each permit shall expire one year from the date of issuance. No such permit, however, shall be required for containers which are delivered to a location and removed in the course of a single business day.

In City Council June 1, 2010
Passed to be ordained by a yea and nay vote of Ten Yeas and One Nay

A Copy. Attest: David J. Rushford, Clerk



City Clerk

Amendment 9486

AN ORDINANCE AMENDING CHAPTER EIGHT OF THE REVISED ORDINANCES OF 2008 RELATIVE TO LICENSING AND CONTROL OF DOGS

Be it ordained by the City Council of the City of Worcester as follows:

Section 10 of Chapter Eight of the Revised Ordinances of 2008 is hereby amended by inserting the following new subsection:

Section 10. Dog Licenses

(j) Notwithstanding any other provision of this chapter, whenever the city clerk becomes aware that any person is keeping a dog within the city when such dog has a current rabies vaccination certificate but does not have a current license from the city, the city clerk may deem the dog unlicensed without further investigation and this ordinance may be enforced as in section 15 of this chapter.

Section 15 of Chapter Eight of the Revised Ordinances of 2008 is hereby amended by deleting the section in its entirety and substituting the following new section:

Section 15. Enforcement

(a) The city manager, acting through the chief of police, police officers, animal control officers, or any officer or employee of the city under the jurisdiction of the city manager, shall have authority to enforce the provisions of this chapter and shall have all the powers and duties afforded by chapter 140 of the General Laws as it relates to the regulation of dogs and dog owners.

(b) This chapter may be enforced by civil process, criminal process, or by non-criminal disposition as provided in General Laws, chapter 40, §21D. Each day on which a violation exists shall be deemed to be a separate offense and any person in violation of this chapter shall be punished by a fine of fifty dollars for each offense. Any person who is punished under this chapter for three or more violations in any two year period shall immediately forfeit any license issued under sections ten through sixteen of this chapter and shall be ineligible to hold any dog or kennel license for one year from the date of the third conviction or imposition of a civil penalty.

(c) Any person may make a complaint to the chief of police pursuant to § 157 of chapter 140 of the General Laws. The chief of police shall investigate the matter in accordance with the terms of said section and may make any order concerning the restraint or disposal of such dog as provided for therein.

(d) In addition to any fine or monetary penalty imposed by sections ten through sixteen of this chapter, any dog found running at-large within the city, or any animal found to be a dangerous dog or nuisance animal, shall be deemed forfeit and may be seized and impounded by the city. The owner of any such animal shall be liable to the city for all fees

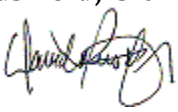
and expenses paid for the protection, care, rehabilitation or euthanasia of any such animal. The owner of any animal deemed forfeit and seized by the city shall have the right to request a hearing before the chief of police to determine whether the animal qualifies as a dangerous dog or nuisance animal under this chapter, if a request for a hearing is made in writing to the chief of police within seventy-two hours after such seizure occurs. Any such hearing shall be informal and may be conducted by the chief of police, or his or her designee.

(e) Every license issued under this chapter shall become void whenever the licensee is found guilty of, or penalized in any manner for, sections seventy-seven, eighty A, ninety four or ninety-five of chapter two hundred and seventy-two of the General Laws. The licensee shall immediately return and surrender any such license to the city clerk. No person shall be given a license under the provisions of this chapter during a period two years from the date of being found guilty or penalized in any manner as aforesaid, and any such license issued shall be void and shall be surrendered upon demand of the city clerk, or his or her designee.

Section 17 of Chapter Eight of the Revised Ordinances of 1996 is hereby deleted in its entirety.

In City Council June 1, 2010
Passed to be ordained by a yea and nay vote of Ten Yeas and One Nay

A Copy. Attest: David J. Rushford, Clerk



City Clerk

Amendment 9487

AN ORDINANCE AMENDING CHAPTER TEN OF THE REVISED ORDINANCES OF 2008 RELATIVE TO FEES FOR FIRE DEPARTMENT PERMITS & SERVICES

Be it ordained by the City Council of the City of Worcester, as follows:

1. Chapter 10 of the Revised Ordinances of the city of Worcester is hereby amended by deleting section 13 thereof in its entirety and inserting in lieu thereof the following new section 13 as follows:

§ 13. Fees for Certain Licenses, Permits and Services

(a) The fire chief shall grant such permits for use in the city as may be required by these revised ordinances or any applicable fire safety rules and regulations and the chief shall make such inspections and have and exercise such powers and duties in connection therewith as these revised ordinances, or any applicable fire safety rules and regulations or as the state marshal may direct. The fire chief shall keep a record of every permit so issued, and shall furnish the state fire marshal with such information in respect to such permits as he or she may require. The chief may revoke any such permit for cause.

(b) Except as otherwise expressly provided for in these revised ordinances or by any general law or special act, the fire chief shall, acting under authority of the Revised Ordinances, Part One, Article Two § 24 and G.L. c. 40, § 22F, establish such fees and charges for any license, permit, inspection or other service issued or provided by the department. For such permits, licenses, inspections or other services provided under G.L. c. 148, § 10A, except for smoke detector and carbon monoxide alarm inspections as provided in subsection (c) herein, the fire chief may establish a fee not to exceed $50 or any other such amount as may be established in G.L. c. 148, § 10A from time to time.

(c) If a smoke detector inspection, conducted pursuant to section 26F, and a carbon monoxide alarm inspection, conducted pursuant to section 26F 1/2, are conducted simultaneously, the owner shall not be subject to an additional fee for the carbon monoxide alarm inspection. The fee for either a carbon monoxide alarm inspection or a smoke detector inspection, conducted separately, shall not exceed: $50 for a single-family dwelling or a single dwelling unit; $100 for a 2-family dwelling; $150 for any building or structure with 6 or fewer residential units; and $500 for any building or structure with more than 6 units.

2. Chapter 10 of the Revised Ordinances of the city of Worcester is hereby amended by deleting section 14 thereof in its entirety and inserting in lieu thereof the following new section 14 as follows:

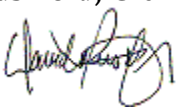
§ 14. Fire Alarm Service Fees

(a) Every person utilizing the telephonic fire alarm service shall pay annually a service fee established by the fire chief acting under authority of the Revised Ordinances, Part One, Article Two § 24 and G.L. c. 40, § 22F. City buildings, including the city school department buildings, shall be exempt from payment of the service fee. The service fee payment shall be made to the city treasurer. The chief of the fire department shall thereupon issue a permit for use of the fire alarm facilities by the payee.

(b) The fee for a permit issued by the chief of the fire department for approval of plans and inspection of the installation of fire alarm systems in residential and commercial buildings shall be established by the chief acting under authority of the Revised Ordinances, Part One, Article Two § 24 and G.L. c. 40, § 22F. This subsection shall not apply to municipal projects.

In City Council June 1, 2010
Passed to be ordained by a yea and nay vote of Ten Yeas and One Nay

A Copy. Attest: **David J. Rushford, Clerk**



City Clerk

Amendment 9488

AN ORDINANCE AMENDING CHAPTER SEVEN SECTION SIXTEEN OF THE REVISED ORDINANCES OF 2008 RELATIVE TO WATER RATES USE CHARGES (FY 2011)

Be it ordained by the City Council of the City of Worcester, as follows:

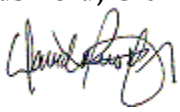
1. Chapter 7, § 16 of the Revised Ordinances of the City of Worcester, as most recently amended, is hereby further amended by deleting in paragraph (c) thereof, the rate for "Basic" and inserting in lieu thereof the new rate as follows.

Basic . . . . . $ 3.15

2. This amendment shall be effective as of July 1, 2010 and shall apply to all bills issued after such effective date in accordance with subsection (f) of section sixteen of Chapter 7 of the Revised Ordinances of 2008.

In City Council June 8, 2010
Passed to be ordained by a yea and nay vote of Eight Yeas and Three Nay

A Copy. Attest: David J. Rushford, Clerk



City Clerk

Amendment 9489

AN ORDINANCE AMENDING CHAPTER FIVE
SECTION TWENTY-SIX OF THE REVISED ORDINANCES OF 2008
RELATIVE TO SEWER USER CHARGE
(FY 2011)

Be It Ordained by the city council of the city of Worcester as follows:

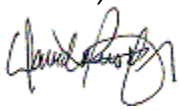
1. Chapter 5, § 26 of the Revised Ordinances, as most recently amended, is hereby further amended by deleting in paragraph (g) thereof, the rate for "Basic Rate" and inserting in lieu thereof the new rate as follows.

Basic Rate. . . . . $ 5.06

2. This amendment shall be effective as of July 1, 2010 and shall apply to all bills issued after such effective date in accordance with subsection (f) of section sixteen of Chapter Seven of the Revised Ordinances of 2008.

In City Council June 8, 2010
Passed to be ordained by a yea and nay vote of Eight Yeas and Three Nay

A Copy. Attest: **David J. Rushford, Clerk**



City Clerk

Amendment 9507

AMENDING CHAPTER EIGHT, SECTIONS ONE, TWO, THREE AND FOUR OF THE REVISED ORDINANCES CONCERNING THE DISTRIBUTION AND USE OF TOBACCO PRODUCTS

Be it ordained by the city council of the city of Worcester, as follows:

Section 1. Chapter 8 of the Revised Ordinances of 2008 is hereby amended by deleting, in Section 1, lines 2 and 3, the words "the commissioner of health and human services," and by deleting, in Section 1, lines 4 and 5, the words "the department of health and human services or". The remainder of Section 1 shall remain unchanged.

Section 2. Chapter 8 of the Revised Ordinances of 2008 is hereby amended by deleting Section 2 in its entirety and inserting "[Reserved]".

Section 3. Chapter 8 of the Revised Ordinances of 2008 is hereby amended by deleting Section 3 in its entirety and inserting the following new Section 3, as follows:

§ 3. Tobacco Products Control Ordinance

(a) *Declaration of Findings and Policy.* There exists conclusive evidence that tobacco smoke causes cancer, respiratory and cardiac diseases, negative birth outcomes, irritations to the eyes, nose and throat; and at least one-half of all smokers begin smoking before the age of eighteen; and an estimated 3,000 minors begin smoking every day in the United States; and nicotine has been found by the surgeon general to be a powerfully addictive drug; and despite state and local laws prohibiting the sale of tobacco products to minors, access by minors to tobacco products continues to be a major problem; and a comprehensive city ordinance to restrict the access of minors to tobacco products in the interest of public health, including requiring proof of age in order to purchase tobacco products , is necessary; now, therefore, it is the policy of the city of Worcester to discourage minors from experimenting with tobacco and to make tobacco products less accessible to minors.

(b) *Definitions*. For purposes of this section the following words and phrases shall have the following meanings:

business agent – shall mean an individual who has been designated by the owner or operator of any establishment to be the manager or otherwise in charge of said establishment.

commissioner – shall mean the commissioner of public health of the city.

employee – shall mean any individual who performs a service for compensation for an employer at the employer's workplace and as otherwise defined in section twenty-two (a) of chapter two hundred seventy of the General Laws.

employer – shall mean any individual, partnership, association, corporation, trust or other organized group of individuals, including the city of Worcester or any agency or authority thereof, which uses the services of one (1) or more employees and as otherwise defined in section twenty-two (a) of chapter two hundred seventy of the General Laws.

minor – shall mean any individual who is under the age of eighteen.

permit – shall mean the tobacco product sales permit issued by the commissioner pursuant to this ordinance.

permit holder – shall mean any retailer, or such retailer's business agent, who applies for and receives a permit pursuant to this ordinance, or the regulations adopted by the commissioner.

person – shall mean any individual, company, partnership, corporation, association, or other legal entity.

regulations – shall mean other regulations adopted by the commissioner pursuant to this ordinance and/or pursuant to section thirty-one of chapter one hundred and eleven of the General Laws.

retailer – shall mean any person who is the owner or operator of any establishment in the business of selling or distributing tobacco products.

s*elf-service display* – shall mean any display of tobacco products which is so located such that said products are accessible to customers without assistance from an employee or store personnel.

tobacco products – shall mean cigarettes, cigars, chewing tobacco, pipe tobacco, snuff or tobacco in any of its forms.

vending machine – shall mean any automated, self-service device which, upon insertion of money, tokens or any other form of payment, dispenses cigarettes or any other tobacco product.

(c) *Smoke Free Workplace/Municipal Buildings*. Smoking is hereby prohibited in the municipal buildings and workplaces located the city of Worcester in accordance with section twenty-two of chapter two hundred seventy of the General Laws (commonly known as the "Massachusetts Smoke-free Workplace Law"). For the purposes of this section, municipal buildings shall include any building owned or leased by the city of Worcester, its agencies and authorities, including, but not limited to, City Hall, Union Station and all city libraries. Any person who violates the provisions of this subsection shall be fined $25.00.

(d) *Smoking Prohibited at Certain Entrances and Exits.* Smoking is also hereby prohibited in the following:

(1) Smoking shall be prohibited within fifty (50) feet of all municipal building entrance and exit ways, except that this prohibition shall not apply to an individual transiting through such fifty (50) foot area or to an individual approaching an entranceway with the intention of immediately extinguishing a tobacco product. For the purposes of this section, municipal buildings shall include any building owned or leased by the city of Worcester, its agencies and authorities, including, but not limited to, City Hall, Union Station and all city libraries. Any person who violates the provisions of this subsection shall be fined $25.00.

(2) Smoking shall be prohibited in the area within fifty (50) feet of any entrance and exit way of a health care institution located within the city of Worcester, except that this shall not apply to an individual transiting through such fifty (50) foot area or to an individual approaching an entranceway with the intention of extinguishing a tobacco product. For the purposes of this section, the term "health care institution" shall mean any individual, partnership, association, corporation or trust or any person or group of persons that provides health care services and employs health care providers licensed, or subject to licensing, by the Massachusetts Department of Public Health under chapter one hundred and twelve of the General Laws. Health care institution shall include but is not limited to hospitals, clinics, health centers, doctor offices and dentist offices. Any person who violates the provisions of this subsection shall be fined $25.00.

(e) *Smoking Bars*. Smoking is also hereby regulated in the following:

(1) The operation of a "smoking bar", as defined in section twenty-two of chapter two hundred seventy of the General Laws, which includes but is not limited to those establishments that are commonly known as "cigar bars" and "hookah bars" shall (a) comply with the terms and conditions set out in any regulations promulgated by the commissioner to promote public health and the health of patrons using the services of a smoking bar, (b) prohibit the entry of minors at all times, (c) maintain a valid permit issued by the commissioner, or a designee, and (d) post signs at conspicuous locations warning patrons of the dangers of environmental tobacco smoke in the manner and form specified by the commissioner, or a designee, at all entrances and on all tobacco selection menus.

(f) *Sales to Minors Prohibited.*

(1) No retailer shall sell, attempt to sell, or otherwise distribute or attempt to distribute a tobacco product to a minor.

(2) No retailer shall sell or permit the sale of tobacco products unless the location at which the tobacco products are available for purchase is posted with a notice at least six inches by eight inches in size which is clearly visible to anyone purchasing such products and which states:

> "Whoever sells a cigarette, chewing tobacco, snuff or any tobacco in any of its forms to any person under the age of eighteen or, not being his parent or guardian, who gives a cigarette, chewing tobacco, snuff or tobacco in any of its forms to any person under the age of eighteen (18) shall be punished by a fine of not less than one hundred ($100) dollars for the first offense, not less than two hundred ($200) dollars for a second offense and not less than three hundred ($300) dollars for any third or subsequent offense."

Said notice must be posted in compliance with G.L. c. 270, §§ 6 & 7 and shall be available upon request from the commissioner, or a designee.

(3) Each retailer selling or distributing tobacco products shall verify the age of the purchaser by means of valid government-issued photographic identification showing the purchaser is not a minor. Verification is required for any person under the age of twenty seven (27).

(g) *Sale and Distribution of Tobacco Products Regulated*

(1) No retailer may sell or cause to be sold or distribute or cause to be distributed, any cigarette package that contains fewer than twenty (20) cigarettes, including single cigarettes.

(2) All self-service displays of tobacco products are prohibited. All humidors including, but not limited to, walk-in humidors must be locked. The only exception is self-service displays that are located in facilities where the retailer ensures that no minor is present, or permitted to enter, at any time.

(3) No retailer shall sell, attempt to sell, or otherwise distribute tobacco products in any building or facility owned or operated by the city.

(4) No retailer shall distribute, or cause to be distributed, any free samples of tobacco products.

(h) *Tobacco Sales Permit*

(1) No retailer shall sell or otherwise distribute tobacco products within the city of Worcester without first obtaining a permit issued by the commissioner, or a designee. Only owners of establishments with a permanent, non-mobile location in Worcester are eligible to apply for a permit and sell tobacco products at a specified location in Worcester. The commissioner, or a designee, shall issue a permit to any applicant only after determining that the applicant

demonstrates compliance with this ordinance and any regulations the commissioner may adopt to implement this ordinance.

(2) As part of the permit application process, the applicant will be provided with this ordinance. Each applicant is required to sign a statement declaring that he or she has received the ordinance and agrees to be responsible for instructing all employees engaged in tobacco product sales about state law governing tobacco product sales and this ordinance. No permit holder shall allow any employee to sell tobacco products until the employee acknowledges, in writing, receipt of this ordinance and the state law regarding the sale of tobacco, a copy of which will be placed on file in the office of the employer.

(3) Each applicant shall provide the commissioner with proof of a current tobacco sales license issued by the Massachusetts Department of Revenue before a permit may be issued.

(4) The commissioner, or a designee, shall issue permits to any applicant only after the commissioner, or a designee, determines that the application is in compliance with this ordinance and any rules or regulations the commissioner may adopt to implement this ordinance. The first permit issued to any applicant shall be an "initial" permit, which shall expire on the thirty-first day of December next after the date of issuance. Thereafter, permits issued shall be an "annual" permit which shall be valid for one calendar year beginning on the first day of January and ending on the thirty-first day of December. The "annual" permit is renewable to the same permit holder each year by the thirty-first day of December upon receipt of an application in compliance with this ordinance and the applicable rules and regulations. Any permit holder that fails to renew a permit by the thirty-first day of December and continues to operate may be subject to penalty and enforcement under this section.

(5) A separate permit is required for each retail establishment selling tobacco products.

(6) Each permit shall be displayed at the retail establishment in a conspicuous location and consistent with rules and regulations which the commissioner may adopt.

(7) No permit shall be transferable, except as set forth in this Chapter 8. Permits holders shall have no property interest in a permit.

(A) Permits may be transferred incident to the relocation of a retail establishment by the existing permit holder upon prior written notification to the commissioner of the relocation and any change in address.

(B) Permits may be transferred incident to the sale of an existing permitted retail establishment to a new owner at the same location upon application to the commissioner.

(C) No existing permit may be transferred by subsection (A) or (B) unless and until all requirements of this ordinance and any regulations are satisfied and any outstanding penalties are satisfied in full.

(8) A permit will not be renewed if the permit holder has failed to pay any outstanding fines.

(i) *Tobacco Vending Machines*

(1) All tobacco vending machines are prohibited in the city of Worcester.

(j) *Penalties and Enforcement*

(1) Any retailer who violates the provisions of subsection (h)(1) of this ordinance shall be punished by a fine of three hundred dollars ($300.00) for each violation. Every day or part

thereof in which a retailer engages in such conduct shall constitute a single and separate offense.

(2) Any retailer who violates any provision of this ordinance other than subsection (c)-(e) or (h)(1) shall pay:

(A) In the case of a first violation, a fine of one hundred dollars ($100.00).

(B) In the case of a second violation within twenty-four (24) months of the date of the current violation, a fine of two hundred dollars ($200.00) and the permit may be suspended for seven (7) consecutive business days.

(C) In the case of three or more violations within a twenty-four (24) month period, a fine of three hundred dollars ($300.00) and the permit may be suspended for thirty (30) consecutive business days.

(3) The commissioner, or a designee, shall provide notice of the intent to suspend a permit, which notice shall contain the reasons therefor and establish a time and date for a hearing which date shall be no earlier than seven (7) days after the date of said notice. The permit holder or its business agent shall have an opportunity to be heard at such hearing before the commissioner, or a designee. The permit holder shall be notified of the commissioner's decision and the reasons therefore in writing. After a hearing, the commissioner may suspend the permit if the commissioner finds that a sale to a minor occurred or pursuant to subsection 2(C) above. For purposes of such suspensions, the commissioner shall make the determination notwithstanding any separate criminal or non-criminal proceedings brought in court hereunder or under the General Laws for the same offense. All tobacco products shall be removed from the retail establishment upon suspension of the permit. Failure to remove all tobacco products shall constitute a separate violation of this ordinance.

Section 4. Chapter 15, Section 2, of the Revised Ordinances of 2008 is hereby amended by deleting subsection (11) and inserting in lieu thereof the following new subsection (11) as follows:

(11) Tobacco Products Control Ordinance

(A) Use of Tobacco Products - R.O. c. 8, § 3(c)-(e)

Enforcing Persons: Commissioner of Public Health
Police Chief
Commissioner of Inspectional Services

Penalty: $25.00

(B) Tobacco Products Control

Sale Without Tobacco Sales Permit – R.O. c. 8, § 3(h)(1)
Enforcing Persons: Commissioner of Public Health

Penalty: $300.00

Tobacco Products Control –
R.O. c. 8, § 3, except § 3(c)-(e) & (h)(1)
Enforcing Persons: Commissioner of Public Health

Penalties:
First offense $100.00
Second offense $200.00

Third and each subsequent offence$300.00

In City Council July 20, 2010
Passed to be ordained by a yea and nay vote of Ten Yeas and No Nays

A Copy. Attest: **David J. Rushford, Clerk**

City Clerk

Amendment 9511

AN ORDINANCE AMENDING CHAPTER EIGHT OF THE REVISED ORDINANCES OF 2008 RELATIVE TO PUBLIC TRASH RECEPTACLES

Be it Ordained by the City Council of the city of Worcester, as follows:

Chapter Eight of the Revised Ordinances of 2008 is hereby amended by inserting after section six thereof a new section six A, as follows:

§ 6A. Public Trash Receptacles

(a) The following words and phrases, when used in this section, shall have the following meanings:

c*ommercial garbage* – all refuse, incidental to the ordinary conduct of a commercial business, including without limitation, papers, packaging, construction materials, metal articles, chemicals, fuels or mineral substances, such as ordinarily accumulate in the operation of a commercial business establishment.

household garbage – all refuse, incidental to the ordinary conduct of the household, including without limitation, tin cans, tinware, bottles, glassware, earthenware, metal articles, cleaning supplies or chemicals, plastic or paper containers, food waste and paper products, such as ordinarily accumulate in the operation or maintenance of dwellings.

public trash receptacle – a receptacle owned or maintained by the City and placed by the City in parks and on sidewalks, streets and other city property for the reception of litter other than household or commercial garbage.

(b) No person shall deposit any household or commercial garbage in a public trash receptacle.

(c) No person shall deposit any litter, garbage, trash, rubbish or waste, of any kind, in a public trash receptacle except in such a manner as to prevent it from being scattered or carried by the elements onto any street, sidewalk or property.

(d) This Ordinance may be enforced by civil process, criminal process or by noncriminal disposition as provided in General Laws, Chapter 40, §21D. Any person in violation of this ordinance shall be subject to the following fines:

First violation:	$50.00
Second violation:	$100.00
Third violation:	$200.00
Fourth and each subsequent violation:	$300.00

In City Council August 10, 2010
Passed to be ordained by a yea and nay vote of Eleven Yeas and No Nays

A Copy. Attest: David J. Rushford, Clerk

City Clerk

Amendment 9512

AN ORDINANCE AMENDING CHAPTER FIFTEEN OF THE REVISED ORDINANCES OF 2008 RELATIVE TO ENFORCEMENT OF THE PUBLIC TRASH RECEPTACLE ORDINANCE

Be It Ordained by the City Council of the city of Worcester as follows: Chapter 15, Section 2(b), of the Revised Ordinances of the City of Worcester (2008) is hereby amended by inserting the following new subsection at the conclusion thereof as follows:

(29) Public Trash Receptacles, R.O. c. 8, § 6A.

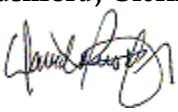
Enforcing Persons: Commissioner of Public Works & Parks
Commissioner of Inspectional Services
Other Authorized by City Manager

Penalties:

First offense in a calendar year:	$50.00
Second offense in a calendar year:	$100.00
Third offense in a calendar year:	$200.00
Fourth and subsequent offenses in a calendar year:	$300.00

In City Council August 10, 2010
Passed to be ordained by a yea and nay vote of Eleven Yeas and No Nays

A Copy. Attest: David J. Rushford, Clerk



City Clerk

Amendment 9514

An Ordinance Amending the Dog Control Provisions of the Revised Ordinances to Include Requirements for Responsible Pit Bull Ownership

Be it ordained by the City Council of the City of Worcester, as follows:

Section 1. Chapter Eight of the Revised Ordinances of 2008 is hereby amended by inserting a new Section 12A, as follows:

§ 12A. Responsible Pit Bull Ownership

(a) Purpose. Dogs known as pit bulls have generally-exhibited traits such as (i) powerful instincts for dominance which naturally results in a proclivity for fighting; (ii) a strong prey drive, which, inspires a natural chase instinct that often results in their aggressive pursuit of cats, rabbits, other dogs, and human children; (iii) a stubbornness that results in sustained, unyielding aggressiveness once an attack begins; (iv) powerful jaws capable of crushing bones and hanging onto victims even while the animal withstands infliction of injury or pain; and (v) a combination of stamina, agility, strength, and "gameness" (the will to successfully complete a task). Judicial and legislative bodies have reacted by noting that the classification of pit bulls as dangerous animals has a rational basis in fact and that adopting controlling measures in order to reduce the likelihood of human injury bears a rational relationship to the governmental objective of preserving public health, public safety, and public welfare. The city of Worcester has experienced an outbreak of violent pit bull attacks, such as: a 3-year-old boy who was left with more than 100 stitches and a fear of going home after he was attacked by a pit bull on Aetna Street. The Worcester Police Department Crime Analysis Unit found that from September 30, 2008, to September 30, 2009, there were 55 complaints of an attack or fear of an imminent attack by dogs, 29 of which incidents involved a pit bull and 26 by an unknown breed and the Worcester Police Department reports that 25% of all dog bite incidents, 39 out of 157 bites over a two year period, involve one breed: pit bulls.

(b) Definitions. The following words and phrases, when used in this section, shall have the following meanings:

muzzle - means a restraining appliance made of metal, plastic, leather, cloth, or a combination of these materials that, when fitted and fastened over a pit bull's snout/mouth/head, prevents the pit bull from biting but allows room for the pit bulls to breathe/pant.

owner-keepers - means every person who owns, possesses, keeps, exercises control over, maintains, harbors, transports, or sells a pit bull.

pit bull - includes, but is not limited to, any dog that is an American Pit Bull Terrier, American Staffordshire Terrier, Staffordshire Bull Terrier, or any dog of mixed breed displaying the majority of physical traits of any one or more of the above breeds, or any dog exhibiting those distinguishing characteristics which substantially conform to the standards established by the American Kennel Club or United Kennel Club for any of the above breeds, such characteristics being identifiable even if there are technical deficiencies in any particular dog's conformance thereto; or any dog identifiable by a licensed veterinarian, animal control officer, or any other knowledgeable person

whose identification is deemed credible by the Worcester Police Department or the animal control officer as having American Pit Bull Terrier, American Staffordshire Terrier, and/or Staffordshire Bull Terrier as any element of its breeding, or any dog registered or licensed as a pit bull. Specifically excepted from this definition is any dog with proof by American Kennel Club or United Kennel Club papers or by a written certification or written notice from a veterinarian licensed in the commonwealth of Massachusetts that the dog does not contain in its lineage any American Pit Bull Terrier, American Staffordshire Terrier, or Staffordshire Bull Terrier. The term "pit bull' as used in this section 12A shall include any dog regardless of breed that qualifies as a "dangerous dog" under section 12(a)(i)-(iv) of this chapter.

Secure temporary enclosure - includes, but is not limited to, a secure enclosure used for purposes of transporting a pit bull and which includes a top and bottom permanently attached to the sides except for a securable door used for the ingress and egress of a pit bull. Such enclosure must be of such material, and such door closed and secured in such a manner, that the pit bull cannot exit the enclosure without human assistance.

(c) Prohibition. No person may own, possess, keep, exercise control over, maintain, harbor, transport, or sell within the city any pit bull while in violation of any of the provisions of this section 12A.

