

CHAPTER 1 - GENERAL PROVISIONS

SECTION 1.1 CITATION AND EFFECT OF CODE

This Code shall be known as "The Code of the City of Malden, Massachusetts."

This Code is a compilation of all ordinances of the City of Malden. All ordinances heretofore in force are hereby repealed; provided, however, that this repeal shall not affect any acceptance of any statute of the Commonwealth; nor shall it affect any act done, any right accrued, any penalty incurred, any suit, prosecution or proceeding pending, or the tenure of office of any person holding office at the time when it takes effect.

SECTION 1.2 SEVERABILITY

Sections, paragraphs, sentences, clauses and phrases of this code are severable, and if any phrase, clause, sentence, paragraph or section is declared invalid or unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections, since the same would have been enacted by the city without the incorporation of any such invalid or unconstitutional phrase, clause, sentence, paragraph or section.

SECTION 1.3 RULES OF CONSTRUCTION

In the interpretation and application of this Code, the following definitions shall apply, when appropriate:

CITY: the City of Malden.

CITY COUNCIL: the City Council of the City of Malden.

COMMONWEALTH: the Commonwealth of Massachusetts.

GENDER: Any word imputing a gender shall extend and apply to all other genders and to firms, partnerships and corporations.

OWNER: any person having a pecuniary interest, whether in full or in part, of any real or personal property.

PERSON: an individual, corporation, association, firm, partnership, trust or other entity, their agents, servants, employees, representatives, or attorneys, whether masculine, feminine, neuter, singular or plural, as the context may require.

STREET: a public way, alley, highway, walkway, lane, court, public square, public place or sidewalk.

TENANT: any person holding a written or oral lease to or who occupies, the whole or a part of a building or land, either alone or with others.

SECTION 1.4 ENACTING STYLE OF ORDINANCES

The enacting style of ordinances shall be: "Be it hereby ordained by the City Council of the City of Malden, as follows:"

Every ordinance, after its passage to be ordained, shall be signed by the President of the City Council. The City Clerk shall thereafter and within ten days present it to the Mayor for action in accordance with the provisions of the City Charter.

After it has been approved by the Mayor, or has been otherwise finally acted upon, every ordinance shall be recorded chronologically by the City Clerk, in a book kept for that purpose, to be entitled "Record of Ordinances of the City of Malden."

SECTION 1.5 CODIFICATION OF ORDINANCES

Section and subsection numbers or designations, and titles are provided only for purposes of codification and to indicate the contents of specific sections and shall not be deemed to be part of the section.

The City Clerk is authorized, for purposes of clarification or codification, renumber any section or revise section titles to more accurately reflect content.

SECTION 1.06 CITY CEMETERIES DESIGNATED

The cemeteries in the City shall be known as follows: that located on Forest Street as Forest Dale; that located on Salem Street as Salem Street; and that located on Medford Street and Converse Avenue as Bell Rock.

SECTION 1.07 PROCEDURE FOR SELLING TAX TITLE PROPERTY

A. Before final action is taken as to the proposed sale of tax title property or the sale of any other municipal real property, the City Council shall receive an appraisal and recommendation from the Planning Board and a recommendation from the Public Property Committee of the City Council.

B. All applications for the purchase of tax title property or any other real estate owned by the City shall be accompanied by a filing fee of Six Hundred (\$600.00) Dollars.

C. If the Planning Board recommends that any municipal real property be retained, a two-thirds vote of the City Council shall be required prior to sale.

D. Sales hereunder shall be publicly bid under the direction of the City Solicitor unless expressly exempted therefrom by a two-thirds (2/3) vote of the City Council. Said vote shall set forth the price, terms, and identity of the grantee. The deed shall be executed by the Mayor.

SECTION 1.12 CITY SEAL

The following shall be the design of the seal of the City of Malden: within a circle, bearing at the top "Malden", and below, "Settled 1640. Town 1649. City 1882", a shield azure, three lions passant guardant, or, as borne by Maldon, County Essex, England. Crest: an open Bible proper; supporters: dexter, a branch of oak; sinister: a branch of olive; both fruited, proper. Below the base of the shield: "Mystic side".

The City Clerk shall be the custodian of the City Seal.

FINES AND PENALTIES

SECTION 1.08 PROCEDURE FOR ENFORCEMENT OF ORDINANCES, DEPARTMENTAL RULES AND REGULATIONS AND CONDITIONS AND RESTRICTIONS ON LICENSES AND PERMITS

1. Methods of Enforcement

The city may elect to enforce ordinances, departmental rules and regulations, conditions and restrictions on licenses and permits and orders issued thereunder in any of the following manners:

- .1 by petition filed in the District Court or Superior Court department of the trial court to enjoin said violation;
- .2 by application for a criminal complaint filed in the District Court or Superior Court department of the trial court seeking imposition of penalties not exceeding \$300.00 for each violation; or

.3 by issuance of a non-criminal citation as provided in Massachusetts General Laws Chapter 40, Section 21D, Chapter 40U, or Chapter 148A, Section 2, only where specific provisions allow for non-criminal disposition and provide a fine or schedule of fines for violation.

Enforcement action under one method shall not preclude the city from simultaneously pursuing enforcement by another method or collection of fines associated with violations.

2. Enforcement Authority

Every officer or inspector may enforce such laws and ordinances as pertain to matters under his jurisdiction, all rules and regulations promulgated pursuant thereto and conditions or restrictions on any license or permit granted under his authority.

Compliance Officers and members of the Police Department are authorized to site violations of all laws, ordinances, rules and regulations, conditions or restrictions on licenses or permits.

3. Continuing Violations

Unless otherwise provided by law or ordinance, each twenty-four hour period during which a violation exists shall constitute a separate offense, for which an additional fine may be imposed.

4. Procedure for Non-Criminal Enforcement

Any officer or inspector who takes notice of a violation which is subject to non-criminal disposition may elect to enforce compliance by providing the offender with a citation forthwith ordering him to appear before the Municipal Hearing Officer or the Hearing Officer's designee during regular office hours, not later than 21 days after the date of such violation. The notice shall be affixed securely to the building, or delivered in hand or by first class mail to the owner or the owner's agent.

The form of the citation shall conform in all respects to the requirements of Massachusetts General Laws Chapter 40U.

The issuing officer or inspector shall within three business days, submit to the department director copies of each citation issued. The department director shall retain one copy and shall immediately deliver the other to the Municipal Hearing Officer.

The alleged violator shall, within 21 days of the issuance of a citation, return the citation to the Municipal Hearing Officer and shall either pay in full the scheduled fine or request a hearing before the Municipal Hearing Officer. The alleged violator may, without waiving the right to a hearing, request adjudication by mail by sending a signed statement of objections to the citation, and signed statements from witnesses or other relevant parties, photographs, diagrams, maps or other relevant documents.

Failure to respond to a violation notice as provided above or to appear for a scheduled hearing shall be prima facie evidence of the existence of the violations and may be used in any subsequent or related proceedings against the violator.

Decisions of the Municipal Hearing Officer shall be final, subject to appeal as hereinafter provided. Every decision of the Municipal Hearing Officer shall be accompanied by a notice to the violator that he may, within ten days of receipt of the notice of decision, appeal to the district court for a de novo hearing and shall provide a form for that purpose.

If a fine remains unpaid for 21 days and no hearing has been requested, the Municipal Hearing Officer shall notify the property owner, by mail, that the fine shall be paid within 30 days, unless within 14 days the property owner requests a hearing. Any request for hearing shall be accompanied by a sworn statement signed by the property owner under pains and penalties of perjury that he did not receive the initial citation. The Hearing Officer shall add to the fine a processing fee of \$10.00.

If a citation remains unpaid for 30 days after issuance and no hearing has been requested or if a fine remains unpaid 30 days after determination of responsibility by the Municipal Hearing Officer and no appeal has been taken, the Municipal Hearing Officer shall notify the Treasurer, who shall, under the provisions of Massachusetts General Laws Chapter 40 Section 58, impose a municipal charges lien on the property in the amount due to the city, and shall charge such interest on said amount as allowed by law.

SECTION 1.09 DENIAL OF LICENSES/PERMITS FOR FAILURE TO PAY OBLIGATIONS WHEN DUE

Any board, officer, or department shall deny, revoke, or suspend any license or permit, including renewals or transfers, of any person, corporation, or business enterprise whose name appears on the list furnished by the collector of taxes to said board, officer, or department, or with respect to any activity, event, or other matter which is the subject of such license or permit and which activity, event, or matter is carried out or exercised or is to be carried out or exercised on or about real estate owned by any party whose name appears on said list; provided, however, that written notice is given to such person, corporation, or business enterprise and to the collector of taxes, as required by applicable provisions of law, and such person, corporation, or business enterprise is given a hearing, to be held not earlier than fourteen days after said notice. Said list shall be prima facie evidence for denial, revocation, or suspension of said license or permit. The collector of taxes shall have the right to intervene in any hearing conducted with respect to such license denial, revocation, or suspension.

Any such person, corporation, or business enterprise may be given an opportunity to enter into a payment agreement, thereby allowing said board, officer, or department to issue a certificate indicating said limitations to the license or permit and the validity of said license shall be conditioned upon the satisfactory compliance with said agreement. Failure to comply with said agreement shall be grounds for the suspension or revocation of said license or permit; provided however, that the holder be given notice and a hearing as required by applicable provisions of law.

The board, officer, or department may waive such denial, suspension, or revocation if it finds, in writing, there is no direct or indirect business interest by the property owner, its officers, or stockholders, if any, or members of his immediate family, as defined in section one of chapter two hundred and sixty-eight A of the general laws, in the business or activity conducted in or on said property.

SECTION 1.10 IMPOSITION OF MUNICIPAL CHARGES LIEN FOR FAILURE TO PAY CERTAIN OBLIGATIONS

The Treasurer shall impose a Municipal Charges Lien upon any real property the owner of which has failed to pay:

- .1 all fees due for police or fire details ordered by the property owner or required by the city;
- .2 all vacant property registration fees, due under Section 3.36, remaining unpaid for 30 days after the due date;
- .4 any real property the owner of which has failed to pay fines and penalties assessed for violation of the housing or sanitary code or any ordinance enforceable under Massachusetts General Laws Chapter 40, Section 21D.

Said liens shall be imposed and discharged in accordance with the provision of Massachusetts General Laws Chapter 40, Section 58.

WARD BOUNDARIES

SECTION 1.11 WARD/PRECINCT BOUNDARIES

Effective December 31, 2011, the wards and precincts of the city shall, until otherwise ordered, be constituted and known as follows:

Ward 1 Precinct 1

All of that portion of Malden City bounded and described as follows: Beginning at the point of intersection of MBTA Orange Line RR and Medford St, and proceeding northerly along MBTA Orange Line RR to State Hwy 60, and proceeding easterly along State Hwy 60 to Centre St, and proceeding easterly along Centre St to State Hwy 60, and proceeding easterly along State Hwy 60 to Ferry St, and proceeding southerly along

Ferry St to Eastern Ave, and proceeding easterly along Eastern Ave to Phillips St, and proceeding southerly along Phillips St to Holyoke St, and proceeding westerly along Holyoke St to Ferry St and proceeding southerly along Ferry St to Walnut St, and proceeding southerly along Walnut St to Ashland St, and proceeding westerly along Ashland St to Pelham St, and proceeding southerly along Pelham St to Cross St, and proceeding westerly along Cross St to Main St, and proceeding southerly along Main St to Medford St, and proceeding westerly along Medford St to the point of beginning.

Ward 1 Precinct 2

All of that portion of Malden City bounded and described as follows: Beginning at the point of intersection of Medford St and MBTA Orange Line RR, and proceeding easterly along Medford St to Main St, and proceeding northerly along Main St to Cross St, and proceeding easterly along Cross St to Pelham St, and proceeding northerly along Pelham St to Ashland St, and proceeding easterly along Ashland St to Walnut St, and proceeding northerly along Walnut St to Ferry St, and proceeding southerly along Ferry St to the Everett/Malden city line, and proceeding westerly along the Everett/Malden city line to the Malden River and proceeding southerly along the Malden River to the Medford/Malden city line, and proceeding westerly along the Medford/Malden city line to MBTA Orange Line RR, and proceeding northerly along MBTA Orange Line RR to the point of beginning.

Ward 2 Precinct 1

All of that portion of Malden City bounded and described as follows: Beginning at the point of intersection of Fellsway E and Fellsway W, and proceeding northerly along Fellsway E to Pleasant St, and proceeding easterly along Pleasant St to Cedar St, and proceeding northerly along Cedar St to Maple St, and proceeding easterly along Maple St to Summer St, and proceeding southerly along Summer St to Pleasant St, and proceeding easterly along Pleasant St to MBTA Orange Line RR, and proceeding southerly along MBTA Orange Line RR to Charles St, and proceeding westerly along Charles St to Pearl St, and proceeding southerly along Pearl St to Whitman St, and proceeding westerly along Whitman St to West St, and proceeding southerly along West St to Watts St, and proceeding westerly along Watts St to Fellsway, and proceeding northerly along Fellsway to the point of beginning.

Ward 2 Precinct 2

All of that portion of Malden City bounded and described as follows: Beginning at the point of intersection of Charles St and the Medford/Malden city line, and proceeding easterly along Charles St to Fellsway, and proceeding southerly along Fellsway to Watts St, and proceeding easterly along Watts St to West St, and proceeding northerly along West St to Whitman St, and proceeding easterly along Whitman St to Pearl St, and proceeding northerly along Pearl St to Charles St, and proceeding easterly along Charles St to MBTA Orange Line RR, and proceeding southerly along MBTA Orange Line RR to the Medford/Malden city line, and proceeding westerly and then northerly along the Medford/Malden city line to the point of beginning.

Ward 3 Precinct 1

All of that portion of Malden City bounded and described as follows: Beginning at the point of intersection of the Medford/Malden city line and Charles St, and proceeding northerly along the Medford/Malden city line to Bower St, and proceeding southerly along Bower St to Wiley St, and proceeding easterly along Wiley St to Highland Ave, and proceeding southerly along Highland Ave to Clifton St, and proceeding easterly along Clifton St to MBTA Orange Line RR, and proceeding southerly along MBTA Orange Line RR to Mountain Ave, and proceeding westerly along Mountain Ave to Summer St, and proceeding southerly along Summer St to Maple St, and proceeding westerly along Maple St to Cedar St, and proceeding southerly along Cedar St to Pleasant St, and proceeding westerly along Pleasant St to Fellsway E, and proceeding southerly along Fellsway E to Fellsway, and proceeding southerly along Fellsway to Charles St, and proceeding westerly along Charles St to the point of beginning.

Ward 3 Precinct 2

All of that portion of Malden City bounded and described as follows: Beginning at the point of intersection of the Medford/Malden city line and Bower St, and proceeding northerly along the Medford/Malden city line to the Stoneham/Malden town/city line, and proceeding easterly along the Stoneham/Malden town/city line to the Melrose/Malden city line, and proceeding southerly and then easterly along the Melrose/Malden city line to Washington St, and proceeding southerly along Washington St to Oak Grove Ct, and proceeding westerly along Oak Grove Ct to Robert Ter., and proceeding westerly along Robert Ter. to Wyoming Ave, and proceeding southerly along Wyoming Ave to Grove St, and proceeding easterly along Grove St to Washington St, and proceeding southerly along Washington St to Clifton St, and proceeding westerly along Clifton St to Highland Ave, and proceeding northerly along Highland Ave to Wiley St, and proceeding westerly along Wiley St to Bower St, and proceeding northerly along Bower St to the Medford/Malden cityline and the point of beginning.

Ward 4 Precinct 1

All of that portion of Malden City bounded and described as follows: Beginning at the point of intersection of Summer St and Pleasant St, and proceeding northerly along Summer St to Mountain Ave, and proceeding easterly along Mountain Ave to MBTA Orange Line RR, and proceeding northerly along MBTA Orange Line RR to Clifton St, and proceeding westerly along Clifton St to Washington St, and proceeding northerly along Washington St to Grove St, and proceeding westerly along Grove St to Wyoming Ave, and proceeding northerly along Wyoming Ave to Robert Ter., and proceeding easterly along Robert Ter. to Oak Grove Ct, and proceeding easterly along Oak Grove Ct to Washington St, and proceeding northerly along Washington St to the Melrose/Malden city line, and proceeding easterly along the Melrose/Malden city line to Main St, and proceeding southerly along Main St to Leonard St, and proceeding easterly along Leonard St to Tremont St, and proceeding southerly along Tremont St to Montrose St, and proceeding easterly along Montrose St to Mount Vernon St, and

proceeding southerly along Mount Vernon St to Mountain Ave, and proceeding westerly along Mountain Ave to Dartmouth St, and proceeding southerly along Dartmouth St to Florence St, and proceeding westerly along Florence St to Pleasant St, and proceeding westerly along Pleasant St to the point of beginning.

Ward 4 Precinct 2

All of that portion of Malden City bounded and described as follows: Beginning at the point of intersection of MBTA Orange Line RR and State Hwy 60, and proceeding northerly along MBTA Orange Line RR to Pleasant St, and proceeding easterly along Pleasant St to Florence St, and proceeding northerly and then easterly along Florence St to Dartmouth St, and proceeding northerly along Dartmouth St to Mountain Ave, and proceeding easterly along Mountain Ave to Mount Vernon St, and proceeding southerly along Mount Vernon St to Salem St, and proceeding westerly along Salem St to westerly side of cemetery, and proceeding southerly along westerly side of cemetery to MBTA RR, and proceeding westerly along MBTA RR to State Hwy 60, and proceeding westerly along State Hwy 60 to Centre St, and proceeding westerly along Centre St to State Hwy 60, and proceeding westerly along State Hwy 60 to the point of beginning.

Ward 5 Precinct 1

All of that portion of Malden City bounded and described as follows: Beginning at the point of intersection of Mount Vernon St and Salem St, and proceeding northerly along Mount Vernon St to Starbird St, and proceeding easterly along Starbird St to Porter St, and proceeding northerly along Porter St to Bainbridge St, and proceeding easterly along Bainbridge St to Baker St, and proceeding southerly along Baker St to Fairview Ave, and proceeding easterly along Fairview Ave to Rockwell St, and proceeding southerly along Rockwell St to Salem St, and proceeding westerly along Salem St to Branch St, and proceeding southerly along Branch St to MBTA RR, and proceeding westerly along MBTA RR to Bryant St, and proceeding southerly along Bryant St to Eastern Ave, and proceeding westerly along Eastern Ave to Franklin St, and proceeding northerly along Franklin St to MBTA RR, and proceeding westerly along MBTA RR to westerly side of cemetery, and proceeding northerly along westerly side of cemetery to Salem St, and proceeding easterly along Salem St to the point of beginning.

Ward 5 Precinct 2

All of that portion of Malden City bounded and described as follows: Beginning at the point of intersection of Main St and Leonard St, and proceeding northerly along Main St to the Melrose/Malden city line, and proceeding easterly along the Melrose/Malden city line to Lebanon St, and proceeding easterly and southerly along Lebanon St to Sylvan St, and proceeding westerly along Sylvan St to Willard St, and proceeding southerly along Willard St to Rockwell St, and proceeding southerly along Rockwell St to Fairview Ave, and proceeding westerly along Fairview Ave to Baker St, and proceeding northerly along Baker St to Bainbridge St, and proceeding westerly along Bainbridge St to Porter St, and proceeding southerly along Porter St to Starbird St, and proceeding westerly along Starbird St to Mount Vernon, and proceeding westerly along Mount Vernon St to Montrose St and proceeding westerly and northerly along

Montrose St to Tremont St, and proceeding northerly along Tremont St to Leonard St, and proceeding westerly along Leonard St to the point of beginning.

Ward 6 Precinct 1

All of that portion of Malden City bounded and described as follows: Beginning at the point of intersection of Rockwell St and Garden St, and proceeding northerly along Rockwell St to Willard St, and proceeding northerly along Willard St to Sylvan St, and proceeding easterly along Sylvan St to Lebanon St, and proceeding northerly along Lebanon St to the Melrose/Malden city line, and proceeding easterly along the Melrose/Malden city line to the northerly extension of Elwell St., and proceeding southerly along the northerly extension of Elwell St. to Elwell St. and proceeding easterly along Elwell St to Broadway, and proceeding southerly along Broadway to Salem St, and proceeding westerly along Salem St to Home St, and proceeding northerly along Home St to Erickson St, and proceeding westerly along Erickson St to N Milton St, and proceeding northerly along N Milton St to Fremont St, and proceeding westerly along Fremont St to Granite St, and proceeding westerly along Granite St to Lebanon St, and proceeding northerly along Lebanon St to Garden St, and proceeding westerly along Garden St to the point of beginning.

Ward 6 Precinct 2

All of that portion of Malden City bounded and described as follows: Beginning at the point of intersection of MBTA RR and Cross St, and proceeding easterly along MBTA RR to Branch St, and proceeding northerly along Branch St to Salem St, and proceeding easterly along Salem St to Rockwell St, and proceeding northerly along Rockwell St to Garden St, and proceeding easterly along Garden St to Lebanon St, and proceeding southerly along Lebanon St to Granite St, and proceeding easterly along Granite St to Fremont St, and proceeding easterly along Fremont St to N Milton St, and proceeding southerly along N Milton St to Erickson St, and proceeding easterly along Erickson St to Home St, and proceeding southerly along Home St to Salem St, and proceeding easterly along Salem St to Hunting St, and proceeding easterly along Hunting St to Coleman St, and proceeding southerly along Coleman St to Fulton St, and proceeding westerly along Fulton St to the easterly property line of #281/303 Broadway, and proceeding southerly along the easterly property line of #282/303 Broadway to Plainfield Ave, and proceeding westerly along Plainfield Ave to Broadway, and proceeding southerly along Broadway to the southerly property line of #70 Broadway, and proceeding westerly along southerly property line of #70 Broadway to the southerly side of South Broadway park and proceeding westerly along the southerly side of South Broadway Park to Maplewood St, and proceeding northerly along Maplewood St to Crystal St, and proceeding westerly along Crystal St to Eastern Ave, and proceeding westerly along Eastern Ave to Cross St, and proceeding northerly along Cross St to the point of beginning.

Ward 7 Precinct 1

All of that portion of Malden City bounded and described as follows: Beginning at the point of intersection of State Hwy 60 and Ferry St, and proceeding easterly along

State Hwy 60 to MBTA RR, and proceeding easterly along MBTA RR to Franklin St, and proceeding southerly along Franklin St to Eastern Ave, and proceeding easterly along Eastern Ave to Bryant St, and proceeding southerly along Bryant St to Boylston St, and proceeding westerly along Boylston St to Henry St, and proceeding southerly along Henry St to the Everett/Malden city line, and proceeding westerly along the Everett/Malden city line to Ferry St, and proceeding westerly along Ferry St to Holyoke St, and proceeding easterly along Holyoke St to Phillips St, and proceeding northerly along Phillips St to Eastern Ave, and proceeding westerly along Eastern Ave to Ferry St, and proceeding northerly along Ferry St to the point of beginning.

Ward 7 Precinct 2

All of that portion of Malden City bounded and described as follows: Beginning at the point of intersection of MBTA RR and Bryant St, and proceeding easterly along MBTA RR to Cross St, and proceeding southerly along Cross St to Eastern Ave, and proceeding easterly along Eastern Ave to Crystal St, and proceeding southerly along Crystal St to Maplewood St, and proceeding southerly along Maplewood St to South Broadway Park, and proceeding easterly along South Broadway Park to the southerly property line of #70 Broadway and proceeding easterly along the southerly property line of #70 Broadway to Broadway, and proceeding southerly along Broadway to the drainage channel of the Dept. of Conservation and Recreation, and proceeding easterly along the drainage channel of the Dept. of Conservation and Recreation to Lynn St, and proceeding southerly along Lynn St to the Everett/Malden city line, and proceeding westerly along the Everett/Malden city line to Henry St, and proceeding northerly along Henry St to Boylston St, and proceeding easterly along Boylston St to Bryant St, and proceeding northerly along Bryant St to the point of beginning.

Ward 8 Precinct 1

All of that portion of Malden City bounded and described as follows: Beginning at the point of intersection of Broadway and the drainage channel of the Dept. of Conservation and Recreation, and proceeding northerly along Broadway to Plainfield Ave, and proceeding easterly along Plainfield Ave to the easterly property line of #281/303 Broadway, and proceeding northerly along the easterly property line of #281/303 Broadway to Fulton St, and proceeding easterly along Fulton St to Coleman St, and proceeding northerly along Coleman St to Hunting St, and proceeding easterly along Hunting St to Salem St, and proceeding easterly along Salem St to State Highway southwest ramp and proceeding southerly along State Highway southwest ramp and its western extension to the Revere/Malden cityline, and proceeding southerly along the Revere/Malden cityline to the Everett/Malden city line, and proceeding westerly along the Everett/Malden city line to Lynn St, and proceeding northerly along Lynn St to the drainage channel of the Dept. of Conservation and Recreation, and proceeding westerly along the drainage channel of the Dept. of Conservation and Recreation, to the point of beginning.

Ward 8 Precinct 2

All of that portion of Malden City bounded and described as follows: Beginning

at the point of intersection of Broadway and Salem St, and proceeding northerly along Broadway to Elwell St, and proceeding northerly along Elwell St to the northerly extension of Elwell St. and proceeding northerly along the northerly extension of Elwell St. to the Melrose/Malden city line, and proceeding easterly along the Melrose/Malden city line to the Revere/Malden cityline, and proceeding southerly along the Revere/Malden cityline to State Highway southwest ramp and its western extension and proceeding northerly along State Highway southwest ramp's western extension and State Highway southwest ramp to Salem St, and proceeding westerly along Salem St to Hunting St, and proceeding westerly along Hunting St to Salem St, and proceeding westerly along Salem St to the point of beginning.

CHAPTER 2 – ADMINISTRATION AND PERSONNEL

GENERAL OPERATIONAL PROVISIONS

SECTION 2.1. HOURS CERTAIN OFFICES TO BE OPEN

Except on holidays, city administrative offices shall be open to the public from 8:00 A.M. to 4:00 P.M. on Mondays, Wednesdays and Thursdays, from 8:00 A.M. to 7:00 P.M. on Tuesdays and from 8:00 A.M. to noon on Fridays.

SECTION 2.2 PUBLIC HEARINGS- TIME TO BE HELD; NOTICE

All public hearings before municipal boards or commissions shall be held in the evening between the hours of 6:00 P.M. and 10:00 P.M., except hearings held under Chapter 31 of the General Laws or other employment related hearings.

Whenever a public hearing is held, the Councillor's at large and the Councillor of the ward to which the matter of the public hearing pertains shall be notified by the body conducting the hearing.

SECTION 2.3 ANNUAL REPORTS FOR COMMITTEES, BOARDS, ETC.

All committees, boards, commissions, trustees and department heads shall, annually in October, furnish to the City Council a report of activities for the previous fiscal year, together with any other relevant information or recommendations. Said report shall contain a statement of receipts and expenditures and a schedule of materials, tools and property of all kinds on hand as of June 30th.

The report of the Assessors shall contain detailed descriptions and valuations for all real estate owned by the city or under the control of the Malden Redevelopment Authority.

The report of the Public Works Commission shall contain an evaluation of the condition of streets, sidewalks, parks, and playgrounds .

The report of the City Engineer shall contain an evaluation of the condition of all sewers, water pipes, drains, bridges and culverts in the City.

The report of the Treasurer shall include an accounting of receipt and expenditures for

the prior fiscal year.

The report of the Insurance Committee shall detail the status of all fire and boiler insurance contracts.

GENERAL PROVISIONS RELATIVE TO APPOINTMENT/EMPLOYMENT

SECTION 2.4 APPOINTMENT AND REMOVAL OF OFFICERS; TERMS; FILLING OF VACANCIES

Except as otherwise provided by charter or ordinance, the following shall apply to all officers, members of boards and commissions, and employees appointed by the Mayor and/or the City Council:

1. Officers shall be chosen in January and assume office on the first day of March.
2. An officer may be removed from office by the appointing authority in the same manner in which he was appointed.
3. Vacancies in office shall be filled for the unexpired term, if any.
4. Officers shall hold office until a successor is chosen and qualified.

SECTION 2.5 EMPLOYEES AND APPOINTEES TO BE RESIDENTS; EXCEPTIONS

1. Except as provided in paragraph 2 below, every officer, employee or appointee to a board or commission of the city shall be a resident of the City, or shall become a resident of the City within six months of commencing employment.
2. Paragraph 1 shall not apply to the following:
 - persons employed before January 1, 1999;
 - school teachers;
 - non-clerical employees of the Planning Department, provided preference shall be given to Malden residents where technical training of candidates for the position is equal;
 - the physician appointed to the Board of Health and
 - persons appointed by the Mayor or City Council, including board or commission members who have been designated to serve by virtue of their employment with the city;

SECTION 2.6

PROBATIONARY PERIODS

Any newly hired or promoted employee shall serve a probationary period consisting of six (6) full months of work. Prior to the conclusion of the probationary period, the department head or supervisor shall submit to the Director of Human Resources an assessment of the employee's suitability for continued employment and, if found unsuitable, the employee may be terminated or returned to his previous position, as the case may be; provided that at-will employees remain subject to termination at any time, without cause.

SECTION 2.7

ENUMERATION OF BOARDS AND COMMISSION APPOINTED OFFICERS; TERMS AND DUTIES

The following officers, department directors, and boards and commissions shall be appointed by the official or officials and for the terms and purposes hereinafter described:

Officer, Department Director, Board/ Commission	Number of Members	Term	Statutory Authorities
Appointed by Mayor			
ADA Compliance Officer	--	--	Ordinance Chapter 2
Animal Control Officer	--	1 yr.	MGL Chap 140, Section 151
Building Commissioner	--	--	MGL Chap 143
Constables	--	Not more than 3 yrs.	MGL Chap 41, Section 92
Disability Commission	5	3 yrs.	MGL Chap 40, Section 8J
Emergency Communications Coordinator	--	--	Ordinance Chapter 2
Emergency Management Director	--	--	Ordinance Chapter 2
Historical Commission	5	2 yrs.	MGL Chap 40, Section 8D
Inspector of Wires	--	--	MGL Chap 143
Parking Director	--	--	Ordinance Chapter 2
Recreation Coordinator	--	--	Ordinance Chapter 2
Sealer of Weights & Measures	--	--	MGL Chap. 98

Teen Program Coordinator	--	--	Ordinance Chapter 2
Veterans' Service Commissioner	--	1 yr.	MGL Chap 115, Section 3

Appointed by City Council

Assessors	3	3 yrs	Charter Section 19
Board of Health	3	3 yrs	Ordinance Chapter 2
Cemetery Trustees	5	5 yrs.	Ordinance Chapter 2
City Clerk	--	3 yrs	Charter Section 15
City Solicitor	--	3 yrs.	Charter Section 14
Clerk of Committees	--	1 yr.	Ordinance Chapter 2
Community Preservation Committee	9, including one designee of each of the following: Planning Board, Historical Commission, Conservation Commission	2 yrs	MGL Chap 44B, Sec. 3-7
Compliance Officers	2	--	Ordinance Chapter 2
Controller of Accounts	--	3 yrs.	Charter Section 14
Director of Assessing	--	3 yrs.	Ordinance Chapter 2
Municipal Hearing Officer	--	3 yrs.	Ordinance Chapter 2

Scholarship Committee	9, including the Superintendent of Schools and Council President or designee	3 yrs.	MGL Chap. 60, Section 3C
Treasurer/Collector	--	3 yrs	Charter Section 14
Appointed by the Mayor with City Council confirmation			
Board of Appeal	5, including Chair of Board of Assessors and Fire		Charter Section 23B

	Department representative		
Building Committee			Ordinance Chapter 2
City Engineer	--	3 yrs.	Charter Sections 20& 21
City Planner	--	--	Ordinance Chapter 2
Conservation Commission	7	3 yrs.	MGL Chap 40, Section 8C
Council on Aging	7, including MHA Director, Public Health Director, Police Chief, representative of elder service agency and 3 senior residents	3 yrs	Ordinance Chapter 2
Cultural Council	11	3 yrs.	MGL Chap 10, Section 58
Director of Human Services & Community Outreach Coordinator	--	3 yrs.	Ordinance Chapter 2
Director of Permits, Inspections & Planning Services	--	3 yrs.	Ordinance Chapter 2
Director of Public Facilities	--	3 yrs.	Charter Section 23I
Director of Public Works	--	3 yrs	Charter Sections 20 & 21
Fire Commissioner	--	3 yrs.	Charter Section 16
Housing Authority	5, including one appointed by the Governor	5 yrs.	MGL Chap 121B
Human Resources Director	--	3 yrs.	Ordinance Chapter 2
Industrial Development Financing Authority	5	5 yrs.	MGL Chap 40D
Information Technology Director	--	3 yrs.	Ordinance Chapter 2
Licensing Commission	3	6 yrs.	MGL Chap 138
Metropolitan Area Planning Council	1	3 yrs.	MGL Chap 40B, Sections 25-29
Planning Board	9	5 yrs.	MGL Chap 41, Sections 81B-81Y
Plumbing Inspector	--	--	Charter Section 23F
Police Commissioner	--	3 yrs.	Charter Section 23A

Public Works Commission	3	3yrs.	Charter Sections 20&21
Redevelopment Authority	5, including one appointed by the Governor	4 yrs.	MGL Chap. 121B
Registrars of Voters	4, including City Clerk	3 yrs.	MGL Chap. 51-54
Appointed by the Mayor and City Council			
Stadium & Athletic Field Commission	7, including Mayor, High School Principal, High School Athletic Director, Recreation Coordinator, 2 residents appointed by Council & 1 resident appointed by Mayor	3 yrs.	Charter Section 23C
Commission on Energy Efficiency	5, including Director of Public Facilities, one Councillor appointed by Council President, 1 member appointed by the City Council & 2 members appointed by the Mayor	2 yrs.	Ordinance Chapter 2
Human Rights & Fair Housing Commission	7, including 3 by Mayor and 4 by City	1 yr.	Ordinance Chapter 2

	Council		
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OFFICERS, EMPLOYEES AND DEPARTMENTS

SECTION 2.8 COMPLIANCE OFFICER – AMERICANS WITH DISABILITIES ACT

The Mayor shall designate a regular full-time municipal or Redevelopment Authority employee as ADA Compliance Officer, who shall receive and investigate complaints of violations of Americans with Disabilities Act and state or federal fair housing laws. The ADA Compliance Officer may, as necessary, enlist the assistance of the Human Rights Commission in resolving complaints and issues brought under this section.

SECTION 2.9 ACCOUNTING DEPARTMENT

The Accounting Department shall be under the supervision and control of the Controller of Accounts and shall keep a complete accounting of the appropriations for and financial transactions of all city departments and officers. All accounts rendered to or kept in the departments of the City shall be subject to the inspection and revision of the Controller of Accounts. Accounts shall be kept in such form as prescribed by the Controller.

The Accounting Department shall receive and examine all bills and payrolls which have been certified by the boards, committees, commissions, commissioners, and officers authorized to make expenditures, and, if they are correctly cast, shall approve payment of the same.

The Controller of Accounts may refuse to pay, in whole or in part, any bill or payroll on the ground that it is fraudulent, unlawful or excessive. Any refusal to pay a bill or payroll shall be reviewed by the City Council, whose determination in the matter shall be final.

The Controller of Accounts shall keep a record of all funded and temporary loans, the rate of interest thereon and the time when the principle and interest are payable.

At the close of each financial year, or more often as deemed expedient, the Controller shall report to the Mayor and City Council the expenditures and receipts during the year, giving in detail the amount of the appropriation and expenditures, and the receipts from each source of income; and the whole shall be arranged, so far as practicable, to indicate the expenses of maintaining each department. The report shall include a statement of funded and temporary loans, with the rate of interest thereon and the payment due date.

The Controller shall cause an audit to be made of all of the accounts of the City at the close of each fiscal year, in accordance with guidelines established by the

Commonwealth.

SECTION 2.9.1 PROCUREMENT OFFICER TO WORK UNDER THE DIRECTION OF THE CONTROLLER OF ACCOUNTS

The Procurement Officer shall work under the supervision of the Controller of Accounts shall and shall have all the powers and duties conferred upon procurement officers by law and by ordinance.

The Procurement Officer shall have the power to transfer all supplies, materials, and equipment from one department to another and the sole power to sell, exchange or trade any supplies, material and equipment which have become obsolete or are no longer suitable for public use.

The Procurement Officer may make or order or make inventories of the supplies, materials, equipment and furnishings of any and all departments.

The Procurement Officer shall control and supervise a storeroom. of standard supplies, materials and equipment for use by all departments and agencies, and shall maintain a perpetual inventory record thereof.

SECTION 2.10 ASSESSING DEPARTMENT

The Assessing Department shall be under the management and control of the Director of Assessing, who shall be appointed by the City Council for a three year term. The Director of Assessing may be a member of the Board of Assessors.

The department, with the approval of the Board of Assessors, shall create and maintain a record of every parcel of real property within the city, including the property characteristics, value, use and ownership, and shall annually deliver to the Collector and Controller of Accounts a statement of all taxes and surcharges due on the property and estates in the city.

The department shall annually determine the tax levy permitted by law and provide to the City Council all information necessary for the adoption of a residential factor, a residential exemption and the resulting tax rate.

4. The department shall administers motor vehicle excise tax, and assess taxes on such personal property as is subject to taxation.

SECTION 2.11 CITY CLERK

In addition to those powers and responsibilities provided by law, the City Clerk shall have the following duties:

- .1. to administer policy concerning record storage, disposal and coordination for the City as established by Secretary of the Commonwealth;
2. . to attend all meetings of the City Council and keep an accurate record of such meetings;
3. to notify the Controller of Accounts and Treasurer, in writing, of all financial orders, as soon as practicable after such orders are approved. Notification of approved financial orders shall also be given to the appropriate department;
- 4.. to keep the bonds of all City officials.

SECTION 2.11.1 ASSISTANT CITY CLERK

An Assistant City Clerk shall be appointed by the City Clerk, subject to removal for cause by the City Clerk and the City Council. The Assistant City Clerk shall be under the direction and supervision of the City Clerk and shall perform such duties as the City Clerk shall determine.

SECTION 2.12 CLERK OF COMMITTEES

The Clerk of Committees shall keep full and accurate records of the meetings of any committees of the City Council, and shall perform such other clerical duties as may be required by the Council.

SECTION 2.13 COMPLIANCE OFFICERS

Compliance Officers shall be appointed and work under the direction and control of the City Council.

Compliance Officers shall work to promote the health, safety and welfare of the residents of Malden by ensuring that residents and businesses conform to the requirements of state law, city ordinance, rules and regulations promulgated pursuant thereto, and restrictions, conditions or limitations on licenses and permits granted by the City and shall endeavor to promote community awareness of and adherence to city and state requirements for specific activities or uses of property.

Compliance Officers may investigate any property or activity in the City for the purpose of:

1. assuring that the use of said property or the activity engaged in is allowed by

- law or ordinance;
2. determining that the use of said property or the activity engaged in has been properly licensed or permitted;
 3. confirming that restrictions, conditions or limitations placed on licenses and permits are being met;
 4. initiating enforcement proceedings against any resident, business or property owner who fails to comply with any law, ordinance, rule, regulation or condition or restriction on a license or permit.

Compliance Officers shall submit to the City Council on a monthly basis a detailed account of their activities.

SECTION 2.14 DEPARTMENT OF INFORMATION TECHNOLOGY

The Department of Information Technology shall be under the direction and control of the Director of Information Technology, who shall be appointed to a term of three years by the Mayor, with City Council approval.

The Director of Information Technology shall define Information Technology and oversee the management of all computerized information systems, including software and network systems for the collection, processing, storage, presentation and retrieval of information. The Director of Information Technology shall define and prepare written standards and policies for computer hardware and software used by all departments. The Director of Information Technology shall consult with the heads of the departments to determine their requirements and shall endeavor to prescribe standards that best meet the needs of the majority of departments and define requirements for technical and professional services.

SECTION 2.14.1 ASSISTANT DIRECTOR OF INFORMATION TECHNOLOGY

The Assistant Director of Information Technology shall be appointed by the Director of Information Technology, subject to removal by the Mayor and City Council. The Assistant Director of Information Technology shall be under the direction and supervision of the Director of Information Technology and shall perform such duties as the Director of Information Technology may proscribe.

SECTION 2.15 DEPARTMENT OF PERMITS, INSPECTIONS AND PLANNING SERVICES

The Mayor shall appoint the Building Commissioner, the Inspector of Wires, and the Inspector of Plumbing and Gasfitting. Any officer so appointed shall possess the qualifications for their respective positions, as required by Massachusetts General Laws, and may be removed in the manner prescribed by law.

The Building Commissioner shall, in addition to other duties imposed by law or ordinance, monitor the issuance of all building, plumbing and wire permits issued by the city, shall schedule all inspections required thereunder, and co-ordinate activities of the Local Building Inspector, the Inspector of Wires and the Inspector of Plumbing.

The Board of Health shall appoint the Public Health Director who shall be an agent of the Board of Health and shall have all the powers and duties ascribed to such agents under Massachusetts General Laws or from time to time vested in him by the Board.

The Mayor, with the approval of the City Council, shall appoint the City Planner, who, under the direction of the Planning Board, shall develop and maintain the city's master plan and make recommendations relating to land use management and disposition of land owned by the city. The City Planner shall have such other duties with respect to city planning as may from time to time be imposed by the Mayor and City Council.

The Mayor, with the approval of the City Council, shall designate one of the aforementioned officers as Director of Permitting, Inspections and Planning Services for a term of three years, commencing July 1, 2012. The Director shall be charged with the administrative and executive oversight of the remaining officers, such administrative, clerical and assistant inspectional personnel as may be provided for by appropriation.

SECTION 2.15.1 SEALER OF WEIGHTS AND MEASURES

The Sealer of Weights and Measures shall be appointed from a Civil Service list by the Mayor.

The Sealer of Weights and Measures shall be an agent of the Board of Health and shall work under the supervision of the Director of Public Health

The Sealer of Weights and Measures shall test scales, weights and measures for the public, shall have the care and custody of all public scales of the City, shall enforce all laws relative to the use of weights and measures.

SECTION 2.16 DEPARTMENT OF PUBLIC FACILITIES

The Department of Public Facilities shall be under the direction and control of the Director of Public Facilities, who shall, subject to funding, appoint such subordinates and assistants as may be required.

Under the direction of a Building Committee established in accordance with the provisions of Section 2.48, the Director of Public Facilities shall supervise construction of municipal buildings or additions to existing municipal buildings involving an expenditure of \$10,000 or more and shall be responsible for the initial furnishing, equipping of said building or addition.

The Director of Public Facilities shall control, maintain and manage all buildings owned or occupied by the City of Malden and all real property associated with said buildings. In determining use and occupancy of said buildings, the Director of Public Facilities shall give priority to governmental, educational and recreational operations of the city of Malden, shall provide accommodations for public meetings and conventions, and may provide space for use by the performing arts or civic, athletic and cultural organizations.

The Director of Public Facilities shall keep a record of the condition of all buildings under his control, and repairs or alterations made to said buildings. He shall certify all bills for payment for any work performed under his direction and shall enforce compliance with the conditions of contracts, specifications and rental agreements.

The Director of Public Facilities shall annually submit to the Committee on Public Property a statement of the nature and extent of repairs that should be made during the following year, together with an estimate of the cost of the same.

SECTION 2.17 DEPARTMENT OF PUBLIC WORKS

Under the direction of the Public Works Commission, the Department of Public Works shall be responsible for the maintenance of city streets, sidewalks, parks, playgrounds and public shade trees.

The executive and administrative officer of the department shall be the Director of Public Works, who shall provide for the internal organization of the department and shall, subject to funding, hire subordinates, assistants and supervisors, who shall assume the duties and responsibilities assigned by the director.

SECTION 2.18 ENGINEERING DEPARTMENT

The City Engineer shall be the head of the Engineering Department and shall exercise general supervision of all engineering for public improvements.

The Engineering Department shall have the following powers and duties:

1. to have care and custody of all plans or surveys relating to public works and improvements, including all other plans and surveys relating to streets, sewers, bridges, and drains and to prepare plans and contracts for

- the same;
2. to approve the location of water pipes and prepare accurate plans of the same;
3. to make and maintain accurate plans of all common sewers, showing all entrances thereto;
4. to prepare plans of all property to be assessed for sewer betterments;
5. to make such surveys, plans, profiles, estimates and descriptions as may be required by the Mayor or City Council.
6. providing for the repair, maintenance and extension of municipal water, sewer and drainage systems.

SECTION 2.19 HUMAN RESOURCES DEPARTMENT

The Mayor, with the approval of the City Council, shall appoint, for a term of three years, a Human Resources Director, who shall have executive and administrative control of the Human Resources Department.

The Human Resources Department shall perform the following duties with respect to all positions and departments having employees whose positions are or may be subject to this ordinance:

1. . direct the Group Health and Life Insurance programs for City employees and retirees.
2. supervise the Affirmative Action and Equal Employment Opportunity programs of the City.
3. maintain the comprehensive personnel records for all City employees, including, but not limited to, accrued vacation, sick leave and personal days, notices of leaves of absence, workers compensation claims, workforce safety and accident data, academic achievements and work-related instruction and certification, military status, commendations and other work performance matters.
4. post and advertise all employment opportunities within the city of Malden.
5. review the salary classification plan, and make recommendations for the assignment of new positions or reassignment of existing positions within the classification plan;
6. upon the request of any City department head, prepare and assist in conducting training programs for the employees of that department for the purpose of improving their effectiveness in their jobs.
7. to the extent consistent with applicable grievance procedures, under collective bargaining agreements, investigate the facts giving rise to grievances and make recommendation to department heads or the Mayor at any step of the grievance procedure.
8. supervise all municipal employee assistance programs and serve as the municipal employee assistance officer.
9. review and make recommendations on requests for leaves of absence for any

- purpose;
10. assist, to the extent required, in negotiations with collective bargaining units;
 11. maintain records of all persons seeking employment with the City and implement a program of recruitment to obtain qualified candidates for employment;
 12. subject to review by the Mayor and City Council, promulgate rules and regulations and establish policies, not inconsistent with law and ordinance, to promote the orderly administration of employment and employee benefits allowed by law or ordinance,

SECTION 2.20 HUMAN SERVICES AND OUTREACH CO-ORDINATOR

The Mayor, with the approval of the City Council, shall appoint a Director of Human Services and Community Outreach who shall serve for a term of three years.

The Director shall oversee the daily operations and budget of the Senior Center, develop programs and activities, manage staff, and hire such staff and assistants as may be provided for by appropriation. The Director of Human Services and Community Outreach, in consultation with the Council on Aging, shall develop and implement programs to provide social and support services to seniors, establish an information and referral system for issues related to aging and advocate for the city's aging population.

The Director shall collaborate with other city departments to develop and implement programs focused on youth, health and well-being, veterans' services and workforce development.

The Director act as liaison between the city and community, civic, educational and cultural organizations.

The Director may apply for grants and awards from state and federal human service programs, may seek funding from private organizations and may engage in private fund-raising, provided that all funds so acquired be deposited in the City Treasury and expended as allowed by law.

SECTION 2.21 LEGAL DEPARTMENT

The Legal Department shall be under the direction and control of the City Solicitor who shall be an attorney at law.

The City Solicitor shall have the following duties:

1. to draft all deeds and other legal documents on behalf of the City;
2. to examine all real estate titles to be conveyed to the City;
3. to prosecute and defend all actions and suits commenced by or against the City, its agents, servants, officers and employees; and an allowance for traveling

- expenses while out of the city shall be granted, as appropriated;
4. to do every act incident to the office required by the City Council, or any committee thereof;
5. to furnish at the request of any officer a legal opinion on any municipal matter;
6. to serve as the Claims Officer on behalf of the Committee on Finance pursuant to Section 4.22.

SECTION 2.21.1 ASSISTANT CITY SOLICITORS

Assistant City Solicitors shall be attorneys at law licensed to practice within the Commonwealth of Massachusetts appointed by the City Solicitor, and subject to removal for cause by the City Solicitor and the City Council.

Assistant City Solicitors shall work a minimum of twenty-five (25) hours per week, be under the direction and control of the City Solicitor and shall perform duties as assigned by the City Solicitor.

SECTION 2.22 MUNICIPAL HEARING OFFICER

The City Council shall appoint a Municipal Hearing Officer for a term of three year term. The Municipal Hearing Officer shall hear appeals to non-criminal citations issued for violation of city ordinance, departmental rules and regulations, restrictions and conditions on licenses and permits and citations issued under Massachusetts General Laws Chapter 148A for violation of the state fire and building codes, and shall keep records of the disposition of the same. The Municipal Hearing Office shall send all notices required under MGL Chapter 40U and shall authorize the placement of liens on any property which is the subject of an unpaid violation.

SECTION 2.23 PARKING DEPARTMENT

The Parking Department shall be under the supervision and control of a Parking Director designated by the Mayor.

In accordance with the rules and regulations promulgated by the Traffic Commission, the Department shall issue citations for violation of restrictions and limitations on the parking of vehicles on streets and in parking lots under city control, and shall install and maintain parking meters, traffic signs, markings and traffic control devices.

The Department shall administer the Resident Sticker Parking program and collects revenues from parking meters for deposit with the Treasurer.

SECTION 2.24

RECREATION PROGRAMS/ RECREATION COORDINATOR

The Mayor shall designate a Recreation Coordinator, who shall serve at the Mayor's pleasure and shall, in consultation with the Stadium and Athletic Field Commission, develop and coordinate a comprehensive plan to make recreational activities, programs, events and facilities available to residents of the city. The Coordinator shall hire such subordinates and assistants as may be provided for by appropriation.

The Recreation Coordinator may apply for grants and awards from state and federal agencies, may seek funding from private organizations and may engage in private fundraising, provided that all funds so acquired be deposited in the City Treasury and expended as allowed by law.

The Recreation Coordinator may issue permits for the use of fields, parks, stadiums and other municipal recreational facilities which are now or from time to time designated as available for use by the public.

Each permit shall specify the days, hours, activities and facilities or portions of a facility to which it applies and shall entitle the permit holder to exclusive use of said facility or portions of said facility for the duration of time specified on the permit; provided that use of a permitted facility for any activity not authorized by a permit shall render the permit null and void.

SECTION 2.25

TEEN PROGRAM COORDINATOR

The Mayor shall designate a Teen Program Coordinator, who shall serve at the Mayor's pleasure and shall develop a comprehensive plan to provide teens with programs, activities and events to assist them in making positive life choices and in preparing for future employment, higher education, citizenship and adult life. The Coordinator shall hire such subordinates and assistants as may be provided for by appropriation.

The Teen Program Coordinator may apply for grants and awards from state and federal agencies, may seek funding from private organizations and may engage in private fundraising, provided that all funds so acquired be deposited in the City Treasury and expended as allowed by law.

The Teen Program Coordinator, for the purpose of providing programs for teens, may act in conjunction with similar agencies, both private and public and may, subject to funding, enter into agreements with such agencies for the provision of services.

The Teen Program Coordinator shall, subject to funding, furnish and equip a Teen Center, to include classroom, meeting and gymnasium facilities and shall establish rules and regulations governing use of facilities under its control.

SECTION 2. 26 TREASURER//COLLECTOR

The Treasurer shall be the Collector of Taxes and shall have all the powers and duties assigned by law or ordinance to each of the aforesaid positions.

The Treasurer shall:

1. keep an accurate account of all receipts to the city made in payment of taxes, surcharges, water and sewer fees, fines and penalties and any other payment or receipt required by law.
2. pay all warrants authorized by the Controller of Accounts and shall cancel all bonds or certificates of indebtedness when paid.
3. keep all deeds and instruments conveying real estate to the city.

The Collector of Taxes shall:

1. issue tax bills, including surcharges required by law and, where applicable, for each fiscal year, issue summonses and collect all taxes and interest accruing thereon, as required by law.
2. collect all sums payable to the city on account of water usage and shall furnish the Public Works Commission with an accurate record of receipts therefor, with the number and amount of each bill collected.
3. collect any bills for assessment on account of sidewalks, streets, sewers, drains, and for each fiscal year, issue summonses and collect all betterments and interest accruing thereon, as allowed by law.
4. collect, as allowed by law, all other funds, together with any interest accruing thereon, due the City;
5. annually furnish to each department, board, commission, or division that issues license or permits, a list of any person, corporation, or business enterprise that has neglected or refused to pay any taxes, fees, assessments, betterments, or other municipal charges for not less than a twelve month period, and as not filed in good faith a pending application for an abatement of such tax or a pending petition before the appellate tax board.

Prior to assuming office, the City Treasurer shall give a bond, approved by the City Council, in such form and amount as required by law

BOARD, COMMISSIONS AND COMMITTEES

SECTION 2.27 BOARD OF ASSESSORS

The Board of Assessors shall annually as soon after March first as practicable, meet and organize by selecting one of their members as Chair, and appointing a Clerk, who shall not be a member of the Board. The Clerk shall keep a record of all transactions of the Board and perform such other duties as the Board may from time to time determine.

The Board shall review and certify the accuracy of records and list provided by the Assessing Department to the Treasurer and Controller of Accounts and shall consider and make a determination on all applications for abatement of taxes.

SECTION 2.28 BOARD OF HEALTH

The City Council shall annually appoint one member of to the Board of Health, who shall serve for a term of three years; provided that at least one appointee shall be a physician licensed to practice in the Commonwealth. The Board of Health shall have and exercise all the powers and duties conferred upon Boards of Health in cities by Chapter 111 of the Massachusetts General Laws.

The Board of Health shall annually, as soon after the first Monday in March as practicable, meet and organize by the choice of a chair and clerk. The clerk shall not be a member of the Board. The Board may make such rules and regulations for its government, and the government of all subordinate officers in its department, as it may deem expedient, and shall hear and decide appeals to orders issued by its agents.

The Board of Health may appoint such subordinate officers, agents or assistants as it may deem necessary, and fix their compensation, subject to funding by the Mayor and City Council.

The Board of Health shall make and publish such rules and regulations as are necessary for the public health, safety and welfare.

SECTION 2.29 CANNABIS LICENSING AND ENFORCEMENT COMMISSION

The Cannabis Licensing and Enforcement Commission (CLEC) shall serve as the local licensing authority for Marijuana Establishments within the city, and shall have the power issue, renew, rescind, revoke, or suspend the license for any Marijuana Establishment licensed to do business in the city. The Cannabis Licensing and Enforcement Commission shall enforce the provisions of Marijuana Establishment Licenses, including but not limited to those items contained in 935 CMR 500, contained

within the Special Permit and the host community agreement (HCA), and any rules and regulations promulgated by the CLEC.

Members of the Cannabis Licensing and Enforcement Commission shall not be employed by, be hired by, own or otherwise benefit directly or indirectly from the growing, distribution or sale of marijuana.

The Cannabis Licensing and Enforcement Commission shall consist of five (5) members, as follows, provided that the two (2) community members shall be Malden residents and shall have been residents of the City for at least two years immediately preceding their appointment.

Police Chief

Building Commissioner

City Staff member with finance background as appointed by Mayor

Community Member as appointed by City Council

Community Member as appointed by Mayor

An immediate vacancy in an appointment shall occur if any member becomes involved either directly or indirectly with the sale of marijuana or ownership in a marijuana establishment or a member fails to attend three (3) consecutive regularly scheduled meetings or hearings of the Cannabis Licensing and Enforcement Commission. Immediate vacancy shall occur if a Community Representative no longer resides in Malden.

The term of members appointed from the community shall commence on their date of appointment and be arranged as to expire at the end of three and two years from the first Monday in March in the year of their appointment, the date of expiration to be specified in their respective appointments, and thereafter, members shall be appointed for a three year term, from the first Monday of March of the year in which each initial member's term expires.

One member shall serve as Chair of the CLEC and preside over hearings. The Chair shall be elected annually by the Members. One member shall serve as Clerk of the CLEC. The Clerk shall be elected annually by the members. Members shall receive such stipend and/or salaries as the City Council establishes subject to the approval of the Mayor, and a budget for the reasonable and appropriate expenses of the commission shall be as established by the Mayor subject to appropriation by the City Council.

No individual who has been convicted of a felony and/or who has been convicted of distribution of controlled substances to a minor in any jurisdiction shall be eligible for appointment.

No individual who has been convicted of a felony or misdemeanor, or who has pled guilty, nolo contendere, or admission to sufficient facts, or has obtained a continued without a finding disposition, as to any felony or misdemeanor charge, shall be eligible for appointment.

No individual who has any interest in any Marijuana Establishment in any jurisdiction shall be eligible for appointment.

SECTION 2.30 CEMETERY TRUSTEES

City cemeteries shall be under the care and management of five trustees, one of whom shall be chosen each year by the City Council for a term of five years.

They shall annually, as soon after March first as practicable, meet and organize by the choice of one of their members as chair, and may appoint a Superintendent, a secretary and other assistants and subordinates. .

They may adopt and promulgate such rules and regulations for their own government and for the transaction of business as they may deem necessary and appropriate.

The Trustees shall have authority to grant and convey to any person or persons, by deed duly executed, the exclusive right of burial, and of erecting tombs, cenotaphs and monuments in any of the designated lots or subdivisions of city cemeteries upon such terms and conditions as they may by their rules and regulations prescribe. The proceeds of such sales shall be paid into the City Treasury, and be kept separated from any other funds of the city, and shall be devoted to the liquidation of all debts, obligations and expenses of such cemetery incurred for land or the improvement thereof.

The Cemetery Trustees shall have control of all receipts other than the proceeds of the sales of rights of burial.

The Trustees of the Cemeteries are authorized to take and hold any grant, donation, bequest or deposit that may be made upon trust, to apply the same, or the income thereof, for the improvement or embellishment of the cemeteries, in any manner of form consistent with the purposes for which it was established. When such a grant, donation, bequest or deposit is made by the proprietor of a lot for its repair, preservation or embellishment, they may give to such proprietor an agreement or obligation in such form, and upon such terms and conditions as they may establish, binding the City to keep the lot in repair for such period as may be agreed upon.

