

Chapter 13 OFFENSES AND MISCELLANEOUS PROVISIONS

Section 13-1. Public consumption of alcoholic beverages.

- (a) No person shall drink or possess in any open or partially consumed container any alcoholic beverage as defined in chapter 138, section 1, of the General Laws including possession of any empty or partial container of alcoholic beverages that is open, and in the possession or control of such person while on, in or upon any public way or upon any way to which the public has a right of access, or any place to which members of the public have access as invitees or licensees, park or playground, or private land or place without consent of the owner or person in control thereof. A police officer may arrest, without a warrant, any person who in his presence violates this section.
- (b) All alcoholic beverages being used in violation of this section shall be seized and safely held until final adjudication of the charge against the person arrested or summoned before the court, at which time they shall be returned to the person entitled to lawful possession.
- (c) No person shall serve or consume any alcoholic beverages on city owned property or within city owned buildings. No person shall serve or consume any alcoholic beverages at any event or function, be that event or function public or private, held on city owned property or within city owned buildings.
 - (1) The city council, by majority vote, may, upon written application to the City Clerk, permit and issue a license for the public sale, use and/or possession of beer and wine and the consumption thereof for city sponsored functions in on city owned property or within city owned buildings and may impose such conditions on said use and/or possession as it deems appropriate.
(A0173-12)
 - (2) Applications for special licenses shall only be approved if the city council finds that in its judgment all the following general rules are complied with: The particular site is an appropriate location for such a condition, the use will not adversely affect the neighborhood, there will be no nuisance or serious hazard to vehicles or pedestrians.
(A0173-12)
 - (3) A special license granted under this section shall be for the date of the function only, and may be reviewable by the city council. The city council reserves the right to revoke a special license at any time for violations to the conditions of issuance or of any of the ordinances of the City of Everett or State or Federal Law. Any appeals to the actions of the city council shall be before and subject to the rules of the Board of Appeals.
(A0173-12)
 - (4) The special license, if permitted, shall be valid only upon the approval of a special liquor permit application from the Licensing Commission.

- (d) Whoever is found guilty of violating this section shall be subject to a fine in accordance with Section 1-8 of these Revised Ordinances of the City of Everett.

(Rev. Ords. 1976, Pt. 2, Ch. 13, § 13A) (Ord. of 9-27-82(1); Ord. of 9-27-82(2); Ord. of 6-25-90; Ord of 06-14-2004; A0027-10)

Section 13-1.1. Public consumption or use of marihuana or tetrahydrocannabinol

- a) No person shall consume or use marihuana, as defined in Chapter 94C, Section 1 of the General Laws on, in or upon any public way or upon any way to which the public has a right of access, or any place to which members of the public have access as invitees or licensees, including but not limited to, parks and or playgrounds. A police officer may arrest, without a warrant, any person who in his presence violates this section.
- b) All marihuana consumed or being used in violation of this section shall be seized and safely held until final adjudication of the charge against the person arrested or summoned before the court, at which time it shall be destroyed in accordance to M.G.L. c.94C, s47A.
- c) No person shall use or consume marihuana on city owned property or within city owned buildings to which the public has a right of access. No person shall use or consume any marihuana at any event or function, be that event or function public or private, held on city owned property or within city owned buildings.
- d) Any person who violates this section shall be punishable by a fine of three hundred dollars (\$300.00) for each such violation.
- e) Any person upon whom is imposed a fine pursuant to this ordinance shall have the right to appeal the imposition of such fine in a non-criminal proceeding by making a written request within 21 days to the Clerk Magistrate for the Malden District Court.
- f) The Everett Police Department shall be the enforcing authority of this section.
(A0004-09)

Section 13-2. Repairs, Restitution.

Whenever, without right, property is willfully destroyed or defaced, the responsible person or persons shall, in addition to being fined pursuant to M.G.L. c. 266:127, repair or replace such property unless otherwise ordered by the court. (Ord. of 2-28-94)

Section 13-3. Off-loading vehicles from carriers.

- (a) No person shall off-load new or used vehicles from a car or vehicle carrier except during the hours of 9:00 a.m. to 9:00 p.m.; no unloading on Sundays.
- (b) The chief of police may grant permission to unload in the prohibited hours and days in the event of an emergency. After three (3) such emergencies by the chief of police, he shall notify the committee on licenses of the city council.
(A0173-12)

- (c) For the purposes of this section, the words car or vehicle carrier shall include, but not be limited to, trucks and trailers. (Ord. of 12-14-87)

Cross reference(s)--Licenses and business regulations, Ch. 12; traffic and motor vehicles, Ch. 18.