(d) Registration and License. All dogs shall be registered and licensed pursuant to section 10 of this chapter and all pit bulls shall be additionally registered and licensed pursuant to this section 12A. In no event, however, may more than two pit bulls may be registered, licensed, stored, housed, sheltered, or in any way located at a single household, except that puppy pit bulls less than nine weeks old shall not be included for the sole purpose of this two-animal restriction.

(e) Additional Pit Bull Licensing Requirements.

(1) All owner-keepers of a pit bull must annually register such pit bull with the city clerk. The registration form shall require (i) the complete legal names, residential addresses and telephone numbers of all of the pit bull's owner-keepers; and, (ii) presentation of a positive form of government-issued picture identification (no photocopies) for all of the owner-keepers, which identification the city clerk shall copy and attach to the application (iii) the complete address where the pit bull will be primarily housed/sheltered; and (iv) the complete details of the pit bull's physical identification, including but not limited to breed, sex, weight, color, markings, and any other distinguishing physical characteristics, all provided by the owner-keepers; (v) a photograph of the pit bull that is not more than thirty calendar days old; and (vi) the complete details of the pit bull's documented identification, including but not limited to the pit bull's registration and/or license number as issued by the city clerk and true and accurate copies the pit bull's rabies vaccination and a copy of the pit bull's health record as prepared by a veterinarian which shall not be dated more than thirty calendar days from the application for registration of the pit bull under this section.

(2) The owner-keepers shall separately acknowledge by signing or initialing a statement on the registration form acknowledging the spay/neuter restriction in

this subsection. The owner-keepers shall, at their expense, have the pit bull spayed or neutered and, unless previously submitted, shall submit to the city clerk an original or certified copy of documentary proof thereof from a licensed veterinarian. This requirement shall be waived upon a written statement from a licensed veterinarian that the procedure cannot or should not be performed for reasons of the health or age of the pit bull.

(3) All owner-keepers shall separately acknowledge by signing or initialing a statement on the registration form acknowledging the permission requirement in this sub-section. If the owner-keepers are not the owner of the premises at which the pit bull will be primarily housed/sheltered then the owner or keeper shall obtain the written permission of the landlord, lessor, property owner, or the duly authorized agent thereof for the presence and housing of the pit bull and, and unless previously submitted, shall submit the original written permission to the city clerk. A landlord, lessor, property owner, or the duly authorized agent thereof must approve in writing or deny in writing a request for permission within ten business days; upon a showing that ten business days have passed, the failure of a landlord, lessor, property owner, or the duly authorized agent thereof to respond shall be deemed to be approval.

(4) All owner-keepers shall separately acknowledge by signing or initialing a statement on the registration form acknowledging the specific requirements of subsection (f) of this section and attesting that whenever the pit bull is away from the private property of the owner-keepers, specifically including but in no way limited to the streets, sidewalks, parks, and playgrounds of the city, that the owner-keepers will ensure that the pit bull is either (i) adequately and securely led and leashed by a person with the clear ability to physically control/restrain the leashed pit bull with the pit bull wearing a muzzle or (ii) in a secure temporary enclosure.

(5) All owner-keepers shall separately acknowledge by signing or initialing a statement on the registration form acknowledging the two-animal restriction in this section.

(6) All owner-keepers shall separately acknowledge by signing or initialing a statement on the registration form acknowledging the signage requirement in subsection (g) of this section.

(7) All owner-keepers registering a pit bull shall be eighteen years old or older.

(8) The registration and license under this section is not transferable and shall be annually renewable only by the owner-keepers registering the pit bull.

(9) The fee for the registration and license shall be not less than fifty dollars and no cents ($50.00).

(10) Upon a successful application, the city clerk shall provide the owner-keepers (i) a pit bull license tag; (ii) a complete copy of the application for registration and license as submitted by the owner-keepers, (iii) a written summary of all methods for contacting the animal control officers including but not limited to twenty-four hour telephone contact information and an appropriate telephone number in the Worcester Police Department, and (iv) a copy of this section 12A.

(11) The license tag issued by the city clerk pursuant to this section 12A shall be attached to the pit bull by means of a collar or harness and shall not be attached to any pit bull other than the pit bull for which the license tag was issued. If the pit bull license tag is lost or destroyed, the owner-keepers shall, within three business days, obtain a duplicate from the city clerk. The fee for duplicate license tags shall be not less than twenty-five dollars and no cents ($25.00).

(f) Adequate Control. Supplementing the requirements of sections 12 and 14 of this chapter, at all times when a pit bull is away from the private property of the owner-keepers, specifically including but in no way limited to the streets, sidewalks, parks, and playgrounds of the city, all owner-keepers shall ensure that the pit bull is either (a) wearing a muzzle and adequately and securely led and leashed by a person with the clear ability to physically control/restrain the leashed pit bull, or, (b) in a secure temporary enclosure.

(g) Signage and Enclosure. All owner-keepers shall, whenever a pit bull is on the premises, display a sign advising all persons that a pit bull is located on the premises, and such sign shall be visible and legible from the further of (i) the nearest public or private way or (ii) one hundred feet. In no event may the pit bull sign be less than eight and one-half inches by eleven inches. The sign shall announce "PIT BULL DOG" or "BEWARE OF DOG" in lettering not less than two inches in height and in lettering that sharply contrasts with the background of the sign.

(h) Transfer/Sale. No owner-keeper shall sell or otherwise transfer a pit bull to any person except a member of the owner-keeper's immediate family unless such person has first obtained a registration and license from the city clerk in accordance with the provisions of this section 12A.

(i) Notifications to Animal Control Officer. All owner-keepers shall notify the animal control officers as follows:

(1) Immediately if a pit bull has mauled, bitten, attacked, threatened, or in any way menaced another animal or a human;

(2) Within twenty-four hours if a pit bull is on the loose, at-large, unconfined;

(3) Within seven calendar days if a pit bull has died or has in any way permanently relocated;

(4) Within fourteen calendar days if a pit bull becomes pregnant; and

(5) Within seven calendar days if a pit bull has a litter of puppies.

All such notifications shall be made initially by telephone and shall, upon the request of an animal control officer or police officer, be committed to writing.

(j) Exceptions. The provisions of subsection (f) of this section notwithstanding:

(1) Owner-keepers may transport into and hold in the city a pit bull for a temporary period not to exceed fourteen calendar days and only for the purpose of showing the owner-keeper's pit bull in a contest, show, or other exhibition event sponsored by a dog club association or similar organization.; provided that the sponsor/organizer of the event: 1) delivers written notice of the event to the

animal control officer not later than twenty-one calendar days prior to the event; 2) obtains all permits or licenses required by law for the event; and, 3) demonstrates that it will implement adequate measures to prevent pit bulls from injuring the public. The owner-keepers of any pit bull so transported or held shall, at all times when the pit bull is being transported within the city keep the pit bull confined in a secure temporary enclosure and must place a conspicuous sign complying with the requirements of this section on the secure temporary enclosure.

(2) No governmental entity nor any person authorized by a governmental entity that owns, keeps, or harbors a pit bull for law enforcement activities shall be subject to these sections.

(3) No dog that is trained and relied upon as a service dog or assistance dog by a person with a disability shall be subject to this section 12A, nor shall a dog which has successfully completed a dog or canine training program from a facility or instructor possessing a nationally accredited certification in dog training unless otherwise deemed a dangerous dog under section 12 of this chapter.

(k) Impoundment; Investigation; Redemption.

(1) *Impoundment*. Any pit bull found by an animal control officer or police officer to be on the loose, at-large, or unconfined, or which has been observed by an animal control officer or any police officer to have mauled, bitten, attacked, threatened, or in any way menaced another animal or human shall be presumed to be in violation of this section 12A and shall be subject to immediate impoundment. All animal control officers are authorized to immediately impound any pit bull in violation of this section 12A. The animal control officers are authorized to temporarily house any impounded pit bull and to dispose of the same, with the approval of the chief of police, at his/her sole professional discretion.

(2) *Investigation*. All animal control officers are empowered to make whatever inquiry or investigation is deemed necessary to ensure compliance with the provisions of this section 12A. All animal control officers are empowered to seize and impound any pit bull found to be in violation of this section 12A or any pit bull for which the owner or keeper has failed to comply with any of the provisions of this section 12A.

(3) *Redemption*. The animal control officer shall not release a pit bull from impoundment unless the owner-keepers (i) provide proof of registration and license satisfactory to the animal control officer, (ii) provide adequate proof that any violations of this section 12A have been corrected in a manner satisfactory to the animal control officer, (iii) remit payment to the animal control officer of all fines issued pursuant to violations under section ten through section 15 hereof, and (iv) remits payment to the animal control officer for the costs associated with the impounding of the pit bull and the term of impoundment of the pit bull.

(l) Appeal. Owner-keepers of a dog that has been impounded pursuant to this section 12A or section 15 of this chapter or that has been the subject of a citation for violation under this section 12A may dispute the classification of such dog as a pit bull by filing a written petition with the chief of police for a hearing concerning such classification no later than seven calendar days after the date of impoundment or citation. A petition shall include, but not be limited to, (i) the complete legal name, residential address and telephone numbers of the dog's owner-keepers; (ii) the complete address where the pit bull is primarily housed/ sheltered; and (iii) the complete details of the dog's documented identification, including but not limited to the dog's registration and/or license numbers as issued by the city clerk; and (iv) a summary of the facts that the petitioner wishes to introduce for consideration. The written petition shall be submitted under oath or affirmation. The chief of police may delegate the conduct of the hearing to an animal control officer or any official in the police department.

(m) Provocation. No person may strike, tease, torment or abuse, or in any way antagonize, a pit bull in such a manner as to inspire or cause an attack by a pit bull. Any such provocation shall be considered a mitigating circumstance in any enforcement decision made under this section 12A.

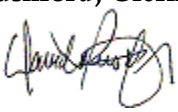
(n) Harmonious Construction. The provisions of this section 12A shall supplement and be construed harmoniously with sections 10-15 of this chapter and the Massachusetts General Laws chapter 140.

Section 2. Section 15 of Chapter Eight of the Revised Ordinances of 2008 is hereby amended by inserting in subsection (d) thereof, after the words "dangerous dog or a nuisance animal" the words "a pit bull found in violation of any provision of section 12A hereof".

Section 3. This ordinance shall take effect on the later of ninety days from the date of final adoption or April 1, 2011.

In City Council September 7, 2010
Passed to be ordained by a yea and nay vote of Nine Yeas and Two Nays

A Copy. Attest: **David J. Rushford, Clerk**



City Clerk

Amendment 9530

AN ORDINANCE AMENDING SECTION 29 OF CHAPTER 2 OF THE REVISED ORDINANCES OF 2008 RELATIVE TO THE PERMIT AND INSPECTION FEE ORDINANCE FOR THE CITYSQUARE PROJECT

Be it Ordained by the City Council of the City of Worcester, as follows:

Section twenty-nine of Chapter two of the Revised Ordinances of 2008 is hereby amended by deleting the words "on the later of June 15, 2009 or the Commencement of the Enabling Work" and replacing them with the words "upon the substantial completion of the construction of the core/shell of Building H".

In City Council September 21, 2010
Passed to be ordained by a yea and nay vote of Nine Yeas and No Nays

A Copy. Attest: David J. Rushford, Clerk

City Clerk

Amendment 9571

AN ORDINANCE IMPOSING A MORATORIUM ON CERTAIN SIDEWALK SNOW REMOVAL

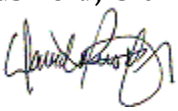
Whereas, The deferred operation of this ordinance would defeat its purpose, which is to immediately provide relief from the obligation to remove snow and ice from sidewalks on state highways abutting rear lot line of properties, therefore it is hereby declared to be an emergency ordinance, necessary for the immediate preservation of the public convenience.

Be it ordained by the City Council of the City of Worcester, as follows:

For one hundred-twenty days from the effective date of this ordinance, the provisions of section 23 of chapter 12 of the Revised Ordinances of the city of Worcester shall not require any owner or occupant of any property whose rear lot line abuts any city street or state highway to clear any sidewalk on that portion of the state highway so long as any such property owner or occupant otherwise complies with said section 23 with respect to any other sidewalk on any city street or state highway abutting the property on any front or side lot line.

In City Council January 25, 2011
Passed to be ordained by a yea and nay vote of Ten Yeas and No Nays

A Copy. Attest: **David J. Rushford, Clerk**



City Clerk

Amendment 9595

AN ORDINANCE FURTHER REGULATING THE SALE AND ADVERTISING OF TOBACCO PRODUCTS

Be it ordained by the city council of the city of Worcester, as follows:

Section 1. Section 3 of Chapter 8 of the Revised Ordinances of 2008 is hereby amended by deleting subsection (a) thereof and inserting a new subsection (a) as follows:

(a) *Declaration of Findings and Policy.*

The city of Worcester, acting by and through its City Council, hereby makes the following findings:

(1) There exists conclusive and voluminous evidence that tobacco causes cancer, respiratory and cardiac diseases, negative birth outcomes, irritations to the eyes, nose and throat;

(2) The surgeon general has determined that nicotine is a powerfully addictive drug;

(3) There are an estimated 31,265 smokers who reside in the city of Worcester;

(4) 23.7% of adults in the city of Worcester over 18 years of age smoke, a level which is 47% higher than the statewide average of 16.1%;

(5) Cigarette smoking among middle-aged residents (age 45-64) is at the 23.7% level, which is 42% higher than the statewide level of 16.7%;

(6) Tobacco causes an estimated 438,000 deaths annually in the United States and over 8,000 deaths annually in the commonwealth of Massachusetts;

(7) The death rate of Worcester residents from tobacco on a per capita basis is approximately 250 individuals annually, or five human lives lost per week;

(8) At least one-half of all smokers begin smoking before the age of eighteen and an estimated 3,000 minors begin smoking every day in the United States;

(9) Despite a progression of federal laws, state laws and city ordinances enacted over the past several decades which prohibited the sale of tobacco products to minors, required warning labels on cigarette packages, prohibiting television and radio advertising of tobacco products, prohibited the distribution of free cigarettes, prohibited smoking in public places, prohibited smoking in restaurants, prohibited smoking in workplaces and buildings, prohibited vending machine sale of tobacco products, required tobacco sales permits, and, despite the initiation and settlement of lawsuits against tobacco companies where these companies have paid and continue to pay hundreds of billions of dollars to compensate all state governments, the District of Columbia, Puerto Rico and the Virgin Islands, for the damages caused by tobacco products, the marketing strategies continue and the rampant use of tobacco products and the death and devastation resulting therefrom continue at the epidemic levels described herein;

(10) Tobacco is currently sold in health care institutions, such as pharmacies and drug stores, and at educational institutions in retail stores, and retail establishments

continue to bombard the public with cigarette and tobacco product advertising;

(11) The sale of tobacco products is incompatible with the mission of health care institutions because it is detrimental to the public health and undermines efforts to educate patients on the safe and effective use of medication;

(12) There are certain tobacco products such as blunt wraps that are frequently marketed and sold to the youth and are also known to be used as drug paraphernalia;

Now, Therefore, the city council of the city of Worcester, in recognition of the death and devastating effects of tobacco products on the residents of the city of Worcester, is compelled to exercise the authority granted it under its city charter to protect and promote the public health and the authority granted it by the Federal Family Smoking Prevention and Tobacco Control Act of 2009, P.L. 111-31, to ban the sale of tobacco products and blunt wraps in health care institutions in the city of Worcester and restrict the advertising of tobacco products to reduce the number of smokers and consequential death and human suffering in the city of Worcester.

Section 2. Section 3 of Chapter 8 of the Revised Ordinances of 2008 is hereby amended by inserting in subsection (b) thereof, in the appropriate alphabetical order, the following new definitions:

blunt wrap - cigarette-like rolling paper that is thick and dark and usually made from tobacco leaves. Blunt wraps come in flavored varieties and are heavily marketed to the youth and often used as drug paraphernalia.

educational institution - any public or private college, normal school, professional school, scientific or technical institution, university or other institution furnishing a program of higher education.

health care provider – An individual, partnership, association, corporation or trust or any person or group of persons that provides health care services or employs health care providers licensed, or subject to licensing, by the Massachusetts department of public health under chapter 112 of the General Laws. Health care provider includes hospitals, clinics, health centers, pharmacies, drug stores and doctor and dentist offices.
Retail tobacco store - an establishment which is not required to possess a retail food permit whose primary purpose is to sell or offer for sale to consumers, but not for resale, tobacco products and paraphernalia, in which the sale of other products is merely incidental (not more than 20% of gross sales), and in which the entry of persons under the age of 18 is prohibited at all times, and which maintains a valid tobacco sales permit.

Smoking bar - an establishment that occupies exclusively an enclosed indoor space and that primarily is engaged in the retail sale of tobacco products for consumption by customers on the premises; derives revenue from the sale of food, alcohol or other beverages that is incidental (not more than 20% of gross sales) to the sale of the tobacco products; prohibits entry to a person under the age of 18 years of age during the time when the establishment is open for business; prohibits any food or beverage not sold directly by the business to be consumed on the premises; maintains a valid tobacco sales permit; and, which maintains a valid permit to operate a smoking bar issued by the department of revenue.

Section 3. Section 3 of Chapter 8 of the Revised Ordinances of 2008 is hereby amended by deleting subsection (d)(2) in its entirety and inserting a new subsection (d)(2) as follows:

(2) Smoking shall be prohibited in the area within fifty (50) feet of any entrance and exit way of a health care provider, except that this shall not apply to an individual transiting through such fifty (50) foot area or to an individual approaching an entranceway with the intention of extinguishing a tobacco product. Any person who violates the provisions of this subsection shall be fined $25.00.

Section 4. Section 3 of Chapter 8 of the Revised Ordinances of 2008 is hereby amended by inserting in subsection (g) thereof new subsections (5), (6) and (7) as follows:

(5) Notwithstanding any other provision of these ordinances, no health care provider shall sell tobacco products or cause or allow tobacco products to be sold on its premises. No retail establishment that operates maintains or employs a health care provider within it, such as a pharmacy or drug store, shall sell tobacco products or cause tobacco products to be sold.

(6) No educational institution shall sell or cause to be sold tobacco products. This includes all educational institutions as well as any retail establishments that operate on the property of an educational institution.

(7) No retail establishment or entity shall sell or cause to be sold blunt wraps.

Section 5. Section 3 of Chapter 8 of the Revised Ordinances of 2008 is hereby amended by deleting subsection (i), "Tobacco Vending Machines," in its entirety and inserting a new subsection (i) as follows:

(i) *Additional Prohibitions*

(1) No person shall display any advertising that promotes or encourages the sale or use of cigarettes, blunt wrap or other tobacco products in any location where any such advertising can be viewed from any street or park shown on the Official Map of the city or from any property containing a public or private school or property containing an educational institution; provided however, that nothing in this provision shall prevent a "retail tobacco store" or a "smoking bar" from displaying advertising promoting their business, including their location and hours of operation, in any manner which would otherwise be prohibited by this subsection so long as no such advertising contains any brand name, brand or corporate insignia, trade mark or trade name of any cigarette product, producer or distributor.

(2) All tobacco vending machines are prohibited in the city of Worcester.

Section 6. Section 3 of Chapter 8 of the Revised Ordinances of 2008 is hereby amended by deleting subsection (1) in section (j) thereof in its entirety and inserting a new subsection (j)(1) as follows:

(j) *Penalties and Enforcement*

(1) Any person who violates the provisions of the following subsections of this ordinance: (g)(5)(health care provider sales ban); (g)(6)(educational institution sales ban); (h)(1)(tobacco sales permit requirement); and, (i)(1)(advertising ban), shall be punished by a fine of three hundred dollars ($300.00) for each violation. Every day or part thereof in which any person is in violation of these provisions shall constitute a single and separate offense.

Section 7. This ordinance shall take effect forty-five days after the date of final adoption by the city council.

In City Council May 10, 2011

Passed to be Ordained in four separate parts 1) Banning tobacco sales by health care providers ordained by a yea and nay vote of Six Yeas and Five Nays 2) banning tobacco sales at educational institutions ordained by a yea and nay vote of Eleven Yeas and No Nays; 3) banning the sale of blunt wraps ordained by a yea and nay vote of Eleven Yeas and No Nays; and 4) further regulating the outdoor advertising of tobacco products ordained by a yea and nay vote of Eleven Yeas and No Nays.

A Copy. Attest: David J. Rushford, Clerk

City Clerk

Amendment 9611

AN ORDINANCE AMENDING CHAPTER SEVEN SECTION SIXTEEN OF THE REVISED ORDINANCES OF 2008 RELATIVE TO WATER RATES USER CHARGES

(FY 2012)

Be it ordained by the City Council of the City of Worcester, as follows:

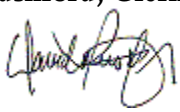
1. Chapter 7, § 16 of the Revised Ordinances of the City of Worcester, as most recently amended, is hereby further amended by deleting in paragraph (c) thereof, the rate for "Basic" and inserting in lieu thereof the new rate as follows.

Basic . . . . . $ 3.25

2. This amendment shall be effective as of July 1, 2011 and shall apply to all bills issued after such effective date in accordance with subsection (f) of section sixteen of Chapter 7 of the Revised Ordinances of 2008.

In City Council May 17, 2011
Passed to be ordained by a yea and nay vote of Ten Yeas and No Nays

A Copy. Attest: **David J. Rushford, Clerk**



City Clerk

Amendment 9612

AN ORDINANCE AMENDING CHAPTER FIVE SECTION TWENTY-SIX OF THE REVISED ORDINANCES OF 2008 RELATIVE TO SEWER USER CHARGE (FY 2012)

Be It Ordained by the city council of the city of Worcester as follows:

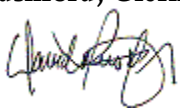
1. Chapter 5, § 26 of the Revised Ordinances, as most recently amended, is hereby further amended by deleting in paragraph (g) thereof, the rate for "Basic Rate" and inserting in lieu thereof the new rate as follows.

Basic Rate. . . . . $ 5.40

2. This amendment shall be effective as of July 1, 2011 and shall apply to all bills issued after such effective date in accordance with subsection (f) of section sixteen of Chapter Seven of the Revised Ordinances of 2008.

In City Council May 17, 2011
Passed to be ordained by a yea and nay vote of Ten Yeas and No Nays

A Copy. Attest: **David J. Rushford, Clerk**



City Clerk

Amendment 9613

AN ORDINANCE AMENDING CHAPTER EIGHT OF THE REVISED ORDINANCES OF 2008 RELATIVE TO THE REGULATION OF FEEDING OR BAITING OF WATERFOWL

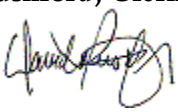
Be it ordained by the City Council of the City of Worcester, as follows:

Section 9B of chapter eight of the Revised Ordinances of 2008 is hereby amended by deleting the first sentence in subsection (a) and inserting a new first sentence as follows:

"No person, except as otherwise provided by the Massachusetts General Laws, shall feed or bait any gulls (birds in the family Laridae often informally called seagulls) or any waterfowl of the family Anatidae (including, but not restricted to ducks, geese, and swans) at any place within the City.

In City Council May 24, 2011
Passed to be ordained by a yea and nay vote of Eight Yeas and No Nays

A Copy. Attest: David J. Rushford, Clerk



City Clerk

Amendment 9651

AN ORDINANCE AMENDING CHAPTER THIRTEEN OF THE REVISED ORDINANCES OF 2008 RELATIVE TO RESIDENTS PARKING PERMITS

Be it ordained by the City Council of the City of Worcester, as follows:

1. Chapter 13, § 40 of the Revised Ordinances of the City of Worcester is hereby amended by inserting the following new subsection (o) as follows:

(o) The parking administrator may issue city-wide temporary parking permits in a number specified by the parking administrator after payment of a fee for each permit to non-profit social service agencies for use by employees of such agencies providing medical or other services to elderly or disabled residents in the homes of such residents. Such permits shall expire on June 30 of each year and may be renewed by the non-profit social service agency for additional periods after payment of the appropriate fee. Applications shall be provided to the parking administrator on the applicant's professional letterhead. Such permit shall only be used when the employee of the non-profit social service agency is actually providing services to an elderly or disabled resident and shall be displayed on the front dashboard above the steering wheel and shall be fully readable from the exterior of the vehicle.

2. Chapter 13 of the Revised Ordinances of the City of Worcester is hereby amended by deleting section 41 in its entirety and inserting a new section 41 as follows:

§ 41. Misuse of Resident Parking Stickers

(a) No person shall sell, offer for sale, give, trade or otherwise transfer any resident parking sticker issued under these Revised Ordinances to another person or affix said sticker to a motor vehicle other than the designated vehicle, or alter said sticker in any manner.

(b) No person shall sell, offer for sale, give, trade or otherwise transfer a resident visitor permit issued under said chapter to anyone, or in any manner alter said permit.

(c) No person shall use any residents parking permit, visitor's permit, temporary permit, or medical/social service agency permit in violation of the provisions of the residents parking ordinance or the regulations of the parking administrator.

(d) Any person who violates this section shall be subject to a fine of not more than three hundred dollars for each offense and any permit used in violation of the terms of the residents parking permit ordinance shall be subject to revocation and confiscation.

In City Council July 19, 2011
Passed to be ordained by a yea and nay vote of Nine Yeas and No Nays

A Copy. Attest: David J. Rushford, Clerk

City Clerk

Amendment 9687

AN ORDINANCE AMENDING CHAPTER TWELVE SECTION TWENTY-THREE OF THE REVISED ORDINANCES OF 2008 RELATIVE TO SIDEWALK SNOW REMOVAL

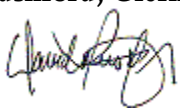
Be it ordained by the City Council of the City of Worcester, as follows:

Chapter 12, § 23 of the Revised Ordinances of the city of Worcester is hereby amended by deleting subsection (a) thereof in its entirety and inserting in lieu thereof the following new subsection (a) as follows.

(a) The owner or occupant of land which is bounded by any street, including state highways, whereon there is a sidewalk shall within ten hours after any winter storm, cause all snow, ice or other forms of freezing precipitation to be removed from such sidewalk to a width of not less than four feet for the entire distance that the sidewalk abuts the land. After shoveling, to the extent that snow, ice or freezing precipitation shall remain on any sidewalk required to be shoveled by this section, the owner or occupant shall treat the same with sand, salt or other suitable material. This Ordinance shall not apply to sidewalks abutting the rear lot line of any property along a state highway which is maintained by the state as the same shall from time to time be identified and published by the commissioner.

In City Council October 25, 2011
Passed to be ordained by a yea and nay vote of Eleven Yeas and No Nays

A Copy. Attest: David J. Rushford, Clerk



City Clerk

Amendment 9706

AN ORDINANCE RELATIVE TO CLOTHING DONATION RECEPTACLES

Be it ordained by the City Council of the City of Worcester, as follows:

Section 1. Chapter Eight of the Revised Ordinances of 2008 is hereby amended by inserting after § 43 thereof the following new § 44:

§ 44. Clothing Donation Receptacles

(h) *Purpose and Intent.* It is the purpose and intent of this section to eliminate the unregulated placement, installation and inadequate maintenance of clothing donation receptacles in the city, which contribute to blight within neighborhoods and commercial districts of the city. Poor maintenance, unguided placement and illegal dumping at clothing donation receptacles create unsanitary conditions, impairs public health and safety, degrades the value, condition and appearance of real property, causing in a detriment effect on property values for adjacent and surrounding properties, thereby constituting a public nuisance. The provisions contained in this section are in pursuance of and for the purpose of securing and promoting the public health, safety and general welfare of persons in the city of Worcester.

(i) *Definitions***.** For purposes of this section the following words and phrases shall have the following meanings::

Clothing Donation Receptacle – any box, bin, container or similar device that is held out to the public as a place for people to drop off articles of used or new clothing and for the temporary storage of said clothing until it is carted away.

Person – any individual, company, partnership, corporation, association, or other legal entity.

Registrant – any person who is issued a permit authorizing the placement and operation of a clothing donation receptacle pursuant to this section.

Property Owner – the owner, lessee or other person or legal entity in control of the real property on which the clothing donation receptacle is located.

(j) *Permit Requirement.* It shall be unlawful for any person to place, maintain, or cause or suffer to be placed or maintained a clothing donation receptacle within the city of Worcester without first having obtained a permit issued by the Department of Inspectional Services.

(1) A permit issued under this section shall be valid for the period July 1 through June 30 of the following year. Permits may be renewed annually provided the registrant maintains the clothing donation receptacle at the permitted location in accordance with the requirements of this section.

(2) If the applicant for the permit is not the property owner, the written permission of the property owner to place the clothing donation receptacle on the property shall accompany the application.

