



Gloucester City Council
CERTIFICATE OF VOTE
Certificate Number: 2019-045

The Gloucester City Council, at a meeting held on **Tuesday, February 26, 2019** at 7:00 p.m. in the Kyrouz Auditorium, City Hall, voted to approve the following:

IN CITY COUNCIL:

MOTION: On a motion by Councilor LeBlanc, seconded by Councilor O'Hara, the City Council voted **8** in favor, **0** opposed, **1** (Nolan) absent, to Amend the Code of Ordinances as presented through a memorandum from General Counsel dated January 10, 2019, pages 1 through 18.

Joanne M. Senos, City Clerk

Date: February 28, 2019

APPROVED BY THE MAYOR

Sefatia Romeo Theken

VETOED BY THE MAYOR

Sefatia Romeo Theken

SIGNED THIS 28th DAY OF FEBRUARY, 2019

All Ordinances shall become effective 31 days after passage except Emergency Orders and Zoning Amendments shall become effective the next day

**CITY OF GLOUCESTER
LEGAL DEPARTMENT**

Memorandum

TO: President Lundberg and Members of the City Council

FROM: Chip Payson, General Counsel

RE: Proposed changes to MuniCode

DATE: January 10, 2019

Attached please find two documents. The first document is my recommendations for changes to the Gloucester Code of Ordinances as proposed by the recent MuniCode review. It is entitled "Recommendations."

The second document is the document with the changes that will be sent to MuniCode. It does not include 1) items that have yet to be reviewed and 2) items in which no action has been recommended. It is entitled "MuniCode."

Should there be any questions when this is taken up by the Council, I will be on hand and available to answer them.

Thank you.

RECOMMENDATIONS

Chapter 2. Administration

Division 3. Board of Health

Sec. 2-425. Composition; appointment, term and removal of members.

Unless there is a local act authorizing a five-person board, alter so the board consists of three members. See M.G.L. c. 111, § 26.

- Suggested Action: Reject proposed change.

The board of health shall consist of five members all of whom shall be appointed by the mayor, subject to the approval of the city council, staggered terms of three years each.

###

Sec. 2-429. Appointment of physician to take and examine cultures and school physician.

Delete the reference to the school physician. Under M.G.L. c. 71, § 53, the school committee appoints the school physicians.

- Suggested Action: Strike section 2-429 in its entirety.

~~The board of health may appoint a physician to the board, who shall take and examine all cultures, and shall appoint a school physician, neither of whom shall be a member of the board. Such physicians shall hold their offices according to the provisions of the civil service laws and regulations governing such offices.~~

###

Division 6A. Tourism Commission

Sec. 2-476. Periodic reports and plans.

Please supply the beginning date. (It currently reads: "Beginning in 201_")

- Suggested Action: Strike section 2-476 in its entirety.

~~Beginning in 201_ the commission with the assistance of the community development department shall prepare and submit a five-year plan for tourism to the mayor and the city council; and in addition, based on the execution of the plan, the commission shall submit quarterly reports, with the assistance of the community development department as provided in section 2-475, to the mayor and to be forwarded by the mayor to the city council.~~

###

Division 11. City Hall Restoration Commission

Sec. 2-526. Completion of the project.

If obsolete, delete.

- **Suggested Action:** Reject proposed change.

Upon completion of the project the commission may be disbanded, upon approval by the city council and the mayor.

###

Chapter 3. Amusements

Sec. 3-30. Definitions. In the definition of automatic amusement device, add the slot machine exemption found in M.G.L. c. 140, § 177A(2).

- **Suggested Action:** Amend as follows—

Automatic amusement device shall mean any mechanism whereby, upon the deposit of a coin or token therein, any apparatus is released or set into motion or put in a position where it may be set in motion for the purpose of playing any game involving, in whole or in part, the skill of the player or for the amusement of the player. The term "automatic amusement device" includes pinball machines but excludes vending machines in which gaming or amusement features are not incorporated, and any coin-operated mechanical musical devices such as jukeboxes and slot machines as defined in M.G.L. c. 23K.