Section 13-4. Use of playgrounds restricted.

- (a) No person shall be allowed to enter a playground without right or remain therein after having been forbidden to do so either directly or by posted notice.
- (b) A person may enter a playground, and conduct himself within a playground, in accordance with the rules and regulations of the playground commission; said playground hours shall be from 8:00 a.m. to 9:00 p.m., except when other hours have been authorized by the playground commission.
- (c) Any police officer may make arrests for violation of this section.
- (d) Any conviction for a violation of this section shall be subject to a fine in accordance with Section 1-8 of these Revised Ordinances of the City of Everett.

(Ord. of 10-24-77(1); Ord. of 4-8-2004)

Section 13-5. Prohibition against consumption of alcoholic beverages or drugs by minors on private property

- (a) Legislative Intent: It is the purpose of this section to protect the public interest, welfare, health and safety within the City of Everett by prohibiting the services to and consumption of alcoholic beverages and drugs by persons under the age of twenty-one (21) at private premises located within the City. The Everett City Council finds that the occurrence of social gatherings at private premises where alcoholic beverages or drugs are served to or consumed by persons under the age of twenty-one (21) is harmful to such persons themselves and a threat to public welfare, health and safety. The Everett City Council finds further that persons under the age of twenty-one (21) often obtain alcoholic beverages or drugs at such gatherings and that persons who rent, own or otherwise control the premises at which such service and/or consumption is occurring will be more likely to ensure that alcoholic beverages and drugs are neither served to nor consumed by persons under the age of twenty-one (21) at these gatherings.
- (b) Definitions: For purposes of this section, the following terms shall be defined as follows:

- (1) "Alcoholic beverage" means any liquor, wine, beer, spirits, cider or other liquid or solid, patented or not, composed of or containing alcohol or spirits, whether or not brewed, fermented or distilled, and capable of being consumed by a person.
- (2) "Control" means the authority and ability to regulate, direct, or dominate.
- (3) "Drug" means any substances recognized as drugs in the official United States Pharmacopoeia of the United States, or official National Formulary, or any supplement to any of them; or any substances intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or animals; or any substances, other than food, intended to affect the structure, or any function of the body of man and animals.
- (4) "Open House Party" means a social gathering at a residence or other private property with minors present.

- (5) "Person" means a human being, and where appropriate, a public or private corporation, an unincorporated association or a partnership.
 - (6) "Premises" means a home, yard, apartment, condominium, hotel or motel room, or other dwelling unit, or a hall or meeting room, whether occupied as a dwelling, party or other social function, and whether owned, leased, rented, or used with or without compensation. The term "premises" shall also include private functions held at public facilities within the City of Everett.
- (c) Prohibition: Any person who owns, rents or otherwise controls any premises shall be responsible when an open house party takes place at said residence where any alcoholic beverage or drug is being unlawfully possessed, served to or consumed by persons under the age of twenty-one (21) at these gatherings at said premises.
- (d) Exception: The provisions of this section shall not apply to:
- (1) The possession or consumption of a drug for which the individual has a current, valid prescription or as otherwise permitted by any other applicable law;
 - (2) The use of alcoholic beverages, which occurs exclusively between a person under the age of twenty-one (21) and his/her parent or legal guardian; and
 - (3) The practice of legally recognized religious observances.
- (e) Penalties: Failure to comply with subsection (c) above shall constitute a violation of this ordinance punishable by a fine as outlined below:
- (1) Fines.
 - a. A first violation of this ordinance shall be punishable by a warning, which shall be issued by the Chief of the Everett Police Department.
 - b. A second violation of this ordinance at the same premises or by the same person, within a twelve (12) month period shall be punishable by a fine of \$150.
 - c. A third or subsequent violation of this ordinance at the same premises or by the same person, within a twelve (12) month period shall be punishable by a fine of \$300.
 - d. The fine schedule prescribed at subsection (e) is based upon a "rolling schedule" meaning that in calculating the fine payable the Police Chief or City Solicitor shall count backward starting from the date of the most recent violation of this ordinance to determine how many previous violations of said ordinance have taken place at the premises or been committed by the same person during the statutory twelve (12) month period. A warning given pursuant to this ordinance shall remain in effect for the premises until a full twelve (12) month period has elapsed during which there has been no response to the premises.

(g) Appeal: Any person upon whom is imposed a fine/penalty pursuant to this ordinance shall have the right to appeal the imposition of such fine/penalty in a non-criminal proceeding by making a written request within 21 days to the Clerk Magistrate for the Malden District Court.

