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CITY OF AMESBURY, MA

CITY OF AMESBURY
IN THE YEAR TWO THOUSAND TWENTY-THREE

SPONSORED BY: Kassandra Gove **BILL No. 2023-034**
Kassandra Gove, Mayor

An Order to rescind the City's acceptance of Massachusetts General Laws, Chapter 90, section 20A ½ and in its place, accept Massachusetts General Laws, Chapter 90, section 20, relating to parking violations.

Summary: In 1981, the City of Amesbury accepted Massachusetts General Laws, Chapter 90, section 20A ½, which addresses parking violations; tags; appearance; failure to appear; and adjudication by mail. Section 20A ½ does not allow the option for municipalities to issue parking violations by mail, stating "Said tag shall be affixed securely to the motor vehicle...". Section 20A, however, does not include this requirement. The acceptance of Massachusetts General Laws, Chapter 90, section 20 would allow the City to explore alternative parking enforcement solutions in the future, that may offer the option to mail parking violations to offenders.

Be it Ordered by the City Council of the City of Amesbury assembled, and by the authority of the same as follows:

That the Amesbury City Council vote to rescind Massachusetts General Laws, Chapter 90, section 20A ½ and in its place, accept Massachusetts General Laws, Chapter 90, section 20, to allow for the mailing of parking violations.

Part I	ADMINISTRATION OF THE GOVERNMENT
Title XIV	PUBLIC WAYS AND WORKS
Chapter 90	MOTOR VEHICLES AND AIRCRAFT
Section 20A1/2	CITIES OF BOSTON AND CAMBRIDGE; PARKING VIOLATIONS; TAGS; APPEARANCE; FAILURE TO APPEAR; ADJUDICATION BY MAIL

Section 20A1/2. In the cities of Boston and Cambridge and in any city or town which accepts the provisions of this section, each manager in a city having a Plan D or E form of charter or the mayor, with the approval of the city council or board of aldermen in any other city, or the town council or board of selectmen of a town shall designate or appoint a parking clerk. The parking clerk shall report to the council or aldermen of a city, the council or board of selectmen of a town and shall supervise and coordinate the processing of parking notices in such city or town. The parking clerk shall have the authority, after such authorization by the mayor and city council in a city or town council or selectmen in a town, to hire and designate such personnel as may be necessary or contract by competitive bid for such services, subject to appropriation, to implement the provisions of this section; provided, however, that such positions shall be filled in the city of Boston and Cambridge by granting preference to persons who had been employees of said cities in the fire, police or traffic crossing guard service, and all such positions in said city of Boston and

Cambridge shall be subject to chapter thirty-one, and in no case in the city of Boston and Cambridge shall the amount expended for administration of this section exceed eleven per cent of the total amount of the annual receipts collected by the parking clerk.

It shall be the duty of every police officer who takes cognizance of a violation of any provision of any rule, regulation, order, ordinance or by-law regulating the parking of motor vehicles established for their respective city or town, forthwith to give the offender a notice, which shall be in tag form as provided in this section, to appear before the parking clerk of the city or town wherein the violation occurred at any time during regular office hours, not later than twenty-one days after the date of such violation. All tags shall be prepared in triplicate and shall be prenumbered.

Said tag shall be affixed securely to the motor vehicle and shall contain, but shall not be limited to, the following information: the make, color and registration number of the vehicle involved and the state of issuance of said registration number, the date, time and place of the violation, the specific violation charged and, if a meter violation, the number of said meter, the name and badge number of the officer and his division, a schedule of established fines, instructions for the return of the tag and a notice which reads: This notice may be returned by mail, personally or by an authorized person. A hearing may be obtained upon the written request of the registered owner. Failure to obey this notice within twenty-one days after the date of violation may result in the non-renewal of the license to drive and the registration of the registered owner.

At or before the completion of each tour of duty, the officer shall give to his commanding officer those copies of each notice of such violation taken cognizance of during such tour. Said commanding officer shall retain and safely preserve one of such copies and shall at a time no later than the beginning of the next business day of the city or town after receipt of such notice deliver another of such copies to the parking clerk before whom the offender has been notified to appear. The parking clerk shall maintain a docket of all such notices to appear.

Any person notified to appear before the parking clerk, as provided herein, may appear before such parking clerk, or his designee, and confess the offense charged, either personally or through an agent duly authorized in writing or by mailing to such parking clerk the notice accompanied by the fine provided therein, such payment to be made only by postal note, money order or check made out to the parking clerk. Payment of the fine established shall operate as a final disposition of the case. Notice affixed to a motor vehicle as provided in this section, shall be deemed a sufficient notice, and a certificate of the officer affixing such notice that it has been affixed thereto, in accordance with this section, shall be deemed prima facie evidence thereof and shall be admissible in any judicial or administrative proceeding as to the facts contained therein.