(3) The applicant shall complete a permit application in such form as issued by the inspectional services department. The permit application shall include but not be limited to the name, address and telephone number of the applicant, the proposed location of the clothing donation receptacle, the name, address and telephone number of the property owner, if different from the applicant, and the schedule for emptying the receptacle.

(4) The applicant for each permit shall pay a fee in the amount established by the commissioner of inspectional services under authority of § 24 of chapter two of these Revised Ordinances.

(5) A separate application and permit is required for each clothing donation receptacle.

(6) No permit shall be transferrable except as set forth in subsection (d). Registrants shall have no property interest in a permit.

(7) Each registrant and property owner shall be jointly and severally liable for any violation of the provisions of this section.

(k) *Transfer of Permit*. The transfer of a permit may be allowed when there is a change of ownership of the property upon which the clothing donation receptacle is located, subject to the new property owner providing the written permission required under subsection (c)(2), or when a registrant sells the clothing donation receptacle, subject to the new owner of the receptacle providing the information required under subsection (c)(3).

(l) *Clothing donation receptacles shall comply with the following requirements*:

(1) The clothing donation receptacle shall be made of metal, steel or other noncombustible material, enclosed by use of a receiving door/chute and locked so that access to its contents is restricted to the registrant for removal of the contents.

(2) The clothing donation receptacle shall be maintained in good condition and appearance with no structural damage, holes or visible rust and shall be kept free from graffiti.

(3) The clothing donation receptacle shall be neutral in color and not cause distraction to passersby. No reflective material, metallic or fluorescent colors shall be allowed.

(4) Each clothing donation receptacle shall have affixed to it in a permanent manner, on the same side of the bin as the receiving door/chute used for the deposit of the clothing, a legible notice in no less than 2 inch block letters containing the following information:

(A) the name, address and local telephone number of the registrant;

(B) the name, address and local telephone number of the property owner;

(C) the name of the charity or organization that benefits from the donated clothing.

(5) Upon a transfer authorized under subsection (d), the registrant and/or property owner information shall be updated accordingly.

(6) The clothing donation receptacle shall be no larger than 3 cubic yards nor more than 6 feet in height.

(7) The contents deposited in the receptacle shall be limited to clothing.

(8) No receptacle shall be used for advertising signs or publicity purposes other than that dealing with the organization and or charity to which it is related.

(9) The receptacle shall have clearly visible language discouraging the placement of donations on the ground.

(10) A clothing donation receptacle shall be regularly emptied of its contents so that it does not overflow and result in clothing donations being strewn about the surrounding area.

(11) The registrant shall maintain the area around the receptacle clean and free of trash.

(m) *Permitted Locations.*

(1) Clothing donation receptacles are not allowed on properties located in the residential zoning districts depicted on the Worcester Zoning Map or on public property.

(2) A clothing donation receptacle shall not be permitted on a vacant parcel of land. The receptacle may not be the primary use of a property but shall be incidental to the primary use of the property.

(3) A clothing donation receptacle shall be located so as to not to interfere with sight triangles, on-site circulation, ingress and egress into and out of the property, or any other safety hazard to the public.

(4) A clothing donation receptacle shall not be located in any setbacks, landscaping or parking required under the Worcester Zoning Ordinance.

(5) The location of a clothing donation receptacle shall be approved by the inspectional services department and designated in the permit issued pursuant to subsection (c).

(6) There shall be no more than three (3) clothing donation receptacles allowed per parcel.

(n) *Violations.*

(1) Any violation of the terms of this section shall be remedied by the registrant or property owner within twenty-four (24) hours of receiving notice of the violation.

(2) If the registrant or property owner fails to correct a violation within said twenty-four (24) hours, the City may enter the property to remove or cause the clothing donation receptacle to be removed, clean the area of accumulated trash and donations, or both. The registrant and/or the property owner shall reimburse the City for the expenses incurred to correct the violation, including removal and storage charges. The sum so expended may be collected in an action of contract by the city.

(3) This section may also be enforced by civil process, criminal process or by non-criminal disposition as provided in General Laws, chapter 40, §21D. Each day a violation exists shall be deemed a separate offense and any person in violation of this section shall be subject to a fine of one hundred dollars ($100.00) per offense.

(4) This section shall not be enforced against the city or the commonwealth of Massachusetts and their authorities, departments and agencies.

Section 2. Chapter 15, Section 2(b), of the Revised Ordinances of 2008 is hereby amended by deleting inserting the following new subsection (30) as follows:

(30) Clothing Donation Receptacles, R.O. c. 8, § 44

Enforcing Persons Commissioner of Inspectional Services
Commissioner of Public Health
Police Chief

Penalties:

Each day on which a violation exists shall be deemed a separate offense and any person in violation of this section shall be subject to a fine of one hundred dollars ($100.00) per offense.

In City Council January 3, 2012
Passed to be ordained by a yea and nay vote of Eleven Yeas and No Nays

A Copy. Attest: **David J. Rushford, Clerk**

City Clerk

Amendment 9724

AMENDING CHAPTER EIGHT, SECTION THREE OF THE REVISED ORDINANCES OF 2008 AUTHORIZING SMOKING BARS AT UNION STATION

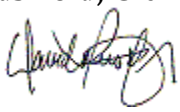
Be it ordained by the City Council of the City of Worcester, as follows:

Chapter 8, § 3 (c) of the Revised Ordinances of 2008 is hereby amended by inserting the following as the penultimate sentence of said section:

> "The foregoing prohibition notwithstanding, the Worcester Redevelopment Authority is not prohibited from authorizing the operation of a hookah bar within commercially leased premises at Union Station."

In City Council April 24, 2012
Passed to be ordained by a yea and nay vote of Six Yeas and Five Nays

A Copy. Attest: **David J. Rushford, Clerk**



City Clerk

Amendment 9725

AN ORDINANCE AMENDING CHAPTER FIVE SECTION TWENTY-SIX OF THE REVISED ORDINANCES OF 2008 RELATIVE TO SEWER USER CHARGE (FY 2013)

Be It Ordained by the city council of the city of Worcester as follows:

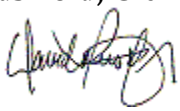
1. Chapter 5, § 26 of the Revised Ordinances, as most recently amended, is hereby further amended by deleting in paragraph (g) thereof, the rate for "Basic Rate" and inserting in lieu thereof the new rate as follows.

Basic Rate. . . . . $ 5.52

2. This amendment shall be effective as of July 1, 2012 and shall apply to all bills issued after such effective date in accordance with subsection (f) of section sixteen of Chapter Seven of the Revised Ordinances of 2008.

In City Council May 8, 2012
Passed to be ordained by a yea and nay vote of Nine Yeas and No Nays

A Copy. Attest: **David J. Rushford, Clerk**



City Clerk

Amendment 9726

AN ORDINANCE AMENDING CHAPTER SEVEN SECTION SIXTEEN OF THE REVISED ORDINANCES OF 2008 RELATIVE TO WATER RATES USE CHARGES (FY 2013)

Be it ordained by the City Council of the City of Worcester, as follows:

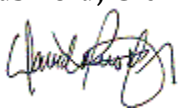
1. Chapter 7, § 16 of the Revised Ordinances of the City of Worcester, as most recently amended, is hereby further amended by deleting in paragraph (c) thereof, the rate for "Basic" and inserting in lieu thereof the new rate as follows.

Basic . . . . . $ 3.31
Outside City Limits . . . . . $ 3.60

2. This amendment shall be effective as of July 1, 2012 and shall apply to all bills issued after such effective date in accordance with subsection (f) of section sixteen of Chapter 7 of the Revised Ordinances of 2008.

In City Council May 8, 2012
Passed to be ordained by a yea and nay vote of Seven Yeas and Two Nays

A Copy. Attest: David J. Rushford, Clerk



City Clerk

Amendment 9759

AN ORDINANCE AMENDING CHAPTER TWO OF THE REVISED ORDINANCES OF 2008 ESTABLISHING THE FEE FOR THE SOLEMNIZATION OF MARRIAGES

Be It Ordained by the city council of the city of Worcester as follows:

1. Chapter 2 of the Revised Ordinances is hereby amended by inserting a new section, § 25A, as follows:

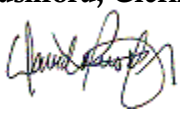
   § 25A. Fee for Solemnization of Marriages

   The fee for lawfully solemnizing and certifying a marriage shall be seventy-five dollars, which fee shall include a certified copy of the marriage certificate; provided that there shall be no fee for the solemnization of a marriage and production of a certified copy of the marriage certificate if any party to the marriage is a member of the armed forces of the United States serving on active duty at the time the marriage takes place.

2. This amendment shall be effective as of July 1, 2012.

In City Council June 12, 2012
Passed to be ordained by a yea and nay vote of Nine Yeas and No Nays

A Copy. Attest: **David J. Rushford, Clerk**



City Clerk

Amendment 9767

AN ORDINANCE IMPOSING A MORATORIUM ON THE ISSUANCE OF LIVERY LICENSES

Be it ordained by the city council of the city of Worcester, as follows:

Notwithstanding the provisions of section seventeen of chapter eleven of part one of the Revised Ordinances of Worcester, or any other ordinance or regulation to the contrary, no license authorizing livery service, including the licensing of livery operators and licensing of livery vehicle drivers, shall be issued or granted to any person on or after the effective date of this ordinance.

This ordinance shall be in effect immediately upon ordainment and shall expire on December 31, 2012, unless it be sooner rescinded or extended by a subsequent ordinance duly enacted.

In City Council July 17, 2012
Passed to be ordained by a yea and nay vote of Eight Yeas and No Nays

A Copy. Attest: **David J. Rushford, Clerk**

City Clerk

Amendment 9768

AN ORDINANCE AMENDING THE RESPONSIBLE EMPLOYER PLAN FOR THE CITY OF WORCESTER

Be it Ordained by the City Council of the City of Worcester, as follows:

1. Chapter Two of the Revised Ordinances of 2008 is hereby amended by deleting section thirty-two, Jobs Requirements for City Residents, in its entirety.

2. Chapter Two of the Revised Ordinances of 2008 is hereby amended by deleting section thirty-five in its entirety and inserting a new section thirty-five as follows:

§ 35. Responsible Employer Ordinance

(a) The City Council hereby finds and determines that taxpayer money is most efficiently and productively spent by awarding construction contracts to firms that include and enforce provisions requiring compliance with state laws governing the payment of prevailing wages, the provision of workers compensation coverage, and the proper classification of individuals as employees and not as independent contractors, as well as state law concerning health insurance coverage and state-certified apprenticeship programs. The City Council hereby further finds and determines that it is appropriate for it to exercise entrepreneurial discretion by requiring firms that are awarded such contracts to comply with this ordinance because a failure to comply is injurious to the life, health and happiness of individuals employed by such firms and is deleterious to the quality of life in the City where most of such individuals reside.

(b) Whenever the City of Worcester is procuring construction services subject to the provisions of G.L. chapter 149 and chapter 149A the following shall be incorporated into the procurement documents and made part of the specifications and contract. Any person, company or corporation shall acknowledge, in writing, receipt of said requirements with their bid or proposal.

(c) All bidders or proposers and all subcontractors and trade contractors, including subcontractors that are not subject to G.L. c.149, §44F, under the bidder for projects subject to G.L. c.149, §44A(2), and, proposers under G.L. c 149A, shall as a condition for bidding or subcontracting verify under oath and in writing at the time of bidding or submittal in response to an RFP or in any event prior to entering into a subcontract at any tier, that they comply with the following conditions for bidding or subcontracting and, for the duration of the project, shall comply with the following obligations:

(1) The bidder or proposer and all trade contractors and subcontractors under the bidder or proposer must comply with the obligations established under G.L. c.149 to pay the appropriate lawful prevailing wage rates to their employees;

(2) The bidder or proposer and all trade contractors and subcontractors under the bidder or proposer must at the time of bidding maintain or participate in a bona fide apprentice training program as defined by G.L. c.23, §§11H and 11I for each apprenticeable trade or occupation represented in their workforce that is approved by the Division of Apprentice Standards of the Department of Labor and Workforce Development, regardless of whether or not the program qualifies as an employee welfare benefit plan under ERISA, and must register all apprentices with the Division and abide by the apprentice to journeyman ratio for each trade prescribed therein in the performance of any work on the project. This provision does not require the program to be an ERISA plan; the program need only have been approved by the Division of Apprentice Standards. All general bidders or proposers and all trade contractors and sub-bidders at every tier must submit with its bid or proposal an original, stamped Sponsor Verification letter from the Commonwealth of Massachusetts, Department of Labor and Workforce Development – Division Apprentice Standards, issued within the past 90 days, evidencing that at the time of submitting a bid or proposal, the bidder or proposer is currently an Approved Sponsor of Apprentices. Any bid or proposal submitted without the above documentation shall be rejected;

(3) The bidder or proposer and all trade contractors and subcontractors under the bidder or proposer must maintain appropriate industrial accident insurance coverage for all the employees on the project in accordance with G.L. c.152;

(4) The bidder or proposer and all trade contractors and subcontractors under the bidder must properly classify employees as employees rather than independent contractors and treat them accordingly for purposes of workers' compensation insurance coverage, unemployment taxes, social security taxes and income tax withholding. (G.L. c.149, §148B on employee classification);

(5) The bidder or proposer and all trade contractors and subcontractors under the bidder or proposer must at the time of bidding certify that, at the time employees begin work at the worksite, all employees will have successfully completed a course in construction safety and health approved by the United States Occupational Safety and Health Administration that is at least 10 hours in duration, and shall ensure that all employees working at the

worksite possess such qualifications at all times throughout the duration of their work on the project and furnish documentation of successful completion of the course;

(6) The bidder or proposer and all trade contractors and subcontractors under the bidder or proposer must be in compliance with the health and hospitalization requirements of the Massachusetts Health Care Reform law established by Chapter 58 of the Acts of 2006, as amended, and regulations promulgated under that statute by the Commonwealth Health Insurance Connector Authority.

(7) The bidder or proposer and all trade contractors and subcontractors under the bidder or proposer must make arrangements to ensure that each employee of every contractor entering or leaving the project individually completes the appropriate entries in a daily sign-in/out log. The sign in/out log shall include: the location of the project; current date; printed employee name; signed employee name; and the time of each entry or exiting. The log shall contain a prominent notice that employees are entitled under state law to receive the prevailing wage rate for their work on the project. Such sign-in/out logs shall be provided to the City on a daily basis.

(8) The bidder or proposer and all trade contractors and subcontractors under the bidder or proposer, prior to bidding or, if not subject to bidding requirements, prior to performing any work on the project, shall sign under oath under oath and provide to the City a certification that they are not debarred or otherwise prevented from bidding for or performing work on a public project in the Commonwealth of Massachusetts or in the City.

(d) A proposal or bid submitted by any general bidder or by any trade contractor or subcontractor under the general bidder or proposer that does not comply with any of the foregoing conditions for bidding shall be rejected, and no subcontract for work outside the scope of G.L. c.149, §44F shall be awarded to a subcontractor that does not comply with the forgoing conditions.

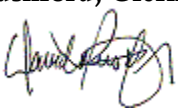
(e) All bidders or proposers and all trade contractors and subcontractors under the bidder or proposer who are awarded or who otherwise obtain contracts on the projects subject to G.L. c.149, §44A(2) or c 149A, shall comply with each of the obligations set forth in this section thirty-five for the entire duration of their work on the project, and an officer of each bidder or subcontractor under the bidder shall certify under oath and in writing on a weekly basis that they are in compliance with such obligations.

(f) Any proposer, bidder, trade contractor or subcontractor under the bidder or proposer who fails to comply with any one of obligations set forth in this section thirty-five for any period of time shall be, at the sole discretion of the City, subject to one or more of the following sanctions: (1) cessation of work on the project until compliance is obtained; (2) withholding of payment due under any contract or subcontract until compliance is obtained; (3) permanent removal from any further work on the project; (4) liquidated damages payable to the City in the amount of 5% of the dollar value of the contract

(g) In addition to the sanctions outlined in subsection (h) above, a proposer, general bidder or contractor shall be equally liable for the violations of its subcontractor with the exception of violations arising from work performed pursuant to subcontracts that are subject to G.L. c.149, §44F. Any contractor or subcontractor that has been determined by the City or by any court or agency to have violated any of the obligations set forth in this section thirty-five shall be barred from performing any work on any future projects for six months for a first violation, three years for a second violation and permanently for a third violation.

In City Council September 18, 2012
Passed to be ordained by a yea and nay vote of Nine Yeas and Two Nays

A Copy. Attest: **David J. Rushford, Clerk**



City Clerk

Amendment 9824

AN ORDINANCE AMENDING CHAPTER EIGHT OF THE REVISED ORDINANCES TO CONFORM THE LICENSING AND REGULATION OF DOGS, CATS AND FERRETS TO STATE LAW

Be it ordained by the City Council of the city of Worcester, as follows:

SECTION 1. Chapter Eight of Part One of the Revised Ordinances of 2008 is hereby amended by deleting sections ten through seventeen thereof and inserting new sections ten through fourteen as follows**:**

§ 10. Dog Regulation & Licensing To Be Governed By State Law

(a) The city shall implement to the fullest extent possible the provisions of sections 136A through 174D of chapter 140 of the General Laws, as may be amended from time to time, as concerns the licensing and regulation of dogs and dog kennels, and, where applicable, cats and ferrets. The provisions of this ordinance shall be interpreted in accordance with 1) said sections of chapter 140 of the General Laws, including the defined terms contained therein, and, 2) the city charter. In the event of any conflict between any part of this ordinance and any provision in sections 136A through 174D of chapter 140 of the General Laws, the provisions of the General Laws shall prevail.

(b) For purposes of implementing sections 136A through 174D of chapter 140 of the General Laws, the "hearing authority" as stated in the General Laws shall be a "hearing officer" designated by the city manager, such hearing officer may be an animal control officer or any other officer or employee of the city in any department under the jurisdiction of the city manager.

(c) All fees, funds, fines and penalties collected pursuant to both this ordinance and sections 136A through 174D of chapter 140 of the General Laws shall be deposited with the city treasurer who shall credit them to the general fund of the city. The city treasurer shall keep an accurate and separate account of all money received and expended by the treasurer under this chapter and under chapter 140 of the General Laws relating to animals.

§ 11. Additional Requirements

Pursuant to section 173 of chapter 140 of the General Laws, the city hereby makes the following additional requirements concerning the licensing and regulation of dogs, kennels, cats and ferrets:

(a) Dog and kennel licenses shall be valid from April first through March thirty-first each year and shall be renewed annually only during the month of March.

(b) The city clerk shall furnish with every license issued hereunder, tags containing the words "city of Worcester" and the license number and the year issued. The owner or keeper of every dog shall cause it to wear around its neck or body a collar or harness of leather of other suitable material, to which such tag shall be securely fastened.

(c) The city clerk shall not issue any dog or kennel license to any person under the age of eighteen, nor issue more than two dog licenses for any single dwelling unit, nor issue any kennel license for any multi-family dwelling or on the premises thereof, or any location which does not comply with the zoning ordinances of the city with respect to kennels. Each license shall be issued upon the condition that the owner or keeper shall comply with the provisions of this ordinance and any law, rule or regulation relating to the ownership and control of dogs.

(d) Under authority of section 139(a) of chapter 140 of the General Laws, the fee for every license, except as otherwise provided in subsections (h) and (i) herein, shall be as follows:

Females:	$20.00
Males:	$20.00
Spayed females:	$17.00
Neutered males:	$17.00

(e) Any person who fails to obtain an annual dog license on or before May 31st shall be charged when applying for a license, in addition to the license fee, a late fee of fifteen ($15.00) dollars.

(f) No fee shall be charged for a license for a dog specially trained to lead or serve a blind person; provided, that the Massachusetts commission for the blind certifies that such dog is so trained and is actually in the service of a blind person. No fee shall be charged for a license for a dog professionally trained in the hearing dog business to serve a deaf or audibly impaired person; provided, that the director of the office of deafness certifies that such dog is so trained and is actually in the service of a deaf or audibly impaired person. For purposes of this section an "audibly impaired person" shall be any individual unable to hear air conduction thresholds at an average of forty decibels. Any license issued to a blind, deaf or audibly impaired person shall bear a special designation indicating that such dog is a "registered service dog".

(g) No fee shall be charged for a license for a dog owned by a person aged 70 years or over.

(h) No license fee or portion thereof shall be refunded because of the subsequent death, loss, spaying or removal from the commonwealth or other disposal of the dog, nor shall a license fee or portion thereof paid by mistake be paid or recovered after it has been paid over to the city under this section.

(i) The city clerk, commissioner of inspectional services, or their designee, or any police officer or animal control officer, may at any time inspect or cause to be inspected any kennel licensed under this section and if, in his or her judgment, the kennel is not being maintained in a sanitary or humane manner, or if records are not properly kept as required by this ordinance or other applicable law, or is in violation of any provision of this ordinance, the city clerk shall by order revoke or suspend, and in the case of suspension may reinstate, such license.

(j) The city clerk, chief of police and commissioner of inspectional services shall have the authority to make operational regulations appropriate for the implementation and enforcement of this ordinance.

§ 12. Dangerous & Nuisance Dogs, Hearings, Appeals

(a) In addition to any member of the public, the chief of police, any animal control officer, the commissioner of inspectional services or any inspector under his or her supervision, or any other city officer or employee as may be designated by the city manager may initiate the complaint and hearing procedures of section 157(d) of chapter 140 of the General Laws relative to declaring dogs nuisance dogs or dangerous dogs.

(b) Pending any appeal filed in the district court by an owner or keeper, the hearing officer may, with the representation of the law department, file a petition in the court to request an order of impoundment at a facility the city uses to shelter animals for a dog complained of as being a dangerous dog and may likewise take any and all appropriate actions to defend the order and advance the interests of this ordinance in court.

§ 13. Duties of Dog Owners

(a) It shall be unlawful for any person to:

(1) keep or harbor any dog without the license required by law; or violate any requirement imposed as a condition to the issuance of a license by law; or

(2) permit any dog he or she owns or keeps to run or roam at large off the premises of the owner or keeper without either being secured by a leash which does not exceed six feet in length or secured in an enclosed animal transportation cage;

(3) fail to cause any dog to be vaccinated as required by law;

(4) maintain a kennel in violation of the zoning ordinance or in any multi family dwelling or on the premises thereof;

(5) use any license for a dog other than for the dog for which it was issued; or

(6) withhold or falsify any information on an application for a dog or kennel license;

(7) allow any dog, except a registered service dog, to be in any city park, public cemetery or playground;

(8) allow any dog, except a registered service dog, to be in or on any place open to the public within that area of the city surrounded by and including both sides of Irving, Linden and Harvard Streets to the west, Madison Street to the south, Route I-290 to the east and Concord Street to the north, unless the dog is licensed at an address within said area; except that nothing herein shall prohibit any dog from participating in, being transported to or from, or being exercised or board in connection with, any dog show, act or event for which an entertainment license has been issued by the city under G.L. c. 140, or for which a permit has been issued pursuant to division of public health regulations for the keeping or exhibition of animals, which is conducted by any corporation organized primarily for the promotion of dogs, so long as any such dog is secured in a cage or by a leash which does not exceed six feet in length while on any street open to the public, and so long as, at no time shall any such dog be

taken into the Worcester Common or any city park, playground or schoolyard;

(9) permit any dog he or she owns or keeps to deposit any excreta on any property, whether public or privately owned, which is open to the public, without immediately removing such excreta for disposition in a sanitary manner;

(10) permit dog excreta to accumulate on his/her property;

(11) cause or permit any dog, whether leashed or unleashed, to hang from or otherwise damage any tree, whether public or private;

(12) subject any animal to abuse, inhumane care, or unsafe or unsanitary conditions; or

(13) chain or tether a dog to a stationary object including, but not limited to, a structure, dog house, pole or tree for longer than 24 consecutive hours.

(b) The owner or keeper of a domestic animal shall properly dispose of the animal within seventy-two hours of its death.

§ 14. Enforcement

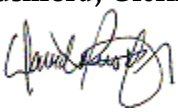
(a) The city manager, acting through the chief of police, police officers, animal control officers, or any officer or employee of the city under the jurisdiction of the city manager, shall have authority to enforce the provisions of this chapter and shall have all the powers and duties afforded by chapter 140 of the General Laws as it relates to the regulation of dogs, dog kennels and dog, cat and ferret owners, including, but not limited to: the filing of an action of forfeiture and relinquishment of ownership under section 139A of chapter 140, and may exercise such powers and duties to the fullest extent possible to secure compliance with this ordinance and said General Laws.

(b) This ordinance may be enforced by civil process, criminal process, or by non-criminal disposition as provided in General Laws, chapter 40, §21D. Each day on which a violation exists shall be deemed to be a separate offense and any person in violation of this chapter shall be punished by a fine of fifty dollars for each offense. Any person who is punished under this chapter for three or more violations in any two year period shall immediately forfeit any license issued under sections ten through sixteen of this chapter and shall be ineligible to hold any dog or kennel license for one year from the date of the third conviction or imposition of a civil penalty.

SECTION 2. The provisions of this ordinance shall take effect upon adoption and shall, to the extent permitted by law, be retroactive to November 1, 2012.

In City Council December 11, 2012
Passed to be ordained by a yea and nay vote of Nine Yeas and No Nays

A Copy. Attest: David J. Rushford, Clerk



City Clerk

Amendment 9839

AN ORDINANCE PROHIBITING AGGRESSIVE BEGGING, SOLICITING AND PANHANDLING IN PUBLIC PLACES

Be it ordained by the city council of the city of Worcester, as follows:

Section 1. Chapter Nine of the Revised Ordinances of 2008 is hereby amended by inserting a new section sixteen as follows:

§ 16. Aggressive Begging, Soliciting and Panhandling

(a) *Declaration of Findings and Policy.*

The city of Worcester, acting by and through its City Council, hereby makes the following findings:

(1) The City of Worcester has a duty to protect the rights of all people to exercise their First Amendment rights safely. The City of Worcester has a compelling governmental interest in imposing certain reasonable time, place and manner regulations whenever potential First Amendment activities such as begging, solicitation and panhandling occur on streets, highways, sidewalks, walkways, plazas, and other public venues within the City;

(2) This ordinance is not intended to limit any persons from exercising their constitutional right to solicit funds, picket, protest or engage in constitutionally protected activities. The provisions of this division are expressly established to most narrowly tailor any such restrictions to protect the First Amendment rights of all people within the City as well as the rights of non-participating people and their property, and to ensure the rights and safety of all people and/or property to the extent possible;

(3) Persons approached by individuals asking for money, objects or other things of any value are particularly vulnerable to real, apparent or perceived coercion when such request is accompanied by or immediately followed or preceded with aggressive behavior such as:

(A) continuing to beg or solicit from a person after the person has given a negative response to such solicitation;

(B) touching another person or their property in the course of begging or soliciting without that person's consent;

(C) blocking or interfering with the safe or free passage of a pedestrian or vehicle by any means;

(D) using violent or threatening gestures which are likely to provoke an immediate violent reaction from the person who is the subject of the solicitation or request for money;

(E) closely following behind, ahead or alongside a person who has been solicited or asked for money after that person has given a negative response to such solicitation;

(F) using profane, threatening, or abusive language, either during the solicitation or begging or following a refusal;

(G) begging or soliciting money from anyone who is waiting in line for tickets, entering a public building or riding on public transportation;

(H) begging or soliciting in a manner with conduct, words or gestures intended or likely to cause a reasonable person to fear imminent bodily harm, danger or damage to or loss of property or otherwise to be intimidated into giving money or any other thing of value; or

(I) begging or soliciting in a group of two or more persons in an intimidating fashion.

(4) The City desires to respect a person's potential right to solicit, beg or panhandle while simultaneously protecting another's right to not be unduly coerced.

(5) The City further finds that aggressive soliciting, begging or panhandling of persons within 20 feet of any outdoor seating area of any cafe, restaurant or other business, bank, automated teller machine, automated teller machine facility, check cashing business, mass transportation facility, mass transportation stop, or pay telephone also subjects people being solicited to improper and undue influence and/or fear and should not be allowed.

(6) Persons approaching other individuals in an aggressive manner asking for money, objects or other things of any value after dark in public places inspire alarm and fear, which coupled with the inherent difficulty of establishing identity should not be allowed.

(b) *Purpose and Intent.*

The public purpose of this ordinance is to protect the rights of all peoples to exercise their First Amendment rights as well as the people and/or property of those who chose to be non-participating.

(c) *Definitions.*

As used in this section, the following words and terms shall have the meanings indicated. The meaning of all other terms and words not specifically defined shall be their generally accepted definition:

"Beg," "begging" or *"panhandling"* shall be synonymous and shall mean asking for money or objects of value, with the intention that the money or object be transferred at that time, and at that place. "Solicit" or "Soliciting" shall include using the spoken, written, or

printed word, bodily gestures, signs, or other means of communication with the purpose of obtaining an immediate donation of money or other thing of value the same as begging or panhandling and also include the offer to immediately exchange and/or sell any goods or services.