(h) Inconsistency with Other Laws:

(1) If any part or provision of this section is inconsistent with any federal or state statute, law, rule or regulation, then such statute, law, rule or regulation shall prevail.

(2) If any part or provision of this section or the applicability thereof to any person or circumstance be adjudged invalid by a court of competent jurisdiction, such judgment shall be confined in its operation to the part or provision of or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this section, or the application thereof to other persons or circumstances. (A0311-08)

Editor's note--Ord. of 8-26-96(1), deleted the provisions of former § 13-5, which pertained to disorderly conduct, as derived from Rev. Ords. 1976, Pt. 2, Ch. 11, § 4.

Section 13-6. Harassment.

- (a) It shall be unlawful for any person to knowingly and willfully engage in a course of conduct which seriously alarms, annoys or harasses another person and which serves no legitimate purpose.
- (b) The course of conduct must be such as would cause a reasonable person to suffer substantial emotional distress, and must actually cause the victim to suffer substantial emotional distress.
- (c) For purposes of this section, "course of conduct" means a pattern of conduct composed of a series of acts over a period of time, however short, evidencing a continuity of purpose.
- (d) Constitutionally protected speech is not included within the meaning of "course of conduct" for purposes of this section.
- (e) For purposes of this section, a victim shall not include a peace officer acting in his official capacity.
- (f) For purposes of a second or subsequent offense involving the same victim, a course of conduct need only consist of one (1) act that follows the same continuity of purpose established in the offense that is the basis of the first conviction.
- (g) Anyone convicted under this section is subject to the fine allowable under section 1-8. (Ord. of 10-24-77(2)(Ord of 04/08/2004)

Section 13-7. Disturbing the peace.

- (a) Notwithstanding any other provision of these Revised Ordinances or city ordinances to the contrary, it shall be unlawful for any person in the city to disturb the peace by causing or allowing to be made any unreasonable loud or excessive noise, including but not limited to such noise resulting from the operation of any radio, phonograph or sound reproducing device or instrument, or from the playing

of any band or orchestra, or from the use of any device to amplify such noise, or from the making of loud outcries, exclamations or loud singing or any other loud or excessive noise by any person or group of persons. Unreasonable, loud, or excessive noise shall be defined as noise measured in excess of 50dBa between the hours of 6:00 p.m. and 7:00 a.m. when measured not closer than the lot line. The term dBa shall mean the A-weighted sound level in decibels, as measured by a general purpose sound level meter complying with the provisions of the American National Standards Institute, Specifications for Sound Level Meters (ANSI sl 4 1971), properly calibrated, and operated on the "A" weighing network.

- (b) Any person aggrieved by such disturbance of the peace may complain to the police about such unreasonable loud or excessive noise. The police, in response to each complaint, shall verify by use of the sound level meter described in the preceding paragraph, that the noise complained of exceeds the 50dBa limit prescribed herein and if so, may thereupon arrest and/or make application in the appropriate court for issuance of a criminal complaint for violation of chapter 272, section 53, of the General Laws, which sets forth the penalties for disturbing the peace. (Ord. of 12-22-86)

Section 13-8. Missiles and weapons.

- (a) No person shall sell or expose for sale, use or cause to be used, arrows, snowballs or other similar missiles, any instrument or weapon of the kind usually known as an air rifle, air gun, spring gun, gas pellet gun, stench bombs, bean blower, switchblade knife, automatic knife, push button knife, snap knife, swing back knife or spring blade knife or a sling shot or any instrument or product designed to project a string or streamer of plastic material.
- (b) No person, except as provided by law, shall carry on his person, or carry on his person or under his control in a vehicle, including those weapons and instruments enumerated in Chapter 269 of the General Laws of Massachusetts, Section 10, paragraph (B), any saber, sword, or weapon of like or similar nature; any knife having any type of blade in excess of 2 and one-half (2½) inches in length, or other object or tool so redesigned, fashioned, prepared, or treated that the same may be used to inflict bodily harm or injury to another; provided that this section shall not apply to any person actually engaged in hunting, fishing, or fowling and carrying a valid license for said activity, or in traveling to or from such activities, or to persons whose employment requires the use of said instruments as described above.
- (c) Any person found in the act of violating this ordinance may be arrested, without a warrant by any officer authorized to serve criminal process, and shall be punished by a fine of not more than five hundred dollars (\$500.00) nor less than one hundred dollars (\$100.00) for each offense.

(Rev. Ords. 1976, Pt. 2, Ch. 11, § 12; Ord. of 3-27-89; Ord of 4-6-1998)

Section 13-9. Street games.