All money received pursuant to this section shall be deposited in the City Treasury, and invested by the Treasurer, under the direction of the Trustees, in public stocks, or in mortgages of real estate, or by deposit in any savings bank, national bank or trust company in the Commonwealth; and, the principal shall permanently remain in a separate account. The income of such fund or funds shall be received by the City

Treasurer, and shall be appropriated by the Trustees in such manner as will, in their opinion, promote the purposes for which such grants, donations, bequests or deposits were made.

Every deed for rights of burial in a city cemetery shall be in such form approved by the City Solicitor and prescribed by the Trustees. Deeds shall be signed by the Chair of the Trustees, and countersigned by the Secretary thereof, and by the City Treasurer. It shall have the City Seal affixed thereto, and shall be recorded by the City Clerk in a book provided for that purpose.

SECTION 2.31 COMMUNITY PRESERVATION COMMITTEE

The Community Preservation Committee shall consist of nine residents, who shall serve without compensation and be appointed as follows:

- a. One member designated by the Conservation Commission from among its members who shall serve for a term of three years;
- b. One member designated by the Historical Commission from among its members who shall serve for a term of three years;
- c. One member designated by the Planning Board from among its members who shall serve for a term of three years;
- d. One member designated by the Housing Authority from among its members who shall serve for a term of three years
- e. Five members, who shall serve for a term of two years, each of whom shall be appointed by a ward councilor chosen by a lottery conducted publicly during a City Council meeting; provided that only those wards not represented by statutory members, as listed above, shall be included in said lottery; and provided further that any ward not selected during one appointment period shall be guaranteed appointment during the following appointment period. Appointments made by ward councilors shall be at their sole discretion; provided that no appointee of a ward councillor shall hold another elected or appointed position in the city nor be employed by the city or any of its agencies; and provided further that, if the number of appointments made by ward councilors results in fewer than nine members, an additional member shall be appointed by vote of the entire Council based on publication of the existence of a vacancy, an application process and interview of such candidates as the Council deems qualified for appointment.

No member shall serve more than two consecutive terms.

Each board or commission entitled to designate a member shall notify the City Council through the City Clerk as to the member designated.

Within 30 days of notice that a vacancy exists, it shall be filled for the balance of the unexpired term in the same manner as the initial appointment was made.

The Committee shall annually elect a chairperson from among its members; provided that no member shall serve as chairperson for more than two consecutive years, except upon vote of two thirds of the members.

Except as provided above, actions shall be approved by a majority of the members present and voting; provided that a recommendation for the issuance of general obligation bonds or a recommendation involving action by eminent domain shall require a two thirds vote of members present and voting.

The Committee may, in its discretion, appoint subcommittees and elect such other officers as it deems necessary and appropriate and may employ such subordinates and assistants as are provided for by funding; provided that no administrative funds may be used to enter into a contract with the Malden Redevelopment Authority or the Malden Housing Authority or any of their employees for the provision of administrative services.

The Committee shall promulgate rules and regulations for its own governance and for the transaction of business as it deems necessary and appropriate.

On or before March 1 of each year, the Committee shall submit to the Mayor for inclusion in the annual appropriation order, a proposed operating budget for fiscal year next ensuing, which shall not exceed five percent of that year's estimated annual community preservation fund revenues.

SECTION 2.31.1 DUTIES AND RESPONSIBILITIES

1. The Community Preservation Committee shall annually, in consultation with appropriate city boards and commissions, conduct a study of the needs, possibilities and resources of the city regarding community preservation, including the consideration of regional projects. As part of its study, the Committee shall hold at least one public hearing on the needs, possibilities and resources of the city regarding community preservation possibilities and resources, notice of which shall be posted publicly and published at least once in each of the two weeks preceding the hearing in a newspaper of general circulation in the city and published electronically on the city's web site.

2. The Committee shall annually solicit applications for funding of community preservation projects and shall hold at least one public hearing on proposed projects.

3. The Committee shall evaluate proposals and make recommendation, including anticipated costs, to the City Council for funding of such projects as it believes will provide the maximum benefit to the city as a whole. In evaluating proposals, the

Committee shall, at a minimum, consider the following factors:

- A. eligibility for funding under the Community Preservation Act;
- B. consistency with needs outlined in the Community Preservation study;
- C. the availability of matching funds from the applicant or other source.

4. The Committee may include in its proposal to the City Council, a recommendation to set aside for later spending funds for specific purposes that are consistent with community preservation but for which sufficient revenues are not then available in the community preservation fund or to set aside for later spending funds for general purposes that are consistent with community preservation; provided however, that funds expended pursuant to this chapter shall not be used for maintenance.

5. The committee may recommend the issuance of general obligation bonds or notes, in anticipation of revenues to be raised pursuant to the Community Preservation Act, the proceeds of which shall be deposited in the Community Preservation Fund.

6. In each fiscal year, the committee shall recommend that the City Council either spend, or set aside for later spending, not less than ten percent of the annual revenues in the community preservation fund for each of the following:

- A. Open space, and land for recreational use;
- B. Historic resources;
- C. Community housing.

SECTION 2.31.2 COUNCIL ACTION ON COMMITTEE RECOMMENDATIONS

The City Council may reject or reduce the funding for a recommended proposal; provided that the Council shall notify the Community Preservation Committee of any rejection or reduction in funding and provide the committee thirty (30) days from the date of council action to revise and resubmit such proposal; but provided further that Council action on a revised proposal shall be final.

SECTION 2.32 COMMISSION ON ENERGY EFFICIENCY

The Commission on Energy Efficiency shall be comprised of the Director of Public Facilities, a City Councillor designated by the Council President, one member appointed by the City Council for two years and two members appointed by the Mayor for two year terms, who shall choose from among their members a Chairman.

The Mayor and City Council shall also each appoint one associate member for a term of two years. The Chairman may designate an associate member to sit on the board in the case of absence, inability to act, or conflict of interest, on the part of any member or in the event of a vacancy on the board.

The Commission on Energy Efficiency shall work to create and maintain a healthy community by proposing measurable solutions to reduce the environmental impact of municipal facilities and operations by recommending energy efficient modifications and improvements to proposed and existing facilities, encouraging the preservation of green spaces and clean air and promote public awareness of sustainability options. The Commission shall advise all city agencies on sustainability practices and encourage the growth of businesses that produce sustainable products and services.

Subject to the approval of the Mayor and City Council, the Commission shall establish sustainability policies for all city departments, boards and commissions and shall monitor adherence to policies so adopted.

The Commission shall develop and present an annual sustainability plan for approval by the Mayor and City Council and work, under the general direction of the Mayor and City Council, to implement the plan. The Commission may recommend adoption of programs and policies designed to promote the growth of sustainable energy within the community and shall, in formulating plans and policies, provide an opportunity for the public to comment on policy recommendations.

SECTION 2.33 COUNCIL ON AGING

The Council on Aging shall be comprised of seven members, including the Director of the Malden Housing Authority, the Director of Public Health, the Police Chief, or their designees, and a representative of an elder service provider who provides services to local seniors and three senior residents, appointed by the Mayor with Council confirmation for a term of three years. Appointed representatives shall, to the extent practicable, represent a broad range of the senior population. The Council shall meet at the call of the Director.

The Council shall advise Director of Human Services and Community Outreach on the development and implementation of programs to provide social and support services to seniors, and the establishment of an information and referral system for issues related to aging.

The Council, with the assistance of the Director of Human Services and Community , shall annually submit a report of programs, activities and assets to the Department of Elder Affairs.

SECTION 2.34 CULTURAL COUNCIL

The Malden Cultural Council shall stimulate and encourage the development of the arts

in Malden, including the fine arts, the performing arts, and humanities and shall administer the distribution of any funds received for said purposes.

The Council shall consist of eleven members appointed by the Mayor, subject to confirmation by the City Council and shall serve without compensation.

All appointments shall be for a term of three years from the date of appointment by the Mayor; provided that no member shall serve more than two consecutive terms; and provided further that any member, having served two consecutive terms, may be appointed to fill the vacancy next arising on the Council. To the extent practicable, terms shall be staggered.

This provision shall apply to past and present members of the Cultural Council and shall allow members to serve an unlimited number of non-consecutive terms, subject to appointment and confirmation.

One third of the members shall constitute a quorum for the transaction of business.

The Cultural Council is authorized to apply for grants and sponsor fund raising events for the furtherance of its purposes. All funds received shall be deposited in the City Treasury in a separate Cultural Council account and may be expended, as allowed by law, upon vote of at least six (6) members of the Cultural Council. Said Cultural Council shall, upon receipt of funds from the City of Malden, be subject to municipal finance laws. Said Cultural Council shall be a department of the City.

SECTION 2.35 EMERGENCY MANAGEMENT BOARD

The Emergency Management Board shall be comprised of the Director of Public Works, the Director of Public Health, the Police Chief or his designee, the Fire Chief or his designee, and the Superintendent of Schools or his designee.

The Emergency Management Board shall adopt and, from time to time, amend such plans and policies as may be required to minimize and repair injury or damage resulting from disasters caused by hostile actions or natural disasters. Said plans shall include provisions for training of personnel to provide emergency response services, including but not limited to firefighting, police services, medical and health services, rescue, engineering, evacuation of persons from stricken areas, emergency welfare services, and temporary restoration of public utility services and other functions.

The Board shall meet no less than once a month at a time during which members are not scheduled to perform their regularly assigned duties.

SECTION 2.35.1 MAYOR TO DESIGNATE EMERGENCY MANAGEMENT DIRECTOR; POWERS AND DUTIES OF DIRECTOR

The Mayor shall designate a Director of Emergency Management, who shall serve at the Mayor's pleasure, from among the members of the Board.

The Director of Emergency Management shall have direct responsibility for the organization, administration and implementation of such plans for emergency management or civil defense within the city as are adopted by the Emergency Management Board, and shall act outside the city as may be required under the provisions of Chapter 639 of the Acts of 1950.

SECTION 2.35.2 MAYOR TO DESIGNATE EMERGENCY COMMUNICATIONS CO-ORDINATOR; POWERS AND DUTIES OF COMMUNICATIONS CO-ORDINATOR

The Mayor shall, from time to time, designate an Emergency Communications Coordinator, who shall not be a member of the Emergency Management Board and who shall serve at the Mayor's pleasure.

The Emergency Communications Coordinator shall act as clerk to the Emergency Management Board, shall assist the board in developing a plan for communications among emergency personnel and between emergency personnel and residents in the event of an emergency, and shall make provisions for implementation of such emergency communication plans as are adopted by the Board.

SECTION 2.36 HUMAN RIGHTS AND FAIR HOUSING COMMISSION

The Human Rights and Fair Housing Commission shall work to ensure that all residents, regardless of race, color, religious creed, national origin, sex, age, ancestry, sexual preference, familial status, marital status, veteran status, or physical, mental or emotional capacity or disability, are afforded equal opportunity in or access to credit eligibility, employment, housing, education, recreation, public accommodations, public services and licensing, and shall minimize unlawful discrimination by encouraging mutual understanding among all residents.

The Commission shall be composed of seven members, three of whom shall be appointed by the Mayor and four of whom shall be appointed by the City Council. The Mayor shall appoint a representative of the Malden Housing Authority and a Malden-based representative of the National Association of Realtors, who shall serve until their successors are appointed and qualified and one Malden resident, preferably an attorney, who shall serve for one year from the date of appointment. The City Council shall appoint a representative of the Chamber of Commerce, a representative of a Malden-based disability advocacy organization, a representative of a Malden-based organization providing services to elders, who shall serve until their successors are appointed and qualified, and one Malden resident, who shall serve for one year from the date of appointment. Members may be removed, with or without cause, in the same manner in which they were appointed.

The Chairperson of the Commission on Disability and the designated ADA Compliance Officer shall serve as ex-officio, non-voting members of the Commission.

The Commission shall adopt rules and regulations to carry out the provisions of this ordinance.

The Commission may apply for such grants and accept such funds as will further the purposes of this ordinance.

The Commission members shall be deemed special municipal employees for purposes of liability.

SECTION 2.36.1 FUNCTIONS, POWERS, DUTIES

The Commission shall:

1. Work to increase awareness among municipal employees and residents of the positive effect diversity has on the quality of life in the City.
2. Endeavor to enlist the cooperation of the various racial, religious, and ethnic groups, civic and community organizations, labor organizations, fraternal and benevolent organizations, and other groups in:
 - A. eliminating discrimination and intolerance;
 - B. promoting mutual respect and understanding among all people and groups in the city;
 - C. securing for all residents the free exercise and enjoyment of any right or privilege accruing under state or federal law; and,
 - D. minimizing and striving to eliminate prejudice and unlawful discrimination by encouraging mutual understanding among all residents.

The Commission shall assist in implementation of the City's Fair Housing Plan and shall advocate for the rights of all classes protected under this ordinance.

The Commission shall investigate complaints relative to:

1. denial of any right or privilege secured under state or federal law; and
2. unlawful discrimination resulting in denial of equal access to credit eligibility, housing, employment, education, recreation and public accommodations, services, and facilities to members of a protected class.

The Commission shall attempt to resolve complaints through mediation and voluntary compliance with applicable laws, rules and regulations.

The Commission may make a written report and recommendation to, as the case may warrant, to the Mayor, the School Committee, or the City Council, on any matter under its jurisdiction.

SECTION 2.37 MUNICIPAL BUILDING COMMITTEE

Whenever the city undertakes the construction of a municipal building or an addition to the floor space of an existing municipal building involving the expenditure of more than ten thousand (\$10,000.00) dollars, work shall be performed under the supervision of a building committee consisting of the Mayor or his designee; the Director of Public Facilities; the department head of the department for which the building is being constructed or his designee; a Mayoral appointee; the City Council President or his designee; two City Councillors appointed by the Council President, one of whom shall be the councilor representing the ward where the building or addition is located.

Except in cases of vacancy, resignation or removal for cause, members of a Municipal Building Committee shall serve until completion of the project for which the committee was appointed.

SECTION 2.38 PUBLIC WORKS COMMISSION

The Public Works Commission shall have the following powers and duties:

1. to maintain city streets, sidewalks, parks, and playgrounds;
2. to manage and control the sanitation and cleanliness of city property where no other provision are made by law or ordinance;
3. to determine water rates and consider applications for abatement of water charges;
4. promulgate such rules and regulations necessary for the administration of its duties;
- 5.. to provide for the planting, care and maintenance of public shade trees;
6. to have charge of the lighting of streets and all appropriations therefor;

SECTION 2.39

SIGN DESIGN REVIEW COMMITTEE

The Sign Design Review Committee shall be composed of five members as follows: the Executive Director of the Malden Redevelopment Authority or his or her designee; the City Engineer or his or her designee; the Director of Permits, Inspections and Planning Services or his or her designee; the President of the City Council or his or her designee, and one Councillor At Large designated by the Council President.

The Sign Design Review Committee shall be responsible for the implementation and administration of the Sign Control Ordinance and shall adopt rules and regulations to effectuate its intent, including but not limited to application requirements, detailed design guidelines, and administrative fees.

SECTION 2.40

STADIUM AND ATHLETIC FIELD COMMISSION

The Stadium and Athletic Field Commission, in addition to the duties prescribed by charter, shall have the authority to establish fees and regulations for the use of fields, parks, stadiums or other recreational facilities; provided that no fee shall be charged for any permit issued to a municipal organization and provided further that municipal organizations shall be given priority in permit issuance.

COMPENSATION – NON-UNION EMPLOYEES

SECTION 2.41

SALARY CLASSIFICATION PLAN– NON UNION EMPLOYEES

No person shall be appointed, employed or paid as an employee in any position under the Classification and Pay Plans under any title other than that of the class to which the position is allocated.

Upon commencement of employment, an employee shall be paid at the first step of the classification to which his position is assigned; provided that, at the request of a department director, the Human Resources Director may authorize a higher step to be paid due to exceptional qualifications, general labor market conditions or the lack of qualified persons willing to accept employment at the lower step rate salary

An employee promoted to a higher salary grade shall be paid at the step in the new salary grade that provides an increase in pay equivalent at least to the step increment for the new higher salary grade.

The step rate increases within the same classification are merit increases and are to be

considered rewards for diligent and conscientious work.

A step rate increase as provided shall be granted only until the employee attains the maximum salary or wage of the pay grade of the class to which their position has been allocated.

The Human Resources Director shall provide, and may amend from time to time, written definitions of the classes in the Classification Plan, each including statements describing the kind of work, the distinguishing features of the work and such illustrative examples of duties as may be deemed appropriate. The definitions of classes shall be interpreted as descriptive only, not restrictive. The definitions for any class shall be construed solely as a means of identifying positions to be included in the class, and not as prescribing the duties or responsibilities of any position in the class, nor as modifying the power of any administrative authority, to assign duties to, or to direct and control the work of any employee under the jurisdiction of such authority.

SECTION 2.42 ELECTED OFFICIALS SALARY CLASSIFICATION PLAN

OFFICE	SALARY
Mayor	\$105,000.00
City Councillor	\$ 17,500.00
School Committee Member (including Northeast Regional Vocational School Committee)	\$ 7,000.00

This section shall take effect on Jan. 1, 2006.

SECTION 2.43 OFFICERS SALARY CLASSIFICATION PLAN

EFFECTIVE: 7/1/18										
JobTitle	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7	Step 8	Step 9	Step 10
M1A	\$77,104.63	\$79,032.24	\$81,008.05	\$83,033.25	\$85,109.09					
M1	\$89,364.53	\$91,598.65	\$93,888.61	\$96,235.82	\$98,641.73					
M2	\$89,364.53	\$91,598.65	\$93,888.61	\$96,235.82	\$98,641.73	\$105,740.43	\$108,383.93	\$111,093.54	\$113,870.88	\$116,717.65
M3						\$125,871.98	\$129,018.77	\$132,244.24	\$135,550.34	\$138,950.54

The following positions shall be classified M1A: Assessor (Full Time), Assistant Assessor, Public Health Nurse, Assistant Librarian, Assistant City Engineer, City Planner, Inspector of Plumbing, Inspector of Wires, GIS Supervisor, Assistant Director - Public Facilities, Assistant Controller and Director of Human Services and Community Outreach.

The following positions shall be classified M1: Superintendent of Cemeteries, Director of Online Services & Communication, Director of Strategy & Business Development, Chief Administrative Officer

The following positions shall be classified M2: Director - Board of Health, Director of Engineering, Director - Human Resources, Director - Information Technology, Director - Library Services, Director - Public Facilities, Director - Public Works, Director - Water Utilities, Assessor/Director of Assessing, City Clerk, City Solicitor, Controller, Treasurer/Collector, Building Commissioner.

The following positions shall be classified M3: Chief Financial Officer, Chief Financial Officer/Treasurer, Chief Financial Officer/Controller, Chief Financial Officer/Assessor.

Notwithstanding the provisions of this section, no person employed by the city for a period of less than twelve months shall receive any increase in remuneration until the employee's anniversary date of employment; provided that, upon the anniversary date of employment, said salary shall be increased to the step and grade corresponding to the step and grade in which the employee was hired, as contained herein. No employee who occupies a position which has been reclassified within the 12 months immediately preceding an increase in remuneration as contained herein shall be eligible for said increase until the anniversary date of the employee's hiring next subsequent to the first anniversary date of reclassification. This paragraph shall take effect on January 1, 2015.

SECTION 2.44 SPECIALIST SALARY CLASSIFICATION PLAN (ADMINISTRATIVE AND LABOR)

EFFECTIVE: 7/1/18					
Job Title	Step 1	Step 2	Step 3	Step 4	Step 5
SPA 1	\$48,618.07	\$49,833.52	\$51,079.35	\$52,356.35	\$53,665.25
SPA 2	\$55,006.88	\$56,382.06	\$57,791.62	\$59,236.40	\$60,717.31
SPA 3	\$62,235.26	\$63,791.14	\$65,385.92	\$67,020.56	\$68,696.07
SPA 4	\$70,413.46	\$72,173.81	\$73,978.15	\$75,827.61	\$77,723.30
SPA 5	\$79,666.36	\$81,658.01	\$83,699.46	\$85,791.96	\$87,936.76
SPL 1	\$48,618.07	\$49,833.52	\$51,079.35	\$52,356.35	\$53,665.25
SPL 2	\$55,006.88	\$56,382.06	\$57,791.62	\$59,236.40	\$60,717.31
SPL 3	\$62,235.26	\$63,791.14	\$65,385.92	\$67,020.56	\$68,696.07
SPL 4	\$70,413.46	\$72,173.81	\$73,978.15	\$75,827.61	\$77,723.30
SPL 5	\$79,666.36	\$81,658.01	\$83,699.46	\$85,791.96	\$87,936.76

The following positions shall be classified Specialist 1: Technical Specialist I, Financial Specialist, Health Inspector I, Health Inspector II, Custodial Service.

The following positions shall be classified Specialist 2: Technical Specialist II, Animal Control Officer, Health Inspector III, Local Building Inspector, Communication Specialist, Teen Program Coordinator, Public Facilities Maintenance II.

The following positions shall be classified Specialist 3: HVAC Engineer, Sr. Accounts Supervisor, Law Clerk, Assistant Treasurer, Assistant City Clerk, Assistant Registrar of Voters, Junior Civil Engineer, Assistant City Solicitor(2), Clerk of Committees, Public Facilities Maintenance III, Veteran's Service Commissioner.

The following positions shall be classified Specialist 4: Code Inspector, Recreation Co-ordinator, Co-ordinator of Energy Initiatives, Senior Center Director, Purchasing Coordinator.

The following position shall be classified Specialist 5: System Network Administrator.

Notwithstanding the provisions of this section, no person employed by the city for a period of less than twelve months shall receive any increase in remuneration until the employee's anniversary date of employment; provided that, upon the anniversary date of employment, said salary shall be increased to the step and grade corresponding to the step and grade in which the employee was hired, as contained herein. No employee who occupies a position which has been reclassified within the 12 months immediately preceding an increase in remuneration as contained herein shall be eligible for said increase until the anniversary date of the employee's hiring next subsequent to the first anniversary date of reclassification. This paragraph shall take effect on January 1, 2015.

SECTION 2.45 CLERICAL SALARY CLASSIFICATION PLAN

EFFECTIVE: 7/1/18					
Job Title	Step 1	Step 2	Step 3	Step 4	Step 5
Clerk 1	\$40,900.71	\$41,923.22	\$42,971.30	\$44,045.58	\$45,146.72
Clerk 2	\$46,275.39	\$47,432.27	\$48,618.08	\$49,833.53	\$51,079.38
Clerk 3	\$52,356.36	\$53,665.26	\$55,006.89	\$56,382.07	\$57,791.62
Clerk 4	\$59,236.41	\$60,717.32	\$62,235.24	\$63,791.13	\$65,385.91

Clerical assistants shall be assigned to various departments as follows:

Clerk I: Assessor (2), City Clerk, Fire, Planning Inspections and Permitting, Police (3), Public Facilities, Public Works, Information Technology, Mayor (2), Parking Clerk, Water Utilities

Clerk II: City Clerk, Police/Traffic, Controller, Public Facilities, Veterans' Services, Permits Inspections and Planning.

Clerk III: Senior Center, Public Facilities, Treasurer, Human Resources (2), Traffic Commission

Clerk IV: Planning Inspections and Permitting, Cemetery, Controller, Engineering, Fire, Human Resources, Senior Center, Library, Police, Public Works, Mayor (2).

Notwithstanding the provisions of this section, no person employed by the city for a period of less than twelve months shall receive any increase in remuneration until the employee's anniversary date of employment; provided that, upon the anniversary date of employment, said salary shall be increased to the step and grade corresponding to the step and grade in which the employee was hired, as contained herein. No employee who occupies a position which has been reclassified within the 12 months immediately preceding an increase in remuneration as contained herein shall be eligible for said increase until the anniversary date of the employee's hiring next subsequent to the first anniversary date of reclassification. This paragraph shall take effect on January 1, 2015.

SECTION 2.46 UNCLASSIFIED EMPLOYEES SALARY SCHEDULE

Effective July 1, 2018	
Chairman of the Public Works Commission	\$6,000.00
Police Commissioner, Fire Commissioner,	\$5,000.00
Public Works Commissioners	\$5,000.00
Secretary, Board of Appeal	\$5,000.00
Executive Secretary to Traffic Commission	\$6,000.00
*Meter Enforcement (PT)	\$0.00
*Police Cadets	\$30,830.80
*Traffic Supervisor (incumbent until retirement)	\$0.00
Hearing Officer - Municipal Fines	\$6,000.00
Cemetery Trustees (subject to funding	
from the Perpetual Care Account)	\$3,000.00
Assessor (Part-time)	\$5,000.00
*Compliance Officers	\$25,136.50

Notwithstanding the provisions of this section, no person employed by the city for a period of less than twelve months shall receive any increase in remuneration until the employee's anniversary date of employment; provided that, upon the anniversary date of employment, said salary shall be increased to the step and grade corresponding to the step and grade in which the employee was hired, as contained herein. No employee who occupies a position which has been reclassified within the 12 months immediately preceding an increase in remuneration as contained herein shall be eligible for said increase until the anniversary date of the employee's

hiring next subsequent to the first anniversary date of reclassification. This paragraph shall take effect on January 1, 2015.

SECTION 2.47 OVERTIME AND HOLIDAY PAY-NON-UNION EMPLOYEES

All non-union employees shall receive full payment for legal holidays when in the service of the City, and if required to work on said holidays, time and one-half (1/2) shall be allowed and paid in addition to the pay for the holiday.

No employee enumerated in the Specialist or Clerical Salary Classification Plan shall be required to work more than forty hours in any week, unless such additional work is compensated at the rate of one and one-half times the hourly wage regularly paid for such work.

Except as specifically authorized by the Mayor, no officer enumerated in Officers Salary Classification Plan shall receive additional compensation for performing the duties of said office.

COMPENSATION- UNION EMPLOYEES

SECTION 2.48. SALARY SCHEDULES –UNION EMPLOYEES

Salary schedules for union employees reflect the titles, grade and steps as negotiated between the city and the respective collective bargaining unit.

SECTION 2.48.1 LIBRARY SALARY SCHEDULE

EFFECTIVE 7/1/17 (2.5%)					
SR. LIBRARIAN	\$ 59,958.25	\$ 62,167.78	\$ 64,377.35	\$ 66,586.87	\$ 68,796.43
PROFESSIONAL	\$ 55,248.28	\$ 56,265.60	\$ 57,282.93	\$ 58,300.24	\$ 59,317.58
PARA-PROFESSIONAL	\$ 42,780.88	\$ 43,425.19	\$ 44,069.50	\$ 44,713.82	\$ 45,358.11
LIBRARY TECHNICIAN	\$ 38,311.29	\$ 38,955.59	\$ 39,599.90	\$ 40,244.21	\$ 40,888.51
SENIOR CUSTODIAN	\$ 49,953.25	\$ 50,616.54	\$ 51,279.80	\$ 51,943.08	\$ 52,606.34
CUSTODIAN	\$ 47,726.23	\$ 48,389.49	\$ 49,052.77	\$ 49,716.02	\$ 50,379.31

SECTION 2.48.2 PUBLIC WORKS, PARKS, TRAFFIC, WATER, SEWER AND CEMETERY SALARY SCHEDULE

07/01/19 2%	Step 1	Step 2	Step 3	Step 4	Step 5	10 Year Step 3%
Laborer	17.50	18.23	18.73	19.55	20.21	20.81
Laborer with CDL	20.62	21.35	21.85	22.67	23.33	24.03
Gardner Laborer	18.00	18.73	19.29	20.04	20.76	21.38
Gardner/Laborer with CDL	21.12	21.85	22.41	23.16	23.88	24.60
Gardner MEO	18.99	19.87	20.35	20.93	21.62	22.27
Gardner/MEO with CDL	22.11	22.99	23.47	24.05	24.74	25.48
MEO Laborer	19.11	20.00	20.46	21.05	21.69	22.34
MEO/Laborer with CDL	22.23	23.12	23.58	24.17	24.81	25.56
HMEO Laborer	19.89	20.63	21.22	21.92	22.57	23.25
HMEO/Laborer with CDL	23.01	23.75	24.34	25.04	25.69	26.46
Spec. MEO/LBR, Maint. Craftsman/LBR, M Equip/Repair/ LBR, Tree Climber/Laborer	20.63	21.51	21.99	22.67	23.42	24.12
Spec. MEO/LBR, Maint. Craftsman/LBR, M Equip/Repair/ LBR, Tree Climber/Laborer with CDL	23.75	24.63	25.11	25.79	26.54	27.33
Working Foreman	0.00	0.00	23.40	24.10	24.90	25.65
Working Foreman with CDL	0.00	0.00	26.53	27.23	28.02	28.86
General Foreman						

General Foreman with CDL	0.00	0.00	24.13	24.85	25.66	26.43
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SECTION 2.48.3 PARKING ENFORCEMENT OFFICERS SALARY SCHEDULE:

Effective July1, 2019:
Wages per hour: \$19.76

SECTION 2.48.4 POLICE SUPERIOR OFFICERS SALARY SCHEDULE

EFFECTIVE 7/1/19 (2%):		
SERGEANT	STEP 1	STEP 2
Annually	\$72,100.61	\$74,942.65
Weekly	\$1,386.55	\$1,441.20
LIEUTENANT		
Annually	\$82,194.70	\$85,434.63
Weekly	\$1,580.67	\$1,642.97
CAPATAIN		
Annually	\$93,701.97	\$97,395.47
Weekly	\$1,801.96	\$1,872.99
CAPTAIN-SENIOR		
Annually	\$96,965.18	\$100,658.69
Weekly	\$1,864.72	\$1,935.74

SECTION 2.48.5 POLICE SUPERIOR OFFICERS SALARY SCHEDULE:

EFFECTIVE 7/1/19	WEEKLY	YEARLY
Step 1	\$1,160.45	\$60,343.21
Step 2	\$1,173.66	\$61,030.46
Step 3	\$1,186.88	\$61,717.68
Step 4	\$1,200.09	\$62,404.92
Step 5	\$1,212.10	\$63,028.97

EFFECTIVE 7/1/20	WEEKLY	YEARLY
Step 1	\$1,183.66	\$61,550.07
Step 2	\$1,197.13	\$62,251.07
Step 3	\$1,210.62	\$62,952.03
Step 4	\$1,224.09	\$63,653.02
Step 5	\$1,236.34	\$64,289.55

* SUBJECT TO SECTION 5 OF THE MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF MALDEN AND THE MALDEN POLICE PATROLMEN'S ASSOCIATION, DATED FEB. 28, 2002.

SECTION 2.48.6 TRAFFIC SUPERVISORS SALARY SCHEDULE:

EFFECTIVE January 1, 2019:
Wages per hour \$19.16

SECTION 2.48.7 FIRE FIGHTERS SALARY SCHEDULE:

FY2018					
Rank	1ST YEAR BASE	2ND YEAR BASE	3RD YEAR BASE	4TH YEAR BASE	SENIOR BASE
FIREFIGHTER	\$60,008	\$60,324	\$60,640	\$60,956	\$65,223
LIEUTENANT	\$70,210	\$70,579	\$70,949	\$71,319	\$76,311
CAPTAIN	\$80,039	\$80,460	\$80,882	\$81,303	\$86,995
DEPUTY CHIEF	\$90,044	\$90,518	\$90,992	\$91,466	\$97,869
ASSISTANT CHIEF	\$91,966				\$98,404

SECTION 2.48.8 PUBLIC WORKS SUPERVISORS SALARY SCHEDULE:

7/1/2015	\$66,028.51
7/1/2016	\$67,349.08
7/1/2017	\$69,032.81
7/1/2018	\$70,413.46

BENEFITS

SECTION 2.49

VACATION BENEFITS- NON-UNION EMPLOYEES

1. All permanent full-time non-union employees shall be credited with vacation leave without loss of pay as follows:

A. After the first six (6) months of continuous service with the City of Malden, employees shall be allowed a vacation of two (2) workweeks, to be credited on the first day of the seventh month of service.

B. For each year up to five (5) years of credited service, completed as of January 1, said employees shall be allowed a vacation of two (2) workweeks, to be credited on January 1 of each year after six (6) months of service.

C. For each year more than five (5) years but less than ten (10) years of credited service, completed as of January 1, said employees shall be allowed a vacation of three (3) work weeks, to be credited on January 1 of each year after five (5) years of service.

D. For each year more than ten (10) years but less than twenty (20) years of credited service, completed as of January 1, said employees shall be allowed a vacation of four (4) workweeks, to be credited on January 1 of each year, after ten (10) years of service.

E. For each year more than twenty (20) years of credited service, completed as of January 1, said employees shall be allowed a vacation of five (5) workweeks, to be credited on January 1 of each year, after twenty (20) years of service.

2. Scheduling of vacations for employees shall be subject to the approval of the Department Head. In the event of conflict, seniority shall prevail in selection of vacation time. Employees may carry over one year of vacation credit. Vacation not used in the vacation year in which it becomes available must be used by the end of the following vacation year or it is forfeited. An employee may not accumulate more than two (2) years vacation credits at any time.

3. An employee covered under this section who attains an anniversary date of service, such as the fifth, tenth, or twentieth year, at which time said employee would be entitled to receive an additional week of vacation time as specified above, shall be credited with said additional week as of the employee's annual anniversary date of employment. Thereafter, said additional week shall be credited as of January 1 of the following year.

4. Non-union employees who work on a permanent part-time basis and who regularly work a minimum of twenty (20) hours per week shall be credited with that proportion of the vacation leave, provided above, which their part-time service bears to full-time service.

5. Upon termination of service, an employee shall receive vacation pay equivalent to any unused vacation leave accrued under the provisions of this section; provided that no payment of accrued vacation leave shall be made to an employee who has been charged with misappropriation of city funds or property, a criminal offense involving violation of the laws applicable to his office or position, or an offense under the provision of MGL Chapter 268A Section 2 or Chapter 265 Section 25 until final determination of pending charges; and provided further that an employee

who is finally convicted of any of the aforementioned charges shall forfeit the right to any payment otherwise due under this section.

6. Employment under Malden CETA, Malden Community Development or other similar grant programs, Malden Redevelopment Authority, Malden Housing Authority, or other state, county, or municipal employment within the Commonwealth shall be considered credited service for purposes of eligibility for vacation benefits.

SECTION 2.50 SICK LEAVE – NON-UNION EMPLOYEES

1. Sick leave shall accrue to non-union employees at the rate of one and one-quarter (1 1/4) days per month and may be accumulated up to a maximum of one-hundred fifty (150) days. Sick leave will not be credited for any month in which an unauthorized absence occurs.

2. Sick leave shall be granted to an employee only when duties cannot be performed due to illness, injury, or exposure to a contagious disease.

3. Notification of sick leave absences must be made by the employee to the immediate supervisor as early as practicable. If such notification is not made such absence may, at the discretion of the department head, be charged as leave without pay.

4. If the department head has reason to believe that sick leave is being abused, the submission of satisfactory medical evidence may be required to verify the necessity of sick absences. Failure to produce such evidence within seven (7) days of a request may result in denial of the sick leave and the absence being charged to leave without pay.

5. Upon return to work following a sick leave in excess of five (5) consecutive work days, an employee may be required to undergo a medical examination to determine fitness for work.

6. Non-union employees who work on a permanent, part-time basis and work a regular schedule of twenty (20) hours or more per week shall accrue a prorated portion of sick leave.

SECTION 2.51 SICK LEAVE BUY BACK – NON-UNION EMPLOYEES

A non-union employee eligible for a city retirement benefits shall have the opportunity to sell back to the City at retirement any unused sick leave at the rate of ten dollars (\$10.00) per day up to a maximum of one-hundred fifty (150) days. Upon the death of an eligible employee, payment of this benefit shall be made to the employee's designated beneficiary or the employee's estate.

SECTION 2.52 PERSONAL LEAVE – NON-UNION EMPLOYEES

All full-time non-union employees shall be granted three (3) paid personal leave days per calendar year and such days shall not be cumulative.

Non-union employees hired between June 1st and October 31st shall be granted two (2) personal days during that calendar year.

Non-union employees hired between November 1st and December 15th shall be granted one (1) personal day during that calendar year.

Non-union employees hired after December 15 shall not be entitled to personal time for the remainder of that calendar year.

Scheduling of personal days shall be subject to the approval of the Department Head.

Non-union employees who work on a permanent part-time basis and work a regular schedule of twenty (20) hours or more per week shall be granted a prorated portion of personal leave.

SECTION 2.53 BEREAVEMENT LEAVE – NON-UNION EMPLOYEES

Bereavement Leave of five (5) days, without loss of pay or benefits, may be granted commencing the first working day following the day of death of a non-union employee's spouse, child, father, mother, sister, brother, grandparent, grandchild, father-in-law, mother-in-law, son-in-law, daughter-in-law, step-child, step-parent, step-in laws, step-grandparent, or other relative who is a member of the family of an employee and also domiciled with the employee.

Written documentation, including a copy of a published death notice, may be required within five (5) days of any bereavement leave.

One (1) day of Bereavement Leave may be granted for any other family member. For all other situations, funeral time may be granted.

Unless authorized by the Human Resources Director, bereavement leave shall not accrue to an employee who, at the time of such leave would commence, is utilizing any other form of extended leave, including but not limited to extended sick leave, leaves of absence and family medical leave.

SECTION 2.54 LEAVE OF ABSENCE – NON-UNION EMPLOYEES

The City Council may, upon the request of a non-union employee, grant a leave of absence for full-time study or research leading to a degree to any permanent employee which would enable such person to increase their ability to serve the City. Such leave to be a period not exceeding one (1) year. In exceptional cases the City Council may decide to grant leave with full or partial

pay provided, that prior to the granting of such leave, said employee shall enter into a written agreement with the City Council that upon the termination of such leave, said person will return to the employment of the City for a period to be determined by the Council, and that in default of completing such employment will refund to the City an amount equal to such proportion of salary received while on leave as the period of employment not actually served as agreed bears to the whole period of employment agreed to be served.

No leave of absence shall hereafter be granted by any City department, subject to this ordinance, to any employee for any purpose, with or without pay, unless the Human Resources Director shall have previously approved such leave and the conditions thereof in writing. Any leave so awarded and approved will include specific dates of leave initiation and termination.

SECTION 2.55 JURY LEAVE - UNION & NON-UNION EMPLOYEES

An employee summoned for jury duty shall be granted paid leave for the duration of their jury service. Such payment will be lowered by the amount of any per diem payment or fee received for jury service. The employee must provide a copy of the official notice of jury service to the department head and the Human Resources Director.

SECTION 2.56 PARENTAL LEAVE- UNION & NON-UNION EMPLOYEES

Upon completion of a probationary period of six (6) months employment, parental leave without pay shall be granted to any employee for eight (8) weeks, in connection with the birth, adoption, or court ordered placement of a child providing that the request for said leave is made in writing to the department head at least two (2) weeks prior to such leave. Requests for parental leave shall be submitted in writing to the department head and the Human Resources Director and shall include the expected commencement date of the leave and state that the employee intends to return to his/her position at the conclusion of the leave.

An employee on unpaid parental leave shall not accrue additional vacation or sick leave.

Parental leave shall not affect the accrual of benefits, seniority, or length of service credit.

SECTION 2.57 MILITARY LEAVE – UNION & NON-UNION EMPLOYEES

Any employee who is a member of a military reserve or national guard unit and is ordered to active duty for a period of thirty (30) days or more shall suffer no loss of ordinary compensation for the first thirty (30) days and thereafter shall be entitled to receive the difference, if any, between military pay and city salary for a period of time not to exceed one year, provided that the employee provide the Human Resources Director with verification of orders and military

salary within 30 days of activation.

An employee may maintain insurance benefits during a period of active military service as described above, provided that the employee makes the required contribution for payment of premiums.

An employee on active military duty shall not accrue additional vacation or sick leave. Upon return to full time employment, said employee shall be credited with vacation leave equivalent to that which would have been earned during military duty, but in no event shall the vacation credited exceed one year's accrual.

Periods of active duty shall be included in computation of vacation, seniority and longevity benefits.

CHAPTER 3 –REVENUE AND FINANCE

SECTION 3.1 DUE DATE OF PROPERTY TAXES

Taxes shall be due and payable quarterly, one-quarter to be paid on or before each of the following dates annually: August 1; November 1; February 1; and May 1.

SECTION 3.2 FUNDS TO BE TURNED OVER TO TREASURER; REPORTS

Unless otherwise provided by law, all funds received on behalf of the City, including fees received by employees as witnesses in a civil proceeding, shall be paid to the Treasurer forthwith, and a true return shall be provided to the Controller of Accounts.

All fines and penalties for the violation of any ordinance, rule, regulation, order, or the terms and conditions of any permit or license made or issued pursuant to this Code or by state or federal law shall be paid into the Treasury, unless otherwise directed by the laws of the Commonwealth.

SECTION 3.3 BONDS

Whenever a loan shall be authorized by the City Council, bonds or notes of the City, so prepared as to meet its conditions, shall be issued therefor and disbursed by the City Treasurer with the approval of the Mayor.

All bonds and notes issued by the City shall bear the City Seal and shall be signed by the Treasurer and countersigned by the Mayor and Controller of Accounts.

SECTION 3.4 DISBURSEMENT OF FUNDS FROM THE EXPENDABLE TRUST

1. The Mayor shall, in conjunction with the annual appropriation order shall, and may, at any other time, recommend that funds from the Expendable Trust Fund, established in accordance with Sections 300.13 and 700.14 of Chapter 12, be appropriated to mitigate development impacts or improve infrastructure.

2. Any funds appropriated from the Expendable Trust Fund shall be allocated to Development Mitigation Accounts in the following proportions:

A. half of all funds so appropriated shall be divided equally among eleven accounts,

- one of which shall be under the direction and control of each councillor;
- B. the balance of appropriated funds shall be allocated to a single account, which shall be under the direction and control of the Mayor.

3. Funds deposited in Development Mitigation Accounts may be expended without further appropriation and may be allocated to supplement projects funded through other municipal revenue sources; provided that expenditures from Development Mitigation Accounts shall be limited to the repair, maintenance or extension of streets, sidewalks, streetscapes, water systems, and sewer systems, the planting or maintenance of public shade trees, improvement or maintenance of parks, installation or maintenance of traffic control or traffic calming devices and the purchase, installation or maintenance of similar physical improvements to the city's infrastructure, including but not limited to dedications, memorials and historic markers.

SECTION 3.5 INTER DEPARTMENTAL TRANSFERS

After the annual appropriation order, transfer of funds between or among accounts may be made only upon recommendation of the Mayor and approval by majority vote of the City Council.

SECTION 3.6 PAYMENTS FROM THE CITY TREASURY

No money shall be paid out of the Treasury except upon written order of the Mayor, and approved by the Controller of Accounts, to the Treasurer. No order shall be drawn in payment for services rendered or material furnished to any department beyond the sum appropriated therefor by the City Council.

The Treasurer may order payment of the principal or interest on any note, bond or other security of the city, the city share of state and county taxes, or any judgment against the City.

A request for a refund of any money paid to the city shall be accompanied by proof of payment of the initial amount and documentation satisfactory to the Controller of Accounts that the amount of the original payment exceeded the amount due to the city.

SECTION 3.7 CLAIMS AGAINST THE CITY FOR DAMAGES TO BE DISPOSED OF BY THE CITY SOLICITOR

All claims made against the city for damages and such other claims as may be referred to the Committee on Finance shall be forwarded to the City Solicitor who is authorized on behalf of the Committee on Finance to take such steps as the City Solicitor deems expedient for the defense of the city and resolution of said claims in an amount not exceeding five hundred dollars; provided that no claim shall be paid except in reimbursement for paid receipts to companies doing

business in the Commonwealth. Claims so allowed shall be certified by the Controller of Accounts to the Treasurer without further examination. Notices of all injuries to persons or property shall be forwarded forthwith by the officers upon whom such notices may be served to the City Solicitor for examination.

SECTION 3.8 PURCHASES OF GOODS, SUPPLIES AND SERVICES; ENCUMBERANCE OF FUNDS

Except in an emergency as defined in Massachusetts General Laws Chapter 30B, no board, commission or officer shall enter into a contract or agreement for purchase of goods, materials, supplies or services without having first obtained a purchase order or written contract therefor from the procurement officer.

Procedures for the advertisement and award of all contracts shall conform to the requirements of Massachusetts General Laws Chapter 30B.

Prior to authorizing an expenditure of funds, the Procurement Officer shall verify that the balance of funds available to the board, commission or department is sufficient to pay the cost of the requested goods, materials, supplies or services.

Upon verification that sufficient funds are available, the Procurement Officer shall issue the requested purchase order or award the requested contract, and reduce the balance of funds remaining available to the board, commission or department by the amount of said purchase order. Violation of any law, ordinance, rule, or regulation by any supplier or contractor or failure to pay all obligations due to the city shall be grounds for the Procurement Officer to deny to said vendor a purchase order or award a contract.

SECTION 3.9 PENALTIES FOR VIOLATION OF PUBLIC PURCHASING REQUIREMENTS

Violation of any law, ordinance, rule, or regulation relative to public purchasing by any municipal official or employee shall constitute official misconduct and shall be grounds for termination of employment and such other penalties as provided by law.

CHAPTER 4 -BUILDING AND CONSTRUCTION STANDARDS

SECTION 4.1 APPLICABILITY OF STATE BUILDING CODE

Unless otherwise provided by ordinance, Massachusetts General Laws Chapter 143 and regulations adopted thereunder, referred to and known as the State Building Code, shall be applicable in the city, including the provisions of Appendix 115A, known as the Stretch Energy Code.

SECTION 4.2 FEES FOR STATE CERTIFICATES OF INSPECTION

State Certificate of Inspection	Fee	Use Group/ Description	Expiration
Movie Theater or Theater			
for Performing Acts (stage or scenery)	\$100	> 400 occupant load	One Year
Same	\$100	< 400 occupant load	One Year
Restaurants, Nightclubs/ Similar Uses	\$100	> 400 occupant load	One Year
Same	\$100	<400 occupant load	One Year
Lecture Halls, Churches, and			
Places of Religious Worship,		> 400 occupant load	One Year
Recreation Centers, Terminals etc.	\$100	< 400 occupant load	One Year
(Assembly)			
Low Density Recreation and Similar	\$100	N/A	Five Years
Special Amusement Buildings or			
Portions thereof	\$200	N/A	One Year
Educational, Day Care	\$100	N/A	One Year
Group Home	\$100	N/A	One Year
Residents incapable of self-preservation,			
Hospitals, Nursing			
Homes, Mental Hospitals,			
Certain Day Care Facilities.	\$200.00	N/A	One Year
Residents Restrained - prisons, jails,			
detention centers, etc.	\$200	N/A	One Year
Adult and/or child day care facilities	\$100	N/A	One Year
Hotels, Motels, Boarding Houses, etc.	\$200	N/A	One Year
Detoxification Facilities	\$100.00	N/A	One Year
Multi-Family	\$75.00 +		
	\$5.00/unit	N/A	Five Years
Summer Camp for Children	\$100.00	N/A	One Year
Residential Care /Assisted Living			
Facilities	\$200.00	N/A	One Year
Facilities Licensed by the ABCC			

where alcohol is being served and consumed	\$200.00	N/A	One year as per M.G.L. c.
10 Sect 74			
House Museums	\$100.00	N/A	One year
Fire escapes per Chapter 10	\$200.00	N/A	Five Years

SECTION 4.3 BUILDING PERMIT FEES

1. 1 and 2 family new construction including additions, alterations, repairs to existing buildings:
\$13 per \$1,000 of estimated cost of construction.
Minimum fee: \$40.00.

2. Preliminary permits for footing and foundation:
\$15.00 per \$1,000 of estimated cost of construction.
Minimum fee: \$75.00

3. 3 family and above including commercial.
New construction including additions, alterations, repairs to existing buildings:
\$16 per \$1,000 of estimated cost of construction, plus Plan Review Fees as
follows:

up to \$500,000	\$ 75.00
\$500,000 to \$1,000,000	\$150.00
over \$1,000,000	\$250.00
Minimum fee:	\$ 75.00

4. Certificates of Occupancy and Certificates of Inspection for existing and new residential buildings.

Single family dwelling:	\$ 75.00
Two family dwelling:	\$ 95.00
Three family dwelling:	\$115.00
Four family dwelling & above:	\$135.00 plus \$20 per every unit exceeding four

5. Certificates of Occupancy and Certificates of Inspection for existing and new commercial buildings and retail buildings, and commercial and retail spaces within mixed use buildings:
\$125.00

6. Temporary certificates of occupancy: \$75.00 per month.

7. Demolition of Structure (except when ordered by the Building Dept.):
- | | |
|------------------------|---|
| Commercial Structure: | \$20.00 per \$1,000 of the estimated cost of demolition |
| Residential Structure: | \$13.00 per \$1,000 of estimated cost of demolition. |
8. Signs: Minimum Fee \$100.00 plus \$5 for every \$100 value of the sign.
9. Wood stoves \$ 75.00
10. Swimming Pools
- | | |
|--------------|-----------|
| In ground | \$ 200.00 |
| Above-ground | \$ 85.00 |
11. Moving of structures \$ 525.00
12. Inspection of restrictive covenant \$75.00
13. Request for legal zoning status on residential and commercial \$50.00/address
14. Work started without permit: triple the fee (plus an additional \$50.00 fine if permit is not obtained within 48 hrs. of being notified by the building official): Triple fee
15. Re-inspection: If reinspection is necessary because the applicant failed to meet the inspector, the work was not sufficiently complete to make an inspection or the applicant failed to make all corrections ordered in a previous inspection, an additional \$50.00 fee will be charged for the next inspection and must be paid for before the re-inspection will occur.
16. Exemption from fees, but not permit requirements will be made for any construction on residential structures when the sole purpose is to make the building assessable to the disabled.
17. Permit for removal of illegal work \$400.00
18. Emergency Inspections \$100/hour or part thereof (Building or Sanitary) An Emergency Inspection, as used in this section, is an inspection which a property owner or public safety official requests be conducted at a time other than the normal work hours of Building and Sanitary Inspectors.
19. Sprinkler Permits:
- If cost of sprinkler system is included in cost of construction provided for Building Permit fee: flat fee of \$250.00.

If cost of sprinkler system is not included in cost of estimate provided for Building Permit fee: \$16.00 per \$1,000.00 of estimated cost of construction of the sprinkler system.

20. Paving Permit: \$40.00

SECTION 4.4 PLUMBING/GAS FITTING PERMIT FEES

Fees for permits to perform plumbing and gas fitting work shall be as follows:

All Fees Are Per Dwelling Unit:

New Homes Residential / Single to 3 Family each unit 100.00 + \$5.00 per fixture

New Apartment Houses/ Condo/ Tower: \$50.00 per unit

Plumbing (First Fixture) \$50.00 minimum Fee (if only one fixture)

Gas \$50.00/Each Appliance

Water Heaters:

Gas (Plumbing & Gas Fee) \$50.00

Electric \$25.00

(Gas \$50.00/Plumbing \$50.00)

Remove Illegal Apartment/Plumbing \$400.00

Remove Illegal Apartment/Gas \$400.00

Re-inspection Fee \$50.00

Work Started Without Permit: Triple the fee of the original permit

Emergency Inspections \$100/hour or part thereof. An Emergency Inspection, as used in this section, is an inspection which a property owner or public safety official requests be conducted at a time other than the normal work hours of Plumbing Inspectors.

SECTION 4.5 ELECTRICAL PERMIT FEES

Fees for permits to perform electrical work shall be as follows:

New Homes-Residential/Single to 3 Family each unit: \$300.00 (Includes Service)

New Apartment Houses/Condominiums/ 4 units or more-each unit: \$150.00 (Service and Meters- Additional Cost)

Receptacles & Switches \$3.00

Recessed Lights: \$5.00

Fixtures \$5.00

Electric Signs-All Types \$50.00

Motors (Including Air Conditioners & Generators):

- Dishwasher: \$12.00
- Disposal: \$12.00
- Microwave: \$20.00

Fractional Motors:

- 1HP to 5HP (including whirlpool tub): \$15.00
- 6HP to 10HP: \$25.00
- 11HP to 25HP: \$50.00
- Above 25HP-each additional HP: \$5.00

Gasoline Dispensers (each pump): \$50.00

Air Conditioner/Combo Units- Gas Fired: \$40.00

Cooking or Heating Devices (Electric):

- Electric Heating up to 5,000 watts: \$20.00
- Each Additional KW-1,000 watts: \$5.00

Domestic Hot Water Tanks: \$25.00

Dryers: \$25.00

Range Units up to 8,000 watts: \$25.00

Each additional KW 1,000 watts: \$3.00

Transformers:

- 1 to 5 KVA capacity: \$20.00
- 6 to 25 KVA: \$25.00
- Above 25 KVA each additional KVA: \$5.00

Services:

- Up to 100 amperes: \$70.00

- In excess of 100 amperes, charges compiled on the basis of an additional 100 amperes capacity or fraction thereof: \$20.00
- In addition: each meter & panel: \$10.00
- Panel Changes Only (per panel): \$50.00
- Temporary Service: \$75.00

Distribution:

- Additional panels-sub feeder runs and/or ampere rating up to 100: \$35.00
- Ampere rating 101 to 200 amperes: \$50.00
- Ampere rating 201 to 400 amperes: \$75.00
- Ampere in excess of 400 amperes (per 100 amperes): \$20.00

Swimming Pools:

- Above ground: \$50.00
- In ground: \$75.00
- Hot Tubs: \$50.00

Welding Units: Flat fee for each unit: \$50.00

Alarm Systems:

- Fire/Panel Only \$75.00
- Smoke/heat detectors/pull stations/ horns/audible: \$10.00 each
- Intrusion/Burglar Flat Fee: \$40.00

Heat Units-Gas/Oil: \$40.00

Vinyl Siding: \$75.00

Carnivals/Christmas Decorations/ Commercial Business Area: \$50.00

Telephone/Data/Cable/per outlet: \$5.00

Remove Illegal Apartments: \$400.00

Demolition/Remodel Purposes Only: \$50.00

Sidewall Installation/Permit required: \$75.00

Minimum Fee: \$50.00

Re-inspection fee: \$ 60.00

Power Poles: \$25.00 each

Parking Lot Pole Lighting: \$30.00 each

Photovoltaic Systems 5kw or less: \$100.00

Every kw thereafter: \$20.00

Walk-in Coolers: 40.00

Heat Pumps: \$40.00

Generators:

- 15kw or less: \$50.00
- Each kw thereafter: \$10.00

Antennae Cell Towers (per unit): \$75.00
Hydro-massage (Whirlpool tub): \$20.00
Complete CO2 Systems complete: \$50.00
Energy Control Management: \$3.00 each
Control modular/thermostats: \$3.00 each
Annual Permit (Plant Electrician): \$100.00
Electrical Vehicle Charging Station: \$60.00 each
Ceiling Fan/Bathroom Fan: \$15.00 each
Processing fee for applications received by mail: \$25.00

Communication Systems:

- Sound Systems: \$50.00
- Intercom Systems: \$50.00

Emergency Inspections \$100/ hour or part thereof. An Emergency Inspection, as used in this section, is an inspection which a property owner or public safety official requests be conducted at a time other than the normal work hours of Electrical Inspectors.

SECTION 4.6 PENALTIES FOR FAILURE TO OBTAIN A PERMIT FOR REMOVAL OF WORK COMMENCED WITHOUT A PERMIT

Upon determination that work has commenced without a permit as required by the three preceding section, the Building Commissioner shall notify the property owner in writing, detailing the nature of the violation, ordering removal of any work so commenced and assessing fines related to work commenced without a permit, as provided above. The Building Commissioner shall specify the date by which a permit must be obtained for the removal of work illegally commenced and the date by which removal must be complete.

Failure to obtain a permit for removal of work illegally commenced or to remove work within the time specified by the Building Commissioner shall be punishable by a fine of \$300.00. Each twenty four hour period during which a permit is not obtained or work not completed shall constitute a separate offence, for which an additional penalty may be assessed.

Violations of this ordinance may be enforced in the manner provided in Massachusetts General Laws Chapter 40, Section 21D. In addition, the Building Commissioner shall be permitted to seek all available remedies at law and equity.

SECTION 4.7 SITE PLAN REVIEW – FEES

Application: Fees for Site Plan Review, as required in the Residential Incentive Overlay district, shall be as follows:

1-7 stories	\$10,000
8 stories	\$20,000
9 stories	\$30,000
10 stories	\$40,000
11 stories	\$50,000
12 stories	\$60,000

Amendment: Fees for amendment to an approved site plan, as required in the Residential Incentive Overlay district, shall be as follows:

1. Amendment to condition	\$1000.00/condition
2. Alteration to building exterior(including but not limited to changes to windows, doors, roof, balconies, vehicular access/egress, facade, landscaping and screening, public or private open space etc.)	percentage of application fee equal to the percentage of the exterior to be altered, calculated on total exterior but not less than \$1,000.00
3. Alteration to building interior (including floor plan, use, structural changes, addition of units, etc.)	percentage of application fee equal to twice the percentage of the interior to be altered, calculated based on the total floor area, but not less than \$2,000.00
4. Combination of amendment to conditions and/or alteration to interior and/or exterior	sum of individual fees

SECTION 4.8 SIDEWALL INSTALLATION; PERMIT REQUIRED

Whenever a permit is issued by the Building Commissioner for a sidewall installation of any type on any structure upon which are located electrical attachments as described herein, an electrical permit shall also be obtained by a licensed electrician.

In compliance with 527 CMR 12.00, no person, except a licensed electrician shall remove, adjust, relocate, disconnect, or disturb in any way, any electrical conduits, cables, wiring, fixtures, cable or conduit supports, meters or switches attached to a building. Such electrician shall also be responsible for replacement or reinstallation of the above listed items and for the proper installation or replacement of equipment on metal clad buildings as noted herein.

