



**CITY OF NEW BEDFORD**  
**JONATHAN F. MITCHELL, MAYOR**

June 6, 2016

Honorable Members of the City Council  
City Hall  
133 William Street  
New Bedford, MA 02740

Re: M.G.L. c. 90, §18A

Dear Honorable Members:

We are submitting for your consideration a proposed Order accepting M.G.L. c. 90, §18A. Acceptance of this statute, a copy of which is attached for your reference, will enable the city, through the Traffic Commission, to enact rules regulating the pedestrian use of ways within the city's control. Currently, the only such regulations that are in force are those promulgated by the Massachusetts Department of Transportation regarding ways within the state's control.

We appreciate your thoughtful consideration of this proposed order and look forward to the adoption of M.G.L. c. 90, §18A.

Sincerely,

Jon Mitchell  
Mayor

Linda M. Morad  
City Council President

Enc. Proposed Order and M.G.L. c. 90, §18A



# CITY OF NEW BEDFORD

## CITY COUNCIL

June 9, 2016

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*Ordered,* that the City Council hereby accepts Section 18A of M.G.L. Chapter 90.

§ 18A. Pedestrians, use of ways; rules and regulations; violations; notice

The department on ways within their control and at the intersection of state highways, and other ways, the metropolitan district commission on ways within their control and at the intersection of metropolitan district commission roadways, except state highways, and other ways, the traffic and parking commission of the city of Boston, the traffic commission or traffic director of any 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 may, subject to the provisions of section two of chapter eighty-five, adopt, amend and repeal rules, not repugnant to law, regulating the use by pedestrians of ways within their respective control; provided, however, that no such rule adopted by said traffic and parking commission or by any such traffic commission or traffic director, any city council or any board of selectmen shall take effect until approved in writing by the department, nor, in the case of any such rule adopted by said traffic and parking commission, until published in the City Record, or, in the case of any other such rule, until published in a newspaper published in the city or town in which such rule is to be applicable, if any, otherwise in the county wherein such city or town lies. As used in this paragraph, the word "pedestrian" shall include a person in or on any conveyance, other than a bicycle, constructed and designed for propulsion by human muscular power, as well as including a person on foot. Whoever violates any provision of any such rule shall be punished by a fine of one dollar for the first, second or third such offense committed by such person within the jurisdiction of the district court in the particular calendar year, and by a fine of two dollars for the fourth or subsequent such offense so committed in such calendar year.

If a police officer takes cognizance of a violation of any provision of any such rule, he shall forthwith give to the offender a written notice to appear before the clerk of the district court having jurisdiction, at any time during office hours, not later than twenty-one days after the time of such violation. Such notice shall be made in triplicate and shall contain the name and address of the offender, the time, place and nature of the violation, and the name of the police officer. Upon the completion of his tour of duty such police officer shall give his commanding officer two copies of such notice. Said commanding officer shall retain one such copy in his files and, not later than the next court day, deliver the other copy to the clerk of the court before whom the offender has been notified to appear. The notice to appear as provided herein shall be printed in such form as the chief justice for the Boston municipal court department and the chief justice for the district court department may prescribe for their respective departments.

A police office taking cognizance of any such violation may request the offender to state his name and address. Whoever, upon such request, refuses to state his name and address, or states a false name and address or a name and address which is not his name and address in ordinary use, shall be punished by a fine of not less than twenty nor more than fifty dollars. Any such

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offender who refuses upon such request to state his name and address may be arrested without a warrant; but no person shall be arrested without a warrant for any other violation of any provision of this paragraph or for any violation of any provision of any such rule.

Any person notified to appear before the clerk of a district court as hereinbefore provided may appear before such clerk and confess the offense charged, either personally or through an agent duly authorized in writing or by mailing to such clerk, with the notice, the sum provided herein, such payment to be made only by postal note, money order or check. If it is the first, second or third offense subject to this section committed by such person within the jurisdiction of the court in the calendar year, payment to such clerk of the sum of one dollar shall operate as a final disposition of the case; if it is the fourth or subsequent such offense so committed in such calendar year payment to such clerk of the sum of two dollars shall operate as a final disposition of the case. Proceedings under this paragraph shall not be deemed criminal; and no person notified to appear before the clerk of a district court as provided herein shall be required to report to any probation officer, and no record of the case shall be entered in the probation records.

Should any person notified to appear before the clerk of the district court fail to appear or, having appeared, desire not to avail himself of the procedure hereinbefore provided for the non-criminal disposition of the case, the clerk shall, as soon as may be, notify the officer concerned, who shall forthwith make a complaint and follow the procedure established for criminal cases. If any person fails to appear in accordance with the summons issued upon such complaint the clerk shall send such person by registered mail, return receipt requested, a notice that the complaint is pending and that if the person fails to appear within twenty-one days from the sending of such notice a warrant for his arrest will be issued. If any person fails to appear within twenty-one days from the sending of such notice the court shall issue a warrant for his arrest.

A violation of any provision of any such rule or of any provision of this section shall not, in any civil proceeding, constitute negligence or be admissible as evidence of negligence, nor shall a conviction for such a violation be shown to affect the credibility of a witness in any proceeding.

The provisions of this section relative to ways within the control of cities or towns shall be effective in cities or towns accepting said provisions; provided, however, that at any time after the expiration of two years from the time of any such acceptance a city or town may, in the same manner as such provisions were accepted, revoke the same.

Added by St.1962, c. 409, § 1. Amended by St.1963, c. 298; St.1964, c. 128; St.1978, c. 478, § 38; St.1992, c. 133, § 443; St.1993, c. 182, § 6.

#### Historical and Statutory Notes

St.1962, c. 409, § 1, was approved May 7, 1962. "The provisions of section eighteen A of chapter ninety of the General Laws, inserted by section one of this act, relative to ways within

Section 2 of St.1962, c. 409, provides: