

HOME RULE PETITION

“AN ACT STRIKING CERTAIN PROVISIONS OF THE CHARTER OF THE CITY OF MALDEN”

(Chapter 169 of the Acts of 1881 and acts in amendment thereto)

Whereas, the City of Malden is a municipal corporation organized and governed under the laws of the Commonwealth of Massachusetts, specifically Chapter 169 of the Acts of 1881 and acts in amendment thereto; and

Whereas, in 2018, when the City undertook an effort to consolidate these provisions into a single, more usable document, a number of organizational inconsistencies, outdated provisions, and operational inefficiencies were revealed; and

Whereas, to address these issues, the Mayor and City Council worked jointly to propose a strengthened and modernized charter; and

Whereas, having received freely expressed input from the public by way of public meetings, various forums, and from working groups, the Joint Charter Review Committee with the Rules and Ordinance Committee have completed their assessment and recommend that various provisions of the Charter be removed and deleted, and

Whereas, the Joint Charter Review Committee with the Rules and Ordinance Committee have recommended that various provisions of the City of Malden’s Charter be removed and deleted to allow the replacement of the deleted provisions with more cohesive, consistent, organized, and modernized language reflecting the manner of governance by utilizing Amendments to the Ordinances of the City.

Now, therefore,

Be it hereby resolved that the Legislature of the Commonwealth of Massachusetts enact this Home Rule Petition and delete or strike from the Charter of the City of Malden the following provisions:

First, the provision entitled, “**FIRE COMMISSIONER AND DEPARTMENT**” that is presently contained in the following section:

Section 16. The mayor and city council shall, within sixty days after the acceptance of this act, appoint one person to be fire commissioner, whose term of office shall expire on the first day of March in the year nineteen hundred and ten, and shall thereafter in the month of January or February in the year nineteen hundred and ten, and in every third year thereafter, appoint one person as fire commissioner, whose term of office shall be three years from the first day of

March next succeeding his appointment. The fire commissioner appointed under this act shall hold office until a successor is chosen and qualified, but he may be removed by the mayor and council at any time for cause. Any vacancy may be filled by the mayor and council at any time. The fire commissioner and members of the fire department shall receive such compensation as may be fixed by the city council, notwithstanding the provisions of any general or special law to the contrary.

Said commissioner shall establish a fire department for said city, to consist of such officers and members as he shall from time to time determine. He shall appoint said officers and members and may remove any officer or member in his discretion. He shall fix the time of appointment and term of service of said officers and members, shall define their respective duties, and in general may make such rules and regulations as are or may be authorized by the laws pertaining to fire departments, concerning the conduct of said officers and members and the government of said department, the prevention and management of fires and the conduct of persons attending fires, and may affix penalties for any violation of such rules and regulations, or any of them, not exceeding the amount authorized by law for the breach of rules and regulations pertaining to fire departments. He shall have and exercise all other powers which have been conferred by law upon the mayor and city council, or which may hereafter be so conferred, in respect to the powers and duties of fire departments and the rules and regulations pertaining to fire departments. The board of fire engineers constituted and appointed by said commissioner, or the chief or head of the fire department constituted and appointed by said commissioner in case no board of fire engineers shall be constituted by said commissioner, shall have and exercise all the powers and be subject to all the duties which have been conferred or imposed by law upon boards of fire engineers or the chief or head of fire departments, or which may hereafter be so conferred or imposed by law. The engineer of said fire department in command at a fire shall have and exercise all the powers of firewards, including the powers conferred upon firewards by section three of chapter thirty-five of the Public Statutes. Said commissioner shall not incur or authorize any expenditures without a previous appropriation therefor by the city council.

(The statutory history of Section 16 is as follows: C. 169 of 1881; Amended: C. 182 of 1892, C.93 of 1908, C. 550 of 1955, C. 354 of 1957).

Second, the provision entitled, “**POLICE COMMISSIONER AND POLICE DEPARTMENT**” that is found in the following section.