###

Chapter 4. Animals

Sec. 4-16a. Dogs allowed on public beaches at certain times.

1. *Add language recognizing the 'guide dog' exemptions in M.G.L. c. 272, § 98A.*

- **Suggested Action:** Add NEW sec. 4-16(d) as follows—

Any blind person, or deaf or hearing handicapped person, or other physically handicapped person accompanied by a guide dog, shall be entitled to any and all accommodations, advantages, facilities and privileges of all public conveyances, public amusements and places of public accommodation pursuant to M.G.L. c. 272, sec. 98A.

###

2. *Please ungarble subsection (1).*

- Suggested Action: Amend sec. 4-16(a)(1) as follows—

(1) ~~Owners, those with direct care, custody and control of a dog, must remain with and monitor their dogs. Owners, per the below conditions, define person with direct care, custody, and control of a dog while in a designated off-leash area.~~

####

Sec. 4-16b. Dogs prohibited in city-owned cemeteries at all times.

Add language recognizing the 'guide dog' exemptions in M.G.L. c. 272, § 98A.

- Suggested Action: Reject proposed change, satisfied with new 4-16(d)

####

Sec. 4-16c. Dogs prohibited on athletic fields.

Add language recognizing the 'guide dog' exemptions in M.G.L. c. 272, § 98A.

- Suggested Action: Reject proposed change, satisfied with new 4-16(d)

####

Chapter 6. Cemeteries

Sec. 6-4. Visitors' conduct.

In subsection (e)(11), add language recognizing the 'guide dog' exemptions in M.G.L. c. 272, § 98A.

- Suggested Action: Amend sec. 6-4(e)(11) as follows—

(e) The following actions and activities are prohibited at city-owned cemeteries:

(11) Dogs shall be prohibited generally in all city-owned cemeteries however, pursuant to M.G.L. c. 272, sec. 98A, any blind person, or deaf or hearing handicapped person, or other physically handicapped person accompanied by a guide dog, shall be entitled to any and all accommodations, advantages, facilities and privileges of all public conveyances, public amusements and places of public accommodation.

####

Chapter 8. Fire Prevention and Protection

Sec. 8-60. Automatic sprinklers in new or substantially rehabilitated residential structures containing four or more dwelling units.

Unless NFPA's 13R, 13, and 13D are also adopted by the state, please supply the specific date of these standards so as to avoid adoption by reference problems.

- **Suggested Action: HOLD—NEED TO SPEAK TO FIRE CHIEF**

####

Chapter 11. Hawkers, Peddlers, Transient Vendors and Special Events

Sec. 11-1. Definitions.

Conform the definitions of transient vendor and temporary or transient business to M.G.L. c. 101, § 1, also adding the definitions of promoter, tangible personal property and written operating agreement from such statute.

Sec. 11-7. Business prohibited between certain hours.

Alter the prohibited hours in the first sentence to be between 9:00 p.m. and 9:00 a.m. See, e.g., City of Watseka v. Illinois Public Action Council, 796 F.2d 1547 (7th Cir. 1986), affd. 479 U.S. 1048, 109 S. Ct. 919, 93 L. Ed. 2d 972 (1987), reh. den. 480 U.S. 926, 107 S. Ct. 1389, 94 L. Ed. 2d 703; New Jersey Citizen Action Group v. Edison, 797 F.2d 1250 (3d Cir. 1986), cert. den. sub. nom. Township of Piscataway v. New Jersey 479 U.S. 1103, 107 S. Ct. 1336, 94 L. Ed. 2d 186; Wisconsin Action Coalition v. City of Kenosha, 767 F.2d 1248 (7th Cir. 1985); ACORN v. City of Frontenac, 714 F.2d 813 (8th Cir. 1983); Massachusetts Fair Share Inc. v. Town of Rockland, 610 F. Supp. 682 (D.C. Mass.1985); New York Community Action Network v. Town of Hempstead, 601 F. Supp. 1066 (E.D.N.Y. 1984); Connecticut Citizens Action Group v. Town of Southington, 508 F. Supp. 43 (D. Conn.1980); West Virginia Citizens Action Group v. Daley, 324 S.E.2d 713 (W. Va.1984).