The traffic and parking commission of the city of Boston, the traffic commission or traffic director of any other city or town having such a commission or director with authority to promulgate traffic rules, the city council of any other city, and the board of selectmen of any other town, shall, from time to time, establish by rule or regulation a schedule of fines for violations subject to this section committed within such city or town; provided, however, that all such fines shall be uniform for the same offense committed in the same zone or district, if any; and provided,

further, that the fine for the violation of the parking of motor vehicles within ten feet of a fire hydrant shall not be more than one hundred dollars, and provided, further, that the fine for the violation of parking a motor vehicle within a posted bus stop shall be \$100; and provided further, that any fine established under the provisions of this section for all other parking violations shall not exceed \$50, if paid within 21 days, nor shall it exceed \$55, if paid thereafter, but before the parking clerk reports to the registrar, as provided below and shall not exceed \$75 if paid thereafter.

Should any person notified to appear hereunder fail to appear and, if a fine is provided hereunder, to pay the same, or having appeared desire not to avail himself of the benefits of the procedure established by this section, the parking clerk shall forthwith schedule the matter before a person hereafter referred to as a hearing officer, said hearing officer to be the parking clerk of the city or town wherein the violation occurred or such other person or persons as the parking clerk may designate. Written notice of the date, time and place of said hearing shall be sent by first-class mail to the registered owner. Said hearing shall be informal, the rules of evidence shall not apply and the decision of the hearing officer shall be final subject to judicial review as provided by section fourteen of chapter thirty A.

If any person fails to appear in accordance with said notice, the parking clerk shall notify the registrar of motor vehicles who shall place the matter on record and, upon receipt of two or more such notices, shall not renew the license to operate a motor vehicle of the registered owner of the vehicle or the registration of said vehicle until after notice from the parking clerk that all such matters have been disposed of in accordance with law. Upon such notification to the registrar, an additional twenty

dollar charge, payable to the registrar of motor vehicles, shall be assessed against the registered owner of said vehicle. It shall be the duty of the parking clerk to notify the registrar forthwith that such case has been so disposed of in accordance with law, provided however, that a certified receipt of full and final payment from the parking clerk of the city or town in which the violation occurred shall also serve as legal notice to the registrar that said violation has been disposed of. The notice to appear provided herein shall be printed in such form as the registrar of motor vehicles may approve. The parking clerk shall distribute such notices to the commanding officer of the police department of the city or town upon request, and shall take a receipt therefor. The registrar shall approve such other forms as he deems appropriate to implement this section, and said forms shall be printed and used by the cities and towns.

If any person shall have failed to appear in accordance with five or more said notices, notwithstanding any notification to the registrar, the parking clerk may notify the chief of police or director of traffic and parking of said city or town that the vehicle involved in said multiple violations shall be removed and stored, or otherwise immobilized by a mechanical device, at the expense of the registered owner of said vehicle until such time as the matter has been disposed of in accordance with law.

As used in this section, the words "motor vehicle" shall, so far as apt, include trailer, semi-trailer and semi-trailer unit.

The provisions of this section shall apply to violations of rules and regulations relative to the use of parking areas subject to the control of the county commissioners adjacent to or abutting county buildings, and county commissioners are hereby authorized to make such rules and

regulations. Said provisions shall also apply to violations of rules and regulations relative to the parking of motor vehicles established by any commission or body empowered to make such rules and regulations.

Any person notified to appear before the parking clerk, as provided herein, without waiving his right to a hearing before the parking clerk or hearing officer as provided by this section, and also without waiving judicial review as provided by section fourteen of chapter thirty A, may challenge the validity of the parking violation notice and receive a review and disposition of the violation from the parking clerk or a hearing officer by mail. The alleged parking violator may, upon receipt of the notice to appear, send a signed statement explaining his objections to the violation notice as well as signed statements from witnesses, police officers, government officials and any other relevant parties. Photographs, diagrams, maps and other documents may also be sent with the statements. Any such statements or materials sent to the parking clerk for review shall have attached the persons' name and address as well as the ticket number and the date of the violation. The parking clerk or hearing officer shall, within twenty-one days of receipt of said material, review the material and dismiss or uphold the violation and notify, by mail, the alleged violator of the disposition of the hearing. If the outcome of the hearing is against the alleged violator, the parking clerk or hearing officer shall explain the reasons for the outcome on the notice. Such review and disposition handled by mail shall be informal, the rules of evidence shall not apply, and the decision of the parking clerk shall be final subject to any hearing provisions provided by this section or to judicial review as provided by section fourteen of chapter thirty A. Each parking violation issued shall carry a statement explaining the procedure to adjudicate the violation by mail.