SECTION 4.9 REGISTRATION AND MAINTENANCE OF

VACANT AND FORECLOSING PROPERTIES

.1 DEFINITIONS

For purposes of this ordinance, a vacant or foreclosing property is:

- .1 A commercial building in which no person or entity conducts a lawful business;
- .2 A residential building in which no person lawfully resides as owner or tenant;
- .3 A mixed use building in which either no person lawfully resides as owner or tenant or in which no person or entity conducts a lawful business;
- .4 A commercial, residential or mixed use building, regardless of occupancy, in which more than half of the total exterior windows or are broken, boarded or without a functioning locking mechanism;
- .5 A property on which foreclosure proceedings have begun, either by
 - .1 Taking possession of the property under MGL Chapter 244, Section 1;
 - .2 Delivering the mortgagee's notice of intention to foreclose to the borrower pursuant to MGL Chapter 244 Section 17B.
 - .3 Commencing a foreclosure action on a property in any court of competent jurisdiction;

An owner is defined as the person or entity, alone or severally with others, holding legal or equitable title to property.

.2 REGISTRATION REQUIRED

The owner of any vacant or foreclosing property shall, within thirty days of the property becoming vacant or foreclosing as defined above, register the property with the Department of Permits, Inspections, and Planning.

Registration shall be made on a form provided by the Department of Permits, Inspections, and Planning and shall include:

- The street address of the building;
- The name, address, telephone number, and e-mail address, if available, of each owner of the building;
- The name and address of a local agent to accept service of process if none of the registered owners reside within the Commonwealth;
- The name and address (not a post office box) and telephone number of a local property management company responsible for the security and maintenance of the property for notification in the event of an emergency affecting public health or safety.

Upon registration of a property, the Director of Permits, Inspections, and Planning shall require the owner to affix at the property, in a location determined by the Director of Permits, Inspections, and Planning or his designee, a notice containing the name, address and 24-hour

contact phone number of the person responsible for maintenance of the property. Said notice shall remain affixed to the property for such time as the property remains vacant.

Subsequent to the initial registration, it shall be the duty of the owner or agent in charge to notify the Department of Permits, Inspections, and Planning of any change in the status of the building or the information provided within 30 days of the occurrence of said change.

Registration shall be accompanied by fees as set forth in Section 3.36.3.

.3 REGISTRATION FEES

At the time of initial registration and annually, on or before the date of initial registration, the owners of a vacant building shall pay to the Department of Permits, Inspections, and Planning a registration fee to cover the administrative cost of monitoring the property in accordance with the following fee schedule:

- \$ 500.00 for initial registration;
- \$1,000.00 for properties vacant for one year after initial registration;
- \$2,000.00 for properties vacant for two years after initial registration;
- \$3,000.00 for properties vacant for three years after initial registration, and every year thereafter.

Violation of the provisions of this section may be enforced by the Director of Permits, Inspections, and Planning and his/her designees in the manner provided in Massachusetts General Laws, Chapter 40, Section 21D by imposition of a fine of \$300.00 for every thirty day period during which a violations exists

.4 APPEAL AND WAIVER OF FEES

The Director of Permits, Inspections, and Planning may grant a waiver of registration fees upon application of an owner and upon review and advice of the City Solicitor. Application for waiver shall be made within 30 days of the date on which the registration fee is due and shall be granted only if all other fees, taxes, and charges due to the city are paid and the owner:

- .1 demonstrates that the building is scheduled for demolition or rehabilitation; or
- .2 provides satisfactory proof that the property was actively marketed for lease or sale during the period of vacancy.

Satisfactory proof that a property is actively marketed shall include, at a minimum, a listing with a licensed real estate broker or with a multiple listing service. Waivers shall be granted for a period of time specified by the Director of Permits, Inspections, and Planning but in no event shall a waiver be granted for more than six months, nor shall a waiver be renewed or extended beyond a one year period.

.5 MINIMUM STANDARDS FOR MAINTENANCE OF VACANT PROPERTIES

Registration requirements contained herein shall be in addition to all other duties and obligations imposed upon the owner of a building by law, ordinance or regulation and compliance with these requirements shall not relieve the owner of liability for failure to comply with any other applicable laws, ordinances or regulations. All property on the vacant and foreclosure property registry must be maintained in accordance with state and local ordinance and regulations and with the following standards:

- .1 structures shall be secured so as to reasonably prevent unauthorized entry;
- .2 structures shall be maintained in conformance with the state building code, the state sanitary code, and local regulations;
- .3 pools shall be drained or covered and fenced with a securely locked gate;
- .4 the exterior of the property shall be cleared of hazardous materials, including but not limited to propane tanks, chemicals, tires, oil and gasoline;
- .5 the exterior of the property shall be cleared of debris, trash, and pools of stagnant water. For purposes of this section, debris shall include items exposed to the elements that are not intended for exterior use and items intended for exterior use that have been allowed to deteriorate to such an extent that they are no longer usable;
- .6 vegetation must be contained and extermination performed to prevent infestation by rodents, wasps, hornets or fleas;
- .7 Water shall be drained from the system and water service terminated;
- .8 Gas and electricity shall be terminated, unless otherwise determined by the Director of Permits, Inspections, and Planning.
- .9 Snow and ice shall be removed from sidewalks and walkways in compliance with Section 11.35 of city ordinance;
- .10 “No Trespassing” signs, visible from any point of entry, shall be posted at the property boundary and on entrances to all structures on the property;
- .11 The owner shall maintain liability insurance in the amount of \$500,000.

.6 INSPECTION/MAINTENANCE OF VACANT PROPERTIES; ABATEMENT OF VIOLATIONS AT EXPENSE OF OWNER

The Director of Permits, Inspections, and Planning shall cause all vacant properties to be inspected semi-annually and shall make note of any condition that violates local, state or federal regulation, or materially impairs the health safety or well-being of an occupant or the public.

A notice of violations and an Order to Correct shall be issued by the Director of Permits, Inspections, and Planning or his designee to the owner or agent in charge of any property found in violation of the requirements set forth above. An Order to Correct shall list specific violations, shall set forth a time frame for correction of violations and shall provide notice of fines to be assessed for failure to comply.

For properties contained on the Vacant Property Registry, notice of violation and Order to Correct shall be sent via first class and registered/certified mail return receipt requested to the address provided upon registration.

For all other properties, notice shall made by first class and registered/ certified mail return receipt requested to the record owner, as established by records of the Assessor of Taxes and by posting a copy in a conspicuous place on the property.

If, after a hearing, the Municipal Hearings Officer determines that the condition cited constitutes a violation of this ordinance and has not been corrected in accordance with the Order to Correct, the Director of Permits, Inspections, and Planning or his/her designee may, from funds allocated specifically therefor, abate such conditions. The Municipal Hearing Officer shall determine the fines to be assessed.

The cost of abatement, together with any fines assessed, shall be paid by the record owner within 30 days of said abatement. Failure to pay any charges assessed shall result in a Municipal Charges Lien imposed against the property in the manner provided by ordinance and by MGL Chapter 40, Section 58.

.7 VIOLATION AND ENFORCEMENT

The Treasurer shall impose a Municipal Charges Lien for all registration fees remaining unpaid for a period of 30 days after the due date in accordance with the provisions of Section 1.14 of these ordinances and Massachusetts General Laws Chapter 40, Section 58.

Violation of the provisions of this ordinance, except as provided in .3 above, may be enforced by the Director of Permits, Inspections, and Planning and his designees in the manner provided in Massachusetts General Laws, Chapter 40, Section 21D by imposition of a fine of \$300.00 for every period equal to the time imposed in an Order to Correct during which the violation continues to exist.

SECTION 4.10 ABANDONED SATELLITE DISHES/ANTENNAS

As used in this section, an abandoned satellite dish or antenna means a device for the transmission or receipt of electronic signals for which no active service contract exists.

The owner of property on which an abandoned satellite dish or antenna is located shall remove said dish or antenna or cause said dish or antenna to be removed within 30 days of termination of service.

Failure to remove such equipment within 30 days of termination of service shall be a violation of

this ordinance punishable in accordance with the following schedule of fines:

1st offense	\$ 50.00
2nd /subsequent offense	\$100.00

Each 24 hour period during which a violation exists shall constitute a separate offense punishable by an additional fine.

Violation of the provisions of this ordinance may be enforced by the Director of Permits, Inspections, and Planning and his designees in the manner provided in Massachusetts General Laws, Chapter 40, Section 21D.

SECTION 4.11 PERMIT REQUIRED FOR ALTERATION OF DRIVEWAY OR PAVED YARD AREA

Effective January 1, 2020, driveways and paved yard areas shall not be altered, reconstructed or enlarged without a permit therefor from the Department of Permits, Inspections and Planning. No permit shall be required for resurfacing a driveways or paved area where there is no change to the dimensions of the existing paved area.

Application to increase the dimensions of an existing driveway or paved area shall be accompanied by a certified plot plan showing existing and proposed dimensions of the paved area.

Application to create a new driveway or paved area shall be accompanied by a certified plot plan showing existing paved areas, if any, and proposed dimensions of the area to be paved. Where applicable, the application shall also be accompanied by verification that a curb cut permit has been issued by the Department of Public Works.

The Director of Permits, Inspections and Planning shall grant only such permits as are found to comply with applicable zoning and public works requirements.

SECTION 4.12 SIGN CONTROL

4.12.1 INTENT AND PURPOSE

The City of Malden recognizes signs are an important means of visual communication in our society and businesses and individuals have the right to convey messages using signs, including, but not limited to, identifying and promoting businesses, services, residences, events, and other matters of interest to the public. It is the intent of this Section 4.12 to regulate all signs within the

City of Malden to ensure that they are appropriate for their respective uses, keep with the appearance of the affected property and surrounding environment, and are protective of the public health, safety, and general welfare by:

- 4.12.1.1 Setting standards and establishing controls to provide a reasonable use of signs by businesses, individuals, and other parties and protecting the public from the visual discord, clutter, unsightliness, and confusion that results from unrestricted size, placement, and design of signs;
- 4.12.1.2 Ensuring that signs are properly designed, constructed, maintained, and erected in such numbers, sizes, designs, illumination, and locations as to not create a hazard to the public health, safety, and general welfare;
- 4.12.1.3 Ensuring that signs are compatible with adjacent land uses, enhance the aesthetics of the community, and promote economic viability.

4.12.2 APPLICABILITY

- 4.12.2.1 The provisions of this Section 4.12 shall apply to any sign erected, altered, or maintained after the effective date of this Ordinance.
- 4.12.2.2 In the case of any inconsistency among the controls of this Section 4.12 or among the controls of this Section 4.12 and different sections of this Code, the strictest provision shall control, unless otherwise stated.
- 4.12.2.3 Nothing contained in this Section 4.12 shall be construed as the content-based regulation of sign messages prohibited by the federal or state constitution, statutes, or court decisions. If any portion of this section is determined to include any form of impermissible content-based regulation, that provision shall be severed from the remainder of this Section 4.12 and shall be revised to reflect the least possible change that avoids impermissible content-based regulation, and the remainder of this Section 4.12 shall remain in effect. It is the specific intent of the City of Malden that any unintentional impermissible content-based regulations not result in the invalidation of this Section 4.12.
- 4.12.2.4 To the extent that this Section 4.12 allows a sign containing commercial copy, it shall allow a non-commercial sign to the same extent. The non-commercial message may occupy the entire sign area or any portion thereof, and may substitute for or be combined with the commercial message, provided the sign is not prohibited and the sign continues to comply with all requirements of this Section 4.12.

4.12.3 DEFINITIONS

As used in this Ordinance, the following words shall have the following meanings. Unless expressly stated otherwise, any pertinent word or term not part of this listing but vital to the interpretation of this Ordinance, shall be construed to have their legal definition, or in absence of

a legal definition, their meaning as commonly accepted by practitioners including civil engineers, surveyors, architects, landscape architects, and planners.

Banner	A sign that is made of fabric, cloth, bunting, paper, or similar non-rigid material attached to any structure, staff, pole, rope, wire, or framing and is anchored along two or more edges or at two or more corners.
Sign	Any device, structure, fixture, painting, emblem, or visual that uses words, graphics, colors, illumination, symbols, numbers, letters, characters or any combination thereof designed and placed so as to be visible from the exterior of a premises and to convey a message to the public.
Sign, Abandoned	<p>A sign that:</p> <ol style="list-style-type: none">.1 Advertises or identifies a business, service, owner, activity, or product no longer occupying or available at the premises; or.2 In the opinion of the Building Inspector, has so deteriorated that the cost of repair would exceed 30% of the cost of replacement.
Sign, Accessory	A sign that advertises or identifies a business, profession, product, service, event or activity, point-of-view, or other commercial or non-commercial activity sold, offered, or conducted on the premises where the sign is located.
Sign, Awning	A sign on a non-structural covering, fixed or retractable, of any material, which projects from a building wall and extends over or otherwise covers any portion of a sidewalk, walkway, dining area, or driveway.
Sign, Freestanding	A fixed sign not attached to a building or structure and supported by one or more columns, poles, or braces placed in, on, or upon the ground.
Sign, Limited Duration	A sign that is displayed on private property for more than 30 days but not intended to be permanent or to be displayed for an indefinite period.
Sign,	A sign on which electric light is projected, whether from the interior

Illuminated	or exterior, including signs incorporating neon or exposed gas tubes.
Sign, Non-Accessory	A sign that advertises or identifies a business, profession, product, service, event or activity, point-of-view, or other commercial or non-commercial activity that is not sold, produced, manufactured, offered, or conducted on the premises where the sign is located.
Sign, Permanent	A sign attached or affixed to a building, window, structure, or to the ground in a manner that enables the sign to resist environmental loads, precludes ready removal or movement of the sign, and has an intended use that appears to be indefinite.
Sign, Personal Expression	A sign that expresses an opinion, interest, position, or other non-commercial message.
Sign, Portable	A sign not permanently affixed to a building, structure, or the ground that is designed to be transported or moved.
Sign, Projecting	A building-mounted, double-sided sign, with two faces, generally perpendicular to the building wall, not to include awnings.
Sign, Roof	A sign projecting above the lower roof line of a building, affixed to any portion of the roof, or mounted to the uppermost horizontal architectural band of a building.
Sign, Temporary	A sign that is located on private property, that is not permanent and can be displayed for no more than 30 consecutive days at a time and no more than twice per year.
Sign, Wall	A sign affixed or applied to or displayed or painted on, an exterior wall of a building and designed to be read at an angle parallel to the wall surface.
Sign, Window	A sign placed in, or applied, painted, or affixed to a window or door within three (3) feet of the glass surface, facing the outside of the building, and so as to be visible on the exterior through the glass surface of a window or door. Customary displays of merchandise or objects and material behind a window are not considered signs.

Sign Face	The part of a sign used to communicate information, including all background material, panels, or trim used to differentiate the sign for the surface on which it is placed.
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Street Frontage	The side or sides of a lot abutting a public street or public right-of-way.
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4.12.4 APPROVAL REQUIRED FOR CERTAIN SIGNS; SIGN DESIGN REVIEW COMMITTEE - COMPOSITION AND DUTIES

- 4.12.4.1 Except for signs not requiring a permit as provided in Section 4.12.5, no sign shall be refaced, constructed, altered, or changed without a permit issued by the Building Commissioner, provided that no permit for the construction, alteration or modification of a sign shall be issued without the review and approval of the Sign Design Review Committee; and provided further that an electrical permit must be obtained prior to the installation of any illuminated sign . Any conditions or restrictions contained in the Sign Design Approval shall become conditions for the issuance of the building permit.
- 4.12.4.4 Applications for design review shall be filed with the Department of Permits, Inspections, and Planning Services. The Sign Design Review Committee shall, within 45 days of the submission of a completed application, issue an approval or notice of denial to the applicant; provided that, should the Sign Design Review Committee fail to take action within the allotted time, approval shall be deemed granted in accordance with the application.
- 4.12.4.5 In approving or disapproving any particular sign, the Sign Design Review Committee shall take into consideration the following:
- 4.12.4.5.1 The zoning district, existing uses in the area, and the general character of the area;
 - 4.12.4.5.2 The economic and business interests of the party having erected or proposing to erect the sign;
 - 4.12.4.5.3 The aesthetic appearance of the sign and its overall effect on the surrounding area;
 - 4.12.4.5.4 The aesthetic appearance of this sign and its overall effect on a building or property, including ensuring the lettering, shape, and color employed in a sign is compatible with the form, color, and materials of the associated building or property, and of a harmonious style and design; and
 - 4.12.4.5.5 The sign is consistent with this Code and any regulations adopted by the Sign Design Review Committee as established through Section 4.12.4.3

- 4.12.4.6 The Sign Design Review Committee shall not approve the erection of any sign expressly prohibited by this Code, other City ordinance, or the Building Code of the Commonwealth of Massachusetts.
- 4.12.4.7 The Sign Design Review Committee may issue approvals with such conditions, restrictions, or limitations on any particular sign, as are deemed in the best interest of the public health, safety, and welfare. Such conditions or restrictions may include, but are not limited to, color, size, methods of illumination, materials, and appearance so as to achieve uniformity. The Sign Design Review Committee shall not impose any conditions or restrictions that would be construed as the content-based regulation of sign messages prohibited by the federal or state constitution, statutes, or court decisions.

4.12.5 SIGNS NOT REQUIRING A PERMIT

Notwithstanding the provisions of Section 4.12.4, no permit shall be required for the following signs and such signs shall not be included in the determination of the type, number, or area of permanent signs allowed, and shall not require review by the Sign Design Review Committee, provided such signs comply with all applicable standards and regulations:

- 4.12.5.1 Official traffic signs including route number signs, street name signs, directional signs and other traffic signs erected and maintained on public highways and roads in the interest of public safety or the regulation of traffic.
- 4.12.5.2 Government or regulatory signs or any sign erected or required by government agencies or utilities including legal notices, identification or direction signs for public facilities or monuments, signs for the control of traffic, street signs, warning signs, and signs of public service companies indicating danger or construction erected by or at the order of a public officer, employee, or agent thereof, in the discharge of official duties.
- 4.12.5.3 No more than one sign per street frontage, not exceeding three (3) sq. ft. in area, containing only the street name and/or the street number of the premises, provided they do not include any commercial messaging or other identification;
- 4.12.5.4 Signs inside a building or other enclosed facility that are not to be viewed from outside and are located greater than three (3) ft. from a window;
- 4.12.5.5 No more than two (2) flags, not exceeding 24 sq. ft. in area, provided:
- 4.12.5.5.1 Any flags containing commercial messages shall be considered a projecting banner sign, and shall require a permit; and
 - 4.12.5.5.2 Flags up to three (3) sq. ft. in area containing non-commercial messages are considered personal expression signs;
 - 4.12.5.5.3 Notwithstanding the requirements of this provision, the flag of the United States of America shall be allowed and shall not require a permit.

- 4.12.5.6 No more than two (2) accessory window signs; provided that all window signs meet the requirements of Section 4.12.8.3, the sign area of each window sign does not exceed three (3) sq. ft., and no window sign shall be illuminated. All other window signs shall require a permit.
- 4.12.5.7 Signs indicating the means of entrance or egress for a building or property or provide direction to pedestrian or vehicular traffic into, out of, or within a site, provided that no sign shall not be more than three (3) sq. ft. in area, no sign shall exceed five (5) ft. in height, and no sign shall be illuminated.
- 4.12.5.8 Signs or displays including lighting that are a non-permanent installation celebrating national, state, or local holidays, religious or cultural holidays, or other holiday season.
- 4.12.5.9 Personal expression signs of any sign type, provided no sign is commercial in nature, no sign shall be illuminated, no sign shall exceed three (3) sq. ft. in area per side, and no sign shall have more than two sides, except one personal expression sign may be a maximum of six (6) sq. ft. in area per side, provided such sign is displayed no more than 60 days per year.
- 4.12.5.10 Temporary signs, provided the sign meets the requirements of this Section 4.12.
- 4.12.5.11 Signs displayed in a window or door displaying information such as business hours of operation, credit institutions accepted, commercial and civic affiliations, and similar information, provided:
 - 4.12.5.11.1 The signs shall be informational only and shall not contain commercial messages.
 - 4.12.5.11.2 The total area of such signs shall not exceed three (3) sq. ft.
- 4.12.5.12 A billboard regulated by the state Outdoor Advertising Board; and
- 4.12.5.13 Art and murals, provided the art or mural does not contain commercial messaging.

4.12.6 PROHIBITED SIGNS

The following signs are unlawful and prohibited. No approval shall be issued:

- 4.12.6.1 Signs designed to incorporate movement, action, light or color changes, through mechanical, electrical, or other means, including signs designed for propulsion by wind, including but not limited to pennants, spinners, and streamers;
- 4.12.6.2 Signs designed to display a message which is electronically changed, whether by flashing, blinking, scrolling, digital, or stationary display of letters or image, except for the static display of gasoline or other fuel prices on a freestanding sign or those signs affixed to a state, federal or municipal property;
- 4.12.6.3 Signs erected so as to obstruct any means of egress from a building;

- 4.12.6.4 Roof signs, excluding billboards regulated by the state Outdoor Advertising Board, or as provided in Section 4.12.10;
- 4.12.6.5 Banners affixed to the exterior of a building, except for those banners considered personal expression signs, temporary signs, limited duration signs, or as provided in Section 4.12.10;
- 4.12.6.6 Signs that emit smoke, visible vapors, particulate matter, sound, or contain open flames.
- 4.12.6.7 Reflective signs or signs containing mirrors;
- 4.12.6.8 Signs that imitate, resemble, interfere with, or obstruct official traffic lights, signs, or signals, including those signs that, in the opinion of the Traffic Supervisor, would constitute a hazard to motorists or pedestrians; .
- 4.12.6.9 Balloons, blimps, or other three-dimensional figure anchored to a building, structure, or the ground, with the exception of balloons used in temporary non-commercial situations;
- 4.12.6.10 Portable signs, except as permitted under Section 4.12.8.5 and Section 4.12.9;
- 4.12.6.11 Signs erected without the permission of the property owner, with the exception of those authorized or required by the local, state, or federal government;
- 4.12.6.12 Signs containing information that states or implies a property may be used for any purpose not permitted under the provisions of this Code;
- 4.12.6.13 Signs that exhibit statements, word, or pictures of obscene or pornographic subjects as determined by the City of Malden; and
- 4.12.6.14 Signs that promote illegal activity.

4.12.7 REGULATION OF SIGNS - IN GENERAL

4.12.7.1 Rules of Measurement

4.12.7.1.1 Sign Area

The area of a sign shall be all lettering, wording, and accompanying designs, logos, or symbols. The area of the sign shall not include any supporting framework, bracing, or trim that is incidental to the display, provided it does not contain any lettering, wording, or symbols. For signs consisting of individual letters, designs, or symbols attached to a building, awning, wall or window, the area of the sign shall be that of the smallest rectangle that encompasses all the letters, designs, and symbols.

4.12.7.1.2 Sign Height

The height of a sign shall be measured as the distance from the highest portion of the sign to the mean finished grade of the public street closest to the sign, provided if the sign is located greater than 100 ft. from a public street; height shall be measured to the mean grade at the base of the sign.

4.12.7.1.3 Sign Spacing

The spacing between sign structures shall be measured as a straight-line distance between the closest edges of the signs.

4.12.7.2 General Standards

4.12.7.2.1 Sign Location

4.12.7.2.1.1 No sign shall be placed in such a position as to endanger pedestrians, bicycles, or traffic on a street by obscuring the view or by interfering with official street signs or signals by virtue of position or color.

4.12.7.2.1.2 Signs and their supporting structures shall maintain clearance and noninterference with all surface and underground utility and communication lines or equipment.

4.12.7.2.2 Sign Materials and Construction

4.12.7.2.2.1 Signs shall be constructed of durable materials, using non-corrosive fastenings.

4.12.7.2.2.2 Signs shall be erected and installed in accordance with the Building Code of the Commonwealth of Massachusetts and shall be in safe condition and good repair at all times.

4.12.7.2.3 Sign Illumination

4.12.7.2.3.1 Where permitted, signs may be illuminated either internally through the use of translucent materials with lights behind or externally through the mounting of a shielded light source directed at the sign of the building.

4.12.7.2.3.2 Sign lighting shall be stationary and of static intensity and color.

4.12.7.2.3.3 Light sources to illuminate signs shall not cause glare that is hazardous or distracting to pedestrians, vehicle drivers, or adjacent properties, provided:

4.12.7.2.3.3.1 Sign lighting shall be stationary and of static intensity and color.

- 4.12.7.2.3.3.2 No more than 0.2 foot-candle of light shall be detectable at the boundary of any abutting property.
- 4.12.7.2.3.3.3 Signs shall be in compliance with the Massachusetts State Electrical Code.
- 4.12.7.2.3.3.4 At the request of the City of Malden, the owner of, or applicant for, any illuminated sign shall provide a certification showing compliance with the brightness standards of this Code by an independent contractor.

4.12.8 REGULATION OF SIGNS - BY SIGN TYPE

4.12.8.1 Awning Signs

- 4.12.8.1.1 Awnings shall be made of flame proof and durable materials.
- 4.12.8.1.2 Awnings shall be located only on the ground level of a building and shall provide a minimum eight (8) ft. clearance from the ground. The maximum height shall be equal to the roof line or the bottom of the second story window, whichever is lower.
- 4.12.8.1.3 Awning frames shall be attached flat against the building surface.
- 4.12.8.1.4 Fixed awnings shall project no more than five (5) ft. from the building.
- 4.12.8.1.5 Retractable awnings shall be positioned flat against the building when not in use.
- 4.12.8.1.6 The sign area of any awning sign shall not exceed 25% of the surface area of the awning and the sides and underside of the awning shall not be included in the computation of the sign area.
- 4.12.8.1.7 No awning shall be wider than the building wall or space it identifies.
- 4.12.8.1.8 Letters or numerals shall be located only on the front and side vertical faces of the awning, provided no more than one logo or emblem is permitted on the top or angled portion of any awning, up to a maximum of three (3) sq. ft. in area.
- 4.12.8.1.9 All awning signs on a building shall be similar in terms of height, projection, and style across all tenants in the building.
- 4.12.8.1.10 An awning without words, graphics, colors, illumination, symbols, numbers, letters, characters or any combination thereof shall not be regulated as a sign.

4.12.8.2 Wall Signs

- 4.12.8.2.1 No portion of a non-illuminated wall sign shall project more than eight (8) inches from the wall to which it is affixed.
- 4.12.8.2.2 No portion of an illuminated wall sign shall project more than 10 inches from the wall to which it is affixed.
- 4.12.8.2.3 Except as provided, wall signs shall not exceed, in the aggregate, more than 25% of the surface area of the wall or walls to which they are affixed, excluding window and door areas.
- 4.12.8.2.4 No portion of a wall sign shall be mounted less than eight (8) ft. above the finished grade, except if the sign projects less than three (3) inches from the building wall on which it is affixed. Unless stated otherwise, the maximum sign height shall be equal to the roof line or the bottom of the second story window, whichever is lower.

4.12.8.3 Window Signs

No window sign or window signs shall exceed 20% of the aggregate glass area or 50% of any individual pane.

4.12.8.4 Freestanding Signs

- 4.12.8.4.1 No freestanding sign shall have a clearance from the ground between greater than four (4) ft. and less than eight (8) ft.
- 4.12.8.4.2 Freestanding signs shall be supported and pertinently placed by connecting the sign in such a manner so as to incorporate it in to the landscape or architectural design scheme.
- 4.12.8.4.3 No freestanding sign shall occupy an area designated for parking, loading, walkways, driveways, fire lanes, easement, cartway of the right-of-way, public way, or other areas required to remain unobstructed.

4.12.8.5 Portable Signs

- 4.12.8.5.1 Portable signs shall be self-supporting and moveable consisting of two faces either:
 - 4.12.8.5.1.1 Connected and hinged at the top, typically referred to as an A-frame sign; or
 - 4.12.8.5.1.2 Supported by two legs perpendicular to the sign face at the base of the sign, typically referred to as a T-frame sign.
- 4.12.8.5.2 No portable sign shall exceed six (6) sq. ft. in area per sign face and shall not exceed three and one-half (3.5) ft. in height.
- 4.12.8.5.3 Portable signs shall be removed within one hour of the conclusion of the event, activity, or operation, to which they relate.

- 4.12.8.5.4 No portable sign shall occupy an area designated for parking, loading, walkways, driveways, fire lanes, easement, cartway of the right-of-way, or other areas required to remain unobstructed.
- 4.12.8.5.5 A permit for a portable sign shall be issued for a minimum of 30 days and a maximum of one (1) year, subject to the determination, review, and approval of the Sign Design Committee.
- 4.12.8.5.6 A permit for a portable sign may be renewed subject to the review and approval of the Sign Design Review Committee.
- 4.12.8.5.7 All portable signs must be made of durable materials and shall be well-maintained, provided that portable signs that are frayed, torn, broken, or no longer legible may be deemed unmaintained by the building inspector and required to be removed.
- 4.12.8.5.8 Illumination of any portable sign shall be prohibited.

4.12.8.6 Projecting Signs

- 4.12.8.6.1 No portion of a projecting sign shall project more than four (4) ft. from the face of the building.
- 4.12.8.6.2 The outermost portion of a projecting sign shall project no closer than five (5) ft. from a curblin or shoulder of a public street.
- 4.12.8.6.3 The lowest edge of a projecting sign shall be at least eight (8) ft. above the finished grade.
- 4.12.8.6.4 Unless otherwise stated, the maximum sign height shall be equal to the roof line or the bottom of the second story window, whichever is lower.

4.12.8.7 Limited Duration Signs

- 4.12.8.7.1 Limited duration signs shall not be included in the determination of the type, number, or area, of signs allowed on a property.
- 4.12.8.7.2 Except as specifically provided limited duration signs shall meet the following size and location requirements:
 - 4.12.8.7.2.1 For non-residential uses or building identification, limited duration signs shall be limited to one sign per street frontage per tenant.
 - 4.12.8.7.2.2 The maximum sign area of a limited duration sign shall be 20 sq. ft.
 - 4.12.8.7.2.3 The maximum sign height of a limited duration sign shall be 10 ft.

- 4.12.8.7.3 A permit for a limited duration sign shall be issued for a minimum of 90 days and a maximum of one (1) year, subject to the determination, review, and approval of the Sign Design Review Committee.
- 4.12.8.7.4 A permit for a limited duration sign may be renewed subject to the determination, review, and approval of the Sign Design Review Committee.
- 4.12.8.7.5 All limited duration signs must be installed such that, in the opinion of the building inspector, they do not create a safety hazard.
- 4.12.8.7.6 All limited duration signs must be made of durable materials and shall be well-maintained, provided that limited duration signs that are frayed, torn, broken, or no longer legible may be deemed unmaintained by the building inspector and required to be removed.
- 4.12.8.7.7 Except as specifically provided, illumination of any limited duration sign shall be prohibited.

4.12.8.8 Temporary Signs

- 4.12.8.8.1 No permit shall be required for temporary signs and such signs shall not be included in the determination of the type, number, or area of permanent signs allowed, and shall not require review by the Sign Design Review Committee, provided such signs comply with all applicable standards and regulations.
- 4.12.8.8.2 Temporary signs may be displayed up to a maximum of 30 consecutive days, two (2) times per year.
- 4.12.8.8.3 Temporary signs shall only include the following signs. Any other sign shall meet the permitting requirements of this Code:
 - 4.12.8.8.3.1 One banner per street frontage, provided the banner identifies a new business or advertises a special sale, event, or activity and the sign area of each banner shall not exceed 32 sq. ft.
 - 4.12.8.8.3.2 One sign per lot intending to provide information about current construction on a site and the parties involved in construction, provided the sign area shall not exceed 32 sq. ft. and the sign shall be erected only after the issuance of a building permit.
 - 4.12.8.8.3.3 One sign per street frontage that advertises a property for lease or sale, provided the sign area of each sign shall not exceed 12 sq. ft.
- 4.12.8.8.4 The City of Malden or the property owner may confiscate signs installed in violation of this chapter. Neither the City of Malden nor the property owner is responsible for notifying sign owners of the confiscation of an illegal sign.

- 4.12.8.8.5 All temporary signs must be installed such that, in the opinion of the Building Inspector, they do not create a safety hazard.
- 4.12.8.8.6 All temporary signs must be made of durable materials and shall be well-maintained, provided that temporary signs that are frayed, torn, broken, or no longer legible may be deemed unmaintained by the building inspector and required to be removed.
- 4.12.8.8.7 Illumination of any temporary sign shall be prohibited.

4.12.9 REGULATION OF SIGNS - BY DISTRICT

4.12.9.1 Residence A, Residence B, and Residence C Zoning Districts

The following signs may be permitted in Residence A, Residence B, and Residence C zoning districts, subject to any applicable review and approval by the Sign Design Review Committee and any other conditions of this Code.

4.12.9.1.1 Limited duration signs as regulated in Section 4.12.8.7

4.12.9.1.2 Temporary signs as regulated in Section 4.12.8.8

4.12.9.1.3 Home Occupations

For home occupations, as defined in Chapter 12 Section 700.1 of the Revised Ordinances of 1991 as amended, the following provisions shall apply:

4.12.9.1.3.1 One (1) non-illuminated freestanding sign may be permitted, provided the sign shall not exceed six (6) sq. ft. in area per sign face and shall not exceed six (6) ft. in height.

4.12.9.1.3.2 One (1) non-illuminated wall or projecting sign may be permitted, provided the sign shall not exceed two (2) sq. ft. in area per sign face.

4.12.9.1.4 Developments with at least Ten Dwelling Units

For residential developments containing at least ten dwelling units, as defined in Chapter 12 Section 800.6.2.29 of the Revised Ordinances of 1991, one freestanding sign per street frontage identifying the development may be permitted, provided:

4.12.9.1.4.1 The maximum area of the sign shall be 15 sq. ft. per sign face;

4.12.9.1.4.2 The maximum height of the sign shall be eight (8) ft., and;

4.12.9.1.4.3 Any illumination shall be subject to the regulations of Section 4.12.7.2.3.

4.12.9.2 Residential Office, Neighborhood Business, and Central Business Districts

The following signs may be permitted in Residential Office, Neighborhood Business, and Central Business zoning districts, subject to any applicable review and approval by the Sign Design Review Committee and any other conditions of this Code.

4.12.9.2.1 Any sign permitted in Residence A, Residence B, and Residence C Zoning Districts as regulated in Section 4.12.9.1

4.12.9.2.2 Wall, Awning, and Projecting Signs

The total area of all wall, awning, and projecting signs shall be limited to two (2) sq. ft. per one (1) linear foot of building frontage that faces a street frontage, subject to any limitations based on sign type as regulated in Section 4.12.8.

4.12.9.2.2.1 For non-residential uses or building identification, one wall sign per tenant per street frontage may be permitted, up to a maximum of two (2) signs per tenant, provided no single sign shall exceed 32 sq. ft. in area per sign face.

4.12.9.2.2.2 For non-residential uses or building identification, awning signs may be permitted.

4.12.9.2.2.3 For non-residential uses or building identification, one (1) projecting sign per ground floor establishment and one (1) projecting sign per building entrance serving one or more commercial tenants without a ground floor entrance may be permitted, provided each sign shall not exceed twelve (12) sq. ft. in area per sign face.

4.12.9.2.2.4 Illumination may be permitted subject to the regulations of Section 4.12.7.2.3.

4.12.9.2.3 Window signs as regulated in Section 4.12.8.3

4.12.9.2.4 Portable signs as regulated in Section 4.12.8.5

4.12.9.3 Highway Business and Industrial Districts

The following signs may be permitted in Highway Business and Industrial Zoning Districts, subject to any applicable review and approval by the Sign Design Review Committee and any other conditions of this Code.

4.12.9.3.1 Any sign permitted in Residence A, Residence B, and Residence C Zoning Districts as regulated in Section 4.12.9.1

4.12.9.3.2 Wall, Awning, and Projecting Signs

The total area of all wall, awning, and projecting signs shall be limited to two (2) sq. ft. per one (1) linear foot of building frontage that faces a street frontage or parking lot, subject to any limitations based on sign type as regulated in Section 4.12.8.

4.12.9.3.2.1 For non-residential uses or building identification, one wall sign per tenant per street frontage and parking lot frontage may be permitted, up to a maximum of two (2) signs per tenant, provided no single sign shall exceed 40 sq. ft. in area per sign face.

4.12.9.3.2.2 For non-residential uses or building identification, awning signs may be permitted.

4.12.9.3.2.3 For non-residential uses or building identification, one (1) projecting sign per ground floor establishment and one (1) projecting sign per building entrance serving one or more commercial tenants without a ground floor entrance may be permitted, provided each sign shall not exceed 20 sq. ft. in area per sign face.

4.12.9.3.2.4 Illumination may be permitted subject to the regulations of Section 4.12.7.2.3.

4.12.9.3.3 Window signs as regulated in Section 4.12.8.3

4.12.9.3.4 Freestanding signs as regulated in Section 4.12.8.4, and provided:

4.12.9.3.4.1 For non-residential uses or building identification, one freestanding sign may be permitted, except an additional freestanding sign may be permitted for establishments with a drive through if the additional sign is located along the drive-through lane and is intended to serve users of the drive-through lane;

4.12.9.3.4.2 The maximum area of a freestanding sign shall be 50 sq. ft. per sign face, except where the sign contains information for more than one tenant an additional 10 sq. ft. per tenant may be permitted up to a maximum sign area of 100 sq. ft.;

4.12.9.3.4.3 The maximum height of a free standing sign shall be 20 ft; and

4.12.9.3.4.4 Illumination may be permitted subject to the regulations of Section 4.12.7.2.

4.12.9.3.5 Portable signs as regulated in Section 4.12.8.5

4.12.9.4 Reclamation and Redevelopment Districts

Signs in a Reclamation and Redevelopment zoning district shall be subject to the requirements of any applicable land reclamation agreement, master plan, or site plan review as provided in Chapter 12 Section 700.14 of the Revised Ordinances of 1991. In the absence of such requirements, signs may be permitted in accordance with the provisions of Section 4.12.9.3.

4.12.10 REGULATION OF SIGNS – SPECIAL PROVISIONS FOR MAJOR DEVELOPMENTS

4.12.10.1 General Standards

4.12.10.1.1 Notwithstanding the provisions of Section 4.12.9, certain additional signs may be permitted for developments that meet the following criteria:

4.12.10.1.1.1 The development shall be located in the Central Business zoning district;

4.12.10.1.1.2 The development shall include buildings of at least 45 ft. in height;

4.12.10.1.1.3 The development shall have at least 75 linear feet of street frontage; and

4.12.10.1.1.4 The development shall contain:

(A) At least 30 dwelling units as defined in Chapter 12 Section 800.6.2.29 of the Revised Ordinances of 1991, or

(B) More than 30,000 sq. ft. in gross floor area.

4.12.10.1.2 Should a development meet the criteria above, signs as provided in this section 4.12.10 may be permitted in addition to signs permitted in the zoning district in accordance with Section 4.12.9, provided signs shall be subject to any applicable determination, review, and approval by the Sign Design Review Committee and any other conditions of this Code.

4.12.10.2 Additional Signs

4.12.10.2.1 A maximum of four (4) additional projecting signs or wall signs per street frontage to identify a building or establishment may be permitted provided:

4.12.10.2.1.1 The applicable wall sign regulations 3.4.12.8.2 or projecting sign regulations of Section 4.12.8.6 shall apply, except as provided in this section 4.12.10.2.1;

4.12.10.2.1.2 Signs shall be spaced a minimum of 10 ft. apart;

- 4.12.10.2.1.3 The maximum area of a sign shall be 90 sq. ft.
 - 4.12.10.2.1.4 No sign shall project above the roof line;
 - 4.12.10.2.1.5 Illumination may be permitted subject to the regulations of Section 4.12.7.2.3; and
 - 4.12.10.2.1.6 Limited duration banners may be permitted under this section, provided they meet the above requirements and the regulations of limited duration signs under Section 4.12.8.7.
- 4.12.10.2.2 A maximum of one (1) large format limited duration banner sign per street frontage, to identify a building or establishment, may be permitted provided:
- 4.12.10.2.2.1 The maximum area of a sign shall be 1000 sq. ft.;
 - 4.12.10.2.2.2 The maximum width of a sign shall be 50 ft.;
 - 4.12.10.2.2.3 No sign shall project above the roof line;
 - 4.12.10.2.2.4 Each sign shall be located above the first story;
 - 4.12.10.2.2.5 Each sign shall be mounted flush to the exterior wall of a building and cover a maximum of 25% of the exterior wall to which it is attached;
 - 4.12.10.2.2.6 Lettering, logos, and commercial copy shall be limited to 33% of the outward facing banner surface;
 - 4.12.10.2.2.7 Illumination may be permitted subject to the regulations of Section 4.12.7.2.3; and
 - 4.12.10.2.2.8 Each sign shall be subject to the regulations of limited duration signs under Section 4.12.8.7.
- 4.12.10.2.3 A maximum of one (1) roof sign to identify a building or establishment may be permitted, provided:
- 4.12.10.2.3.1 The maximum area of a sign shall be 250 sq. ft.;
 - 4.12.10.2.3.2 The maximum width of a sign shall be 100 ft.;
 - 4.12.10.2.3.3 The maximum height of sign above the roof line shall be 10 ft.;
 - 4.12.10.2.3.4 No sign shall be located on any portion of a building that is less than 45 ft. in height;

- 4.12.10.2.3.5 A roof sign positioned anywhere below the roof line shall not extend either below the start of the highest story of a building above the roof line;
- 4.12.10.2.3.6 The sign shall not cover windows or architectural ornamentation; and
- 4.12.10.2.3.7 Illumination may be permitted subject to the regulations of Section 4.12.7.2.3.

4.12.11 ENFORCEMENT

4.12.11.1 Violations

Violation of the provisions of this Ordinance, rules and regulations adopted by the Sign Design Review Committee, or any restriction or limitation placed on a permit granted hereunder may be punished by the Director of the Department of Permits, Inspections, and Planning Services or his or her designee with a fine not to exceed \$300.00 per offense, imposed in the manner provided in Massachusetts General Laws, Chapter 40, Section 21D. Every 24 hours during which a violation exists shall be a separate offense for which a separate fine may be imposed.

4.12.11.2 Unsafe or Unlawful Signs

- 4.12.11.2.1 Upon written notice by the City of Malden, the owner, person, or firm maintaining a sign shall remove the sign when it becomes, unsafe, is in danger of falling, becomes so deteriorated that it no longer serves a useful purpose for communication, or is determined by the City of Malden to be a nuisance or unlawfully erected in violation of any of the provisions of this Code.
- 4.12.11.2.2 The City of Malden may remove or cause to be removed an unsafe or unlawful sign, at the expense of the owner and/or lessee in the event of the owner, person, or firm maintaining the sign has not complied with the terms of the notice within thirty (30) days of the date of notice. In the event of immediate danger, the City of Malden may remove the sign upon issuance of the notice.

4.12.11.3 Abandoned Signs

- 4.12.11.3.1 It shall be the responsibility of the owner of any property on which an abandoned sign is located to remove such sign within 180 days of becoming abandoned as defined in Section 4.12.3. Removal of an abandoned sign shall include the removal of the entire sign, including the sign face, supporting structure, and structural trim, and the restoration of the sign frieze to its original condition.
- 4.12.11.3.2 Where the owner of the property on which an abandoned sign is located fails to remove such sign in 180 days, the City of Malden may remove such

sign. Any expense directly incurred in the removal of such sign shall be charged to the owner of the property. Where the owner fails to pay, the City of Malden may file a lien upon the property for the purposes of recovering all reasonable costs associated with the removal of the sign.

4.12.12 VARIANCES

The Board of Appeal, by variance, may allow deviation from the requirements of this Section 4.12, in accordance with Chapter 12 Section 800.4 of the Revised Ordinances of 1991 as amended.

4.12.13 NONCONFORMING SIGNS

4.12.13.1 Signs legally in existence at the time of the adoption of this ordinance that do not conform to the requirements of this Section 4.12 shall be considered non-conforming signs.

4.12.13.2 Except as provided in Section 4.12.13.3, nonconforming signs may be repainted or repaired up to 50% of the replacement cost of the sign. Sign faces may be replaced provided that the actions do not increase the dimensions of the existing sign, do not constitute a significant modification to the aesthetic appearance of the sign, and do not in any way increase the non-conformity of the sign.

4.12.13.3 All permanent signs and sign structures shall be brought into conformance with the requirements of this Section 4.12 when and if the following occurs:

4.12.13.3.1 The sign is removed, relocated, or significantly altered. Significant alterations shall include changes in the size or dimensions of the sign. Changes to sign copy or the replacement of a sign face on the nonconforming sign shall be considered significant alterations if, in the opinion of the Building Inspector, such alterations substantially modify the appearance of the sign.

4.12.13.3.2 If more than 50% of the sign area is damaged.

4.12.13.3.3 An alteration to the structure of a sign support.

4.12.13.3.4 A change in the mechanical facilities or type of illumination.

4.12.13.3.5 A change in the material of the sign face.

4.12.13.3.6 The property on which the non-conforming sign is located submits a subdivision or zoning application requiring municipal review or approval.

4.12.13.3.7 The property on which the nonconforming sign is located undergoes a change of land use requiring the issuance of either a use or occupancy permit or a change of use or occupancy permit.

4.12.13.4 Nonconforming signs shall be exempt from the provisions of this Section 4.12.13 under the following conditions.

4.12.13.4.1 In the opinion of the Sign Design Review Committee, the non-conforming sign possesses documented historic value.

4.12.13.4.2 The sign is of a unique nature or type by virtue of its architectural value or design, as determined by the National Park Service, Massachusetts Historical Commission, or the City of Malden Historical Commission.

4.12.13.4.3 When a nonconforming sign is required to be moved because of public right of way improvements.

SECTION 4.13 HISTORIC PROPERTIES – DELAY BEFORE DEMOLITION OR ALTERATION

I. INTENT and PURPOSE.

This Ordinance is enacted for the purpose of preserving and protecting Significant Buildings, structures, monuments and sites, within the city which constitute or reflect distinctive features of the architectural, cultural, economic, political or social history of the city and to limit the detrimental effect of demolition and alteration of Buildings on the character of the city.

Through this Ordinance, owners of Preferably Preserved Buildings are encouraged to seek out alternative options that will preserve, rehabilitate or restore such Buildings, and residents of the City are alerted to impending demolitions and alterations of Significant Buildings.

The Ordinance provides a predictable process for reviewing requests to demolish or alter Buildings by:

1. establishing an appropriate waiting period during which the City and the Applicant can propose and consider alternatives to the demolition or alteration of a Building of historical, architectural, cultural or urban design value to the City;
2. providing an opportunity for the public to comment on the issues regarding the demolition or alteration of a particular Building; and
3. minimizing the number and extent of demolition and alteration of Buildings of historical, architectural, cultural or urban design value to the City.

By preserving and protecting Significant Buildings, streetscapes and neighborhoods, this Ordinance promotes the public welfare by making the City a more attractive and desirable place in which to live and work.

To achieve these purposes, the Malden Historical Commission is authorized to advise the Building Commissioner with respect to applications for Demolition Permits and Building

Permits for Alteration. The issuance of Demolition Permits and Building Permits for Alteration is regulated as provided by this Ordinance.

EFFECTIVE DATE. This Ordinance is effective upon passage and is intended to and shall apply prospectively to all pending applications under review for which a Demolition Permit and/or Building Permit for Alteration, has not been issued as of the date of enactment of this ordinance, and to all applications filed after the date of the enactment of this Ordinance. It shall not be effective as to any Demolition Permit and/or Building Permit for Alteration already issued as of the date of passage.

II. DEFINITIONS.

ALTERATION: Any construction or renovation to an existing Building, other than repair or demolition and excluding interior renovations.

APPLICANT: Any person or entity who files an application for a demolition permit or building permit for an alteration. If the Applicant is not the owner of the Building, the owner must provide written consent to the filing of the application. If the Applicant is an entity, Applicant must provide the names of its principals, i.e., trustees, beneficiaries of realty trusts, officers and stockholders of corporations.

BUILDING: A building, structure, monument or site, in whole or in part, or exterior feature or façade of a building, structure, monument or site.

BUILDING PERMIT FOR ALTERATION: The building permit issued by the Building Commissioner for alteration of a Building pursuant to an application therefore.

BUILDING COMMISSIONER: The City Building Commissioner or the Building Inspector authorized to issue Demolition Permits and Building Permit.

COMMISSION: The Malden Historical Commission, as established by the City pursuant to Massachusetts General Laws, Chapter 40, Section 8D.

DEMOLITION: The act of pulling down, destroying, removing, dismantling or razing a Building, in whole. This shall include “demolition by neglect,” namely, a process of ongoing damage to the fabric, viability and/or functionality of an unoccupied or occupied Building leading towards and/or causing its eventual demolition due to decay and/or structural failure and/or severe degradation over a period of time as a result of a general lack of maintenance, and/or failure to secure the Building from pests or vandals, and/or failure to take reasonable measures to prevent the ingress of water, snow, ice, and wind through the roof, walls, or apertures.

DEMOLITION PERMIT: The building permit issued by the Building Commissioner for Demolition of a Building pursuant to an application therefore.

PREFERABLY PRESERVED BUILDING: A Significant Building which the Commission determines, following a public hearing, that it is in the public interest to be preserved rather than demolished or altered. A Preferably Preserved Building is subject to the twelve-month demolition or alteration delay period of this Ordinance.

SIGNIFICANT BUILDING: A Building, which is, in whole or in part:

1. Listed on, or located within an area listed on, the National Register of Historic Places; or
2. Found eligible for listing on the National Register of Historic Places; or
3. Surveyed, or located within an area surveyed, by the Commission or City, in accordance with the survey and inventory procedures of the Massachusetts Historical Commission and said survey/inventory form is on file with the Massachusetts Historical Commission; or
4. Listed on the List of Significant Buildings as identified for future survey and inventory, as provided by this Ordinance; or
5. Of any age, and which has been determined by the Commission to be significant based on any of the following criteria:
 - a. The Building is importantly associated with one or more historic persons or events or with the broad architectural, cultural, political, economic or social history of the City or the Commonwealth; or
 - b. The Building is historically or architecturally important, in terms of period, style, method of building construction or association with a recognized architect or builder, either by itself or in the context of a group of buildings; or
 - c. The Building is one whose loss would have a significant negative impact on the historical or architectural integrity or urban design character of the neighborhood.

III. PROCEDURE.

1. Criteria for Review for Demolition Permits.

No Demolition Permit shall be issued without compliance with the provisions of this Ordinance for any Building of any age.

2. Criteria for Review for Alteration Permits.

No Alteration Permit shall be issued without compliance with the provisions of this Ordinance for a Building which is, in whole or in part:

- A. Listed on, or located within an area listed on, the National Register of Historic Places; or
- B. Found eligible for listing on the National Register of Historic Places; or
- C. Surveyed, or located within an area surveyed, by the Commission or City, in accordance with the survey and inventory procedures of the Massachusetts Historical Commission and said survey/inventory form is on file with the Massachusetts Historical Commission; or

- D. Listed on the List of Significant Buildings as identified for future survey and inventory, as provided by this Ordinance.

3. Application and Required Documentation.

An Applicant proposing to demolish or alter a Building subject to this Ordinance shall file with the Building Commissioner an Application form provided by the Commission for the purpose, containing the following:

- a) The address of the Building to be demolished or altered.
- b) The owner's name, address and telephone number.
- c) Proof of ownership, i.e., deed, property tax assessment.
- d) The Applicant's name, address and telephone number, if other than the owner.
- e) Written authorization from owner (if Applicant is not owner)
- f) Information about the Building that includes:
 - Narrative description of Building
 - Photos - of all sides of the Building, current (with dates), in color, 3 x 5 inches in size or larger.
 - plot plan - showing the property boundaries and Building's footprint
 - map - showing the location of the Building, surrounding properties and streets.
- g) Information about the proposed alteration or reuse of the property and/or reconstruction or replacement of the Building, that includes:
 - Narrative description
 - Site plan
 - Building elevation plans (if new building is proposed)
- h) Failure to provide complete and/or accurate documentation will cause a delay in the review process and may result in a rejected Application.

4. Initial Action by Building Commissioner.

The Building Commissioner shall forward a copy of the Application to the Commission.

5. Written Determination of Significance.

The Commission shall, within seven (7) calendar days after receipt of the Application, make a written determination of whether the Building is a Significant Building. The Commission may delegate its authority to make a determination of Significance to one or more members of the Commission or to a municipal employee.

If the Commission does not make a written determination and notify the Building Commissioner within seven (7) calendar days of receipt of the Application, the Building Commissioner may proceed to issue the Demolition Permit or Building Permit for Alteration.

6. Criteria for Determination of Significance.

The Commission shall use the following criteria to determine whether a Building is a Significant Building.

- A. The Building is listed on, or is within an area listed on, the National Register of Historic Places; or
- B. The Building has been found eligible for listing on the National Register of Historic Places; or
- C. The Building has been surveyed or is within an area surveyed, by the Commission or City, in accordance with the survey and inventory procedures of the Massachusetts Historical Commission and said survey/inventory form is on file with the Massachusetts Historical Commission ; or
- D. The Building is listed on the List of Significant Buildings as identified for future survey and inventory, as provided by this Ordinance; or
- E. The Building is historically or architecturally important, in terms of period, style, method of building construction or association with a recognized architect or builder, either by itself or in the context of a group of buildings; or
- F. The Building is importantly associated with one or more historic persons or events or with the broad architectural, cultural, political, economic or social history of the City or the Commonwealth; or
- G. The Building is one whose loss would have a significant negative impact on the historical or architectural integrity or urban design character of the neighborhood.

7. Determination that Building is Not a Significant Building.

Upon determination by the Commission that the Building is not a Significant Building, the Commission shall notify the Building Commissioner and Applicant in writing, and the Building Commissioner may proceed to issue the Demolition Permit or Building Permit for Alteration.

8. Determination that Building is a Significant Building.

Upon determination by the Commission that the Building is a Significant Building:

- A. The Commission shall notify the Building Commissioner and Applicant in writing; and
- B. No Demolition Permit or Building Permit for Alteration may be issued at this time; and
- C. The Commission shall determine whether the Building is Preferably Preserved.

9. Determination Whether a Building is a Preferably Preserved Building. The Commission shall use the following procedure to determine whether a Building is Preferably Preserved:

A. Application and Required Documentation.

If the Commission determines that the Building is a Significant Building, Applicant shall provide the Commission with ten (10) copies of the Application and Required Documentation described in Section 2 of this Ordinance.

B. Public Hearing Required.

If the Commission determines that the Building is a Significant Building, it shall hold a public hearing within thirty (30) calendar days of the written notification to the Building Commissioner. A notice containing the date, time, place and purpose of the public hearing shall be posted by the Commission with the City Clerk for a period of not less than seven (7) calendar days prior to the date of hearing; mailed to the Applicant, Ward City Councilor and City Councilors at Large, Mayor and the property owners of all directly abutting properties; and at the Applicant's expense, shall be published in a local newspaper at least fourteen (14) calendar days prior to the date of the public hearing.

C. Timeframe for Decision.

Within fourteen (14) calendar days after the public hearing, the Commission shall provide written notice of determination whether the Building is Preferably Preserved. The time for the Commission to make its decision may be extended in writing by agreement between the Commission and Applicant.

D. Notification to Building Commissioner that Building is not Preferably Preserved.

If the Commission determines that the Building is not Preferably Preserved, the Commission shall notify the Building Commissioner and Applicant in writing within ten (10) calendar days of said determination, and the Building Commissioner may issue the Demolition Permit or Building Permit for Alteration.

E. Notification to Building Commissioner that Building is Preferably Preserved.

If the Commission determines that the Building is Preferably Preserved, the Commission shall notify the Building Commissioner and Applicant in writing of the basis for determining that a Building is Preferably Preserved, within ten (10) calendar days of said determination, and no Demolition Permit or Building Permit for Alteration may be issued for a period of twelve (12) months from the date of the Commission's determination, unless otherwise agreed to by the Commission.

F. Effect of No Notification to Building Commissioner.

If the Commission does not notify the Building Commissioner in writing of its determination within ten (10) calendar days of the public hearing, unless the time for the Commission's determination has been extended in writing by agreement between the Commission and Applicant, the Building Commissioner may proceed to issue the Demolition Permit or Building Permit for Alteration.

10. Upon Determination that a Building is a Preferably Preserved Building.

A. No Demolition Permit and No Permit for Alteration.

Upon a written determination by the Commission that a Building is a Preferably Preserved Building, no Demolition Permit or Building Permit for Alteration shall be

issued for a period of twelve (12) months from the date of the determination, unless otherwise agreed to by the Commission.

B. No permit for new construction of alteration.

Upon a written determination by the Commission that a Building is a Preferably Preserved Building, no building permit for new construction or alterations of the Building shall be issued for a period of twelve (12) months from the date of the determination, unless otherwise agreed to by the Commission.

11. Issuance of Demolition Permit or Building Permit for Alteration.

A. Within 12-month Delay Period.

The Building Commissioner may proceed to issue a Demolition Permit or a Building Permit for Alteration for a Preferably Preserved Building within the twelve-month delay period if the Commission notifies the Building Commissioner in writing that the Commission finds:

- i. There is no reasonable likelihood that either the owner or some other person or group is willing to purchase, preserve, rehabilitate or restore the Building; or
- ii. For at least six (6) months the owner has made continuing, bona fide and reasonable efforts to locate a purchaser to preserve, rehabilitate and restore the Building, and that such efforts have been unsuccessful; or
- iii. that the intent and purpose of this Ordinance is served even with the issuance of the Demolition Permit or the Building Permit for Alteration.

B. Following 12-month Delay Period.

Following the twelve-month delay period, the Building Commissioner may proceed to issue the Demolition Permit or Building Permit for Alteration.

IV. Administration.

Schedule of Fees. The Commission is authorized to adopt a schedule of reasonable fees to cover the costs associated with the administration of this Ordinance which shall be reviewed and approved by the City Council. Any amendment to Commission fees shall be reviewed and approved by the City Council.