Sec. 11-18. Application.

Delete subsection (4). Section 7 of the Federal Privacy Act (5 USC 552a note) states, in its entirety:

Sec. 7 (a)(1) It shall be unlawful for any Federal, State or local government agency to deny to any individual any right, benefit, or privilege provided by law because of such individual's refusal to disclose his social security account number.

(2) the provisions of paragraph (1) of this subsection shall not apply with respect to--

(A) any disclosure which is required by Federal statute, or

(B) any disclosure of a social security number to any Federal, State, or local agency maintaining a system of records in existence and operating before January 1, 1975, if such disclosure was required under statute or regulation adopted prior to such date to verify the identity of an individual.

(b) Any Federal, State or local government agency which requests an individual to disclose his social security account number shall inform that individual whether that disclosure is mandatory or voluntary, by what statutory or other authority such number is solicited, and what uses will be made of it.

- **Suggested Action: NO ACTION PENDING COUNCILOR COX ORDER**

####

Chapter 12. Marshlands

Sec. 12-23. Penalty for violation.

Ungarble subsection (b) by changing civil and criminal court actions to civil and criminal court actions.

- **Suggested Action: Amend as follows—**

(b) The commission shall have the authority to enforce this article, its regulations, and permits issued thereunder by violation notices, administrative orders and penalties, and civil ~~and~~ criminal ~~court~~ actions. Upon request of the commission, the city general counsel may take legal action for enforcement under civil law. Upon request of the commission, the chief of police may take legal action for enforcement under criminal law. City boards and officers, including any police officer or other office having police powers, shall have authority to assist the commission in enforcement.

####

Sec. 12-24. Pre-acquisition violations.

In the last sentence, delete the ten residents provisions as based on nonexistent M.G.L. c. 214, § 10A.

- Suggested Action: Amend as follows—

Any person who purchases, inherits or otherwise acquires real estate upon which work has been done in violation of the provisions of this article or in violation of any order issued under this article shall forthwith comply with any such order to restore such real estate to its condition prior to any such violation; provided, however, that no action, civil or criminal, shall be brought against such person unless such action is commenced within three years following the recording of the deed or the date of the death by which such real estate was acquired by such person. The city shall, if necessary, petition for relief in a court having equity jurisdiction to restrain a violation of this article and to enter such orders as it deems necessary to remedy such violation. An owner or occupant of property which may be affected by the removal, filling, dredging or altering pursuant to this article, ~~or ten residents of the city under the provisions of M.G.L. c. 214, § 10A~~ may likewise petition for such relief in a court having equity jurisdiction.

###

Chapter 13. Noise

Sec. 13-2. Definitions.

Alter the definition of district by:

1. *Changing the definition of residential district to be so that the R-80, R-4, RC-40, R-30, R-20, R-10, and R-5 districts are referenced.*

- Suggested Action: Amend as follows—

District shall mean the land use districts to which the provisions of this chapter are applied. For the purposes of this chapter:

(1) Residential district includes zoning districts designated in the city's current zoning ordinance as R-R, R-1, R-2, R-3, ~~and R-4~~, R-5, R-10, R-20, R-30, R-40 and R-80.

###

2. *Changing the definition of commercial district to be so that the CCD, CB, VB, NB and EB districts are referenced.*

- **Suggested Action:** Amend as follows—

District shall mean the land use districts to which the provisions of this chapter are applied. For the purposes of this chapter:

(2) Commercial district includes zoning districts designated in the city's current zoning ordinance as S, CCD, CB, VB, NB, EB, B-1, B-2, and B-3.