No person shall play ball, football, handball, basketball or any other game involving the use of a ball or hockey equipment except under the supervision of authorized city personnel on any public way, nor on any private way except with the written permission of the owners of the fee of such private way. (Rev. Ords. 1976, Pt. 2, Ch. 11, § 12A)

Section 13-10. Discharge of weapons.

No person shall fire or discharge a cannon, gun, fowling piece, air rifle or firearm within the limits of the city except at a military exercise authorized by the military authority of the Commonwealth or by the city council or mayor of the city; or in the lawful defense of the person or property of a citizen; or by a police officer in the lawful performance of his duty; provided, however, that this prohibition shall not apply to persons engaged in target shooting within the building of a gun club licensed to be used for such purpose.

(Rev. Ords. 1976, Pt. 2, Ch. 11, § 12B) State law reference(s)--Weapons, M.G.L.A. c. 269, §§ 10--12D.

Section 13-11. Peeping or spying.

No person shall enter upon the premises of another with the intention of spying or peeping upon any person therein; provided, however, that officers of the law may enter such premises in the performance of their duties. The penalty for violation of this section shall be a fine not exceeding twenty dollars (\$20.00). (Rev. Ords. 1976, Pt. 2, Ch. 11, § 15)

Section 13-12. Coasting.

No person shall coast on any public way not designated by the city council for coasting.

(Rev. Ords. 1976, Pt. 2, Ch. 17, § 35) (A0173-12)

Section 13-13. Control of pornography.

- (a) Every person who shall willfully or knowingly engage in the business of selling, lending, giving away, showing, advertising for sale or distributing to any person under the age of eighteen (18) years or has in his possession with intent to engage in such business or to otherwise offer for sale or commercial distribution to any individual under the age of eighteen (18) years or who shall display at newsstands or any other business establishment frequented by minors under the age of eighteen (18) years, or where such minors are or may be invited as a part of the general public any pornographic motion picture, or any still picture or photograph or any book, pocket book, pamphlet or magazine the cover or content of which exploits, is devoted to, or is principally made up of descriptions or depictions of illicit sex or sexual immorality or which is obscene, lewd, lascivious, or indecent, or which consists of pictures of nude or partially denuded figures posed or presented in a manner to provoke or arouse lust or passion or to exploit sex, lust or perversion for commercial gain or any article or instrument of indecent or immoral use shall be punished by a fine not exceeding fifty dollars (\$50.00) for each offense and to a like fine for each day's continuance of such violation.
- (b) The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:
 - (1) Description or depiction of illicit sex or sexual immorality shall mean:
 - a. Human genitals in a state of sexual stimulation or arousal.
 - b. Acts of human masturbation, sexual intercourse or sodomy.
 - c. Fondling or other erotic touching of human genitals, pubic region, buttock or female breast.

- (2) Knowingly shall mean having knowledge of the character and content of the publication or failure on notice to exercise reasonable inspection that would disclose the content and character of the same.
- (3) Nude or partially denuded figures shall mean:
 - a. Less than completely and opaquely covered human genitals, pubic regions, buttock, and female breast below a point immediately above the top of the areola; and
 - b. Human male genitals in a discernible turgid state, even if completely and opaquely covered. (Rev. Ords. 1976, Pt. 2, Ch. 11, § 17)

Section 13-14. Gypsy or Browntail moths, eggs, etc.

- (a) No person shall suppress, remove or destroy or undertake to suppress, remove or destroy in the city, except on premises owned by himself or his usual employer, the eggs, the pupae or nests of the Gypsy or Browntail moth without first obtaining a permit in writing so to do from the park commission of the city, or from some person authorized by such commission to grant such permit. The park commission may revoke any such permit at any time for cause.
- (b) No person shall intentionally bring into or carry through the city any eggs, pupae, nests or caterpillars of the Gypsy or Browntail moth or the moths.
- (c) No person shall carry the eggs, pupae, nests or caterpillars of the Gypsy or Browntail moth, nor the moths from place to place in the city, intentionally, unless the same are securely and safely confined and kept in a box, bag or other suitable receptacle while so carried.
- (d) All eggs, pupae and nests of the Gypsy and Browntail moths removed in the city by any person shall be destroyed by him by fire or otherwise within twenty-four (24) hours of such removal.

