

City of Northampton
MASSACHUSETTS

In the Year Two Thousand Fourteen

Upon the Recommendation of Mayor David J. Narkewicz

ORDINANCE

An Ordinance of the City of Northampton, Massachusetts, providing that the Code of Ordinances, City of Northampton, Massachusetts, be amended by revising section 285 of said code; providing that *Streets, Sidewalks, and Public Property*

Be it ordained by the City Council of the City of Northampton, in City Council assembled, as follows: That section 285 of the Code of Ordinances of the City of Northampton, Massachusetts, be amended so that such section shall read as follows:

SECTION 285 - Amend as follows:

~~§ 285-2. Referral of certain matters to Board of Public Works by Mayor and Council.~~

~~The Mayor and the City Council may, from time to time, as they may deem best, refer to the Board of Public Works any matter relating to streets, sidewalks, bridges, sewers and drains, parks, squares, watercourses, property used as landfill or transfer station(s) and public places, and thereupon it shall become the duty of such Board, without delay, to consider the matter so referred and make report thereon.~~

§ 285-4. Permit to display merchandise on streets required; mobile food vehicles

A.

No person, other than one employed directly or indirectly by the City or by the commonwealth and while in the performance of necessary public duties, shall at any time place or leave in any street, sidewalk or highway any article, material or merchandise, or park a vehicle or cart in any sidewalk, street or highway, for the purpose of displaying merchandise unless a permit issued by the ~~Board~~ **Department** of Public Works, in the case of City ways, or by the ~~Department of Public Works of the commonwealth~~ **Massachusetts Department of Transportation (MassDOT)** in the case of state highways, authorizing the use of the sidewalk, street or highway has been granted and is in effect, except as may be necessary for the reasonable and expeditious loading or unloading of any such article, material, merchandise, cart or vehicle; provided, however, that such property shall never be left so as to obstruct the free passage of pedestrians or vehicular travel. Any such fixture, structure or property as referred to in this section which has been erected, placed or left illegally in any street, highway or sidewalk may be moved by or under the direction of an officer and at the owner's expense.

B.

The ~~board~~ **department** or officer issuing permits for such use of sidewalks, streets or highways as is described in this section may in its or his discretion, when the occasion justifies, demand a suitable cash deposit, surety bond or insurance indemnity policy to save the City or the commonwealth harmless from all liability of any nature whatsoever caused directly or indirectly by such use of the sidewalk, street or highway.

§ 285-9. Permit required for structures on streets and sidewalks.

A.

No person shall place, erect or cause to be placed or erected within any sidewalk or street any fixture or structure unless a permit, issued by the ~~Board~~ **Department** of Public Works in the case of the City ways or by ~~the Department of Public Works of the Commonwealth of Massachusetts~~ **Massachusetts Department of Transportation (MassDOT)** in the case of state highways, authorizing such placing or erection, has been granted and is in effect. Any fixture, structure or property in violation of this section may be moved by or under the direction of an officer and at the owner's expense.

~~§ 285-10. Lowering merchandise over streets from buildings.~~

~~No person shall raise into or lower any article of merchandise to or from the second or a higher story of a building over any portion of a street without a license from the Board of Public Works.~~

§ 285-15. Unauthorized erecting or moving posts prohibited.

No person shall erect or move any post, pole or other structure in any street except by consent of the ~~Board~~ **Department** of Public Works.

§ 285-16. Ascertaining boundaries required prior to erecting fences or buildings.

No person shall erect or cause to be erected any fence or building adjoining any street or public ground in the City, without first having ascertained the bounds of the same by application to the ~~Board~~ **Department** of Public Works.

§ 285-17. Snow and ice on sidewalks; removal by owner or occupant required; removal by City

D.

If in the opinion of the ~~City Engineer~~ **Director of Public Works or his/her designee**, a violation of Subsection A or B constitutes a hazard to persons using such sidewalks or street, the ~~City Engineer~~ **Director of Public Works or his/her designee** shall cause the snow or ice to be removed, and the violator shall be liable for the cost incurred by the City. Any action taken by the City under this subsection shall not absolve the individual responsible for the clearing of a sidewalk from the provisions of Subsection C.