###

3. *Changing the definition of industrial district so that the MI, GI, and BP districts are referenced.*

- **Suggested Action:** Amend as follows—

District shall mean the land use districts to which the provisions of this chapter are applied. For the purposes of this chapter:

(3) Industrial district includes zoning districts designated in the city's current zoning ordinance as MI, GI, BP, I-1 and I-2.

###

Chapter 14. Offenses and Miscellaneous Provisions

Sec. 14-13. Cigarette machines.

Subsection (a) contradicts subsection (b). It seems likely that subsection (b) represents the latest amendment. Assuming this is the case, reword the introductory language of subsection (b) to read as follows: "Notwithstanding subsection (a), cigarette machines with lockout devices may be located in private clubs, barrooms and taverns holding a liquor license in the city and who do not allow minors under the age of 21 years of age to enter their establishment." and delete the 30-day language in subsection (b)(2).

- Suggested Action: Amend as follows—

~~(b) Lockout devices on cigarette machines located in private clubs, barrooms and taverns holding a liquor license in the city and who do not allow minors under the age of 21 years of age to enter their establishment are allowed~~Notwithstanding subsection (a), cigarette machines with lockout devices may be located in private clubs, barrooms and taverns holding a liquor license in the city and who do not allow minors under the age of 21 years of age to enter their establishment. (1) This amendment will be enforced by the health agent and the health agent is to coordinate educational efforts with the educations efforts of the prevention network. (2) ~~All lockout devices are to be installed within 30 days which will be verified by the enforcing agency, and~~ ~~m~~Machines are to be moved to a position in the line of sight of the bartender and away from entryways.

###

Sec. 14-16. Public consumption of marijuana or tetrahydrocannabinol prohibited.

Add language recognizing the exemption in M.G.L. c. 94G, § 7. See also M.G.L. c. 94G, § 2.

- Suggested Action: Amend as follows—

(a) Notwithstanding M.G.L. c. 94G, §§ 2 or 7, N~~o~~ person shall smoke or consume marijuana or tetrahydrocannabinol as defined in M.G.L. c. 94C, § 1, as amended, while in or upon any public way, park, playground, public building or land owned or under control of the city or in any bus or other passenger conveyance operated by a common carrier or in place accessible to the public.

###

Chapter 18. Schools

Sec. 18-6. Dogs in school grounds or buildings; fines.

Add language recognizing the 'guide dog' exemptions in M.G.L. c. 272, § 98A.

- Suggested Action: Amend as follows—

(a) No person owning, harboring or having custody of a dog shall allow any such dog on school grounds or in school buildings from one hour before the opening of school until the closing of school on days when schools are in session.

(b) Notwithstanding subsection (a), any blind person, or deaf or hearing handicapped person, or other physically handicapped person accompanied by a guide dog, shall be entitled to any and all accommodations, advantages, facilities and privileges of all public conveyances, public amusements and places of public accommodation pursuant to M.G.L. c. 272, sec. 98A.

(bc) Any person violating the provisions of subsection (a) of this section shall be fined in accordance with M.G.L. c. 140, § 173A.

###

Chapter 19. Secondhand Goods

Sec. 19-53. Articles not to be sold until four months after purchase or receipt thereof.

So as to be consistent with M.G.L. c. 140, § 71, restrict the four-month language to nonperishable goods and insert the 30-day perishable goods rule found in such statute. N.B. One could conclude that the perishable goods rule is obsolete, as no pawnbroker would ever take perishable goods in pawn or otherwise.

- Suggested Action: Amend as follows—

(a) No nonperishable item purchased or received by a person licensed under this article shall be sold until a period of at least four months from the date of the purchase or receipts of same shall have elapsed.

(b) No perishable item purchased or received by a person licensed under this article shall be sold until a period of at least one month from the date of the purchase or receipts of same shall have elapsed.

###

Chapter 21. Streets, Sidewalks and Other Public Places

Sec. 21-87. West Gloucester firing range.