Section 23 A. The mayor and council shall, within sixty days after the acceptance of this act, appoint one person to be police commissioner, whose term of office shall expire on the first day of March in the year nineteen hundred and fifteen, and shall thereafter, in the month of January or February in the year nineteen hundred and fifteen, and in every third year thereafter, appoint one person as police commissioner, whose term of office shall be three years from the first day of March next succeeding his appointment. A police commissioner appointed under this act shall hold office until his successor is chosen and qualified, but he may be removed by the mayor and council at any time for cause. Any vacancy may be filled by the mayor and council at any time. The police commissioner shall receive such compensation as may be fixed by the city council. The police commissioner shall have authority to appoint, establish and organize the police of said city and to make all needful rules and regulations for its efficiency. Except as otherwise provided herein, all the powers and duties now conferred or imposed by law upon the mayor and council of said city or upon the chief of police or city marshal relative to the appointment, pay, discipline, management, control, removal and retirement upon pension of the police of said city, are hereby conferred and imposed upon said police commissioner. He shall have the care of the police station, shall have the care and custody of all property of the city used by the police department, and shall keep a record of all its business. He shall have such other powers and perform such other duties, not inconsistent with law, as the city council may from time to time by ordinance prescribe. In case of the absence or disability of the police commissioner, the next ranking officer, or, where there are two such officers of equal rank, the senior officer in date of appointment, shall be acting commissioner while such absence or disability continues. An acting police commissioner shall receive no extra compensation for services as such.

All police officers now in officer or appointed by the police commissioner shall have and exercise within the limits of said city all the powers conferred by law upon constables, except in relation to the service of civil process, and all the powers conferred upon the police as watchmen.

Except as authorized by the city council, said commissioner shall not increase the number of patrolmen.

The pay of the members of the police department shall be established and controlled by city ordinance.

The police commissioner shall annually in the month of January make a report to the city council; and his records shall at all times be open to the inspection of the mayor and city council.

Notwithstanding any general or special law to the contrary, the position of police chief in the city of Malden shall be exempt from chapter 31 of the General Laws.

(The statutory history of Section 23A is as follows: C. 16 of 1911; Amended: C. 124 of 1951, C. 550 of 1955, C. 418 of 2012)

Third, the provisions entitled, “**SUPERINTENDENT OF PUBLIC WORKS, CITY ENGINEER, PUBLIC WORKS COMMISSION**” that are found in the following sections.

Sections 20 & 21. The mayor, with the approval of the city council, shall, during the month of June 2012 and every 3 years thereafter, appoint a director of public works whose term of office shall be 3 years from the first day of July next succeeding or until a successor is appointed and qualified. The director shall provide for internal organization of the public works department and, subject to funding, shall appoint supervisors, who shall assume such duties and responsibilities as assigned by the director. The salaries of the director and supervisors shall be fixed by ordinance. The director and supervisors may be removed for cause in the same manner in which they were appointed.

The mayor, with the approval of the city council, shall, during the month of February 2014 and every 3 years thereafter, appoint a city engineer, whose term of office shall be 3 years from the first day of March next succeeding or until the city engineer’s successor is appointed and qualified. The city engineer shall be the head of the engineering department and shall assume such powers and duties as are vested in the city engineer by law or ordinance.

The mayor and city council shall appoint three persons to be members of the public works commission, whose terms of office shall expire on March first, nineteen hundred and fifty-six, March first, nineteen hundred and fifty-seven and March first, nineteen hundred and fifty-eight, respectively, and shall thereafter

before March first in each year appoint one person to serve for three years as a member of said commission. The members of said commission shall hold office until their successors shall be chosen and qualified. Vacancies may be filled by the mayor and council at any time, and removals may be made by them for cause. The persons so appointed shall constitute the public works commission of the city of Malden, and they shall receive such compensation as the city council shall determine.

All the powers, duties, facilities, properties and appropriations vested by law or ordinances of the city in the park commission, board of survey, the street commission and the city forester shall vest in and be exercised and performed by the public works commission.

The commission shall have the powers of the city council under section 14 of chapter 40 of the General Laws to purchase or take by eminent domain, under chapter 79 of the General Laws, any land, easement or right therein for the purpose of carrying out the commission's powers or duties.

The commission shall set water and sewer rates and make determinations on applications for abatement of water and sewer bills.

Upon the appointment and qualification of the public works commission, the street and water commission, the park commission, the board of survey and the office of the city forester shall be abolished.

The commission shall have the care and management of shade and ornamental trees standing in or upon any of the public streets of the city, and shall have all the powers and privileges and be subject to the duties and obligations imposed upon city officials charged with the care of shade trees, under the provisions of chapter three hundred and sixty-three of the acts of the year nineteen hundred and ten, and may have the care and management of shade and ornamental trees standing in or upon public parks and other public grounds of the city, when so requested by the officers or boards charged by law with the care and control of the same.