(Rev. Ords. 1976, Pt. 2, Ch. 11, §§ 7--10)

Section 13-15. Aggressive solicitation

(A0008-12)

(a) Definitions

The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them as listed below, except where the context clearly indicates a different meaning:

- (1) Aggressive manner: Defined as any of the following:
 - a. Approaching or speaking to a person, or following a person before, during or after soliciting, asking or begging, if that conduct is intended or is likely to cause a reasonable person to:
 - 1. Fear bodily harm to oneself or to another, or damage to or loss of property, or
 - 2. Otherwise be intimidated into giving money or other thing of value;

- b. Intentionally touching or causing physical contact with another person or an occupied vehicle without that person's consent in the course of soliciting, asking or begging;
 - c. 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;
 - d. Using violent or threatening gestures toward a person solicited either before, during, or after soliciting, asking or begging;
 - e. Persisting in closely following or approaching a person, after the person solicited has been solicited and informed the solicitor by words or conduct that such person does not want to be solicited or does not want to give money or any other thing of value to the solicitor; or
 - f. Using profane, offensive or abusive language which is inherently likely to provoke an immediate violent reaction, either before, during, or after solicitation.
- (2) Automated teller machine: 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/or mortgage and loan payments.
- (3) Automated teller machine facility: The area comprised of one or more automatic teller machines, and any adjacent space which is made available to banking customers after regular business hours.
- (4) Bank: Any business establishment authorized to perform one (1) or more of the following services:
- a. Receive and safeguard money and other valuables;
 - b. Lend money at an interest;
 - c. Execute bills of exchange, such as checks and drafts;
 - d. Purchase and exchange foreign currency; or
 - e. Issue notes of circulation or currency.
- (5) Check cashing business: Any person duly licensed by the superintendent of banks to engage in the business of cashing checks, drafts or money orders for consideration pursuant to the provisions of the banking laws.
- (6) Public area: An area to which the public or a substantial group of persons has access, and includes, but is not limited to, alleys, bridges, buildings, driveways, parking lots, parks, playgrounds, plazas, transportation facilities, school, place of amusement, sidewalks, median, streets, and rights-of-way open to the general public, and the doorways and entrances to buildings and dwellings, and the grounds enclosing them.
- (7) Solicit, ask or beg: To request, by the spoken, written, or printed word, or by other means of communication, an immediate donation or transfer of money or another thing of value from another person, regardless of the solicitor's

purpose or intended use of the money or other thing of value, and regardless of whether consideration is offered.

(b) Purpose

This section is intended to protect citizens from the fear and intimidation accompanying certain kinds of solicitation, and not to limit a constitutionally protected activity.

(c) Prohibited activities

It shall be unlawful for any person to solicit money or other things of value, or to solicit the sale of goods or services:

- (1) In an aggressive manner in a public area.
- (2) In any public transportation vehicle or passenger terminal for such vehicles.
- (3) Within thirty (30) feet of any entrance or exit of any bank or check cashing business or within thirty (30) feet of any automated teller machine during the hours of operation of such bank, automated teller machine or check cashing business without the consent of the owner or other person legally in possession of such facilities.
 - a. When an automated teller machine is located within an automated teller machine facility, such distance shall be measured from the entrance or exit of the automated teller machine facility.
- (4) On private property if the owner, tenant, or lawful occupant has asked the person not to solicit on the property, or has posted a sign clearly indicating that solicitations are not welcome on the property.
- (5) From any operator of a motor vehicle that is in traffic on a public street or stopped for a traffic control device or stop sign on a public street, regardless of whether in exchange for cleaning the vehicle's windows, or for blocking, occupying, or reserving a public parking space, or directing the occupant to a public parking space or even if no services are received in exchange for responding to the solicitation; provided, however, that this paragraph shall not apply to services rendered in connection with emergency repairs requested by the operator or passengers of such vehicle.
- (6) By standing on or going into any street or highway, including medians, on ramps and exit ramps.
- (7) From any person sitting in a parked motor vehicle.
- (8) From any person under the age of sixteen (16) years who is unaccompanied by an adult.

(d) Penalty

Any person violating the provisions of this section shall be punished by a fine in accordance with Section 1-8 of these Revised Ordinances.

(e) Construction of section

The procedure and authority granted by this section shall be in addition to and not in lieu of procedures provided in other ordinances of the city. If the provisions of this section are in conflict with any other provisions of these Revised Ordinances, the provisions of this section shall govern.