Subsection (b) is based in part upon repealed M.G.L. c. 33, § 121, which statutes gave armed forces the right to use the range. Eliminate the reference to such statute and either delete the armed forces provision or retain the armed forces provision.

(b) Use of the range shall be limited to firearms training for active and retired members of the city police department (GPD) and any unit of the armed forces, which is permanently stationed in the city as required by M.G.L. c. 33, § 121.

- **Suggested Action: HOLD—NEED TO SPEAK TO POLICE CHIEF**

####

Chapter 22. Traffic and Vehicles

Sec. 22-1. Definitions.

In the definitions of official curb marking, official street marking, official traffic signals, official traffic signs, safety zone, and traffic control signal, change department of public works of the commonwealth to department of highways of the commonwealth.

- **Suggested Action: Amend as follows—**

Official street marking shall mean any painted line, legend, marking or marker of any description painted or placed upon any way which purports to direct or regulate traffic and which has been authorized by the city council and which has the written approval of the department of ~~public works~~highways of the commonwealth.

Official traffic signals shall mean all signals conforming to the standards as prescribed by the department of ~~public works~~highways of the commonwealth, not inconsistent with this chapter, placed or erected by authority of a public body or official having jurisdiction, for the purpose of directing or warning traffic.

Official traffic signs shall mean all signs, markings and devices, other than signals, not inconsistent with this chapter, and which conform to the standards prescribed by the department of ~~public works~~highways of the commonwealth, placed or erected by authority of a public body or official having jurisdiction, for the purpose of guiding, directing, warning, or regulating traffic.

...

Safety zone shall mean any area or space set aside within a roadway for the exclusive use of pedestrians and which has been indicated by signs, lines or markings, having the written approval of the department of ~~public works~~ highways of the commonwealth.

...

Traffic control signal shall mean any device using colored lights which conforms to the standards as prescribed by the department of ~~public works~~ highways of the commonwealth, whether manually, electrically or mechanically operated, by which traffic may be alternately directed to stop and to proceed.

###

Sec. 22-2. Accident reports.

Conform to M.G.L. c. 90, § 26 by changing \$500.00 to \$1,000.00.

- Suggested Action: Amend as follows—

Every person operating a motor vehicle which is in any manner involved in an accident in which any person is killed or injured or in which there is damage in excess of ~~\$500.00~~ 1000.00 to any one vehicle or other property shall within five days after such accident report in writing to the registrar of motor vehicles of the commonwealth on a form approved by him and send a copy thereof to the police department of the city. Such report shall not be required during the period of incapacity of any person who is physically incapable of making a report. If the operator is not the owner of the vehicle and is physically incapable of making such written report, the owner shall within five days after the accident make such report based on such knowledge as he may have and such information as he can obtain regarding the accident.

###

Article III. Operation of Vehicles Division 1. Generally

Sec. 22-56. Identification of funeral processions.

Delete as superseded by M.G.L. c. 85, § 14A.

- Suggested Action: Strike the following—

~~A funeral composed entirely or partly of a procession of vehicles shall be identified as such by means of black pennants bearing a purple symbol attached to both the first and last vehicles.~~

###

Sec. 22-57. Rights and duties of drivers in funeral or other processions.

Delete as superseded by M.G.L. c. 85, § 14A.

- Suggested Action: Strike the following—

Strike the following:

~~(a) It shall be the duty of each driver 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.~~

~~(b) At an intersection where a traffic control signal is operating, the driver of the first vehicle in a funeral or other procession shall be the only one required to stop for a red, or red and yellow indication.~~

~~(c) At an intersection where a lawful stop sign exists, the driver of the first vehicle in a funeral or other procession shall be the only one required to stop before proceeding through the intersection.~~

###

Sec. 22-58. Duty of drivers when meeting other vehicles.

Change department of public works of the commonwealth to department of highways of the commonwealth. See M.G.L. c. 89, § 1.