"Aggressive manner" shall mean:

(1) approaching or speaking to a person, or following a person before, during or after soliciting if that conduct is intended or is likely to cause a reasonable person to fear bodily harm to oneself or to another, or damage to or loss of property or otherwise to be intimidated into giving money or other thing of value;

(2) continuing to solicit from a person after the person has given a negative response to such soliciting;

(3) intentionally touching or causing physical contact with another person or their property without that person's consent in the course of soliciting;

(4) intentionally blocking or interfering with the safe or free passage of a pedestrian or vehicle by any means, including unreasonably causing a pedestrian or vehicle operator to take evasive action to avoid physical contact;

(5) using violent or threatening language and/or gestures toward a person being solicited, or toward their property, which are likely to provoke an immediate violent reaction from the person being solicited;

(6) following the person being solicited, with the intent of asking that person for money or other things of value;

(7) soliciting money from anyone who is waiting in line for tickets, for entry to a building or for any other purpose;

(8) soliciting in a manner with conduct, words or gestures intended or likely to cause a reasonable person to fear immediate bodily harm, danger or damage to or loss of property or otherwise be intimidated into giving money or any other thing of value;

(9) begging in a group of two or more persons in an intimidating fashion;

(10) soliciting any person within 20 feet of the entrance to, or parking area of, any bank, automated teller machine, automated teller machine facility, check cashing business, mass transportation facility, mass transportation stop, public restroom, pay telephone or theatre or place of public assembly, or of any outdoor seating area of any cafe, restaurant or other business;

(11) soliciting any person in public after dark, which shall mean the time from one-half hour before sunset to one-half hour after sunrise.

"Automated teller machine" shall mean a device, linked to a financial institution's account records, which is able to carry out transactions, including, but not limited to: account

transfers, deposits, cash withdrawals, balance inquiries, and mortgage and loan payments which are made available to banking customers.

"Automated Teller Machine Facility" shall mean the area comprised of one or more automatic teller machines, and any adjacent space which is made available to banking customers during and after regular banking hours.

"Public place" shall mean a place to which the public has access, including, but not limited to: a place which a governmental entity has title, any street open to public use, bridge, sidewalk, walkway, driveway, parking lot, plaza, transportation facility, school, park, or playground, and the doorways and entrances to building and dwellings.

"*Bank"* shall mean the same as defined in M.G.L. c. 167, § 1.

"*Check cashing business*" shall mean the same as that defined by M.G.L. c. 169A, § 1.

(d) *Prohibited Activity.*

It shall be unlawful for any person to beg, panhandle or solicit any other person in an aggressive manner. Any police officer observing any person violating this provision may request or order such person to cease and desist in such behavior and may arrest such person if they fail to comply with such request or order.

(e) *Penalty*

Any person found guilty of violating this subsection (d) of this ordinance shall be punished by a fine not to exceed $50.00 for each such day during which the violation is committed, continued or permitted, or, that the Court may impose such community service as it shall determine in lieu of a monetary fine.

Section 2. Chapter 15, Section 2(b) of the Revised Ordinances of 2008 is hereby amended by inserting a new subsection (32) as follows:

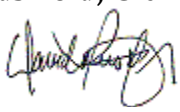
(32) Aggressive Begging, Soliciting and Panhandling Ordinance,
R.O. c. 9, § 16(d)

Enforcing Person Chief of Police

Penalty: $50.00

In City Council January 29, 2013
Passed to be ordained by a yea and nay vote of Nine Yeas and Two Nays

A Copy. Attest: David J. Rushford, Clerk



City Clerk

Amendment 9840

AN ORDINANCE RELATIVE TO PEDESTRIAN SAFETY

Be it ordained by the City Council of the City of Worcester, as follows:

Section 1. Chapter Thirteen of the Revised Ordinances of 2008 is hereby amended by inserting a fourth sentence in § 77(a) thereof as follows:

> No person shall, after having been given due notice warning by a police officer, persist in walking or standing on any traffic island or upon the roadway of any street or highway, except for the purpose of crossing the roadway at an intersection or designated crosswalk or for the purpose of entering or exiting a vehicle at the curb or for some other lawful purpose. Any police officer observing any person violating this provision may request or order such person the remove themselves from such roadway or traffic island and may arrest such person if they fail to comply with such request or order.

Section 2. Chapter Thirteen of the Revised Ordinances of 2008 is hereby amended by deleting the definition of "traffic island" in section one thereof and inserting the following as the definition of "traffic island:"

> *traffic island* - any area or space within a roadway which is set aside by the use of materials or paint for the purpose of separating or controlling the flow of traffic and which is not constructed or intended for use by vehicular traffic or by pedestrians, unless such area or space is marked or otherwise designated as a crosswalk.

Section 3. Chapter Eleven of the Revised Ordinances of 2008 is hereby amended by deleting section 13A concerning Tag Day Permits.

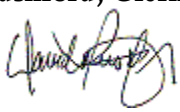
Section 4. Chapter 15, Section 2(b), of the Revised Ordinances of 2008 is hereby amended by inserting the following new subsection (31) as follows:

(31) Pedestrian Roadway/Traffic Island Safety Violation, R.O. c. 13, § 77

Enforcing Persons:	Police Chief
Penalty:	$50.00

In City Council January 29, 2013
Passed to be ordained by a yea and nay vote of Nine Yeas and Two Nays

A Copy. Attest: **David J. Rushford, Clerk**



City Clerk

Amendment 9843

AN ORDINANCE AMENDING CHAPTER EIGHT OF THE REVISED ORDINANCES TO CONFORM THE SERVICE DOG FEE EXEMPTION TO STATE LAW

Be it ordained by the City Council of the city of Worcester, as follows:

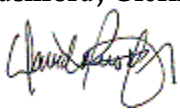
Section One: Chapter Eight of Part One of the Revised Ordinances of 2008 is hereby amended by deleting subsection (f) in section 11 thereof and inserting a new subsection (f) as follows**:**

> (f) Pursuant to section 139 of chapter 140 of the General Laws no fee shall be charged for a license issued under section 137 of said chapter 140 for a service dog as defined by the Americans with Disabilities Act or regulations promulgated thereunder.

Section Two: Section Thirteen of Chapter Eight of Part One of the Revised Ordinances of 2008 is hereby amended by deleting the word "registered" in subsections (a)(7) and (a)(8) thereof.

In City Council February 5, 2013
Passed to be ordained by a yea and nay vote of Ten Yeas and No Nays

A Copy. Attest: **David J. Rushford, Clerk**



City Clerk

Amendment 9890

AN ORDINANCE AMENDING CHAPTER SEVEN
SECTION SIXTEEN OF THE REVISED ORDINANCES OF 2008 RELATIVE TO WATER RATES USE CHARGES
(FY 2014)

Be it ordained by the City Council of the City of Worcester, as follows:

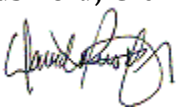
1. Chapter 7, § 16 of the Revised Ordinances of the City of Worcester, as most recently amended, is hereby further amended by deleting in paragraph (c) thereof, the rate for "Basic" and inserting in lieu thereof the new rate as follows.

Basic…… $ 3.51
Outside City Limits……..$ 3.80

2. This amendment shall be effective as of July 1, 2013 and shall apply to all bills issued after such effective date in accordance with subsection (f) of section sixteen of Chapter 7 of the Revised Ordinances of 2008.

In City Council June 11, 2013
Passed to be ordained by a yea and nay vote of Nine Yeas and One Nay

A Copy. Attest: David J. Rushford, Clerk



City Clerk

Amendment 9891

AN ORDINANCE AMENDING CHAPTER FIVE
SECTION TWENTY-SIX OF THE REVISED ORDINANCES OF 2008
RELATIVE TO SEWER USER CHARGE
(FY 2014)

Be It Ordained by the city council of the city of Worcester as follows:

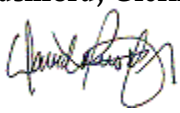
1. Chapter 5, § 26 of the Revised Ordinances, as most recently amended, is hereby further amended by deleting in paragraph (g) thereof, the rate for "Basic Rate" and inserting in lieu thereof the new rate as follows.

Basic Rate…….. $ 5.94

2. This amendment shall be effective as of July 1, 2013 and shall apply to all bills issued after such effective date in accordance with subsection (f) of section sixteen of Chapter Seven of the Revised Ordinances of 2008.

In City Council June 11, 2013
Passed to be ordained by a yea and nay vote of Nine Yeas and One Nay

A Copy. Attest: **David J. Rushford, Clerk**



City Clerk

Amendment 9923

AN ORDINANCE RELATIVE TO TAXICABS AND LIVERIES

Be it ordained by the City Council of the City of Worcester, as follows:

Section 1. Chapter Eleven of the Revised Ordinances of 2008 is hereby amended by deleting sections 15-25 governing taxicabs & liveries and inserting new sections 15-25 as follows.

§ 15. Taxicabs and Liveries

The chief of police of the city may from time to time grant licenses upon such terms and conditions to such persons as he may deem expedient to set up, employ, use or drive taxicabs and liveries for the conveyance of persons for hire subject to the provisions of these ordinances or regulations issued pursuant to these ordinances. No person shall set up, employ, use or drive any vehicle for the purposes aforesaid without such license, nor shall the owner of such vehicle or the proprietor of the business in which such vehicle is being used allow any person not licensed as aforesaid to drive or operate such vehicle. Every vehicle used as a taxicab or as a livery vehicle shall require a separate license from the chief of police. The fees for any such license issued shall be as follows:

(1). For every license granted to the owner of a taxicab there shall be paid a fee of one hundred dollars.

(2). For every license granted to the owner of a livery operator vehicle there shall be paid a fee of one hundred dollars.

(3). For every license granted to the driver of a taxicab or a livery vehicle driver there shall be paid a fee of twenty five dollars.

The city council reserves the right to amend said ordinances regarding taxi cabs and liveries at any time.

§ 16. Taxicab Requirements

Every person licensed under the provisions of § 15 above as a taxicab owner or taxicab driver shall at all times observe and comply with the following regulations:

(a) each licensed vehicle shall be conspicuously marked with the number assigned to it by the chief of police in figures not less that one and a half inches in size, and of such color as to be readily seen and read, and the names of the owner and the driver and the number of the vehicle, together with the rates of fare duly established, shall be conspicuously posted on a printed card in every such vehicle.

(b) No owner, driver or other person having charge of any taxicab shall stand or wait for employment with such vehicle, in any street, square, lane, court, or public place within the city, other than the stands assigned to such vehicles by the city council.

(c) No owner, driver or other person having charge of any taxicab shall demand or receive any more than the price or rate of fare established by this chapter or by the license commission under the provisions as mentioned in the above paragraph, under penalty of forfeiting his license in addition to the general penalty provided for in these Revised Ordinances.

(d) For unreasonably refusing to carry any passenger to any point within the city, the owner, driver or other person having charge of a taxicab shall be subject to the penalty provided for in chapter 1 of these Revised Ordinances.

(e) Every owner, driver or other person having charge of any taxicab shall at all times, when driving or waiting for employment, wear on the upper left front of his or her chest a badge as provided by the chief of police.

(f) No driver of a taxicab or motor vehicle equipped with a taximeter while carrying passengers or under employment shall display the signal affixed to such taximeter so as to denote that such vehicle is not employed, or in such a position as to denote that he or she is employed at a rate of fare in excess of that to which he is entitled under this chapter.

(g) No person shall use or permit to be used or drive for hire a public taxicab or motor vehicle equipped with a taximeter not having the case sealed and the cover and gear thereof intact.

(h) The chief of police and the license commission may, either jointly or independently, adopt rules and regulations concerning the issuance of a license or medallion to any taxicab owner and to any taxicab driver, and for the regulation of taxicab service in the city. Such rules and regulations shall become effective 30 days after the chief of police or the license commission, as the case may be, sends notification of the amended regulations to the city manager and files a copy of the same with the city clerk. All taxicab service in the city shall conform to the rules and regulations issued by the chief of police and/or the license commission and which are on file with the city clerk. Any violation of such rules and regulations issued hereunder shall be a violation of this ordinance.

(i) The chief of police shall refer to the license commission any and all complaints, whether received from the general public or generated from the work of the police department or from any other law enforcement or regulatory organization, concerning the suitability of any taxicab owner or any taxicab driver. The chief may, but shall not be required to, include in any such referral his or her recommendation as to the disposition of any particular complaint. After notice and hearing the license commission shall have the authority to suspend or revoke any license or medallion issued to any taxicab owner or to any taxicab driver for: (1) violation of any criminal law after issuance of such license which renders the licensee unfit; (2) failure to pay or lawfully contest any fine, penalty or ticket issued under pursuant to this section or to pay any taxes assessed to the licensee; or (3) any violation of this section or the rules and regulations established hereunder which constitutes a danger to the health or safety of the public in the exercise of any license issued under this section.

(j) Notwithstanding the provisions of subsection (i) above, whenever the chief of police has reason to conclude that any taxicab owner or any taxicab driver has engaged in any conduct which would render the operator or driver unfit to hold such a license or present a danger to public safety, the chief may, without prior notice or hearing, suspend any taxicab owner or any taxicab driver license issued hereunder. Immediately upon any such

suspension, the chief shall notify the license commission who shall, if requested by the taxicab owner or taxicab driver whose license was suspended, conduct a post-suspension hearing to determine: A) whether there were reasonable grounds to suspend the license and, if so, whether such suspension should be terminated as of a date certain or extended to include a revocation of the license.

§ 17. Liveries

(a) Definitions:

livery service - providing transportation for hire for a prearranged fare on a prearranged basis by means of a livery vehicle which does not contain a rate meter and does not charge for service based on miles traveled if the trip is less than twenty-five (25) miles. Excluded from this definition are services provided by a licensed taxicab and by a common carrier licensed under the provisions of c. 159A of the General Laws;

livery operator - a person or entity which owns or has legal control of a livery vehicle and provides livery service by means of such vehicle;

livery vehicle - a motor vehicle used to provide livery service and displaying a livery registration number plate issued by the registry of motor vehicles;

livery vehicle driver - any person driving a livery vehicle while providing livery service.

prearranged – a period of not less than two hours between the time the transportation service is requested of a livery operator and the time when the first passenger enters the livery vehicle.

(b) No person shall provide livery service in the city until the livery operator has obtained from the chief of police a license to operate such livery service.

(c) No person shall drive a livery vehicle in the city until that person has obtained from the chief of police a license to drive such livery service vehicle.

(d) Every person licensed under the provisions of this section 17 as a livery operator or a livery vehicle driver shall at all times observe and comply with the following regulations:

1) livery operators must own and control licenses for livery drivers and that drivers will only be able to have a livery driver's license if they are employed by a livery operator;

2) drivers who own and operate their own vehicles, which are licensed livery vehicles, can only operate as liveries if affiliated with a livery operator;

3) livery operators and livery vehicle drivers comply with the two-hour "prearranged" rule;

4) livery operators be required to maintain a physical office with log books and pertinent records;

5) a special work order be drafted by the license commission which livery drivers can produce when required to do so while waiting to pick up

customers who have previously placed a pick-up reservation with a livery company at Union Station or the Worcester Regional Airport.

(e) The chief of police and the license commission, either jointly or independently, may adopt rules and regulations concerning the conduct of livery service operators and livery vehicle drivers and the provision of livery service in the city in general. Such rules and regulations shall become effective 30 days after the chief of police or the license commission, as the case may be, sends notification of the amended regulations to the city manager and files a copy of the same with the city clerk. All livery service licensees in the city shall conform to such rules and regulations. The license commission may also adopt policies and practices governing the conduct of its meetings and hearings, as well as its internal practices, concerning livery service and livery service licensees.

(f) The chief of police shall refer to the license commission any and all complaints, whether received from the general public or generated from the work of the police department or from any other law enforcement or regulatory organization, concerning the suitability of any livery service operator or livery vehicle driver. The chief may, but shall not be required to, include in any such referral his or her recommendation as to the disposition of any particular complaint. After notice and hearing the license commission shall have the authority to suspend or revoke any livery service operator license or any livery vehicle driver's license for: (1) violation of any criminal law after issuance of such license which renders the licensee unfit; (2) failure to pay or lawfully contest any fine, penalty or ticket issued under pursuant to this section or to pay any taxes assessed to the licensee; or (3) any violation of this section or the rules and regulations established hereunder which constitutes a danger to the health or safety of the public in the exercise of any license issued under this section.

(g) Notwithstanding the provisions of subsection (f) above, whenever the chief of police has reason to conclude that any livery service operator or livery vehicle driver has engaged in any conduct which would render the operator or driver unfit to hold such a license or present a danger to public safety, the chief may, without prior notice or hearing, suspend any livery service operator or livery vehicle driver license issued hereunder. Immediately upon any such suspension, the chief shall notify the license commission who shall, if requested by the livery owner or livery driver whose license was suspended, conduct a post-suspension hearing to determine: A) whether there were reasonable grounds to suspend the license and, if so, whether such suspension should be terminated as of a date certain or extended to include a revocation of the license.

§ 18. Transportation of Goods

(a) The chief of police of the city may from time to time grant licenses to such persons and upon such terms as it may deem expedient, to employ or use any truck, wagon or other vehicle which may be necessary for the conveyance from place to place, for hire, of any goods, wares, furniture, merchandise or rubbish, and the chief of police may designate the public stand or stands which such vehicles may occupy, and no person shall use any of the vehicles mentioned in this section for the purposes herein specified without a license for each vehicle.

(b) Every person licensed under this section shall have placed upon the outside and upon each side of the vehicle he or she may use the name of the owner and the number of the

license, in plain, legible letters and figures not less than one and a half inches in size, so that the same may be distinctly seen.

§ 19. Solicitation of Passengers

No person, except holders of taxicab licenses issued under § 15 above, shall solicit passengers on public ways or from public taxicab stands, or in any way solicit passengers in violation of the prearranged rule as provided herein; nor shall operate any vehicle over any route in such manner that it would result in conflict with any common carrier licensed under the provision of G.L. c. 159A. A violation of any of the terms of this section by any person holding a livery license under this chapter shall constitute grounds for revocation of such license under § 17 above.

§ 20. Behavior of Licensees

No person while engaged in the operation of a taxicab or livery vehicle shall behave in a rude and disorderly manner or use any indecent, profane or insulting language towards any person.

§ 21. License Valid Only for Person or Vehicle for Which Issued

No license granted under §§ 15 - 18 of this chapter shall apply to any vehicle, owner or driver, except the particular one designated therein by its number or otherwise made certain.

§ 22. Expiration and Transferability of Licenses

(a) All licenses granted under the provisions of sections 15-18 of this chapter shall expire on the thirtieth day of April next after the date thereof. Any license held by the owner of a taxicab or by a livery operator may be assigned or transferred provided that the chief of police has approved such assignment or transfer, and the transferee has paid the a fee of fifty dollars, provided however, that if such transfer is to be effective on the first day of May in any year, the transferee shall pay the fee specified in §15 for the type of license transferred and renewal thereof. The chief of police shall approve such transfer if the chief finds, after investigation including but not limited to any criminal or sexual offender registry information, that the transferee is suitable, in accordance with rules and regulations adopted pursuant to sections 16 and 17 above, to hold such license. The license granted to the driver of a taxicab or to a livery vehicle driver shall not be transferable.

(b) Every licensed taxicab shall have affixed thereto a metal medallion of such size, design and at such location as the chief of police may direct.

(c) The number of taxicab licenses and medallions shall be limited to one hundred and eight, including those which have expired for less than one year, and may in accordance with public need be increased or decreased by the city council. Notwithstanding the foregoing, the chief of police may grant two additional taxicab licenses and medallions on the condition that the licensee holding each such license shall operate said taxicabs in compliance with taxicab

handicapped accessibility regulations adopted by the city commission on disability. The chief of police may grant such licenses only to such persons who shall otherwise qualify for such a license and medallion under this ordinance and who shall comply with the laws, ordinances, regulations, license conditions and terms otherwise applicable to the holder of a taxicab license and medallion issued under this chapter.

(d) Subject to the approval of the chief of police such licenses and medallions while in effect, as of right, may be assigned or transferred unless it appears to the chief of police, after a hearing thereon that the chief of police has good cause in accordance with the Rules and Regulations of the chief of police for ownership or operation of taxis and liveries and provisions of law to refuse such assignment or transfer.

§ 23. Suspension or Revocation of License

Any license granted under the provisions sections 15 - 18 of this chapter may be suspended in accordance with the provisions of sections 16 and 17 above.

§ 24. Minors as Drivers

No taxicab or other vehicle mentioned in this chapter shall be driven by a minor unless he or she is specially licensed.

§ 25. Manner of Parking

All drivers, owners or persons having the care of any such vehicles as are described in section 16, while at the stands designated by the chief of police, shall place their respective vehicles next to the sidewalk, in a single line so as to leave sufficient space for travelers along the streets and passageways, and so as not to obstruct or encumber the crossing places of any street.

Section 2. Chapter Fifteen of the Revised Ordinances of 2008 is hereby amended by deleting subsection (21) of section two thereof and inserting a revised subsection (21) as follows.

(21) Taxicab & Livery Ordinances and Regulations – R.O. c. 11 §§15 through 25

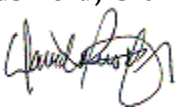
Enforcing Persons: Police Chief
License Commission

Penalties:
First Offense $100
Second Offense $200
Third and Subsequent Offenses $300

Section 3. This ordinance shall become effective upon the effective date of the reorganization ordinance amendment submitted to the city council together with this regulatory ordinance amendment.

In City Council September 17, 2013
Passed to be ordained by a yea and nay vote of Eleven Yeas and No Nays

A Copy. Attest: **David J. Rushford, Clerk**



City Clerk

Amendment 9929

AN ORDINANCE AMENDING CHAPTER NINE OF THE REVISED ORDINANCES RELATIVE TO VACANT AND FORECLOSING PROPERTIES

Be it ordained by the city council of the city of Worcester, as follows:

Section Fourteen of Chapter Nine of the Revised Ordinances of 2008 is hereby amended by deleting paragraphs (a), (b), (c), (f), (g), (h) and (i) and inserting in lieu thereof the following:

§ 14. Securing and Maintaining Vacant Properties and Foreclosing Properties

(a) Certain unsecured or unmaintained vacant properties, foreclosing properties, and foreclosed properties present a danger to the safety and welfare of public safety officers, the public, occupants, abutters and neighborhoods, and as such, constitute a public nuisance. This section is enacted to promote the health, safety and welfare of the public, to protect and preserve the quiet enjoyment of occupants, abutters and neighborhoods, and to minimize hazards to public safety personnel inspecting or entering such properties. This section shall apply to:

(i) Unsecured or unmaintained vacant properties.
(ii) Unsecured or unmaintained occupied properties that are foreclosing.
(iii) Unsecured or unmaintained vacant or occupied properties that have foreclosed and a deed is recorded in the name of a bank, credit union, mortgage servicer, financial institution, REO, government corporation such as Government National Mortgage Association ("Ginnie Mae"), government-sponsored enterprise such as the Federal National Mortgage Association (Fannie Mae) or the Federal Home Loan Mortgage Corporation (Freddie Mac), the Secretary of Housing and Urban Development, the Veterans Administration, or other such entity.

(b) The following words and phrases, when used in this section, shall have the following meanings:

building – any combination of materials having a roof and enclosed within exterior walls or firewalls, built to form a structure for the shelter of persons or property.

certificate of closure – certificate issued by the director to the owner of a vacant or foreclosing property upon compliance with the provisions of paragraph (c) herein.

director – the director of heath and housing inspection.

days – consecutive calendar days.

fire chief – the chief of the Worcester Fire Department or his or her designee.

foreclosed – when a new deed is recorded with the registry of deeds following the foreclosure process and is recorded in the name of a bank, credit union, mortgage servicer, financial institution, REO, government corporation such as Government

National Mortgage Association ("Ginnie Mae"), government-sponsored enterprise such as the Federal National Mortgage Association (Fannie Mae) or the Federal Home Loan Mortgage Corporation (Freddie Mac), the Secretary of Housing and Urban Development, the Veterans Administration, or other such entity.

foreclosing – the process by which a property, placed as security for a real estate loan, is prepared for sale to satisfy the debt if the borrower defaults.

initiation of the foreclosure process – taking any of the following actions:

(i) taking possession of a residential property pursuant to General Laws chapter 244 § 1;
(ii) delivering the mortgagee's notice of intention to foreclose to borrower pursuant to General Laws chapter 244 § 17B;
(ii) commencing a foreclosure action on a property in any court of competent jurisdiction; or
(iii) recording a complaint to foreclose with the registry of deeds.

local – within twenty miles of the property in question

mortgagee – the creditor, including but not limited to, service companies, lenders in a mortgage agreement and any agent, servant or employee of the mortgagee, or any successor in interest and/or assignee of the mortgagee's rights, interests or obligations under the mortgage agreement.

owner – every person, entity, service company or property manager who alone or severally with others:

(1) has legal or equitable title to any real property, including, but not limited to a dwelling, dwelling unit, mobile dwelling unit, or parcel of land, vacant or otherwise, including a mobile home park; or
(2) has care, charge or control of real property, including but not limited to any dwelling, dwelling unit mobile dwelling unit or parcel of land, vacant or otherwise, including a mobile home park, or any administratrix, trustee, or guardian of the estate of the holder of legal title; or
(3) is a mortgagee of any such property;
(4) is an agent, trustee or other person appointed by the courts and vested with possession or control of any such property; or
(5) is an officer or trustee of the association of unit owners of a condominium. Each such person is bound to comply with the provisions of these minimum standards as if he were the owner. However, "owner" shall not mean a condominium association created pursuant to General Laws chapter 183A to the extent that such association forecloses on or initiates the foreclosure process for unpaid assessment due or owning to the association; or
(6) every person who operates a rooming house; or
(7) is a trustee who holds, owns or controls mortgage loans for mortgage-backed securities transactions and has initiated the foreclosure process; or
(8) has recorded a complaint to foreclose with the registry of deeds.

property – any real property, or portion thereof, located in the city, including buildings or structures situated on the property; provided, however, that "property" shall not include property owned or under the control of the city, the commonwealth or the United States of America.

secured, securing – making the property inaccessible to unauthorized persons.

vacant – any property not currently legally occupied and not properly maintained or secured.

(c) Any owner of a vacant and/or foreclosing property shall forthwith:

1. Provide written notification to the director and the fire chief of the status of such property, including in such notice, the name, address and telephone number of the owner; the location of the property; the length of time the building has been vacant; the estimated time the building will remain vacant; and the nature of the contents of the building.

2. As may be required by the fire chief, file one set of space utilization floor plans for any buildings on said property with the fire chief and one set of said plans with the director. The owner shall certify space utilization plans as accurate twice annually, in January and July; and

3. Remove from the property to the satisfaction of the fire chief, hazardous material, as that term is defined in Massachusetts General Laws, chapter 21K, as that statute may be amended from time to time; and

4. At the discretion of the fire chief or director, secure all windows and door openings and ensure that the building is secured from all unauthorized entry continuously in accordance with the United States Fire Administration, National Arson Initiative Board up Procedures or provide twenty-four (24) hour on-site security personnel on the property. When a vacant, foreclosed, or foreclosing property is located within a complex of buildings owned by a single owner, twenty-four (24) hour on-site security shall be provided within the building or within the complex wherein the building is located; and

5. Post "No Trespassing" signs on the property. Said signs shall be no smaller than 8 inches by 11 inches with lettering no smaller than 2 inches high, and shall be visible from the street. However, this requirement may be waived upon written request from the owner or designee; and

6. Maintain the property in accordance with Chapter 8, § 42 of these Ordinances, free of overgrowth, trash and debris, and pools of stagnant water, and ensure that structures are maintained in a structurally sound condition; and,

7. If the property is vacant, drain all water from the plumbing and turn off all electricity between September 15 and June 15 of each calendar year to guard against burst pipes and fires; however this requirement may be

waived by the director upon written request from the owner or designee; and

8. Maintain the property in accordance with all other relevant state codes and local regulations concerning the maintenance of property; and,

9. Provide the fire chief and director with the name, local address and telephone number of a responsible person who can be contacted in case of emergency. The owner shall cause the name and contact number to be marked on the front of the property as may be required by the fire chief or director; and,

10. Maintain liability insurance on the property and furnish the director with a copy of said certificate of insurance; and,

11. Provide a cash bond acceptable to the director, in the sum of not less than five thousand dollars, to secure the continued maintenance of the property until such time as the property is sold or transferred and remunerate the city for any expenses incurred in inspecting, securing, marking, maintaining, or making such building safe. Ten percent (10%) of said bond shall be retained by the city as an administrative fee to fund an account for expenses incurred in inspecting, securing, maintaining and marking other such buildings that are not in compliance with this section. Any owner of a vacant, foreclosed or foreclosing property providing a bond pursuant to this section must also provide bonds for all other vacant or foreclosing properties it owns in the City.