V. List of Significant Buildings.

The Commission may proactively develop a List of Significant Buildings identified for future survey and inventory and which will be subject to this Ordinance. Buildings proposed for the List of Significant Buildings shall be added following notice to the owner, including the time and place of a public hearing by the Commission. Notice relating to city owned building shall be provided to each member of the City Council. The inclusion of certain buildings on such a List shall have no bearing on whether a Building not listed may qualify as a Significant Building under this Ordinance upon application for a Demolition Permit or application for a Building Permit for Alteration.

VI. Historic Districts Act.

Following a determination that a Building is Significant and Preferably Preserved, the Commission may recommend to the Mayor and City Council that the Building be protected through the provisions of Massachusetts General Law, Chapter 40C, the Historic Districts Act (the “Act”). The steps required under the Act shall be followed prior to the establishment of a local historic district. Nothing in this Ordinance shall be deemed to conflict with the provisions of the Act. If any of the provisions of this Ordinance do so conflict, the Act shall prevail.

VII. Emergency Demolition.

If the Building Commissioner determines in the Building Commissioner’s sole discretion and authority that a Building subject to this Ordinance presents an immediate threat to public health or safety due to its deteriorated condition and there is no reasonable alternative to the immediate demolition or alteration of the Building, then the Building Commissioner may issue an emergency Demolition Permit or Building Permit for an Alteration to the owner of the Building. The Building Commissioner shall provide copies to the Commission of any emergency permits and notice, violation notice, or other orders or permits issued to the owner of the Building. Nothing herein shall be construed to conflict with or derogate in any way from the Building Commissioner’s enforcement obligations under the Code of the City of Malden, statutory obligations under Massachusetts General Laws Chapter 143, or the Massachusetts State Building Code.

VIII. Enforcement and Remedies.

1. The Building Commissioner is specifically authorized to institute any and all actions and proceedings, in law or equity, as the Building Commissioner may deem necessary and appropriate to obtain compliance with the requirements of this Ordinance or to prevent a threatened violation thereof.

2. Any owner of a building subject to this Ordinance that demolishes the Building without first obtaining a Demolition Permit or alters a Building without first obtaining a Building Permit for Alteration in accordance with the provisions of this Ordinance shall be subject to all fines issued by the Building Commissioner, including but not limited to: enforcement fines of up to \$1,000.00 per day in accordance with the Massachusetts State Building Code, work without permit fees and fines, as determined by the Building Commissioner, and all other violation fines and fees as determined by applicable regulations enforced by the Building Commissioner. Each day a violation exists shall constitute a separate offense.

SECTION 4.14 DEMOLITION PERMIT - NOTICE TO ABUTTERS

No less than 14 days prior to issuance of a permit for demolition of any building or structure, the permit applicant shall provide, at his expense, written notice of the proposed demolition via first class mail to the owners of all property within 500 feet of the property lines of the property on which the building or structure is situated, as certified by the Board of Assessors, and to the City Councilor who represents the ward in which the property is located; provided that, if demolition is ordered by the city to preserve public health and safety, the property owner shall provide notice by delivery in hand to abutters, as herein defined, and the City Councilor of the ward no less than 24 hours prior to commencement of demolition.

The Building Commissioner shall provide the applicant or property owner with one copy of the notice to be sent, which shall contain, at a minimum, the location of the property, the scope and duration of the work, the date on which demolition will commence, the nature and duration of any of the anticipated interruption of services to surrounding properties, and contact information for the applicant or property owner and the entity performing the demolition, including name and emergency telephone number.

The notice shall also contain information on extermination activities at the demolition site and advise property owners of their right to request exterior baits be placed on their property if there is evidence of infestation resulting from the demolition.

CHAPTER 6 - BUSINESS LICENSES, PERMITS AND REGULATIONS

SECTION 6.1 LICENSES GENERALLY

Except as otherwise provided by law, a licensing authority, as defined herein, may grant licenses upon such terms and under such restrictions as they may prescribe, and revoke the same at its discretion.

Police Officers or Compliance Officers may, when it appears that a license has not been obtained for a activity required by law to be licensed, issue a warning under Massachusetts General Laws Chapter 40 Section 21D, describing the unlicensed activity and ordering that such activity obtain a license or cease and desist by a specified date.

Failure to comply with a warning within the specified time may be punished by a fine issued in the manner provided in Massachusetts General Laws Chapter 40 Section 21D in the amount of \$300.00; each subsequent 24 hour period during which such activity continues shall be a separate offense, punishable by a new fine.

Enforcement pursued in accordance with Massachusetts General Laws Chapter 40 Section 21D shall be in addition to all other remedies available to the city at law and equity.

SECTION 6.2 HOURS OF OPERATION - IN GENERAL

A. Except as otherwise allowed by law, business or industrial activities may operate only between the hours of 7:00 a.m. and 11:00 p.m. provided that the following activities shall only be allowed during the hours indicated:

Canvassing (Door to door solicitations)	9:00A.M.- 6:00 P.M.
Restaurants without liquor/ Fast Foods	5:30A.M.-Midnight
Retail stores	6:00A.M.-11:00 P.M.
Gasoline Filling Stations	6:00A.M.-Midnight
Second Hand Dealers/Pawnshops	8:00 A.M.-6:00 P.M.
Mechanical Equipment (Noise)	8:00A.M.-5:00 P.M.
Recording Studios (Audio & Video)	9:00A.M.-9:00P.M.
Residential Deliveries	6:00A.M.-9:00 P.M.
Second Hand Goods	6:00A.M.-5:00 P.M.
Bowling Alley/Pool Room	6:00A.M.-11:45 P.M.
Dumpster Pick Up/Delivery	7:00A.M.-8:00 P.M.
Used Car Sales	9:00A.M.-9:00 P.M.

All other deliveries and/or services to business establishments located on Pleasant St.	10:00 p.m. - 10 a.m.
All other deliveries and/or services to all other business establishments	6:00 a.m. - 11 p.m.
Drive Up Window Service at all Businesses	5:30A.M.-Midnight

B. The City Council may issue licenses extending usual hours of operation upon such terms and conditions as they deem expedient and in the best interests of the health, safety, welfare and peaceful, quiet enjoyment of the city's residents.

. Application for exemption from usual hours of operation shall be accompanied by a fee of two hundred and fifty dollars (\$250.00), and shall be renewed annually on or before January 1st of each year.

Applications to extend the hours of drive-up window service shall be accompanied by a statement from the applicant detailing the steps taken to mitigate disruption to surrounding residential neighborhoods and shall be granted only upon a finding by the City Council that the described mitigation is sufficient to protect residential abutters from the detrimental effects of the extended operation of drive-up window service.

The City Council shall require, as a condition of each license that the licensed premises be equipped with video surveillance monitors and recording devices which are remotely accessible to the Police Department and are deployed during all hours of operation in such a manner as to make the interior and exterior of the premises visible. The police department shall be provided access to such equipment in a manner determined by the Chief to be in the best interest of public safety.

C. The owner, lessee, occupant, or person in control or in charge of a public hall, theater, building or place, who causes or allows the use of said premises at any time other than the usual hours of operation or opening for the purposes of public or private entertainment, at which an admission fee is paid or charged, shall, prior to advertising of said event, obtain a permit from the City Council.

Whoever violates this ordinance shall be subject, in addition to fines pursuant to this Code, to revocation, suspension or modification after three days' notice of a hearing before the Licensing Committee, of any licenses held at the time of said violation.

D. For the purposes of this section, a "Gasoline Filling Station" is a building, structure, or part thereof, used in connection with tanks, pumps, or other appliances for supplying motor vehicles with gasoline, compressed air, oil, water, automotive accessories, and similar supplies for profit.

E. No person, corporation, or other entity shall cause, allow or permit any type of commercial construction work and/or labor or installation of materials (excluding excavation) to commence before 7:00 A.M. or after 8:00 P.M. within City limits, except in an emergency or with the

approval of both the Fire Department and Police Department. No such work shall be conducted on Sundays or legal holidays.

F. The City Council may, upon application, permit a bowling alley or billiard parlor to be operated weekdays between the hours of 11:45 P.M. and 2:00 A.M. Any pool or billiard table operated in connection with a bowling alley may be operated during the same hours as the bowling alley is licensed to operate.

SECTION 6.3 POLICE PROTECTION REQUIRED AT CERTAIN GATHERINGS

A. The owner, lessee, occupant, person in control or in charge of a public hall or theater who leases, rents, causes or permits use of such public hall or theater for compensation or otherwise for the purposes of public or private entertainment, whether or not an admission fee is charged, or public gatherings of any description at which alcoholic beverages are served or consumed thereof, whether or not such alcoholic beverages are sold, shall cause to be in attendance a number of regular Police Officers determined by the Police Commissioner or his duly authorized representative.

B. The preceding section shall not be construed to compel employment of Police Officers by a group of persons or any society, association or organization owning, leasing, renting or regularly occupying premises at which an entertainment to which only members and their guests are admitted and no charge is made for admission.

C. Application for a Police Detail shall be made to the Police Department, not less than seventy-two hours before the holding of an event requiring the employment of a Police Officer or Officers. Application shall be in a form approved by the Police Chief and payment for the Police Detail shall be made at a rate of pay established by the Chief, or by collective bargaining agreement.

SECTION 6.4 HAWKERS AND PEDDLERS

.1 IN GENERAL

A. No hawker or peddler shall sell, offer or expose for sale any items, except those enumerated in MGL Chap. 101, Sec. 17, without a valid state Hawkers & Peddlers license. Said license shall be displayed in clear view at the point of sale at all times during which items are offered for sale.

B. No hawker or peddler shall sell, offer or expose for sale, any items, whether or not enumerated in MGL Chap. 101, Sec. 17, until the name and residence of said hawker or peddler has been registered with the Malden Police Department.

C. Except as provided in Section 6.5, no hawker or peddler shall operate between the hours of 10:00 p.m. and 7:00 a.m.

- D. Any vehicle used by a hawker or peddler to carry or convey articles shall be neat, clean and shall not leak. Vendors shall provide suitable receptacles for such trash as their sales may be expected to generate.
- E. Prices of all items offered for sale shall be clearly posted.
- F. Vendors of food shall obtain all applicable permits from the Board of Health prior to any sales.
- G. No hawker or peddler shall, while offering items for sale, remain in one place or within 200 yards thereof for more than five minutes, unless actively engaged in a sale or transaction.

.2 SPECIAL EVENTS

A. No vendor shall, from public or private property, sell, offer or expose for sale any items within 300 feet of a parade route, an event sponsored by the city or an event for which the city has granted a permit without a temporary permit granted by the Mayor. A temporary permit shall be valid for the date and/or rain date of the parade or event for which it has been issued. Application for a temporary permit shall specify the items to be sold and shall be accompanied by a recent photo of each person who will act as agent for the vendor. Permit fees shall be as follows:

all items except food	\$100.00
food	\$250.00.

- B. The Mayor may waive the application fee for Malden-based religious, fraternal and charitable organizations.
- C. No less than 14 days prior to a parade or event for which a temporary permit is required, the Mayor shall list the number and location of sites for which permits will be offered. Said list shall be made available, upon request, to any applicant for a temporary permit. Vendors may indicate specific locations for which application is made, and sites shall be assigned based on priority of application.
- D. Permits shall specify the location from which a vendor may operate, the hours during which sales may be conducted, and the items to be sold. Picture identification cards providing similar information shall be provided to vendors with each permit.
- E. No permit shall be granted for the sale of the following:
 - 1.devices containing gun powder, or other explosive or combustible material;
 - 2.devices designed to discharge into the air any liquid or solid substance;
 - 3.devices designed to illuminate an object by means of a point of colored light.
- F. Denial of any application for a temporary permit shall cite specific reasons for the city's refusal to issue a permit.
- G. Vendors shall restrict sales to the hours, items, and locations specified on temporary permits. Temporary permits shall specify the time at which a vendor shall occupy a site to prepare for sales. Vendors shall vacate the site specified on their permit within one hour after sales are to terminate under the terms of said permit.
- H. Temporary vendors shall comply with all general standards for Hawkers and Peddlers; provided that, with the approval of the Mayor, vendors may be authorized to conduct sales after 10 p.m.
- I. Each vendor or agent shall display on his person, at all times during which goods are offered for sale, the picture identification card issued by the Mayor.

.3 ENFORCEMENT AND PENALTIES

- A. Provisions of this section shall be enforced by members of the Malden Police Department. Provisions of this section relative to special events may also be enforced by such agents, working under the direction of the Police Chief, as the Mayor may designate for that purpose.
- B. Any agent authorized to enforce the provisions of this section shall order a vendor to cease and desist from any violation of this ordinance or a permit issued pursuant to it. Failure of a vendor to comply with any cease and desist order may result in the removal and storage of goods or arrest of the vendor.
- C. Violations of this ordinance may also be punished pursuant to the provisions of MGL Chap. 40 Section 21D. Fines issued pursuant to Chap. 40 Sec. 21D shall be \$50.00 for each offense.
- D. Violation of this ordinance shall be cause for denial of temporary permits for future events.

SECTION 6.5 TRANSIENT VENDOR; LICENSE REQUIRED; COMPLIANCE WITH STATE LAWS; EXEMPTIONS

- A. Every transient vendor, as defined in Massachusetts General Laws, Chapter 101, Section 1, before making any sales of goods, wares or merchandise in the City, shall apply to the City Council for a license, and shall accompany any such application with a license fee of one thousand dollars (\$1,000.00). The City Clerk, if authorized by the City Council, shall issue a license to the applicant, authorizing the sale of goods, wares and merchandise, which license shall remain in force so long as the licensee shall continuously keep and expose for sale in the City such stock of goods, wares or merchandise, but not later than the first day of April annually. The provisions of this section shall apply to persons conducting the unsheltered, open-air sale of any goods, wares or merchandise.
- B. No license shall be granted under this section until the applicant has complied with the provisions of General Laws, Chapter 101, Section 3, and has exhibited to the City Clerk a license issued by the Director of Standards of the Commonwealth.
- C. This section shall not apply to any person who is assessed, or is liable for assessment for personal property taxes as of January 1 of the year in which the sales are to be made. All licenses issued shall expire on December 31st of the year of issuance. Malden-based religious, fraternal, and charitable organizations, as determined by the City Council, shall be exempt from this section. This section shall not apply to persons who sell, on their own property, not more than twice a year, goods not purchased for resale as defined in Section 6.44.

SECTION 6.6 REGULATION OF SALE OF FLOWERS,

FLOWERING PLANTS AND CHRISTMAS TREES

A. No person shall sell flowers or flowering plants (whether real, artificial, permanent, temporary, wild, cultivated or uncultivated) or Christmas trees or items pertaining to the florist business in the City of Malden, unless:

1. such person is a licensed transient vendor, hawker or peddler (see Mass. General Laws Chapter 101, Section 1, City Code 6.7; Mass. General Laws Chapter 101, Section 17, City Code 6.8);
2. such person is the holder of a permanent occupancy permit as a florist in a City of Malden building or structure; or
3. such person is the holder of a business occupancy permit who sells and/or displays the goods referred to herein only from inside a building or structure.

B. Any other person who wishes to sell said flowers, flowering plants or related items (whether from a tent, booth, building, structure, public or private land or property) shall apply for a temporary license from the City Council.

1. Such application shall be accompanied by a license fee of \$1,000.00
2. Such license shall remain in force so long as the licensee continuously keeps and exposes for sale in the City such goods or merchandise, but not later than the first day of January following the date of the issuance of said license.
3. Such license may be issued and renewed upon such other and/or additional terms and conditions as the City Council deems fit and appropriate.
4. Revocation, suspension or modification of such license may be made after a hearing, upon three days written notice, mailed certified mail, to the address of the license holder, as stated on the application.

C. Any other person who wishes to sell Christmas trees shall apply for a temporary license from the City Council.

1. Such application shall be accompanied by a license fee of \$750.00 of which \$250.00 shall be refundable upon timely vacating of the business premises and upon verification by the Building Commissioner that the premises have been left in good and clean condition, not in violation of any applicable laws, ordinances, rules or regulations.
2. Such license shall remain in force so long as the licensee continuously keeps and exposes for sale in the City such goods or merchandise, but not later than the first day of January following the date of the issuance of said license.
3. The applicant shall file a Business Certificate with the City Clerk (unless otherwise exempt) and provide the business Sales Tax number. Approval of such license shall also be subject to approval of the selected business location by the Building Department. Such license may be issued and renewed upon such other and/or additional terms and conditions as the City Council deems fit and appropriate.
4. Revocation, suspension or modification of such license may be made after a hearing, upon three days written notice, mailed certified mail, to the address of the license holder, as stated on the application.

D. Malden based religious, fraternal and charitable organizations, as determined by the City Council shall be exempt from payment of the fee under this section.

SECTION 6.7 FIREARMS BUSINESS- ALARM REQUIRED

No license shall be granted under the provisions of MGL Chapter 140, Section 122 for the sale, rental or lease of firearms, rifles, shotguns, machine guns or for business as a gunsmith, unless the applicant or license holder has installed in the business premises, an alarm system which is connected to the Malden Police Department.

The alarm system required hereunder shall be a silent type which may be activated either manually while the store is open for business or automatically while the store is closed.

SECTION 6.8 FLAMMABLE PRODUCTS- LICENSE FEES

Fees for licenses for garages are hereby established as follows:

Aggregate Storage Capacity for each garage	Fee for Original License
5-10 cars	\$ 50.00
11-50 cars	\$100.00
51 or more cars	\$200.00

Fees for licenses for keeping and storage of petroleum products or any other inflammable fluids required under MGL Chapter 148, Section 13, are hereby established as follows:

Aggregate Storage Capacity for entire Parcel of Land Licensed	Fee for Original License
166-1,000 gallons	\$ 30.00/hundred gallons
1,001-12,000 gallons	\$ 300.00 total
12,001-20,000 gallons	\$ 500.00 total
20,001-30,000 gallons	\$ 700.00 total
30,001-100,000 gallons	\$1100.00 total
100,001-1,000,000 gallons	\$ 1600.00 total
over 1,000,000 gallons	\$ 3000.00 total

If a license is applied for solely for the purpose of keeping and storing for direct consumption on the premises licensed or for direct consumption in motor vehicles owned by the licensee or his assignee and not for sale of petroleum products or any other manufactured inflammable fluids, the fee shall be forty dollars (\$40.00).

Except as otherwise provided in this section, the fee for a certificate of registration as provided in the MGL Chapter 148, Section 13, as amended, shall be one-half of the original license fees according to the schedules above set forth, payable before April 30th annually.

SECTION 6.9

GASOLINE PRICES TO BE MARKED ON PUMP

Every person engaged in the sale of gasoline shall display the price thereof by sign or other similar marking attached to the pump or pumps to which the price applies. No other sign or marking shall be permitted, unless such sign or other marking clearly indicates the pump or pumps to which the price applies.

SECTION 6.10

LICENSING OF SELF-SERVICE GASOLINE STATIONS

No person owning or operating a gasoline filling station which operates by means of a self-service dispensing system shall permit anyone other than the attendant employed by the station to hold the gas nozzle while gasoline is being pumped, unless licensed by the City Council, upon such terms and conditions as they deem expedient and in the best interest of the health, safety, welfare and peaceful, quiet enjoyment of the residents of the City of Malden. The City Council shall require, as terms and conditions of granting said license the following:

- A. That said gasoline filling station shall have a valid occupancy permit from the Building Commissioner;
- B. That there must be at least one attendant on the premises during all open hours of said station;
- C. That the granting of said license will not adversely affect the free flow of motor vehicle traffic in the area of the station, nor will it adversely affect the traffic in the area of the station, nor will it adversely affect the safety of pedestrians or customers in the area of said station;
- D. That each gas nozzle at each pump be equipped with a "splash guard or back-up prevention device.

"To hold a gas nozzle" shall in all instances be interpreted to mean that the attendant must place the gas nozzle into the tank, container or anything relating thereto and remove the same when the tank is full.

Application shall be in a form approved by the City Solicitor, and shall be accompanied by an annual fee of One Thousand Two Hundred and Fifty (\$1,250.00). Licenses shall be renewed annually on or before May 1 annually.

All self-service gasoline filling stations within the City of Malden shall affix to each gas nozzle at each pump a "splash guard" or backup preventing device.

SECTION 6.11

AUTOMOTIVE REPAIR SHOPS

A. DEFINITION

The term "Automotive repair shop" shall include motor vehicle repair shops and service stations as defined in Section 800 of Chapter 12.

B. OCCUPANCY AND FUEL STORAGE PERMITS - MINIMUM STANDARDS

To obtain applicable occupancy and fuel storage permits, the owner and/or operator of an automotive repair shop shall be required, at a minimum, to demonstrate that the following criteria have been met:

- 1.that the business is conducted at a location that satisfies all applicable requirements of the city's zoning ordinance;
- 2.that the principal use of the location is automotive repair or maintenance and that all other uses are supportive of or accessory to automotive repair or maintenance;
3. that a plot plan, acceptable to the Building and Fire departments, has been filed with said departments. Said plot plan shall partition the lot into a specified number of parking spaces, no smaller than 10'X20', and shall provide sufficient aisle space to permit access to the premises by emergency vehicles. All spaces shall be clearly lined, and numbered in yellow traffic paint and shall be used only for storage of vehicles to be repaired or for employee and customer parking. A minimum of three employee/customer parking spaces shall be provided for every fifteen spaces allocated to repair;
- 4.that the building on the premises contains one or more bays suitable for the repair of motor vehicles and that all applicable building and fire permits have been obtained for use of said bay;
- 5.that the site has an operational gas, oil and sand separator installed in accordance with the Massachusetts Plumbing Code, 248 CMR 2.09(1), and that all storm drains on site have been protected against contamination from hazardous waste; provided that an Automotive Repair Shop operating as of June 6, 2000 may, as an alternative to installing a gas and oil separator, establish and implement a waste management program in accordance with the provisions of 310 CMR30.300-.399 subject to the approval of the Board of Health; and provided further that, upon sale or substantial renovation of the site or violation of said waste management program, a gas and oil separator shall be installed.
- 6.that a landscaped buffer, as approved by Planning Department, has been installed on the perimeter of the property; provided that this shall apply only to those automotive repair shops in or abutting a residential neighborhood;
- 7.that the building, grounds and equipment meet the minimum standards set by the National Fire Protection Association's Standards for Repair Shops, as set forth in Chapters 1, 3, and 4 of NFPA Section 88B and other applicable NFPA Codes.

C. BUSINESS OPERATION - MINIMUM STANDARDS

1. All repairs shall be made within an approved automotive bay. Except when actually being repaired, all vehicles shall be stored in approved parking on-site parking spaces, as described in Section 6.11 A 3. above. Employee parking and parking of vehicles owned or operated by the repair shop shall be exclusively in approved on-site parking spaces.
2. All storage and yard areas shall be paved, sealed and fenced to the satisfaction of city inspectors, so as to prevent the seepage of automotive fluids and/or other contaminants into the ground. All waste water shall be drained through an oil separator.

3. No unregistered or uninsured motor vehicle shall be stored on the premises of a motor vehicle repair shop for more than 5 days.
4. The premises of each automotive repair shop shall be maintained in a clean and sanitary manner and shall comply with all applicable health, safety and sanitation codes and standards promulgated by the city's Building, Wire, Plumbing, Health and Fire inspectors.
5. All parts and materials incidental to the operation of said repair shop shall be stored in a designated area and concealed from public view.
6. Waste oil shall be stored in compliance with 527 CMR 9.06. No owner or operator of an automotive repair shop shall store residual hazardous fluids in excess of 165 gallons, unless permitted by the Department of Environmental Protection. Containers for residual hazardous fluids shall be enclosed in a structure, on an impenetrable surface, and properly labeled as hazardous materials to the satisfaction of the Fire Marshall.
7. Disposal of residual parts and materials shall be made in a timely manner and in accordance with applicable federal, state and local regulations.
8. No automotive parts and/or debris or by-product from the repair of automotive vehicles shall be placed as trash to be collected by the City of Malden. Every owner or operator of an automotive repair shop shall have, on file and available for inspection by appropriate city inspectors, a contract for the private collection and disposal of waste and/or hazardous materials.
9. Every owner or operator of an automotive repair shop shall retain, for a period of one year, any bill of lading for the disposal of hazardous materials. Said bills of lading shall be available for inspection by any agent or employee of the city authorized to enforce city, state and federal laws or regulations relative to the handling and disposal of hazardous materials.
10. Agents and employees of the city authorized to enforce health, safety and sanitation codes may at any time enter onto the premises of a repair shop to inspect for compliance with applicable health, safety and sanitation codes, the provisions of this ordinance, and any license restrictions or conditions. 611

D. REPAIR PLATES REQUIRED

Each permittee shall apply for and obtain repair plates from the Registry of Motor Vehicles within 30 days of obtaining initial permits. Copies of current repair plate registrations shall be filed with the Building Department, upon receipt of the original registration and/or registration renewals.

E. FAILURE TO COMPLY WITH ORDINANCE PROVISIONS - PENALTIES

Violation of any provision of this section or of any term, condition or restriction imposed on a specific permittee may be punished by a fine imposed under the provisions of MGL Chapter 40, Section 21D in accordance with the following schedule:

1st offense	warning
2nd and subsequent offenses	\$100.00

Each five day period during which said violation exists shall constitute a separate offense.

Violations of any provision of this ordinance, applicable health, safety and sanitation codes or the specific terms, conditions or restrictions of a license may be cited by any person authorized by the City Council to enforce ordinances or by any person authorized to issue applicable permits under state statute.

Failure to comply with the provisions of this ordinance may also result in revocation, suspension or modification of the required permits.

SECTION 6.12 BOWLING, AND POOL – LICENSES REQUIRED; FEE; HOURS

A. No person shall operate a pool, billiard room or bowling alley on weekdays without a license therefor granted by the City Council as provided in Massachusetts General Laws Chapter 140, Section 177. for hire, gain, or reward on Sunday without a license granted by the Mayor as provided in General Laws, Chapter 136.

B. Every license granted under these provisions, unless sooner revoked, shall expire on the first day of May annually. The fee for every license granted under the provisions hereof shall be:

for the first alley or table	\$25.00
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for each additional alley or table	\$ 5.00
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C. No person shall operate a pool, billiard room or bowling alley on Sunday without a license therefor granted by the Mayor as provided in General Laws, Chapter 136.

SECTION 6.13 AMUSEMENT MACHINES

A. LICENSE REQUIRED

No person shall set up or offer for use an amusement device, as defined in Massachusetts General Laws Chapter 140 Section 177A, without having obtained a license therefor from the City Council.

The City Council may grant licenses to operate Amusement Machines upon such terms and conditions as they deem expedient and may, at any time, revoke the same for cause; provided that the Council shall revoke any license upon verified complaint of three violations of the provisions of this ordinance. Licenses shall expire annually on December 31.

B. LICENSE FEES

Every application for license to operate an amusement machine shall be accompanied by a non-refundable application fee of \$100.00.

The annual fee for an amusement machine license shall be based upon the number of machines offered for operation in accordance with the following schedule:

Amusement Machines 1-25 - \$50 per machine

Amusement Machines 26 + - \$25 per machine

C. MINIMUM STANDARDS FOR OPERATION OF AMUSEMENT MACHINES

No holder of a license to operate amusement machines shall allow patrons to engage in any of the following behaviors:

- a. loitering in or around the licensed premises;
- b. profane or obscene utterances;
- c. disorderly conduct or excessive noise;
- d. gambling.

Every establishment shall post a sign on the premises, so as to be clearly visible to users, a notice containing the following statement:

"This machine is licensed for recreational use only. Any gambling associated with the use of this machine will result in revocation of the license for its operation."

D PENALTIES FOR VIOLATION OF ORDINANCE

Penalties for violation of this ordinance, or the terms and conditions of any license issued hereunder, may be imposed by Compliance Officers and members of the Malden Police Department in accordance with the following schedule of fines:

1 st offense	\$ 50.00
2 nd offense	\$ 100.00
3 rd /subsequent offense	\$ 200.00

The City Council may, at any time, revoke, suspend or modify a license upon three days written notice and an opportunity for the license holder to be heard.

The City Council shall, without a hearing, revoke any license upon receipt of a written notification from a member of the Malden Police Department or a Compliance Officer that a third offense has occurred.

For purposes of this ordinance, said written report shall be prima facie evidence that a violation has occurred.

SECTION 6.14 SECOND HAND DEALERS/PAWNBROKERS

A. DEFINITIONS

CONSIGNMENT DEALER:a person who, without taking ownership of goods or merchandise, displays said merchandise for sale for a specified period of time and, upon sale, delivers the proceeds or a portion thereof, as agreed, to the owner. For purposes of this ordinance, Consignment Dealers shall be licensed as Second Hand Dealers and shall comply with all record keeping and retention requirements of Second Hand Dealers.

PAWNBROKER: a person who loans money on security of personal property deposited with

him; provided that a person who loans money on security of stocks, bonds, notes or other written evidence of ownership shall not be considered a Pawnbroker for purposes of this ordinance.

SECONDHAND DEALER: a person who makes an outright purchase of personal property that has been used; provided that a person who purchases books, prints, coins or postage stamps shall not be considered a Second Hand Dealer for purposes of this ordinance.

B. LICENSE REQUIRED; BUSINESS TO BE CONDUCTED ONLY AT LICENSED PREMISES

No person shall operate as a Pawnbroker or Second Hand Dealer in the City of Malden unless licensed by the City Council.

The Council may issue Pawnbroker and Second Hand Dealers licenses upon such terms and conditions as it may deem expedient and shall revoke or suspend the same in accordance with the provisions of Section 6.26; provided that no pawnbroker's license shall be issued outside the Central Business District as defined in the City of Malden Zoning Ordinance. Licenses so issued shall expire annually on April 30.

Every applicant for a Second Hand Dealer or Pawnbrokers license shall certify in writing at the time of application that he is familiar with the provisions of Sections 6.22 through 6.26 and that he assumes responsibility for compliance with all the provisions of the ordinance by all agents and employees engaged in second hand sales or pawnbroking

Every licensed Pawnbroker and Second Hand Dealer shall post his license in a conspicuous place in the licensed premises. No licensed Pawnbroker or Second Hand Dealer shall conduct business in any place other than that designated on the license issued to him by the City Council.

C. SECOND HAND DEALERS – PURCHASE RESTRICTIONS, RECORD KEEPING, RETENTION OF GOODS, ETC.

.1 No Second Hand Dealer shall purchase merchandise from anyone under the age of 21.

.2 Every Second Hand Dealer shall obtain from every seller positive photo identification issued by a governmental agency, including but not limited to a driver's license or passport. A copy of said identification shall kept as part of the record required in Section 6.24.3.

.3 Every Second Hand Dealer shall keep a record of all purchases. Said record shall be in a form approved by the Police Chief and shall include, at a minimum, digital photographs of the merchandise purchased and of the identification presented by the seller, the date and time of the purchase, and the name, age, date of birth and current residence of the seller, the type of identification presented by the seller and the identification number, and the amount paid for each item purchased.

.4 Every Second Hand Dealer shall electronically transmit a copy of the record required by Section 6.24.3 to the Malden Police Department prior to close of business on the day the purchase is made. A Second Hand Dealer or his agents and employees shall, upon request, permit any police officer to examine all second hand goods and all records related thereto.

.5 Every Second Hand Dealer shall retain purchases on the licensed premises for a minimum of thirty (30) calendar days from the date of purchase.

.6 Every Second Hand Dealer shall retain all records relating to purchase of merchandise for a period of three years from the date of purchase.

D. PAWNBROKERS - RESTRICTIONS ON LOANS, RECORD KEEPING, RETENTION OF GOODS, ETC.

.1 No Pawnbroker shall enter into a loan agreement or take merchandise as collateral for a loan from a person under 21 years of age.

.2 The interest rate charged by a Pawnbroker shall not exceed 10% per month.

.3 Every Pawnbroker shall keep a book in which, at the time of accepting items in pawn, he shall record a description of all merchandise taken, including distinguishing marks and numbers, the date and time of the transaction, the amount of money loaned, the rate of interest to be paid, and the name and residence of the person pawning said articles.

.4 Records required in Section 6.25.3 shall be written legibly in English and a copy shall be transmitted to the Malden Police Department weekly in such manner as the Police Chief shall determine. Every Pawnbroker or his agents and employees shall, upon request, permit members of the Malden Police Department to examine all pawned goods and all records related thereto.

.5 Every Pawnbroker shall, at the time of making a loan, shall provide the borrower with a signed memorandum containing the substance of the entry made in his records. No additional charge shall be imposed for the memorandum required by this section.

.6 Every Pawnbroker shall retain all items deposited with him on his premises until redeemed or until four months from the date of deposit have expired; provided that perishable goods shall be retained until redeemed or until the expiration of one month from the date of deposit. After the expiration of the applicable time period, a Pawnbroker may sell said articles at public auction, apply the proceeds thereof the debt and the expense of notice and sale, and pay any surplus to the person entitled to the same on demand. Prior to any sale under the section, the Pawnbroker shall send written notice of said sale by certified mail to the owner of the merchandise to be sold. Said notice shall be made no less than ten (10) days before the intended sale.

.7 Every Pawnbroker shall retain all records relating to pawning of merchandise for a period of three years from the date of deposit of said merchandise with him.

E. PENALTY FOR VIOLATION OF ORDINANCE

.1 Licenses issued under this section shall be suspended or revoked by the City Council for violation of any provision of this ordinance in accordance with the following schedule:

1st offense	7 days suspension
2nd offense	30 days suspension
3rd offense	revocation

provided that the City Council License Committee may, at any time, revoke a license upon three days written notice and an opportunity for the licensee to be heard. For purposes of license suspension, a written report of violation from any member of the Malden Police Department or any Compliance Officer shall be prima facie evidence that said violation has occurred. In addition to said suspension, the Council may modify a suspended license as they deem appropriate to ensure compliance with this ordinance.

.2 Violations of any of the provisions of this section may also be punished in the manner provided in Massachusetts General Laws Chapter 40, Section 21D in accordance with the following schedule of fines:

1st offense	\$100.00
2nd offense	\$200.00
3rd/subsequent offense	\$300.00

SECTION 6.15 VEHICLES FOR HIRE - GENERAL REQUIREMENTS

A. DEFINITIONS

LIVERY: a vehicle for hire engaged prior to the date on which the trip is commenced with charges based on time, total distance traveled or other criteria agreed to by the parties to the transaction.

TAXI: a vehicle for hire engaged at the time the trip is to commence with charges based on distance traveled as metered in increments of a mile or fraction thereof; provided that nothing in this definition shall prevent a taxi from providing flat-rate or pre-arranged services.

B. LICENSE REQUIRED

.1 No person shall set up or offer a taxi or livery service for the transportation of persons from place to place within the City or from this city to another city or town without a license from the City Council. A license shall not be required when a vehicle for hire is used to transport persons from another city or town to this city, provided that no passengers are solicited or picked up within the Malden city limits.

.2 Licenses to own or operate a taxicab or livery service may not be sold, conveyed, assigned, or

transferred without the consent of the City Council.

.3 The number of taxicab licenses shall be limited to 39. Said limitation shall be subject to periodic review by the City Council to assure that service needs of residents are adequately met.

.4 There shall be no limitation on livery licenses, provided that every license shall meet the minimum requirements as outlined below.

.5 Licenses to set up and operate a livery or taxi cab service shall be renewable annually in February.

.6 Taxicabs or liveries not licensed by the City of Malden shall not stand or park on public or private property except in the following circumstances:

- when discharging a fare originating outside the city; or
- when being used for personal, non-proprietary purposes.

No taxicab or livery not licensed by the City of Malden shall solicit passengers within the city limits.

.7 Application for said license shall include the vehicle identification number and registration of any vehicle to be licensed; provided that said information may be waived in an application for a new license, provided that said information be provided to the City Clerk's Office within six (6) months of issuance of the license. Except as provided above, failure to register a licensed vehicle or cancellation of registration on a licensed vehicle shall render the license null and void. When any information provided in an application for a license changes or is updated, the respective licensee or permit holder shall give notice thereof, in writing, to the City Clerk within 20 days thereof.

.8 No owner or operator of a livery or taxicab service shall permit anyone to drive a licensed vehicle without first having obtained a taxi driver's license from the City Council.

.9 Prior to the denial of any application for license to drive a taxi or livery, the applicant shall have the right to request a hearing before the City Council License Committee.

C. MINIMUM REQUIREMENTS – TAXIS

.1 All taxicab owners shall maintain an office in the City of Malden and shall pay excise to the City on all licensed vehicles. Said office shall comply with the zoning ordinances of the City of Malden and shall provide adequate space for off-street storage of all licensed vehicles.

.2 Prior to the licensing of a taxicab, and at no less than once per year, each taxicab shall be inspected at a fee of \$10.00 by the Sealer of Weights and Measures or a designee. All taxicabs must be kept in good condition, suitable for occupancy and fit for the safety of passengers. The interior and exterior shall be clean and sanitary at all times. At least once per week, all taxicabs shall be thoroughly cleaned, inspected, and repaired as necessary by the owners.

.3 Every taxi-cab shall bear the true name of its owner, together with the word "Malden" printed on both of its sides in letters not less than 4" high and 1/2" wide. Every taxicab shall have the words "taxi", "cab", or "taxicab" printed on the body of the vehicle in letters not less than 3" in height.

.4 Exclusive of signs and lights indicating that the vehicle is a taxicab, the vehicle may carry not more than one (1) exterior advertising rack.

.5 Any taxicab company or companies with any or all common directors, officers or shareholders having twenty (20) or more licensed vehicles shall provide one (1) handicapped accessible (wheelchair) vehicle for each 5 additional licensed taxis over twenty (20). In the event an owner acquires a van, the same shall be handicapped accessible. Handicapped accessible taxicabs must be operated only for the pickup of passengers within the city limits unless deployed to transport fares from outside the city to a point within the city.

.6 No licensee shall pick up or deliver alcoholic beverages from any store to any other place. Only passengers may pick up alcoholic beverages from a package store. No licensee shall transport any passenger who has in their possession any open container of an alcoholic beverage pursuant to G.L.c. 138, s22.

.7 Maximum fares shall be as follows:

\$ 2.25 first 1/8 mile
\$.50 each additional 1/8 mile
\$22.00 waiting time;

provided that, should the price per gallon of gasoline as determined by the Consumer Price Index U.S. City Average Price Data fall below \$1.75 for more than two consecutive months, the maximum fare for each additional 1/8 mile shall be reduced to \$.35.

Nothing in this ordinance shall require that maximum rates be charged but no company shall charge fares in excess of the maximums set forth above. Persons 65 years of age and older shall receive a minimum discount of 10% on their final fare.

.8 No person having the charge, care or ordering of any taxicab shall take up or carry any passenger after the cab has been occupied or engaged by any prior passenger without the consent of the prior passenger or until such prior passenger shall have discharged said carriage. Any such prior passenger shall not be obligated or requested to pay any extra fare or fee for refusing such consent.

.1 Subject to the aforesaid consent of the passenger, no taxicab driver shall collect a double fare for the carriage of more than one passenger.

.2 As to passengers engaging the taxicab at different origins the first passenger so engaging the taxicab shall be responsible for the fare to that passenger's destination, and the subsequent passenger shall be responsible for the fare from that point to the point of the destination of said subsequent passenger.

.3 As to passengers engaging the taxicab at the same origin but traveling to different destinations, the passenger arriving at the first destination shall be responsible for the full fare from the point of origin to the point of destination; subsequent passengers shall pay

the difference between the fare at the prior drop point and the fare at the subsequent destination.

.4 As to passengers engaging the taxicab at the same origin and proceeding to the same destination, each passenger shall be responsible for an equal share of one (1) fare.

.5 In no event shall the total fee charged exceed the metered fee for the final destination.

.9 A copy of this ordinance, the fare schedule, and all applicable licenses shall be displayed in the vehicle within passenger view and for passenger inspection when requested.

.10 No licensee shall permit a motor vehicle to stand in any street except at a public stand or when waiting to return the original passenger.

D. MINIMUM REQUIREMENTS - LIVERIES

.1 All livery owners shall maintain an office in the City of Malden and shall pay excise to the City on all licensed vehicles.

.2 Livery businesses shall comply with the zoning ordinances of the City of Malden and shall include adequate off-street parking for all licensed vehicles.

.3 The operation of a livery service shall not be permitted under the Home Occupation Section of the zoning ordinance, provided that any person licensed to operate a livery service on Dec. 1, 2001 whose business does not meet this requirement may apply annually for renewal of said license. Said licensees shall be eligible for re-licensing provided that they meet the following criteria:

1. that the business has remained in continuous operation since December 1, 2001;

2. that the applicant is the same person or entity licensed as of Dec. 1, 2001. For purposes of this section, a corporation shall be considered the same entity only so long as a majority of its officers, directors and/or shareholders remain the same;

3. that the business is operated from the same location;

4. that, in addition to the number of parking spaces required for a residential use under the zoning ordinance, the business has additional off-street parking sufficient to accommodate off-street parking of all licensed vehicles.

.4 Regardless of any parking regulations that may pertain to passenger or other commercial vehicles, no livery vehicle shall at any time be left unattended on a public way in the City of Malden.

E. LICENSE REQUIREMENTS - TAXI OR LIVERY DRIVERS

.1 No person shall operate any vehicle licensed as a taxi under this section without a license from the City Council. Application for license shall be accompanied by the following:

.1 proof of a driver's license that is valid in Massachusetts;

.2 four (4) recent 1.5" by 1.5" photographs in which the applicant's face is clearly

visible;

.3 a release signed by the applicant, authorizing city personnel to access the applicant's criminal record.

.2 The City Council may deny a license, without a hearing, to any applicant who:

.1 has a criminal proceeding pending;

.2 has been convicted of or has admitted to sufficient facts in a non-violent felony within one year of the date of application;

.3 has been convicted of or has admitted to sufficient facts in a violent felony within three years of the date of application;

.4 has been convicted of or has admitted to sufficient facts in an alcohol or drug related misdemeanor within one year of the date of application; provided that no person shall be granted a license within three years of conviction or admission of sufficient facts in an alcohol or drug related misdemeanor which is a second offense;

.5 has been convicted of or has admitted to sufficient facts in three or more drug or alcohol related offenses within ten years of the date of application;

.6 has been convicted of or has admitted to sufficient facts in an alcohol or drug related felony within three years of the date of application;

.7 has been released from incarceration in a correctional facility within one year of the date of application;

.8 is included on or has been removed from the Massachusetts Sex Offender Registry within two years of the date of application;

.9 has been determined responsible for three (3) or more motor vehicle accidents within two years of the date of application.

.3 The City Council may deny a license for any reason not enumerated in Section 6.27.5.2 (above); provided that, prior to said denial, the applicant shall have a right to hearing before the License Committee.

.4 No person, other than the owner of a licensed livery, shall operate a livery vehicle for hire without having obtained a license from the City Council. Applications for livery license drivers shall be governed by Section 6.27.5.1-6.27.5.3

F. PENALTY FOR VIOLATIONS OF ORDINANCE

.1 Enforcement of the provisions of this ordinance shall be the daily responsibility of the Chief of Police and all police officers of the City of Malden. The Chief of Police shall designate on an annual basis, in February, an officer to act as liaison between the City Council License Committee and the Police Department and shall notify the City Council License Committee of any concerns or violations of any provisions of this ordinance by any owner or operator.

.2 Prior to suspension, revocation or modification of any license, a hearing, upon at least three days written notice to the last known address of the licensee, will be held before the City Council License Committee.

SECTION 6.16

PERMIT REQUIRED FOR CANVASSERS AND SOLICITORS

A. DEFINITION

As used in this article, the term "canvasser" or "solicitor" shall mean any individual, whether a resident of the city or not, traveling either by foot, wagon, automobile, motor truck or any other type of conveyance, from place to place, from house to house or from street to street, taking or attempting to take orders for the sale of goods, wares and merchandise, personal property of any nature whatsoever for future delivery or for services to be furnished or performed in the future, whether or not such individual has, carries or exposes for sale a sample of the subject of such sale, or whether or not such person is collecting advance payments on such sales.

B. PERMIT REQUIRED

1. No person shall engage in business as a solicitor or canvasser without first obtaining a permit therefor in compliance with the provisions of this ordinance.
2. All persons granted a license or permit hereunder shall display a visible badge during activities licensed hereunder, to be approved by the City of Malden Police Chief.

C. PERMIT APPLICATION-CONTENTS; FILING FEES

1..Applicants for a permit under this section shall file with the city clerk a sworn application on a form to be furnished by the city clerk, which shall give the following information:

- (a)Name and description of the applicant;
- (b)Permanent home address and full local addresses of applicant;
- (c)A brief description of the nature of the business and the goods to be sold;
- (d)If employed, the name and address of the employer, together with credentials establishing the exact relationship;
- (e)The length of time for which the right to do business is desired;
- (f)The place where the goods or property proposed to be sold, or orders taken for the sale thereof, are manufactured or produced, where such goods or products are located at the time such application is filed and the proposed method of delivery;
- (g) A photograph of the applicant, taken within 60 days immediately prior to the date of filing of the application, which picture shall be 2" by 2" showing the head and shoulders of the applicant in a clear and distinguishing manner;
- (h)The names of at least two (2) reliable property owners of the county who will certify as to the applicant's good character and business respectability or, in lieu of the names and references, such other available evidence as to the good character and business responsibility of the applicant as will enable an investigator to properly evaluate such character and business responsibility;

(i) A statement as to whether or not the applicant has been convicted of any crime, misdemeanor or violation of any municipal ordinance, the nature of the offense and the punishment or penalty assessed therefore.

2 Applications shall be accompanied by a fee of \$100 per solicitor or canvasser, provided that the following shall be exempt for payment of application fees: United States Postal Service; newspaper and/or magazine delivery services; and non-profit and charitable organizations registered under applicable sections of the Internal Revenue Code or Mass. General Laws Chapter 180 or Chapter 68 sec. 19.

D. PERMIT INVESTIGATION AND ISSUANCE

1.. Upon receipt of a license application under this article, the original shall be referred to the Chief of Police who shall cause an investigation of the applicant to determine the following facts:

- (a) Whether or not fraud, misrepresentation or false statements have been made in the application for license;
- (b) Whether or not the applicant has been convicted of any crime or misdemeanor involving moral turpitude.

2. If, as a result of such investigation, the Chief of Police finds that the application contained fraudulent information or that the applicants has been convicted of a crime involving moral turpitude, he shall endorse on such application his disapproval and his reasons therefore within 30 days of application and return the same to the City Clerk who shall notify the applicant that the application is disapproved and that no permit will be issued.

3. If, as a result of such investigation, the character and business responsibility of the applicant are found to be satisfactory, the Chief of Police shall endorse on the application his approval and return such application to the City Clerk, who shall deliver to the applicant his permit. Such permit shall contain the name and address of the permit holder, the kind of goods to be sold thereunder, the amount of fee paid, the date of issuance and the length of time the same shall be operative. The Clerk shall keep a permanent record of all licenses issued.

E. BOND REQUIRED PRIOR TO ISSUANCE OF PERMIT

Prior to issuance of a permit granted hereunder, every applicant shall file with the City Clerk a surety bond, running to the city in the amount of one thousand dollars (\$1000), with surety acceptable to and approved by the City Solicitor, conditioned that such applicant shall comply fully with all the provisions of the ordinances of the city and the statutes of the commonwealth regulating and concerning the business of the solicitor, and guaranteeing to any citizen of the city that all money paid as a down payment will be accounted for and applied according to the representations of the solicitor, and further guaranteeing to any citizen of the city doing business with such solicitor that the property purchased will be delivered according to the representations of such solicitor. Action on such bond may be brought in the name of the city to the use or benefit of the aggrieved person.

F. ENFORCEMENT

It shall be the duty of any police officer of the city to require any person seen soliciting or canvassing, and who is not known by such officer to be duly licensed, to produce his solicitor's or canvasser's license, and to enforce the provisions of this article against any person found to be violating the same.

The chief of police shall report to the city clerk violations of this ordinance. The city clerk shall maintain a record for each license issued and any report of violations thereof.

G. REVOCATION OF LICENSE

Permits issued under the provisions of this section may be revoked by the City Council after notice and hearing, for any of the following causes:

1. Fraud, misrepresentation or false statement contained in the application for license;
2. Fraud, misrepresentation, or false statement made in the course of carrying on his business as solicitor or as canvasser;
3. Conviction of any crime or misdemeanor involving moral turpitude;
4. Any violation of this ordinance;
5. Conducting the business of soliciting, or of canvassing, in any unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety, or general welfare of the public.

Notice of the hearing for revocation of a license shall be given in writing, setting forth specifically the grounds of complaint and the time and place of hearing. Such notice shall be mailed, postage prepaid, to the licensee at his last known address at least five (5) days prior to the date set for hearing.

H. EXPIRATION OF PERMITS

All permits issued under the provisions of this section shall expire on December 31 in the year when issued.

I. PENALTY FOR VIOLATION

Violations of this section, may be punished in the manner provided in Massachusetts General Laws Chapter 40, Section 21D in accordance with the following schedule of fines:

1 st offense	\$ 50.00
2 nd offense	\$100.00
3 rd /subsequent offenses	\$200.00.

SECTION 6.17 USED CAR DEALERS

A. LICENSING - GENERALLY

No person, company, corporation or other entity shall offer for sale more than four (4) second hand motor vehicles in a calendar year without obtaining a used car dealer's license from the City Council.

Application for a used car dealer's license shall be made on a form approved by the City Council and shall be accompanied by a \$100 non-refundable application fee.

Licenses shall expire annually on December 31. Except as provided in Section E of this ordinance, issuance of a license during the previous licensing period shall not create a presumption in favor of the applicant.

Notice of denial of an application for a used car dealer's license shall be accompanied by a statement setting forth specific reasons for the denial.

Licenses may be issued upon such terms and conditions and with such restrictions as the City Council deems expedient and in the best interests of the health, safety and welfare of the residents of Maiden.

Used car dealer's licenses may not be sold, conveyed, assigned or transferred without the consent of the City Council.

B. LICENSING - MINIMUM STANDARDS

The City Council may license such applicants as they determine are suitable to conduct a used car sales business in the city. Failure to comply with the provisions of this ordinance, with state consumer protection statutes or with any licensing terms, conditions or restrictions imposed by the City Council shall be prima facie evidence that the applicant is not suitable to conduct said business.

Applicants shall be required, at a minimum, to demonstrate that the following criteria have been met:

- 1.that the business is conducted at a location that satisfies all applicable requirements of the city's zoning ordinance;
- 2.that the principal use of the location is automotive sales and that all other uses are supportive of or accessory to automotive sales;
- 3.that the area controlled by the, business is of sufficient size to allow a. storage or display of no fewer than 15 cars in paved, lined and numbered spaces no smaller than 10'X20', and b. employee and customer parking of no fewer than 3 spaces, provided that one additional employee/customer parking space shall be required for each additional 20 spaces of for storage or display. All spaces shall be clearly lined, numbered and designated in yellow traffic paint as storage/display or employee/customer parking.
4. that the applicant is engaged principally in the business of used car sales.

C. BUSINESS OPERATION - MINIMUM STANDARDS

1. Each used car dealer shall keep records as required by MGL Chap. 140, Sec. 62. Said records shall be made available upon request to any police officer, City Councillor, or duly appointed agent of the City Council authorized to enforce ordinances relative to licensing.
2. Each used car dealership shall be maintained in a clean and sanitary manner and shall comply with all applicable health, safety and sanitation codes and standards promulgated by the city's Building, Wire, Plumbing, Health and Fire inspectors.
3. All parts and materials incidental to the operation of said dealership shall be stored in a designated area and concealed from public view. Waste oil shall be stored in compliance with 527 CMR 906. Disposal of residual parts and materials shall be made in a timely manner and in accordance with applicable federal, state and local regulations.
4. Agents and employees of the city authorized to enforce health, safety and sanitation codes may at any time enter onto the premises of a used car dealer to inspect for compliance with applicable health, safety and sanitation codes, the provisions of this ordinance, and any license restrictions or conditions.
5. Each used car dealer shall display at all times a current used car dealer's license on the premises at which the business is conducted. Said license shall be displayed in the business office, so as to be in clear view of patrons
6. Each used car dealer shall apply for and obtain dealer plates from the Registry of Motor Vehicles within 30 days of obtaining an initial license. Copies of current dealer plate registrations shall be filed with the City Clerk's Office, upon receipt of the original registration and/or registration renewals.

D. FAILURE TO COMPLY WITH ORDINANCE PROVISIONS - PENALTIES

Violation of any provision of this ordinance or of the terms, conditions or restrictions imposed on a specific licensee may be punished by a fine imposed under the provisions of MGL Chapter 40, Section 21D in accordance with the following schedule:

1st offense	\$100.00
2nd/subsequent offenses	\$200.00

Violations of any provision of this ordinance, applicable health, safety and sanitation codes or the specific terms, conditions or restrictions of a license may be cited by any person authorized by the City Council to enforce ordinances relative to licensing or to enforce applicable provisions of health, safety and sanitation codes.

Failure to comply with the provisions of this ordinance, with state consumer protection statutes

or with any license terms, conditions or restrictions imposed by the City Council may result in suspension, modification or revocation of any license, after three days written notice and hearing by the City Council.

E. IMPLEMENTATION OF ORDINANCE PROVISIONS

This ordinance shall take effect on Jan. 1, 1999; provided that any person licensed as used car dealers on Dec. 31, 1998 whose business does not meet the minimum standards for licensure, as set forth in Section B above, may apply annually for renewal of said license. Said licensees shall be eligible for re-licensing provided that they meet the following criteria:

1. that the business has remained in continuous operation since December 31, 1998;
2. that the applicant is the same person or entity licensed as of Dec. 31, 1998. For purposes of this section, a corporation shall be considered the same entity only so long as a majority of its officers, directors and/or shareholders remain the same;
3. a license issued under the provisions of this section may be transferred to a different location, with the approval of the City Council License Committee; provided that any license transferred to a residential location shall be valid for a period not to exceed 90 days and shall prohibit storage of vehicles on site. Any license not transferred from a residential location within the time specified by the License Committee shall be void and all rights accrued under the terms of this section shall be extinguished.

Persons applying for renewal of licenses under this section shall be subject to all the provisions of Section C and D above, and shall provide 10'X20' lined and numbered spaces for storage/display of cars and employee/customer parking in a quantity determined by the City Council.

No applicant licensed under this section shall seek an increase in the number of cars licensed for display and/or storage as of December 31, 1998. Nothing in this section shall prohibit any dealer licensed under this section from applying for a license under Sections A and B of this ordinance.

SECTION 6.18 SELF STORAGE FACILITIES - RECORD KEEPING REQUIRED

A. No person shall rent space for storage of personal property without having obtained identification from the tenant. Said identification shall be a driver's license, passport, state or federally issued identification card or any other officially issued photo identification card and shall include the lessee's name, date of birth or age, and present address.

B. The lessor shall keep a photo-static copy of all identification provided in relation to rental of space for entire period of the lessee's tenancy.

C. The lessor shall allow inspection by any police officer at any time of the copies of identification used by new tenants. Every such lessor, clerk, agent, servant or other person in

charge of the business shall allow any police officer to inspect copies of the conditions and terms of any rental agreement when requested.

D. The lessor shall post a copy of this ordinance in a conspicuous location on the premises and shall notify potential lessees in writing of its provisions.

E. The provisions of this section shall not apply to a state or federally chartered financial institution which provides personal property rental spaces as an ancillary service to customers.

F. Failure to comply with the provisions of this ordinance shall be punishable by a fine of \$100.00 per offense and may be enforced by any member of Malden Police Department in the manner provided in Massachusetts General Laws Chapter 40 Section 21 D.

SECTION 6. 19 OFFSITE PARKING FACILITIES

A. DEFINITIONS:

An **Off-site parking facility** is:

1. An open air lot, the principal use of which is the parking or storage of motor vehicles,
or
2. An open air lot where motor vehicles are parked or stored for a purpose not related to the principal use of the property.

Open air parking is the parking or storage of motor vehicles in an unsheltered area.

.B, LICENSE REQUIRED

No person shall operate an open air off-site parking facility, whether or not a fee is charged, without a license therefor from the City Council.

The City Council may issue licenses for the operation of open air off-site parking facilities in accordance with the provisions of this section and upon such terms and conditions as they deem expedient, and may revoke, suspend or modify licenses so issued at their pleasure. Every license for an off-site parking facility shall expire annually in April.

Applications for license to operate an open air off-site parking facility shall be accompanied by the following:

1. A certified plot plan, approved by the Fire Marshall, delineating structures on the lot, proposed parking spaces, aisles, and means of access and egress;
2. Certification by the Building Commissioner that the property conforms with all applicable zoning requirements and, if off-site parking is not the principal use of the property, the number of parking spaces required under zoning for the principal use;
3. A non-refundable application fee of \$100.00 per vehicle.

C. MINIMUM STANDARDS FOR OPERATION OF AN OFFSITE PARKING

FACILITY

1. Maintenance of Lot: Every off-site parking facility shall be paved and parking spaces shall be lined and numbered in accordance with the plot plan approved by the City Council. Lots shall be enclosed by fencing or by screening plants at least three feet in width, and shall be equipped with security lighting.

2. Display of License: The operator of every off-site parking facility shall display a current license on the premises at all times.

3. On-site Attendant: An attendant shall remain on the premises of any off-site parking facility at all times during which vehicles are parked or stored at said facility; provided that an off-site parking facility dedicated to the impoundment of motor vehicles may, in lieu of an attendant, secure the gate to said lot and prominently post a notice providing information as to how access to the lot may be obtained.

D. FAILURE TO COMPLY WITH ORDINANCE PROVISIONS; PENALTIES

Violation of any provision of this ordinance or of the terms and conditions of any license issued hereunder may be punished in the manner provided in Massachusetts General Laws, Chapter 40 Section 21D in accordance with the following schedule of fines:

1st offense	\$ 50.00
2nd offense	\$100.00
3rd/subsequent offenses	\$200.00;

provided that every 24 hours during which a violation exists shall constitute a separate offense for which an additional penalty may be imposed.