Editor's Note: Former Section 13-15.0 was superceded by Section 13A-63.1

Section 13-16. No loitering public property, School Safety Zones

- (a) Definitions as used in this ordinance:
- (1) "Loitering" shall mean remaining idle in essentially one location and shall include but shall not be limited to, the concept of spending time idly; to be dilatory; to linger; to stay; to delay; to stand around and shall also include the colloquial expression "hanging around".
 - (2) "Public Place" shall mean any place to which the general public has access and a right to use for business, entertainment, or other lawful purpose, but does not necessarily mean a place devoted solely to use by the public. It shall also include but shall not be limited to the front or surrounding area of any store, shop, restaurant, tavern or other place of business, and all public parking facilities, public grounds, areas or parks.
- (b) It shall be unlawful for any person to Loiter, either alone or in concert with others in a Public Place in such manner so as to:
- (1) Obstruct any public street, public highway, public sidewalk or any other Public Place or building by hindering, disrupting or impeding the free and uninterrupted passage of vehicles, traffic or pedestrians.
 - (2) Commit in or upon any public street, public highway, public sidewalk or any other Public Place or building, any act which is an obstruction to or interference with the free and uninterrupted use of property or any business lawfully conducted by anyone in or upon facing or fronting on any public street, public highway, public sidewalk or any other Public Place or building, all of which prevents or inhibits the free and uninterrupted ingress and egress, thereon and thereto.
 - (3) When any person or persons cause or commit any of the actions enumerated in Subsection (a) hereof, a police officer or any law enforcement officer shall order such person or persons to stop causing or committing such actions and to move on or disperse. Each person or persons who fail or refuse to obey such order shall be guilty of a violation of this ordinance.
 - (4) Each person who violates any provisions of this ordinance shall be subject to a fine pursuant to the provisions of Section 1-8 of the Revised Ordinances. Any such violation shall constitute a separate offense on each successive day continued.
- (c) That in order to ensure the safety and well-being of school students attending Everett Public Schools, there shall be established "School Safety Zones". Said

“School Safety Zones” will create a protective area around the schools and will provide a corridor for the safe passage of students and persons having business with these zones.

- (d) School Safety Zones will include the sidewalks within the area designated as follows:
- (1) Everett High School Safety Zone
From the intersection of Elm Street and Russell Street to the intersection of Harding Avenue and Gledhill Avenue; Gledhill Avenue to Sycamore Street; from the intersection of Sycamore Street and Coburn Terrace; along Coburn Terrace to the entrance at Glendale Park; Glendale Park walkway from the entrance at Coburn Terrace along the front of the school to the intersection of Elm Street and Russell Street.
 - (2) Albert N. Parlin School Safety Zone
From the intersection of Lexington Street and Broadway along the easterly side of Broadway to High Street; along the northerly side of High Street to Prospect Street; along the westerly side of Prospect Street to Lexington Street and along the southerly side of Lexington Street to Broadway. Also the westerly side of Broadway from Hancock Street to Hosmer Street.
 - (3) Lafayette School and its abutting sidewalks.
 - (4) Madeline English School and its abutting sidewalks.
 - (5) Sumner Whittier School and its abutting sidewalks.
 - (6) Webster School and its abutting sidewalks.
 - (7) George Keverian School and its abutting sidewalks.
 - (8) Pope John XXIII High School and its abutting sidewalks; from Shute Street, at Dairy Maid, to Dunster Road.
- (e) Said School Safety Zones shall be posted with appropriate signage to be determined by the City Services Department.
- (f) Whoever without right or without a legitimate school purpose remains in or loiters with the School Safety Zones between the hours of 7:00 A.M. and 3:00 P.M. Monday through Friday shall be in willful violation of this ordinance upon being forbidden to do so, either by a notice posted therein or by the Chief of Police or his designee or in his absence any police officer, shall be subject to arrest in accordance with Chapter 272, §59 of the General Laws of Massachusetts and punished by a fine of not more than five hundred dollars (\$500.00).

(Ord. of 9-3-91(2); Ord. of 10-28-91(2) (Ord. of 05-16-03)(Ord of 05-02-2005)(C0250-05) (C0253-07) (C0014-08) (A0213-07)

Editor's note--Ord. of 9-3-91(2), and Ord. of 05-16-03 added provisions to Chapter 13 of the Code, but did not specify manner of inclusion. At the discretion of the editor, therefore, said provisions have been included as § 13-16 herein.

Section 13-17. SEX OFFENDER RESIDENCY RESTRICTIONS

- (a) **Definitions.** For the purpose of this Section, the following terms shall have the respective meanings ascribed to them:
- (1) Adult Criminal Level 3 Sex Offender – A person convicted of a criminal sex offense and designated as a Level 3 sex offender by the Massachusetts Sex Offender Registry Board. The Board has

determined that these individuals have a high risk to re-offend and that the degree of dangerousness posed to the public is such that a substantial public safety interest is served by active community notification.