12. Notify the director and fire chief in writing when the property is sold or transferred.

Upon satisfactory compliance with the above provisions, the director shall issue a certificate of building closure. Said certificate shall be valid for the length of time prescribed by the director and noted thereon; provided however, the certificate shall be subject to continued compliance with the provisions of this section.

(d) Signs/Markings – When required pursuant to this section, signs or markings on buildings determined to be especially unsafe in case of fire shall be applied on the front of the property, and elsewhere as the fire chief may require, at or above the second floor level and shall not be placed over doors, windows or other openings. All signs/markings shall be visible from the street and, when requested by the fire chief, shall be placed on the sides and rear of the property. Signs/markings shall be a minimum of 24 inches by 24 inches, with lines of 2-inch width, and shall have a reflective background, or be painted with reflective paint, in contrasting colors. Signs/markings shall be applied directly on the surface of the property and shall state the date of posting and the most recent date of inspection by the fire chief and director.

(e) Enforcement – Failure to comply with any provisions of paragraph (c) above shall be punished by a fine of three hundred ($300.00) dollars with each day of violation constituting a separate offense. This section may be enforced by civil, criminal process or non-criminal process, including injunctive relief. The director and/or the fire chief shall be enforcing persons for the purposes of this section.

(f) The director or fire chief, upon being informed of the existence of a vacant, foreclosed, or foreclosing property without a certificate of building closure, shall cause notice to issue to the owner of the status of said property and shall order said person to immediately obtain a certificate of building closure. If any person fails to comply with said order, the fire chief or director may enter the premises to inspect, secure, maintain and mark the property. The fire chief or director may also seek enforcement pursuant to paragraph (e).

(g) Expenses – The owner of a vacant, foreclosed, or foreclosing property who fails to obtain a certificate of building closure as required herein, shall be liable to the city for expenses incurred by the city in inspecting, securing, maintaining, and marking such property. The director shall provide the owner with a written statement of all costs associated with inspecting, securing, maintaining and marking the property. If the owner fails to pay or reimburse the city within seven days of notice of expenses, the city shall draw down upon the bond paid by the owner as required in paragraph (c) 11, above. If there is no bond available, the director shall record the notice of claim in the Worcester District Registry of Deeds (or the Land Court Department) forthwith, establishing a lien on the property for the balance due.

(h) No owner of a vacant, foreclosed, or foreclosing property shall allow said property to become or remain unsecured, unmaintained, or unmarked. If it appears that any vacant, foreclosed, or foreclosing property is unsecured, unmaintained or unmarked, the director shall send written notification to the owner, requiring that the owner promptly secure, maintain or mark the property. If the owner fails to comply with any order issued pursuant to this provision (h), the fire chief or director may immediately seek to obtain the proceeds secured by the bond filed pursuant to paragraph (c)(11) herein and shall enter upon the premises and cause the property to be inspected, secured, maintained and marked.

(i) All unsecured vacant, foreclosed, or foreclosing properties shall be immediately referred to the director for a determination relative to whether the property is a nuisance or dangerous pursuant to G.L. Chapter 139 and procedures promulgated thereunder.

(j) Notices required pursuant to this section shall be served in the following manner:

1. Personally on any owner as defined in this section, or on the contact person specified pursuant to paragraph (c)(9); or

2. Left at the last and usual place of abode of any owner, or contact person as specified pursuant to paragraph (c)(9), if such place of abode is known and is within or without the commonwealth; or,

3. By certified or registered mail, return receipt requested, to any owner, or the contact person specified pursuant to paragraph (c)(9).

In City Council October 15, 2013
Passed to be ordained by a yea and nay vote of Eight Yeas and No Nays

A Copy. Attest: **David J. Rushford, Clerk**

City Clerk

Amendment 9930

AN ORDINANCE AMENDING CHAPTER FIVE OF THE REVISED ORDINANCES OF 2008 CONCERNING SEWER DISCHARGE AND CONNECTION PERMITS

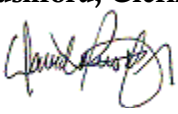
Be it ordained by the city council of the city of Worcester, as follows:

Section 1. Chapter 5, § 6 of the Revised Ordinances of 2008 is hereby amended by deleting the three sentences at the conclusion of subsection (b)(2) and inserting the following in lieu thereof:

> When the capacity fee established herein exceeds ten thousand dollars the property owner may apply to the commissioner to apportion so much of the fee that exceeds ten thousand dollars pursuant to the provisions set forth below in subparts (A) and (B). The interest rate on such apportionments shall be the rate applied to apportioned betterments assessments. The commissioner shall notify the city treasurer of any such apportionments and the city treasurer shall bill and collect any such apportioned capacity fee.
>
> (C) When the capacity fee exceeds ten thousand dollars but is less than fifty thousand dollars the property owner shall pay the initial ten thousand dollars and the balance may be apportioned over a five year period.
>
> (D) When the capacity fee exceeds fifty thousand dollars the property owner shall pay the initial ten thousand dollars and the balance may be apportioned over a ten year period.

In City Council October 22, 2013
Passed to be ordained by a yea and nay vote of Eleven Yeas and No Nays

A Copy. Attest: **David J. Rushford, Clerk**



City Clerk

Amendment 9956

AN ORDINANCE TO REPAIR THE IMPACT OF THE FORECLOSURE CRISIS ON THE CITY OF WORCESTER

Be it ordained by the city council of the city of Worcester, as follows:

Chapter Nine of the Revised Ordinances of 2008 is hereby amended by inserting a new section fourteen A as follows:

§ 14A. Facilitating Mediation of Mortgage Foreclosures of Owner Occupied Residential Real Property in City of Worcester

(a) *Declaration of Findings and Policy.* Unsecured and unmaintained properties and especially vacant properties present a danger to the safety and welfare of public safety officers, the public, occupants, abutters and neighborhoods, and as such, constitute a public nuisance. This section is enacted to promote the health, safety and welfare of the public, to protect and preserve the quiet enjoyment and health of occupants, abutters and neighborhoods, and to minimize hazards to public safety personnel inspecting or entering such properties.

(b) *Definitions*. For the purposes of this ordinance, the following words shall, unless the context clearly requires otherwise, have the following meanings:

"certificate of mediation completion" shall mean a certificate issued by the mediation program manager upon good faith effort in mediation if a mutually-agreeable commercially reasonable alternative to foreclosure cannot be reached.

"commercially reasonable alternative" – an alternative based on a comparison of the net present value of receiving payments pursuant to a modified mortgage loan or the likely financial recovery from other foreclosure alternatives to the anticipated net recovery following foreclosure incorporating an assessment of the borrower's current circumstances, including without limitation the borrower's current income, debts and obligations.

"days" shall mean consecutive calendar days.

"entity" shall mean a business organization, or any other kind of organization, including without limitation, a corporation, partnership, trust, limited liability corporation, limited liability partnership, joint venture, sole proprietorship, or

any other category of organization, and any employee, agent, servant or other representative of such entity.

"foreclosure" shall mean termination of a mortgagor's equity of redemption in property, by action, bill in equity, entry, and/or power of sale.

"foreclosure sale" shall mean the foreclosure of a mortgage of a residential property pursuant to a power of sale in a mortgage and as described in M.G.L. c. 244.

"good faith effort" shall mean each party to the mediation is present, has decision-making authority to negotiate and agree upon a commercially reasonable alternative to foreclosure, provides required documentation, and actively participates in the mediation process.

"mediation conference" shall mean the formal discussion and negotiation undertaken by the parties in a good faith effort to negotiate and agree upon a commercially reasonable alternative to foreclosure, and held in the city of Worcester or at a location mutually convenient to the parties. Both the mortgagor and mortgagee or its mortgage servicer must be physically present for the mediation conference unless telephone participation is mutually agreed upon and the mediation program manager certifies that the mortgagor has been made aware of his or her right to an in-person mediation conference. The mortgagor shall be allowed to have a lawyer, an interpreter, and up to three additional persons of his or her choosing present at the mediation conference. The mortgagor shall be notified of this right at the time the mediation conference is scheduled by the mediation program manager.

"mediation program" shall mean the foreclosure mediation program established in the city of Worcester as described in this ordinance and implemented in accordance section (d) of this ordinance.

"mediation program manager" shall mean a neutral not-for-profit organization or an organizational unit of the city, as the same may be determined and designated by the city manager in accordance with law. Any such mediation program manager shall be experienced in the mediation of the foreclosure process, familiar with all programs available to help homeowners avoid foreclosure, knowledgeable of the mortgage foreclosure laws of the commonwealth of Massachusetts, and have no ownership interest or management interest in residential housing in the city of Worcester other than their primary residence. The mediation program manager shall ensure the security and confidentiality of

any and all information received or exchanged under the program to the maximum extent permitted or required by the public records law, G.L. c. 66 § 10, or any other applicable state or federal law or regulation.

"mediator" – an individual (a) whose training complies with the qualifications standards for neutrals specified in the guidelines for training mediators adopted by the Supreme Judicial Court of Massachusetts pursuant to rule 8 of the uniform rules for dispute resolution; and (b) who has completed training on foreclosure mediation; and (c) who has a working knowledge of all federal, state, and city of Worcester programs available to help homeowners retain their homes.

"mortgagee" shall mean an entity that is the present holder of the mortgage loan.

"mortgage documents" shall include the promissory note, including any allonges, additional pages, and other evidence of all endorsements; mortgage; loan agreement; assignments (recorded and unrecorded); powers of attorney granted by the mortgagee or homeowner to entities acting on its behalf; and any other documents evidencing or securing a mortgage loan.

"mortgage loan" shall mean a loan, in the form of a promissory note, to one or more natural persons, or to a nominee trust or residential trust on behalf of one or more natural persons, made for non-commercial purposes and secured wholly or partially by a mortgage on residential property in the city of Worcester which is the principal residence of one or more borrowers of the loan or their family members, or in the case of a nominee trust, one or more of the beneficiaries of the trust.

"mortgage servicer" shall mean an entity which administers or services or at any point administered or serviced the mortgage loan; provided, however, that such administration or servicing shall include, but not be limited to, calculating principal and interest due on the mortgage loan, assessing fees and costs onto a mortgagor's loan account, collecting regular payments from the mortgagor, acting as escrow agent for the owner of the mortgage loan or foreclosing on a mortgage loan in the event of a default.

"mortgagor" shall mean a natural person or residential trust who received a mortgage loan secured by a residential property located in the city of Worcester, and for whom such residential property is his/her principal residence.
"net recovery following foreclosure" shall mean a monetary value that includes, but is not limited to, projected costs from:

(1) delinquency, interest, fees incurred by the date of foreclosure sale based on average length of Massachusetts foreclosure process;

(2) costs of all legally required actions to foreclose and percentage loss from foreclosure sale;

(3) meeting all sanitary code requirements;

(4) property maintenance;

(5) eviction; and

(6) other ownership costs until projected sale or re-sale to third party purchaser.

"ordinance" shall mean section 14A of chapter nine of Part One of the Revised Ordinances of 2008.

"parties" shall mean the mortgagor and the mortgagee or its mortgage servicer.

"residential property" shall mean real property located in the city of Worcester that is either a single-family dwelling or a structure containing not more than four residential units, and shall also include a residential condominium unit or a residential co-op unit.

(c) *Mediation Program Requirement*. Notwithstanding any general or special law to the contrary, all mortgagees who have sent the Notice of the Right to Cure pursuant to M.G.L. c. 244, § 35A pertaining to residential property in the city of Worcester shall be required to engage in a mediation program as set out in this ordinance.

(d) *Mediation Program Authorization.* The city of Worcester is hereby empowered to establish a mortgage mediation program in accordance with this ordinance and implemented in accordance with an organizational ordinance adopted under article six of the city charter, together with such salary ordinance amendments and budget appropriations as may be recommended by the city manager and approved by the city council.

(e) *Mediation Program Elements.*

(1) The mediation program shall provide mediation prior to all foreclosures of residential property in which the mortgagor(s) or mortgagor(s)'s family resides. The program shall address all issues reasonably related to a foreclosure on residential property, including but not limited to all

commercially reasonable alternatives to foreclosure. The parties are required to make a good faith effort in mediation as defined in this ordinance. Mediations conducted pursuant to the program shall use the calculations, assumptions and forms that are established by or are a made available through:

(i) The Federal Deposit Insurance Corporation and published in the Federal Deposit Insurance Corporations Loan Modification Program Guide available on the Federal Deposit Insurance Corporation's publicly accessible website;

(ii) The Home Affordable Modification Program;

(iii) Any modification program that a mortgagee may use which is based on accepted principles and the safety and soundness of the institution and recognized by the National Credit Union Administration, the Division of Banks;

(iv) The Federal Housing Authority; or

(v) Similar federal loan modification programs.

(2) The mediation program shall provide a means for the city manager to evaluate and select qualified mediation program managers. The mediation program shall provide a means of assessing and evaluating annually the mediation program, including reports and data related to:

(i) The number of mortgagors who are notified of mediation;

(ii) The number of mortgagors who attend mediation and who receive counseling or assistance;

(iii) The number of certificates of mediation completion issued under the program; and

(iv) The results of the mediation program, including the number of loans restructured, number of principal write-downs, total value of principal write-downs, number of interest rate reductions and, to the extent such information is available, the number of mortgagors who default on mortgages within a year after restructuring, and the number of short sales and any other alternatives to foreclosure.

(f) *Confidentiality of Program Information.* Any financial statements or information provided to the mediation program or provided to the mortgagee or its mortgage servicer or mortgagor during the course of mediation in accordance with this

ordinance shall be confidential and shall not be available for public inspection, unless otherwise required by law.

(g) *Notice to the City*. For the purpose of the mediation program established by the city of Worcester, a mortgagee shall send a copy of all notices given to a mortgagor pursuant to G.L. c. 244 § 35A(g), (h) which relate to residential property in the city of Worcester, to the city of Worcester, within ten (10) days of giving such notices to a mortgagor. The city of Worcester shall obtain a copy of all notices filed pursuant to G.L. c. 244 § 35A(g) and (h) within ten (10) days of receipt by the commissioner of the division of banks pursuant to G.L. c. 244, §35A(k) that relate to residential properties in the city of Worcester. The receipt by the city of Worcester of said notice, or of a request for mediation from the mortgagor made within fifteen (15) days of receipt of a mortgagor's notice pursuant to G.L. c. 244 § 35A(g) or (h) shall constitute the beginning of the mediation process as set forth in this ordinance. At that time the city of Worcester will notify a mortgagee and a mortgagor of their rights and responsibilities under this ordinance regarding mediation. It is the intent and purpose of this ordinance that mediation commence within 45 days of the mortgagor receiving notice of his or her right to cure as provided in G.L. c. 244, § 35A(g) and (h). The city of Worcester will refer the matter for mediation to an approved mediation program manager, which shall have the responsibility of assigning a mediator and scheduling the parties to immediately commence mediation pursuant to this ordinance. The mediation shall proceed with the parties' good faith effort to negotiate and agree upon a commercially reasonable alternative to foreclosure. The mediation shall continue without delay until completion, but shall in no way constitute an extension of the foreclosure process, nor an extension of the right to cure period. Notwithstanding the limitation in the previous sentence, the mediation may be extended by mutual agreement.

(h) *Mediation Process*. The mediation program established by this ordinance shall include, and be not limited to, the following steps:

(1) The parties shall participate in a mandatory mediation conference at a location mutually convenient to the parties. All parties and/or their respective representatives present at said mediation conference must have authority to enter into any agreements renegotiating the mortgage that is the subject of the foreclosure, or to otherwise resolve the pending foreclosure.

(2) Said mediation conference shall be scheduled at a time and place to be determined by the mediation program manager, but not later than 45 days following the mortgagor's receipt of his or her notice of right to cure under G.L. c. 244, §35A (g) and (h). The parties will be sent notice under the

mediation program by certified and first class mail at the parties' last known address(es), if any, or if none, then to the address to which the tax collector last sent the tax bill for the property. The notice shall contain the following declaration on the first page in English, Spanish, Cambodian, Russian, Greek, Vietnamese, French, Haitian Creole, and in any other language which the mortgagee or its mortgage servicer knows is the mortgagor's primary language, and any other language deemed appropriate by the mediation program manager: "The city of Worcester has a mediation program that may help you negotiate more affordable mortgage payments and avoid foreclosure however there is no express or implied guarantee foreclosure will be avoided. Have this notice translated at once and contact us for help." If a mortgagor does not respond to the initial notice, the mediation program manager shall, to the extent possible, utilize additional outreach methods to supplement mailed notices.

(3) Prior to the scheduled mediation conference, the mortgagor will be assigned a city of Worcester-approved loan counselor. If the mortgagor is already working with a city of Worcester-approved loan counselor, no assignment is necessary. However, such loan counselor must agree to work with the mortgagor during the mediation process in accordance with the provisions of this ordinance.

(4) The mortgagor and mortgagee or its mortgage servicer shall cooperate in all respects with the mediation program manager. The mortgagor shall complete any and all loan resolution proposals and applications as appropriate and provide evidence of all current income. The mortgagee or its mortgage servicer's representative shall bring and make available the mortgage documents, as well as a detailed accounting of the outstanding balance, costs and fees.

(5) If, after two attempts by the mediation program manager to contact the mortgagor by mail, the mortgagor fails to respond to the mediation program manager's request to appear for the mediation conference, the requirements of this ordinance will be deemed to be satisfied upon verification by the city of Worcester-approved mediation program manager that the required notice was sent. If these conditions are met, a certificate of mediation completion shall be issued immediately by the mediation program manager certifying that the mortgagee or its mortgage servicer has satisfied the mediation requirements of this ordinance.

(6) If it is determined, after a good faith effort, that the parties cannot come to a mutually agreeable, commercially reasonable alternative to foreclosure, such good faith effort on behalf of the mortgagee or its mortgage servicer and/or

on the behalf of the mortgagor shall be deemed to satisfy the requirements of this ordinance. A certificate of mediation completion pursuant to this ordinance shall be issued immediately and without delay by the mediation program manager to the mortgagee or its mortgage servicer and/or to the mortgagor. The certificate for the mortgagee or its mortgage servicer, will allow the mortgagee proceed with a foreclosure in accordance with the terms of the mortgage and the relevant statutes.

(i) *Fees.* The city of Worcester is hereby authorized to adopt and from time to time revise a reasonable and appropriate mediation registration fee to be charged to the mortgagee or its mortgage servicer for the services attendant to administering the mediation program established under this ordinance. Any fees assessed pursuant to this ordinance shall not be charged to the mortgagor. It is intended there will be no cost of this mediation program to be borne by the city of Worcester.

(j) *Recording Certificate of Mediation Completion.* In the case of a foreclosure by sale of a residential property in the city of Worcester, either prior to or simultaneous with the recording requirements of G.L. c. 244, § 15, a seller shall file the certificate of mediation completion with the Worcester District Registry of Deeds. The city of Worcester will periodically request from the Worcester District Registry of Deeds information regarding attempts to record pursuant to G.L. c. 244, § 15 without complying with the recording requirements of this ordinance.

(k) *Entry Without Judgment, Memorandum or Certificate, Recording.* In the case of foreclosure by entry of a residential property in the city of Worcester either prior to or simultaneous with the recording requirements of G.L. c. 244, § 2, a copy of the certificate of mediation completion shall be filed with the Worcester District Registry of Deeds. The city of Worcester will periodically request from the Worcester District Registry of Deeds information regarding attempts to record pursuant to G.L. c. 244, § 2 without complying with the recording requirements of this ordinance.

(l) *Penalties*

(1) A mortgagee or its mortgage servicer's failure to comply with any applicable provision of this ordinance shall result in a fine of three hundred ($300) dollars payable to the city of Worcester, for each instance of a violation, to be charged to the mortgagee or its mortgage servicer in accordance with G.L. c. 40, § 21.

(2) Every calendar day of noncompliance with any applicable provision of this ordinance shall constitute a separate violation subject to the penalties

described under this section, up until the end of the right-to-cure period given under a lawful notice pursuant to G.L. c. 244, § 35A (g) and (h).

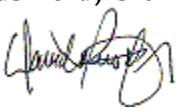
(3) Said fine or fines under this section shall be recovered by indictment or complaint pursuant to G.L. c. 40, § 21.

(4) No fines pursuant to this ordinance shall be charged to the mortgagor either directly or indirectly.

(m) *Effective Date*. This ordinance shall take effect thirty-one (31) days after its final adoption. Excepting that mortgagors who (1) have received their notices pursuant to G.L. c. 244 § 35A (g) or (h) related to residential property in the city no more than 100 days before enactment of this ordinance and (2) notify the city more than 45 days before the end of their 150 day right to cure period as defined by G.L. chapter 244, section 35A shall be eligible for mediation.

In City Council December 3, 2013
Passed to be ordained by a yea and nay vote of Nine Yeas and One Nay

A Copy. Attest: **David J. Rushford, Clerk**



City Clerk

Amendment 9978

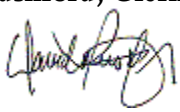
AN ORDINANCE AMENDING THE PERMIT AND INSPECTION FEE ORDINANCE FOR THE CITYSQUARE PROJECT

Be it Ordained by the City Council of the City of Worcester, as follows:

Section twenty-nine of Chapter two of the Revised Ordinances of 2008 is hereby amended by deleting, in subsection (c)(3) thereof, the words "on the later of June 15, 2011, or the Commencement of the Construction of the Parking Garage" and replacing them with the words "in the following installments: (i) $333,333.00 payable on the Commencement of the Construction of the new building to be constructed on Parcel E, (ii) $333,333.00 payable on the Commencement of the Construction of the new building to be constructed on Parcels J and K and (iii) $333,334.00 payable within thirty (30) days after Substantial Completion of the Construction of the Parking Garage."

In City Council January 21, 2014
Passed to be ordained by a yea and nay vote of Eleven Yeas and No Nays

A Copy. Attest: **David J. Rushford, Clerk**



City Clerk

Amendment 21

AN ORDINANCE AMENDING CHAPTER SEVEN SECTION SIXTEEN OF THE REVISED ORDINANCES OF 2008 RELATIVE TO WATER RATES USE CHARGES

(FY 2015)

Be it ordained by the City Council of the City of Worcester, as follows:

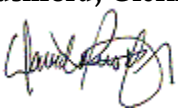
1. Chapter 7, § 16 of the Revised Ordinances of the City of Worcester, as most recently amended, is hereby further amended by deleting in paragraph (c) thereof, the rate for "Basic" and inserting in lieu thereof the new rate as follows.

Basic . . . . . $ 3.54
Outside City Limits . . . . . $ 3.80

2. This amendment shall be effective as of July 1, 2014 and shall apply to all bills issued after such effective date in accordance with subsection (f) of section sixteen of Chapter 7 of the Revised Ordinances of 2008.

In City Council June 10, 2014
Passed to be ordained by a yea and nay vote of Eleven Yeas and No Nays

A Copy. Attest: **David J. Rushford, Clerk**



City Clerk

Amendment 22

AN ORDINANCE AMENDING CHAPTER FIVE SECTION TWENTY-SIX OF THE REVISED ORDINANCES OF 2008 RELATIVE TO SEWER USER CHARGE

(FY 2015)

Be It Ordained by the city council of the city of Worcester as follows:

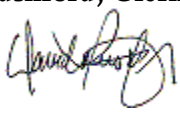
1. Chapter 5, § 26 of the Revised Ordinances, as most recently amended, is hereby further amended by deleting in paragraph (g) thereof, the rate for "Basic Rate" and inserting in lieu thereof the new rate as follows.

Basic Rate. . . . . $ 6.29

2. This amendment shall be effective as of July 1, 2014 and shall apply to all bills issued after such effective date in accordance with subsection (f) of section sixteen of Chapter Seven of the Revised Ordinances of 2008.

In City Council June 10, 2014
Passed to be ordained by a yea and nay vote of Eleven Yeas and No Nays

A Copy. Attest: **David J. Rushford, Clerk**



City Clerk

Amendment 44

AN ORDINANCE RELATIVE TO GENDER IDENTITY AND EXPRESSION

Be it ordained by the City Council of the City of Worcester, as follows:

Chapter Two of the Revised Ordinances of 2008 is hereby amended by inserting after section thirty-seven thereof a new section, thirty-eight, as follows:

§ 38. Gender Identity and Expression Policy

(a) *Purpose*. It is the purpose and intent of this section to ensure that persons and businesses supplying goods and/or services to the city of Worcester deploy policies consistent with the city of Worcester concerning gender identity and expression.

(b) *Definitions*. The following words and phrases, when used in this section, shall have the following meanings:

Applicant - means any current or prospective employee, licensee, or volunteer and includes all persons included in 803 CMR 2.03.

Contract Officer – means the city official identified in any given or proposed contract as responsible for the administration of the contract.

Gender Identity & Expression – means those elements of the city's human rights policy concerning sex, gender identity, sexual orientation and genetic information as those terms are defined in sub-section (g) of section 13 of Article 1 of Part Two of the Revised Ordinances of 2008;

Otherwise Qualified – means any applicant that meets all other criteria for a position or consideration for a position.

Vendor – means any vendor, contractor, or supplier of goods and/or services to the city of Worcester.

(c) *Gender Identity Standards Applicable to Vendors*.

(1) The city will do business only with vendors that have adopted and employ written Gender Identity policies, practices and standards that are consistent with city standards set forth in section (d) of this ordinance.

(2) The city employs Gender Identity policies, practices and standards that are fair to all persons involved and seeks to do business with Vendors that have substantially similar policies and practices. The awarding authority shall review all vendors' Gender Identity policies and practices for consistency with city standards.

(3) The awarding authority shall consider all vendors' Gender Identity policies and practices as part of the criteria to be evaluated in the awarding of a contract and will consider a vendor's execution of the Gender Identity policies and practices among the performance criteria in evaluating a contract.

(4) The awarding authority shall consider any vendor's deviation from the Gender Identity policies and practices as grounds for rejection, rescission, revocation, or any other termination of the contract.

(d) *Gender Identity Policy of the City of Worcester*. The city of Worcester shall not deny to any person access to any opportunity, service, program or facility, including without limitation employment, educational, and recreational opportunities, solely by reason of sex or gender identity or expression. It shall be the policy of the city to afford to every person equal access to opportunity, including without limitation employment, educational and recreational opportunity, service, program or facility.

(e) Data Collection and Report. Any awarding authority, vendor, applicant, or other interested party may contact the city manager or his or her designee to report any problems, concerns, or suggestions regarding the implementation, compliance, and impacts of these sections, and city manager or his or her designee shall log every comment received with a summary of the comment and shall keep on file any written comments. Subsequent to logging any comment, the city manager or his or her designee may refer a complaint to the MCAD or the city human rights commission and shall notify the relevant awarding authority. The city manager or his or her designee shall prepare a written report including, but not limited to, a summary of any feedback regarding Gender Identity policies and practices and any other information or analysis deemed noteworthy by the city manager or his or her designee. The city manager or his or her designee shall file the report with the Worcester city council via the Worcester city clerk every six (6) months from the implementation date of these sections.

(f) Applicability. If any provision of these sections imposes greater restrictions or obligations than those imposed by any other general law, special law, regulation, rule, ordinance, order, or policy then the provisions of these sections shall control.

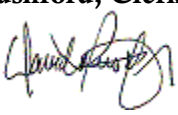
(g) Regulatory Authority. The city manager or his or her designee shall have the authority to promulgate rules and regulations necessary to implement and enforce these sections.

(h) Severability. If any provision of these sections shall be 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.

(i) Implementation. The provisions of these sections shall be effective on August 27, 2014.

In City Council September 16, 2014
Passed to be ordained by a yea and nay vote of Ten Yeas and No Nays

A Copy. Attest: **David J. Rushford, Clerk**



City Clerk

Amendment 46

AN ORDINANCE RELATIVE TO THE USE OF THE CITY SEAL

Be it ordained by the City Council of the City of Worcester, as follows:

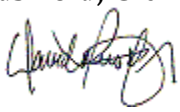
Part One of the Revised Ordinances of 2008, Chapter One, Section Six, is hereby amended by inserting new subsections (e) and (f), as follows:

(e) No person or property shall use or display the city seal or any reproduction thereof, to announce, sponsor, promote, advertise, or otherwise call attention to, any event, location, business, charitable or civic activity, or otherwise use in any electronic or physical communication generated by any person, location, event, business, charitable or civic activity, without the prior written authorization of the city manager. For purposes of this ordinance, the words "the city seal or any reproduction thereof" shall include any authentic reproduction in its exact likeness and any other depiction, variation or simulation thereof which would cause a reasonable person to believe that such other depiction or variation of the city seal implies the endorsement, support, approval, sponsorship, participation, involvement or association with the government of the city of Worcester or any department, agency, official or employee. The penalty for any violation of this subsection shall be a civil fine of $300.00 with each day or portion thereof constituting a separate offense. The city solicitor may also enforce this provision through applications for preliminary and permanent injunctions.