- Suggested Action: Amend as follows—

(a) When persons traveling with vehicles meet on a way, each shall reasonably drive his vehicle to the right of the middle of the traveled part of such way, so that the vehicles may pass without interference, except where the department of ~~public works~~highways of the commonwealth or the ~~department of public works of the city~~ has modified the way by pavement markings thereon. All such markings shall be in accordance with accepted standards of engineering practice, as provided in M.G.L. c. 85, § 2.

###

Sec. 22-59. Driving vehicles in a single lane; motorcycles, riding and passing.

Conform to M.G.L. c. 89, § 4A.

- Suggested Action: Amend as follows—

When any way has been divided into lanes, the driver of a vehicle shall so drive that the vehicle shall be entirely within a single lane, and he shall not move from the lane in which he is driving

until he has first ascertained if such movement can be made with safety. ~~The operators of motorcycles shall ride no more than two abreast, and shall ride single file when passing. The~~ operators of motorcycles shall not ride abreast of more than one other motorcycle, shall ride single file when passing, and shall not pass any other motor vehicle within the same lane, except another motorcycle.

###

Sec. 22-60. Driving in lane nearest the right side of the way.

Conform to M.G.L. c. 89, § 4B.

- Suggested Action: Amend as follows—

Upon all ways, the driver of a vehicle shall drive in the lane nearest the right side of the way when such lane is available for travel, except when overtaking another vehicle or when preparing for a left turn. When the right lane has been constructed or designated for purposes other than ordinary travel, a driver shall drive his vehicle in the lane adjacent to the right lane except when overtaking another vehicle or when preparing for a left or right turn; provided, however, that a driver may drive his vehicle in such right lane if signs have been erected by the department of highways permitting the use of such lane.

###

Sec. 22-61. Keeping to right while view obstructed.

Conform to M.G.L. c. 89, § 4.

- Suggested Action: Amend as follows—

(a) Whenever on any way, public or private, there is not an unobstructed view of the road for at least 400 feet, the driver of every vehicle shall keep his vehicle on the right of the middle of the traveled part of the way, whenever it is safe and practicable so to do, except where the department of ~~public workshighways~~ highways of the commonwealth or the department of public works of the city has altered the way by the use of restrictive pavement markings in areas of limited sight distance, at intersections and at obstructions ~~therein~~ in the way; provided, however, that such markings shall be in accordance with accepted standards of engineering practice.

(b) Notwithstanding provisions of subsection (a) of this section, every driver of a slow moving vehicle, while ascending a grade shall reasonably keep his vehicle in the extreme righthand land until the top of such grade has been reached.

###

Sec. 22-64. Overtaking vehicles traveling in same direction.

Conform to M.G.L. c. 89, § 2.

- Suggested Action: Amend as follows—

(a) Except as otherwise provided in this section the driver of a vehicle passing another vehicle traveling in the same direction shall drive a safe distance to the left of such other vehicle and shall not return to the right until safely clear of the overtaken vehicle; and, if the way is of sufficient width for the two vehicles to pass, the driver of the leading one shall not unnecessarily obstruct the other.

(b) If it is not possible to overtake a bicycle or other vehicle at a safe distance in the same lane. the overtaking vehicle shall use all or part of the adjacent lane if it is safe to do so or wait for a safe opportunity to overtake.

(c) Except when overtaking and passing on the right is permitted, the driver of an overtaken vehicle shall give way to the right in favor of the overtaking vehicle on audible visible signal and shall not increase the speed of his vehicle until completely passed by the overtaking vehicle.

(bd) The driver of a vehicle may, if the roadway is free from obstruction and of sufficient width for two or more lines of moving vehicles, overtake and pass upon the right of another vehicle when the vehicle overtaken is making or about to make a left turn, upon a one-way street, or upon any roadway on which traffic is restricted to one direction of movement.

###

Sec. 22-90. Stopping and yielding at intersections.

Add the fifth paragraph of M.G.L. c. 89, § 9.