- (2) School – A licensed or accredited public or private school or church school that offers instruction in pre-school, including a licensed daycare or other business permitted as a school by the City of Everett, or any grades K through 12. This definition shall not include private residences in which students are taught by parents or tutors.
 - (3) GIS. Geographical Information System.
- (b) **Residency Restrictions.** It shall be unlawful for any Adult Criminal Level 3 Sex Offender to establish a residence or any other living accommodations within one thousand (1000) feet of the property on which any school, day care center, park, or recreational facility open to the public is located. The one thousand (1000) feet restriction shall be measured in a straight line from the nearest property line upon which the house, apartment complex, condominium complex, motel, hotel or other residence is located to the property line of the nearest school, day care center, park, or recreational facility. Distances will be taken from the City’s GIS system and GIS services to the City shall be presumed accurate and shall be evidence of a violation.
- (c) **Established Residents.** Changes to property resulting in a school, day care center, park or recreational facility being located within one thousand (1000) feet of an Adult Criminal Level 3 Sex Offender’s registered address which occurs after an Adult Criminal Level 3 Sex Offender establishes residency shall not form the basis for finding that a Adult Criminal Level 3 Sex Offender is in violation of this section.
- (d) **Notice to Move.** Level 3 Registered Sex Offenders who reside on a permanent or temporary basis within one thousand (1000) feet of any school, day care center, park or recreational facility following passage of this ordinance, shall be in violation of this section and shall, within thirty (30) days of receipt of written notice of the Registered Sex Offender’s noncompliance with this section, move from said location to a new location, but said new location may not be within one thousand (1000) feet of any school, day care center, park, or recreational facility. The first day following the thirty (30) day written notice shall be considered the first violation. Following the first violation, every day that the Registered Sex Offender continues to reside within one thousand (1000) feet of any school, day care center, park or recreational facility shall be considered a violation each day.
- (e) **Penalties.** The following penalties will be imposed by the City of Everett:
- (1) First Offense by Registered Sex Offender: Non-criminal fine of \$150.00.
 - (2) Subsequent Offense by Registered Sex Offender. Non-criminal fine of \$300.00 and notification to offender’s parole office and/or probation office and the Commonwealth’s Sex Offender Registry Board that the Sex Offender has violated a municipal ordinance.

- (f) This ordinance expressly does not repeal or otherwise affect any other provisions of the Revised Ordinances of the City of Everett, Massachusetts. This ordinance shall become effective immediately upon its passage or otherwise becoming law. (C0048-09)

Reserved Section 18-20

Editor's Note former Section 13-17 Code Enforcement Ordinances Moved to 13A-1.0

Editor's Note former Section 13-18 Repeat Nuisance Call Service Fees Moved to 13A-95.0

Editor's Note former Section 13-19 Bill Posting Moved to 13A-75.0

Section 13-21. YOUTH SPORTS CODE OF CONDUCT

- (a) Definitions. As used in this article, the following terms shall have the meanings indicated:

(1) CODE OF CONDUCT -- A written specification of the behavior of parents, guardians, coaches and officials prepared by each sports league or team which must at a minimum incorporate the terms of the within article and must be consented to in writing by the parents and legal guardians of the minor participants of each youth sports team.

(2) YOUTH SPORTS EVENT -- Any competition, practice or instructional event involving one or more youth sports teams.

(3) YOUTH SPORTS TEAM -- Any sports organization pursuant to a nonprofit or similar charter which is affiliated with or received monetary or other support or service from the City of Everett or regularly utilizes any facilities owned, operated or maintained by the City, which sports organizations participate in sporting competitions involving minors.

- (b) Following and availability of Code of Conduct. Every sports team utilizing the facilities of the City of Everett shall be required to follow and to make available to all parents and guardians of each child participating in a sport team the Code of Conduct as set forth in this section and incorporate the same into any pre-existing code enforced by the team.

- (c) Minimum Requirements for Code of Conduct. A team's Code of Conduct must at a minimum incorporate the following terms.

- c. Fights, scuffles, etc. Any parent, guest, spectator, coach or official at any youth sports event who initiates a fight, scuffle, or any type of physical abuse or threats of abuse towards any player, coach, official, parent or spectator shall be banned from attendance at all youth sports events within the City of Everett for a period not exceeding 12 months from the date of the incident.
- d. Entering field of play. Any parent, guest, coach, or official at any youth sporting event who enters the field of play, court or rink during any youth sporting event for the purpose of physically or verbally abusing or confronting coaches, players or officials shall be banned from attendance at all youth sports events within the City of Everett for a period not exceeding 12 months from the date of the accident.
- e. Obscene or profane language, etc. Any parent, guest, spectator, coach or official at any youth sports event who verbally abuses officials, players or spectators, including the use of obscene or profane language or gestures or

racial, ethnic or sexual slurs, may be banned from all youth sports events for a period not exceeding 12 months from the date of the incident and shall be subject to such discipline as provided for by the applicable team's Code of Conduct.