(f) Unless specifically provided herein, the provisions of this section shall be enforced by any officer or employee of the city specifically authorized in writing by the city manager. Any such enforcing officer or person may utilize any and all available methods of enforcing the provisions of this section, including, but not limited to, the issuance of orders, criminal process, non-criminal disposition, injunctive relief, or any other administrative or judicial actions.

In City Council September 16, 2014
Passed to be ordained by a yea and nay vote of Eleven Yeas and No Nays

A Copy. Attest: **David J. Rushford, Clerk**



City Clerk

Amendment 50

AN ORDINANCE AMENDING CHAPTER TWELVE SECTION TWENTY-THREE OF THE REVISED ORDINANCES OF 2008 RELATIVE TO SIDEWALK SNOW REMOVAL

Be it ordained by the City Council of the City of Worcester, as follows:

Chapter 12, § 23 of the Revised Ordinances of the city of Worcester is hereby amended by deleting said section in its entirety and inserting in lieu thereof the following new section 23 as follows.

§ 23. Sidewalk Snow Removal

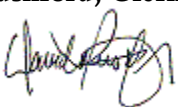
(a) The owner or occupant of land which is bounded by any street, including state highways, whereon there is a sidewalk shall within ten hours after any winter storm, cause all snow, ice or other forms of freezing precipitation to be removed from such sidewalk to a width of not less than four feet for the entire distance that the sidewalk abuts the land. **Wherever a sidewalk, which is required to be shoveled or treated under this ordinance, provides, in the absence of snow or ice, access to a crosswalk in the traveled portion of any adjacent street, whether or not that access includes any form of accessibility ramping, the owner or occupant shall shovel and treat an area at least four feet in width from the shoveled sidewalk to the crosswalk so as to provide access to the adjacent street or streets. In the event that any crosswalk includes an electronic crosswalk system activated by pedestrians, the owner or occupant shall shovel a similar path to any button or switch activating such a system.** After shoveling, to the extent that snow, ice or freezing precipitation shall remain on any sidewalk **or area** required to be shoveled by this section, the owner or occupant shall treat the same with sand, salt or other suitable material. This Ordinance shall not apply to sidewalks abutting the rear lot line of any property along a state highway which is maintained by the state as the same shall from time to time be identified and published by the commissioner.

(b) If the owner or occupant fails to remove such snow within the time provided in the preceding section, the city may assess a civil penalty pursuant to chapter fifteen for each calendar day upon which such snow, ice or freezing precipitation is nor removed or treated as herein provided. In addition to the civil penalty, the city may remove or cause such snow, ice or other forms of freezing precipitation to be removed or treated and the owner or occupant shall reimburse the city for the expense incurred for such removal or treatment. Any sums so expended may be recovered in an action of contract by the city against the owner or occupant. The city may also impose a municipal charges lien on the property pursuant to G.L. c. 40, § 58. The civil penalty, removal expense and municipal charges lien shall be cumulative remedies exercised at the discretion of the city.

(c) For purposes of this section, "sidewalk" shall mean any paved area that is immediately adjacent to the area of a public or private way designated for vehicular travel whether or not such paved area is separated from the traveled way by any green space or planting area.

In City Council September 30, 2014
Passed to be ordained by a yea and nay vote of Eleven Yeas and No Nays

A Copy. Attest: David J. Rushford, Clerk



City Clerk

Amendment 68

An Ordinance Amending Chapter Two Section Twenty-Seven of the Revised Ordinances of 2008 Concerning Fees to be Charged to the Worcester Housing Authority

Be it ordained by the City Council of the City of Worcester, as follows:

Chapter Two of the Revised Ordinances of 2008 is hereby amended by deleting section 27(d) in its entirety and inserting in lieu thereof the following new section 27(d):

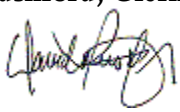
(d) Notwithstanding the provisions of paragraphs (a), (b) or (c) above, the fees for permits issued by the city of Worcester or any department, agency, board or commission thereof, concerning the construction, reconstruction, rehabilitation or repair of any building, structure or facility, which is owned, operated or controlled by the Worcester Housing Authority shall be assessed in accordance with the following schedule:

- From October 1, 2014 through October 1, 2019, the permit fees shall be zero on all projects financed predominantly with federal funds; and,
- From October 1, 2014 through October 1, 2019, the permit fees shall be sixty percent of the then-applicable fee on all projects financed predominantly with state funds.
- After October 1, 2019, the provisions of this subsection (d) shall expire.

Notwithstanding the provisions of paragraphs (a), (b) or (c) above, any permit granting department, agency, board or commission of the city, upon presentation by the Worcester Housing Authority or its authorized agent of a statement demonstrating that it is qualified for a few waiver or reduction under this paragraph shall issue permits in accordance with this paragraph and shall note in its records "Fee Waived in accordance with R.O. c. 2, § 27(d)". Nothing herein shall apply to any water or sewer use fees for water or sewer services.

In City Council October 14, 2014
Passed to be ordained by a yea and nay vote of Eleven Yeas and No Nays

A Copy. Attest: **David J. Rushford, Clerk**



City Clerk

Amendment 96

AN ORDINANCE RELATIVE TO SMOKE AND CARBON MONOXIDE INSPECTIONS

Be it ordained by the City Council of the City of Worcester, as follows:

Part One of the Revised Ordinances of 2008 is hereby amended by inserting in chapter 11, section 33, a new exemption "(j)" as follows:

> (j) Smoke and Carbon Monoxide Inspection Permits issued to comply with G.L. c. 148, § 26F and G.L. c. 148, § 26F1/2.

In City Council February 24, 2015
Passed to be ordained by a yea and nay vote of Eleven Yeas and No Nays

A Copy. Attest: **David J. Rushford, Clerk**

City Clerk

Amendment 127

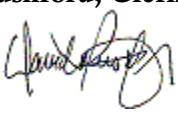
Amending Chapter Two Section Twenty-Nine of the Revised Ordinances of 2008 Concerning The CitySquare Project Permit Fees Ordinance

SECTION 1. Chapter 2, § 29 of the Revised Ordinances of the city of Worcester is hereby amended by deleting, in subsection (c)(3), the words "(iii) $333,334.00 payable within thirty (30) days after Substantial Completion of the Construction of the Parking Garage" and inserting the following in lieu thereof, "(iii) $333,334.00 payable within thirty (30) days after Substantial Completion of the Construction of the office building to be constructed on Parcel F."

SECTION 2. Chapter 2, § 29 of the Revised Ordinances of the city of Worcester is hereby amended by deleting, in the final sentence in subsection (e), the words "June 20, 2018" and inserting the following in lieu thereof, "June 30, 2019".

In City Council April 28, 2015
Passed to be ordained by a yea and nay vote of Eleven Yeas and No Nays

A Copy. Attest: **David J. Rushford, Clerk**



City Clerk

Amendment 139

AN ORDINANCE AMENDING CHAPTER SEVEN SECTION SIXTEEN OF THE REVISED ORDINANCES OF 2008 RELATIVE TO WATER RATES USE CHARGES

(*FY 2016*)

Be it ordained by the City Council of the City of Worcester, as follows:

1. Chapter 7, § 16, of the Revised Ordinances of the City of Worcester, as most recently amended, is hereby further amended by deleting in paragraph (c) thereof, the rate for "Basic" and inserting in lieu thereof the new rate as follows.

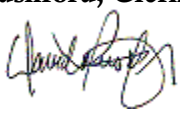
Basic . . . . . $ 3.60
Outside City Limits . . . . . $ 3.86

2. Chapter 7, § 16, of the Revised Ordinances of the City of Worcester, as most recently amended, is hereby further amended by deleting in paragraph (e) thereof, the rate for eligible individuals ages 65 years and older and inserting in lieu thereof the new rate as "One Hundred Seventy Dollars ($170.00) per year."

3. This amendment shall be effective as of July 1, 2015 and shall apply to all bills issued after such effective date in accordance with subsection (f) of section sixteen of Chapter 7 of the Revised Ordinances of 2008.

In City Council June 16, 2015
Passed to be ordained by a yea and nay vote of Eight Yeas and Two Nays

A Copy. Attest: **David J. Rushford, Clerk**



City Clerk

Amendment 140

AN ORDINANCE AMENDING CHAPTER FIVE SECTION TWENTY-SIX OF THE REVISED ORDINANCES OF 2008 RELATIVE TO SEWER USER CHARGE

(*FY 2016*)

Be It Ordained by the city council of the city of Worcester as follows:

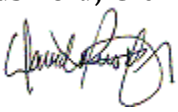
1. Chapter 5, § 26 of the Revised Ordinances, as most recently amended, is hereby further amended by deleting in paragraph (g) thereof, the rate for "Basic Rate" and inserting in lieu thereof the new rate as follows.

Basic Rate. . . . . $ 6.62

2. This amendment shall be effective as of July 1, 2015 and shall apply to all bills issued after such effective date in accordance with subsection (f) of section sixteen of Chapter Seven of the Revised Ordinances of 2008.

In City Council June 16, 2015
Passed to be ordained by a yea and nay vote of Eight Yeas and Two Nays

A Copy. Attest: **David J. Rushford, Clerk**



City Clerk

Amendment 141

AN ORDINANCE AMENDING CHAPTER NINE OF THE REVISED ORDINANCES RELATIVE TO VACANT AND FORECLOSING PROPERTIES

Be it ordained by the city council of the city of Worcester, as follows:

Section Fourteen of Chapter Nine of the Revised Ordinances of 2008 is hereby amended by deleting said section 14 in its entirety and inserting in lieu thereof the following new section 14.

§ 14. Securing and Maintaining Vacant Properties and Foreclosing Properties

(a) Certain unsecured or unmaintained vacant properties, foreclosing properties, and foreclosed properties present a danger to the safety and welfare of public safety officers, the public, occupants, abutters and neighborhoods, and as such, constitute a public nuisance. This section is enacted to promote the health, safety and welfare of the public, to protect and preserve the quiet enjoyment of occupants, abutters and neighborhoods, and to minimize hazards to public safety personnel inspecting or entering such properties. This section shall apply to:

(1) Unsecured or unmaintained vacant properties;

(2) Unsecured or unmaintained occupied properties that are foreclosing.

(3) Unsecured or unmaintained vacant or occupied properties that have foreclosed and a deed is recorded in the name of a bank, credit union, mortgage servicer, financial institution, REO, government corporation such as Government National Mortgage Association ("Ginnie Mae"), government-sponsored enterprise such as the Federal National Mortgage Association (Fannie Mae) or the Federal Home Loan Mortgage Corporation (Freddie Mac), the Secretary of Housing and Urban Development, the Veterans Administration, or other such entity.

(b) The following words and phrases, when used in this section, shall have the following meanings:

building – any combination of materials having a roof and enclosed within exterior walls or firewalls, built to form a structure for the shelter of persons or property.

certificate of closure – certificate issued by the director to the owner of a vacant or foreclosing property upon compliance with the provisions of paragraph (c) herein.

director – the director of health and housing inspection.

days – consecutive calendar days.

fire chief – the chief of the Worcester Fire Department or his or her designee.

foreclosed – when a new deed is recorded with the registry of deeds following the foreclosure process and is recorded in the name of a bank, credit union, mortgage

servicer, financial institution, REO, government corporation such as Government National Mortgage Association ("Ginnie Mae"), government-sponsored enterprise such as the Federal National Mortgage Association (Fannie Mae) or the Federal Home Loan Mortgage Corporation (Freddie Mac), the Secretary of Housing and Urban Development, the Veterans Administration, or other such entity.

foreclosing – the process by which a property, placed as security for a real estate loan, is prepared for sale to satisfy the debt if the borrower defaults.

initiation of the foreclosure process – taking any of the following actions:

(1) taking possession of a residential property pursuant to General Laws chapter 244 § 1;
(2) delivering the mortgagee's notice of intention to foreclose to borrower pursuant to General Laws chapter 244 § 17B;
(3) commencing a foreclosure action on a property in any court of competent jurisdiction; or
(4) recording a complaint to foreclose with the registry of deeds.

local – within twenty miles of the property in question

mortgagee – the creditor, including but not limited to, service companies, lenders in a mortgage agreement and any agent, servant or employee of the mortgagee, or any successor in interest and/or assignee of the mortgagee's rights, interests or obligations under the mortgage agreement.

owner – every person, entity, service company or property manager who alone or severally with others:

(1) has legal or equitable title to any real property, including, but not limited to a dwelling, dwelling unit, mobile dwelling unit, or parcel of land, vacant or otherwise, including a mobile home park; or
(2) has care, charge or control of real property, including but not limited to any dwelling, dwelling unit mobile dwelling unit or parcel of land, vacant or otherwise, including a mobile home park, or any administratrix, trustee, or guardian of the estate of the holder of legal title; or
(3) is a mortgagee of any such property;
(4) is an agent, trustee or other person appointed by the courts and vested with possession or control of any such property; or
(5) is an officer or trustee of the association of unit owners of a condominium. Each such person is bound to comply with the provisions of these minimum standards as if he were the owner. However, "owner" shall not mean a condominium association created pursuant to General Laws chapter 183A to the extent that such association forecloses on or initiates the foreclosure process for unpaid assessment due or owning to the association; or
(6) every person who operates a rooming house; or
(7) is a trustee who holds, owns or controls mortgage loans for mortgage-backed securities transactions and has initiated the foreclosure process; or

(8) has recorded a complaint to foreclose with the registry of deeds.

property – any real property, or portion thereof, located in the city, including buildings or structures situated on the property; provided, however, that "property" shall not include property owned or under the control of the city, the commonwealth or the United States of America.

secured, securing – making the property inaccessible to unauthorized persons.

vacant – any property not currently legally occupied and not properly maintained or secured.

(d) Any owner of a vacant and/or foreclosing property shall forthwith:

1. Provide written notification to the director and the fire chief of the status of such property, including in such notice, the name, address and telephone number of the owner; the location of the property; the length of time the building has been vacant; the estimated time the building will remain vacant; and the nature of the contents of the building.

2. As may be required by the fire chief, file one set of space utilization floor plans for any buildings on said property with the fire chief and one set of said plans with the director. The owner shall certify space utilization plans as accurate twice annually, in January and July; and

3. Remove from the property to the satisfaction of the fire chief, conditions likely to cause a fire or explosion or conditions that create imminent danger.

4. At the discretion of the fire chief or director, secure all windows and door openings and ensure that the building is secured from all unauthorized entry continuously in accordance with the United States Fire Administration, National Arson Initiative Board up Procedures or provide twenty-four (24) hour on-site security personnel on the property. When a vacant, foreclosed, or foreclosing property is located within a complex of buildings owned by a single owner, twenty-four (24) hour on-site security shall be provided within the building or within the complex wherein the building is located; and

5. Post "No Trespassing" signs on the property. Said signs shall be no smaller than 8 inches by 11 inches with lettering no smaller than 2 inches high, and shall be visible from the street. However, this requirement may be waived upon written request from the owner or designee; and

6. Maintain the property in accordance with Chapter 8, § 42 of these Ordinances, free of overgrowth, trash and debris, and pools of stagnant water, and ensure that structures are maintained in a structurally sound condition; and

7. If the property is vacant, drain all water from the plumbing and turn off all electricity between September 15 and June 15 of each calendar year to guard against burst pipes and fires; however this requirement may be waived by the director upon written request from the owner or designee; and

8. Maintain the property in accordance with all other relevant state codes and local regulations concerning the maintenance of property; and,

9. Provide the fire chief and director with the name, local address and telephone number of a responsible person who can be contacted in case of emergency. The owner shall cause the name and contact number to be marked on the front of the property as may be required by the fire chief or director; and

10. Maintain liability insurance on the property and furnish the director with a copy of said certificate of insurance; and,

11. Pay a registration fee in the amount of three thousand dollars ($3,000) to defray the City's enforcement-related expenses.

12. Notify the director and fire chief in writing when the property is sold or transferred.

Upon satisfactory compliance with the above provisions, the director shall issue a certificate of building closure. Said certificate shall be valid for the length of time prescribed by the director and noted thereon; provided however, the certificate shall be subject to continued compliance with the provisions of this section.

(e) Signs/Markings – When required pursuant to this section, signs or markings on buildings determined to be especially unsafe in case of fire shall be applied on the front of the property, and elsewhere as the fire chief may require, at or above the second floor level and shall not be placed over doors, windows or other openings. All signs/markings shall be visible from the street and, when requested by the fire chief, shall be placed on the sides and rear of the property. Signs/markings shall be a minimum of 24 inches by 24 inches, with lines of 2-inch width, and shall have a reflective background, or be painted with reflective paint, in contrasting colors. Signs/markings shall be applied directly on the surface of the property and shall state the date of posting and the most recent date of inspection by the fire chief and director.

(f) Enforcement – Failure to comply with any provisions of paragraph (c) above shall be punished by a fine of three hundred ($300.00) dollars with each day of violation constituting a separate offense. This section may be enforced by civil, criminal process or non-criminal process, including injunctive relief. The director and/or the fire chief shall be enforcing persons for the purposes of this section.

(g) The director or fire chief, upon being informed of the existence of a vacant, foreclosed, or foreclosing property without a certificate of building closure, shall cause notice

to issue to the owner of the status of said property and shall order said person to immediately obtain a certificate of building closure. If any person fails to comply with said order, the fire chief or director may enter the premises to inspect, secure, maintain and mark the property. The fire chief or director may also seek enforcement pursuant to paragraph (e).

(h) Expenses – The owner of a vacant, foreclosed, or foreclosing property who fails to obtain a certificate of building closure as required herein, shall be liable to the city for expenses incurred by the city in inspecting, securing, maintaining, and marking such property., The director shall record the notice of claim in the Worcester District Registry of Deeds (or the Land Court Department) forthwith, establishing a lien on the property for the balance due.

(h) No owner of a vacant, foreclosed, or foreclosing property shall allow said property to become or remain unsecured, unmaintained, or unmarked. If it appears that any vacant, foreclosed, or foreclosing property is unsecured, unmaintained or unmarked, the director shall send written notification to the owner, requiring that the owner promptly secure, maintain or mark the property. If the owner fails to comply with any order issued pursuant to this provision (h), the fire chief or director may immediately enter upon the premises and cause the property to be inspected, secured, maintained and marked.

(i) All unsecured vacant, foreclosed, or foreclosing properties shall be immediately referred to the director for a determination relative to whether the property is a nuisance or dangerous pursuant to G.L. Chapter 139 and procedures promulgated thereunder.

(j) Notices required pursuant to this section shall be served in the following manner:

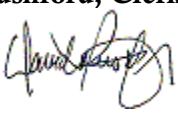
1. Personally on any owner as defined in this section, or on the contact person specified pursuant to paragraph (c)(9); or

2. Left at the last and usual place of abode of any owner, or contact person as specified pursuant to paragraph (c)(9), if such place of abode is known and is within or without the commonwealth; or,

3. By certified or registered mail, return receipt requested, to any owner, or the contact person specified pursuant to paragraph (c)(9).

In City Council June 23, 2015
Passed to be ordained by a yea and nay vote of Eleven Yeas and No Nays

A Copy. Attest: **David J. Rushford, Clerk**



City Clerk

Amendment 166

AN ORDINANCE MAKING A TECHNICAL CORRECTION TO CHAPTER SEVEN SECTION SIXTEEN OF THE REVISED ORDINANCES OF 2008 RELATIVE TO WATER RATES USE CHARGES
(*FY 2016*)

Whereas, Chapter 7, § 16, of the Revised Ordinances of 2008 was amended by the Council on June 16, 2015, by deleting portions of sections (c) and (e) and inserting amended language to each in lieu thereof;

Whereas, certain technical corrections are necessary to correct scrivener's errors;

Now Therefore, Be it ordained by the City Council of the City of Worcester, as follows:

1. Chapter 7, § 16, of the Revised Ordinances of the City of Worcester, as most recently amended, is hereby further amended by deleting in paragraph (c) thereof, the rates for "Basic" and "Outside City Limits" and inserting in lieu thereof the new rates as follows.

Basic	$ 3.60
Outside City Limits	$ 3.86

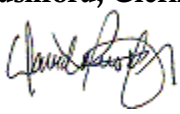
2. Chapter 7, § 16, of the Revised Ordinances of the City of Worcester, as most recently amended, is hereby further amended by deleting paragraph (e) in its entirety and inserting the following in lieu thereof the following:

> The water use charges assessed herein, and the sewer use charges assessed under Chapter 5, § 26, for individuals ages 65 years and older, who (1) are owner occupiers of the residences in which they reside and, (2) qualify for the "Clause 41C, Elderly Person, Real Estate Exemption" under state law shall be automatically exempted up to forty-two dollars and fifty cents ($42.50) per each three month water and sewer use charges bill. The exemption shall be applied first to the applicable water use charges, and the balance of the forty-two dollars and fifty cents exemption, if any, shall be applied against the sewer use charges.

3. This amendment shall be effective as of July 1, 2015, and shall apply to all bills issued after such effective date in accordance with subsection (f) of section sixteen of Chapter 7 of the Revised Ordinances of 2008.

In City Council August 11, 2015
Passed to be ordained by a yea and nay vote of Ten Yeas and No Nays

A Copy. Attest: **David J. Rushford, Clerk**



City Clerk

Amendment 184

AN ORDINANCE AMENDING CHAPTER FOURTEEN OF THE REVISED ORDINANCES OF 2008 RELATIVE TO MOBILE FOOD TRUCKS

Be it ordained by the city council of the city of Worcester, as follows:

1. Chapter fourteen of the Revised Ordinances of 2008 is hereby amended by inserting a new section 11B as follows:

§ 11B. Mobile Food Truck Pilot Program

(a) Establishment of Pilot Program. Notwithstanding section 11A or any other provision of this chapter to the contrary, in the Mobile Food Truck Friendly Zones established in subsection (c) below, the licensing and permitting of mobile food trucks shall be governed by this section. The Pilot Program will be coordinated and administered by the Executive Office of Economic Development, Division of Business and Community Development (the "department").

(b) Mobile Food Truck – Definition. A mobile food truck is a walk-on vehicle, either motorized or pulled by a motorized vehicle, where food is prepared, cooked and served for retail sale in individual portions and which would otherwise require a stationary street vendor license under section 11A of this chapter.

(c) Mobile Food Truck Friendly Zones - Establishment. The following locations are designated as Mobile Food Truck Friendly Zones, in which the siting and operation of a food truck shall be allowed, subject to the licensing and permitting requirements of this section.

(1) On the north side of Franklin Street adjacent to Worcester Common

(a) This is a metered location; the commissioner of public works & parks shall develop a fee schedule for a Mobile Food Truck's occupation of a metered parking space.

(2) On the west side of Russell Street from Highland Street to William Street

(3) On the west side of Humboldt Avenue from Faraday Street to Institute Road

(d) Mobile Food Truck License.

(1) No person or business may operate a mobile food truck without having first obtained a mobile food truck license.

(2) A mobile food truck license is required for each individual mobile food truck.

(e) Mobile Food Truck License Application – Official Form. The department shall issue a single application form to apply for each mobile food truck license containing the following:

(1) A description of all necessary permits and fees.

(2) A description of the Mobile Food Truck Friendly Zones.

(3) A list of required documents to be attached to the application.

(4) A space for the signatures of the Inspectional Services and Fire Department inspectors to verify inspections, even if no permit was issued.

(f) Mobile Food Truck License Application – Required Submittals

(1) The name of the business and its owner or owners and the mailing address of the business and the residential address of the owner or owners.

(2) A description of the proposed business plan for the mobile food truck operation.

(3) The applicant's proposed vending location(s) and time(s).

(4) Proof of commercial general liability insurance, naming the city of Worcester as an additional insured, in the amount of $500,000 per occurrence/$1,000,000.00 aggregate.

(g) Mobile Food Truck Location Permit.

(1) A licensed mobile food truck must obtain a location permit to operate within one or more of the Food Truck Friendly Zones.

(2) A maximum of three mobile food truck vendors shall be allowed within each Food Truck Friendly Zone.

(3) No two vendors in any one zone shall offer the same fare.

(4) In the event the number of applications per zone exceeds the available number of vending spaces, the department will award permits through a lottery, giving weighted preference to Worcester residents and an existing Worcester-based restaurant that owns and operates a mobile food truck.

(h) Days and Hours of Operation. Vending operations pursuant to a mobile food truck location permit shall be limited to Fridays and Saturdays between the hours of 11:00 a.m. and 9:00 p.m.

(i) Permit Fees. The application fee for a Mobile Food Truck License shall be Fifty Dollars ($50.00).

(j) Vending Area Cleanliness. Each mobile food truck shall provide a trash receptacle of sufficient capacity that shall be changed as necessary. Prior to leaving its location, each mobile food truck operator shall pick up, remove and dispose of all trash or refuse within twenty-five feet of the truck which consists of materials originally dispensed from the truck, including any packages or containers, or parts of either, used with or for dispensing its product.

(k) Safety Restrictions. The point of sale from each mobile food truck shall face the sidewalk portion of the public way such that patrons need not step off of any curb stone or curbing to make a sales transaction. No mobile food truck shall be located: within twenty feet of any fire hydrant; or, within five feet of any fire alarm box or other emergency communication device, including public telephones; or, within five feet of any marked crosswalk, curb return at any intersection with an unmarked crosswalk, any public or private driveway; or handicapped accessible curb cut.

(l) Unrelated Advertising Prohibited. No mobile food truck location shall be used for advertising signs or publicity purposes, other than that dealing with the display, sale or purchase of the goods, merchandise or services offered for sale therein by the mobile food truck vendor; provided that, any such sign shall not exceed twelve square feet and may not be located in such a manner as to obscure or otherwise interfere with the effectiveness of an official traffic sign, signal or device, or obstruct or interfere with driver or pedestrian visibility.

(m) Existing Vendors Within Mobile Food Truck Friendly Zones Grandfathered. Notwithstanding anything to the contrary in this section 11B, any mobile food truck vendor having received a permit to operate within the newly designated Mobile Food Truck Friendly Zones prior to July 21, 2015, shall not be subject to this section, but shall be considered one of the three maximum vendors per location.

(n) Any mobile food truck vendor license may be suspended or revoked without prior notice in the event that the department determines that the vendor is in breach of the requirements of this section 11B or otherwise presents an unreasonable risk to public health and safety.

(o) This section 11B, and the pilot program authorized hereunder, shall expire on November 30, 2015.