All of the powers now vested in the city council in respect to the laying out, accepting, widening, altering, locating anew, assessing betterments under chapter fifty-one of the Public Statutes, discontinuing or repairing any highway, town way or private way, and all the powers now vested in the mayor and council in respect

to establishing, grading and constructing sidewalks, and completing partially constructed sidewalks, and making assessments upon the abutters upon such sidewalks, are hereby conferred upon and shall be exercised by the public works commissioners. Said public works commissioners are also authorized and empowered to lay out, alter, widen, locate anew, grade or discontinue any highway, and to assess betterments therefor under the provisions of chapter fifty-one of the Public Statutes and any amendments or additions thereto, except the provisions of sections nine, ten and fifteen of said chapter fifty-one. Applications for laying out, accepting, widening, altering, locating anew or discontinuing any highway, town way or private way, and for establishing and constructing sidewalks, may be made, and notice given and proceedings had thereon, in such manner and under such regulations as may be prescribed in the ordinances of said city.

The city of Malden shall, by ordinance, adopt provisions for the repair, maintenance or extension of the city's water, sewer and drainage facilities. All powers, duties, equipment and appropriations made for repair, maintenance or extension of the city's water, sewer and drainage systems shall vest in and be exercised by the officer charged by ordinance with the repair, maintenance and extension of water, sewer and drainage facilities.

There shall be established within the city of Malden a board of park commissioners, consisting of five persons appointed by the mayor with the approval of the city council, who shall hold office for terms of one, two, three, four and five years, respectively, from the first Monday in May next following such appointment or until their successors are qualified; and thereafter the mayor, with the approval of the city council, shall annually, before the first Monday in May, appoint one such commissioner for a term of five years from the first Monday in May. No member of the city council nor the clerk or treasurer of said city shall be appointed to said board. A vacancy on said board shall be filled in like manner for the residue of any unexpired term. A commissioner may be removed by a vote of two thirds of all the members of the city council. Such commissioners shall serve without compensation. Said board shall serve in an advisory capacity to the public works commission on matters of policy and administration regarding parks in the city of Malden.

(The statutory history of these sections are as follows: C. 169 of 1881 Sec. 20 & Sec. 21; Amended: C. 144 of 1890, C. 377 of 1893, C. 443 of 1895, C. 152 of 1906, C.374 of

1912, C. 308 of 1917, C. 110 of 1921, C. 67 of 1947, C. 384 of 1954, MGL C. 41, S. 81A&B, C. 110 of 1955, C. 550 of 1955, C. 76 of 1959, C. 395 of 1976; C. 541 of 1983; C. 425 of 2001, C. 291 of 2012)

Fourth, the provision entitled “**STADIUM & ATHLETIC FIELD COMMISSION**” that is found in the following section:

Section 23 C. There is hereby established in the city of Malden a commission to be known as the stadium and athletic field commission, which shall consist of the mayor or a designee, the principal of the high school, the director of athletics for the high school, the recreation coordinator and 2 residents appointed by the city council and 1 resident appointed by the mayor, who shall serve for a term of 3 years. To the extent practicable, the member appointed by the mayor shall be a resident of the area surrounding the stadium. In the making of initial appointments under this section, the mayoral appointee shall be appointed for a term of 1 year, 1 city council appointee shall be appointed for a term of 2 years and 1 city council appointee shall be appointed for a term of 3 years. Upon the expiration of the term of an initial appointed member, the successor shall be appointed for a term of 3 years. On the effective date of this act and annually thereafter, the commission shall organize by selecting a chairman and a clerk, both of whom shall be members of the commission.

Said commission, on behalf of said city, may, with the approval of the mayor and city council of said city, take by eminent domain under chapter seventy-nine of the General Laws, or acquire by purchase or otherwise, all the land and other property of the Malden High School Field Corporation, or any other property, and may construct buildings and structures on said land and provide proper equipment therefor; and may hold, manage, control, lease or let the same for the purpose of school and civic athletics, recreation, play, sports and physical education and may charge admission to the same.

For the purposes aforesaid, so far as they relate to the acquiring of property, the construction of buildings and structures, and the proper equipment of the same, the city of Malden may from time to time within five years from the effective date of this act borrow such sums as may be necessary, not exceeding, in the aggregate, one hundred and seventy-five thousand dollars, and may issue bonds or notes therefor which shall bear on their face the words, Malden Stadium Loan Act of 1946. Each authorized issue shall constitute a separate loan and such loan shall be paid in not more than ten years from their dates. Indebtedness incurred

under this act shall, except as provided herein, be subject to chapter forty-four of the General Laws, exclusive of the requirement contained in the first paragraph of section seven thereof.