In addition, the city shall be permitted to seek all available remedies at law and equity.

SECTION 6.20: LICENSING OF MARIJUANA ESTABLISHMENTS

.1. PURPOSE AND INTENT

This ordinance sets forth the local licensing process applicable to any Marijuana Establishment intending to operate and/or which is granted a license to operate within the City of Malden. This licensing process is established to regulate sales, cultivation, testing, manufacture, research and transportation of marijuana within the City of Malden, in accordance with the provisions of MGL c. 94G and the provisions of 935 CMR 500, and specifically those provisions conferring authorizations, approvals and enforcement upon the local licensing authority for the City of Malden. The purpose of this ordinance is to establish the local licensing authority and local licensing process to ensure safety, compliance and to minimize potential adverse impact Marijuana Establishments may have on adjacent properties and residents of the City of Malden. This Ordinance shall not be construed to supersede any Massachusetts or federal laws or regulations governing the sale and distribution of narcotic drugs.

.2. DEFINITIONS

"Applicant" shall refer to any person or party, individual, corporation, company, or other entity seeking to operate a Marijuana Establishment in the City of Malden.

"Application Packet of Intent" shall refer to the documentation and information requested and required to be filed with the Cannabis Licensing and Enforcement Commission in accordance with the provisions of this ordinance and consistent with the requirements of 935 CMR 500.101(1)(a) for the Cannabis Licensing and Enforcement Commission to provide comprehensive consideration.

"Marijuana Establishment" shall refer to any licensed operator engaged in retail sales of marijuana, marijuana cultivators, independent marijuana testing laboratories, marijuana product manufacturing, research facilities and marijuana transporters, all as defined by the Massachusetts Cannabis Control Commission at 935 CMR 500.002.

"Cannabis Licensing and Enforcement Commission" (CLEC) shall refer to the City of Malden local licensing authority responsible for reviewing applicants and applicant packets, and determining approvals, denials, terms and conditions, and annual license renewal applications. The CLEC shall enforce the provisions of this ordinance, the terms contained within the Special Permit and Host Community Agreement, and any Rules and Regulations that the CLEC may from time to time enact, adopt and amend. Members of the CLEC shall not be employed by, be hired by, own or otherwise benefit directly or indirectly from the growing, distribution or sale of marijuana.

"Licensee" shall refer to a Marijuana Establishment which meets all City of Malden licensing requirements, obligations, permitting and approvals in order to operate within the City of Malden, and has also met all licensing requirements, obligations and approvals and obtained a properly issued license from the Massachusetts Cannabis Control Commission confirming the Marijuana Establishment meets all applicable statutory and regulatory requirements to operate a Marijuana Establishment.

"Prospective Licensee" shall refer to any prospective Marijuana Establishment seeking to locate a Marijuana Establishment in the City of Malden which is currently seeking licensing with the Massachusetts Cannabis Control Commission or has been granted provisional license by the Massachusetts Cannabis Control Commission.

"Special Permit" shall refer to the zoning special permit required to be issued to a Marijuana Establishment in accordance with Chapter 12 of the Revised Ordinances of 1991, as further amended by City Council Paper 283 of 2018.

.3. TYPES AND LIMITATION ON LICENSES TO BE ISSUED

The following license types shall be authorized under this ordinance: Independent Testing Laboratory, Marijuana Cultivator, Marijuana Product Manufacturer, Marijuana Research Facility, Marijuana Transporters and Marijuana Retailer all as defined by the Massachusetts Cannabis Control Commission at 935 CMR 500.002.

The number of marijuana retailer licenses shall be limited to 20% of the number of off premises all liquor licenses (commonly known as 'package stores') issued pursuant to G.L. c.138 Section 15. In such a case where 20% of the off premises liquor licenses results in a fractional number, the maximum number of licenses shall be the next greater whole number.

.5. INITIAL LICENSE APPLICATION PROCESS

Applicants interested in opening a Marijuana Establishment within the City of Malden shall file an application with the Cannabis Licensing and Enforcement Commission in a form and with supporting documents as promulgated by the CLEC along with a \$200 application fee.

For the initialing licensing period, the CLEC shall establish an initial deadline for applications.

The CLEC will review all applications submitted by the initial deadline and shall approve a maximum of five (5) Marijuana Retailer applications to proceed to host a community meeting and subsequently apply for a Special Permit. For one of the licenses, preference shall be given to an applicant where at least 51% of the business is owned by a resident of Malden, who has been a resident for each of the past five years, OR to an applicant who would qualify for the Cannabis Control Commission Economic Empowerment Priority Review. The CLEC may approve fewer than five (5) Marijuana Retailer applications, and if so, shall continue to review applications on a rolling monthly basis until the limit of five (5) Marijuana Retailer licenses is reached. The CLEC shall do a review of the application, the proposed applicant and location. The CLEC shall vote, by a simple majority, to permit or deny the applicant being authorized to host a community meeting and apply for a Special Permit as outlined in Chapter 12 of the Revised Ordinances of 1991 and further as contained in paper #283 of 2018. The CLEC shall initially evaluate applications based on the following, provided that the CLEC shall consider any additional factors it determines are in the best interest of the City of Malden.

- 1) The experience of the proposed applicant in the Marijuana industry or a similar industry
- 2) The support of the Ward Councilor
- 3) The overall financial strength of the applicant and the overall strength of the business plan
- 4) The proposed location being located within an area zoned for such use and being geographically diverse from other established, permitted or proposed establishments
- 5) Managers, directors, officers, investors and others related to the establishment are free of any disqualifying criminal convictions

Applicants who receive a successful initial screening from the CLEC shall follow the general steps as outlined below:

- 1) Host a Community Meeting for the proposed location as outlined in CMR 500.101(1)(a).9 and further in compliance with Malden Zoning Code, Chapter 12, Section 300.20(i).5)
- 2) Within 60 days of the completion of the Community Meeting, submit a Use Permit application to the Building Commissioner who will receive it on behalf of the Malden City Council. The application and supporting documentation requirements for the use permit shall be as prescribed by the Malden City Council and shall be provided to the applicant by the Building Commissioner.
- 3) Upon successful vote of the issuance of the Special Permit, applicant shall enter into a host community agreement (HCA) with the City of Malden containing at least the minimum criteria as outlined in section 6.49.5 of this ordinance.
- 4) Applicant shall obtain from the City a Host Community Agreement Certification Form along with a Community Outreach Meeting Attestation Form in order that the applicant may submit a completed application to the CCC.

- 5) Applicant shall, simultaneous with the application to the CCC, provide 8 completed applications to the CLEC.
- 6) Upon receipt of a Provisional License from the CCC as outlined in CMR 500.103(1), the CLEC shall schedule a public meeting to review the application in its entirety for the issuance of the local license required for operation. The CLEC shall review the applicant in its entirety and may consider information not previously known at the time of the issuance of the Special Permit or the execution of the HCA in determining to issue or deny the license required for operation.
- 7) With successful receipt of the local license, and payment of the first annual \$3,500 fee, and upon issuance of the Final License from the CCC, the Licensee shall have met all requirements for licensing to do business in the City of Malden.

.6. MINIMUM CRITERIA FOR HOST COMMUNITY AGREEMENT

Host community agreements as proposed by the Applicant shall contain the following minimum criteria.

Operating Conditions

- Security plan to be reviewed and approved by Police Chief
- Traffic management plan
- Use of electronic means of verifying customer age
- Termination/Cessation of operating terms outlined

Financial Conditions

- Community Impact Fee of 3%
- Charitable donation requirement: \$25,000 yearly
- Annual reporting of financials to the CLEC
- Company vehicles must be registered in Malden

Community Support

- Local hiring preference
- Commitment to use of local vendors

Health Related

- Support for local educational programs on public health and drug abuse prevention

.7. ANNUAL LICENSE RENEWAL PROCESS

To continue to operate in the City of Malden, each licensed Marijuana Establishment shall as a condition of its license file an application for renewal annually on a form prescribed by the CLEC together with the following:

- (i) Annual renewal determination received from CCC demonstrating continued compliance with 105 CMR 725.000
- (ii) A copy of the active HCA with the City of Malden, provided that if the current HCA is to expire during the term of renewal, licensee shall enter a new HCA with the City of Malden prior to the renewal of the local license.

(iii) \$3,500 annual renewal fee

The CLC shall conduct a review of compliance with the Host Community Agreement and Special Permit and shall have the authority to place conditions on the license to either bring the licensee in compliance with the HCA or special permit; further the CLC shall have the authority to place additional requirements on the license renewal that are operational in nature and intended to address operational issues that have arisen since initial licensure.

The Cannabis Licensing and Enforcement Commission shall review completed applications for renewal within thirty days. No license shall be renewed for operation if a Marijuana Establishment fails to timely submit a completed application including all requisite documentation.

.8. LICENSE TRANSFER PROHIBITED. A Marijuana Establishment shall have no ability to transfer a license to a new operator.

.9. PROHIBITION ON HOLDING MORE THAN ONE LICENSE. No person or entity shall retain ownership or any beneficial interest in more than one licensed Marijuana Establishment in the City of Malden.

.10. FAILURE TO OPERATE/CEASING TO CONDUCT BUSINESS. A Marijuana Establishment shall notify the Cannabis Licensing and Enforcement Commission no more than one business day after a Marijuana Establishment ceases to operate; when any Massachusetts registration or license is revoked, void, suspended fails of renewal, or is deemed no longer suitable to operate a marijuana Establishment by the Massachusetts Cannabis Control Commission. Failure to Operate or Cease to Conduct Business shall not alleviate a Marijuana Establishment from compliance with its financial obligations under a Community Host Agreement.

.11. ENFORCEMENT AND COMPLIANCE REQUIREMENTS.

A. Local Requirements. All Licensees and Prospective Licensees shall be required to comply with the procedures and provisions set forth herein, including those as amended from time to time hereafter. If approved by the Cannabis Licensing and Enforcement Commission to operate a Marijuana Establishment within the City of Malden, all Licensees shall be required to comply with annual renewal provisions set forth herein. All Licensees shall be required to comply with any procedures, rules, regulations and conditions issued by the Cannabis Licensing and Enforcement Commission, and all other code, regulatory, and/or permitting requirements applicable to the Marijuana Establishment including any conditions issued by the Cannabis Licensing and Enforcement Commission or other City of Malden permit granting authority. The Cannabis Licensing and Enforcement Commission shall specifically have the authority to enforce those conditions and requirements contained within the Special Permit and Host Community Agreement and shall set forth the penalties for non-compliance with such, which may include fines up to license suspension or revocation.

B. Commonwealth of Massachusetts Requirements. All Licensees shall be required to comply with the provisions set forth in MGL c. 94G and 935.000, including those as amended from time

to time hereafter. All Licensees shall be required to comply with any procedures, rules, regulations and conditions issued by the Massachusetts Cannabis Control Commission

SECTION 6.21

SALE OF CERTAIN PRODUCTS TO MINORS PROHIBITED

A. No person shall, within the City, sell, display, expose or keep for sale any aerosol spray paint can, muriatic acid, any product containing lighter fluid or butane, or any marker containing a fluid which is not water soluble and which has a point, brush, applicator or other writing surface, unless at the point of display or sale there is posted a sign with letters not less than one and one-half inches in height bearing the following words:

Sale of spray paint and muriatic acid, any product containing lighter fluid or butane, and/or broad indelible markers to persons under eighteen and the unlawful purchase or possession of such substances by persons under eighteen is punishable by a one hundred dollar fine.

B. No person shall make a sale or delivery of any aerosol spray paint, muriatic acid, any product containing lighter fluid or butane, and/or any marker containing a fluid which is not water soluble and which has a point, brush, applicator or other writing surface in excess of one-half inch to any person under eighteen years of age, either for his own use or for the use of his parent or any other person; provided that such seller or deliverer or agent or employee thereof, who reasonably relies on a motor vehicle license issued pursuant to section eight of chapter ninety of the General Laws of Massachusetts for proof of a person's identity and age shall be presumed to have exercised due care in making such delivery or sale to a person under eighteen years of age.

C. Violation of this ordinance may be punished in the manner provided under M.G.L. c. 40 s.

21D. Fines for violation shall be as follows:

- (1) for the first offense, a fine of \$25.00;
- (2) for the second offense, a fine of \$50.00;
- (3) for the third and subsequent offense, a fine of \$100.00;

The Director of Public Works, the Building Commissioner, the Fire Chief, the Police Chief, or their designees shall act as enforcement officers of this section.

SECTION 6.22

FOODSTUFF; RE-WEIGHING; APPLICATION OF RULES

Every person engaged in the selling of meat, poultry, or edible fish shall provide each sales outlet with a computing scale, and shall re-weigh a prepacked item of meat, poultry, or edible fish in the presence of a prospective purchaser, when so requested. Failure to do so shall be punished by a fine of not less than twenty dollars (\$20.00).

A computing scale shall indicate the money values of a commodity weighed at predetermined

unit prices throughout all or part of the weighing range of the scale.

SECTION 6.23 SALE OF GOODS BY WEIGHT, MEASURE, OR VOLUME

A. The Sealer of Weights and Measures shall periodically test and adjust, as necessary, the weights or measures used by any business engaged in the sale of goods or services by weight, measure, volume, length or distance. He shall furnish a certificate to the owner, stating the name and address of the owner of the article, the date when sealed, and the amount of any fee paid.

B. Fees for testing and sealing various weighing and measuring devices shall be as follows:

Balances & Scales

10,000 lbs. or more	\$ 100.00
5,000 to 9,999 lbs.	\$ 50.00
1,000 to 4,999 lbs.	\$ 40.00
100 to 999 lbs.	\$ 30.00
11 to 99 lbs.	\$ 20.00
10 lbs. or less	\$ 15.00

Weights

Avoirdupois (each)	\$ 1.00
Metric (each)	\$ 1.00
Apothecary (each)	\$ 1.00
Troy (each)	\$ 1.00

Capacity Measures

Vehicles tanks	
(commodities)	\$ 20.00
Each indicator	\$ 5.00
Each 100 gal. or	
fraction thereof	\$ 8.00
Liquid	
1 gallon or less	\$ 2.00
more than 1 gallon	\$ 5.00

Liquid Measuring Meters

Inlet less than 1/2 in.	
(oil/grease)	\$ 10.00
Inlet 1/2 in. to 1 in.	
(gasoline)	\$ 15.00
Inlet greater than 1 in.	
Vehicle tank-pump	\$ 35.00
Vehicle tank-gravity	\$ 35.00

Bulk Storage	\$ 40.00
Company supplies prover	\$ 40.00
Pumps	
Each stop on pump	\$ 2.00
Other Devices	
Taximeters	\$ 25.00
Odometer/Hubometer	\$ 20.00
Fabric measuring	\$ 20.00
Wire/Rope/Cordage	\$ 5.00
Bottle return	\$ 20.00
Scanner	
3 or fewer	\$ 75.00
4 to 11	\$ 150.00
12 or more	\$ 250.00
Linear Measure	
Yard stick	\$ 2.00
Tape	\$ 2.00
Other Measures	
Milk jars (per gross)	\$ 15.00
Dry Measures	\$ 2.00
Adjustments	25% of fee

SECTION 6.24 SOLICITATIONS BY CHARITABLE ORGANIZATIONS; PERMIT REQUIRED

A. No person shall remain on public or private property for the purpose of soliciting donations from the public without having obtained a permit therefor from the City Clerk.

B. The City Clerk may issue permits for the solicitation of donations subject to the following restrictions:

- .1 Permits may be issued only to Malden-based non-profit organizations. For purposes of this section, "Malden-based" shall mean an organization which is headquartered in the city, or a national or state organization with an authorized Malden representative.
- .2 No more than one permit shall be issued for any location on any date.
- .3 The permit shall specify the locations, dates, and hours during which donations may be solicited, and may contain such additional restrictions and conditions as the City Clerk may deem necessary to protect public safety and welfare.

C. A permit or a copy thereof shall be available for inspection by members of the Malden Police Department or Compliance Officers at every location at which donations are solicited. Each member of the licensed organization shall display identification, as specified in the organization's permit application, at all times while soliciting.

D. No property owner shall suffer a solicitor to remain on his property without a permit issued for the dates and times during which such solicitation occurs.

E. Violations of this ordinance may be punished in the manner provided in MASSACHUSETTS GENERAL LAWS Chapter 40, Section 21D in accordance with the following schedule of fines:

1st offense	warning
2nd offense	\$100.00
3rd/subsequent offenses	\$200.00

SECTION 6.25 USE OF RECYCLABLE AND REUSABLE BAGS BY RETAILERS

A. PURPOSES

1. For the purpose of reducing the use of single-use plastic bags to protect the land and marine environment and waterways, minimize litter, and reduce greenhouse gas emissions. Furthermore, single-use plastic bags create a burden for solid waste collection and recycling facilities, clog storm drainage systems, and require the use of millions of barrels of crude oil nationally for their manufacture.

2. For the purpose of reducing the number of single-use plastic bags that are being used, discarded, and/or littered, and to promote the use of Reusable Bags and Recyclable Paper Bags by Retail Establishments in the City of Malden (the "City").

B. DEFINITIONS

As used herein, the following words shall have the following meanings:

CHECKOUT BAG means a carryout bag provided by a retail establishment to a customer at the point of sale. Checkout Bags shall not include:

- 1, Bags, whether plastic or not, in which loose produce or products are placed by a consumer to deliver such items to the point of sale or check-out area of a retail establishment; or
2. Laundry or dry-cleaner bags; or
3. Newspaper bags; or
4. Bags used to contain or wrap products, whether prepackaged or not, to prevent or contain moisture.

RECYCLABLE PAPER BAG means a paper bag that is one hundred percent (100%) recyclable, including the handles; contains at least forty per cent (40%)

post-consumer recycled paper content; and displays the words “Recyclable” and “made from 40% post-consumer recycled content” (or greater amount) in a visible manner on the outside of the bag.

RETAIL ESTABLISHMENT means any person, corporation, partnership, business venture, or vendor that sell or provide merchandise, goods or materials directly to the customer, whether for or not for profit, including but not limited to convenience and grocery stores, restaurants, pharmacies, stores that sell wine, beer or spirits, seasonal and temporary businesses, jewelry stores and household goods stores.

REUSABLE BAG means a bag with handles that is specifically designed for multiple reuse that can carry twenty-five (25) pounds; is machine washable or is made of a material that can be cleaned or disinfected one hundred and twenty five (125) times; is made of either polyester, polypropylene, cotton or other natural fiber material; and has a thickness of greater than four (4.0) millimeters.

C. REQUIREMENTS

If a retail establishment provides checkout bags to customers, such bags shall be either a recyclable paper bag or a reusable bag.

D. EDUCATION

The City shall send written notice detailing the requirements imposed by this section to the retail establishments at least six (6) months prior to the effective date of this ordinance. Thereafter, the City Clerk and/or Health Department will notify all retail establishments, upon the next license renewal or initial application, of the requirements imposed by this ordinance.

E. PENALTIES

This ordinance shall be enforced by the Health Department, the Building Commissioner, Compliance Officer or any other department having jurisdiction for licensing, inspectional services and code enforcement in the manner provided in Massachusetts General Laws Chapter 40 Section 21D in accordance with the following schedule of fines:

1 st offense:	warning, with 30 days to cure the violation;
2 nd offense/failure to correct after warning:	\$ 25.00
3 rd /subsequent offenses:	\$100.00.

Every 24 hour period during which a violation continues after a third violation shall constitute a separate offense punishable by a fine of \$100.00.

F. Effective Date

This ordinance shall become effective January 1, 2020.

SECTION 6.26

ON-SITE RETENTION OF SHOPPING CARTS REQUIRED

A. DEFINITIONS

As used in this section, the following words shall have the following meaning:

BUSINESS: any retail establishment which supplies shopping carts for use by its customers.

PARKING LOT: any parcel of land, including areas of ingress and egress, under the control of a business and used for parking motor vehicles in conjunction with the daily operation of the business.

SHOPPING CART: any vehicle designed for human propulsion of goods and merchandise in and around a business.

B. ON-SITE RETENTION OF SHOPPING CARTS

Every shopping cart shall have affixed thereto a permanent tag, label or identification plate containing the name and address of the owner. Failure to attach said identification shall be punishable by a fine of \$20.00.

Every business shall implement and maintain a system to retain shopping carts within the business building or parking lot. The business shall post notices in a conspicuous location on the premises advising customers of the operation of the retention system.

Acceptable methods of on-site retention include the following:

- .1 a physical barrier, such as bollards, restricting shopping carts to a portion of the exterior of the business; provided that said barriers shall not interfere with fire lanes, handicapped access or similar building features;
- .2 a protruding vertical arm or similar device attached to the cart which prevents its removal from the interior of the business;
- .3 a system requiring the user to remit collateral, including but not limited to a refundable monetary deposit; provided that said collateral is reasonable in scope and designed to encourage return of the shopping cart;
- .4 a wheel-locking mechanism installed on the cart in conjunction with an electronic barrier along the perimeter of the business property which activates when the cart crosses the barrier;
- .5 a plan approved by the Director of Public Works which satisfies the intent of this ordinance.

C. PENALTIES FOR VIOLATION; DISPOSAL OF SHOPPING CARTS ON PUBLIC WAYS

Failure to prevent removal of shopping carts from the business premises may result in impoundment of said cart and in fines issued pursuant to Massachusetts General Laws, Chapter 40 Section 12D in accordance with the following schedule:

1st-3rd cart	\$20.00 per cart
4 th and subsequent carts	\$50.00 per cart.

The Director of Public Works or his designee may impound shopping carts found on public or private ways within the city of Malden, provided that the owner is notified within 48 hours of said removal by delivery of a citation, as required in paragraph A above.

The Director of Public Works shall, upon payment of fines, release any impounded shopping cart to the business identified as owner of the cart; provided that, if at the expiration of 30 days from the date of impoundment, fines have not been paid or no hearing, as provided in Massachusetts General Laws Chapter 40 Section 21D, has been requested, the shopping cart shall be deemed to be abandoned.

The Director of Public Works may, as he deems appropriate dispose of abandoned shopping carts in the following manner:

- .1 by return to the owner upon payment of fines and costs;
- .2 by public auction;
- .3 by destruction of the carts.

SECTION 6.27 LITTER- REMOVAL FROM COMMERCIAL AND INDUSTRIAL PROPERTY

All owners, agents in charge or tenants of land or buildings abutting or within business districts in the City of Malden shall remove any trash, bottles, or cans, refuse, rubbish, garbage, debris, scrap, waste or other material of any kind on any sidewalk abutting said land or building within twenty-four (24) hours of the placement thereon by anyone. "Business Districts" shall be those areas, as described in the City of Malden Zoning Ordinances Section 300.3.4 and all properties having "business use" as described therein.

Violation of this ordinance may also be enforced in the manner provided under Massachusetts General Laws Chapter 40, Section 21D and shall be punishable as follows:

first offense	warning
second offense	\$ 50.00 fine
third/subsequent offenses	\$100.00 fine

Each twenty-four hour period during which a violation shall exist shall constitute a separate offense for which an additional fine may be imposed.

SECTION 6.28 HOTEL/MOTEL LICENSE REQUIRED;REGULATION OF BUSINESS PRACTICES

A. DEFINITION

As used in this section a hotel or motel is a building or group of buildings used to provide sleeping accommodations to transient persons, whether or not food is available.

B. LICENSE REQUIRED

No person or entity shall operate a hotel or motel without a license granted by the Board of Health in accordance with the provisions of Massachusetts General Laws Chapter 140, Section 32B and the provisions of this section. Application for license shall be in a form approved by the Board of Health and shall be accompanied by an application fee of \$75.00. A fee of \$250.00 shall be due and payable upon issuance of a license.

C. MINIMUM REQUIREMENTS FOR LICENSING

The Board of Health may issue or reissue a license to operate a hotel or motel only if it finds:

- .1 that accommodations meet the minimum standards for human habitability, as contained in Chapter 2 of the state Sanitary Code;
- .2 that the rules and regulations for rental are reasonably designed to protect the health, safety, welfare and peaceful quiet enjoyment of renters and the surrounding area;
- .3 that the premises are equipped with an operational video surveillance and recording system deployed to the satisfaction of the Police Department so as to make visible all interior common areas, including but not limited to lobbies, stairwells, hallways, and elevators and all exterior grounds, walkways, parking areas and public sidewalks surrounding the premises;
- .4 for re-issuance of a license, that a register of renters is kept in accordance with the provisions of Massachusetts General Laws Chapter 140 Section 27 and this ordinance;
- .5 for re-issuance of a license, that the hotel or motel has, during the preceding 12 months, substantially complied with the Minimum Standards of Operations contained in this ordinance.

D. MINIMUM STANDARDS FOR OPERATION

The owner or operator of a hotel or motel shall comply with the following minimum standards of operation:

- .1 No person shall be allowed to rent accommodations without providing suitable identification at the time of registration, a copy of which shall be retained with the record of registration. As used herein, suitable identification shall mean a government issued photo identification card such as a driver's license;
- .2 The true name of all persons occupying rented accommodations shall be listed on the register at the time of registration. Any person who remains in a room after midnight (12 A.M.) shall be presumed to be an occupant.
- .3 The owner or operator of a hotel or motel shall immediately, upon notice that a registration was incomplete or inaccurate, terminate the rental agreement and evict from the premises all persons occupying the room for which such incomplete or inaccurate registration was provided;
- .4 No owner or operator of a hotel or motel shall knowingly permit the premises to be used for any illegal purpose, including but not limited to those purposes outlined in Massachusetts General Laws, Chapter 140 Section 26;

- .5 No owner or operator of a hotel or motel shall allow occupancy by any person if he knows or has reason to know that the person has engaged in illegal activity during a past period of occupancy on the premises. For purpose of this section, notification from the police department that an arrest for illegal activity has been made during a period of occupancy shall create a presumption that illegal activity has occurred; provided that said presumption may be refuted by evidence that charges were subsequently dismissed;
- .6 The owner or operator of a hotel or motel shall take all steps reasonable and necessary to insure that video surveillance and recording equipment is in good working order at all times;
- .7 Video surveillance records shall be retained a minimum of 30 days from the day or creation;
- .8 The owner or operator of a hotel or motel shall, upon request, provide immediate access to registration information and video surveillance recordings to any person empowered to enforce this ordinance;
- .9 No owner or operator of a hotel or motel shall allow or permit renters or occupants to create a public nuisance, as defined in Section 9. 41, on the premises.

E. Enforcement

Provisions of this section may be enforced by members of the police department, the Compliance Bureau, and the Board of Health and its agents and employees.

The provisions of this section shall not limit the authority of police officers to make arrests for any criminal offense arising out of conduct regulated herein, nor shall they limit the City or the Commonwealth's ability to initiate and prosecute any criminal offense arising out of the same circumstances necessitating the application of any provision of this section.

The Police Chief may, when he/she deems it necessary for the purpose of enforcing the provisions of this ordinance, post a police detail or details on the premises of a licensed hotel or motel, the cost of which shall be charged to the license holder.

F. Penalties for Violation

Violations of the provisions of this ordinance may be punished in the manner provided in Massachusetts General Laws Chapter 40 Section 21D by imposition of a fine of \$300.00 per offense. Each 24 hours during which a violation exists shall be a separate violation, punishable by an additional fine.

The Board of Health may, at any time on its own motion, and shall, at the request of the police department, hold a public hearing relative to suspension or revocation of a license granted under this section. A minimum of three days written notice of said hearing shall be provided to the license holder, delivered to the licensed premises, and shall specify the reasons for the hearing.

The Board of Health shall suspend or revoke any license where it finds that the license holder has failed to substantially comply with the provisions of this ordinance. Three uncontested citations or adjudicated violations in any 12 month period shall be prima facie evidence of failure to substantially comply with this ordinance.

SECTION 2.16

FEES; TO FURNISH CERTIFICATES; RECORDS REQUIRED

A. The Sealer of Weights and Measures shall furnish a certificate to the owner, stating the name and address of the owner of the article, the date when sealed, and the amount of any fee paid.

B. Fees shall be as follows:

Balances & Scales

10,000 lbs. or more	\$ 100.00
5,000 to 9,999 lbs.	\$ 50.00
1,000 to 4,999 lbs.	\$ 40.00
100 to 999 lbs.	\$ 30.00
11 to 99 lbs.	\$ 20.00
10 lbs. or less	\$ 15.00

Weights

Avoirdupois (each)	\$ 1.00
Metric (each)	\$ 1.00
Apothecary (each)	\$ 1.00
Troy (each)	\$ 1.00

Capacity Measures

Vehicles tanks

(commodities)	\$ 20.00
Each indicator	\$ 5.00
Each 100 gal. or fraction thereof	\$ 8.00
Liquid	
1 gallon or less	\$ 2.00
more than 1 gallon	\$ 5.00

Liquid Measuring Meters

Inlet less than 1/2 in. (oil/grease)	\$ 10.00
Inlet 1/2 in. to 1 in. (gasoline)	\$ 15.00
Inlet greater than 1 in.	
Vehicle tank-pump	\$ 35.00
Vehicle tank-gravity	\$ 35.00
Bulk Storage	\$ 40.00
Company supplies prover	\$ 40.00

Pumps	
Each stop on pump	\$ 2.00
Other Devices	
Taximeters	\$ 25.00
Odometer/Hubometer	\$ 20.00
Fabric measuring	\$ 20.00
Wire/Rope/Cordage	\$ 5.00
Bottle return	\$ 20.00
Scanner	
3 or fewer	\$ 75.00
4 to 11	\$ 150.00
12 or more	\$ 250.00
Linear Measure	
Yard stick	\$ 2.00
Tape	\$ 2.00
Other Measures	
Milk jars (per gross)	\$ 15.00
Dry Measures	\$ 2.00
Adjustments	25% of fee

SECTION 6.30 LICENSING OF DISTRIBUTION OF PRINTED MATTER ON PUBLIC WAYS

No person shall place or cause to be placed any unattended bundles of printed matter upon any sidewalks, footwalks, or crosswalks.

No person, firm, corporation, association, partnership, trust, or other type of entity shall distribute, place, install, or deliver any non-political fliers advertising the sale of retail goods or services to any residential homes in the City of Malden, without obtaining a written permit therefor from the Public Works Commission. The application for the permit shall fully and specifically describe the name and address of the applicant, the exact date or dates said distributions will take place, the manner by which said materials shall be affixed, held in place or distributed, at said residences, and a general description of the contents, together with a statement indicating the way and manner notices shall be given to said applicant in the event residents of the City do not wish to receive said materials. Application fees on an annual or daily basis shall be determined by the Public Works Commission, which fees will be reasonably related to the costs of processing said application. The form of application shall be approved by

the City Solicitor. The Public Works Commission shall either grant such permit or deny the application for a permit upon a finding that the issuance of such a permit would lead to the creation of a nuisance, would litter the public ways of Malden and the residences of Malden, or would otherwise endanger the public health, safety, or order. The applicant shall agree to take reasonable steps to avoid littering of public ways and residences of Malden and to comply with requests that deliveries not be made at certain streets or houses.

The Public Works Commission may impose conditions upon the permit, but said conditions may only relate to compliance with applicable laws, ordinances, or to public safety, health or order or to steps required to be taken to guard against creation of a nuisance or to insure adequate safety or security for the public. Violation of the terms and conditions of this ordinance shall be punishable by fines and penalties as provided in Chapter 1.13 and said violation shall be cause for cancellation, suspension, revocation or modification of the permit, after hearing, upon three days written notice, sent registered or certified mail, to the name and address set forth in the application.

CHAPTER 7 -ANIMALS

SECTION 7.1 RABIES VACCINATION REQUIRED FOR CATS

Every owner of a dog or cat six months of age or older shall cause said dog or cat to be periodically vaccinated against rabies. Vaccinations shall be administered by a licensed veterinarian at intervals recommended by the manufacturer to assure continual immunity to rabies.

Failure to comply with the provisions of this section may be punished by the Animal Control Officer in the manner provided in Massachusetts General Laws Chapter 40, Section 21D by a fine of \$50.00. Each twenty four hour period during which a violation exists shall constitute a separate offense for which an additional fine may be imposed.

In addition to enforcement under Massachusetts General Laws Chapter 40 Section 21D, the city may take all other remedies available at law and equity.

SECTION 7.2 LICENSING OF DOGS REQUIRED

On or before January 1st of each year, every owner of a dog shall apply to the City Clerk's Office for a license to keep said dog within the city.

Application shall include the name, address, and telephone number of the dog's owner and the gender, breed, color, age and name of the dog. The application shall be accompanied by a veterinarian's certificate of vaccination against rabies or a notarized letter from a veterinarian that a certificate was issued and is still in effect.

C. Except as provided in paragraph D below, fees for the licensing of dogs shall be as follows:

Female/Male	\$20.00
Spayed Female/Neutered Male	\$15.00

D. No fee shall be charged for a license issued under this section for a service dog as defined by the Americans with Disabilities Act or regulations promulgated thereunder. No fee shall be charged for a license for a dog owned by a person aged 70 years or older.”

E. Upon receipt of a properly completed application, the City Clerk shall issue a dog license and a numbered metal tag indicating the year for which the license is valid. Said tag shall remain affixed to the licensed dog's collar during the year for which it was issued.

F. No person or group of persons residing in the same dwelling unit shall obtain more than three licenses for the keeping of dogs in the City of Malden.

G. Failure to comply with the provisions of this section may be punished by the Animal Control Officer in the manner provided in Massachusetts General Laws Chapter 40, Section 21D by a fine of \$50.00. Each 24 hours period during which a violation exists shall constitute a separate offense for which an additional fine may be imposed.

In addition to enforcement under Massachusetts General Laws Chapter 40 Section 21D, the city may take all other remedies available at law and equity.

SECTION 7.3 UNLEASHED DOGS PROHIBITED

Dogs shall be restrained at all times by a chain or leash not exceeding six (6) feet in length, except when on the owner's property. No dog shall be tied or secured so as to permit the dog to be in or upon a public way, street or sidewalk.

Failure to comply with the provisions of this section may be punished by the Animal Control Officer in the manner provided in Massachusetts General Laws Chapter 40, Section 21D by a fine of \$50.00.

In addition to enforcement under Massachusetts General Laws Chapter 40 Section 21D, the city may take all other remedies available at law and equity.

SECTION 7.4 IMPOUNDMENT OF DOGS; NOTICE; RECORD KEEPING; NOTICE OF IMPOUNDMENT; CLAIM FEES; FAILURE TO CLAIM

The Animal Control Officer may impound any dog found in violation of Sections 7.02 or 7.03 and shall make a complete registry of dogs taken into custody, including the name and address of the owner of any licensed dog.

The Animal Control Officer shall immediately notify the owner of a dog's impoundment, or, if unable to determine the owner, shall post a notice of impoundment in the Office of the City Clerk, including at a minimum, a description of the dog, and the date, time and place at which the dog was taken into custody.

An impounded dog shall be returned to the owner upon payment of all expenses incurred by the City for the dog's care and upon proof of licensure, as required by Section 7.02.

If unclaimed for 10 days following the notice of impoundment, an impounded dog shall become the property of the city and final disposition of the dog shall be determined by the Animal

Control Officer.

SECTION 7.5 DANGEROUS OR VICIOUS DOGS

A. DEFINITIONS

"Dangerous dog" or "vicious dog", as used in this section, shall mean any dog that has bitten any person or domestic pet or with a known propensity, tendency or disposition to attack or cause injury.

"Owner" or "keeper", as used in this section, shall mean the individual who is the registered owner of a dog or who keeps, harbors or possesses a dog.

B. CONTROL/RESTRAINT OF VICIOUS DOGS

A vicious dog, while on its owner's property, shall be confined indoors or in a securely enclosed and locked pen or structure. Said pen or structure must be approved by the Canine Compliance Officer and must be no less than 50 square feet in area, provide the dog with protection from the elements, secured so as to prevent escape or entry by children, and, if designed without a bottom, be embedded in the ground to a minimum depth of 2 feet.

A vicious dog, when off its owner's property, must be accompanied by an adult, held firmly on a leash not exceeding three feet in length, and muzzled. Said muzzle must prevent the animal from biting and be so designed as not to cause injury to the dog or interfere with respiration or vision.

C. PENALTIES FOR VIOLATION

Violation of the provisions of this ordinance may be punished by the Animal Control Officer in the manner provided in MASSACHUSETTS GENERAL LAWS Chapter 40, Section 21D in accordance with the following schedule of fines:

1st offense	\$150.00
2nd/subsequent offenses	\$250.00

In addition to the fines specified above, the Animal Control Officer may order that the dog be enrolled in a suitable behavior training program or that the dog be spayed or neutered. Violation of this ordinance twice within any twelve month period may also result in an order that the dog be removed from the city.

Compliance with the provisions of this ordinance or with any order made hereunder shall not be a defense to an order of disposal under MASSACHUSETTS GENERAL LAWS Chapter 140, Section 157.

In addition to enforcement under Massachusetts General Laws Chapter 40 Section 21D, the city may take all other remedies available at law and equity.

SECTION 7.6 NUISANCE BY ANIMALS PROHIBITED

The following activities by animals are declared a nuisance and are prohibited at all times and in all places within the city:

- a. frequent or habitual noise;
- b. entry into a park, playground, school grounds or city cemetery, except in designated areas;
- c. nipping, biting, scratching, assaulting or molesting any person, animal or property
- d. scratching, digging, urinating or defecating on any property other than that of the owner; provided that such behavior shall not be considered a nuisance if the owner or person in control of the animal has in his possession tools or implements designed for the removal of all feces and does, in fact, immediately remove and dispose of the same in a sanitary manner;
- e. creation of an offensive odor due to unsanitary conditions.

Failure to comply with the provisions of this section may be punished by the Animal Control Officer in the manner provided in Massachusetts General Laws Chapter 40, Section 21D by a fine of \$50.00. Each 24 hours period during which a violation exists shall constitute a separate offense for which an additional fine may be imposed.

In addition to enforcement under Massachusetts General Laws Chapter 40 Section 21D, the city may take all other remedies available at law and equity.

SECTION 7.7 KEEPING OF NON-DOMESTIC/EXOTIC ANIMALS

No person shall keep any non-domestic or exotic animal within the city, unless said animal is registered on or before January 1st of each year with the Animal Control Officer. Registration shall be in such form and shall provide such information as the Inspector may require; provided that registration shall not be required for the owners or keepers of animals in parades, exhibitions or other activities licensed by the city nor for the keepers of a pet shop licensed in accordance with applicable state laws.

Non-domestic or exotic animals shall be confined at all times to the property of the owner, except for permanent removal from the city or for the purpose of seeking medical treatment for the animal. The owner shall, when transporting a non-domestic or exotic animal, take all reasonable precautions to prevent said animal from coming into contact with any person or other animal.

Failure to comply with the provisions of this section may be punished by the Animal Control Officer in the manner provided in Massachusetts General Laws Chapter 40, Section 21D by a fine of \$50.00. Each 24 hours period during which a violation exists shall constitute a separate offense for which an additional fine may be imposed.

In addition to enforcement under Massachusetts General Laws Chapter 40 Section 21D, the city may take all other remedies available at law and equity.

SECTION 7.8 FEEDING OF WILD OR NON-DOMESTIC ANIMALS

No one shall willfully or intentionally feed wild or non-domestic animals on any public property or property to which the public has a right of access, including but not limited to parks, cemeteries, and public ways.

Violations of this ordinance may be punished in the manner provided in Massachusetts General Laws Chapter 40, Section 21D in accordance with the following schedule of fines:

1 st offense	\$ 25.00
2 nd offense	\$ 50.00
3 rd /subsequent/offense	\$100.00

SECTION 7.9 TRAFTON PARK DOG PARK

Notwithstanding the provisions of any general or special law or ordinance to the contrary, dogs may be without leashes in the fenced area, designated as a Dog Park, on the northeast side of Trafton Park and may enter Trafton Park on a leash for the purpose of entering or exiting said area, subject to the following conditions:

1. Each dog shall be accompanied by a handler no less than 13 years of age;
2. Each handler may be responsible for a maximum of two dogs at any time;
3. Only domesticated dogs and their handlers shall be permitted in the dog park;
4. No other person or pet shall enter the dog park;
5. Handlers shall close all gates upon entering or exiting the dog park;
6. Each dog shall have, affixed to its collar, a valid Trafton Dog Park License, issued by the City Clerk's Office;
7. Handlers shall take all reasonable precautions to prevent the dog or dogs in their control from biting, attacking or attempting to bite or attack another person or dog, and shall immediately remove a dog in his care or control if it bites, attacks or attempts to bite or attack another person or dog;
8. No handler shall enter the dog park with an animal that is:
 - a. less than 4 months old;
 - b. in heat;
 - c. vicious, as defined in Section 9.25;
 - d. a pit bull or pit bull mix, unless muzzled;
 - e. suffering from a communicable illness, infection, fleas or parasites;
 - f. currently under quarantine or has previously been quarantined by the Animal Control Officer;
9. No handler shall bring any of the following into the dog park:

- a. food, whether for consumption by humans or animals;
 - b. dog treats;
 - c. glass containers;
 - d. alcohol;
 - e. children's toys;
 - f. sports equipment.
- 10. Smoking shall be prohibited in the dog park;
 - 11. If specific areas of the park are designated for specific size dogs, no handler shall allow a dog to enter an area except that designated for dogs of the corresponding size and shall accompany dogs of only one size category.
 - 12. Handlers shall remove feces produced by the dog or dogs in his control.
 - 13. The Dog Park shall be open from 8 a.m. to 8 p.m. Monday through Saturday and 10 a.m. to 8 p.m. on Sunday.
 - 14. All persons shall comply with instructions of the Animal Control Officers, police officers and agents of the Board of Health.

Violations of any provision of this ordinance shall be punishable by the Animal Control Officer by a fine of \$250.00 for each offense, imposed in the manner provided in Massachusetts General Laws, Chapter 40, Section 21D and immediate revocation of a license for use of the Trafton Dog Park.

SECTION 7.10 TRAFTON DOG PARK LICENSE

The City Clerk shall issue, upon receipt of a properly completed application, a Trafton Dog Park License and a numbered metal tag indicating the year for which the license is valid, to the owner of any licensed dog. Any license issued hereunder shall expire annually on December 31st. Fees for the licensing of dogs for use of the Trafton Dog Park shall be as follows:

Malden Resident	\$15.00
Non-Malden Resident	\$30.00.

CHAPTER 9 - PUBLIC HEALTH AND SANITATION

SECTION 9.1 NUISANCES AFFECTING PUBLIC HEALTH

No owner, occupant or person in control of any property in the city shall cause or permit to remain on said property any stagnant water, overgrowth of vegetation or accumulation of debris in a manner deemed by a public health agent, an employee of the Department of Permits, Inspections and Planning or an employee of the Public Works Department to provide a harborage for pests or the creation of a nuisance; provided that the provisions of this section shall not apply to any area determined by the Conservation Commission to be protected wetland.

The Board of Health or its agents may order, in writing, the removal or abatement of any said condition within a reasonable time.

This ordinance may also be enforced, after failure to comply with an order by the Board of Health, in the manner provided under Massachusetts General Laws Chapter 40, Section 21D and shall be punishable as follow:

First offense	\$ 50.00
Second offense	\$100.00
Third/subsequent offense	\$200.00

Each twenty-four period during which a violation exists shall constitute a separate offense and a separate and additional fine shall be imposed for each twenty-four hour period during which a violation exists.

In addition to enforcement under Massachusetts General Laws Chapter 40 Section 21D, the city may take all other remedies available at law and equity.

SECTION 9.2 PRIVATE PASSAGEWAYS TO BE KEPT CLEAN

No owner or occupant of land abutting on or having the right to use a private passageway, shall cause, allow or permit any filth, waste or stagnant water to remain on that part of the passageway adjoining such land.

SECTION 9.3 UNUSED WELLS, CESSPOOLS, ETC., TO BE FILLED

Every abandoned or unused cesspool or well shall be filled by the owner of the land on which it is located.

SECTION 9.4

CONTROL OF TOBACCO AND NICOTINE DELIVERY SYSTEMS

A. POSSESSION BY MINORS PROHIBITED

No person under twenty one (21) years of age shall have, possess, or carry any tobacco product or nicotine delivery system. Violation of this provision may be punished in the manner provided in MASSACHUSETTS GENERAL LAWS Chapter 40 Section 21 D by a fine of \$25.00 and/or by seizure of said products.

B. USE OF TOBACCO OR NICOTINE DELIVERY PRODUCTS PROHIBITED IN PUBLIC PARKS, PLAYGROUNDS, CEMETERIES AND ATHLETIC FIELDS

No person shall use tobacco or a nicotine delivery system in any park, playground, cemetery or athletic field owned or maintained by the city. Every park in which the use of tobacco or nicotine delivery products is prohibited shall have at least one notice conspicuously posted so as to be clearly visible. Violations of this section may be punished by agents of the Board of Health and the Public Works Department in the manner provided in MASSACHUSETTS GENERAL LAWS Chapter 40, Section 21D by a fine of \$100.00.

SECTION 9.5

SOLID WASTE MANAGEMENT

A. DECLARATION OF POLICY

It is in the public interest that the accumulation, preparation, storage, collection, transportation, recycling and disposal of Solid Waste be handled in such a manner as to protect the public safety, health and welfare and to enhance the environment of the people of the city.

Therefore, the city shall cause acceptable solid waste to be collected from single family residences up to and including six (6) family residences and shall provide for proper disposal of such waste.

The owner or owner's agents, servants, employees, occupant or occupants shall provide and keep clean and in good repair, proper and sufficient containers for the storage and removal of solid waste and shall remove waste from residential property at sufficiently frequent intervals to prevent a nuisance as determined by the city or its designees.

The owner or owner's agents, servants, employees, occupant or occupants of commercial property shall provide and keep clean and in good repair, proper and sufficient containers for the storage and removal of solid waste. The owner or the owner's agents, servants, employee's

occupant or occupants of any business enterprise shall provide for the removal of waste from commercial property at sufficiently frequent intervals to prevent a nuisance as determined by the city or its designees.

The owner or owner's agents, servants, employees, occupant or occupants of any property shall place trash to be collected only on the sidewalk appurtenant to his property, unless otherwise directed by the Director of Public Works or the Director of Public Health.

B. DEFINITIONS APPLICABLE TO ALL WASTE

In the interpretation and application of this ordinance, the following definitions shall apply, unless another meaning is clearly indicated by the context:

CITY COLLECTOR: the solid waste disposal company who has contracted with the City of Malden to remove waste. All vehicles shall display signs indicating that they are engaged in city residential collection.

COMMERCIAL WASTE: the general and usual waste accumulating on residential premises of 7 dwelling units or more or any business enterprise. For purposes of this ordinance, commercial waste shall include all waste generated by properties comprised in whole or in part of any business enterprise.

DIRECTOR: the Director of the Board of Health or the Director of the Department of Public Works, as the context may require.

GARBAGE: all matter incidental to the use, preparation and storage of food, including meat, poultry, fish, fowl, fruit or vegetable matter.

GARDEN/LAWN WASTE: grass, leaves, brush, tree trimmings and vine or shrub trimmings; provided that this shall not include tree waste, heavy logs, tree stumps or tree limbs three (3) feet or more in length or four (4) inches or more in diameter

HAZARDOUS WASTE: all materials included in the Department of Environmental Protection Hazardous Waste Regulation 310 CMR 30.00., including but is not limited to, paint, gasoline, oil, car batteries, and tires.

NON-ACCEPTABLE WASTE: all waste not collected by the city collector, including but not limited to the following:

1. Tree waste, heavy logs, tree stumps or tree limbs three (3) feet or more in length or four (4 inches)or more in diameter or any other item which in whole or in part is a solid mass in which a sphere with a diameter of four (4) inches could be contained;
2. Motor vehicles, motor vehicle parts and large machinery, including but not limited to, tires, auto hulks, engine blocks, fenders, transmission blocks, heavy machinery, skimobiles, motor cycles, rider lawn mowers, tractors

3. Manufacturing wastes
4. Hazardous materials.
5. Human and animal remains.
6. Demolition debris, including, but not limited to discarded or non-usable materials resulting from construction, alteration, fire or other catastrophe, or repair of structures, including but not limited to stones, plaster, brick, excavated earth, concrete, plaster, drywall, roofing materials, siding materials and structural members.
7. Explosives.
8. Furnaces and boilers.

RECEPTACLES: Approved trash bags and recycling bins. Barrels in which approved trash bags are placed must be water tight, have tight fitting covers, be rust resistant, be structurally strong and easily filled, emptied and cleaned. Cardboard barrels, wheelbarrows, lawn carts, 55 gallon oil drums, paper bags, cardboard cartons, wood crates, and all baskets and boxes that are open and cannot be adequately secured are not appropriate receptacles within the meaning of this ordinance.

RECYCLABLE WASTE: Materials included in the Department of Environmental Protection Solid Waste Ban, including glass, paper, cardboard, number 1 through number 7 plastics, cardboard, aluminum, and tin.

RESIDENTIAL WASTE: waste, including carpet provided that it has been cut into lengths of 3 feet or less, rolled and tied in bundles of no more than 50 pounds, normally originating in a residential properties of six dwelling units or fewer. For purposes of this ordinance, residential waste shall not include any waste generated by properties comprised in whole or in part of a business enterprise.

RUBBISH: waste resulting from housekeeping including cartons, paper, tin cans, bottles, metals, and similar materials.

SOLID WASTE: rubbish, garbage, and other discarded materials with insufficient liquid content to be free flowing. As used herein, Solid Waste does not include solids or dissolved materials in domestic sewage or other water pollutants.

WHITE GOODS: appliances, including washers, dryers, stoves, dishwashers, refrigerators, air conditioner units and water heaters.

C. STANDARDS AND REGULATIONS FOR RESIDENTIAL WASTE

1. The owner of every dwelling unit shall be responsible for the proper handling of garbage and rubbish generated by occupants of the dwelling unit prior to its final collection or ultimate disposal and shall be responsible for proper handling and disposal of all waste, acceptable or unacceptable, placed at the outer edge of the sidewalk appurtenant to his property.

2. The City of Malden shall collect such solid waste as is placed at the outer edge of the

sidewalk appurtenant to a residential premises in accordance with a schedule published by the Department of Public Works; provided that residents of private ways shall provide the city collector with access to all properties appurtenant to said way. Failure to provide said access will relieve the city collector and the city of responsibility for collection.

3. The city collector may refuse to collect waste if it is not handled, stored or placed for collection in accordance with this ordinance. So far as practicable, a notice shall be attached to the waste or left at the premises or building noting the location and reason for refusal.

4. Solid waste shall be placed in City of Malden approved trash bags and shall not exceed thirty-five (35) pounds in weight.

5. Solid waste shall be prepared and stored as follows:

- (a) garbage shall be drained of all liquid;
- (b) drained garbage and manure from domestic pets shall be enclosed in no less than three (3) thicknesses of newspaper or similar wrapping material or an approved scrap bag;
- (c) boxes and cartons and like materials shall be collapsed or broken up and securely tied in compact units not to exceed four (4) feet at their maximum measurement and fifty (50) pounds in total weight.
- (d) waste shall be deposited in an approved container;
- (e) printed and photographic material shall be enclosed in approved trash bags so as to be concealed from the view of casual observers.

6. No white goods of any kind shall be placed at the curb without a collection sticker attached and all doors removed.

7. Recyclable waste shall be placed in bins provided for that purpose and placed at the curb for collection or delivered to the Department of Public Works during regular business hours or on Saturdays from 9:00 a.m. to noon.

8. Hazardous materials shall not be placed in approved trash bags or recycling bins for collection. In accordance with Department of Environmental Protection guidelines, hazardous materials include but are not limited to the following:

- Tires
- Automotive Batteries
- Nickel Cadmium Batteries
- Any oil based product, including paint, gasoline, kerosene and motor oil
- Cathode Ray Tubes, including televisions and computer monitors
- VCRs and tape decks
- Florescent light bulbs

Hazardous materials must be properly disposed of by the person or party in possession, and may be properly disposed of on a Hazardous Recycling Day at the Department of Public Works.

9. Non-hazardous debris resulting from home renovations for which no building permit is required shall be removed by the city collector provided that, prior to collection, the home owner has consulted with an agent or employee of the Department of Public Works relative to the acceptability of the materials for collection and incineration or deposit in a land fill in accordance with Environmental Protection Agency guidelines.

10. The city will provide for collection of garden/lawn waste on a schedule to be determined by the Public Works Commission; provided that said schedule include at a minimum weekly curbside pick-up from the beginning of April through the end of October, and such additional weeks as are deemed practicable by the Commission. Small branches shall be cut to lengths not exceeding four (4) feet.

D. STANDARDS AND REGULATIONS FOR COMMERCIAL WASTE

1. The owner of every commercial property shall provide proper and sufficient receptacles for accumulation of waste and shall make provisions for removal of waste, no less than once a week, through a private licensed collector.

2. The owner of every commercial property shall make provisions for waste recycling with their waste collection contractor. Said provisions shall comply with the Massachusetts Department of Environmental Protection Solid Waste Plan.

3. Solid waste collection shall be by one of the following means:

(a). SOLID WASTE COLLECTION BY DUMPSTER

(i) For purposes of commercial waste, proper receptacles shall include dumpsters; provided that the owner of commercial property has obtained a permit for said dumpster from the Board of Health. The Board of Health shall promulgate rules and regulations relative to the use, maintenance and placement of dumpsters.

(ii) Application for a dumpster permit shall be accompanied by a \$25.00 fee and a site plan, showing the proposed location of the dumpster, the distance to the closest abutter and the type enclosure or screen, if any.

(iii) Dumpster permits shall be granted upon such terms and conditions as deemed appropriate by the Director of Public Health and shall be renewable annually on December 31. The Director of Public Health may order a dumpster enclosed, screened, removed, dumpster capacity size changed and /or additional scheduled pickups.

(iv) No waste shall be deposited in dumpsters between the hours of 11:00 P.M. and 7:00 A.M. Dumpster waste shall be collected between the 7 a.m. and 8 p.m., Monday through Friday or 8 a.m. and 6 p.m. on Saturday. No dumpster waste shall be collected on Sunday or holidays.

(b) SOLID WASTE COLLECTION BY CITY COLLECTOR

Upon the approval of the Director of Public Works, the City collector may collect no more than fourteen (14) bags of rubbish and/or garbage in 33 gallon capacity plastic

bags of at least 1.5 millimeters in tensile strength, tightly sealed, properly tied or secured, weighing no more than 35 pounds; provided that every said bag has a collection sticker attached thereto, and provided further that a number in excess of 14 bags of waste, properly stickered, may be collected by the city collector, when in the judgement of the Director of Public Works, public health and convenience so warrants.

The City collector shall provide recycling services free of charge to all commercial properties from which it collects solid waste.

3. SOLID WASTE COLLECTION BY OTHER MEANS

Subject to the approval of the Director of Public Works and the Director of Public Health, the owner of any commercial property may make alternate provisions for solid waste removal; provided that such arrangements include provisions for recycling services in compliance with the Massachusetts Department of Environmental Protection Solid Waste Plan and Section 9.29 of this ordinance. The Director may approve any suitable device for storage, handling and disposal of Waste provided that the device meets the intent of the standards and requirements otherwise set forth in these regulations.

E. PROVISIONS APPLICABLE TO ALL WASTE

1. FEES: Fees for collection of residential and commercial waste by the city shall be as follows:

Approved 35 lb. trash bag	\$ 2.00 ea.
Approved 15 lb. trash bag	\$ 1.00
White Goods (residential customers only)	\$ 20.00
Recycling Bin 1st	Free
additional	\$ 5.00 ea.

Any increase or decrease in the cost of approved trash bags as described in this chapter shall not take effect until approved by referendum on the ballot at the next municipal general election.

2. PURCHASE OF APPROVED TRASH BAGS: Approved trash bags shall be made available at the Office of the City Treasurer and the Department of Public Works Office during regular business hours. Approved trash bags shall also be made available for resale to the public at retail and commercial establishments as determined by the Director of Public Works, provided that no retail or commercial establishment shall charge more than \$2.00 for each approved trash bag.

Subject to annual funding, the Mayor shall work with local anti-poverty agencies to provide approved trash bags to qualified residents for the disposal of residential solid waste as outlined in this paragraph, provided that said resident is not receiving assistance towards such costs from any other source.

3.. STORAGE OF WASTE: No solid waste shall be stored or packaged for disposal unless properly secured so as to prevent it from being effected by wind or weather conditions.

5. SCAVAGING: No person, other than the city collector or an authorized representative of a private waste contractor, shall scavenge or remove waste which has been placed at the curb for collection.

6. ORDER TO REMOVE WASTE FROM PREMISES The Director of Public Health, the Director of Public Works, the Building Commissioner, Compliance Officers and their agents or designees may issue a warning, in the manner prescribed in Massachusetts General Laws Chapter 40, Section 21D, to the owner, agent, or occupant of a premises for the improper accumulation or storage of waste, offensive material or discarded mechanical or electronic equipment.

Failure to comply with any removal order made by an authorized agent of the City of Malden may result in removal of said waste by the City at the expense of the owner.

5. LIMITATION ON PLACEMENT OF SOLID WASTE AT CURB: No person, firm, or corporation shall place or keep any box, barrel, container, crate, bag or other receptacle containing junk, debris, waste, rubbish or garbage on any sidewalk in the City of Malden, except for removal or collection by a private collection agent. Placement of any of such items upon a sidewalk other than that adjacent to the premises owned or occupied by such person, firm or corporation shall be a violation of this ordinance.

No waste shall be placed at the curb prior to 9 p.m. on the day before collection. Non-disposable receptacles shall be returned to their storage space by owners no later than midnight on the day of collection.

F. PROVISIONS APPLICABLE TO PRIVATE COLLECTORS

Vehicles conveying waste shall be of such construction and so operated that contents shall not be exposed to public view nor create a nuisance and shall be sanitized and deodorized daily. All vehicles engaged in private collection shall display a sign indicating that they are engaged in private commercial collections.