§ 285-19. Unauthorized digging up or injury to vegetation on public property prohibited

No person shall dig up, cut down, climb, pull, cut, deface, injure or destroy any tree, shrub, vine or plant in any street, way or public ground of the City without the consent of the ~~Board~~ **Department** of Public Works, or the persons having such ground in charge.

§ 285-20. Destruction of public property prohibited.

A.

No person shall intentionally injure, mar, deface, remove, cut, paint, mark, place graffiti upon, or destroy any public property, including but not limited to walls, fences, signboards, awnings, guide posts, street signs, streetlights, utility poles, trash receptacles, traffic control devices, culverts, bridges, park benches, playground equipment, trees, shrubs, plantings, and art work in any street, public square, park, playground, parking area, or other area owned or controlled by a department or agency of the City of Northampton, ~~the Hampshire County Commissioners, or the Commonwealth of Massachusetts.~~

B.

No person shall intentionally injure, mar, deface, remove, cut, paint, mark, place graffiti upon, or destroy any public building owned or controlled by a department or agency of the City of Northampton, ~~the Hampshire County Commissioners, or the Commonwealth of Massachusetts.~~

C.

Violations of this section shall be punished by a fine of \$100 for the first offense and \$300 for the second and all subsequent offenses. Violations may also be processed under the noncriminal violation procedure under Chapter 40 of the Code of Ordinances.

§ 285-21. Permit required to dig up or obstruct streets or sidewalks

A.

No person shall break or dig up any street or sidewalk, or erect any staging for building or place or deposit any stone, bricks, timber or other building materials thereon without obtaining a written permit from the ~~Board~~ **Department** of Public Works, and complying in all respects with the conditions of such permit.

B.

The ~~Board~~ **Department** of Public Works may grant a permit in writing to any person for the purpose of building or other lawful purpose, to dig up, obstruct or encumber so much and such parts of any street or sidewalk as may be needed, and every person receiving such permit shall execute a written agreement, with a bond if required, to indemnify and save harmless the City against all damage or cost from reason of any claim for damages or any process, civil or criminal, on account of the existence of such obstruction, encumbrance or excavation, or any injury to any person occasioned thereby, and no person shall dig up, obstruct or encumber any portion of any street, except in accordance with such permit, which shall be exhibited to any police officer upon the request so to do.

§ 285-22. Safety requirements for excavations or encumbrances; restoration of street

Whenever any street or sidewalk, under any license granted as provided in § 285-21, is dug up, obstructed, encumbered or otherwise rendered unsafe or inconvenient for travelers, the person so licensed shall put up and at all times keep a suitable railing or fence around the section or part of any such street or sidewalk so dug up, obstructed or encumbered, so long as the same remains unsafe or inconvenient, and shall also keep one or more lighted lanterns fixed to such fence, or in some other proper manner, every night, from twilight in the evening and through the night, so long as such railing or fence is keep standing. He shall also, within such reasonable time as the **Board Department** of Public Works shall direct, restore and repair such street to the acceptance of the **Board Department** of Public Works.

§ 285-25. License required for openings associated with basements.

No person shall make, erect or maintain doorsteps, a portico, porch, entrance or passageway to any cellar or basement or any structure, or make a coal hole or other opening in or upon any street, without a license from the **Board Department** of Public Works. In all cases the limit for such structure or opening shall be 3 1/2 feet from the street line. No person shall suffer the platform or grate of the entrance or passageway to his cellar or basement in any street to rise above the even surface of any street, and every such entrance or passageway shall be kept covered by suitable and substantial platform or grate, or in case it is kept open, it shall be guarded and protected by a sufficient railing on both sides thereof, at least 2 1/2 feet high and well lighted at night.

§ 285-27. Wide vehicles on public streets

No person shall drive or convey through the public streets any vehicle the width of which, with its load, exceeds 10 feet, except in accordance with a license from the **Board Department** of Public Works.