All revenue received by the commission from said land, buildings and other structures shall be paid into the city treasury and shall be used as an estimated receipt by the city. All bills with respect to said land, buildings and structures incurred by the commission shall be paid out by the city treasurer for the purposes aforesaid only upon orders approved by the commission and the city auditor. Any such order and any contract which involves the expenditure of more than five hundred dollars shall, in order to be valid, require the written approval of the mayor.

The city council may appropriate such amounts as the mayor may recommend or approve to be expended by the commission for the care and repair of said land, buildings and structures, for the equipment and improvement of the grounds, the construction and enlargement of buildings and other structures, and the support and encouragement of school athletics.

The commission shall annually on or before the fifteenth day of January file with the city clerk an itemized and detailed statement of any revenue received from, and all expenditures made for, said athletic field and the buildings and other structures thereon for the year ending December thirty-first preceding.

(The statutory history of this section is as follows: C. 456 of 1946; Amended: C. 597 of 1948, C.81 of 1954, C.254 of 1975, C. 291 of 2012; C. 33 of 2015)

Fifth, the provision entitled, “**TRAFFIC COMMISSION**” that is found in the following section:

Section 23 D. There is hereby established a commission to consist of the chairman of the public works commission, the city engineer, the chairman of the planning board, the fire commissioner or his representative, and the chief of police or his representative.

The chief of police, or his representative, shall act as the chairman of said commission and shall be known as the traffic commissioner. The members and secretary of the commission shall receive such compensation for their services as

may be fixed by the city council. All statutes and ordinances applicable generally to the departments of the city shall apply to the commission.

The commission shall have exclusive authority, except as otherwise herein provided, to adopt, amend, alter and repeal rules and regulations, not inconsistent with general law as modified by this act, relative to vehicular street traffic in the city, and to the movement, stopping or standing of vehicles on, and their exclusion from, all or any streets, municipal public parking places, ways, highways, roads and parkways, under the control of the city, including rules and regulations designating any way or part thereof under said control as a through way under and subject to the provisions of section nine of chapter eighty-nine of the General Laws, and may prescribe penalties for the violation of any rule or regulation adopted hereunder. Any rule or regulation adopted under this section, prohibiting the parking or standing of vehicles on the whole or any part or parts of one or more streets, ways, highways, roads, or parkways under the control of the city, may provide that it shall not apply in such residential areas as shall be specified, and at such times as shall be prescribed, in such rule or regulation, to any motor vehicle registered under chapter ninety of the General Laws as principally garaged in the city and owned or used by a person residing in such area who, in the year in which such vehicle is parked or in the preceding December for such year, shall have given, by a writing executed in such form and detail as such rule or regulation shall prescribe, and filed with the chief of police, notice of intention to park in such area and shall display in a conspicuous place on such vehicle, while parked, such visible evidence of the giving of such notice as such rule or regulation shall prescribe; but neither the giving of such notice nor the issuance of visible evidence of the giving thereof shall be construed to assign any specific space to any person or vehicle. No such rule or regulation, except such special rules and regulations as are declared by vote of the commission to be urgently required by considerations of public safety or convenience or such as are of a temporary nature and are to be effective for a period of not more than two weeks, shall take effect until published for two successive weeks. Upon petition of twenty-five registered voters of the city relative to any rule or regulation adopted or proposed to be adopted under this section, the commission shall hold a public hearing thereon within ten days after the filing with the commission of such petition, and final action thereon shall be determined only by vote of a majority of the entire membership of the commission.

The commission shall have power to erect, make and maintain, or cause to be erected, made and maintained, traffic signs, signals, markings and other devices for the control of such traffic in the city and for informing and warning the public as to rules and regulations adopted hereunder, subject, however, to section two of chapter eighty-five, and to sections eight and nine of said chapter eighty-nine, of the General Laws. Nothing in this act shall be construed to authorize the commission to adopt any rule or regulation excluding the trackless trolley vehicles or buses of a street railway or bus company from any way or part thereof in which it has a location, or to modify or limit any power or authority of the metropolitan district commission, of the state department of public works or of the state department of public utilities, or any power now vested in the mayor, city council or heads of departments with reference to the issuance of licenses or permits for the opening, using or occupying of streets and sidewalks.