All persons collecting trash and recyclables in the City of Malden shall obtain a non-transferable Trash Hauling Permit from the Board of Health. Application for a Trash Hauling Permit shall be accompanied by a \$200 application fee, an accounting of available recycling services, a complaint resolution plan, and a list of customers served in the City of Malden, including the day and time of said service and an estimate of the volume of solid waste and recyclables collected. Trash Hauling Permits shall be renewable annually in December 31. Failure to provide all information required by the application shall be grounds for denial of a permit.

Every private collector shall provide recycling services in compliance with the State of Massachusetts Solid Waste Plan and DEP regulations.

Every private collector shall submit a monthly report as required by the Board of Health. Said

reports shall be submitted to the Department of Public Works and shall provide, at a minimum, a record of the tonnage of refuse and recyclables collected, the customers served, including the day and times of collections and shall include weight slips or vendor receipts to document tonnage figures on waste and recyclables.

Failure to submit reports in a timely fashion may result in modification, suspension or revocation of the permit.

G. PENALTIES FOR VIOLATION

Agents and employees of the Board of Health, the Compliance Bureau, the Department of Public Works, the Fire Department, and the Police Department shall have the power to enforce the provisions of this ordinance. in the manner provided under Massachusetts General Laws Chapter 40, Section 21D in accordance with the following schedule of fines:

- | | |
|-------------------------|---|
| (a) 1st offense | warning, plus item collection fee, if applicable |
| (b) 2nd offense | \$50.00 fine plus item collection fee, if applicable |
| (c) third offense | \$100.00 fine plus item collection fee, if applicable |
| (d) subsequent offenses | \$300.00 fine plus item collection fee, if applicable |

Each twenty-four hour period during which a violation shall exist shall constitute a separate offense for which an additional fine may be imposed.

SECTION 9.6 DUMPING PROHIBITED

No person shall throw or place or cause to be thrown or placed any trash, refuse, rubbish, debris or material of any kind for purposes of disposal or abandonment on any property in the city without permission of the owner.

The following shall be considered illegal dumping within the meaning of this ordinance:

1. Disposal of trash generated by a business or residence and carried to the site of a barrel placed on city property for the convenience of residents and motorists;
2. Disposal of trash generated by a business or residence and deposited in a dumpster located at a city owned or operated facility.

No property owner shall permit any trash, refuse, rubbish, debris or material of any kind to be thrown or placed on property under his control for purposes of disposing or abandoning use of the same.

Violations of this ordinance may be punished in the manner provided in Chapter 40 Section 21D and shall be punishable by a fine of \$300.00 per offense; provided that, in accordance with the provisions of Massachusetts General Laws Chapter 270 Section 16, the Director of Public Health or his agents and employees may impose a fine of \$1000 for placing, throwing, depositing or discharging trash, bottles or cans, refuse, rubbish, garbage, debris, scrap, waste or other material

of any kind on a public highway, public land, any land dedicated for open space purposes or in, upon or within 20 yards of coastal or inland waters and may apply the provisions of Massachusetts General Laws Chapter 270 Section 16 to the use of a motor vehicle for said purposes. Each twenty four hours period during which a violation exists shall constitute a separate offense for which a separate and additional fine shall be imposed.

SECTION 9.7 LIMITATIONS ON USE OF TRAILERS

No trailer shall be used for habitation except in a trailer camp or park licensed by the Board of Health.

The Building Commissioner may issue a permit for the temporary use of trailers for business or commercial purposes subject to the following conditions:

1. that the business or commercial enterprise using the trailer is in the process of building a permanent structure for its use;
2. that the trailer is located at or near the location of the permanent structure;
3. that the trailer be removed upon completion of the permanent structure.

Permits for the temporary use of trailers shall be issued for a period not to exceed sixty (60) days and shall be subject to renewal at the discretion of the Building Commissioner.

Use of a trailer in violation of this ordinance shall be punishable by agents of the Board of Health or Building Commissioner in the manner provided in Massachusetts General Laws Chapter 40 Section 21D in accordance with the following schedule of fines:

1 st offense:	warning
2 nd offense:	\$ 50.00
3 rd /subsequent offense	\$100.00

SECTION 9.8 REMOVAL OF ABANDONED MOTOR VEHICLES AND STORAGE CONTAINERS FROM PUBLIC OR PRIVATE PROPERTY

A. DEFINITIONS:

MOTOR VEHICLE: For purposes of this section, "motor vehicle" shall include all vehicles described in MASSACHUSETTS GENERAL LAWS Chapter 90, Section 1, including but not limited to automobiles, buses, trailers, motorcycles, and all vehicles constructed or designed for propulsion by power other than muscular power.

STORAGE CONTAINER: For the purpose of this section, "storage containers" shall include all exterior storage units or containers located outside a dwelling or building including but not limited to pods, trailers, shipping containers, sea containers and the like which may house merchandise, furniture, tools, equipment, machinery and other items.

B. PRESUMPTION OF ABANDONMENT:

Failure to attach current registration plates, a current registration sticker or a current inspection sticker, or, if registered, to park on a public or private way for more than 72 continuous hours shall create a presumption that said motor vehicle has been abandoned or its use discontinued by the owner.

Storage containers placed on vacant and/or abandoned properties will be presumed abandoned.

C. RECORDS REQUIRED:

The Police Department shall record the date, time, location, make, model, year, vehicle identification number if discernable, registration number if any, and a detailed account of the contents and condition of every motor vehicle or storage container towed and stored under the provision of this ordinance. The record shall also include the name of the person ordering the motor vehicle or storage container removed and the reasons for removal.

D. TOWING, STORAGE, AND REMOVAL COSTS:

The owner of any vehicle or storage container removed under the provisions of this ordinance shall be liable for any costs associated with towing and storage of the vehicle.

E. RECOVERY OF VEHICLE BY OWNER: Prior to the sale or disposition of a motor vehicle under the provisions of this ordinance, the owner may reclaim the motor vehicle by presentation to the Police Department of proof of ownership and verification that towing, storage and associated cost have been paid.

F. ELECTION OF REMEDIES:

The rights, powers and duties set forth in this ordinance may be exercised in addition to or in conjunction with all civil and criminal remedies provided in Massachusetts General Laws.

The provisions of this ordinance may also be enforced in the manner provided in Massachusetts General Laws Chapter 40, Section 21D in accordance with the following schedule of fines:

1st offense	\$ 50.00
2nd/subsequent Offense	\$100.00

Each twenty four hour period during which a violation exists shall constitute a separate offence, punishable by the imposition of an additional fine.

F. PLACEMENT OF MOTOR VEHICLES ON A PUBLIC WAY OR PUBLIC PROPERTY

No person shall place upon a public way or public property any motor vehicle for purposes of abandonment or discontinuance of use.

The Police Chief, Fire Chief, Fire Marshall, Director of Public Works, Building Commissioner or Compliance Officers may order the owner of any motor vehicle abandoned on a public way or public property to remove the same. If the owner cannot be located or fails after reasonable

notice to remove said vehicle, it shall be towed, stored and disposed of in accordance with the provisions of Massachusetts General Laws Chapter 90, Section 22C.

G. PLACEMENT OF MOTOR VEHICLES ON A PRIVATE WAY OR PRIVATE PROPERTY

When, in the judgement of the Police Chief, Fire Chief or Fire Marshall, a motor vehicle has been placed on a private way or private property in such a manner or in such condition as to pose a threat to public safety, the Police Chief, Fire Chief or Fire Marshall may cause its immediate removal.

No property owner shall permit an abandoned motor vehicle to remain on his property for more than five days without having obtained a permit therefor from the Fire Marshall. The Police Chief, Fire Chief, Fire Marshall, Director of Public Works, Building Commissioner or Compliance Officers may order the owner of any property on which an abandoned or unregistered motor vehicle is stored to remove said vehicle; provided that any removal order shall allow five (5) days to effect removal before any penalties, as provided herein, are imposed and provided further that costs incurred for removal of said vehicle shall be assessed, in addition to any fines and penalties, against the owner of the property.

The Fire Chief or Fire Marshall may issue a permit for the keeping of an unregistered vehicle where he finds that:

1. the presence of the vehicle does not endanger the health or safety of area residents;
2. all applicable permits for storage of oil or gasoline have been obtained;
3. presence of the motor vehicle on private property does not unduly burden the availability of on-street parking.

Said permit shall specify the location and manner of storage of the motor vehicle and contain an expiration date; provided that no permit shall be issued for more than one year from the date of issuance. Permits may be renewed at the discretion of the Fire Chief or Fire Marshall in accordance with the provisions of this section.

C. PLACEMENT OF STORAGE CONTAINERS ON A PRIVATE WAY OR PRIVATE PROPERTY

No storage unit or container shall be stored or parked on any premises without a permit from the Building Commissioner, who may issue permits for the storage of a maximum of two (2) such units or containers on premises for a period not to exceed thirty (30) calendar days.

Permits for the siting of storage units or containers for longer than thirty (30) calendar days may be issued by the City Council for a period either not to exceed one hundred and eighty (180) days or not to exceed three hundred and sixty five (365) days.

Fees for Storage Container Permits shall be as follows:

30 day permit (issued by Building Commissioner): \$ 25.00 per container

31 days to 180 days (issued by City Council): \$ 25.00 plus \$25.00 for every 30 days
beyond 30
Yearly Permit (issued by City Council): \$ 300.00

No more than two (2) permits of any duration may be issued to any premises annually. Storage containers are prohibited from being placed on any public or private way.

Notwithstanding the provisions set forth in this section, the temporary placement of a storage unit or container for the limited purpose of temporary storage to accommodate a construction project, remodeling, or clean-up may be kept on a property during the term of a valid building permit issued by the City for work on the property, and for 24 hours before and after the term stated in the Building Permit.

SECTION 9.9 RENTAL UNITS - INSPECTION REQUIRED

A. GENERAL PROVISIONS:

Except as provided in this section, no owner, lessor or person in control or in charge of a rental unit shall commence any new tenancy or occupancy in an existing rental unit without having obtained a Rental Unit Inspection Certificate from the Board of Health; provided that any unit may be occupied prior to inspection after five business days have elapsed from the submission of a completed application for inspection; and provided further that any unit occupied under this exception shall be subject to inspection subsequent to the commencement of a tenancy or occupancy.

All owners, lessors or person in control or in charge of a rental unit, who do not reside within the subject dwelling, shall submit to Permits, Inspections and Planning their personal address and telephone contact information. If this information changes, it must be updated with the Permits, Inspections and Planning Department within ten (10) days.

All owners, lessors or person in control of a dwelling consisting of three (3) or more units, who do not reside within the subject dwelling, shall post and maintain or cause to be posted and maintained on such dwelling adjacent to the mailboxes or elsewhere in a location that is visible; a notice constructed of durable material, bearing his/her name, address and telephone contact information.

If the owner or lessor is a realty trust or partnership, the name, address and telephone number of the managing trustee or partner shall be posted. If the owner is a corporation, the name, address and telephone of the president of the corporation shall be posted. Where the owner employs a manager or agent who does not reside in such dwelling, such manager or agent's name, address and telephone number shall be included in the notice.

P.O. Boxes do not satisfy the address requirement of this section.

Any owner residing outside the Commonwealth of Massachusetts must designate an area

resident agent authorized to accept service on the owner's behalf.

The following properties shall be exempt from the provisions of this section:

- .1 property or units owned or managed by the Malden Housing Authority;
- .2 hotels, motels and mobile homes that have been otherwise permitted by the Board of Health;
- .3 owner occupied premises containing three or fewer units, provided that a homeowner may elect to participate in the program;
- .4 property which contains 20 or more units and is providing housing exclusively for elderly or low and moderate income persons under federal or state subsidy programs;
- .5 licensed rooming house units, provided that each licensed rooming house shall be subject to inspection in its entirety in January and June of each year for a fee of \$125 per inspection.
- .6 properties whose owners have applied for and been granted by the Board of Health an exemption, not to exceed a duration of three years, based on demonstrated compliance with the provisions of this ordinance for the two years immediately preceding; provided that any such exemption may be revoked by the Board if one or more violations are found to exist and have not been corrected within the time allotted in a notice from any agent of the board. For purposes of this section, payment of a fine issued pursuant to MASSACHUSETTS GENERAL LAWS Chapter 40 Section 21D or a determination by the Municipal Hearing Officer that a fine was warranted shall be prima facie evidence that a violation exists.

B. APPLICATION FOR INSPECTION

The owner, lessor or person in control or in charge of a rental unit shall submit a completed application for dwelling unit certification to the Board of Health Office for each unit requiring inspection. Application shall be in a form determined by the Director of Public Health and shall be accompanied by a non-refundable fee of \$50.00.

The Director of Public Health shall deny, without inspection, an application which:

- .1 fails to provide the required information;
- .2 provides false information;
- .3 is not accompanied by the required fee;
- .4 pertains to property that is in violation of the zoning ordinance;
- .5 pertains to property or property owners who have outstanding taxes, fees, fines or charges due the city; or
- .6 the owner, lessor or person in control or in charge of the rental unit has failed, in the judgment of the Director of Public Health, to provide reasonable access to the unit for purposes of inspection.

C. INSPECTION - STANDARDS FOR CERTIFICATION; ORDER TO CORRECT DEFICIENCIES

The Director of Public Health or his agents and employees shall inspect each rental unit to assure compliance with Minimum Standards of Fitness for Human Habitation, as set forth in the State Sanitary Code, and Housing Standards, as adopted by the Malden Board of Health.

The Director of Public Health shall issue a Rental Unit Inspection Certificate for each unit found to be in compliance or, if a rental unit fails to meet the minimum standards set forth above, shall issue Housing Inspection Report and an Order to Correct Deficiencies. Said order shall establish the date by which corrections must be completed and shall provide notice that proper permits must be obtained for any work done under the order.

The owner of a unit for which an Order to Correct Deficiencies has been issued may request re-inspection at any time and shall pay a \$20.00 re-inspection fee. Upon completion of the required corrections and verification that proper permits have been obtained, a Rental Unit Inspection Certificate shall be issued.

D. DENIAL OF CERTIFICATE - RIGHT TO APPEAL

An applicant may, within seven days of receipt of an Order to Correct, file an appeal, in writing, with the Board of Health, detailing the alleged grounds for modification, or withdrawal of the Order to Correct.

The Board of Health shall, within 30 days of receipt of a notice of appeal, hold a public hearing, notice of the time and place of which shall be provided to all parties in interest. Failure to hold a hearing within the time specified herein shall not affect the validity of an Order to Correct.

The applicant or any other interested party may present documentary evidence and witnesses at the hearing. Within 7 days of the public hearing, the Board of Health shall issue a decision sustaining, modifying or vacating the Order to Correct and, if the Order is sustained, shall stipulate the time within which corrections shall be made.

E. PENALTY FOR VIOLATION

Violations of any provision of this ordinance may be punished in the manner provided in Massachusetts General Laws Chapter 40A, Section 21D by a fine of \$100.00 per incident. Each 24 hours during which a violation exists shall constitute a separate offense for which an additional fine may be imposed.

SECTION 9.10 REGULATION OF LEAD PIPES IN RESIDENTIAL HOUSING

A. Prior to the sale or rehabilitation of residential property in excess of Thirty Thousand Dollars (\$30,000.00) within the City of Malden, it shall be the obligation of the property owner to obtain

a certificate issued by the Department of Public Works stating that the water is supplied to the property by a lead free water line. The cost of said certificate shall be (\$25.00) Twenty-Five Dollars.

B. Prior to the rental of residential property, the property owner shall obtain a certificate from the Department of Public Works, certifying that water is supplied to the property by means of lead-free water lines, and that a test of the water supplied to the property determined that concentrations of lead were at or below acceptable levels, as determined by the Board of Health. The cost of testing and certification shall be (\$25.00) Twenty Five Dollars.

CHAPTER 10 - PUBLIC PEACE, SAFETY AND GENERAL WELFARE

PUBLIC NUISANCES

SECTION 10.1 PROPERTY CREATING A PUBLIC NUISANCE

This section permits the City to impose liability on owners and other responsible persons for properties that have become a public nuisance by exhibiting an atmosphere of criminal and/or other disturbing activity so as to unreasonably interfere with the common good and welfare of a specific neighborhood or the City in general.

.1 Definitions

For purposes of this section, the following definitions shall apply:

EVICTION: actively trying to evict a tenant from a premise by delivery of a notice to quit and subsequent court proceedings, if a tenant fails to vacate the premises.

GATHERING: an event where two or more persons have assembled or are assembled.

PREMISES: any residence or other private property, place, or location, including any commercial or business property.

PROPERTY OWNER: the legal owner of record of a premises as listed by the tax assessor's records.

PUBLIC NUISANCE: a gathering of persons on any premises in a manner which constitutes a violation of law or creates a substantial disturbance of the quiet enjoyment of private or public property in a neighborhood. Behavior constituting a public nuisance includes, but is not limited to use of such premise for the purposes of prostitution; lewdness; the service of alcohol to underage persons or person who are intoxicated; public consumption of alcohol; illegal keeping, sale or manufacture of controlled substances or other drug-related activities; fighting; disturbances of the peace; excessive noise in violation of Section 7.9 and excessive pedestrian and vehicular traffic related thereto, obstruction of public ways or sidewalk, illegal parking; trespassing; and/or other pervasive criminal activity.

RESPONSE COSTS: the costs associated with the response by law enforcement will be equivalent to a minimum of one hour's pay for any responding officer.

.2 Mailing of Notice to Property Owners and Others

In the event the police department, the Building Commissioner, the Board of Health or its agents and employees, a code enforcement inspector or a Compliance Officer has responded to a public nuisance, a notice of response shall be mailed within ten (10) days of the incident to the property owner of the premises as listed in the City of Malden tax assessment records. Said notice shall advise the property owner of this ordinance, state whether it's a first response, and notify that the second or any subsequent response on the same premises within a one year period, as measured

from the date of the first notice, shall result in liability of the property owner for all penalties and costs associated with such response as more particularly described below.

.3 Liability for a First Response

If the police department or other duly authorized local official has responded to a public nuisance as defined herein, the following persons shall be jointly and severally liable and shall receive the same written notice as specified in Section .2:

- .1 the person or persons residing on or otherwise in control of the premises whether present or not; and,
- .2 the person or persons who organized or sponsored a gathering resulting in the public nuisance.
- .3 the person, or persons or business entity which at the time of the public nuisance owned the premises where the nuisance took place, provided that notice of the first response has been mailed to the property owner of the premises as set forth herein and the nuisance occurs at least five (5) days after the mailing or serving of the first such notice. The property owner shall not be held responsible for any violation and penalties if they are actively pursuing an eviction of the tenant who controlled, organized, or is responsible for the nuisance. The one year time period for violations of a premises shall pertain only to the same residents occupying the premises who have had the prior violation(s). New residents shall start a new time cycle of one year should they violate the provisions of this ordinance.

.4 Liability for a Second and Subsequent Response

If the police department, the Building Commissioner, the Board of Health or its agents and employees, a code enforcement inspector or Compliance Officer has responded to a public nuisance as defined herein more than twice in any one year period, as measured from the date of the first response, the following persons shall be jointly and severally liable for fines as set forth below. Response costs may also be assessed.

- .1 the person or persons residing on or otherwise in control of the premises whether present or not;
- .2 the person or persons who organized or sponsored a gathering resulting in the public nuisance; and,
- .3 the person, or persons or business entity which at the time of the public nuisance owned the premises where the nuisance took place, provided that notice of the first and second responses has been mailed to the property owner of the premises as set forth herein and the third or any subsequent response occurs at least fourteen (14) days after the mailing of the first such notice. The property owner shall not be held responsible for any violation and penalties if they are actively pursuing an eviction of the tenant who controlled, organized, or is responsible for the nuisance. The one year time period for violations for a premises shall pertain only to the same residents occupying the premises who have had the prior violation(s). New residents shall start a new time cycle of one year should they violate the provisions of this ordinance.

.5 Enforcement

This ordinance may be enforced by the noncriminal disposition process of M.G.L. c.40, section 21D. For the purpose of noncriminal enforcement, the enforcing persons shall be any police officer or duly authorized official of the City of Malden and the fine shall be \$300.00 for the second and all subsequent offenses. The City may additionally seek response costs associated with enforcement of this ordinance.

The provisions of this ordinance shall not limit the authority of police officers to make arrests for any criminal offense arising out of conduct regulated herein, nor shall they limit the City of Malden's or the Commonwealth of Massachusetts' ability to initiate and prosecute any criminal offense arising out of the same circumstances necessitating the application of any provision of this Ordinance.

Further, if in the discretion of the Police Chief, it is necessary to post a police detail in order to enforce the provisions of this ordinance, he/she may do so and add the cost of same to the response costs referred to in this ordinance.

.6. Appeal of Penalty

Any interested person may request, in writing, a hearing before a municipal hearing officer to contest the issuance of a fine within 21 days of issuance.

SECTION 10.2 NOISE ABATEMENT; DISTURBING THE PEACE PROHIBITED

.1 PURPOSE

The purpose and intent of this ordinance is to protect, promote and preserve public health, safety and welfare and to enhance the use, value and enjoyment of property and the conduct of business by minimizing the exposure of residents to the potentially negative physiological and psychological effects of excessive and unnecessary noise or nuisance in the environment.

.2 EXCESSIVE NOISE DEFINED

Unless otherwise specified, **excessive noise**, as used in this ordinance shall mean:

- .1 between the hours of 9 p.m. and 7 a.m., noise measured in excess of 50 dBA at the property line or clearly audible by a person of normal hearing at a distance of one hundred feet from the source;
- .2 between the hours of 7 a.m. and 9 p.m., noise measured in excess of 70 dBA at the property line or clearly audible by a person of normal hearing at a distance of three hundred feet from the source.

dBA shall mean A-weighted sound level in decibels, as measured by a general purpose, properly calibrated sound level meter complying with the provisions of the American National Standard Institute Specifications for Sound Level Meters (ANSI S1.1-1971).

.3 DISORDERLY CONDUCT AND NOISE-PRODUCING ACTIVITY - IN GENERAL

.1 No person shall, in any public way, park or other place to which the public has a right of access, behave in a rude or disorderly manner, or use indecent, profane or insulting language or gestures. No person shall remain on any doorstep, portico or other projection from any house or building or stand with others on any public way in such a manner as to obstruct the free passage of pedestrians or vehicles.

.2 No person shall, in any public way, park or other place to which the public has a right of access, operate an amplifying device to the annoyance of public, as determined by a Malden Police Officer or upon sworn statement of at least two witnesses.

.3 No person shall, while upon public ways or public property, operate any sound producing or sound amplifying device so as to create excessive noise. For purposes of this section, a sound producing or sound amplifying device shall include, but not be limited to, the following: radios, tape players, compact disc players and similar electronic devices; musical instruments; loud speakers; motors or engines, whether or not muffled to minimize sound;

.4 No person shall permit an alarm device on an automotive or recreational vehicle under his ownership or control to sound without cause. Any such alarm system which emits a continuous and uninterrupted signal for more than 15 minutes shall be deemed to be in violation of this ordinance, and the Malden Police may take all reasonable steps to abate said nuisance. All cost associated with said abatement shall be borne by the record owner of the vehicle. In addition to the costs associated with abatement of the nuisance, the owner of a vehicle found in violation of this ordinance may be assessed an additional penalty as outlined below.

.4 NOISE EMANATING FROM BUSINESS ACTIVITIES

.1 No person shall use any amplifying device, radio, bell, horn or siren operated from any building, vehicle or store for advertising purposes.

.2 No hawker or peddler shall cry his wares within 300 feet of a cemetery or between the hours of 9 P.M. and 7 A.M., unless specifically licensed therefor by a permit issued under Section 6.5C.

.3 No person engaged in construction, demolition, excavation or landscaping for profit shall operate mechanical, motorized or sound-producing equipment, except on weekdays between the hours of 7 A.M. & 5 P.M.; provided that said equipment may be operated during those hours on Saturdays to such an extent that excessive noise is not created.

.5 NIGHT TIME NOISE DISTURBING THE PEACE AT RESIDENTIAL PROPERTIES

.1 For purposes of this section, between the hours of 11 P.M. and 7 A.M., excessive noise shall include, but not be limited to, noise clearly audible from the nearest dwelling unit which results from any of the following sources:

- .1 the operation of a radio, phonograph or related electronic devices;
- .2 the playing of musical instruments;
- .3 the use of any device designed to amplify sound;
- .4 singing, shouting or loud speech by a person or group of persons.

.2 No person owning or controlling residential property in the city shall permit the inhabitants or occupants to disturb the peace of others through the creation of excessive noise. The police shall instruct persons creating a disturbance to cease and desist and shall take note of the time and place of such disturbance has occurred.

.3 Violations of this ordinance may be punished by the City Treasurer, based upon information provided by the Police Chief, in the manner provided in MASSACHUSETTS GENERAL LAWS Chapter 40, Section 21D in accordance with the following schedule of fines:

1st offense	warning
2nd offense	\$100.00
3rd offense	\$200.00
4th & subsequent offenses	\$300.00

.6 EXEMPTIONS

The following noise producing activities are specifically exempt from the provisions of this ordinance:

- .1 work performed by the City of Malden, the Commonwealth of Massachusetts or any of its political subdivisions;
- .2 emergency work authorized by the Chief Police, when in his opinion, the prohibition of said work would endanger the public health, safety or welfare;
- .3 any work or activity which has been specifically licensed or permitted by a city department, board or commission; provided that the noise created is limited to the days and hours contained in this ordinance or by the terms of a license or permit;
- .4 any sound resulting from a religious observance, provided that such activity occurs between the hours of 8 A.M. and 10 P.M..

.7 ADDITIONAL REGULATIONS ON NOISE

The Board of Health may promulgate additional regulations on noise not inconsistent with the provisions of this ordinance. Said regulations may perfect the provisions of this ordinance or place restrictions on noise emanating from other sources and may be enforced in the manner provided herein.

.8 PENALTIES FOR VIOLATION

Violations of this ordinance may be enforced in the manner provided in MASSACHUSETTS GENERAL LAWS Chapter 40, Section 21D in accordance with the following schedule of fines:

1st offense	\$100.00
2nd offense	\$200.00
3rd/subsequent offenses	\$300.00

SECTION 10.3 NUISANCE PROHIBITED - PUBLIC CONSUMPTION OF ALCOHOLIC BEVERAGES

For the purpose of preserving the right to peaceful, quiet and orderly enjoyment of public places to inhabitants of the city, the following activities are declared to create a public nuisance and are prohibited at all times:

1. The drinking or possession in an open container of any alcoholic beverage as defined in Chapter 138 Section 1 of Massachusetts General Laws on any publicly owned property, including but not limited to streets, sidewalks, parks, playgrounds and school grounds;
2. The drinking or possession in an open container of any alcoholic beverage as defined in Chapter 138 Section 1 of Massachusetts General laws on any privately owned property to which the public has a right of access without the consent of the owner or person in control thereof.

Violation of any provision of this ordinance may be punished by arrest and a fine of not more than \$100.00 for each offense

SECTION 10.4 NUISANCE PROHIBITED - PUBLIC CONSUMPTION OF MARIJUANA

For the purpose of preserving the right to peaceful, quiet and orderly enjoyment of public places to inhabitants of the city, the following activities are declared to create a public nuisance and are prohibited at all times:

1. The use or consumption, either by smoking or ingestion, of marijuana on any publicly owned property, including but not limited to streets, sidewalks, parks, playgrounds and school grounds;
2. The use or consumption, either by smoking or ingestion, of marijuana on any privately owned property to which the public has a right of access without consent of the owner or person in control thereof.

Violation of any provision of this ordinance may be punished by arrest and a fine of not more than \$100.00 for each offense.

SECTION 10.5

GRAFFITI PROHIBITED; REMOVAL OF GRAFFITI REQUIRED

.1 Definition:

As used in this section, graffiti means any inscription, design, word, figure or mark drawn, marked, painted, etched, scratched or written on real or personal property without prior authorization of the owner.

.2 Graffiti Prohibited:

No person shall place graffiti on any personal property, nor shall the owner or person or entity in control or in charge of any property authorize the placement of any inscription, design, word, figure or mark on said property, except as otherwise allowed by law.

.3 Graffiti Removal Required:

The owner or person or entity in control or in charge of property shall immediately remove or obscure or cause to be removed or obscured any graffiti placed on such property.

Any officer empowered to enforce this ordinance may, by written order mailed or delivered to the property owner, require such owner to remove or obscure graffiti within a reasonable time as specified in the order. Said order shall also include:

- .1 a description of the property and location of the graffiti sufficient for identification;
- .2 a description or photograph of the graffiti;
- .3 information relative to municipal assistance in removing the graffiti;
- .4 notice that failure to comply with the order will result in fines and penalties as provided in this ordinance.

.4 Authorization for Municipal Removal of Graffiti:

The Director of Public Works may, upon request of a property owner and subject to the availability of equipment and personnel, authorize departmental personnel to assist in the removal of graffiti; provided that prior to the commencement of any work, the property owner execute an agreement with the city waiving liability for any damage that may arise from remediation efforts.

The Director of Public Works may, as a condition of graffiti removal by the city, require that the property owner implement measures reasonably designed to prevent the continued placement of graffiti on his property. Said steps may include, but are not limited to requiring that video surveillance and recording equipment be installed and maintained on the premises, that modifications be made to a building facade or that personal property be stored in a secure location.

.5 Enforcement:

The provisions of this ordinance may be enforced by the Building Commissioner, members of the police department, Compliance Officers, the Director of Public Health and the Director of Public Works and their agents and employees.

.6 Penalties:

Failure to comply with the provisions of this ordinance or any order issued thereunder shall result in a penalty imposed in the manner provided in Massachusetts General Laws Chapter 40, Section 21D in accordance with the following schedule of fines:

1st offense	\$100.00
2nd offense	\$200.00
3rd/subsequent offenses	\$300.00

Every twenty four hour period during which a violation exists shall be a separate offense punishable by an additional fine; provided that no additional fines shall be imposed against a property owner who submits proof that the required work has been contracted for and will commence within a reasonable period.

GENERAL SAFETY & WELFARE

**SECTION 10.6 SCHOOL SAFETY ZONES ESTABLISHED;
RESTRICTION ON ENTRY INTO SCHOOL
SAFETY ZONES**

For purposes of this section, “school safety zone” shall mean a lot on which a school is located or any public way, public property or place to which the public has a right of access within 500 feet of the boundary of said lot.

No person, whether or not a student, shall, without reason or without a purpose sanctioned by a school administrator, enter or remain within a school safety zone. Violation of this provision shall be punishable by a fine of \$150.00 per offense.

Whoever, after being specifically forbidden to remain within a specific school safety zone by a member of the Malden Police Department, remains or re-enters said school safety zone shall be deemed to be in willful violation of this ordinance. Willful violation of this ordinance may be punished by arrest without a warrant, as provided in Massachusetts General Laws Chapter 272 Section 59, and a fine of not more than \$300.00 per offense.

The city shall take reasonable steps to post appropriate signage relative to school safety zones; provided that lack of signs or lack of knowledge of school boundaries shall not be a defense to violation of this section.

SECTION 10.7 PEEPING PROHIBITED

No person shall enter the property of another to peep, peer or spy into a dwelling through any door, window, or opening with the intent of invading the privacy of the occupants therein;

provided that nothing in this section shall be construed to interfere with a police officer in the lawful performance of his duties.

SECTION 10.8 RESTRICTIONS ON STORAGE OF RECREATIONAL VEHICLES

No property owner shall permit any recreational vehicle, whether or not registration is required, to be parked or stored on any residential property, unless said vehicle is parked in a side or rear yard and presence of the vehicle does not unduly burden the availability of on-street parking.

SECTION 10.9 PROHIBITION OF PERSONS BRINGING ALCOHOLIC BEVERAGES TO ESTABLISHMENTS, ETC.

(1) No club, organization, association, restaurant, bar, tavern, or other business establishment (hereafter collectively "establishment") shall permit any member, traveler, stranger, patron or customer to carry, deliver, transport or bring any alcoholic beverages, malt beverage, wine, liqueur or cordial, as defined in M.G.L. Chapter 138, to said establishment for consumption thereat by said person.

(2) No member, traveler, stranger, patron, or customer shall carry, deliver, transport or bring any alcoholic beverages, malt beverage, wine, liqueur or cordial, as defined in M.G.L. Chapter 138 to any club, organization, association, restaurant, bar, tavern, or other business establishment (hereafter collectively "establishment") for consumption by said person, or guests, invitees, and/or licensees of said person.

SECTION 10.10 POSSESSION OF CERTAIN PRODUCTS BY MINORS PROHIBITED

No person being under the age of eighteen shall purchase and/or otherwise be in possession of any aerosol spray paint, muriatic acid, any product containing lighter fluid or butane, and/or any marker containing a fluid which is not water soluble and which has a point, brush, applicator or other writing surface in excess of one-half inch or remove the same from the premises where such items are sold or delivered or conceal the same thereafter; provided that nothing in this section shall prohibit possession of these products by a minor who is using said products for a lawful purpose and is under the supervision or control of a parent, guardian, employer or teacher.

SECTION 10.11 DEFACING OR DAMAGING PUBLIC PROPERTY

PROHIBITED

No person shall write upon, or wantonly mar, injure, deface or destroy any building, fence, wall, guidepost, signboard, awning pole, lantern or any other structure or thing in or on any public street, park, or other place to which the public has a right of access.

SECTION 10.12 PROHIBITIONS ON USE OF MOTORIZED VEHICLES

As used in this section, a **motorized vehicle** is:

1. a motorized scooter or motorized bicycle, as defined in Massachusetts General Laws Chapter 90 Section 1, or
2. any other vehicle designed for propulsion by means other than muscular power and not otherwise regulated by law; provided that vehicles operated by handicapped persons and landscaping vehicles shall be exempt from the provisions of this ordinance.

No person shall operate a motorized vehicle on any public way, park, playground, school ground, city cemetery or property under the control of the City of Malden.

No person under the age of 16 shall operate a motorized vehicle on private property.

Motorized vehicles shall not be operated on private property between the hours of 7:00 P.M.. and 8 A.M.

Every person engaged in the sale of motorized vehicles as described herein shall provide prospective buyers with a copy of this ordinance prior to completion of the sale.

Violation of this section may be punished in the manner provided in Massachusetts General Laws Chapter 40, Section 21D in accordance with the following schedule of fines:

1st offense	Warning
2nd offense	\$100.00
3rd & subsequent offenses	\$200.00

SECTION 10.13 REMOVAL OF SHOPPING CARTS FROM RETAIL PREMISES PROHIBITED

No person shall remove a shopping cart from the premises of a retail property providing such carts for use by customers. Possession of a shopping cart more than 100 feet from the property line of the premises of the owner shall be prima facie evidence of violation of this ordinance, punishable by a fine of \$25.00. Violations of this ordinance may be enforced in the manner provided in Massachusetts General Laws Chapter 40, Section 21 D.

SECTION 10.14 LIMITATION ON POSSESSION OF PAINT BALL GUNS AND/OR PAINT BALLS

As used in this section, the following words shall have the following meanings:

Paint Ball Gun: A devise designed for the propulsion of a pellet containing a colored fluid which is not water soluble.

Paint Ball: A pellet containing a non-water soluble fluid designed to burst and release said fluid upon impact.

No person under the age of 18 shall possess a paint ball gun or paint balls while on any public way, park, playground, school ground, city cemetery or property under the control of the City of Malden.

No person shall possess a paint ball or paint ball gun within the City of Malden, except when actively engaged in a permitted activity or traveling to or from a facility licensed for the conduct of games involving the use of said equipment.

Every person engaged in the sale of paint ball guns or paint balls as described herein shall provide prospective buyers with a copy of this ordinance prior to completion of the sale.

Violation of this section may be punished in the manner provided in MASSACHUSETTS GENERAL LAWS Chapter 40, Section 21D by a fine of \$300.00.

SECTION 10.15 RESTRICTIONS ON YARD SALES

For the purpose of this section, "Yard Sales" means the sales of new or used articles, merchandise or goods of any nature or description to the public at large in any residential zoning district which are commonly referred to as attic, lawn, casual, tag or garage sales.

A yard sale may not be conducted for more than six days in a calendar year by any one resident or for any one lot as defined in Chapter 12, Section 800.6.1.29, except on application for a waiver to the City Council accompanied with a fee of \$50, which may in its discretion approve the same.

The hours of operation for any yard sale shall be limited between 9:00 A.M. and 7:00 P.M. No person shall offer for sale at a Yard Sale any articles, merchandise or goods which have been purchased for resale or articles for which such person is acting as a selling agent. Any and all posted notices, advertising the time, date and sale of articles, merchandise or goods shall be removed at the expiration of said permit.

Any person who violates any of the provisions contained herein shall be guilty of a misdemeanor or subject to a fine of not more than three hundred dollars for each offense in accordance with the provisions of Mass. Gen. Laws c. 40, 21D.

WEAPONS

SECTION 10.16 DISCHARGE OF WEAPONS IN STREET PROHIBITED

No person shall fire or discharge a cannon, gun, fowling piece, air rifle or firearm within the limits of the City except:

1. at a military exercise authorized by the military authority of the Commonwealth or by the City Council or Mayor of the City; or
2. in the lawful defense of the person or property of a citizen; or
3. by police officers in the lawful performance of their duty; or
4. by persons engaged in target shooting within the building of a gun club licensed to be used for such purpose.

SECTION 10.17 CARRYING OF CERTAIN WEAPONS PROHIBITED

A. No person 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, Section 10 Paragraph (b) of the General Laws, as amended, any Sabre, sword, or weapon of like or similar nature; any knife having any type of blade in excess of two and one-half 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, or in traveling to or from such activities, or to persons whose employment requires the use of said articles.

B. Violation of any provisions of this section shall be subject to arrest and a fine of not more than Fifty Dollars (\$50.00) for each offense.

SECTION 10.18 REGULATION OF REPLICA FIREARMS

.1 Definitions

As used herein, the following word shall have the following meanings:

Replica firearm shall mean any toy, imitation, facsimile or replica pistol, revolver, shotgun, rifle, air rifle, B-B gun, pellet gun, machine gun, or other similar simulated weapon which because of its color, size, shape, or other characteristics, can reasonably be perceived to be a real firearm capable of firing a bullet or other projectile. Specifically excluded from this definition are antique replica firearms and replica firearms used for ceremonial purposes.

.2 Regulation

No person shall sell, offer to sell, possess, use, display or give away, any replica firearm on a public property unless:

1. The entire exterior surface of the imitation firearm is colored white, bright red, bright orange, bright yellow, bright blue, bright pink, or bright purple, either singly or as the predominant color in combination with other colors in any pattern; or
2. The imitation firearm is constructed entirely of transparent or translucent materials which permits unmistakable observation of the imitation firearm's complete contents; and
3. The barrel of the imitation firearm, other than the barrel of a water gun, has a permanent orange tip, at a distance of not less than one-half inch from the front end of said barrel; and
4. The imitation firearm has legibly stamped thereon, the name of the manufacturer or some trade name, mark or brand by which the manufacturer can be readily identified; and
5. The imitation firearm does not have a laser pointer attached.

.3 Enforcement

If any individual under 18 years of age is found with a replica firearm by a member of the Malden Police Department, the officer shall contact his or her parent or guardian to inform them that the individual has been found with a replica firearm on public property. Parents or guardians shall be informed that they will be able to pick up the replica firearms at the district station after twenty-four hours. The officer shall confiscate the replica firearm and bring it to the district station for holding.

If the individual is 18 years of age or older, the officer shall confiscate the replica firearm(s) and inform the individual that they can pick the item(s) up at the district station after 24 hours.

.4 Penalties

Any individual found in violation of any provision of this section in a second or subsequent instance shall forfeit the weapon, contraband, or dangerous device giving rise to the violation of such section and be subject to a fine of Fifty Dollars (\$50.00).

SECTION 10.19 WEAPONS PROHIBITED ON SCHOOL GROUNDS

No person shall, while in a school or on school grounds, carry on his person or under his control any knife, gun or other implement or device so designed or redesigned so that the same may be used to inflict bodily harm or injury to another. No person shall, while in a school or on school grounds, carry on his person or under his control any replica or reproduction of a gun, knife or other weapon, whether or not functional.

The provisions of this section shall not apply to any implement employed in activities sanctioned by school administrators and used under the direction of school personnel.

Violation of the provisions of this section shall be punishable by arrest or a fine of not less than fifty dollars (\$50.00) nor more than three hundred dollars (\$300.00) for each offense and may be punished in the manner provided under Massachusetts General Laws Chapter 40 Section 21D.

FIRE SAFETY AND PREVENTION

SECTION 10.20 FIRE PREVENTION CODE

For the purpose of prescribing regulations governing conditions hazardous to life and property from fire or explosion, the Commonwealth of Massachusetts Fire Prevention Code, as amended from time to time, shall be applicable and in full force and effect in the City of Malden, except such portions as are hereinafter deleted, modified or amended.

SECTION 10.21 POWER TO PROMULGATE RULES AND REGULATIONS

The Fire Chief shall have the power to promulgate such rules and regulations relating to any of the provisions of the Fire Prevention Code as will further the spirit of the code, and to ensure the public health, safety and welfare.

SECTION 10.22 INSTALLATION, MAINTENANCE AND INSPECTION OF FIRE PREVENTION/SUPPRESSION SYSTEMS; MANDATED REPORTING TO THE FIRE DEPARTMENT

The owner or person in control or in charge of any building shall install, inspect, repair and maintain, or cause to be installed, inspected, repaired and maintained, such fire prevention, detection or suppression equipment as is required by the Massachusetts Board of Fire Prevention Regulations (527 CMR).

Inspection reports shall be filed with the Fire Prevention Bureau immediately upon completion in a manner determined by the Fire Chief to be in the best interest of public safety.

Violation of this ordinance may be punished in the manner proscribed in Massachusetts General Laws, Chapter 40 Section 21D in accordance with the following schedule of fines:

1 st offense	\$100.00
2 nd offense	\$200.00

3rd & subsequent offenses \$300.00.

Each twenty four hours period during which a violation exists shall constitute a separate offense for which a separate and additional fine may be imposed.

SECTION 10.23 ESTABLISHMENT AND DUTIES OF BUREAU OF FIRE PREVENTION

A. The Fire Prevention Code shall be enforced by the Bureau of Fire Prevention in the Fire Department of the City of Malden, which shall be operated under the supervision of the Chief of the Fire Department.

B. The Deputy Chief in charge of the Bureau of Fire Prevention shall be appointed by the Fire Commissioner and shall be known as the Fire Marshall.

C. The Chief of the Fire Department may detail such members of the Fire Department as Inspectors as shall from time to time be necessary.

D. A report of the Bureau of Fire Prevention shall be made annually and transmitted to the Mayor. It shall contain all proceedings under this code with such statistics as the Chief of the Fire Department may wish to include therein. The Chief of the Fire Department shall also recommend any amendments to the code which in his judgment shall be desirable.

SECTION 10.24 FIRE WATCH DETAIL

After a fire has been extinguished in any structure or on any premises, the Chief of the Fire Department or his designee may, if deemed necessary because of the size or construction of the structure, the danger to exposed property, or the susceptibility of the contents to re-ignition, order a fire watch detail to stand by at the location until all danger of re-ignition or collapse has passed. The size of such detail shall be determined by the Chief and the expense shall be borne by the owner of the property.

Whenever a building or structure is being or has been demolished, whenever work is being performed on gas lines or gas mains, and whenever any blasting is to be done in the City, the Chief of the Fire Department, or a designee, may, if deemed necessary for the safety of the general public, order a fire watch and/or a fire watch with charged hose line. It shall be the function of the fire watch to observe that all safety precautions are taken and that all work is done in strict conformance with all applicable laws, rules and regulations of the Fire Department and City Ordinances, and that after completion of work, the location is left in a safe condition.

The expense for such a detail shall be borne by the owner, or individual, or contractor performing the work.

SECTION 10.25 OPEN-AIR ENTERTAINMENT; FIRE DETAIL

The owner, sponsor, person in control or in charge of a carnival, fair, or other public open-air entertainment, whether or not for compensation, admission fees or otherwise, and at which there is either wiring of any type, storage or use of flammable liquids for cooking or heating, and/or open flames, shall cause to be in attendance at least one paid fire detail, unless the Fire Chief provides a written exemption. A written application shall be submitted to the Fire Chief at least 72 hours prior to the event.

SECTION 10.26 PARKING RESTRICTIONS - FIRE LANES AND ALL NON-PUBLIC WAYS TO WHICH THE PUBLIC HAS ACCESS

A. Intent of Section

It is the intent of this section to ensure the orderly flow of traffic on all ways to which the public has a right of access and to ensure that public safety vehicles at all times have access to all properties and facilities in the city. As used in this section, the phrase “private way” shall mean all non-public ways to which the public has a right of access, including but not limited to private ways and unaccepted streets.

B. Fire Lanes - Designation, Parking Prohibited

The Chief of the Malden Fire Department may designate fire lanes on private ways and private property for the purpose of ensuring that emergency vehicles are provided access to buildings. Fire lanes shall be posted and marked as such and shall extend twelve feet from the curbing at a sidewalk or, if no sidewalk exists, eighteen feet from the building.

No vehicles shall be parked within the limits of a fire lane designated by the Fire Chief under the provisions of this section.

C. Private Ways - Regulation of Parking

No vehicle shall park on a private way in violation of any of the following restrictions:

1. No unregistered or uninsured vehicles shall be parked on a private way;
2. No vehicle shall be parked within ten feet of a fire hydrant;
3. No vehicle shall block or obstruct a driveway;
4. No vehicle shall park within 20 feet of an intersection;

5. No vehicle shall park so as to impede snow removal or street cleaning;
6. No trailer shall be parked without being attached to a motor vehicle capable of moving said trailer.

D. Enforcement

Violations of this ordinance may be enforced by the Fire Chief or his designees in the same manner and in accordance with the same schedule of fines for violations on public ways, or in the manner provided in Massachusetts General Laws Chapter 40 Section 21D in accordance with the following schedule of fines:

1 st offense	warning
2 nd / subsequent offenses	\$ 50.00.

Each 24 hours during which a violation exists shall be a separate violation, punishable by an additional fine..

SECTION 10.27 LODGING HOUSES - SPRINKLER SYSTEMS REQUIRED

Every lodging house or boarding house shall be protected throughout with an adequate system of automatic sprinklers in accordance with the applicable provisions of the state building code. No such sprinkler shall be required unless sufficient water and water pressure exists. In such buildings or in areas of such buildings where the discharge of water would be an actual danger in the event of a fire, the head of the fire department shall permit the installation of such other fire suppressant system as are prescribed in lieu of automatic sprinklers. The head of the Fire Department, or a designee, shall enforce the provisions of this Ordinance. Exemptions to charitable organizations may be granted on written request to the Fire Department. "Lodging House" or "Boarding House" for purposes of this ordinance shall mean a house where lodgings are let to three or more persons not within the second degree of kindred to the persons conducting it, but shall not include rest homes or group residences licensed or regulated by agencies of the Commonwealth.

Failure of the owner of a building to comply with an order of the Fire Department regarding this ordinance within one year after receipt of such an order shall be punishable by a fine of not more than \$200.00 for each day such offense is permitted to continue; shall be cause for cancellation, suspension, revocation or modification of any permit or license held, after hearing upon three days written notice, sent registered or certified mail, to the last most recent address of the licensee; or shall be cause for the City to petition the Superior Court of the trial court to enjoin such violation or to order compliance with any order or any terms or conditions imposed by the

permit or licensing authority.

SECTION 10.28 REGULATION OF LEDGE REMOVAL

A. PERMIT REQUIRED

No person shall remove ledge in the City of Malden without having obtained the following:

1. a Special Permit from the Planning Board under Section 700.13 of the zoning ordinance; and
2. a Work Permit issued by the Fire Marshall in accordance with the provisions of this section.

Application for a Work Permit shall be accompanied by a copy of the Planning Board Special Permit and a certification from the City Clerk that no appeal has been taken within the time required by law.

Prior to issuance of a Work Permit, the Fire Marshall shall obtain such proof as he deems necessary that conditions imposed on the Special Permit have been or will be met.

Ledge removal performed by blasting shall comply with the provisions of Section 3.5B of this code.

The Fire Marshall may, in his reasonable discretion, impose such additional conditions and restrictions as are deemed necessary to protect public safety.

Permits issued hereunder shall be non-transferrable and non-assignable. All work performed under a permit granted hereunder shall be performed by the applicant or his employees. A work permit shall specify the duration of the proposed activity and fees for said permit shall be \$50.00 per day. The Fire Marshall may revoke, suspend or modify a permit at any time for failure to comply with any provision of this ordinance or any terms or conditions of a work permit issued hereunder.

B. PENALTIES FOR VIOLATION

In addition to any fines or penalties that may be imposed under Section 1.13 for violation of this ordinance, the Fire Marshall shall, upon determination that a violation exists, suspend all permits issued under this ordinance to the person or persons found to be in violation.

For the first offense, said suspension shall be for a period of five days; for the second offense, said suspension shall be for a period of 10 days.

The existence of two violations within any 12 month period shall be cause for the Fire Marshall to refuse to issue a permit under this ordinance for a period of 12 months, commencing on the

date of the second violation.

SECTION 10.29 REGULATION OF BLASTING

All blasting within the Corporate Limits of the City of Malden shall comply with the requirements of 527 CMR, Board of Fire Prevention, Chapter 13.00, Explosives and Application Sections of the Massachusetts General Laws, Chapter 148 and the following conditions:

Section 1 BLASTING PERMIT

A Use and Handling Permit shall be issued by the head of the Malden Fire Department for all blasting within the Malden city limits.

Section 2 BEFORE A USE AND HANDLING PERMIT

Prior to a Use and Handling Permit being issued, the blaster shall provide the following:

- A. A valid Explosive Users Certificate (Own and Possess Certificate) issued by the Fire Marshall.
- B. General Liability Insurance with limits of \$1,000,000.00/\$1,000,000.00
(Note: a Use and Handling Permit shall not be issued for a period of time not covered by the effective dates of the GL policy).
- C. A Blasting Bond with the City of Malden or the Commonwealth of Massachusetts named as the certificate holder.
(Note: a Use and Handling Certificate shall not be issued for a period of time not covered by the effective date of the Bond.)
- D. A Certificate of Competency (Blaster=s License) for each person(s) who could be in charge of the blasting operations.
- E. Proof that Dig Safe has been notified of the proposed blasting operations.
- F. Proof that the required Preblast Inspection Surveys have been completed.
- G. When the blasting will result in an alteration of grade of 25% or greater, a copy of a Planning Board Special Permit under Section 700.13 with certification from the City Clerk that no appeal has been taken within the time required by law.

Section 3 PREBLAST CONFERENCE AND SITE VISIT

- A. A blast analysis and a blast design as specified in 527 CMR 13.09 (10) (3) & (4), shall be provided and explained to the head of the Fire Department.
- B. A visit should be made to the site by the Fire Department.
- C. The blaster shall familiarize the Fire Department with the site and the proposed blasting operations.
- D. A pre blast conference shall be held at which the head of the Fire Department shall review its concerns and comments with the blaster. Any conditions resulting from this conference shall be

in writing and shall become part of the Permit by reference.

E. The head of the Fire Department may require, prior to the issuance of any permit to blast, that a public informational meeting be held at which the blaster or his designee shall appear to answer all questions and provide such information as required by the head of the Fire Department.

F. The head of the Fire Department, in a written statement, shall, if it deems it necessary and in the public interest, require an independent blasting consultant, specialist, engineer or geologist acceptable to the head of the Fire Department be retained as a consultant. Said consultant, specialist, engineer or geologist shall produce a pre-blast analysis and design plan as defined in 527 CMR 13.09(1)(k); and will provide specific detail to those geological features unique to Malden such as rock structure stability and subsurface fault lines; sufficient to meet the approval of the head of the Fire Department.

G. The head of the Fire Department shall, if it deems it necessary and in the public interest, order a suitable fire watch to be on site while explosives are present.

H. No loaded holes shall be left unattended. Loaded holes that are present after normal working hours shall not be detonated unless and until approval is received from the Fire Chief or his designee, or the Marshal or his designee.

I. When electric caps are used, all blasting circuit or caps shall be shunted until the blast is ready to be detonated.

J. The Fire Department shall be notified by the blaster in charge each day that blasting is done at least two hours before any blasting on site. It is recommended that the blaster shall also call the Fire Alarm Office immediately before each blast.

K. Quarry blasting shall be conducted in strict compliance with 527 CMR 13.09. Whenever quarry blasting is conducted within 500 feet of building(s) used for human habitation a series of durable warning signs shall be erected along the entire perimeter of any rock face more than six feet high. They shall be spaced not more than 75 feet apart and set back a reasonable distance from the face. Each sign shall contain the words "WARNING-BLASTING AREA- DANGER" in letters at least two inches in height. Alternative Allowable Vibration Levels: Alternative limits of the effect of blasting may be adopted for quarry operations located adjacent to inner city areas as a local municipal regulation adopted in accordance with M.G.L. c. 148, sec. 9.

Section 4 STORAGE OF EXPLOSIVE MATERIALS

A. On site storage of explosive materials shall be in approved day boxes or in DOT approved truck mounted magazines.

B. An effort should be made to locate the day box, or truck mounted magazine, at safe distances from homes and roads.

C. Overnight storage of explosives on site shall not be allowed unless written permit is obtained from the Fire Chief or his designee. If a storage permit is granted, a fire watch of not more than two (2) uniformed firefighters shall be posed on site, at the blaster's expense with sufficient fire fighting equipment to extinguish or control any fire exposure to the stored explosives.

Section 5 PREBLAST SURVEYS

A. Pre-blast surveys shall be conducted as outlined in 527 CMR 13.09 (10) Pre-blast Surveys. The head of the Fire Department may, based on the details of the pre-blast analysis as referenced

in Section 3-F, order pre-blast surveys to be conducted beyond the distance as required by 527 CMR 13.09(10). No blasting will be permitted until proof is provided that all required pre-blast surveys have been completed.

B. If the blaster requests, in writing, on a form acceptable to the Marshal and agrees in writing to comply with 527 CMR 13.09(9)(b) Option 1, the blaster must also agree to provide the Fire Department with the following items within 24 hours of each blast before the Fire Chief or his designee shall excuse the blaster from any or all required pre-blast surveys:

1. Copies of the Blasting Logs containing the date listed in 527 CMR 13.09(8) and signed by the blaster.
2. Copies of the seismic recording(s) of each blast shall be attached to the log of that blast.

3. Copies of the invoices and any return receipts of the day's explosive purchases.

C. If the agreement to comply with 527 CMR (9)(b) Option 1 is violated, the Use and Handling Permit issued to the blaster shall be suspended until all structures within 250 feet are inspected according to 527 CMR 13.09 (10) Pre-blast Surveys.

Section 6 VIBRATION AND AIR BLAST

A. The blaster shall be required to record the effects of all blasts on a seismograph of the type specified in 527 CMR 13.09 (9)(c) 1 and 2.

B. Blasting logs containing the information listed in 527 CMR 13.09(8) Blasting Log, shall be kept for each blast. A copy of the log shall be given to the Fire Department within 24 hours after the blast. A copy of the seismic recording shall be attached to the log.

C. The ground vibration limits for both Option 1 and Option 2 shall be the values shown in 527 CMR 13.09(9) Allowable Limits of Effects of Blasting (a), Option 2, Figure (b).

D. The air blast limit shall be 133 dB.

E. The warning signals shall be heard distinctly at a distance of 250 feet in all direction from the blast site.

Section 7 EXTRANEIOUS ELECTRIC CURRENTS

The blast site shall be tested for extraneous, static and electromagnetic currents, especially when electric blasting caps are used near overhead power transmission lines, and within the recommended Tables of Distances from radio transmitters as listed and graphed in Institute of Makers of Explosives, "Safety Library Publication No. 20, Safety Guide for the Prevention of Radio Frequency Radiation Hazards in the use of Commercial Electric Blasting Detonators (Blasting Caps)", December 1988.

Section 8 TRANSPORTATION OF EXPLOSIVES

A. All vehicles transporting Explosives in or through the City of Malden shall be under the jurisdiction of the Fire Department.

B. All traffic violations involving vehicles transporting explosives shall be reported to the head of the Fire Department for investigation.

C. The Fire Chief, or his designee, or the Marshal, or his designee, shall investigate all traffic

accidents involving vehicles that are transporting explosives.

D. None of the vehicles involved in the accident, or the explosives, shall be moved without the approval of the Fire Chief, or his designee, or the Marshal, or his designee.

Section 9 BLASTING CLAIMS

A. Any person, company, or entity, alleging damage as a result of blasting operations shall file their complaint at the Malden Fire Department, Fire Prevention bureau on a "Blasting Damage Complaint" form approved by the Marshal and obtained from the Fire Department, Fire Prevention Bureau. The complaint shall contain a signed certification. Completed complaint forms shall be returned within 30 calendar days of the blasting incident to the Malden Fire Department, Fire Prevention Bureau.

B. The Fire Chief, or his designee, shall upon receiving a Blasting Damage Complaint shall cause the holder of the "Explosives Users Certificate" (Own and Possess) and the blaster in charge, to report to the Malden Fire Department, Fire Chief, or his designee, with copies of pertinent blasters logs and seismic records for the dates in question. The blaster in charge shall be interviewed and the blasting logs and seismic records examined to determine any violations of 527 CMR 13.00. The Fire Chief shall retain the original of the complaint form and forward a copy to the Marshal's Office.

C. The blaster shall be entitled to a copy of the complaint and shall acknowledge receipt of a copy of the complaint form by his signature.

D. If the blaster disagrees with the Fire Department's actions, restrictions, comments, permit suspensions or revocations, that are the result of the Fire Department's investigation of the complaint, the blaster may request a conference with the Fire Chief or his designee, or the blaster may appeal to the Marshal.

SECTION 10.30 FIRE AND BURGLAR ALARM SYSTEMS – FALSE ALARMS

As used in this section, a false alarm means the activation of an alarm system through mechanical failure, malfunction, improper installation, or negligence, which causes police or fire personnel to respond to a location where no emergency exists.