§ 285-28. Moving buildings through streets.

A.

No person shall move or assist in moving any building through or upon any street unless a written license therefor has been first obtained from the **Board Department** of Public Works, specifying the terms and conditions on which removal may be made.

B.

No person thus licensed shall act under his license until he has filed with the **Board Department** of Public Works a bond of guaranty with, if required, a sufficient surety and satisfactory in amount, to indemnify the City from all loss and damage by reason of such removal.

§ 285-29. Obstructions to sidewalks

No person shall allow an obstruction to a sidewalk, or to the edge of road pavement or shoulder where a sidewalk does not exist, including any obstruction in the form of a tree, bush or other vegetation which protrudes over said sidewalk or edge of a road pavement or shoulder. Where the **Board Department** of Public Works deems that an obstruction to a sidewalk or to the edge of a road pavement or shoulder exists, it shall give notice by registered mail to the owner of the property causing the obstruction, to remove or prune said obstruction within 14 days so as not to block, obstruct or overhang the sidewalk or edge of the road pavement or shoulder. If the property owner fails to remove or prune the obstruction within the said 14 days, the Department

of Public Works or, in the case of trees, bushes or shrubs, the Tree Warden shall remove or prune the obstruction at the owner's expense.

§ 285-30. Permit required to make curb cuts and construct driveways

A.

No person shall make a curb cut or construct a driveway unless a permit is issued by the ~~Board~~ **Department of Public Works** in the case of City ways or by the ~~Department of Public Works of the Commonwealth of Massachusetts~~ **Massachusetts Department of Transportation (MassDOT)** in the case of state highway layouts.

B.

The ~~Board~~ **Department of Public Works** in the case of City ways shall establish rules and regulations for the construction of curb cuts and driveways in order to prevent siltation, washing of gravel and debris into the roadway and obstruction of storm drainage within the street layouts. Provision shall be made for traffic and pedestrian safety in granting said permit.

Article II. Laying Out, Altering and Discontinuing

§ 285-32. Referral of petition to ~~Board of~~ **Public Works Commission** and Planning Board

The City Council shall act first on the petition, and if it deems it best that a view or hearing shall be had thereon, it shall refer it immediately to the ~~Board of~~ **Public Works Commission** and to the Planning Board. No public way shall be laid out, altered, relocated or discontinued until the Planning Board has reported on the proposed laying out, alteration, relocation or discontinuance to the City Council or has allowed 45 days to elapse after such reference without submitting its report.

§ 285-33. ~~Board~~ **Public Works Commission** to view premises and hear parties after notice

A.

Upon referral of any petition mentioned in §§ 285-31 and 285-32 to the ~~Board of~~ **Public Works Commission** by the City Council, such ~~Board~~ **Commission** shall hold a public hearing and shall view the premises and hear all parties interested therein, having first given notice of the view and hearing by causing a copy of said notice to be mailed by certified mail, at least seven days before the time fixed for such view and hearing, to each of the owners of the land abutting upon such existing or proposed street and the owners of land upon which such new street is proposed to be laid, or by mailing by certified mail to the last and usual place of abode of each such owner. All notices mentioned in this section shall contain a copy of the petition and a copy of the public hearing notice.

~~B.~~

~~The Board of Public Works, through its agents or employees, shall have the right, at its option, to deliver said notice by leaving said notice at the affected premises, instead of delivery by certified mail.~~

~~C.~~

~~All notices mentioned in this section shall contain a copy of the petition, or the substance thereof, and the order of such Board thereon, and such view and hearing may be adjourned from time to time, and from place to place, at the discretion of such Board.~~

§ 285-34. Report by ~~Board~~ **Public Works Commission** to City Council.

After viewing the premises and hearing all parties who may desire to be heard, as provided for in the preceding section, the **Public Works Commission**, ~~Board of Public Works~~ shall report to the City Council whether in its opinion common convenience and necessity require the street to be laid out, altered, widened, discontinued, located anew or the grade thereof changed.