Part I	ADMINISTRATION OF THE GOVERNMENT
Title XIV	PUBLIC WAYS AND WORKS
Chapter 90	MOTOR VEHICLES AND AIRCRAFT
Section 20A	PARKING REGULATIONS; VIOLATIONS; NOTICE TO APPEAR; FAILURE TO APPEAR; ADJUDICATION BY MAIL

Section 20A. In any city or town accepting the provisions of this section, each city manager in a city having a Plan D or E form of charter or the mayor with the approval of the city council or board of aldermen in any other city or the town council or board of selectmen of a town shall designate or appoint a parking clerk, who may also perform other municipal functions except police functions. The parking clerk shall be directly responsible to said city manager, mayor, town council or board of selectmen and shall supervise and coordinate the processing of parking notices in such city or town. The parking clerk shall have the authority, subject to the approval of the city manager or mayor in a city or town manager or board of selectmen in a town, to hire or designate such personnel and organize such divisions as he may deem necessary or contract, by competitive bidding, for such services subject to appropriation to carry out the provisions of this section.

It shall be the duty of any police officer, except in cities and towns subject to the provisions of section twenty A.5, who takes cognizance of a violation of any provision of any rule, regulation, order, ordinance or by-law regulating the parking of motor vehicles established by any city or town, forthwith to give to the offender a notice to appear before the parking clerk of the city or town wherein the violation occurred at any time during regular office hours, not later than twenty-one days after the time of said violation.

Said notice must be made in triplicate and one copy shall be affixed securely to the motor vehicle and shall contain, but shall not be limited to, the following information: the make, color, registration number and state of issuance of said registration number of the vehicle involved, the date, time and place of the violation, the specific violation charged and, if a meter violation, the number of said meter, the name and badge number of the officer and his division, a schedule of established fines, instructions for the return of the notice and a notice which reads as follows: This notice may be returned by mail, personally or by an authorized person. A hearing may be obtained upon the written request of the registered owner. Failure to obey this notice within twenty-one days after the date of violation may result in the non-renewal of the license to drive and the certificate of registration of the registered owner.

Whenever it is not possible to deliver a copy of said notice to the offender at the time and place of the violation by affixing it to the motor vehicle, said copy shall be sent by the officer, or by his commanding officer or any person authorized by said commanding officer, in the case of a violation involving a motor vehicle registered under the laws of this commonwealth, within five days of the offense, and in the case of any motor vehicle registered under the laws of another state or country,

within ten days thereof, exclusive, in either case, of Sundays and holidays, to the address of the registrant of the motor vehicle registered under the laws of this commonwealth, in the records of the registry of motor vehicles, or, in the case of a motor vehicle registered under the laws of another state or country, in the records of the official in such state or country having charge of the registration of such motor vehicle. Such notice mailed by the officer, his commanding officer, or the person so authorized, to the last address of such registrant as appearing as aforesaid, shall be deemed as sufficient notice, and a certificate of the officer or person so mailing such notice that it has been mailed in accordance with this section shall be deemed prima facie evidence thereof and shall be admissible in any judicial or administrative proceeding as to the facts contained therein. At or before the completion of each tour of duty the officer shall give to his commanding officer those copies of each notice of such a violation taken cognizance of during such tour which have not already been delivered or mailed by him as aforesaid. Said commanding officer shall retain and safely preserve one of such copies and shall, at a time not later than the end of the second business day of the city or town after said delivery or mailing, deliver another of such copies to the parking clerk before whom the offender has been notified to appear. The parking clerk shall maintain a docket of all such notices to appear.

Any person notified to appear before the parking clerk, as provided herein, may appear before such parking clerk or his designee and confess the offense charged, either personally or through an agent duly authorized in writing or by mailing to such parking clerk the notice and the fine provided herein, such payment to be made only by postal note, money order or check made out to the parking clerk. If it is the first violation subject to this section committed by such person in a particular city or