The owner or person in control of any property which employs an alarm system shall maintain said system in a manner that prevents false alarms.

Violation of this ordinance may be punished by members of the police department or fire department in the manner provided in Massachusetts General Laws Chapter 40 Section 21D in accordance with the following schedule of fines:

0- 3 false alarms

Warning

4-20 false alarms
21 or more

\$50.00/alarm
\$75.00/alarm

SECTION 10.31 OATH OF OFFICE – POLICE OFFICERS

Before entering upon service, each member of the Police Department shall be sworn to the faithful discharge of duties.

CHAPTER 11- PUBLIC WORKS

SEWERS

SECTION 11.1 CITY SEWERS TO BE UNDER CHARGE OF DIRECTOR OF PUBIC WORKS

All common sewers constructed or owned by the City and all connections made under the provisions of this chapter shall be under the supervision, direction and control of the Director of Public Works. In any street opened, or proposed to be opened for public travel or accommodation, every sewer or drain laid for the purpose of draining more than one property shall be deemed to be a common sewer, and no such common sewer shall be laid or connected with any existing common sewer, except as provided in this chapter.

SECTION 11.2 OTHER UTILITY LINES NOT TO INTERFERE WITH SEWERS; REMOVAL OF LINES VIOLATING SECTION

Whenever any street is open for the laying of pipe or conduit shall be so executed as not to obstruct, in any way, the course, capacity or construction of a common sewer. Whenever pipe or conduit for any purpose or the work connected therewith is found to exist at such depth or in such location as to interfere with any existing common sewer, or with the building of any common sewer, the entity or person maintaining the same shall, upon written notice thereof, at once, remove, change or alter such pipe or pipes or other works, in such manner as the Director of Public Works may direct. If such entity or person neglects to comply immediately with the terms of such notification, the Director of Public Works may make such removal, change or alteration, and the cost thereof shall be paid by such entity or person.

SECTION 11.3 SEWER CONNECTION REQUIRED; PENALTY FOR FAILURE TO CONNECT

The owner or owners of property determined by the Director of Public Works to be accessible to a common sewer shall construct and maintain such drains or connections to said sewer as may be necessary to conduct the sewage from the said property. Construction, connection and maintenance shall be at the sole expense of the owner.

Any person who fails to make application for the construction of such drain and entering the same into the common sewer within fourteen days of written notice from the Director of Public Works to do so, shall be subject to a fine of \$300.00 imposed in the manner provided in Massachusetts General Laws Chapter 40, Section 21D; each subsequent fourteen day period

during which such person fails to make application shall constitute a separate offense for which an additional fine may be imposed.

In addition to enforcement under Massachusetts General Laws Chapter 40 Section 21D, the city may take all other remedies available at law and equity.

SECTION 11.4 APPLICATIONS FOR SEWER CONNECTIONS; APPROVAL OF PRIVATE SEWER LAYERS

All applications for the construction of sewers for private use, within the street limits, and their entrance into common sewers, shall be made to the Director of Public Works and shall be in such form as he shall prescribe. All such sewers for private use within the street limits and their entrances into common sewers shall be constructed, connected, maintained and kept in repair by a licensed private sewer layer hired or employed by the applicant in such manner as the Director of Public Works may from time to time determine. The cost of any work so constructed, maintained or repaired shall be paid by the applicant therefor.

SECTION 11.5 APPROVAL AND/OR LICENSING OF SEWER LAYERS; PERMIT REQUIRED

All private sewer layers must be licensed and/or approved by the Director of Public Works prior to commencing any work within the City of Malden. The Director of Public Works may license such private sewer layers as apply and are found competent. No person other than a licensed private sewer layer shall construct or repair any sewer for private use within street limits, or connect the same with any common sewer, or dig up any street for such purpose.

No private sewer between the limits of any street and the building shall be laid except as authorized or licensed by the Director of Public Works, or by his agent or employees acting under his direction. No such private sewer layer shall lay any such sewer without first having obtained a permit in writing from the Director of Public Works in such form and under such conditions as it shall prescribe, and within five (5) days of completion of the work such permit shall be returned to the office of the Director of Public Works signed by the permittee and stating what has been done under such permit.

Every person licensed as provided in the preceding section shall, before performing any work by virtue of such license, execute a satisfactory bond to the City in an amount determined by the Director of Public Works, conditioned upon compliance with this Code, the ordinances of the City, the rules and regulations of the Commission and of the Board of Health, and with the terms and conditions of the permit under which in each case work is performed; and that the City will be indemnified and held harmless from all damages, losses or expenses by reason of injuries arising during or resulting from the work done under said permit.

SECTION 11.6 REPAIR OF SEWERS

Whenever any private sewer becomes clogged, broken, obstructed, out of order, detrimental to the use of the common sewer, or unfit for sewage purposes, in or under that property situated outside of any street in which common sewers are laid, the owner, agent, occupant or person having charge of any building or lot of land or premises in which such private sewer is located shall, when directed by written notice from the Director of Public Works remove, reconstruct, alter, cleanse, or repair such private sewer, as the conditions thereof may require. In case of neglect or refusal to comply with such notice within five days after the same is given, the Director of Public Works may cause the private sewer to be removed, reconstructed, repaired, altered or cleansed, as it may deem expedient, at the expense of such owner agent, occupant or other person so notified. Any person failing to comply with such notice shall also be liable to a fine of \$300.00 imposed by the Director of Public Works or his designees in the manner provided in Massachusetts General Laws Chapter 40 Section 21D. Every 24 hour period during which such violation exist shall be a separate offense, punishable by an additional fine.

SECTION 11.7 PRIVATE SEWERS TO BE BUILT IN ACCORDANCE WITH REGULATIONS OF DIRECTOR OF PUBLIC WORKS

The Director of Public Works shall have the authority to prescribe rules as to the materials to be used, and the manner of construction of all common sewers and connections therewith from the existing common sewer to a distance ten feet outwardly from the inside of the exterior wall of the building for which they are used; all connections within such building and within ten feet of such building shall be subject to the jurisdiction of inspectors of plumbing and gasfitting.

The Director of Public Works may prescribe the grade of any sewer; the place and manner of connection with the common sewer and in private ways shall determine the grade to which any opening is filled, and may order all construction necessary and incident to the protection and satisfactory performance of the sewer.

SECTION 11.8 EXHAUSTS AND BLOWOFFS NOT TO BE CONNECTED TO SEWER

No exhaust from a steam engine and no blow-off from a steam boiler shall be connected with any common sewer or private drain connecting with a common sewer.

SECTION 11.9 HAZARDOUS SUBSTANCES NOT TO BE DEPOSITED IN SEWERS OR DRAINS

No person shall allow, cause or permit any explosive, inflammable or hazardous substance, as defined in 310 CMR 30, or Massachusetts General Laws Chapter 21E and the Massachusetts Oil and Hazardous Materials Release Prevention and Response Act, to enter directly or indirectly any common sewer. No person shall allow, cause or permit any material which may tend to cause an obstruction to enter any common sewer or public drain.

The Director of Public Works, the Director of Public Health, the Emergency Management Director, or their agents and employees may order any person found in violation of this ordinance to remove or cause to be removed any substance or material from a sewer or drain within such time and in such manner as said director, agent or employee deems reasonable; provided that removal of hazardous substances shall be done in accordance with the provisions of Chapter 21E, Massachusetts Oil and Hazardous Material Release Prevention and Response Act. Any agent issuing a removal order under the provisions of this ordinance may, upon the failure of any person to comply with said order, cause said substance to be removed by the city at the expense of the violator.

Violations of this ordinance may also be punished in the manner provided in Massachusetts General Laws Chapter 40, Section 21D by a fine of \$300.00 for each offense. Each twenty-four hour period during which a violation exists shall constitute a separate offense, punishable by the imposition of an additional fine.

In addition to enforcement under Massachusetts General Laws Chapter 40 Section 21D, the city may take all other remedies available at law and equity.

SECTION 11.10 STORM WATER NOT TO BE DEPOSITED IN SEWERS

No roof, ground, cellar or surface water shall be allowed to enter directly or indirectly the common sewer. The Director of Public Works shall serve a cease and desist order to any property owner found in violation of this ordinance and shall the fixtures through which the water is being admitted to be sealed. If for any reason it becomes necessary to break the seal, it shall only be done by a licensed plumber or drain layer, who shall notify the Inspector of Plumbing, in writing, of his doings. The Inspector shall as soon as possible thereafter cause the fixtures to be resealed, the expense of sealing to be borne by the owner.

STREETS AND SIDEWALKS

SECTION 11.11 PROCEDURE FOR REPAIR OR ALTERATION OF STREETS

A. Applications for laying out, widening, altering, locating, grading or discontinuing any street in

the City shall be made by petition to the Public Works Commission and shall be accompanied by an agreement or release signed by abutters relating to compensation for damages resulting therefrom. The provisions of this section shall not apply to assessment of betterments.

B. The Public Works Commission shall hold a public hearing on any petition for laying out, altering, widening , locating, grading or discontinuing a street, after at least seven days notice to the Mayor, the City Clerk and all abutters as required by law.

C. Prior to commencing any work which may result in the levy of a betterment assessment, notice of said assessment shall be given to all affected owners as required by law.

D. No street shall be laid out in a width of less width than forty feet and with suitable edgestones or curbing, excepting such streets as were in public use prior to the year 1890 and extensions thereof.

E. The Director of Public Works shall place permanent landmarks and bounds on any street repaired or altered hereunder.

SECTION 11.12 TEMPORARY REPAIRS ON PRIVATE WAYS; SCOPE; COUNCIL APPROVAL REQUIRED; ASSESSMENT OF PROPERTY OWNERS; LIABILITY

A. Pursuant to Mass. General Laws Chapter 40:6N, the Director of Public Works may make temporary repairs on any private way which the City Council has determined is required by public necessity and for which a majority of the abutters have petitioned. Such repairs may include the installation, construction, reconstruction or resurfacing, in whole or in part, of such ways. Except as otherwise provided, the provisions of Massachusetts General Laws Chapter 82 shall apply to repairs to private ways under this section. The City shall not be liable for any damage caused by repairs made under this section.

B. The City Council may assess betterments upon the owners of lands which derive particular benefit or advantage from the making of such repairs if City funds are used.

Such assessment may be a sum equal, in the aggregate, to a maximum of the total cost of such repairs and, in the case of each such lot, shall be in proportion to the frontage thereof on such way.

SECTION 11.13 NAMES OF STREETS; SIGNPOSTS TO BE ERECTED

A. All public ways shall be named by the Public Works Commission, hereinafter designated in this chapter as the Commission. The Commission may change the name of any public way in the City; provided, that before such change it shall appoint a time and place of the public hearing from all persons interested therein, and give notice of such hearing and of its intention to change said name, by publication of the same at least once in a newspaper published in the city. It shall cause signposts to be erected, designating the names of the ways.

B. Ways that are open for public use but have not become public ways shall be named by the Planning Board, as it is the successors to the powers of the Board of Survey, and further provided that the Planning Board shall have the authority to change the name of any private way, where the name of such way is identical to, or so similar to, the name of another way so as to lead to confusion. The Planning Board may so act only after a public hearing with notice of such hearing given as required by section seventy-four of chapter forty of the General Laws of Massachusetts.

C. Nothing in this section is intended to supersede the requirements of Massachusetts General Laws Chapter 85.

SECTION 11.14 STREET OPENINGS

Public utility companies and private contractors who open or occupy public ways in the course of their business have an obligation to act responsibly to residents, businesses and travelers in the city who depend upon the use of these ways in the course of their daily lives. To protect the public from the effects of improper backfilling, poor patching, careless plating and unsightly debris remaining at completed projects, the following standards are adopted to protect against potential abuses of the necessary and lawful excavation of public ways.

A. PERMITS, APPLICATIONS, FEES AND INSURANCE

1. Excavation Permit

No person, corporation or other entity shall excavate, dig up, open or disturb the pavement or ground in any street, sidewalk, lane or highway without the written consent of the Director of Public Works, as designee of the City Council under Mass. General Laws Chapters 164 through 166A; provided that the Public Works Director may, in his discretion, refer any application for an excavation permit to the City Council.

The Director of Public Works and City Engineer shall annually in January generate a list of streets whose wearing surface maintains above average structural integrity. Said list shall include but not be limited to any street with pavement five (5) years or less in age. No permit shall be issued to break the pavement on any street included on said list; provided that the Director of Public Works may issue a permit when, in his opinion, the immediate health, safety or convenience of the public requires that the pavement be opened. The age of any pavement shall be determined from the date of final acceptance of its construction, reconstruction or repair.

In the event that said pavement is broken, the permittee may be required to replace the pavement structure from curb to curb and/or intersection to intersection by cold planing, resurfacing wearing surface, and all items necessary to repair, as ordered by the Director of Public Works.

Applications for an excavation permit shall be accompanied by the following:

- (a) a non-refundable application fee of \$.30/square foot or \$60.00 (sixty) dollars, whichever is greater;
- (b) a performance bond in the amount of five thousand (\$5,000.00) dollars;
- (c) a certificate of general liability insurance in the amount of one million (\$1,000,000.00) dollars naming the City of Malden as loss payee;
- (d) a plan showing the location, dimensions, details, profiles and sections of all work to be performed;
- (e) the name and telephone number of such person or persons who will be responsible to act in the event of an emergency;
- (f) for installation of sewer, water and drain lines, written authorization from the City Engineer's Office

Excavations performed by the City of Malden and its employees shall be exempt from permit, fee and insurance requirements.

Prior to the commencement of any work under an excavation permit, the permittee shall submit proof to the Director of Public Works that notification of the intent to excavate has been given to Digsafe and to the police, fire and water departments of the city.

The Director shall include on each permit the times and dates on which work may be done, and such other conditions as he deems appropriate to the preservation of the public health, safety and welfare of the residents of the city.

Emergency excavations shall be made only under the following conditions:

- (a) that notification and permit application be made to the Department of Public Works on the business day next succeeding the day of the emergency;
- (b) that restoration, as described in Paragraph 2., be completed contemporaneous to excavation.

Failure to comply with the terms or conditions of any permit or city ordinance shall result in revocation or amendment of said permit. Any person, corporation or other entity who excavates without a permit shall be punished by cancellation of all existing permits, license revocation and shall be fined in the manner provided by Mass. General Laws Chapter 40 Section 21D.

2. Restoration Permit

Each applicant for an excavation permit shall apply for and obtain a permit for restoration of said excavation. Restoration permits shall be issued upon payment a fee as determined from time to time by the Public Works Commission or its designee; provided that fees shall be waived when a permittee has been ordered by the Director of Public Works to make permanent restoration.

The permit holder shall restore the excavation with a temporary patch of bituminous concrete binder to the elevation of the wearing surface and, on street restorations, shall apply tack coat to the bituminous concrete sidewalk perimeter, and shall seal all joints between the existing pavement and the temporary patch. The permit holder shall maintain said temporary patch until permanent repair has been made.

B. CONSTRUCTION PROCEDURES - IN GENERAL

- 1.** Except as modified by city ordinance, all construction materials, methods and workmanship will conform to the standards set forth in the most recent edition of Massachusetts Department of Public Works Standard Specifications for Highway and Bridges.
- 2.** Excavation shall be limited to the area defined in the permit and shall not encroach upon any construction undertaken by the City of Malden or its agents; provided that, if such encroachment is deemed necessary by the Director of Public Works, the utility shall make restoration in a manner agreed upon by the City or its agent.
- 3.** The permit holder shall take all necessary and proper precautions to protect against damage to private property.
- 4.** The permit holder shall replace all accouterments to the roadway, including but not limited to conduits, manholes, catch basins, trees, and fences.
- 5.** The permit holder shall take all necessary and proper precautions to protect against personal injury and must maintain adequate rights of way for vehicular and pedestrian traffic throughout the course of the project. Said rights of way shall be clearly defined by barricades and sufficiently lighted to insure public safety.
- 6.** At the end of each workday, full vehicular and pedestrian access shall be restored. In lieu of back filling, a permit holder may, with the approval of the Director of Public Works, restore access by placement of steel plates over the excavated area.
- 7.** The permit holder shall display excavation and restoration permits at the construction site throughout the course of the project.
- 8.** No excavation or restoration permit shall be issued for work to be commenced between November 15 and April 1 in any year; provided that excavation will be permitted on an emergency basis to correct any condition which endangers life or property or as approved by the Director of Public Works. Any excavation or restoration work completed between these dates shall be done in accordance with all other provisions of this ordinance.
- 9.** Excavation sites shall be maintained in a clean and safe condition at all times, and streets and sidewalks shall be cleaned at the end of each workday.

C. CONSTRUCTION PROCEDURES - EXCAVATION AND BACKFILL

- 1.** The Public Works Commission or its designee shall review construction plans and drawings and shall note on the permit the parameters of the excavation and whether an inspection will be required. The permit holder shall notify the Department of Public Works no less than 24 hours prior to the scheduled excavation and shall provide an estimated time for the commencement of backfill and shall verify the name and telephone number of an emergency contact person.
- 2.** Before excavation is commenced, a rectangular cut shall be made in the pavement for entire perimeter to be excavated. Said cut shall be made by saw cutting, pneumatic chisel or hydraulic chisel to the full depth of the existing pavement.
- 3.** Shoring and/or bracing shall be required for all excavations where the excavated material is sufficiently unstable as to cause cave-in or settlement of the roadway. Settlement caused by failure to properly shore or brace an excavation shall be repaired at the expense of the permit holder.
- 4.** Surplus or unacceptable excavated material shall be removed from the site immediately. Proper disposal of hazardous materials, including bituminous concrete, shall be the responsibility of the permit holder.
- 5.** Backfill material shall be gravel borrow, processed gravel or Controlled Density Fill; provided that the Director of Public Works may require that Controlled Density Fill (CDF) be substituted for compacted gravel.
- 6.** Compaction shall be performed in lifts not to exceed 8 inches; provided that the depth of any lift shall be determined by the type of compacting tool and the gravel type, as defined in the Massachusetts Standard Specifications for Bridges and Highways and the Department of Telecommunications and Energy. Each lift shall be compacted by mechanical means to 95% of maximum dry density. Compacted material shall meet the lower elevation of the pavement structure. Pavement structure shall include bituminous concrete, concrete, cobblestones or similar paving material. Infusion of water into a gravel base, commonly known as "puddling", shall not be an accepted method of compaction.
- 7.** All leak detection or drilling holes shall be filled in lifts with gravel filler, compacted to the lower elevation of the pavement structure and covered with a poured sealant to the upper elevation of the pavement structure. Except in cases of settlement, this repair shall be considered permanent.
- 8.** The permit holder shall be responsible for settlement in or adjacent to the original excavated area for a period of three (3) years from the date of the final accepted permanent repair or, if backfilled with Controlled Density Fill, for a period of one (1) year from the date of the final accepted permanent repair. Any settlement of an excavation shall be corrected by the City of Malden at the expense of the permit holder.

D. CONSTRUCTION PROCEDURES - RESTORATION

- 1.** The permit holder shall backfill, compact and apply a temporary patch to all excavations. The City of Malden, through its Department of Public Works or its agents, shall permanently repair all excavations.
- 2.** Temporary patches shall be made by hot inlay of bituminous concrete base course to a thickness not less than four inches.
- 3.** Prior to restoration, the perimeter of the excavated area shall be cut back no less than twelve (12) inches in straight lines, with ninety (90) degree angles at the point of intersection to such depth as to expose an undisturbed gravel base. The vertical face of the pavement cuts shall be thoroughly cleaned, particularly at the corners. Computation of restoration fees shall be based on the dimensions of the excavation after said cutback. Excavations or restoration cutbacks within two (2) feet of the curb and/or edge of the pavement shall be extended to the pavement edge prior to temporary repair.
- 4.** Street accouterments, including but not limited to manholes, catch basins and gate boxes, shall be set and leveled to existing pavement surfaces.
- 5.** In roadways, the permit holder shall install a temporary bituminous concrete patch to the full depth of the excavated pavement surface. Said patch shall be compacted by mechanical means and joint sealed. In sidewalks, the permit holder shall install a level bituminous pavement patch. The permit holder shall maintain all temporary patches in a safe and passable manner, as determined by the Director of Public Works, until permanent repair is made by the City of Malden. To allow adequate time for settlement, the City of Malden will not undertake permanent repair of any excavation for a period of not less than one year from the date of installation of a temporary patch; provided that the schedule for permanent repair may be altered by order of the City Council or the Director of Public Works.
- 6.** If settlement occurs in leak detection, test pits or core holes, the City will cut and restore up to the full pavement depth for an acceptable width and one foot in excess of the length of the entire test area. Additional restoration costs for repair of leak detection, test pits and core holes will be borne by the permit holder.

E. BILLING AND COLLECTIONS

- 1.** Except as permitted by the Director of Public Works, payment for excavation and restoration permits shall be made at the time of permit application.
- 2.** With the approval of the Director, a permit holder may be billed on a monthly basis for all permits issued during the preceding month. Such monthly bill shall be paid within 30 days of issuance and failure to do so will result in a service charge of one and one-half (1.5) per cent per month for all past due invoices.

3. Failure to pay obligations when due may result in the loss of deposit, assessment of fines, revocation of existing permits, denial of future permits, attachment of bonds, and accrued service charges, and assessment of collection costs and attorney fees, if any.

4. If an account is determined to be uncollectible, the city may place a lien upon such real estate in the manner provided by Sections 42A to 42F of Chapter 40 of the General Laws, as amended.

SECTION 11.15 PERMIT AND BOND REQUIRED FOR STREET OR SIDEWALK OBSTRUCTION; CONDITIONS OF PERMIT

No person shall occupy or use a street or sidewalk for any purpose, place or permit to be placed thereon any impediment or obstruction, or disrupt the free flow of vehicular or pedestrian traffic without having obtained a permit therefor from the Public Works Commission.

The Commission may grant permits for the occupation, use or obstruction of streets or sidewalks for such purposes and under such terms, conditions and restrictions, as they deem in the best interests of the public health, safety and welfare.

Permits shall specify the portion or portions of the street or sidewalk to be occupied, and shall specify any area to be used for depositing materials for work to be done, or for temporary storage of debris arising from such work.

When a permit is granted for construction or demolition of an adjacent building, the occupied portion of the street shall be enclosed with such barriers as are required by the Commission. Barriers shall be maintained during the entire term of said occupation, and lighting or warning devices shall be deployed around barriers, as determined by the Commission.

No permit to occupy a street or sidewalk shall be issued until all permits required for the work to be done have been obtained.

Said permit shall be made available for inspection upon the request of any agent or employee of the Commission or member of the police department.

The permit holder shall be liable for all injuries resulting from said obstruction or impediment and shall provide the city with an indemnity bond or liability policy in a amount determined by the Commission as sufficient to hold the city harmless against any claims for personal injury or property damage arising out of said street or sidewalk occupancy.

The permit holder shall also provide the city with a performance bond in the amount of five thousand dollars (\$5,000.00).

The provisions of this ordinance shall not apply to employees of the City of Malden.

Violation of the provisions of this ordinance or of the terms and conditions of any permit issues thereunder shall be punishable by immediate revocation of said permit and stoppage of work until said violations are corrected; provided that, in the case of emergency as determined by the Director of Public Works or the Police Chief, work shall be allowed to continue until such emergency or unsafe condition has been abated.

Violation of the provisions of this ordinance or the terms and conditions of any permit issued thereunder shall be punishable by a fine of \$200.00 imposed in the manner provided in Massachusetts General Laws Chapter 40 Section 21D by the Director of Public Works or his designees. Each 24 hour period during which a violation exists shall be a separate violation for which an additional penalty may be assessed.

In addition to enforcement under Massachusetts General Laws Chapter 40 Section 21D, the city may take all other remedies available at law and equity.

SECTION 11.16 POLICE DETAIL REQUIRED FOR CERTAIN STREET/SIDEWALK OPENINGS AND OBSTRUCTIONS

No person shall occupy or use a street or sidewalk for any purpose, place or permit to be placed thereon any impediment or obstruction, or disrupt the free flow of vehicular or pedestrian traffic without having arranged to have on site such number of regular police officers as have been determined necessary by the Police Chief or his designee. The permit holder shall bear the cost of said police officers. Said police officers shall assure that all permit conditions are met and that a safe and convenient passage for pedestrians and vehicles is maintained.

Failure to comply with the provisions of this ordinance shall be punishable by immediate revocation of any permit issued for use or occupancy of the street; provided that, in the case of emergency as determined by the Director of Public Works or the Police Chief or their designees, work shall be allowed to continue until such emergency or unsafe condition has been abated. Violation of the provisions of this ordinance shall be punishable by fine of \$300.00 imposed by the Director of Public Works or his designees in the manner provided in Massachusetts General Laws Chapter 40 Section 21D. Each 24 hour period during which a violation exists shall be a separate violation for which an additional penalty may be imposed.

In addition to enforcement under Massachusetts General Laws Chapter 40 Section 21D, the city may take all other remedies available at law and equity.

SECTION 11.17 BARRIERS ETC.; REQUIRED FOR EXCAVATIONS

An owner of land which has been excavated shall erect barriers or take other suitable measures within twenty-four hours after such owner has been by the Director of Public Works that such excavation constitutes a hazard to public safety. Violation of the provisions of this ordinance may be punished by the Director of Public Works or his designees in the manner provided in Massachusetts General Laws Chapter 40 Section 21D in accordance with the following schedule of fines:

1 st offense	warning
2 nd offense	\$100.00
3 rd /subsequent offenses	\$200.00.

Each 24 hour period during which a violation exists shall be a separate violation for which an additional penalty may be imposed.

In addition to enforcement under Massachusetts General Laws Chapter 40 Section 21D, the city may take all other remedies available at law and equity.

SECTION 11.18 PERMIT REQUIRED FOR PERMANENT OPENINGS IN PUBLIC WAYS

No person shall erect or maintain a passageway to any cellar, basement or other structure in or upon any street, without a permit therefor from the Public Works Commission. No person shall suffer the platform or grate of the entrance or passageway to a cellar or basement in any street to rise above the even surface of such street; and, every such entrance or passageway shall be kept covered with a suitable platform or grate, or shall be guarded and protected by a sufficient railing on both sides thereof, at least two and one-half (2 ½) feet high, and well lighted at night. No person shall erect or maintain any doorstep, portico, entrance or bay window in or upon any street.

No person leave such opening uncovered or unfastened, except while actually in use, in which event it shall be properly guarded.

SECTION 11.19 HAULING BUILDING MATERIALS

The hauling of brick or plaster mortar or any like material in any vehicle is hereby prohibited unless the vehicle is enclosed and constructed so as to prevent the material from dropping on the street, pavement or sidewalk.

SECTION 11.20 TEMPORARY OBSTRUCTIONS PERMITTED

Except as provided in Section 11.21, no person shall place or deposit, or permit to be placed or

deposited, in or upon any street, any impediment or obstruction of any kind, or suffer the same to remain thereon; nor occupy or obstruct any street to interfere with the convenient use of the same for public travel; nor place or cause to be placed in any gutter any obstruction to a free flow of water.

The foregoing prohibitions shall not prevent the unloading or temporary deposit in or upon any street of merchandise, fuel, building materials, or other article; provided, that such articles shall in no case be permitted to remain thereon for more than one hour, except by license as provided in this chapter.

SECTION 11.21 CERTAIN OFF-STREET PARKING PROHIBITED; PERMITTING PROCEDURE FOR INSTALLATION OF CURB CUTS

No person shall stop or park a vehicle on a sidewalk, walkway or planting strip abutting any street, nor on any unpaved surface on public or private property.

Except where curbing has been removed to provide access to the abutting property, no person shall drive a vehicle across a sidewalk or walkway.

No person shall remove curbing to provide access to the property abutting a sidewalk or walkway without having obtain a permit therefor from the Public Works Commission.

Application for a permit to install a curb cut shall be made on a form approved by the Commission and shall be accompanied by a fee as determined by the Commission. The Commission shall, within forty five days of receipt of a completed permit application under this section, schedule a public hearing on said application. Notice of said hearing shall be mailed by first class mail no later than 7 days prior to the date of the hearing to abutters, the City Councillor in whose ward the proposed curb cut is located, and the Councillors At Large. Said notice shall include the name of the petitioner, the street address to which the application applies, a description of the work to be done and the date, time and place of the public hearing and shall inform abutters of their right to appear at said hearing and provide testimony on the proposal.

As used in this section, “abutters” shall mean the Abutters and Abutters to Abutters, as certified by the Assessor from the most recent tax list, within 300 linear feet of the property to which the permit applies, as measured along all public or private ways.

Within seven days of a hearing held under this section, the Commission shall issue or deny said permit and shall notify the petitioner of said issuance or denial. A denial shall be accompanied by a statement of the reasons therefor. An issuance shall contain such conditions, restrictions and time limitations as the Commission may deem reasonably necessary to protect the health, safety and welfare of residents; provided that, under no circumstances shall a permit to complete said work be valid for more than six months from the date of issuance.

SECTION 11.22

HANDICAPPED AND DISABLED VETERAN'S PARKING

A. Designated parking spaces for vehicles owned and operated by disabled veterans or by handicapped persons and bearing the distinctive license plate authorized by Chapter 90, Section 2 of the Massachusetts General Laws must be provided in public and private off-street parking areas in the City of Malden.

B. Any person or entity that has lawful control of a public or private way or of improved or enclosed property used as off-street parking areas for business, shopping centers, residential dwellings, or for any other place where the public has a right of access as invitees or licensees, is required to reserve parking spaces in said off-street parking areas for any vehicle owned and operated by a disabled veteran or handicapped person whose vehicle bears the appropriate, authorized license plate.

C. The formula for deciding how many spaces should be distinguished for handicapped parking is as follows:

If the number of parking spaces in any such area is more than fifteen but not more than twenty-five, one parking space;
more than twenty-five but not more than forty, five per cent of such spaces but not less than two;
more than forty but not more than one hundred, four per cent of such spaces but not less than three;
more than one hundred but not more than two hundred, three per cent of such spaces but not less than four;
more than two hundred but not more than five hundred, two per cent of such spaces but not less than six;
more than five hundred but not more than one thousand, one and one-half per cent of such spaces but not less than ten;
more than one thousand but not more than two thousand, one percent of such spaces but not less than fifteen;
more than two thousand but less than five thousand, three-fourths of one per cent of such spaces but not less than twenty;
and more than five thousand, one-half of one per cent of such spaces but not less than thirty.

D. Parking spaces designated as so reserved shall be identified by the use of above grade signs with white lettering against a blue background and shall bear the words "Handicapped Parking: Special Plate Required, Unauthorized Vehicles May Be Removed At Owner's Expense", or such other suitable sign or designation as the Malden Traffic Commission deems appropriate.

Parking spaces shall be as near as possible to a building entrance or walkway.

Such spaces shall be adjacent to curb ramps or other unobstructed methods permitting sidewalk access to a handicapped person.

E. Parking spaces shall be twelve feet wide or two eight-foot wide areas with four feet of cross hatch between them; or such other dimensions as the Malden Traffic Commission deems appropriate.

Leaving unauthorized vehicles within parking spaces designated for use by disabled veterans or handicapped persons is prohibited. The obstruction of a curb ramp designed for use by handicapped persons as a means of egress to a street or public way is prohibited.

F. The penalty for violation of this ordinance shall be as follows:

for the first offense, fifteen (\$15.00) dollars;

for the second offense, twenty-five (\$25.00) dollars;

and for each subsequent offense, the vehicle may be removed in accordance with Chapter 266 Section 120D of the Massachusetts General Laws. These penalties may be amended by the Malden Traffic Commission in accordance with their rules and regulations.

G. Whoever violates this ordinance shall be liable to charges for the removal and storage of the vehicles as well as subject to punishment by fine.

SECTION 11.23 REMOVAL OF SNOW AND ICE FROM SIDEWALKS

1. The owner, occupant or agent in charge of any land, estate or building abutting a public sidewalk in the City of Malden shall make said sidewalk safe and convenient for public use by removing any snow, ice or slush from said sidewalk to bare pavement. Sidewalks must be cleared from property line to property line. Throwing, pushing, or causing snow to be cast into public streets or sidewalks is prohibited. Owner, occupant, or agent in charge of any land, estate or building abutting a public sidewalk shall:
 - a. Remove snow, slush and ice from said sidewalk within 24 (twenty-four) hours after snowfall has ended or the Public Works Director has declared that snow removal operations are complete. This also pertains to snow that has drifted from a residence or building onto sidewalks. In the event of an unusually heavy snowfall, the time limit for removing snow from sidewalks may be extended at the discretion of the Director of Public Works. Shoveled sidewalks may also be made safe by covering pavement with sand, salt or other appropriate material to prevent slipping.
 - b. Clear sidewalks to a minimum passage width of thirty-six (36). Where a 36 inch width clearance is not possible due to existing obstructions, sidewalk shall be cleared to the widest extent possible between the obstructions.

- c. Clear a minimum passage of 36 inches in width from the door of every residence or business to the street or sidewalk.

Every attempt should be made to provide full access to handicapped ramps, or other access points.

- 2. This ordinance may be enforced in the manner provided in Massachusetts General Laws Chapter 40, section 21D by agents of the Board of Health, parking enforcement officers and Department of Public Works supervisory personnel. Penalties for violations of this Ordinance will be strictly enforced, and are as follows:
 - a. For Non-Commercial Properties:
 - i. first offense of the season shall be a written warning
 - ii. second offense - \$100
 - iii. third and subsequent offense - \$150
 - b. For Commercial/Business Properties:
 - i. first offense - \$100
 - ii. second offense - \$200
 - iii. third and subsequent offense - \$300

Failure to comply within three (3) days of initial violation may cause the City to remove said snow, slush or ice. The City may seek reimbursement (in addition to any violations incurred) for removal of snow, slush or ice.

SECTION 11.24 THROWING SNOW, ICE ON PUBLIC WAYS

(a) No person shall throw or place, or permit to be thrown or placed, on any street, sidewalk or way to which the public has a right of access, any snow or ice removed, except as directed by the Director of Emergency Management, Director of Public Works or their designees.

(b) The penalty for violation of this ordinance shall include the cost of removal of said violation, as determined by the Director of Public Works, and a fine of \$300.00 for each violation, which may be imposed by any agent of the Board of Health, parking enforcement officers or Department of Public Works storm supervisory personnel in the manner provided in Massachusetts General Laws Chapter 40 Section 21D.

SECTION 11.25 GATES NOT TO OPEN INTO STREET

The owner or person in charge of any premises shall not allow any gate or door adjoining any street, to swing on, over or into the street.

SECTION 11.26 POSTING OF HANDBILLS

No person shall post any placard, handbill, poster or notice upon any building, tree, tree guard, fence or any other thing, without the consent of the owner, agent or occupant, nor shall any person erect or maintain bulletin boards in any street without a license from the Public Works Commission.

SECTION 11.27 DAMAGING STREETS PROHIBITED

No person shall move any vehicle or equipment, or drag or slide the same over any street, in such a manner as to damage, mar or deface such street or underground utilities.

SECTION 11.28 MOVING BUILDINGS

No person shall move any building through any streets, without a permit from the Director of Public Works and under such restrictions as the Director may proscribe; but, no permit shall be given, nor shall any building be moved, which will, in the opinion of the Director cause the destruction, mutilation or injury of any public property in or upon any street, unless the applicant pays the cost of replacing or repairing the same.

SECTION 11.29 HOUSE NUMBERING

The City Engineer shall designate an identifying number for every building fronting on a public or private way within the city, and may order the owner or occupant of any building to affix said number to the building so as to be clearly visible from the street. Unless otherwise ordered by the City Engineer, numbers shall be no less than two inches in height and in regular series. No owner or occupant shall affix or retain on any building a number other than that assigned by the City Engineer.

BICYCLE TRAILS

SECTION 11.30 REGULATION OF BICYCLE TRAILS

As used in this section, “**bike trail**” shall include the entire length and width of any designated right of way.

Except as provided in this section, use of bicycle trails shall be limited to pedestrians, including joggers and runners, and devices designed for propulsion solely by muscular power, including bicycle riding, roller skating, in-line skating, snow shoeing and cross country skiing.

No person shall use or operate a motorized vehicle or device or a vehicle or device capable of motorized operation on a bike trail except:

- .1 an authorized maintenance vehicle;
- .2 an emergency vehicle, including police fire and emergency medical services;
- .3 a vehicle designed specifically to provide mobility to a handicapped person.

Unless licensed by the City, no person shall use bike trails for horseback riding.

Use of bike trails shall be limited to the hours of 5a.m.-10p.m.

Use of bike trails shall be subject to compliance with Massachusetts General Laws Chapter 85 Section 11B and all city ordinances; provided that, subject to compliance with all other ordinances relative to animal control, a user may be accompanied by no more than two dogs.

Bicycle trails shall not be used for organized events unless permitted by the Police Chief.

The Public Works Commission may promulgate additional regulations to assure the safety of bike trail users and shall post regulations at such intervals as may be required to reasonably notify users of rules and restrictions on use.

No person shall solicit, sell, rent, advertise or offer to sell, rent hawk, peddle, display or distribute any goods, wares, tangible or intangible property, merchandise, liquids or edibles, or services for hire, or render any service for hire, upon bicycle trails, unless licensed by the city upon such terms and conditions as said licensing authority deems appropriate.

Violations of this ordinance shall be punished in the manner provided in Massachusetts General Laws Chapter 40 Section 21D in accordance with the following schedule of fines:

1st offense	\$100.00
2nd/subsequent offense	\$250.00

In addition to any other penalty provided by law, unauthorized vehicles, whether or not registered under Chapter 90 or 90B of Massachusetts General Laws may in the discretion of a police officer be towed and stored at the owner's expense.

PUBLIC SHADE TREES

SECTION 11.31 TREE BOARD AND COMMUNITY FORESTRY PROGRAM

The Public Works Commission shall serve as the city Tree Board, and the Director of Public Works, or other designee of the Public Works Commission, shall serve as city Tree Warden. The Tree Board and Tree Warden shall serve in this capacity without additional compensation.

The Tree Board shall promulgate rules and regulations for the planting and care of public shade trees by the city and adjacent property owners.

The Tree Board shall develop, update and annually present to the City Council for approval a Community Forestry Program to provide for the care, preservation, pruning, planting, replanting, removal or disposition of public shade trees as defined in Massachusetts General Laws Chapter 87, including trees, shrubs, bushes and other woody vegetation on parks and other public property, herein after collectively referred to as public shade trees.

The Tree Warden shall administer the Community Forestry Program on behalf of the city.

The Tree Warden shall have the care and control of all public shade trees, shrubs and growths in the city, except those within a state highway, and those in public parks or open places.

SECTION 11.32 LIMITATION ON SPECIES OF PUBLIC TREES

No species other than trees suitable for survival in hardiness zone 6 may be planted as public shade trees without permission of the tree board, which shall give preference to trees native or indigenous to Eastern Massachusetts. Examples of native trees include, but are not limited to:

- Eastern Red Cedar
- Gray Birch
- White Pine
- Pin Oak
- Sourwood
- American Holly

SECTION 11.33 LOCATION AND PLACEMENT OF PUBLIC SHADE TREES BY SIZE

Except in special plantings designed or approved by a landscape architect, no public shade tree may be planted at intervals less than the following:

- Small trees: 15 feet
- Medium trees: 20 feet
- Large trees: 25 feet

No public shade tree shall be planted within 10 feet of a fire hydrant.

No public shade tree shall be planted so as to obstruct, at full growth, a motorist's view of any intersection.

No public shade tree, except those classified as small or medium trees by the city Tree Board, shall be planted under any utility wire, or over or within 5 lateral feet of any underground utility.

SECTION 11.34 CARE OF PUBLIC SHADE TREES

The Tree Warden shall, in accordance with Community Forestry Program, plant, prune, maintain and remove public shade trees to insure public safety or to preserve or enhance the symmetry and beauty of such public grounds.

The Tree Warden may remove any public shade tree or part thereof which is in an unsafe condition or which is injurious to sewers, electric power lines, gas lines, water lines or other public improvements or is affected with any injurious fungus, insect or other pest.

No public shade tree shall be cut back so as to expose limb stubs larger than three inches in diameter or so as to remove the normal canopy and disfigure the tree, unless the Tree Board has determined that the tree is so damaged or in proximity to obstructions as to make other pruning methods impractical.

When a tree is removed, the Tree Warden shall immediately cause the stump to be removed below the surface of the ground.

**SECTION 11.35 INJURY TO PUBLIC SHADE TREES
PROHIBITED; PERMIT REQUIRED FOR
PRUNING, OR PLANTING OF PUBLIC SHADE
TREES; PENALTIES FOR VIOLATION**

No person shall, without a permit from the Tree Warden, cut, plant, prune, break, injure, or remove any public shade tree.

No person shall cut, disturb or interfere with the roots of a public shade tree or place or maintain on the ground stone, cement or other substance that, in the judgment of the Tree Warden, will impede the free flow of water and air to the roots of any public shade tree.

No person shall pour or place substances injurious to public shade trees upon or adjacent to any public street or way in such a manner as to injure any public shade tree.

No person shall place any rope, sign, poster or other fixture on any public shade tree.

The owner of any land shall, when constructing or building on said land, place guards around such nearby shade trees as the Tree Warden may order so as to prevent injury to said trees.

No person shall injure or remove any guard or device placed around a public shade tree by order of the Tree Warden.

No person shall, without the written permit of the Tree Warden, attach any electric wire, insulator or any device for the holding of an electric wire, to any public shade tree. All wires passing through any shade tree on the public streets or ways shall be covered by some suitable protection so as to prevent injury to, or contact of electricity with the tree.

Violation of the provisions of this section may be punished a fine of not more than \$500.00 for each offense, imposed in the manner provided in Chapter 40, Section 21D. Each twenty-four hours during which a violation exists shall constitute a separate offense.

WATER

SECTION 11.36 TO HAVE CONTROL OF CONSTRUCTION AND REPAIR OF HYDRANTS, STANDPIPES, STREET FOUNTAINS, ETC.

The Director of Public Works shall construct and repair hydrants, standpipes, street fountains and all other city-owned connections with the water system, and the expense shall be paid by the department requiring the same.

SECTION 11.37 DETERMINATION OF WATER RATES AND ABATEMENTS; METERS; REGULATION OF THE USE OF WATER

The Public Works Commission shall annually set rates for use of municipal water and sewer, and may abate charges levied for use thereof. The Commission shall notify the Treasurer of the rates set and abatements granted.

The City Engineer shall oversee installation and maintenance of water meters and establish rules and regulations for the use of water.

SECTION 11.38 WATER BILLS; ANNUAL INSPECTION OF PREMISES

Water usage shall be metered, and, under the direction of the City Engineer, all meters shall be read and all charges for water usage recorded and billed at least once each year.

The City Engineer shall record the names of all water users, the type of building served, the address, the nature of the use, the number of users, and the amount to be charged and shall deliver to the Collector of Taxes a complete schedule of charges.

SECTION 11.39 DISPOSITION OF INCOME; APPLICATION OF FUNDS

All sums paid into the Treasury on account of water usage shall be applied, as allowed by law and as appropriated by the city, to the payment of the expenses of maintenance, extension, improvements and operations of the city's waterworks, including but not limited to the principle and interest on all bonds and notes issued on account of the waterworks, installation and repair of water meters and the payment of the assessment made by the Commonwealth for the city's water usage.

SECTION 11.40 TAMPERING PROHIBITED; MAINTENANCE AND TESTING OF CERTAIN METERS REQUIRED

No person shall, without a permit, change, alter or replace any pipe connected with the waterworks or, without authorization, draw or remove any water therefrom.

Every water user shall install and maintain, in a manner acceptable to the Director of Public Works, all connections and pipes required to draw water from the municipal water main to the property, up to the water meter; provided that the property owner shall assume responsibility for initial installation of a water meter in all newly constructed buildings or in total rehabilitation of a building, as determined by the Director of Public Works.

Except as provided above, the city shall install in every property in the city a water meter, and shall repair or replace meters as deemed necessary by the City Engineer. Except where defects arise through the neglect or fault of the property owner, the costs of installation, repair or replacement of meters shall be charged to the Water/Sewer Enterprise Fund.

When so ordered, the user shall repair defects in connections and pipes to the satisfaction of the Director of Public Works

Every water user shall maintain the areas adjacent to pipes, connections and meters so as to allow reasonable access to said pipes, connections and meters and shall, upon five days' notice from the City Engineer, allow agents of the city to enter the premises to inspect, make repairs or replace equipment, as deemed necessary by the Engineer.

Every water user who fails to maintain temperatures adequate to prevent the freezing of pipes and meters shall be liable for repair or replacement of any resulting damage.

No person shall, except in case of fire or as otherwise authorized by the city, operate or remove the cap from any hydrant.

No person shall tamper with a city water meter or in any manner impede the city's ability to

determine accurate consumption of water from said meter.

The Director of Public Works may order installation of a backflow valve when, in his estimation, said valve is necessary to protect the city's water supply. Installation of said valve shall be at the expense of the owner. Every backflow valve shall be tested at the owner's expense no less than once every five years.

Violation of this section may be punished by a fine of \$300.00 imposed by the City Engineer, the Director of Public Works and their designees in the manner provided in Massachusetts General Laws Chapter 40, Section 21D Each twenty-four hour period during which a violation shall exist shall constitute a separate offense, punishable by a separate fine

In addition to enforcement under Massachusetts General Laws Chapter 40 Section 21D, the city may take all other remedies available at law and equity.

SECTION 11.41 RULES AND REGULATIONS FOR USE OF WATER

Rules and regulations established by the Director of Public Works shall be binding upon every user of city water. Rules and regulations shall be printed upon every bill for water rates, and whenever any of them are violated, penalties as established by the Commission may be imposed.

OTHER PUBLIC UTILITIES

SECTION 11.42 PLACEMENT OF POLES, WIRES AND TELE-COMMUNICATIONS EQUIPMENT IN, ALONG OR ON PUBLIC WAYS

.1 Permit required for installation of telecommunication equipment and devices

No provider of telephone, telegraph, electric power or telecommunications service shall install, construct, maintain, relocate or remove underground conduits, manholes, house connections, poles, cables, wires or telecommunications devices of any type in, on, along or on a public way without permission of the City Council.

A provider of telephone, telegraph, electric power or telecommunications service may petition the City Council for a permit to install, construct, maintain or remove equipment and sustaining fixtures. Said petition shall be accompanied by a specific description of the equipment to be installed, a statement of the location to which the petition applies and a plan showing the portion or portions of the street to be occupied and the names and addresses of all abutters.

The City Council may, after a public hearing as required by Chapter 166 of the Massachusetts General Laws, issue a permit for the installation of such equipment under such conditions, restrictions and limitations as it deems necessary to promote the public health, safety and welfare of the residents of Malden; provided that no permit shall be issued for a pole to be constructed within ten feet of a hydrant, or in a manner or locations which in the judgement of the City Engineer, the Director of Public Works will interfere with any water pipe, shade tree, drive way, or intersection of streets.

The City Engineer, the Director of Public Works and the Inspector of Wires shall be given notice of the time and date of such hearing and shall provide written recommendations relative to the petition.

No company executing a permit granted hereunder shall allow any other provider the use of said poles or conduits without permission of the City Council, granted after hearing and notice as provided in this section.

The fee for any permit granted hereunder shall be \$500.00.

.2 Removal of equipment upon order of the City Council

The City Council may order the removal or relocation of any equipment installed by permit granted under this section when it determines that the existence or location of said equipment will interfere with the construction or expansion of a public works project. Removal or relocation shall be made without unreasonable delay and shall be done at the expense of the owner. Prior to ordering removal or relocation under this section, the City Council shall provide notice and an opportunity to be heard to the owner of the equipment in question.

.3 Poles installed at request of City

The Wire Inspector may, when it is deemed necessary in the interest of public safety to illuminate a portion or portions of a street, request that a pole be installed on city property for said purpose. Said poles shall be installed at the expense of the provider of power; provided that the City shall bear the cost of power consumed.

The City may attach to said poles, at its own expense, such additional signage and equipment as are deemed necessary for the efficient conduct of its business; provided that the city shall bear the cost of power consumed by any such equipment; and provided further, that the city shall indemnify and hold the provider harmless from any damage or claims arising from the installation of signage or equipment.

.4 Conditions precedent to commencement of work; Limitations on execution of work

Work shall commence within six months of approval of a permit by the City Council. Failure to commence work within the specified time shall render the permit void.

Upon the commencement of work, the permit holder shall file with the City Engineer a plan showing the location of every post or pole to be located on a public way. Said plan shall include a notation of the provider's identifying sign as appearing on the pole.

Prior to the commencement of work, every permit holder shall execute and agreement with the City providing that:

- .1 In every underground conduit, one duct, not less than three inches in diameter, shall be reserved and maintained free of expense for use by the city and that the City and its agents shall be provided access to such conduits upon request;
- .2 On every pole, the City shall have the exclusive use of sufficient space, brackets and attachments for installation of no less than one cable. No other wires or cables shall be installed within twenty-four inches of space reserved for use by the City.
- .3 The provider will indemnify and hold the City harmless from any claims arising from the rights granted it by the City.
- .4 The provider recognizes the city's right to order removal of any equipment upon reasonable notice and will comply with any such order.
- .5 That the company will, as soon as construction is complete, remove thereto such equipment as any conduit or pole is intended to accommodate;
- .6 That all users of a pole or conduit will be notified by the owner if a pole is to be relocated or its use discontinued.

.5 Minimum Standards for Construction and Maintenance of Poles, Conduits, Fixtures and Equipment

No provider of telephone, telegraph, electric power or telecommunications service shall install or construct a pole except in conformance with the following minimum standards:

- .1 Poles shall be of iron or suitable wood;
- .2 Wooden poles shall be painted or stained and no less than 25 feet in height;
- .3 Poles shall be clearly marked, at a height of not less than 5 feet nor more than 7 feet, with the name of the owner and an identifying number;
- .4 Poles shall be set in the ground at a depth of no less than five feet and shall be straight;
- .5 The minimum top circumference of poles shall be fifteen inches;
- .6 The minimum circumference at a height of 6 feet from the butt shall be 24 inches;
- .7 Except for purposes of street lighting, no wire shall be attached at a height of less than 18 feet;
- .8 All wires shall be supported on cross arms or suitable brackets and guarded or braced as required by the Inspector of Wires;
- .9 The distance between poles shall not exceed 132 feet;
- .10 Maintenance, installation, repair or replacement of equipment, poles and conduits shall be performed only on Monday through Saturday between the hours of 8 a.m and 9 p.m.; provided, when in the opinion of the Police Chief, a serious

emergency exists such that immediate repair of equipment is necessary to preserve the public safety, work may be performed at such times and places, to such an extent and with such police details as he may permit.

No provider of telephone, telegraph, electric power or telecommunications services shall permit severed wires or cables, whether or not power is being transmitted through them, to remain connected to poles or other fixtures. Failure to remove a wire or cable within 14 days of having received notice that it has been severed shall be punished in the manner provided in Chapter 40 Section 21D by a fine of \$100.00. Each 24 hour period during which a severed cable or wire remains on a pole or fixture in violation of this ordinance shall be a separate offense, punishable by an additional fine.

SECTION 11.43 SITING AND INSTALLATION OF WIRELESS COMMUNICATIONS EQUIPMENT

(1). This regulation sets forth the requirements for siting and installation of wireless communications systems and equipment in, on and along public rights of way and public airspace in the City of Malden and is applicable to any entity other than the City of Malden.

(2). Siting and installation contemplates use of existing utility poles or structures and does not contemplate installation of new poles or structures. Installation of new poles or structures in and along public rights of way, or use of municipally owned poles shall require a separate license agreement approved by the City of Malden between the Provider and the City of Malden. A municipal pole or structure includes, without limitation, any pole, building, facility, transportation device or sign, or traffic light or sign, or other structure owned by the City of Malden.

(3) This regulation is intended to and shall apply prospectively to all pending petitions under review and all petitions filed. This regulation is intended to and shall apply retroactively to all previously approved petitions and installed wireless communications systems presently located in, on and along public rights of way and public airspace located in the City of Malden.

6.49.01 Definitions:

(1). “Wireless Communications Equipment” means any equipment, systems and/or facilities associated with wireless transmission services in direct contact with, attached, and/or supported by a structure or utility pole, including, without limitation: radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies, cabling, hardware, one or more antenna, radio transceivers, coaxial or fiber-optic cable, tower, base station, metal strands, anchoring equipment, guying equipment, mechanical equipment, electronic equipment, enclosures, assemblages, devices and supporting elements attached and used to generate, receive, transmit or produce a signal used for communication and/or data transmission, including radio/television/satellite/internet broadcast equipment, Personal Wireless Service Facilities (PWSF), Distributed Antenna System (DAS), Small Cell Facilities (SCF), and Cellular on Wheels or Cell on Wheels (COW), whether self-contained or mounted.

(2). The definition of wireless communications equipment is without limitation, and is intended to encompass currently existing systems, equipment and facilities, as well as those which may become available for use with wireless communications as technological advancements occur and systems, equipment and facilities become outdated and outmoded.

(3). “Antenna” means any device affixed to a utility pole which transmits and receives wireless radio signals, whether embedded or external, including without limitation any system of wires, poles, rods, reflecting discs, dishes, whips, or other similar devices used for the transmission or reception of electromagnetic waves.

(4). “Personal Wireless Service Facilities” (PWSF) means amenities and equipment for the provision of personal wireless services.

(5). “Distributed Antenna System” (DAS) means a network of one or more antennas and related fiber optic nodes typically mounted to or located at utility poles which provide access and signal transfer for wireless service providers and includes the equipment location, “hub”, or “hotel” where the DAS network interconnects with the wireless service provider’s facilities to provide the signal transfer services.

(6). “Small Cell Facility” means the antenna, radio, power source and meter, disconnect switch, fiber optic cable, and supporting equipment.

(7). “Cellular on Wheels” or “Cell on Wheels” (COW) means a mobile cell site or base station used to provide temporary cellular network coverage.

(8). “Pole” means a properly constructed structure or utility pole located in or on the public right of way or the utility easement area adjacent to the public right of way which is intended to support or house wireless communications equipment.

(9). “Provider” means any wireless service provider petitioning to site and install wireless communications equipment.

(10). “Provider’s System” means the Provider’s Wireless Communications Equipment.

(11). “Existing” means already lawfully and properly constructed.

(12). “City” means the City of Malden, by and through the Malden City Council.

6.49.02. Definitions subject to modification.

From time to time additional definitions may be added at the City’s discretion.

6.49.03. Review authority.

In accordance with MASSACHUSETTS GENERAL LAWS c. 166, the City Council shall review and approve all petitions for licenses to install wireless communications equipment on Poles within the City of Malden. The City Council shall receive input from the City Inspector of Wires, City Building Commissioner and City Engineer prior to approval of any petition. Approval shall be consistent with the provisions contained herein and all other relevant federal, Commonwealth and local regulations.

6.49.04. Completeness of Petition Required.

(1). A petition shall not be considered properly filed unless it is complete.

(2). No petition shall be accepted for consideration until all information and documentation required herein has been submitted by the Provider.

(3). The sixty (60) day determination period shall not begin until a petition is properly filed.

(4). A petition shall not be granted unless any further information and documentation requested by the City is submitted by the Provider, and the petition is reviewed by City inspectional officials designated herein.

(5). If the petition fails to comply with the provisions herein, a written notice of denial shall be sent to the Provider

6.49.05. Public property license agreement required.

Any wireless communications equipment intended for installation upon any public utility above or adjacent to City owned lights, structures, utility poles, traffic poles or fixtures, shall be subject to a license agreement between the Provider and the City, shall require annual inspection, and shall be subject to a bi-annual inspection fee of \$500.00 per installation.

6.49.06. Dimensions and appearance.

(1). All wireless communications equipment shall be designed and installed in accordance with industry safety codes, regulations and standards as they exist at the time of installation, and shall comply with all codes, regulations and standards as amended from time to time.

(2) All wireless communications equipment shall be limited to an antenna array no larger than 48-inch in height and 36-inches in width and one equipment cabinet of less than 7-cubic feet in exterior volume.

(3) All cables between the antenna, mounting bracket and the equipment cabinet shall be concealed within a sleeve.

(4). All wireless communications equipment shall be installed with adherence to minimum clearance requirements between communications attachments and power attachments,

(5) Antenna arrays and equipment cabinets shall be mounted directly to any utility pole or structure no more than 4-inches from the pole or structure, with no down tilt, at least 16-feet above ground level using a bracket designed to withstand anticipated hurricane wind levels for the Malden area designated by the International Building Code. No part of the wireless communications equipment shall extend more than fifty (50) inches above the height of the pole.

(6) Installations must use all design techniques to minimize visual impacts including use of colors for the antenna array, cable sleeves, mounts and equipment cabinet reasonably requested by the Inspector of Wires. The name of the permit holder and permit number shall be stenciled on the side of the equipment to the satisfaction of the Building Commissioner.

(7). Wireless communications equipment attachments will not be permitted via double polling, onto existing double poles, onto poles not suited to manage the weight of wireless communications equipment, or onto poles which will be or become overstressed by any proposed wireless communications equipment.

(8). Wireless communications equipment shall not interfere with public safety or travel in, on and along the public right of way.

(9). The wireless communication equipment installation shall comply with all requirements as deemed necessary by the Director of Permits, Inspections and Planning including height, aesthetics, weight, and projection from the pole to which it is attached.

(10) The wireless communication equipment shall not be mounted to the exterior of a historic or decorative pole.

6.49.07. No adverse effect upon adjacent properties.

No installation of wireless communications equipment shall adversely affect access to or setbacks for any properties or landscaping adjacent to the location of installed wireless communications equipment without the prior express written permission of the owner(s) of such adjacent properties

6.49.08. No adverse effect upon pedestrian or other rights of way or removal of public shade trees.

No installation of wireless communications equipment shall adversely affect free travel along public rights-of-way by all modes of transportation or access to public or private property. No installation shall be allowed that requires the removal of a public street tree.