In City Council September 1, 2015
Passed to be ordained by a yea and nay vote of Eleven Yeas and No Nays

A Copy. Attest: **David J. Rushford, Clerk**

City Clerk

Amendment 202

AN ORDINANCE AMENDING CHAPTER EIGHT OF THE REVISED ORDINANCES CONCERNING THE DISTRIBUTION AND USE OF TOBACCO PRODUCTS

Be it ordained by the city council of the city of Worcester, as follows:

Section 1. Chapter 8, § 3 of the Revised Ordinances of 2008 is hereby amended by deleting section three thereof in its entirety and inserting in lieu thereof a new section three as follows:

§ 3. Tobacco Products Control Ordinance

Statement of Purpose.
The city of Worcester, acting by and through its City Council, hereby makes the following findings:

(1) There exists conclusive and voluminous evidence that tobacco causes cancer, respiratory and cardiac diseases, negative birth outcomes, irritations to the eyes, nose and throat;
(2) The U.S. Department of Health and Human Services has concluded that nicotine is as addictive as cocaine or heroin and the Surgeon General found that nicotine exposure during adolescence, a critical window for brain development, may have lasting adverse consequences for brain development, and that it is addiction to nicotine that keeps youth smoking past adolescence;
(3) There are an estimated 31,488 smokers who reside in the city of Worcester;
(4) 18.1% of adults in the city of Worcester over 18 years of age smoke, a level which is 21% higher than the statewide average of 15%;
(5) Lung cancer incidence is 19% higher among males in Worcester compared to the state level – The age-adjusted lung cancer incidence (per 100,000) for males is 97.6 in Worcester and 82.2 in Massachusetts;
(6) Lung cancer incidence is 19% higher among females in Worcester compared to the state level - The age-adjusted lung cancer incidence (per 100,000) for females is 70.8 in Worcester and 665.5 in Massachusetts;
(7) Mortality from lung cancer is 17% higher in Worcester compared to Massachusetts;
(8) Tobacco causes an estimated 438,000 deaths annually in the United States and over 8,000 deaths annually in the commonwealth of Massachusetts;
(9) The death rate of Worcester residents from tobacco on a per capita basis is approximately 250 individuals annually, or five human lives lost per week;
(10) At least one-half of all smokers begin smoking before the age of eighteen and an estimated 3,000 minors begin smoking every day in the United States;
(11) The sale of tobacco products is incompatible with the mission of health care institutions because it is detrimental to the public health and undermines efforts to educate patients on the safe and effective use of medication;

(12) There are certain tobacco products such as blunt wraps that are frequently marketed and sold to the youth and are also known to be used as drug paraphernalia;
(13) Among the 15.7% of students nationwide who currently smoke cigarettes and were less than 18 years old, 14.1% usually obtained them by buying them in a store (i.e. convenience store, supermarket, or discount store) or gas station;
(14) The U.S. Surgeon General recognized in his 2014 report that a complementary strategy to assist in eradicating tobacco related death and disease is for local governments to ban categories of products from retail sale;
(15) The U.S. Centers for Disease Control and Prevention has reported that current electronic cigarette use among middle and high school students tripled from 2013 to 2014;
(16) Nicotine solutions, which are consumed via electronic or battery-operated delivery smoking devices such as electronic cigarettes, are sold in dozens of flavors that appeal to youth, such as cotton candy and bubble gum;
(17) The Massachusetts Department of Environmental Protection has classified liquid nicotine in any amount as an "acutely hazardous waste" (310 CMR 30.136);
(18) In a lab analysis conducted by the FDA, electronic cigarette cartridges that were labeled as containing no nicotine actually had low levels of nicotine present in all cartridges tested, except for one;
(19) According to the CDC's youth risk behavior surveillance system, the percentage of high school students in Massachusetts who reported the use of cigars within the past 30 days was 10.8% in 2013;
(20) In Massachusetts, youth use of cigars and smokeless tobacco (12.3%) is higher than the rate of current cigarette use (10.7%) for 2013 and has remained elevated since 2009;
(21) The Massachusetts Supreme Judicial Court has held that " . . . [t]he right to engage in business must yield to the paramount right of government to protect the public health by any rational means.";
Now, Therefore, the city council of the city of Worcester, in recognition of the death and devastating effects of tobacco products on the residents of the city of Worcester, is compelled to exercise the authority granted it under its city charter to protect and promote the public health and the authority granted it by the Federal Family Smoking Prevention and Tobacco Control Act of 2009, P.L. 111-31, to regulate the sale of tobacco products.
Definitions. For purposes of this section the following words and phrases shall have the following meanings:
Blunt Wrap: Any tobacco product manufactured or packaged as a wrap or as a hollow tube made wholly or in part from tobacco that is designed or intended to be filled by the consumer with loose tobacco or other fillers.
Board of Health (or "board"): the public body re-established under Chapter 120 of the Acts of 2014 and Article Six of the Home Rule Charter, as described in further detail in section 14 of Article 10 of Part Two of the Revised Ordinances of the city of Worcester.
Business Agent: An individual who has been designated by the owner or operator of any establishment to be the manager or otherwise in charge of said establishment.

Cigar: Any roll of tobacco that is wrapped in leaf tobacco or in any substance containing tobacco with or without a tip or mouthpiece not otherwise defined as a cigarette under G.L. c. 64C, § 1, Paragraph 1.
Coupon: Any card, paper, note, form, statement, ticket or other issue distributed for commercial or promotional purposes to be later surrendered by the bearer so as to receive an article, service or accommodation without charge or at a discount price.
Director: the director of public health in the division of public health in the department of health & human services of the city of Worcester;
Educational Institution: Any public or private college, school, professional school, scientific or technical institution, university or other institution furnishing a program of higher education.
Employee: Any individual who performs services for compensation for an employer at the employer's workplace and as otherwise defined in section twenty-two (a) of chapter two hundred seventy of the General Laws.
Employer: Any individual, partnership, association, corporation, trust or other organized group of individuals, including the city of Worcester or any agency or authority thereof, which uses the services of one (1) or more employees and as otherwise defined in section twenty-two (a) of chapter two hundred seventy of the General Laws.
Health Care Provider - Institutional: An individual, partnership, association, corporation, trust, or any person or group of persons that provides an institutional setting for the delivery of health care services and employs health care providers licensed, or subject to licensing, by the Massachusetts Department of Public Health under G.L. c. 112. *Health Care Provider - Institutional* includes, but is not limited to, hospital and all associated doctor offices, medical practices, pharmacies, clinics, optician/optometrist offices and dentist offices located within any hospital complex.
Health Care Provider – Non-Institutional: An individual, partnership, association, corporation, trust, or any person or group of persons which is subject to the provisions of 247 CMR 6.00 or that owns or operates any stand-alone health care facility, including, but not limited to, any health center or clinic, doctors office, optician/optometrist office, dentist offices, and any retail establishment that provides pharmaceutical goods and services, and any pharmacy located within any Institutional HealthCare Provider.
Liquid Nicotine Container: A bottle or other vessel which contains nicotine in liquid or gel form, whether or not combined with another substance or substances, for use in a tobacco product. The term does not include a container containing nicotine in a cartridge that is sold, marketed, or intended for use in a tobacco product, if the cartridge is prefilled and sealed by the manufacturer and not intended to be open by the consumer or retailer.
Listed or non-discounted price: The higher of the price listed for a tobacco product on its package or the price listed on any related shelving, posting, advertising or display at the place where the tobacco product is sold or offered for sale plus all applicable taxes if such taxes are not included in the state price, and before the application of any discounts or coupons.
Minimum Legal Sales Age (MLSA): The age an individual must be before that individual can be sold a tobacco product in the municipality.
Minor: Any individual under the age of eighteen (18).

Non-Residential Roll-Your-Own (RYO) Machine: A mechanical device made available for use (including to an individual who produces cigars, cigarettes, smokeless tobacco, pipe tobacco, or roll-your-own tobacco solely for the individual's own personal consumption or use) that is capable of making cigarettes, cigars or other tobacco products. RYO machines located in private homes used for solely personal consumption are not Non-Residential RYO machines.
Permit: The tobacco product sales permit issued by the board of health pursuant to this ordinance.
Permit Holder: Any person engaged in the sale or distribution of tobacco products that applies for and receives a tobacco product sales permit, or any person that is required to apply for a Tobacco Product Sales Permit pursuant to this ordinance, or his or her business agent.
Person: Any individual, firm, partnership, association, corporation, company or organization of any kind, including but not limited to, an owner, operator, manager, proprietor or person in charge of any establishment, business or retail store.
Regulations: Legally binding and enforceable provisions, requirements and prohibitions adopted by the board of health pursuant to any lawful authority it may possess, including authority derived from this ordinance and/or pursuant to section thirty-one of chapter one hundred and eleven of the General Laws.
Retail Tobacco Store: An establishment that is not required to possess a retail food permit whose primary purpose is to sell or offer for sale, but not for resale, tobacco products and tobacco paraphernalia, in which the sale of other products is merely incidental, and in which the entry of persons under the minimum legal sales age is prohibited at all times, and maintains a valid permit for the retail sale of tobacco products as required to be issued by the city.
Retailer : shall mean any person who is the owner or operator of any establishment in the business of selling or distributing tobacco products.
Self-Service Display: Any display from which customers may select a tobacco product, as defined herein, without assistance from an employee or store personnel.
Schools: Public or private elementary or secondary schools.
Smoking Bar: An establishment that primarily is engaged in the retail sale of tobacco products for consumption by customers on the premises and is required by G.L. c. 270, §22 to maintain a valid permit to operate a smoking bar issued by the Massachusetts Department of Revenue. “Smoking bar” shall include, but not be limited to, those establishments that are commonly known as “cigar bars” and “hookah bars”.
Tobacco Product: Any product containing, made, or derived from tobacco or nicotine that is intended for human consumption, whether smoked, chewed, absorbed, dissolved, inhaled, vaped, snorted, sniffed, or ingested by any other means, including, but not limited to: cigarettes, cigars, little cigars, chewing tobacco, pipe tobacco, snuff, or electronic cigarettes, electronic cigars, electronic pipes, electronic hookah, or other similar products, regardless of nicotine content, that rely on vaporization or aerosolization. “Tobacco product” includes any component or part of a tobacco product. “Tobacco product” does not include any product that has been approved by the United States Food and Drug Administration either as a tobacco use cessation product or for other medical purposes and which is being marketed and sold or prescribed solely for the approved purpose.

Vending Machine: Any automated or mechanical self-service device, which upon insertion of money, tokens or any other form of payment, dispenses or makes cigarettes or any other tobacco products.

Tobacco Sales to Persons Under the Minimum Legal Sales Age Prohibited.

No retailer shall sell, attempt to sell, or otherwise distribute or attempt to distribute a tobacco product to a minor.

The minimum legal sales age in the city of Worcester is eighteen.

No retailer shall sell or permit the sale of tobacco products unless the location at which the tobacco products are available for purchase is posted with a notice at least six inches by eight inches in size which is clearly visible to anyone purchasing such products and which states:

"Whoever sells a cigarette, chewing tobacco, snuff or any tobacco in any of its forms to any person under the age of eighteen or, not being his parent or guardian, who gives a cigarette, chewing tobacco, snuff or tobacco in any of its forms to any person under the age of eighteen (18) shall be punished by a fine of three hundred ($300) dollars for any offense."

The owner or other person in charge of a shop or other place used to sell tobacco products at retail shall conspicuously post signage provided by the city that discloses current referral information about smoking cessation.

The owner or other person in charge of a shop or other place used to sell tobacco products shall conspicuously post a sign stating that **"The sale of tobacco products, including e-cigarettes, to anyone under the age of 18 years is prohibited**." The notice shall be no smaller than 8.5 inches by 11 inches and shall be posted conspicuously in the retail establishment or other place in such a manner so that they may be readily seen by a person standing at or approaching the cash register. The notice shall directly face the purchaser and shall not be obstructed from view or placed at a height of less than four feet or greater than nine feet from the floor.

Identification: Each retailer selling or distributing tobacco products shall verify the age of the purchaser by means of valid government-issued photographic identification showing the purchaser is not a minor. Verification is required for any person under the age of twenty seven.

(7) All retail sales of tobacco products, as defined herein, must be face-to-face between the seller and the buyer and occur at the permitted location.

(d) *Smoke Free Workplace/Municipal Buildings*. Smoking or otherwise consuming any tobacco product or any other combustible product is hereby prohibited in the

municipal buildings and workplaces located the city of Worcester in accordance with section twenty-two of chapter two hundred seventy of the General Laws (commonly known as the "Massachusetts Smoke-free Workplace Law"). For the purposes of this section, municipal buildings shall include any building owned or leased by the city of Worcester, its agencies and authorities, including, but not limited to, City Hall, Union Station and all city libraries. Any person who violates the provisions of this subsection shall be fined $100.00. The foregoing prohibition notwithstanding, the Worcester Redevelopment Authority is not prohibited from authorizing the operation of a hookah bar within commercially leased premises at Union Station.

(e) *Smoking Prohibited at Certain Entrances and Exits.*
Smoking, or otherwise consuming any tobacco product or any other combustible product, is also hereby prohibited in the following:
(1) within fifty (50) feet of all municipal building entrance and exit ways. For the purposes of this section, municipal buildings shall include any building owned or leased by the city of Worcester, its agencies and authorities, including, but not limited to, City Hall, Union Station (including its bus terminals) and all city libraries.

(2) (a) on the property or campus that contains any Health Care Provider – Institutional; or, (b) on the grounds of any city-owned library; provided, that, the health care provider or library shall install appropriate signage and/or demarcations giving notice of any such no-smoking, tobacco free area; and, provided further, that, in addition to the campus-wide and library grounds prohibitions, smoking or otherwise consuming any tobacco product or any other combustible product that forms smoke is prohibited within fifty (50) feet of every entrance and exit way of every Health Care Provider - Institutional or city-owned library regardless of whether such fifty foot zone extends to any adjoining property, including any adjoining public or private street.

(3) within fifty (50) feet of any entrance and exit way of a Health Care Provider – Non-Institutional; provided, that, such Health Care Provider shall install appropriate signage and/or demarcations giving notice of any such no-smoking, etc., area; and, provided further, that no ash tray or similar receptacle shall be located within such 50 foot area.

(4) As provided below, any person who violates the provisions of this subsection shall be issued a civil citation carrying a penalty of $100.

(f) *Smoking Prohibited at Certain Municipal Owned Establishments.* In addition to any location governed by the Massachusetts Smoke-free Workplace Law, smoking tobacco, consuming tobacco products, or smoking any combustible product that forms smoke, is hereby prohibited in city owned parks and playgrounds, including the City Hall Common; city or publically-owned athletic fields, beaches and other swimming areas; any open space preservation or similar areas in which the city holds any property interest; and, any, bus, taxi area, including any bus shelter waiting area.

(g) *Smoking Bars*. The operation of "smoking bars", as defined in section twenty-two of chapter two hundred seventy of the General Laws, which includes but is not limited to those establishments that are commonly known as "cigar bars" and "hookah bars," are hereby further regulated such that they shall:
(1) comply with all of the requirements of section twenty-two of chapter two hundred seventy of the General Laws, including any regulations adopted thereunder;
(2) comply with the terms and conditions set out in any regulations promulgated by the board of health to minimize the damage to public health and the health of patrons using the services of a smoking bar;
(3) prohibit the entry of minors at all times,
(4) maintain a valid permit issued by the board of health, or a designee,
(5) provide the director at the time of its first filing of its application with proof of a current tobacco sales license issued by the Massachusetts Department of Revenue before a permit may be issued; and,
(6) post signs at conspicuous locations warning patrons of the dangers of environmental tobacco smoke in the manner and form specified by the board of health, or a designee, at all entrances and on all tobacco selection menus.

(h) *Sale and Distribution of Tobacco Products Regulated*

(1) No retailer may sell or cause to be sold or distribute or cause to be distributed, any cigarette package that contains fewer than twenty cigarettes, including single cigarettes.

(2) All self-service displays of tobacco products are prohibited. All humidors including, but not limited to, walk-in humidors must be locked. The only exception is self-service displays that are located in facilities where the retailer ensures that no minor is present, or permitted to enter, at any time.

(3) No retailer shall sell, attempt to sell, or otherwise distribute tobacco products in any building or facility owned or operated by the city.

(4) No retailer shall distribute, or cause to be distributed, any free samples of tobacco products.

(5) No retailer shall accept or redeem any coupon that provides any tobacco product without charge or for less than the listed or non-discounted price.

(6) No retailer shall sell a tobacco product to consumers through any multi-pack discounts (e.g., "buy-two-get-one-free") or otherwise provide or distribute to consumers any tobacco product without charge or for less than the listed or non-discounted price in exchange for the purchase of any other tobacco product.

(7) No health care provider, institutional or non-institutional, shall sell tobacco products or cause or allow tobacco products to be sold on its premises. No retail establishment that operates maintains or employs a health care provider within it, such as a pharmacy or drug store, shall sell tobacco products or cause tobacco products to be sold.

(8) No educational institution shall sell or cause to be sold tobacco products. This includes all educational institutions as well as any retail establishments that operate on the property of an educational institution.
(9) No retail establishment or entity shall sell or cause to be sold blunt wraps.

(10) All tobacco vending machines are prohibited in the city of Worcester.

(11) No retailer shall sell or distribute tobacco products in any form other than an original factory-wrapped package is prohibited, including the repackaging or dispensing of any tobacco product for retail sale.

(12) A retailer of Liquid Nicotine Containers must comply with the provisions of 310 CMR 30.000, and must provide the director with a written plan for disposal of said product, including disposal plans for any breakage, spillage or expiration of the product.

(13) All Non-Residential Roll-Your-Own machines are prohibited.

(i) *Tobacco Product Sales Permit.*

No retailer shall sell or otherwise distribute tobacco products within the city of Worcester without first obtaining a permit issued annually by the board of health, or its designee. Only owners of establishments with a permanent, non-mobile location in Worcester are eligible to apply for a permit and sell tobacco products at a specified location in Worcester. The board of health, or its designee, shall issue a permit to any applicant only after determining that the applicant demonstrates compliance with this ordinance and any regulations the board of health may adopt to implement this ordinance.
As part of the permit application process, the applicant will be provided with this ordinance. Each applicant is required to sign a statement declaring that he or she has received the ordinance and agrees to be responsible for instructing all employees engaged in tobacco product sales about state law governing tobacco product sales and this ordinance. No permit holder shall allow any employee to sell tobacco products until the employee acknowledges, in writing, receipt of this ordinance and the state law regarding the sale of tobacco, a copy of which will be placed on file in the office of the employer and made available to the director upon request.
Each applicant shall provide the director with proof of a current tobacco sales license issued by the Massachusetts Department of Revenue before a permit may be issued. The board of health, or its designee, shall issue permits to any applicant only after the director determines that the application is in compliance with this ordinance and any rules or regulations the board of health implementing this ordinance. The first permit issued to any applicant shall be an "initial" permit, which shall expire on the thirty-first day of December next after the date of issuance. Thereafter, permits issued shall be an "annual" permit which shall be valid for one calendar year beginning on the first day of January and ending on the thirty-first day of December. The "annual" permit is renewable to the same permit holder each year by the thirty-

first day of December upon receipt of an application in compliance with this ordinance and the applicable rules and regulations. Any permit holder that fails to renew a permit by the thirty-first day of December and continues to operate shall be subject to penalty and enforcement under this section.
A separate permit is required for each retail establishment selling tobacco products. Each permit shall be displayed at the retail establishment in a conspicuous location and consistent with regulations adopted by the board of health.
Permits holders shall have no property interest in any permit issued under this ordinance. No permit shall be transferable, except as set forth herein.
Permits may be transferred incident to the relocation of a retail establishment by the existing permit holder upon prior written notification to the director of the relocation and any change in address.
No existing permit may be transferred unless and until all requirements of this ordinance and any regulations are satisfied and any outstanding penalties are satisfied in full.
(8) A permit will not be renewed or transferred if the permit holder has failed to pay any outstanding fines, penalties or fees due to the city of Worcester for any reason unless such fines, penalties or fees are the subject of a lawful and pending legal appeal.

(9) A permit will not be renewed or transferred if the permit holder has sold a tobacco product to a minor three times within the previous twenty-four months and the time period to appeal has expired. Any violator may request a hearing to refute such allegations in accordance with section (j) of this ordinance.

(j) *Fines, Penalties and Enforcement Authority.*

This ordinance may be enforced by civil process, criminal process or by non-criminal disposition as provided in General Laws, Chapter 40, § 21D.
The provisions of this ordinance may be enforced by any authorized agent or officer of the city of Worcester on any public property, on any private property which is subject to any permit required by this ordinance or any private property which is open to public use.
Every day or part thereof in which any person is in violation of these provisions shall constitute a single and separate offense.
Any person who violates any provision in any of the following subsections of this ordinance:
(d) *Smoke Free Workplace/Municipal Buildings*,
(e) *Smoking Prohibited at Certain Entrances and Exits,* or
(f) *Smoking Prohibited at Certain Municipal Owned Establishments*,
shall be punished with a civil penalty of $100.
Any person who violates any provision in any of the following subsections of this ordinance:
(c) *Tobacco Sales to Persons Under the Minimum Legal Sales Age Prohibited)*,
(g) *Smoking Bars*,
(h) *Sale and Distribution of Tobacco Products Regulated,* or
(i) *Tobacco Product Sales Permit,*
shall be punished with a civil penalty of $300 or a criminal fine of up to $300.

In addition to the monetary fines and penalties described above, any person who violates any of the provisions of subsections (g), (h) or (i) of this ordinance shall be subject to the suspension or revocation of any permit issued under authority of those subsections by the board of health as further provided herein.
Refusal to cooperate with inspections pursuant to this ordinance shall result in the suspension of the permit for up to thirty consecutive business days.
In addition to the fines and penalties set forth above, any permit holder who engages in the sale or distribution of tobacco products while his or her permit is suspended or revoked shall be subject to the suspension or revocation of all board of health issued permits for thirty consecutive business days.
The director shall provide notice of the intent of the board of health to suspend or revoke any permit, which notice shall contain the reasons therefor together with documentation of the alleged violations. The notice shall establish a time and date for a hearing which date shall be no earlier than seven days after the date of said notice. The hearing shall be conducted by the board of health, or its designee, as the board in its sole discretion may determine. The alleged violator, permit holder or its business agent and legal counsel shall have an opportunity to be heard at such hearing. The alleged violator or permit holder shall be notified of the decision and the reasons therefore in writing. For purposes of any such suspension or revocation, the board of health, or its designee, shall make the determination notwithstanding any separate criminal or non-criminal proceedings brought in court hereunder or under the General Laws for the same offense. All tobacco products shall be removed immediately from the retail establishment upon suspension or revocation of any tobacco sales permit. Failure to remove all tobacco products shall constitute a separate violation of this ordinance with each day constituting a separate offense punishable by a fine or penalty of $300 or by injunctive relief.

Section 2. Chapter 15, Section 2(b), of the Revised Ordinances of the city of Worcester (2008) is hereby amended by deleting the existing subsection (11) thereof and inserting a new subsection (11) as follows:

(11) Tobacco Products Control Ordinance

(A) Violations of the following subsections of R.O. c. 8 § 3:

(d) *Smoke Free Workplace/Municipal Buildings*,
(e) *Smoking Prohibited at Certain Entrances and Exits,* or
(f) *Smoking Prohibited at Certain Municipal Owned Establishments*,
Penalty: $100.00

Enforcing Persons: Commissioner of Health & Human Services
Director of Public Health

(B) Violations of the following subsections of R.O. c. 8 § 3:

(c) *Tobacco Sales to Persons Under the Minimum Legal Sales Age Prohibited)*,
(g) *Smoking Bars*,
(h) *Sale and Distribution of Tobacco Products Regulated,* or

(i) *Tobacco Product Sales Permit,*
Penalty: $300.00

Enforcing Persons: Commissioner of Health & Human Services
Director of Public Health

In City Council November 24, 2015
Passed to be Ordained by a yea and nay vote of Ten Yeas and No Nays

A Copy. Attest: David J. Rushford, Clerk
David J. Rushford
City Clerk

Amendment 254

AN ORDINANCE PROVIDING FOR THE ENFORCEMENT OF THE FOOD TRUCK ORDINANCE AND REGULATIONS

Be it ordained by the City Council of the City of Worcester, as follows:

Section 1. Chapter 15, Section 2(b), of the Revised Ordinances of 2008 is hereby amended by inserting the following new subsection (33) as follows:

(33) Food Truck Permits and Regulations, R.O. c. 14, §§ 11A and 11B

Enforcing Persons: Commissioner of Public Works;
Any Person Authorized in Writing
by the City Manager.

Penalty: $200.00 (with each day constituting
A separate violation).

In City Council April 26, 2016
Passed to be Ordained by a yea and nay vote of Eleven Yeas and No Nays

A Copy. Attest: **David J. Rushford, Clerk**
David J. Rushford
City Clerk

Amendment 272

AN ORDINANCE AMENDING CHAPTER FIVE SECTION TWO AND CHAPTER FIVE SECTION 6 OF THE REVISED ORDINANCES OF 2008 RELATIVE TO SEWER PERMITS AND CAPACITY FEES

Be It Ordained by the city council of the city of Worcester as follows:

1. Chapter 5, § 2 of the Revised Ordinances, is hereby amended by deleting in last sentence of paragraph (b)(1) thereof, "5 years" and inserting in lieu thereof "10 years."

2. Chapter 5, § 2 of the Revised Ordinances, is hereby further amended by deleting in paragraph (b)(3) thereof, "five-hundred G.P.D." and inserting in lieu thereof, "one thousand five hundred G.P.D."

3. Chapter 5, § 6 of the Revised Ordinances, is hereby amended by deleting in paragraph (b)(2)(A) thereof, "five year period" and inserting in lieu thereof "eight year period."

In City Council May 17, 2016
Passed to be ordained by a yea and nay vote of Eleven Yeas and No Nays

A Copy. Attest: Susan M. Ledoux, Clerk
Susan M. Ledoux
City Clerk

Amendment 273

AN ORDINANCE AMENDING CHAPTER FIVE SECTION TWENTY-SIX OF THE REVISED ORDINANCES OF 2008 RELATIVE TO SEWER USER CHARGE

(*FY 2017*)

Be It Ordained by the city council of the city of Worcester as follows:

1. Chapter 5, § 26 of the Revised Ordinances, as most recently amended, is hereby further amended by deleting in paragraph (g) thereof, the rate for "Basic Rate" and inserting in lieu thereof the new rate as follows.

Basic Rate. . . . . $ 6.92

2. This amendment shall be effective as of July 1, 2016 and shall apply to all bills issued after such effective date in accordance with subsection (f) of section sixteen of Chapter Seven of the Revised Ordinances of 2008.

In City Council May 17, 2016
Passed to be ordained by a yea and nay vote of Eleven Yeas and No Nays

A Copy. Attest: **Susan M. Ledoux, Clerk**
Susan M. Ledoux
City Clerk

Amendment 274

AN ORDINANCE AMENDING CHAPTER FOURTEEN, SECTION 11B OF THE REVISED ORDINANCES RELATIVE TO THE MOBILE FOOD TRUCK PILOT PROGRAM

Be It Ordained by the City Council of the city of Worcester as follows:

Section 1. Chapter fourteen, Section 11B of the Revised Ordinances of 2008 is hereby amended by deleting the existing section 11B in its entirety and inserting in lieu thereof the following new section 11B:

§11B. Food Truck Permitting – (Amended May 17, 2016 – 274)

(a) Establishment. Notwithstanding section 11A or any other provision of this chapter, or these Revised Ordinances to the contrary, the permitting for food trucks located in Food Truck Friendly Zones established in subsection (c) below shall be governed by this section. Food Truck Permits issued under this section will be coordinated and administered by the Executive Office of Economic Development ("the department") in conjunction with the necessary city departments.

(b) "Food Truck "means a walk-on vehicle, either motorized or pulled by a motorized vehicle, where food is prepared, cooked and served for retail sale in individual portions and which would otherwise require a stationary street vendor license under section 11A of this chapter.

(c) Food Truck Friendly Zones – Establishment. The city manager shall have the sole authority to designate Food Truck Friendly Zones, in which the siting and operation of a food truck shall be allowed. Such zones may be located on public or private property.

(d) Food Truck Friendly Zones – Approval. Once a new Food Truck Friendly Zone is proposed and deemed acceptable by the city manager, the department will hold a meeting, either at City Hall or in the neighborhood of the proposed Food Truck Friendly Zone, to gather feedback from the respective stakeholders. All abutters within two hundred fifty feet (250) shall receive written notification of the public meeting and such notice shall be posted on the city's website.

(e) Food Truck Permit – Required.

5. No person or business may operate a food truck without having first obtained a permit.
6. A Food Truck Permit is required for each individual food truck operating in a Food Truck Friendly Zone.
7. Food Truck Permits issued by the department shall be valid from the date of issuance until the last day of the calendar year.
8. Food Truck Permits shall be displayed inside the food truck, in such a manner as to be plainly visible from outside the food truck.

(f) Food Truck Permit Application – Official Form. The department shall issue a single application form for each Food Truck Permit containing the following:

5. A description of all prerequisite licenses and/or permits, including but not limited to, a hawkers and peddlers license from the chief of police or designee and a permit from the director of public health or designee;
6. A list of the designated Food Truck Friendly Zones;
7. A list of required documents to be attached to the application; and,
8. A space for the signatures of the inspectors from Inspectional Services and the Fire Department verifying inspections were performed, even if no permit was issued.

(g) Food Truck Permit Application – Required Submittals. Each Permit application shall contain the following information:

1. The name of the business and owner, or owners, and the mailing address of the business and the residential address of the owner or owners;
2. A description of the proposed business plan for the food truck operation;
3. The proposed vending location(s) and time(s);
4. The vehicle identification number;
5. Proof of commercial general liability insurance, naming the City of Worcester as an additional insured, in the amount of $500,000 per occurrence / $1,000,000 general aggregate; and
6. Proof of commercial auto liability insurance, naming the City of Worcester as an additional insured, in the amount of $1,000,000 combined single limit.

(h) Permit Fee. The fee for a Food Truck Permit shall be one hundred dollars ($100.00) annually. If the permit is issued after the first day of July, the permit fee shall be fifty dollars ($50.00).