- Suggested Action: Amend as follows—

(a) Except when directed to proceed by a police officer, every driver of a vehicle approaching a stop sign or a flashing red signal indication shall stop at a clearly marked stop line, but if none, before entering the crosswalk on the near side of the intersection, or, if none, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway before entering it. After having stopped, the driver shall yield the right-of-way to any vehicle in the intersection or approaching on another roadway so closely as to constitute an immediate hazard during the time when such driver is moving across or within the intersection or junction of roadways.

(b) The driver of a vehicle approaching a yield sign shall in obedience to such sign slow down to a speed reasonable for the existing conditions and, if required for safety to stop, shall stop at a clearly marked stop line, but if none, before entering the crosswalk on the near side of the intersection, or, if none, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway before entering it. After slowing or

stopping, the driver shall yield the right-of-way to any vehicle in the intersection or approaching on another roadway so closely as to constitute an immediate hazard during the time such driver is moving across or within the intersection or junction of roadways; provided, however, that if such a driver is involved in a collision with a vehicle in the intersection or junction of roadways, after driving past a yield sign without stopping, any such collision shall be deemed prima facie evidence of his failure to yield the right-of-way.

(c) The driver of a motor vehicle shall not cross or enter an intersection, which it is unable to proceed through, without stopping and thereby blocking vehicles from travelling in a free direction. A green light is no defense to blocking the intersection. The driver must wait another cycle of the signal light, if necessary.

###

Sec. 22-92. Right-of-way at intersecting ways; turning on red signals.

Alter to be consistent with M.G.L. c. 89, § 8 by changing department of public works to department of highways.

- Suggested Action: Amend as follows—

(a) When two vehicles approach or enter an intersection of any ways, as defined in M.G.L. c. 90, § 1, at approximately the same instant, the operator of the vehicle on the left shall yield the right-of-way to the vehicle on the right. Any operator intending to turn left, in an intersection, across the path or lane of vehicles approaching from the opposite direction shall, before turning, yield the right-of-way until such time as the left turn can be made with reasonable safety. Any operator of a vehicle entering a rotary intersection shall yield the right-of-way to any vehicle already in the intersection. The foregoing provisions of this section shall not apply when an operator is otherwise directed by a police officer, or by a lawful traffic regulating sign, device or signal maintained by or with the written approval of the department of ~~public works~~highways of the commonwealth or the department of public works of the city and while such approval is in effect or otherwise lawfully maintained.

###

Sec. 22-93. Marked crosswalks; yielding right-of-way to pedestrians.

Conform to M.G.L. c. 89, § 11.

- Suggested Action: Amend as follows—

(a) When traffic control signals are not in place or not in operation the driver of a vehicle shall yield the right-of-way, slowing down or stopping if need be so to yield, to a pedestrian crossing the roadway within a crosswalk marked in accordance with standards established by the department of ~~public works~~highways of the commonwealth if the pedestrian is on that half of the

traveled part of the way on which the vehicle is traveling or if the pedestrian approaches from the opposite half of the traveled part of the way to within ~~five~~ten feet of that half of the traveled part of the way on which such vehicle is traveling.

(b) No driver of a vehicle shall pass any other vehicle which has stopped at a marked crosswalk to permit a pedestrian to cross, nor shall any such operator enter a marked crosswalk while a pedestrian is crossing or until there is a sufficient space beyond the crosswalk to accommodate the vehicle he is operating, notwithstanding that a traffic control signal may indicate that vehicles may proceed.

(c) Whenever a pedestrian is injured by a motor vehicle in a marked crosswalk, the department of state police or the municipal police department with jurisdiction of the street, in consultation with department of state police if deemed appropriate, shall conduct an investigation into the cause of the injury and any violation of this section or other law or ordinance and shall issue the appropriate civil or criminal citation or file an application for the appropriate criminal complaint, if any. This section shall not limit the ability of a district attorney or the attorney general to seek an indictment in connection with the operation of a motor vehicle which causes injury or death and which violates this section.