§ 285-35. Preparation of plan and description upon approval.

If the ~~Board~~ **Public Works Commission**, ~~decides~~ **recommends** in favor, in whole or in part, of such laying out, altering, widening, changing of grade, locating anew or discontinuing of a street or way as hereinbefore provided, ~~they~~ **the Department of Public Works** shall, as soon as may be, cause to be prepared a plan and description of such proposed laying out, altering, widening, changing grade, locating anew or discontinuance.

§ 285-36. ~~Board~~ **Department** to estimate expenses and damages

Except in case of discontinuance, if the ~~Board of Public Works~~ **Commission**, ~~is~~ **recommends** in favor of the proposal, ~~it~~ **the Department of Public Works** shall estimate the probable expense of fitting the same for travel, ~~and at the same time~~. If, in the opinion of the ~~Board~~ **Department**, damages would be sustained by any person in their property by reason of such laying out, altering, widening, change of grade, locating anew or discontinuing of any street they shall estimate the amount thereof, and so far as practicable, the share of each separately, damage for all land and buildings to be estimated with reference to their value before the laying out, altering, widening, locating anew or discontinuing of the street, ~~and~~ Such estimate shall not include any increased value occasioned merely by such laying out, altering, widening, change of grade, locating anew or discontinuance, and all such estimates shall be submitted with their report to the City Council.

§ 285-37. Hearing on damages

Before proceeding to estimate the damages as aforesaid, the ~~Board~~ **Public Works Commission**, shall give to all parties interested an opportunity to be heard thereon, by causing notice of the time and place of hearing to be served in the manner provided in § 285-33, except that the notices need not contain a copy of the petition or substance thereof as required by § 285-33.

§ 285-38. Hearing before City Council

At any time after notice of a hearing has been given by the ~~Board~~ **Public Works Commission** under § 285-33, and before final action by the City Council upon its report, any party interested may apply in writing to the City Council, asking for a hearing before it upon the petition, or upon the subject of damages, or upon anything contained in said report, and thereupon shall be heard thereon by the City Council at a time and place which it shall appoint, and of which the applicant shall have due notice. Any hearing appointed under this section shall be open to all interested parties who appear and desire to be heard.

~~§ 285-39. Attendance by Board at Council meeting when reports under discussion.~~

~~Any member of the Board may attend any meeting of the Mayor and the City Council while its reports are under discussion and may make such explanations and oral statements of facts regarding them as he thinks fit.~~

~~§ 285-40. Action by Mayor and City Council.~~

~~Action in the City Council upon the report of the Board of Public Works shall be by an order in the premises duly passed by the City Council and approved by the Mayor.~~

§ 285-41. Referral of petition relating to betterments and assessments to ~~Board~~ **the Public Works Commission**

All orders or petitions relating to the assessments of betterments by reason of the laying out of a new street, or any alteration, change of grade, location anew or discontinuance of an existing street shall, at some time before final action is had thereon, be referred to the ~~Board of Public Works~~ **Commission**, which shall consider the same, either with or without a hearing, and make report thereon to the Mayor and City Council of the betterments to be assessed.

§ 285-43. ~~Board of Public Works~~ **Commission** to state whether assessments shall be made; notification of completion of work.

It shall be the duty of the ~~Board of Public Works~~ **Commission** in reporting ~~reporting~~ **recommending** on all matters relating to the laying out, altering, widening, discontinuing, change of grade or repairing the streets of the City, ~~in accordance with the provisions of Section 3 of Chapter 63, Acts of 1921, establishing such Board, to state in~~ **make such report recommendation** whether ~~in the opinion of said Board~~ betterments should be assessed upon property legally subject to such assessments, and thereafter to notify the City Council of the completion of any work upon which the assessment of betterments has been recommended and of the betterments assessed ~~by said Board.~~

§ 285-44. Submission of lists and recommendations by ~~Board~~ **Department** of Public Works.