(i) Days and Hours of Operation. The days and hours of operation for each Food Truck Friendly Zone shall be determined by the city manager, unless there is a lawfully permitted special event in a certain location in which case food trucks shall only operate with the permission of the special event organizer.

(j) Restriction on the Number of Food Trucks in a Food Truck Friendly Zone.
1. The city manager shall have the sole authority to determine the maximum number of food trucks permitted in any one Food Truck Friendly Zone.
2. No two food truck vendors in any one zone shall offer substantially similar fare unless agreed upon by the food truck vendors.
3. In the event that the number of applications per zone exceeds the available number of vending spaces, the department will give preference to Worcester residents and existing Worcester-based restaurants that own and operate a food truck.

(k) Vending Area Cleanliness. Each food truck shall provide a trash receptacle of sufficient capacity that shall be changed as necessary, but at least at the end of every day of operations. Prior to leaving its location, each food truck operator shall pick up, remove and dispose of all trash or refuse within twenty-five feet of the food truck which consists of materials originally dispensed from the food truck, including any packages or containers, or parts of either, used with or for dispensing its product.

(l) Safety Restrictions. The point of sale from each food truck shall face the sidewalk portion of the public way such that patrons need not step off of any curb, stone, or curbing to make a sales transaction. No food truck shall be located within twenty feet of any fire hydrant; or, within five feet of any fire alarm box or other emergency communication device, including public telephones; or, within five feet of any marked crosswalk, curb return at any intersection with an unmarked crosswalk, any public or private driveway; or handicapped accessible curb cut.

(m) Unrelated Advertising Prohibited. No food truck location shall be used for advertising signs or publicity purposes, other than that dealing with the display, sale or purchase of the goods, merchandise or services offered for sale therein by the food truck vendor; provided that, any such sign shall not exceed twelve square feet and may not be located in such a manner as to obscure or otherwise interfere with the effectiveness of an official traffic sign, signal or device, or obstruct or interfere with driver or pedestrian visibility.

(n) Any Food Truck Permit may be suspended or revoked without prior notice in the event that the department determines that the food truck vendor is in breach of the requirements of this section 11B, or any rule or regulation of the city of Worcester, or otherwise an unreasonable risk to public health and safety.

(o) Any person or business operating a food truck in a location other than a designated Food Truck Friendly Zone shall be governed by the other applicable sections of this chapter.

In City Council May 17, 2016
Passed to be ordained by a yea and nay vote of Eleven Yeas and No Nays

A Copy. Attest: Susan M. Ledoux, Clerk
Susan M. Ledoux
City Clerk

Amendment 287

AN ORDINANCE AMENDING CHAPTER THIRTEEN OF THE REVISED ORDINANCES OF 2008 CONCERNING THE OPERATION OF RECREATIONAL VEHICLES

Emergency Preamble

Whereas, the use of all-terrain vehicles, off-highway vehicles, motor scooters, pocket rockets and similar lightweight, two, three and four-wheeled vehicles capable of reaching speeds approaching forty miles per hour, especially when operated in packs, or without regard to safe operating procedures, have created a grave danger to safety of the public on the streets and ways of the city of Worcester and on private property where flammable fluids are stored improperly, and,

Whereas, in one case these vehicles improperly operated caused the death of an innocent motorist in Worcester, they have been used to destroy public and private property, and in many cases law-abiding citizens have been harassed or intimidated, and,

Whereas, the number of these "recreational" vehicles has increased rapidly particularly in the warm weather months and in numerous cases is associated with the drug trade and gang activity, and,

Whereas, the city council of the city of Worcester hereby finds that the protection of life and property requires immediate action to remove this danger from the persons and properties, streets and ways of the city of Worcester,

Now, Therefore, this ordinance is declared an emergency ordinance under section 2-9 of the city charter such that it shall be passed with finality in one meeting of the city council and shall, thereby, take effect immediately.

Be it Ordained by the City Council of the City of Worcester, as follows:

1. Chapter 13 of the Revised Ordinances of 2008 is hereby amended by deleting section 7A in its entirety and inserting a new section 7A, as follows:

§7A Recreational Vehicles

(a) Definitions. For the purpose of this section, the words and phrases used herein shall have the following meanings except in those instances where the context clearly indicates a different meaning.

Motorized Conveyance is any wheeled device used to carry persons or property which is powered by any means other than muscular power alone.

Recreational Vehicle is any motor vehicle designed or modified for use over unimproved terrain for recreation or pleasure including, but not limited to, all-terrain vehicles, off-highway motorcycles, dirt bikes, and recreation utility vehicles.

(b) *Recreational vehicle registration.* Pursuant to G.L. c. 90B, § 22, no recreational vehicle, as defined by G.L. c. 90B, § 20, may be operated unless it is registered with the Boat, Recreation Vehicle & Snowmobile Registration Bureau of the Massachusetts Environmental State Police and a valid registration number is displayed on the vehicle.

(c) *Unregistered vehicles.*

1. No person shall place, store, or keep more than one (1) unregistered motorized conveyance that, in order to be operated, is required to be registered under the laws or regulations of the commonwealth of Massachusetts, including but not limited to G.L. c. 90B, upon public or private land zoned for residential purposes of six (6) or fewer residential units.

2. This subsection (c) shall not apply to vehicles stored in compliance with the Worcester Zoning Ordinance, or stored within a fully-enclosed building or to vehicles stored, parked, or displayed on property duly licensed in accordance with G.L. c. 140, §§ 57 through 69.

(d) *Public Property/Property of Another.* No person shall operate, maintain or possess a recreational vehicle upon any public property within the city of Worcester, including any school property, playgrounds, parks or conservation areas, nor shall any person operate, maintain or possess a recreational vehicle the property of another without written permission of the land owner on their person.

(e) *Hazardous Operation.* No person shall engage in trick or stunt riding upon any public space in the City upon any motorized conveyance, including recreational vehicles.

1. An operator of any motorized conveyance, including a recreational vehicle, shall not cause such vehicle to ride with its front wheel or wheels raised from the surface of the road or ground while operated in any public space.

2. An operator of any motorized conveyance, including a recreational vehicle, shall not cause such vehicle to ride with its rear wheel or wheels raised from the surface of the road or ground while operated in any public space

3. An operator of any motorized conveyance, including a recreational vehicle, shall not cause any side wheels of such vehicle to rise from the surface of the road or ground while operated in any public space.

4. An operator of any motorized conveyance, including a recreational vehicle, shall not ride such vehicles with his or her feet or knees planted on the seat while operating in any public space.

5. An operator of any motorized conveyance, including a recreational vehicle, shall not operate such vehicle in a manner commonly associated with trick or stunt riding.

6. An operator of any motorized conveyance, including a recreational vehicle, shall not operate such vehicle with a passenger if designed for a single rider.

7. No passenger shall ride upon any motorized conveyance, including a recreational vehicle that is designed for a single rider.

8. An operator of any motorized conveyance, including a recreational vehicle, shall not operate such vehicle with a passenger sitting or riding upon the handle bars or forward of the operator.

9. *Enforcement and Regulatory Authority.* No person shall operate any motorized conveyance, including a recreational vehicle, wearing a facial mask between March 15 and November 15 of any year or any other time when the ambient air temperature is 45 degrees or greater measured on the Fahrenheit scale.

(f) No person under the age of eighteen years shall cause gasoline or other flammable or volatile fluid to be loaded into any motorized conveyance, including a recreational vehicle, on any public or private street of the city or at any location which is open to the public. Any person in charge of any gasoline or filling station shall not allow any person under the age of eighteen years to cause gasoline or other flammable or volatile fluid to be loaded into any motorized conveyance, including a recreational vehicle.

(g) *Penalties.* A violation of any provision of this section shall be subject to a fine of two hundred-fifty ($250.00) dollars and, when applicable, with each day constituting a separate offense.

(h) *Enforcement*. The Worcester Police shall have the authority to enforce any provision of this ordinance and to promulgate rules and regulations necessary to implement and enforce this ordinance. Additionally, the commissioner of Inspectional Services and the commissioner of Public Works and Parks shall have authority to enforce subsection (c) (Unregistered Vehicles) and subsection (d) (Public Property/Property of Another) herein. Nothing herein shall prevent any city official, agency, department, board or commission with care, custody and control of any public property from enforcing any provision of this ordinance or

from promulgating rules and regulations necessary to implement and enforce any provision of this ordinance as it may relate to any such property. The provisions of G.L. c. 40, s. 21D may be used to enforce this section.

(i) *Impoundment.* The Worcester Police Department shall have the authority to impound any vehicle in violation of these sections and shall not release any impounded vehicle until final disposition of all criminal and/or civil charges relating to the operation or storage of any motorized conveyance, including a recreational vehicle, nor until proof of ownership and proper registration under G.L. c. 90B §22 is verified. The Worcester Police Department shall have the authority to enter upon and pass through or over private lands and property whether or not covered by water, to enforce this ordinance.

(j) *Applicability.* If any provision of these sections imposes greater restrictions or obligations than those imposed by any other general law, special law, regulation, rule, ordinance, order, or policy, then the provisions of these sections shall control.

(k) *Exemptions.* Notwithstanding the above, this ordinance shall not apply to any vehicle owned or leased by the city of Worcester; nor any wheelchair operated by a person with physical disabilities or any similar mobility-assisting device used or by a person whose ambulatory mobility has been impaired by age, illness or physical ailment; nor shall it prohibit the operation of any electric vehicle not capable of speeds in excess of twelve and one-half miles per hour on any paved sidewalk or marked pedestrian crosswalk.

2. Chapter 15, Section 2(b), of the Revised Ordinances of the city of Worcester (2008) is hereby amended by deleting subsections 31 and 32 and inserting in lieu thereof the following new subsection (31) as follows:

(31) Recreational Vehicle Ordinance – R.O. c. 13 § 7A.

Enforcing Persons: Police Chief; Fire Chief;
Commissioner of Inspectional Services;
Commissioner of Public Works & Parks;
Any city official, agency, department, board or commission with care, custody and control of any public property with respect to that property.

Penalty (for each separate offense): $250.00

In City Council May 24, 2016
Passed to be ordained with an Emergency Preamble by a yea and nay vote of Eleven Yeas and No Nays

A Copy. Attest: **Susan M. Ledoux, Clerk**

Susan M. Ledoux

City Clerk

Amendment 300

AN ORDINANCE AMENDING CHAPTER THIRTEEN OF THE REVISED ORDINANCES CONCERNING RECREATIONAL VEHICLES

Be it Ordained by the City Council of the City of Worcester, as follows:

Chapter 13 of the Revised Ordinances of 2008 is hereby amended by deleting section 7A in its entirety and inserting a new section 7A, as follows:

§7A Recreational Vehicles

(a) Definitions. For the purpose of this ordinance, the phrase "recreational vehicle" shall have the following meaning (except in those instances where the context clearly indicates a different meaning):

any wheeled device used to carry persons or property which is powered by any means other than muscular power alone and which is designed or modified for use over unimproved terrain for recreation or pleasure including, but not limited to, all-terrain vehicles, off-highway motorcycles, dirt bikes, and recreation utility vehicles.

"Recreational vehicle" shall not include any wheelchair operated by a person with physical disabilities or any similar mobility-assisting device used or by a person whose ambulatory mobility has been impaired by age, illness or physical ailment; nor shall it include the operation of any electric vehicle not capable of speeds in excess of twelve and one-half miles per hour on any paved sidewalk or marked pedestrian crosswalk; nor any vehicle owned or leased or operated by any government entity, including the city of Worcester and the commonwealth of Massachusetts.

(b) Recreational vehicle registration. Pursuant to G.L. c. 90B, § 22, no recreational vehicle, as defined by G.L. c. 90B, § 20, may be operated unless it is registered with the Boat, Recreation Vehicle & Snowmobile Registration Bureau of the Massachusetts Environmental State Police and a valid registration number is displayed on the vehicle.

(c) Unregistered vehicles.

3. No person shall place, store, or keep more than one (1) unregistered recreational vehicle that, in order to be operated, is required to be registered under the laws or regulations of the commonwealth of Massachusetts, including but not limited to G.L. c. 90B, upon public or private land, including any buildings thereon, zoned or used for residential purposes.

4. This subsection (c) shall not apply to vehicles stored in compliance with the Worcester Zoning Ordinance or to vehicles stored, parked, or displayed on property duly licensed in accordance with G.L. c. 140, §§ 57 through 69.

(d) *Public Property/Property of Another.* No person shall operate, maintain or possess a recreational vehicle the property of another without written permission of the land owner on their person. For purposes of this subsection, "property of another" shall include any property owned or leased by the city of Worcester, including any Worcester Public School property, playgrounds, parks or conservation areas, or any land in which the city holds any conservation restriction.

(e) *Hazardous Operation.* No person shall engage in trick or stunt riding upon any public space in the City upon any recreational vehicle.

1. An operator of any recreational vehicle shall not cause such vehicle to ride with its front wheel or wheels raised from the surface of the road or ground while operated in any public space.
2. An operator of any recreational vehicle shall not cause such vehicle to ride with its rear wheel or wheels raised from the surface of the road or ground while operated in any public space
3. An operator of any recreational vehicle shall not cause any side wheels of such vehicle to rise from the surface of the road or ground while operated in any public space.
4. An operator of any recreational vehicle shall not ride such vehicles with his or her feet or knees planted on the seat while operating in any public space.
5. An operator of any recreational vehicle shall not operate such vehicle in a manner commonly associated with trick or stunt riding.
6. An operator of any recreational vehicle shall not operate such vehicle with a passenger if designed for a single rider.
7. No passenger shall ride upon any recreational vehicle that is designed for a single rider.
8. An operator of any recreational vehicle shall not operate such vehicle with a passenger sitting or riding upon the handle bars or forward of the operator.
9. No person shall operate any recreational vehicle wearing a facial mask between March 15 and November 15 of any year or any other time when the ambient air temperature is 45 degrees or greater measured on the Fahrenheit scale.

(f) *Flammable Fluids*. No person under the age of eighteen years shall cause gasoline or other flammable or volatile fluid to be loaded into any recreational vehicle, on any public or private street of the city or at any location which is open to the public. Any person in charge of any gasoline or filling station shall not allow any person under the age of eighteen years to cause gasoline or other flammable or volatile fluid to be loaded into any recreational vehicle.

(g) *Penalties.* A violation of any provision of this section shall be subject to a fine of two hundred-fifty ($250.00) dollars and, when applicable, with each day constituting a separate offense.

(h) *Enforcement.* The Worcester Police Department shall have the authority to enforce any provision of this ordinance and to promulgate rules and regulations necessary to implement and enforce this ordinance. Additionally, the commissioner of Inspectional Services and the commissioner of Public Works and Parks shall have authority to enforce subsection (c) (Unregistered Vehicles) and subsection (d) (Public Property/Property of Another) herein. The Worcester Fire Department shall have the authority to enforce the provisions of this ordinance, or any statute, regulation of code as relates to this ordinance, involving the storage or use of flammable fluids. Nothing herein shall prevent any city official, agency, department, board or commission with care, custody and control of any public property from enforcing any provision of this ordinance or from promulgating rules and regulations necessary to implement and enforce any provision of this ordinance as it may relate to any such property. The provisions of G.L. c. 40, s. 21D may be used to punish violations of this section.

(i) *Impoundment.* The Worcester Police Department shall have the authority to impound any recreational vehicle found in violation of this ordinance and shall not release any impounded vehicle until final disposition of all criminal and/or civil charges relating to the operation or storage of any recreational vehicle, nor until proof of ownership and proper registration under G.L. c. 90B §22 is verified. The Worcester Police Department shall have the authority to obtain warrants authorizing entry upon private lands and into private buildings whether or not covered by water, to enforce this ordinance.

(j) *Applicability.* If any provision of these sections imposes greater restrictions or obligations than those imposed by any other general law, special law, regulation, rule, ordinance, order, or policy, then the provisions of these sections shall control.

In City Council July 19, 2016
Passed to be ordained by a yea and nay vote of Eleven Yeas and No Nays

A Copy. Attest: **Susan M. Ledoux, Clerk**
Susan M. Ledoux
City Clerk

Amendment 309

AN ORDINANCE RELATIVE TO DROUGHT CONTINGENCY, WATER SUPPLY EMERGENCY RESPONSE AND SAFE DRINKING WATER

Be it ordained by the City Council of the City of Worcester, as follows:

Section 1 Chapter 7 of the Revised Ordinances of 2008 is hereby amended by inserting a new § 1(a) as follows:

(a) The commissioner of public works and parks ("commissioner") shall have the care and control of all ponds, streams, waters, reservoirs, aqueducts and other property acquired or held by the city for the purpose of obtaining or furnishing a supply of pure water for the use of its inhabitants and shall maintain the same in good order and condition, shall use and operate the same and furnish all supplies required therefor, shall take all measures necessary to protect and preserve the purity of all waters, shall establish a drought contingency and water emergency management plan to maintain a safe and robust water supply, shall purchase or requisition and lay and maintain all pipes, conduits and other fixtures and appliances necessary for obtaining or supplying water for the inhabitants of the city, and shall furnish, test, set and repair all water meters.

Section 2 Chapter 7, §18(g) of the Revised Ordinances of 2008 is hereby amended by deleting § 18(g) in its entirety and inserting a new § 18(g), as follows:

(g) All water-takers shall comply with the requirements and restrictions imposed as part of a drought or water supply emergency declared under the city's Drought Contingency and Water Emergency Management Plan or a state of water emergency declared under G.L. c.21G, §15 or G.L. c.40, §41A. Each day that any such violation occurs shall constitute a separate offense.

Section 3 Chapter 7, §19 of the Revised Ordinances of 2008 is hereby amended by deleting the word "unfurnished" and inserting "furnished" in lieu thereof.

Section 4 Chapter 7, §20 of the Revised Ordinances of 2008 is hereby amended by deleting §20 in its entirety and inserting a new §20 entitled Cross Connection Control and Distribution System Protection, as follows:

"The commissioner, or his or her duly authorized agents bearing proper credentials and identification, shall be permitted to enter all properties where water is used for the purpose of inspection, observation and testing of all fixtures related to cross connection control and backflow prevention all in accordance with the provisions of this chapter and to the extent permitted by and under the General Laws. For each backflow prevention device inspection and test conducted by the city pursuant to the provisions of this chapter, the regulations of the Massachusetts Department of Environmental Protection and the General Laws, the property owner shall pay the fee established by the commissioner."

Section 5 Chapter 15 of the Revised Ordinances of 2008 is hereby amended by deleting §2(b)(9)(F) in its entirety and inserting a new §2(b)(9)(F) as follows:

(F) Declared Droughts and Water Emergencies – R.O. c. 7 § 18(g)

Enforcing Person: Commissioner of Public Works & Parks
Penalty: Varies Depending on Stage of Emergency and Number of Offenses as follows:

Emergency Stage	I	II	III	IV
1st offense in a calendar year	$0	$100.00	$200.00	$200.00
2nd offense in a calendar year	$50.00	$200.00	$250.00	$250.00
3rd offense in a calendar year	$100.00	$250.00	$300.00	$300.00
4th and subsequent offense in a calendar year	$200.00	$300.00	$300.00	$300.00

In City Council August 16, 2016
Passed to be ordained by a yea and nay vote of Eleven Yeas and No Nays

A Copy. Attest: Susan M. Ledoux, Clerk
Susan M. Ledoux
City Clerk

Amendment 312

AN ORDINANCE AMENDING CHAPTER EIGHT OF THE REVISED ORDINANCES OF 2008 RELATIVE TO PUBLIC HEALTH REGARDING FREE ITEMS LEFT ON A PUBLIC OR PRIVATE WAY

Be It Ordained by the city council of the city of Worcester as follows:

1. Chapter 8, § 6 of the Revised Ordinances, is hereby amended by inserting the following new subsection 6(c) as follows:

"This section shall apply to any filth, rubbish, refuse, furniture or personal items, such as televisions, left on a public or private way, with a sign labeling items as "free"."

In City Council September 13, 2016
Passed to be ordained by a yea and nay vote of Eleven Yeas and No Nays

A Copy. Attest: **Susan M. Ledoux, Clerk**
Susan M. Ledoux
City Clerk

Amendment 313

AN ORDINANCE AMENDING CHAPTERS FOUR AND FIFTEEN OF THE REVISED ORDINANCES OF 2008 RELATIVE TO RECYCLING & SOLID WASTE COLLECTION

Be It Ordained by the city council of the city of Worcester as follows:

1. Chapter 4, § 8 of the Revised Ordinances, is hereby amended by deleting the existing section 8 in its entirety and inserting the new section 8 as follows:

"This chapter may be enforced by civil process, criminal process or by non-criminal disposition as provided in General Laws, Chapter 40, § 21D. The penalty for a violation of §5(a) and §5(b) is as follows:

First violation: $25.00
Second violation and subsequent violations: $100.00

(2) For any other section of this chapter, the penalty for the first violation shall be one hundred dollars ($100.00), and three hundred dollars ($300.00) for any subsequent violation occurring in a single calendar year. Each violation shall be deemed a separate offense."

2. Chapter 15, § 13 of the Revised Ordinances of the City of Worcester (2008) is hereby amended by deleting the Penalties section of the existing subsection (13) and inserting the following:

"Penalties:

Violations of R.O. c. 4, §§ 3, 4, 5(c), (d), and 6:

(a) First offense $100.00
(b) Second and subsequent offenses in a calendar year $300.00

Violations of R.O. c. 4 § 5(a)(b):

(a) first offense: $25.00
(b) second and subsequent offenses: $100.00"

In City Council September 13, 2016
Passed to be ordained by a yea and nay vote of Eleven Yeas and No Nays

A Copy. Attest: **Susan M. Ledoux, Clerk**

Susan M. Ledoux

City Clerk

Amendment 314

AN ORDINANCE AMENDING CHAPTER 8 OF THE REVISED ORDINANCES OF 2008 RELATIVE TO DOG LICENSING FEES AND DUTIES OF DOG OWNERS TO ALLOW ON-LEASH DOG USE IN CERTAIN CITY PARKS

Be it ordained by the city council of the city of Worcester, as follows:

Section 1. Section 13(a)(7) of Chapter 8 of the Revised Ordinances of 2008 is hereby amended by deleting Section 13(a)(7) in its entirety and inserting a new Section 13(a)(7) as follows:

(7) allow any dog, except a registered service dog, to be in any city park, public cemetery or playground, excepting only such city park as may be designated by the parks and recreation commission as being open to on-leash dog use.

Section 2. Section 13(a)(8) of Chapter 8 of the Revised Ordinances of 2008 is hereby amended by deleting Section 13(a)(8) in its entirety and inserting a new Section 13(a)(8) as follows:

(8) allow any dog, except a registered service dog, to be in or on any place open to the public within that area of the city surrounded by and including both sides of Irving, Linden and Harvard Streets to the west, Madison Street to the south, Route I-290 to the east and Concord Street to the north, unless the dog is licensed at an address within said area; except that nothing herein shall prohibit any dog from participating in, being transported to or from, or being exercised or board in connection with, any dog show, act or event for which an entertainment license has been issued by the city under G.L. c. 140, or for which a permit has been issued pursuant to division of public health regulations for the keeping or exhibition of animals, which is conducted by any corporation organized primarily for the promotion of dogs, so long as any such dog is secured in a cage or by a leash which does not exceed six feet in length while on any street open to the public, and so long as, at no time shall any such dog be taken into the Worcester Common or any city park, playground or schoolyard, expecting only such city parks designated as being open to on-leash dog use in accordance with subsection (7) herein.

Section 3. Chapter 8 of the Revised Ordinances of 2008 is hereby amended by replacing the schedule of fees in section 11(d) with the following schedule:

Females:	$30.00
Males:	$30.00
Spayed females:	$25.00
Neutered males:	$25.00

In City Council September 13, 2016

Passed to be ordained by a yea and nay vote of Eleven Yeas and No Nays

A Copy. Attest: **Susan M. Ledoux, Clerk**
Susan M. Ledoux
City Clerk

Amendment 327

AN ORDINANCE AMENDING CHAPTER 2 OF THE REVISED ORDINANCES OF 2008 RELATIVE TO WAGE THEFT PREVENTION

Be it ordained by the city council of the city of Worcester, as follows:

Chapter 2 of the Revised Ordinances of 2008 is hereby amended by inserting a new Section 39 as follows:

§ 39. Wage Theft Prevention

(a) Section thirty-eight is enacted to ensure that employees of contractors doing business with the city of Worcester are paid, in full, for hours worked on a timely basis and that contractors doing business with the city of Worcester who pay their workers in compliance with applicable wage and hour laws are given an optimal environment to build and maintain their businesses and are not under-cut by non-compliant employers.

(b) Whenever the city of Worcester is procuring goods or services, section thirty-eight shall be incorporated into the procurement documents and made a part of the specifications and contract. Any person, company or corporation shall acknowledge, in writing, receipt of said requirements with their bid or proposal. Contracts between the city and the United States of America or a corporation wholly owned by the government of the United States of America or the Commonwealth of Massachusetts, its subdivisions and corporate bodies shall be exempt from this section.

(c) At the time of bidding or submittal in response to an RFP, all bidders or proposers and all trade contractors or subcontractors under any bidder or proposer shall provide the following certifications or disclosures in writing with their bid or proposals, and for multi-year contracts, annually upon the anniversary of the contract date until the expiration of the contract:

(1) The bidder or proposer and all trade contractors or subcontractors under the bidder or proposer must at the time of bidding, or if not subject to bidding requirements, prior to performing work on a project, certify that neither the bidder or proposer or any trade contractor or subcontractor under the bidder or proposer has been subject to a federal or state criminal or civil judgement, final administrative determination or debarment resulting from a violation of G.L. c.149, G.L. c. 151 or the Fair Labor Standards Act within three (3) years prior to the date of submission of the bid or proposal. To the extent any bidder or proposer or any trade contractors or subcontractors under the bidder or proposer have been in business for less than three (3) years prior to the date of submission of the bid or proposal, then the certification shall be for the entire period of time for which the bidder or proposer and any trade contractor or subcontractor under the bidder or proposer has been in existence.

(2) In the event a bidder or proposer or any trade contractor or subcontractor under the bidder or proposer has been subject to a federal or state criminal or civil judgement, final administrative determination or debarment resulting from a violation of G.L. c.149, G.L. c. 151 or the Fair Labor Standards Act within three (3) years prior to the date of submission of the bid or proposal, then the bidder or proposer or any trade contractor or subcontractor under the bidder or proposer shall disclose any such criminal or civil judgement, final administrative determination, or debarment and provide a copy(ies) with the bid or proposal.

(d) All bidders or proposers or any trade contractor or subcontractor under any bidder or proposer shall report any such criminal or civil judgement, final administrative determination, or debarment resulting from a violation of G.L. c.149, G.L. c. 151 or the Fair Labor Standards Act while any bid or proposal is pending and if awarded a contract, during the term of the resulting contract, within five (5) days of receipt.

(e) All bidders or proposers and all trade contractors and subcontractors under any bidder or proposer, prior to bidding or, if not subject to bidding requirements, prior to performing work on a project, shall sign under oath and provide a certification that they are not debarred or otherwise prevented from bidding for or performing the work on a public project in the Commonwealth of Massachusetts or in the City.

(f) Any bidder or proposer awarded a contract who is required to make a disclosure of any criminal or civil judgement, final administrative determination or debarment under this section shall be required to post a wage bond or other form of suitable insurance in an amount equal to the aggregate of one year's gross wages, or for the term of the contract, whichever is less, for all employees, based on an average of its total labor cost for the past two years. Such bond shall be maintained for the entire term of the contract(s) and for all contracts of one year or more, proof of maintenance must be provided annually or upon request.

(g) Any bidder or proposer awarded a contract shall furnish monthly certified payroll records to the City for all employees working on any city contract, if requested by the City, and shall post in a conspicuous place notices to be provided by the City informing employees of the protections of section thirty-eight and applicable local, state and federal law. To the extent any employee would not have reasonable access to the notice if posted in a single location, the bidder or proposer shall notify the City of the number and location of postings in order to ensure that reasonable notice is provided to all employees. The bidder or proposer may be required to make additional postings at the request of the City.

(h) Any bidder, proposer, trade contractor or subcontractor under the bidder or proposer who fails to comply with any of obligations set forth in this section thirty-eight for any period of time shall be, at the sole discretion of the City, subject to one or more of the following sanctions: (1) cessation of work on the project until compliance is obtained; (2) withholding of payment due under any contract or subcontract until compliance is obtained; (3)

termination of the contract; and (4) barred from performing any work on any future project for up to three (3) years.

In City Council October 4, 2016
Passed to be ordained by a yea and nay vote of Eleven Yeas and No Nays

A Copy. Attest: Susan M. Ledoux, Clerk
Susan M. Ledoux
City Clerk