town in the calendar year, the parking clerk shall dismiss the charge without the payment of any fine; if it is the second, third or fourth violation so committed in such city or town in the calendar year, payment to the parking clerk of a fine of five dollars for each such violation shall operate as a final disposition of the case; and if it is the fifth or subsequent violation so committed in such city or town in the calendar year, payment to the parking clerk of a fine of ten dollars for each such violation shall operate as a final disposition of the case; provided, however, that the provisions of this sentence shall not apply to any violation subject to this section committed in any city or town wherein the city council or board of aldermen, town council, board of selectmen, or traffic commission or traffic director having authority to promulgate traffic rules shall have established by municipal rule, regulation, ordinance or by-law a schedule of fines for such violations. The schedule of fines shall be uniform for the same offense committed in the same zone or district, if any, and shall not exceed \$25 if paid within 21 days, \$35 if paid thereafter but before the parking clerk reports to the registrar as provided below, and \$50 if paid thereafter; provided, however, that the fine for the violation of parking a motor vehicle within a posted bus stop shall be \$100. Notice affixed to a motor vehicle as provided in this section shall be deemed a sufficient notice, and a certificate of the officer affixing such notice that it has been affixed thereto, in accordance with this section, shall be deemed prima facie evidence thereof and shall be admissible in any judicial or administrative proceeding as to the facts contained therein. Whenever it becomes necessary to ascertain whether a person owning two or more motor vehicles is chargeable as such owner with a first, second, third, fourth, fifth or subsequent violation hereunder, such question shall, in the case of vehicles singly registered, be

determined separately with respect to the particular vehicle involved in such violation and, in the case of vehicles subject to section five, with respect to the particular number plate or plates used on the vehicle involved in such violation at the time thereof.

Should any person notified to appear hereunder fail to appear and, if a fine is provided hereunder, to pay the same, or having appeared desire not to avail himself of the benefits of the procedure established by this section, the parking clerk shall forthwith schedule the matter before a person hereafter referred to as a hearing officer, said hearing officer to be the parking clerk of the city or town wherein the violation occurred or such other person or persons as the parking clerk may designate. Written notice of the date, time and place of said hearing shall be sent by first-class mail to the registered owner. Said hearing shall be informal, the rules of evidence shall not apply and the decision of the hearing officer shall be final subject to judicial review as provided by section fourteen of chapter thirty A.

If any person fails to appear in accordance with said notice, the parking clerk shall notify the registrar of motor vehicles who shall place the matter on record and, upon receipt of two or more such notices, shall not renew the license to operate a motor vehicle of the registered owner of the vehicle or the registration of said vehicle until after notice from the parking clerk that all such matters have been disposed of in accordance with law. Upon such notification to the registrar, an additional twenty dollar charge, payable to the registrar of motor vehicles, shall be assessed against the registered owner of said vehicle. It shall be the duty of the parking clerk to notify the registrar forthwith that such case has been disposed of in accordance with law, provided however, that a certified receipt of full and final payment from the parking clerk of the city or

town in which the violation occurred shall also serve as legal notice to the registrar that said violation has been so disposed of. The notice to appear provided herein shall be printed in such form as the registrar of motor vehicles may approve. The parking clerk shall distribute such notices to the commanding officer of the police department of the city or town upon request, and shall take a receipt therefor. The registrar shall approve such other forms as he deems appropriate to implement this section, and said forms shall be printed and used by the cities and towns.

If any person shall have failed to appear in accordance with five or more said notices, notwithstanding any notification to the registrar, the parking clerk may notify the chief of police or director of traffic or parking of said city or town that the vehicle involved in said multiple violations shall be removed and stored, or otherwise immobilized by a mechanical device, at the expense of the registered owner of said vehicle until such time as the matter has been disposed of in accordance with law.

As used in this section, the words "motor vehicle" shall, so far as apt, include trailer, semi-trailer and semi-trailer unit.

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Any person notified to appear before the parking clerk, as provided herein, without waiving his right to a hearing before the parking clerk or hearing officer as provided by this section, and also without waiving judicial review as provided by section fourteen of chapter thirty A, may challenge the validity of the parking violation notice and receive a review

and disposition of the violation from the parking clerk or a hearing officer by mail. The alleged parking violator may, upon receipt of the notice to appear, send a signed statement explaining his objections to the violation notice as well as signed statements from witnesses, police officers, government officials and any other relevant parties. Photographs, diagrams, maps and other documents may also be sent with the statements. Any such statements or materials sent to the parking clerk for review shall have attached the persons' name and address as well as the ticket number and the date of the violation. The parking clerk or hearing officer shall, within twenty-one days of receipt of said material, review the material and dismiss or uphold the violation and notify, by mail, the alleged violator of the disposition of the hearing. If the outcome of the hearing is against the alleged violator, the parking clerk or hearing officer shall explain the reasons for the outcome on the notice. Such review and disposition handled by mail shall be informal, the rules of evidence shall not apply, and the decision of the parking clerk shall be final subject to any hearing provisions provided by this section or to judicial review as provided by section fourteen of chapter thirty A. Each parking violation issued shall carry a statement explaining the procedure to adjudicate the violation by mail.