The ~~Board of Public Works~~ **Commission** shall, in submitting ~~reports~~ **recommendations** for ~~reports~~ **recommending** assessments of betterments, submit with such recommendation lists of such assessment as in their opinion should be made, together with information as to what agreements may be made by the City Council for the assumption of betterments under the laws of the commonwealth.^[1]

§ 285-45. Referral to ~~Board of Public Works~~ **Commission** required.

No sidewalk, with or without curbing, shall be laid out, established or altered unless the question of laying out, establishing or altering shall have been first referred to the ~~Board of Public Works~~ **Commission** by the City Council.

§ 285-46. Notice of hearing on establishing or altering sidewalks.

The ~~Board of Public Works~~ **Commission**, shall, as soon as may be, cause a notice of the time and place of the hearing of all parties interested therein to be given to the several owners of land in front of which such sidewalk is proposed to be laid out, established or altered, by the

Chief of Police, Deputy Chief of Police or any regular police officer, Constable or special police officer, designated as provided in § 285-33. Such notice shall be served seven days at least before the time of such hearing upon each owner by delivering to him or to his authorized agent an attested copy thereof or by leaving such copy at his last and usual place of abode in the City; provided, however, that if any owner shall not be found by such officer in the City, or be known to such officer to have any last and usual place of abode or authorized agent therein, then and in such case, such officer shall post such copy on or near the land in front of which such sidewalk is proposed to be laid out, established or altered seven days at least before the time of such hearing, and such posting shall be sufficient service upon such last-described owner; and such officer shall, before the time appointed for the hearing, make a return on the original notice of his doings thereon, and deliver the same to the ~~Board of Public Works~~ **Commission**, who shall transmit same to the City Council with ~~their~~ **its recommendation report**.

§ 285-47. Hearing; view of premises; report to Council.

At the time and place appointed as aforesaid, the ~~Board of Public Works~~ **Commission**, shall meet and hear all persons and parties interested claiming to be heard and, if deemed necessary or requested thereto, shall proceed to view the premises; and the ~~Board~~ **Commission** shall thereafter ~~report~~ **recommend** to the City Council whether common convenience and necessity require that a sidewalk be laid out, established or altered.

§ 285-48. Plans and profiles of sidewalks.

If the ~~Board of Public Works~~ **Commission**, ~~reports~~ **recommends** in favor thereof, in whole or in part, ~~they the~~ **Department of Public Works** shall cause all necessary surveys, plans and profiles to be made, indicating the height, width and grade of the proposed sidewalk, and the materials of which it shall be constructed.

§ 285-49. Report to show time of completion.

If the ~~Board of Public Works~~ **Commission** deems it proper that the construction, as well as the laying out of the proposed sidewalk, should be ordered, its report shall also state the time within which the same shall be completed, which time shall be at least 30 days.

~~§ 285-50. Notice of sidewalk construction to abutting owners.~~

~~When the City Council has ordered a sidewalk to be constructed and completed within a certain time, notice thereof shall be given by the City Clerk to the owners of land in front of which such sidewalk is proposed to be constructed, and such notice shall be served, returned, filed and preserved in the office of the City Clerk for future reference.~~

~~§ 285-51. Construction of sidewalk by City if owner fails to complete required work.~~

~~Whenever any sidewalk, or any portion thereof, which has been laid out, established and ordered by the City Council to be constructed, after notice to owners of real estate, as is provided in the preceding section, shall not be completed within the time fixed in the order aforesaid, the ~~Board~~ **Department** of Public Works shall within six years from the date of the order cause such sidewalk to be constructed according to the original order.~~

~~§ 285-52. Assessment for construction expense to become lien.~~

~~A reasonable amount, not exceeding 1/2 of the expense of construction, shall be assessed by the Board **Department** of Public Works upon the persons owning the lands in front of which the sidewalk is constructed; and the sums so assessed shall be a lien upon such lands for the terms of two years from the assessment. The Board **Department** of Public Works shall certify such assessment to the Assessor of Taxes who shall forthwith commit such assessment to the Collector of Taxes, and he shall forthwith demand payment thereof, and proceed to collect the same as provided for the collection of taxes or other claims due the City.~~