- f. Throwing objects on field of play. Any parent, guest, spectator, or official at any youth sports event who throws or causes to be deposited any object on the field of play, court or rink during any youth sports event may be banned from attendance at all youth sports events for a period of 12 months from the date of the incident and shall be subject to such discipline as provided for by the applicable sports team's Code of Conduct.
- g. Anger management program. Any person banned for 12 months from youth sports events for a violation of the Code of Conduct prior to being allowed to resume attendance at any youth sports event shall be required to complete anger management or equivalent counseling program consisting of no less than 12 hours of instruction and shall provide proof of satisfactory completion to the Recreation Commission. Any banning for less than 12 months may include up to 12 hours of anger management.
- h. Authority of field officials, etc. Any parent, official, coach or spectator at any youth sporting event shall be subject to the authority of all field officials, including umpires and referees, and elected league officials of the youth sport team or teams sponsoring the youth sports event in the absence of such persons at a youth sports team's practice or instructional event to the authority of the ranking youth sports team coach on the premises. Such authority shall include the authorization to direct any person or persons involved in any incident in violation of this article or the applicable sports team's Code of Conduct to immediately remove themselves from the premises.

(d) Violation procedures and hearings. Upon a determination by a majority vote of the highest ranking officials and the governing board of a youth sports team that a parent, guest, spectator, coach or official at any youth sports event sponsored by such youth sports team has violated a provision of this article or the Code of Conduct of the youth sports team, such official shall forward to such violator a notice via regular and certified mail indicating the date and location and nature of the violation and period of banning or other action to be taken in response to such violation.

- (1) Any person receiving such a notice who wishes to contest same shall appeal to the City of Everett Recreation Commission within seven calendar days of the mailing of said notice by forwarding a copy of said notice with a written request for appeal specifically setting forth the basis of such persons contest of the notice of violation via personal delivery or certified mail to the Chairperson of the Recreation Commission at City Hall, 484 Broadway, Everett, MA 02149.
- (2) Upon receipt of such appeal, the Recreation Commission shall convene within 10 days and provide an opportunity for said person and any interested person to appear and be heard with respect to the occurrence of any violation and the action taken by the youth sports team.
- (3) The Recreation Commission shall be authorized to hear testimony under oath, review affidavits and such other and further information or documentation

relevant to the violation and, upon a majority vote of the members of the Committee present at such hearing, may sustain, overturn or modify the youth sports team's notice of violation and the period of banning or other action taken in response to such violation consistent with this article or the youth sports team bylaws or Code of Conduct.

- (4) All notices of violation and resulting banishments shall remain in effect until overturned or modified by the Recreation Commission.
- (5) In the event any notice of violation is not appealed within 10 days of such notice, said notice of violation and the action taken by the youth sports team official, including banning from youth sports events, shall become final.

Section 13-22 *Sale of Lighters and Matches to Minors.*

(a) Prohibited.

No person shall sell, exchange or distribute cigarette lighters and/or matches to a minor.

(b) Definitions.

For the purposes of this chapter, the following words shall have the meanings respectively ascribed to them by this section:

- (4) "City" means city of Everett.
- (5) "Minor" means any individual who is under the age of eighteen (18).
- (6) "Person" means a person, employer, employee, retail store manager or owner, or the owner or operator of any establishment engaged in the sale, exchange, or distribution of cigarette lighters and matches.

(c) Identification required.

A person selling, exchanging or distributing cigarette lighters and/or matches shall request and examine proper identification from any purchaser suspected of being a minor, and shall positively establish the purchaser's age as eighteen (18) years or older before allowing the purchase and/or distribution.

The following shall constitute proper identification: a valid Massachusetts Driver's License, a certified birth certificate along with a picture identification card; or two other similar forms of identification, one of which shall be a picture identification card.

(d) Violation--Penalty--Enforcement.

Any person violating any of the provisions of this chapter shall be subject to a fine of one hundred dollars (\$100.00) for the first offense; and, for the second offense, a fine of two hundred dollars (\$200.00); and, for the third offense, a fine of three hundred dollars (\$300.00).

(e) The Everett Health Department and the Everett Fire Department shall be the enforcing authority of this chapter. (A0109-08)