###

Sec. 22-94. Duty of drivers and pedestrians approaching pedestrian carrying white cane; penalty.

Delete subsection (b) as apparently obsolete.

- Suggested Action: Amend as follows—

~~(a)~~ Whenever a totally or partially blind pedestrian, guided by a guide dog or carrying in a raised or extended position a cane or walking stick which is white in color or white tipped with red, crosses or attempts to cross a way, the driver of every vehicle approaching the place where any such pedestrian is crossing or attempting to cross shall bring his vehicle to a full stop, and before proceeding shall take such precautions as may be necessary to avoid injuring the pedestrian. Nothing contained in this subsection shall be construed to deprive any totally or partially blind person, not carrying such a cane or walking stick or not being guided by a dog, of the rights and privileges conferred by law upon pedestrians crossing ways, nor shall the failure of such blind person to carry a cane or walking stick or to be guided by a guide dog while on the ways of the city be held to constitute or be evidence of contributory negligence.

~~(b) Any pedestrian who is not wholly or partially blind, who approaches or comes in contact with a person wholly or partially blind, guided by a guide dog or carrying in a raised or extended position a cane or walking stick white in color, or white with red end, shall immediately come to a full stop and take such precautions before proceeding as may be necessary to avoid accident or injury to the person so carrying such cane or walking stick.~~

###

Sec. 22-96. Restrictions on use of ways upon approach of fire apparatus; crossing fire hoses.

Conform to M.G.L. c. 89, § 7A.

- Suggested Action: Amend as follows—

Sec. 22-96. - Restrictions on use of ways upon approach of ~~fire apparatus~~emergency vehicles; crossing fire hoses.

(a) Upon the approach of any fire apparatus, police vehicle, ambulance or disaster vehicle which is going to a fire or responding to a call, an alarm, or emergency situation, every person driving a vehicle on a way shall immediately drive his vehicle as far as possible toward the right-hand curb or side of the way and shall keep the same at a standstill until such fire apparatus, police vehicle, ambulance or disaster vehicle has passed.

(b) No person shall drive a vehicle within 300 feet of any fire apparatus going to a fire or responding to an alarm, nor drive his vehicle, or park or leave the same unattended, within 800 feet of a fire or within the fire lanes established by the fire department, or upon or beside any traveled way, whether public or private, leading to the scene of a fire, in such a manner as to obstruct the approach to the fire of any fire apparatus or any ambulance, safety or police vehicle, or of any vehicle bearing an official fire or police department designation.

(c) Authorized police or fire department personnel may tow a vehicle found to be in violation of the provisions of this section or which is illegally parked or standing in a fire lane as established by the fire department, whether or not a fire is in progress, and such personnel shall not be subject to the provisions of section one hundred and twenty D of chapter two hundred and sixty-six of the Massachusetts General Laws.

(d) No person shall operate a motor vehicle behind any such fire apparatus, ambulance, safety or police vehicle, or any vehicle bearing an official fire or police department designation which is operating with emergency systems on, for a distance of three hundred feet.

(ee) No person shall drive a vehicle over a hose of the fire department without the consent of a member of the department.

###

Chapter 23. Utilities

Article II. Sewers

Sec. 23-19. Charges for use of common sewers.

As M.G.L. c. 83, § 16 vests the powers to establish sewer charges in the aldermen, alter so the charges established by the director of public works must be approved by the council.

- Suggested Action: Amend as follows—

(a) Every person who enters his particular sewer, directly or indirectly, into a common sewer laid out by the department of public works shall pay an annual charge established by the city council for the use of the common sewers, under the provisions of M.G.L. c. 83, § 16. Such charges shall be based on rates established by the director of public works, and the charges on each person in accordance with the rate so established shall be ascertained, assessed, certified and committed to the city treasurer by the director of public works.

(b) Commercial users of the city sewer system using in excess of 1,000,000 gallons of water annually are assessed in addition to the charges under subsection (a) of this section the sum of \$100.00 for each 1,000,000 gallons of water used annually.