The city of Malden is hereby authorized to install parking meters in all off-street parking lots which are currently leased, or which may hereafter be leased, by the city of Malden for public parking purposes, and may use any receipts from parking meters so installed for the purpose of leasing additional parking lots, the care and maintenance of the same, and in general for any traffic control or traffic safety purposes, including payment for public liability coverage in connection with the use of said municipally leased off-street parking lots. Notwithstanding the provisions of any general or special law to the contrary, the city of Malden shall designate areas within said city as senior citizen safety zones. The traffic commission of said city, in consultation with the department of public works, may erect flashing lights and post signs bearing such designation and to establish appropriate speed limits for such zones. Said traffic commission may adopt, from time to time, rules and regulations to carry out the provisions of this act.

(The statutory history of this section is as follows: C. 67 of 1947; Amended: C. 111 of 1952, C. 610 of 1953, C. 484 of 1955, C. 550 of 1955, C. 754 of 1957, C.569 of 1961, C. 233 of 1980; C. 314 of 1998; MGL C. 44 S.33A; MGL C.40, S. 21(24), 21(16b) & 22A; MGL C.90, S. 18A & 20A1/2; MGL. C. 89, S. 5&7A)

Sixth, the provision entitled, “**PLUMBING INSPECTOR**” that is presently contained in the following section:

Section 23 F. Notwithstanding any provisions of law to the contrary, the mayor and city council of the city of Malden may appoint and remove in accordance with the civil service laws and rules a plumbing inspector who shall be a practical plumber and shall have had practical experience either as a master plumber or a journeyman, continuously, during five years next preceding his appointment. Said mayor and city council shall fix his compensation. Said plumbing inspector shall inspect all plumbing in process of construction, alteration or repair for which permits are granted within the city, and shall, notwithstanding any provision of law or any ordinance to the contrary, report to the mayor and city council violations of any law, ordinance, rule or regulation relative to plumbing; and shall perform such other appropriate duties as may be required by the ordinances of said city.

(The statutory history of Section 23F is as follows: added: C. 425 of 1959).

Seventh, the provision entitled, “**CODE ENFORCEMENT INSPECTOR**” that is presently contained in the following section:

Section 23 G. There is hereby established in the city of Malden the office of code enforcement inspector, which office shall be classified under chapter thirty-one of the General Laws, provided, however, that the provisions of section five of said chapter thirty-one shall not apply to such office. The mayor and city council of said city shall appoint and remove such officer subject to said chapter thirty-one, and shall fix his compensation. The code enforcement inspector shall inspect real estate in the city of Malden in accordance with the codes which he shall be delegated to enforce and shall make and maintain proper records of violations of such codes, and shall perform such other appropriate duties as may be required. In connection with such inspections said inspector or his agent may enter, examine or survey at any reasonable time such places as may be necessary in the furtherance of his official duties. Said inspector may, subject to appropriation, employ clerical assistance and assistant inspectors.

(The statutory history of Section 23G is as follows: Added: [C. 348 of 1962](#)).

Eighth, the provision entitled, “**BOARD OF HEALTH**” that is presently contained in the following section:

Section 32. All power and authority now vested by law in the board of health for the town of Malden, or in the selectmen thereof, shall be transferred to and vested in the mayor and city council, until the city council, which shall have authority to establish a board of health, shall otherwise provide.

(The statutory history of Section 23G is as follows: Added: C. 169 of 1881; Amended: C. 550 of 1955)

Respectfully Submitted,

Mayor Gary J. Christenson

The members of the Malden City Council proposing and approving the Home Rule Petition entitled, “**AN ACT STRIKING CERTAIN PROVISIONS OF THE CHARTER OF THE CITY OF MALDEN**”, are as follows, each of whom has affixed her or his signature to this Petition.

Councillor Ryan J. O’Malley
Ward 4
City Council President

Councillor Amanda Linehan
Ward 3
Pro Tempore

Councillor Craig Spadafora
Councillor at Large

Councillor Karen Colón Hayes
Councillor at Large

Councillor Carey McDonald
Councillor at Large

Councillor Peg Crowe
Ward 1

Councillor Paul Condon
Ward 2

Councillor Ari Taylor
Ward 5

Councillor Stephen P. Winslow
Ward 6

Councillor Chris Simonelli
Ward 7

Councillor Jadeane Sica
Ward 8

Commonwealth of Massachusetts

Middlesex, ss

April , 2025

I, Carol Ann T. Desiderio, hereby certify that I am the duly appointed City Clerk of the City of Malden and I certify and attest that the document herein is a true copy of the Home Rule Petition passed by the City Council of the City of Malden on April , 2025 by a vote of _____ in favor and _____ in the negative.

Attest:

Carol Ann T. Desiderio

(City Seal)