6.49.09. No adverse effect upon other utilities.

No installation of wireless communications equipment shall adversely affect any existing utilities without the prior express written permission of such utilities owner(s). Installation shall not affect, physically interrupt or interfere with the facilities in the public rights-of-way of other existing utilities or municipal services.

6.49.10. Obligation to minimize harm to public shade trees and repair and restore damages.

Installations shall be chosen to minimize pruning and other adverse impacts to public shade trees during installation and long-term maintenance. Any pruning shall be done under the supervision of the City of Malden Tree Warden or Director of Public Works. Trimming of any branches of over 4-inches in circumference shall require the installation of a new public street tree of at least 6-inches in diameter at a location to be designated by the City's Public Works Director.

The Provider shall, at Provider's sole cost and expense, promptly repair and restore to original condition in accordance with the City's specifications any street pavement, sidewalks or other portions of the right-of-way which were disturbed or disrupted by installation of wireless communications equipment, however and wherever these conditions occurred. Provider shall, to the maximum extent possible, coordinate all installations, repairs and maintenance with the City and other utilities so as to minimize disruption to pedestrian and vehicular traffic, use and access.

6.49.11. Petition Process.

All petitions to install wireless communications equipment must be made in writing, filed with the City Clerk of the City of Malden on behalf of the Malden City Council, with a copy to the City of Malden Permits, Inspections and Planning Director. The sixty (60) day deadline for consideration shall begin upon receipt of a completed petition as described herein.

6.49.12. Contents of Written Petition.

The written petition must include the following information and documentation:

- (1). filing fee payable to the City of Malden of \$500.00 for a single upfront application including up to 5 small wireless facilities with an additional \$100.00 for each small wireless facility beyond five;
- (2). Provider's name, address, contact information, telephone number, and designated agent, attorney, and/or representative contact information;
- (3). Contact information of the individual with whom the City can reach for maintenance, repair, inspection and upkeep information; the Provider shall have a duty to maintain this information and annually provide written confirmation to the City of updated contact information;
- (4). Pole location, number, nearest abutting property address
- (5). Pole Owner(s) name, address and contact information;
- (6). Identification of any other Users of the Pole, whether authorized or not;
- (7). An engineering plan, prepared by a Massachusetts registered professional engineer that includes: a city-wide map and list of all wireless communications equipment owned by the petitioner, an aerial map showing the area around the proposed equipment locations, a photo of the utility pole overlaid with a conceptual diagram of the equipment, plans with the details of the proposed wireless communications equipment and wiring diagram to be installed, all other equipment currently attached to the pole, whether in use or inactive, the area surrounding the Pole and proposed wireless communications system, and any other identifying data in the proposed vicinity;
- (8). Letter or license from the Owner(s) of the Utility Pole, authorizing the installation of the wireless communications system, including and indemnification by the Owner therein as to the structural integrity and soundness of the support the proposed wireless communications equipment;
- (9). An affidavit of a licensed radio frequency engineer that certifies that the wireless communications equipment as installed and operated will not cause interference to any lawfully operated emergency communications system, television, telephone or radio in the surrounding area and an affidavit of a certified radiation safety specialist or RF Safety Officer with Massachusetts experience that demonstrates that the resulting radio frequencies levels from the equipment comply with Federal Communication Commission and Massachusetts Department of Public health and safety standards at the street level and the nearest adjoining occupied building
- (10). Letter or license from the Federal Communications Commission evidencing Provider's authority to transmit and receive wireless telecommunications.
- (11). Written acknowledgment by the Provider of the following, in substantially this form:
"Provider acknowledges that locating wireless systems in, on and along the public right of way

and public airspace of the City affects the City and its inhabitants. Provider acknowledges that Provider's wireless communications equipment is for Provider's commercial enterprise and competitive use and purposes, distinct from any municipal non-profit purpose the City may have to use its public right of way and airspace or to locate municipal equipment. Provider agrees to permit the City to place or attach its own equipment to any pole located within the City, whether owned by the City or not, for municipal use purposes as they arise. The City will notify the Provider if the need arises for the City to place or attach equipment for municipal purposes to Provider's poles located within the City. Provider agrees to pay annual inspectional fees to accommodate use of poles in, on and along public right of way and public airspace within the City."

(12). The City has the right to request any other documentation or information from the Provider to assist the City with making a determination on the written petition.

6.49.13. Timeframe for Review.

Within sixty (60) days following receipt of a complete Petition in accordance with the provisions herein, the City shall hold a public hearing on the Petition and issue a determination granting or denying the petition.

6.49.14. Tolling, review, determination and appeal.

(1). The sixty (60) day review period may be tolled under the following circumstances:

A. The petition is not properly before the City for consideration, in which event the Provider will be notified the petition is not properly filed within the meaning of the provisions herein.

B. The petition remains or is deemed incomplete, in which event the City will notify the Provider in writing as to any additional information, documentation or fee necessary, and the sixty (60) day determination timeframe shall begin to run upon Provider's filing of a complete petition with all information, documentation and fees.

C. If the Provider fails to submit additional information as requested, in which event the City will notify the Provider as to the additional documentation sought, and the sixty (60) day determination timeframe shall begin to run upon Provider's filing of the additional documentation, unless the petition remains incomplete.

D. Upon mutual agreement of the Provider and the City, in which event the Provider and the City shall agree upon the timeframe for extension.

(2). The determination issued by the City shall be in writing, and in the event the petition is denied, the City shall provide the basis for denial in its written determination.

(3). In the event of denial, the Provider shall have the right to appeal the denial via Petition for Review of the City's denial in the Middlesex Superior Court.

(4). In the event of approval, the Provider shall have the right to install wireless communications equipment provided that all requisite permits and inspections are obtained from the City Permits, Inspections and Planning Department.

6.49.15. Requirement to file new petition.

Each petition pertains to a single attachment only. A new petition shall be required in the event of any additional attachment not depicted in an originally approved petition, or substantial replacement, rebuild, or alteration of any wireless communications equipment which was the subject of an originally approved petition. The determination regarding substantial replacement, rebuild and/or alteration shall solely be with the City Director of Planning, Inspections and Permits.

6.49.16. Annual inspection.

A fee of \$270.00 per small wireless facility shall be paid annually for inspection of wireless communication equipment by City Inspectors to insure compliance with the requirements herein. Provider shall be required to request the annual inspection and provide payment of the inspection fee at the time of inspection. At the time of the inspection, Provider shall be required to provide updated contact information to the City Permits, Inspections and Planning Director. Provider's failure to request annual inspection and/or failure to provide payment shall be deemed lack of compliance with the provisions herein and result in an Order to Remove wireless communications equipment.

6.49.17. Order to Remove.

(1). The City reserves the right to order Provider to remove any wireless communications equipment previously permitted hereunder, in the event wireless communications equipment installed no longer complies with the provisions herein, or becomes in a state of disrepair, or becomes inactive, or becomes a danger or poses a threat to the public, or is known, discovered or demonstrated as failing to comply with or adhere to any federal, state or municipal requirements and regulations, including, without limitation, any environmental, health or emissions standards or regulations, or interferes or disrupts City services, utilities or public right-of-way or public airspace, in any way, without limitation.

(2). Written Order to Remove shall be issued by the City Permits, Inspections and Planning Director to the Provider, and the Provider shall remove all wireless communication equipment as ordered within ten (10) calendar days from the date of the Order to Remove.

(3). In the event the Provider fails to remove wireless communications equipment as ordered, within ten (10) calendar days following issuance of Order to Remove, the City shall have the right to remove the wireless communications equipment, at Provider's sole cost and expense. Provider's failure shall be grounds for denial of any petitions filed thereafter.

DRAINAGE

SECTION 11.44

MUNICIPAL STORM DRAINAGE SYSTEM

.1 IN GENERAL

The city shall maintain and, under the direction of the City Engineer, regulate use of a stormwater drainage system for the collection and dispersion of storm water runoff, snow melt runoff and surface water runoff and drainage. The City Engineer may promulgate rules and regulations to effectuate the provisions of this ordinance and may issue permits for use of the storm drainage system upon such terms and conditions as he may deem appropriate.

The City Engineer may suspend access to the municipal storm drainage system without notice whenever necessary to prevent the actual or threatened discharge of prohibited substances into the storm drainage system and, upon failure of any party to comply with such suspension order, may take all reasonable steps to prevent or minimize harm to the public health, safety, welfare or the environment.

.2 PROHIBITED ACTIVITIES

No person shall dump, discharge, cause or allow to be discharged any non-stormwater discharge or pollutant into the municipal storm water drainage system. Pollutants shall include, without limitation, paints, varnishes, solvents, automotive fluids, pesticides, herbicides, fertilizers, sewage, fecal coliform and pathogens, dissolved and particulate metals, animal waste, rock, sand, salt, soils, construction wastes and residues, refuse, rubbish, garbage, litter, and other noxious or offensive matter of any kind.

No person shall construct, use, allow, maintain or continue any connection to the municipal storm water drainage system from indoor drains, sinks or toilets or which allows discharge of wastewater or wash water, whether or not said connection was approved before the effective date of this ordinance.

No person shall obstruct or interfere with the normal flow of stormwater into or out of the municipal storm drain system without prior written approval from the City Engineer.

.3 EXEMPTIONS

Discharge into the municipal storm water system resulting from the following sources shall be exempt from the prohibited activities set forth in Section 11.73.2:

- .1 municipal activities, including but not limited to fire fighting, waterline flushing;
- .2 flow from potable water sources, springs, riparian habitats and wetlands, diverted stream flow and rising groundwater;
- .3 uncontaminated groundwater infiltration as defined in 40 CFR

35.2005(20), uncontaminated pumped groundwater, water from approved exterior foundation drains, crawl space pumps, air conditioning condensations and footing drains, but not including active groundwater dewatering systems;;

.4 discharge from landscape irrigation, lawn watering or individual residential car washing

.5 Discharge from swimming pools which contains one part per million or less of chlorine;

.6 dye-testing, provided that prior verbal notification has been given to the City Engineer;

.7 discharge for which prior written approval has been obtained from the City Engineer as necessary to protect public health, safety and welfare or the environment;

.8 discharge permitted under a permit, waiver or order issued by any state or federal environmental agency, provided that said discharge is in full compliance with the requirements of permit, waiver or order and applicable laws and regulations.

.4 NOTIFICATION OF SPILLS

Any person in control, or in charge of emergency response, at any facility or operation in the city shall immediately, upon becoming aware of a release or threatened release of materials at the facility or operation which could result in discharge of pollutants to the municipal drainage system, take all necessary steps to insure containment and cleanup of the release.

Said person shall immediately notify the police and fire departments of the release of oil or hazardous materials.

The release of non-hazardous materials shall be reported to the City Engineer no later than the following business day.

The person charged with reporting discharge shall provide the City Engineer with written confirmation of all notifications within three business days of the discharge and shall retain, on site, a written record of the discharge and actions taken to prevent its recurrence. Said records shall be retained for no fewer than three years.

.5 ENFORCEMENT

The City Engineer may pursue civil and criminal remedies for violation of this ordinance or any permit or order issued pursuant thereto and may seek injunctive relief to restrain further violations or compel remediation of violations.

The City Engineer may issue written orders to compel compliance with the provisions of this ordinance and may require:

.1 performance of monitoring, analyses and reporting to assure compliance; and

.2 remediation of contamination resulting from violations.

Where remediation is ordered, the City Engineer shall specify the time within which such remediation shall be complete. Said order shall state that, failure to abate the violation or

perform the required remediation within the specified time, may result in the city undertaking such work at the expense of the owner.

The city shall, within 30 days of completing abatement or remediation of a violation, notify the property owner of cost incurred in remediation, including administrative costs. If the amount due is not received within 30 days of notification or within thirty days following a final decision of a court of competent jurisdiction affirming or reducing the costs, the costs shall become a special assessment and shall constitute a lien on the owners property for the amount of said costs. Costs remaining unpaid more than 31 days after becoming due shall accrue interest at the rate provided by law.

SECTION 11.45 STORM WATER MANAGEMENT AND LAND DISTURBANCE REGULATION

.1 APPLICABILITY AND ADMINISTRATION

Except as authorized by the City Engineer in a Land Disturbance Permit or as otherwise permitted by ordinance, no person shall engage in any activity which disturbs

- .1 one acre or more of land that drains to the municipal storm drainage system;
- .2 less than one acre of land but is part of a larger common plan of development or sale that will ultimately disturb one acre or more of land that drains to the municipal storm drainage system.

The following activities shall be exempt from the provisions of this ordinance:

- .1 routine maintenance to maintain the original line, grade, hydraulic capacity or the original purpose of the site;
- .2 normal maintenance and improvement of land in agricultural use as defined by Wetlands Protection Regulation;
- .3 maintenance of existing landscaping, gardens, or lawn areas associated with a single family dwelling;
- .4 construction of fencing that will not substantially alter existing terrain or drainage patterns;
- .5 construction of utilities other than drainage which will not alter terrain and drainage patterns;
- .6 activities that are subject to the Wetlands Protection Act and demonstrate compliance with an Order of Conditions issued by the Conservation Commission.
- .7 normal maintenance or improvement to agricultural or aquacultural land as defined in 310 CMR 10.4.

The City Engineer shall enforce the provisions of this ordinance and may delegate any duties imposed by it to his employees and agents. The Director may adopt rules and regulations for storm water management not inconsistent with the provisions of this ordinance and may waive strict compliance with any requirement of this ordinance where such action is allowed under federal, state or local statutes and regulations, is in the public interest and is not inconsistent with the purpose and intent of this ordinance.

.2 STORMWATER MANAGEMENT PLAN

The Stormwater Management Plan shall fully describe the proposed project in drawings and narrative and shall include:

- .1 a locus map
- .2 existing zoning and land use at the site;
- .3 the proposed land use;
- .4 the location of existing and proposed easements and utilities;
- .5 existing and proposed topography with contours at 2 foot intervals;
- .6 existing site hydrology;
- .7 description and delineation of existing stormwater conveyances, impoundments and wetlands on or adjacent to the site or into which stormwater flows;
- .8 a delineation of 100 year flood plains, if applicable;
- .9 estimated seasonal high groundwater elevation in areas to be used for stormwater retention, detention or infiltration;
- .10 existing and proposed vegetation and ground surfaces with runoff coefficients for each;
- .11 an area drainage map showing pre-construction and post-construction watershed boundaries, drainage area and stormwater flow paths;
- .12 description and drawings of all components of the proposed drainage system including
 - .1 locations, cross sections and profiles of all brooks, streams, drainage swales and their method of stabilization;
 - .2 measures for detention, retention or infiltration of water;
 - .3 measures for the protection of water quality;
 - .4 structural details for all components of the proposed drainage system and stormwater management facilities;
 - .5 specification of materials to be used, construction specifications and typicals, and
 - .6 expected hydrology with supporting calculations;
- .13 proposed improvements, including buildings or other structures, impervious surfaces and drainage facilities, as applicable;
- .14 timing, schedules and sequence of development;
- .15 a maintenance schedule for the construction period.
- .16 such other information as is required by the Water Utilities Department.

.3 LAND DISTURBANCE PERMIT - APPLICATIONS AND PROCEDURES

Application for a Land Disturbance Permit shall be signed by all owners of the property for which the permit is requested and shall be accompanied by all of the following:

- .1 a list of abutters, certified by the Assessor's Office;
- .2 a non-refundable filing fee of \$50.00;
- .3 three copies of an Construction Phase Erosion and Sediment Control Plan as described in 11.74.1.4.
- .4 three copies of a Post-Construction Storm Water Management Plan as described in

Section 11.74.6.

.5 three copies of a Operation and Maintenance Plan for Storm Water Management as described in Section 11.74.7

.6 verification that an additional copy of required materials have been placed on file in the City Clerk's Office. Filing of a completed application shall constitute permission for the City Engineer and his agents to enter the site to verify information contained in the application, to inspect for compliance with permit conditions and to make such tests and take such samplings as may be required to determine compliance with the permit or permit conditions.

The City Engineer may request additional information as he deems necessary to issue a decision on the application.

Within 10 days of receipt of a completed application, the City Engineer shall notify abutters that the application is available for inspection at a time and place designated by the Director and that public comment will be accepted for 21 days from the date of notice. Within 14 days of the expiration of the time for public comment, the Director shall render a decision on the permit application in one of the following forms:

- .1 approve the application and issue the permit;
- .2 approve the application and issue a permit with such conditions, restrictions or modifications as he deems necessary to protect water resources;
- .3 disapprove the application and deny a permit as failing to meet the requirements of this ordinance.

A permit shall be deemed to be approved if the City Engineer fails to take action within the times specified herein and, upon certification by the City Clerk that allowed times have passed, a permit shall be issued by the Water Utilities Department.

Prior to any change or alteration of the permitted plan, the permit holder shall notify the Water Utilities Department in writing. When, in the opinion of the City Engineer, the change or alteration is significant, he may require the permittee to install interim erosion and sedimentation control measure and to submit an amended Land Disturbance Permit applications, which shall conform to the procedures outlined above.

.4 CONSTRUCTION PHASE - EROSION AND SEDIMENT CONTROL PLAN - FORM, CONTENTS & DESIGN STANDARDS

The Erosion and Sediment Control Plan shall be designed so as to:

- .1 minimize the total area of disturbance;
- .2 sequence activities to minimize simultaneous areas of disturbance;
- .3 minimize peak rate runoff in accordance with the Massachusetts Stormwater Policy;
- .4 minimize soil erosion and control sedimentation during construction, provided that prevention of erosion shall take precedence over sedimentation control;
- .5 divert uncontaminated water around disturbed areas;
- .6 maximize groundwater recharge;
- .7 install and maintain all Erosion and Sediment Control measures in accordance with

- product specifications and good engineering practice;
- .8 prevent off-site transport of sediment;
- .9 protect and manage on and off-site material storage areas, including all areas used solely by the permitted project;
- .10 comply with all applicable laws and regulations, including waste disposal, sanitary sewer or septic system regulations, air quality requirements and dust control;
- .11 prevent significant alteration of habitats mapped by the Massachusetts Natural Heritage and Endangered Species Program as endangered, threatened or of special concern, estimated habitats of rare wildlife, certified vernal pools and priority habitats of rare species from the proposed activities;
- .12 institute interim and permanent stabilization measures as soon as practicable but no more than 14 days after construction activity has temporarily or permanently ceased on a specified portion of the site;
- .13 properly manage on-site construction and waste materials;
- .14 prevent off-site vehicle tracking of sediments.

The Erosion and Sediment Control Plan shall be certified by a Professional Engineer or a Certified Professional in Erosion and Sediment Control and contain the following:

- .1 Names, addresses and telephone numbers for the owner, applicant and the person or firm preparing the plan;
- .2 Title, date, north arrow, names of abutters, scale, legend and locus map;
- .3 Location and description of natural features including:
 - .1 watercourses and waterbodies, wetland resource areas and all floodplain information, including the 100 year flood elevation based on the most recent Flood Insurance Rate Map or as calculated by a professional engineer for areas not assessed on maps;
 - .2 existing vegetation including tree lines, canopy layer, shrub layer and ground cover, and trees with a caliper twelve (12) inches or larger, noting specimen trees and forest communities; and
 - .3 habitats mapped by the Massachusetts Natural Heritage and Endangered Species Program as endangered, threatened or of special concern, estimated habitats of rare wildlife, certified vernal pools and priority habitats of rare species within five hundred (500) feet of any construction activity
- .4 Lines of existing abutting streets showing drainage, driveway and curb cut locations;
- .5 existing soil volume and nature of imported soil materials;
- .6 topographical features, including existing and proposed contours at intervals no greater than two (2) feet, with spot elevations provided when needed;
- .7 surveyed property lines showing distances and monument locations, existing and proposed easements, rights-of-way and other encumbrances, the size of the entire parcel and the delineations and number of square feet of land area to be disturbed;
- .8 Drainage patterns and approximate slopes anticipated after major grading activities;
- .9 location, details, and a narrative of the steps taken to conform with the design standards set forth above;
- .10 such other information as is required by the Water Utilities Department.

.5 INSPECTION AND SITE SUPERVISION

The City Engineer may require the permittee to post a surety bond or other acceptable security prior to the start of work under a Land Disturbance Permit. The form of the bond shall be in an amount deemed sufficient to ensure that the work will be completed in accordance with the approved plan and shall be in a form approved by the City Solicitor. The Director may release portions of the bond on a phased project as each phase is completed in compliance with the permit; provided that the bond is not fully released until certification of final completion of the project.

Prior to the start of any permitted land disturbing activity, the City Engineer shall meet with responsible representatives of the permittee to review the permitted plans and their implementation. The permit and associated plans shall be maintained at the site until final certification of completion.

The permittee shall conduct and document weekly inspections to determine the overall effectiveness of the control plan and shall cause additional control or maintenance measures to be taken as needed. The permittee shall submit monthly reports to the Water Utilities Department in a format designated by the City Engineer.

The City Engineer or his agents shall inspect work under an approved permit in conformance with the following schedule:

- .1 erosion and sediment control measures are in place and stabilized;
- .2 site clearing has been substantially completed;
- .3 rough grading has been substantially completed;
- .4 final grading has been substantially completed;
- .5 close of the construction season and
- .6 final stabilization and project completion.

The permittee shall notify the Water Utilities Department no less than two working days before inspection is required.

Upon completion of the work, the permittee shall submit a report, including as-built construction plans, from a Professional Engineer, surveyor or Certified Professional in Erosion and Sediment Control certifying that all erosion and sediment control devices have been completed in accordance with the approved permit or approved changes or modifications to the permit.

.6 POST- CONSTRUCTION STORM WATER MANAGEMENT PLAN - FORM, CONTENTS & DESIGN STANDARDS

The Plan shall be meet the following standards:

- .1 No new stormwater conveyances shall discharge untreated stormwater directly to or cause erosion in wetlands or water of the Commonwealth;
- .2 Post-development peak discharge rates shall not exceed pre-development peak discharge rates;
- .3 Post-development annual recharge to groundwater shall approximate the pre-development recharge rate, based on soil types;

.4 for new development, stormwater management systems shall remove 80% of the average annual load to total suspended solids. This standard will be presumed to be met when:

- .1 suitable nonstructural practices for source control and pollution prevention are implemented;
- .2 stormwater management best practices are sized to capture the prescribed runoff volume; and
- .3 stormwater management best practices are maintained as designed;
- .5 stormwater discharges from areas with higher potential pollutant loads use specific stormwater management best practices, as established in the Stormwater Policy Handbook;
- .6 stormwater discharges to shellfish beds, swimming beaches, cold water fisheries and recharge areas for public water supplies utilize stormwater management best practices approved for critical areas, as established in the Stormwater Policy Handbook;
- .7 for redevelopment, Stormwater Management Standards must be met to the maximum extent practicable through retrofitted or expanded stormwater management systems;
- .8 erosion and sediment controls must prevent impacts during construction activities.

In lieu of meeting one or more of the standards set forth here, an applicant may demonstrate that an equivalent level of environmental protection will be provided.

.7 OPERATION AND MAINTENANCE PLANS

The Operation and Maintenance Plan shall be designed to insure compliance with the permit and shall be signed by the property owners, shall include the name of the owner of each component of the Stormwater Management system and shall contain a maintenance agreement specifying:

- .1 Names and addresses of persons responsible for operation and maintenance of the stormwater management system;
- .2 Names and addresses of the persons responsible for financing maintenance and emergency repairs of the stormwater management system;
- .3 a maintenance schedule for all drainage structures, including swales and ponds;
- .4 a listing of easements with the purpose and location of each and shall include easements providing:
 - .1 access for facility inspections and maintenance;
 - .2 preservation of stormwater runoff conveyance, infiltration and detention areas and facilities, including flood routes for the 100 year storm event;
 - .3 direct maintenance access by heavy equipment to structures requiring regular cleanout.

Unless waived by the City Engineer, easements shall be required for all areas used for off-site stormwater control and shall be recorded in the Middlesex County Registry of Deeds.

.8 ENFORCEMENT

The City Engineer may issue a written order to enforce the provisions of this ordinance, including but not limited to:

- .1 an order to cease and desist from activity pending compliance with this ordinance or a permit issued thereunder;

- .2 maintenance, installation or performance of additional erosion and sediment control measures;
- .3 monitoring, analyses and reporting;
- .4 remediation of erosion and sedimentation resulting directly or indirectly from land disturbing activity.

Where abatement or remediation is required, the order shall set forth a deadline for completion of said abatement or remediation. Said order shall state that, failure to abate the violation or perform the required remediation within the specified time, may result in the city undertaking such work at the expense of the owner.

The city shall, within 30 days of completing abatement or remediation of a violation, notify the property owner of cost incurred in remediation, including administrative costs. If the amount due is not received within 30 days of notification or within thirty days following a final decision of a court of competent jurisdiction affirming or reducing the costs, the costs shall become a special assessment and shall constitute a lien on the owners property for the amount of said costs. Costs remaining unpaid more than 31 days after becoming due shall accrue interest at the rate provided by law.

The City Engineer and his authorized agents may purpose any civil and criminal remedy available in law and in equity to enforce the provisions of this ordinance or permits issued thereunder and may also punish violations in the manner provided in Massachusetts General Laws Chapter 40, Section 21D by a fine of \$300.00. Every twenty-four hours during which a violation exists shall constitute a separate offense punishable by an additional fine.

SECTION 11.46 DISCHARGE OF WATER FROM PRIVATE PROPERTY

The City Engineer may, when he deems it detrimental to the health, safety and welfare of the city, order a property owner to cease and desist from the intentional or negligent discharge of water from his property to property owned or controlled by the city. Failure to comply with any order issued under this section shall be punishable by a fine of \$300.00.

CHAPTER 12

ZONING

SECTION 100

PURPOSE AND INTENT

The purpose and intent of this ordinance is to lessen congestion in the streets; to conserve health; to secure safety from fire, flood, panic and other dangers; to provide adequate light and air; to prevent overcrowding of land; to avoid undue concentration of population; to encourage housing for persons of all income levels; to facilitate the adequate provision of transportation, water, water supply, drainage, sewerage, schools, parks, open space and other public requirements; to conserve the value of land and buildings, including the conservation of natural resources and the prevention of blight and pollution of the environment; to encourage the most appropriate use of land throughout the city, including consideration of the recommendations of the Master Plan; and to preserve and increase amenities by the promulgation of regulations to fulfill these objectives.

The purposes of the Floodplain District are to ensure public safety through reducing the threats to life and personal injury; eliminate new hazards to emergency response officials; prevent the occurrence of public emergencies resulting from water quality, contamination and pollution due to flooding; avoid the loss of utility services which if damaged by flooding would disrupt or shut down the utility network and impact regions of the community beyond the site of flooding; eliminate costs associated with the response and cleanup of flooding conditions; and reduce damage to public and private property resulting from flooding waters.

SECTION 200

ESTABLISHMENT OF DISTRICTS

200. 1

Establishment of Districts

For the purpose of this ordinance, the City of Malden is hereby divided into the following zoning districts:

200. 1. 1

Residence A Districts.

200. 1. 2

Residence B Districts.

200. 1. 3

Residence C Districts.

200. 1. 4

Residential Office (RO) Districts.

200. 1. 5

Neighborhood Business (BN) Districts.

200. 1. 6

Central Business (BC) Districts.

200. 1. 7

Highway Business (BH) Districts.

200. 1. 8

Industrial (I) Districts.

200. 1. 9

Reclamation and Redevelopment Districts.

200. 1. 9. 1

Rowe's Quarry Reclamation and Redevelopment District

200.1.10

Marijuana Establishment Overlay District

200. 2

Zoning Map

These zoning districts are detailed on a map entitled Zoning Map, City of Malden, August 8, 1977, as amended with all boundary lines designated thereon, which map is hereby declared to be part of this ordinance and shall be on file in the office of the City Engineer who shall be responsible for its maintenance and any authorized amendments thereto.

200. 3

Boundaries

The following guidelines shall apply where any uncertainty exists with respect to the boundary of any district as delineated on the zoning map:

200. 3. 1

Boundary lines indicated as a highway, street, alley, railroad, watercourse, or other body of water, shall be construed to be the centerline or middle thereof.

200. 3. 2

Boundary lines which approximate a city boundary are to be considered to be the limits of the city boundary.

200. 3. 3

Boundary lines which are located outside of street lines with distances placed upon the map shall be the distance in feet from the street lines to said boundary lines.

200. 3. 4

Boundary lines located outside of street lines without distances are intended to coincide with lot lines; where a dimensional boundary coincides five (5) feet or less with a lot line the boundary shall be construed to be that lot line.

200. 3. 5

Wherever any uncertainty exists beyond the preceding provisions of this section as to the exact location of a boundary line, the location of such line shall be determined by the Inspector of Buildings.

200. 4

200.4.1

Floodplains

Flood Plain District

The Floodplain District is herein established as an overlay district. The District includes all special flood hazard areas within the City of Malden designated as Zone A or AE, on the Middlesex County Flood Insurance Rate Map (FIRM) issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program. The map panels of the Middlesex County FIRM that are wholly or partially within the City of Malden are panel numbers 25017C0429E, 25017C0433E, 25017C0434E, 25017C0437E, 25017C0441E and 25017C0442E dated June 4, 2010. The exact boundaries of the District may be defined by the 100-year base flood elevations shown on the FIRM and further defined by the Middlesex County Flood Insurance Study (FIS) report dated June 4, 2010. The FIRM and FIS report are incorporated herein by reference and are on file with the City Clerk, Planning Board, Building Inspector, Conservation Commission and Assessor.

200. 4. 2

200. 4. 2. 1

Base Flood Elevation and Floodway Data

Floodway Data In A and AE Zones, along watercourses that have not had a regulatory floodway designated, the best available federal, state, local or other floodway data shall be used to prohibit encroachments in floodways which would result in any increase in flood levels within the community during the occurrence of the base flood discharge.

200. 4. 2. 2

Base Flood Elevation Data In A Zones, base flood elevation data is required for subdivision proposals or other developments of 3 or more lots or more than 15,000 square feet, whichever is the lesser.

SECTION 300

USE REGULATIONS

Note: For the Rowe's Quarry Reclamation and Redevelopment District, see Section 700.14.

300. 1

Basically:

No building, structure, or land shall be used, constructed, erected, placed, altered, or converted, in whole or in part, for any purpose or in any manner other than for one or more of the uses set forth in Section 300.3 as permitted by right, indicated by the word "Yes", or as permitted by special permit, indicated by the letters

"SP". The word "No" indicates the use is prohibited. The letters "SPR" indicate that Site Plan Review is required.

300. 1.1

Except for Marijuana Retailer, Marijuana Cultivator, Independent Marijuana Testing Laboratory, Marijuana Product Manufacturer, Marijuana Research Facility and Marijuana Transporter, where a special permit shall be required by the City Council in accordance with Section 300.20; and except for residential use "dwelling, multifamily, more than six (6) stories but not to exceed seven (7) stories", where a special permit shall be required by the City Council in accordance with Section 300.10 (all structures more than Six Stories), for all residential uses where a Special Permit is required, as indicated by the letters "SP", may be allowed only by Special Permit granted by the Planning Board in conformance with the following controls:

300. 1. 1. 1

For construction of new buildings, compliance with the dimensional controls and parking requirements of this Ordinance.

300. 1. 1. 2

For the addition of a residential use to a lawfully existing building or alteration, conversion or other change to a residential use lawfully existing or begun prior to the first publication of notice of the public hearing on this amendment, the Planning Board must find that any creation or increase in violations of dimensional controls or parking requirements will not be more detrimental to the neighborhood.

300. 1. 1. 3

The Planning Board must find that the residential use is in the interest of the common good.

300. 1. 2

Except as otherwise hereinafter provided, for all institutional, business, industrial and other uses, where a Special Permit is required, as indicated by the letters "SP", the use may be allowed only by Special Permit granted by the Planning Board in conformance with the following controls:

1. For construction of new buildings, compliance with the dimensional controls and parking requirements of this Ordinance.
2. For addition of the use to an existing building, or, for alteration, conversion or other change to a use lawfully existing or begun prior to the first publication of notice of the public hearing on this amendment, the Planning Board must find that any creation or increase in violations of dimensional controls or parking requirements will not be more detrimental to the neighborhood.
3. The Planning Board must find that the traffic and traffic patterns generated by the proposed use will not adversely impact any of the surrounding streets or create a traffic or safety hazard. For purposes of determining traffic impact, the Planning Board may request an independent analysis of traffic data submitted by the petitioner, the cost of which will be borne by the petitioner.
4. The Planning Board must find that the proposed use will not be more detrimental to the neighborhood.
5. The Planning Board must find that the proposed use is not in conflict with surrounding land uses.
6. The Planning Board must find that the proposed use is in the interest of the common good.
7. The owner of the property shall install, repair or replace sidewalks, driveways and perform necessary

incidental work adjacent to the property to the satisfaction of the DPW Director; in the event the sidewalks and driveways are in satisfactory condition, as determined by the DPW Director, the owner of the property shall contribute to the Community Improvement Fund of the ward in which the property is located an amount equivalent to the cost of replacing the sidewalks, driveways and incidental work. The estimated cost shall be determined by the DPW Director in accordance with Engineering cost estimates done for the City of Malden in preparation for replacement of sidewalks pursuant to MGL Chapter 90.

300.1.3

The following uses are expressly prohibited anywhere in the City and there shall be no variance of any of these provisions:

- .1** Raising or keeping of livestock, fowl or any other animals, accessory to any residential, institutional, business, industrial or other use.
- .2** Except and only if allowed by special permit as provided by this Ordinance as a Marijuana Establishment; and except for personal growing of no more than six plants by an individual for personal use at his/her residence per MGL c. 94G §7 (2) and provided no more than twelve plants are cultivated if more than one adult resides therein, and provided this exception does not supersede and shall not be construed to limit landlord and/or property owner rights if said landlord and/or property owner prohibits tenants/occupants from cultivating plants, the raising of marijuana for individual, personal, family, caregiver/caretaker, provider or any other medicinal purposes, accessory to any residential, institutional, business, industrial or other use.
- .3** Except and only if allowed by special permit as provided by this Ordinance as a Marijuana Establishment, the sale, lease, rental, dispensing or any means of distribution of any accessories, supplies, equipment related to the growing, cultivation or processing of marijuana or products containing marijuana, as a principal use or use accessory to any existing or new residential, institutional, business, industrial or other use or use legally existing or begun prior to the first publication of notice of the public hearing on this amendment of the ordinance.
- .4** Marijuana Social Consumption Establishments are expressly prohibited anywhere in the City, including as an accessory use to any other use.

300. 2

Exceptions:

The use regulations of this ordinance shall not prohibit, regulate, or restrict the use of land, buildings, or structures for religious purposes or for educational purposes on land owned or leased by the Commonwealth of Massachusetts or any of its agencies, subdivisions, or bodies politic or by a religious sect or denomination, or by a non-profit educational corporation, or by the City of Malden, excluding any of its agencies, subdivisions, or bodies politic.

300.3**Use Regulations:**

Uses of land, buildings and structures shall be regulated throughout the City of Malden as herein set forth:

Section Number	Use	A	B	C	RO	BN	BC	BH	I1	I2	ME OVERLAY DISTRICT
<u>300.3.1</u>	<u>Agriculture</u>	Yes	Yes	Yes	No	No	No	No	No	No	
<u>300.3.2</u>	<u>Residential</u>										--
300.3.2.1	Dwelling, Single Family	Yes	Yes	Yes	Yes	Yes	No	No	No	No	--
300.3.2.2	Dwelling, Two Family	No	Yes	Yes	Yes	Yes	No	No	No	No	--
300.3.2.3	Dwelling, Three & Four Family	No	SP	SP	SP	SP	No	SP	No	No	--
300.3.2.4	Dwelling, Town or Row	No	SP	SP	SP	SP	SP	SP	No	No	--
300.3.2.5	Dwelling, Multi-family, up to 3 stories inclusive	No	SP	SP	SP	SP	SP	SP	No	No	--
300.3.2.6	Dwelling, Multi-family, more than three stories but not exceeding 6 stories	No	No	No	No	No	SP	No	No	No	--
300.3.2.7	Dwelling, Multi-family, more than six (6) stories but not exceeding seven (7) stories	No	No	No	No	No	SP	No	No	No	--
300.3.2.8	DELETED										--
300.3.2.9	Dwelling, Group	Yes	No	Yes	Yes	Yes	Yes	No	No	No	--
300.3.2.10	Rooming House	No	No	SP	No	No	No	No	No	No	--
300.3.2.11	Manufactured Home	SP*	SP*	SP*	SP*	SP*	SP*	SP*	SP*	SP*	--
300.3.2.12	Planned Unit Development	No	No	SP	SP	No	No	No	No	No	--
300.3.2.13	Dwelling, Cohousing	No	No	No	SP	No	No	No	No	No	--

Section Number	Use	A	B	C	RO	BN	BC	BH	I1	I2	ME OVERLAY DISTRICT
<u>300. 3. 3</u>	<u>Institutional Use</u>										
300. 3. 3. 1	Club or Lodge	No	No	No	Yes	No	Yes	Yes	Yes	Yes	--
300. 3. 3. 2	Day Care Centers	Yes	No	Yes	Yes	SP	Yes	Yes	Yes	Yes	--
300. 3. 3. 3	Hospitals	SP	SP	SP	Yes	Yes	Yes	Yes	No	No	--
300. 3. 3. 4	Non-Profit School	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	No	--
300. 3. 3. 5	Religious Facilities	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	--
<u>300. 3. 4</u>	<u>Business Uses</u>										
300. 3. 4. 1	DELETED	---	---	---	---	---	---	---	---	---	--
300. 3. 4. 2	Business School	No	No	No	Yes	SP	Yes	SP	SP	SP	--
300. 3. 4. 3	Funeral Home	SP	SP	SP	Yes	Yes	Yes	Yes	No	No	--
300. 3. 4. 4	Gasoline Filling & Service Station	No	No	No	No	SP	No	SP	SP	SP	--
300. 3. 4. 5	Greenhouse	No	No	No	No	Yes	No	Yes	No	No	--
300. 3. 4. 6	Motel - Hotel	No	No	No	No	No	SP	SP	SP	SP	--
300. 3. 4. 7	Nursing or Convalescent Home	No	Yes	Yes	Yes	Yes	SP	Yes	No	No	--
300. 3. 4. 8	Medical Center	No	No	No	SP	SP	SP	SP	SP	SP	--
300. 3. 4. 9	Offices, General	No	No	No	Yes	Yes	Yes	Yes	Yes	Yes	--
300. 3. 4.10	Recreation, Gainful Business	No	No	No	No	Yes	Yes	Yes	Yes	Yes	--
300. 3. 4.10. 1	Recreation, Gainful Business, Secondary to Principal Club/Lodge	No	No	No	SP	No	SP	SP	SP	SP	--
300. 3. 4.11	Restaurant, "Fast Food" Service, that does not take call-ahead orders and is in excess of 1000 sq. ft. gross floor area	No	No	No	No	No	SP	SP	SP	SP	--

Section Number	Use	A	B	C	RO	BN	BC	BH	I1	I2	ME OVERLAY DISTRICT
300. 3. 4.12	Restaurant, All Other	No	No	No	No	SP	Yes	SP	SP	SP	--
300. 3. 4.13	Retail Sales										--
300. 3.4.13.1	Less than 5,000 sq. feet gross floor area	No	No	No	No	Yes	Yes	Yes	Yes	Yes	--
300. 3.4.13.2	5,000 Sq. Feet or more gross floor area	No	No	No	No	SP	SP	SP	SP	SP	--
300. 3. 4.14	Retail Sales, only in conjunction with On Site Manufacturing, Warehousing, Wholesaling & Distribution	No	No	No	No	No	No	No	Yes	Yes	--
300. 3. 4.15	Retail Services	No	No	No	Yes	Yes	Yes	Yes	Yes	Yes	--
300. 3. 4.16	Adult Bookstore	No	No	No	No	No	No	No	SP	SP	--
300. 3. 4.17	Adult Motion Picture Theater	No	No	No	No	No	No	No	SP	SP	--
300. 3. 4.18	Planned Development	No	No	No	No	No	No	SP	No	No	--
300. 3. 4.19	Adult Club	No	No	No	No	No	No	No	SP	SP	--
300. 3. 4.20	Body Art	No	No	No	No	SP	No	No	SP	SP	--
300. 3. 4.21	Drive Thru	No	No	No	No	SP	SP	SP	SP	SP	--
300. 3. 4.22	Convenience Store	No	No	SP	No	SP	Yes	SP	SP	SP	--
300. 3. 4.23	Supermarket	No	No	No	No	SP	Yes	SP	SP	SP	--
300. 3. 4.24	Substance Abuse Treatment Center	No	No	No	No	No	No	SP	SP	SP	--
300.3.4.25	Licensed Massage Therapy Salon	No	No	No	SP	SP	SP	SP	SP	SP	--
300.3.4.26	Medical Marijuana Treatment Center	No	No	No	No	No	No	No	SP	SP	--
300.3.4.27	Adult Day Health Center	No	No	No	No	No	No	SP	SP	SP	--

Section Number	Use	A	B	C	RO	BN	BC	BH	I1	I2	--
300.3.4.28	Kennel	No	No	No	No	SP	SP	SP	SP	SP	--
300.3.4.29	Marijuana Retailer	No	No	No	No	No	No	SP	SP	SP	SP
300. 3. 5	<u>Industrial Uses</u>										
300. 3. 5. 1	Building Construction & Contracting	No	No	No	No	No	No	Yes	Yes	Yes	--
300. 3. 5. 2	Manufacturing and Repair	No	No	No	No	No	No	No	Yes	Yes	--
300. 3. 5. 3	Marina	No	No	No	No	No	No	No	Yes	Yes	--
300. 3. 5. 4	Motor Vehicle Repair Shop	No	No	No	No	No	No	SP	SP	SP	--
300. 3. 5. 5	Warehouse	No	No	No	No	No	Yes	SP	SP	SP	--
300. 3. 5. 6	Wholesale and Distribution	No	No	No	No	No	No	SP	SP	SP	--
300. 3. 5. 7	Self-Storage Facilities	No	No	No	No	No	No	No	SP	SP	--
300. 3. 5. 8	Research and Development	No	No	No	No	No	SP	SP	Yes	Yes	--
300. 3. 5. 9	Towing	No	No	No	No	No	No	SP	SP	SP	--
300. 3. 5. 10	Light Manufacturing	No	No	No	No	SP	SP	SP	Yes	Yes	--
300.3.5.11	Asphalt, Brick, Concrete & Soil Recycling	No	No	No	No	No	No	No	SP	SP	--
300.3.5.12	Marijuana Cultivator	No	No	No	No	No	No	SP	SP	SP	SP
300.3.5.13	Independent Marijuana Testing Laboratory	No	No	No	No	No	No	SP	SP	SP	SP
300.3.5.14	Marijuana Product Manufacturer	No	No	No	No	No	No	SP	SP	SP	SP
300.3.5.15	Marijuana Research Facility	No	No	No	No	No	No	SP	SP	SP	SP
300.3.5.16	Marijuana Transporter	No	No	No	No	No	No	SP	SP	SP	SP
<u>300. 3. 6</u>	<u>Other Uses</u>										--
300. 3. 6. 1	Fill	SP	SP	SP	SP	SP	SP	SP	SP	SP	--

Section Number	Use	A	B	C	RO	BN	BC	BH	I1	I2	ME Overlay District
300.3.6.2	Parking Facilities, Offsite	SP	SP	SP	SP	SP	SP	SP	SP	SP	--
300.3.6.3	Flood Plain - All Uses	SP	SP	SP	SP	SP	SP	SP	SP	SP	--
300.3.6.4	Artist Live/Work Space	No	No	No	No	No	Yes	No	No	No	--
300.3.6.5	Public Service Corporation	No	No	No	No	Yes	Yes	Yes	Yes	Yes	--
300.3.6.6	Marijuana Social Consumption Establishment	No	No	No	No	No	No	No	No	No	--

* In the event of a situation as described in Section 300.4.1, the Building Inspector, at his discretion, may issue a temporary unrenovable occupancy permit not to exceed sixty (60) days, providing a Special Permit is applied for prior to issuance of said temporary occupancy permit.

** For accessory uses, see Section 400.7.7.

- 300.4** Except in the Flood Plain District, a **Manufactured Home** hereafter erected, placed, constructed, altered, converted or otherwise changed may be allowed only by special permit by the Board of Appeal providing the placing of the manufactured home shall only be as follows:
- 300.4.1** As a temporary quarter while an existing single family or two (2) family dwelling is being rehabilitated, relocated or reconstructed due to any governmental action, accident or "act of God."
- 300.4.2** A certificate of occupancy shall be valid for 180 days and renewable only once after the original 180 days except that such certificate shall be renewable in the Flood Plain District only in conformance with the State Building Code regulations for permanent mobile homes.
- 300.4.3** The above certificate of occupancy shall only be issued upon submission of an application to build a single or two (2) family dwelling.
- 300.4.4** Any action the Board of Appeal may take on this special Permit does not prejudice any future appeals on this parcel that may come before them.
- 300.5** **Planned Unit Development** hereafter erected, placed, constructed, altered, converted, or otherwise changed may be allowed only by special permit in Residence C and Residential Office (RO) Districts by the Board of Appeal in conformance with the following controls:
- 300.5.1** In addition to those uses permitted in a Residential Office (RO) District, the following uses shall be permitted:
- 300.5.1.1** Day Nursery.
- 300.5.1.2** Recreation for Gainful Business.
- 300.5.1.3** Restaurants, excluding "Fast Food."
- 300.5.1.4** Convenience Retail Sales.

- 300. 5. 1. 5** Convenience Retail Services.
- 300. 5. 2** The minimum and maximum dimensional control requirements of this ordinance shall be in full compliance unless specifically changed in this section.
- 300. 5. 3** Minimum of fifty (50) dwelling units.
- 300. 5. 4** Maximum building coverage of the principal building or buildings of any lot is to be thirty (30) percent of the total lot area, except this maximum coverage may be exceeded by twenty (20) percent for a total combined maximum building coverage of fifty (50) percent providing that the offstreet parking is to be in the basement and/or cellar of the building and the land that would normally be used for offstreet parking would be devoted to usable open space as required in the dimensional controls.
- 300. 5. 5** Maximum gross floor area of business services shall be twenty (20) percent of the gross floor area of all buildings containing dwelling units in the development.
- 300. 5. 6** The Board of Appeal must find that this special permit will not adversely affect the surrounding area.
- 300. 6** **Fast Food Service** type restaurant that does not take call-ahead orders and is in excess of 1,000 square feet gross floor area hereafter erected, placed, constructed, altered, converted, or otherwise changed may be allowed only by special permit granted by the Planning Board in conformance with the following requirements:
- 300. 6. 1** For construction of new buildings, compliance with the dimensional controls and parking requirements of this Ordinance.
- 300. 6. 2** For the addition of a restaurant use to a building or alteration, conversion or other change to a restaurant use, lawfully existing or begun prior to the first publication of notice of the public hearing on this amendment, the Planning Board must find that any creation or increase in violations of dimensional controls or parking requirements will not be more detrimental to the neighborhood.
- 300. 6. 3** Landscaping and screening plans, prepared by a Landscape Architect, shall be submitted.
- 300. 6. 4** Offstreet parking shall not be permitted in the required setback of the lot.
- 300. 6. 5** Parallel offstreet parking shall not be permitted on the lot.
- 300. 6. 6** The restaurant must not, in any way, create a traffic or safety hazard.
- 300. 6. 7** There must be adequate protection against the creation and spread of litter and debris.
- 300. 6. 8** The Planning Board must find that the restaurant is in the interest of the common good.
- 300. 7** **Restaurants** erected, constructed, placed, altered, converted or otherwise changed may be allowed in Neighborhood Business (BN), Highway Business (HB) and Industrial (I1 and I2) districts by special permit granted by the Planning Board in conformance with the following requirements:
- 300. 7. 1** For construction of new buildings, compliance with the dimensional controls and parking requirements of this Ordinance.
- 300. 7. 2** For the addition of a restaurant use to a building or alteration, conversion or other change to a restaurant use, lawfully existing or begun prior to the first publication of notice of the public hearing on this amendment, the Planning Board must find that any creation or increase in violations of dimensional controls or parking requirements will not be more

detrimental to the neighborhood.

300. 7. 3 The Planning Board must find that the proposal will not be more detrimental to the neighborhood.

300. 7. 4 The Planning Board must find that the proposal is not in conflict with surrounding land uses.

300. 7. 5 The Planning Board must find that the proposal is in the interest of the common good.

300. 7. 6 The owner of the property shall install, repair or replace sidewalks, driveways and perform necessary incidental work adjacent to the property to the satisfaction of the DPW Director.

300. 8 **"Fill"** operations shall be conducted only by special permit granted by the Planning Board provided the following are in compliance:

300. 8. 1 Drawings to a scale not greater than one hundred (100) feet to an inch with contours shown at least at two (2) foot intervals indicating the elevations before and after the proposed filling, and the location of the area to be worked are to be submitted to the Inspector of Buildings, Planning Board, City Engineer, and Board of Health. A concept plan for future use of the land must also be submitted.

300. 8. 2 Permits issued under this "Fill" operation ordinance by the Inspector of Buildings shall be valid for six (6) months from date of issue and may be renewed by the Inspector of Buildings with the approval of the Board of Appeal.

300. 8. 3 This "Fill" operation ordinance shall not apply to the following: single and two (2) family house lots of 10,000 square feet of land area; where such removal is incidental to and in connection with operations by the city of Malden; with the construction of a building on the premises for which a building permit has been issued in accordance with the building code; and with the development of an approved subdivision. This subdivision exception shall not exceed a period of one (1) year from the date of the Planning Board's endorsement on the final approved subdivision plan and upon expiration of this one (1) year period this ordinance shall be in full effect.

300. 8. 4 The "Fill" operation must be found to not be detrimental to the surrounding neighborhood.

300. 9 **Offsite offstreet parking lots** hereafter constructed, altered, converted, or otherwise changed may be allowed in all Districts only by special permit granted by the Planning Board in conformance with the following controls:

300. 9. 1 In Residential districts;

300. 9. 1. 1 The parking facility shall be used only by residential occupants in areas where existing offstreet spaces on residential lots are presently inadequate in number and where the provision of such a facility would improve parking and traffic on adjacent streets.

300. 9. 1. 2 Tenants or users of said facilities shall be limited to residences within three hundred (300) feet of the lot, as measured along the closest line of access.

300. 9. 1. 3 All vehicles shall be solely for the private or professional use of their owners and none may be commercial vehicles of more than one-half (1/2) ton type or capacity.

300. 9. 1. 4 Maximum height shall be no more than thirty (30) feet or two (2) stories.

300. 9. 2 In all districts;

300. 9. 2. 1 All surfaces used or intended for the use of wheeled vehicles shall be paved with an all-weather dust free pavement.

300. 9. 2. 2 Lights shall be provided and so located as to be shielded from streets and adjoining properties.

- 300. 9. 2. 3** Compliance with all other applicable sections of this ordinance.
- 300. 9. 2. 4** The Planning Board must find that the facility is not detrimental to the public good.
- 300. 9. 2. 5** In all districts, landscaped areas shall be provided onsite in accordance with the following:
- .1 For every parking space, ten (10) square feet of landscaped space shall be provided onsite.
 - .2 A minimum of 75% of the front yard setback, each side yard setback and the rear yard setback of the parking facility shall be landscaped with plantings or other permeable landscaping materials.
- 300. 9. 2. 6** In all districts, bicycle parking shall be provided onsite in accordance with the following:
- .1 For every parking space, 0.1 bicycle racks is required; provided, however, in all cases, a minimum of one bicycle rack is required. For computation, any fractional number shall be rounded up to the next whole number.
 - .2 Bicycle parking may be located in landscaped areas.
- 300.10** **All Structures More Than Six Stories** but no more than twelve (12) stories in height may be allowed in Central Business (BC) districts only by Special Permit granted by the City Council in conformance with the dimensional controls of this ordinance; except for properties designated by the Residential Incentive Overlay (RIO) in the Central Business (BC) District. Properties developed using the RIO shall be governed by Section 300.27 of this ordinance. Any Special Permit granted hereunder may be authorized only under the following terms and conditions:
- 300.10. 1** The City Council must find that traffic and circulation shall be adequate following project development. The applicant shall supply traffic studies of the existing traffic on surrounding streets as well as the projected loads resulting from the construction of the proposed building. Such studies shall be performed by a qualified traffic engineer in conformance with the criteria established by the Transportation Research Board of the National Research Council, and shall include AM and PM hourly peaks. For the purposes of this Special Permit, "Adequate" shall mean a level of service of "D" or better.
- 300.10. 2** The City Council must find that the proposed structure will create no significant new shadow for any properties in Residence A and B zoning districts. To insure the protection of solar access for adjacent neighborhoods, the developer must provide shadow analysis, drawn by a registered architect, for 9:00 A.M., 12:00 Noon, and 3:00 P.M. based upon standard time, for the winter solstice (December 21), spring and fall equinoxes (March 21 and September 21) and summer solstice (June 21).
- 300.10. 3** The City Council must find that the proposed structure will not be detrimental to the health, welfare, safety, peace and enjoyment of the nearby residents, and will not cause increases in loitering, disturbances, disorderly conduct, or excessive noise, or a decrease in air quality, and further, the Board must find the proposed use is in the interest of the public good.
- 300.10. 4** The City Council must find that water, sewer and drainage systems will be adequate following project development and that adequate provisions have been made for solid waste removal and recycling. The applicant shall provide studies, performed by a registered engineer, showing the impact the proposed development will have on existing water, sewer and drainage systems. For purposes of this Special Permit, a sewer shall be deemed "adequate" if its capacity is sufficient to accept discharge equivalent to the maximum discharge per dwelling unit, as set forth in Department of

Environmental Protection standards; a drainage system shall be deemed "adequate if its capacity is sufficient to accept post-development runoff resulting from a 10 year storm; a water system shall be deemed "adequate" if development will result in no reduction to existing pressure and volume.

300.11

Flood Plain Districts. All development in the floodplain district, including structural and non-structural activities must be in compliance with all of the following:

- Chapter 131 Section 40 of the Massachusetts General Laws;
- the Flood Resistant Construction sections of the Massachusetts State Building Code;
- the Wetlands Protection Regulations, Inland Wetlands, Restrictions, Coastal Wetlands Restrictions of DEP, the Minimum Requirements for the Subsurface Disposal of Sanitary Sewage as promulgated by the Department of Environmental Protection.

No variances from the provisions and requirements of the above referenced regulations may be granted except in accordance with the variance procedures outlined therein.

300.11. 1

At the time of application, the petitioner shall submit five copies of all plans, including existing contour intervals of site and elevations of existing structures.

300.11. 2

The proposed use shall comply in all respects with the provisions of the underlying district.

300.11. 3

Along watercourses that have a designated Regulatory Floodway, encroachments which would result in any increase in flood levels within the community during the occurrence of the base flood discharge. In Zone A the Building Inspector shall obtain, review and reasonably utilize any floodway data available as criteria for requiring that development meet the floodway requirements of this section.

300.11. 4

The Board must find that the work is in the interest of the common good. The following uses of low flood damage potential and causing no obstructions to flood flows are encouraged provided that they are permitted in the underlying district and do not require structures, fill, or storage of materials or equipment:

- Agricultural uses;
- Forestry and nursery uses;
- Outdoor recreational uses;
- Conservation of water, plants or wildlife;
- Wildlife management areas;
- Temporary non-residential structures used in connection with fishing, growing, harvesting, storage, or sale of crops raised in the premises.

300.11. 5

All applicable federal and state permits shall be obtained before any site work may be initiated. In a riverine situation, no site work may be initiated that will result in the alteration or relocation of a watercourse until the following have been notified:

- adjacent communities;
- the National Flood Insurance Plan Coordinator for the Massachusetts Office of Water Resources;
- the National Flood Insurance Plan Program Specialist for FEMA Region I

- 300.12** **Planned Development** projects may be allowed by special permit by the Malden Planning Board in the Highway Business (BH) district if said projects are consistent with the special permit criteria of this subsection.
- 300.12. 1** Minimum Lot Size
The minimum lot size for a Planned Development project at the time of application shall be 50 acres.
- 300.12. 2** Temporary Uses
The following uses may be allowed for site preparation of the development project in accordance with the Planned Development special permit:
- 300.12. 2. 1** Batching plants, excavation and gravel operations may be allowed in conformance with the following conditions:
- 300.12. 2. 1. 1** Batching plants shall be located at least 300 feet from any residential structure.
- 300.12. 2. 1. 2** Maximum height measured from finished grade to the top of the structure (not including safety devices) - 80 ft.
- 300.12. 2. 1. 3** All aggregate, other than sand, shall be produced from materials quarried on site.
- 300.12. 2. 1. 4** Batching plants and associated site shall be built and maintained in full compliance with all applicable Mass DEP regulations. Copies of all reports required by DEP shall be sent to the Planning Board.
- 300.12. 2. 1. 5** No batching plant or associated quarry activities shall be permitted blow an elevation that is 20 feet above mean sea level.
- 300.12. 2. 1. 6** The applicant shall provide a surety or mortgage to the satisfaction of the Planning Board to assure an MGL chapter 21E clean site and to insure the regrading of the site in the event that the holder of the special permit is unable to regrade the site in conformance with the Development Master Plan. If the special permit holder ceases operations associated with the above noted temporary uses before the submission or approval of the Development Master Plan, funds from the above noted surety shall be used to regrade the site to conditions that would conform with the Development Master Plan prepared for the Planning Board in accordance with Section 300.22.2.9.
- 300.12. 2. 1. 7** As a condition of the special permit a Development Master Plan (Master Plan) consistent with the criteria and procedures defined in Section 300.22.2.9 shall be filed with the Planning Board within 5 years of receiving a special permit for any or all uses noted in 300.22.2.1 above. A Master Plan shall be required for all property associated with the permitted temporary uses including all property owned by the special permit holder that abuts the temporary uses. The Planning Board shall submit copies of the Master Plan to the Malden Redevelopment Authority and to the City of Revere Planning Board for review and comment. The Planning Board shall have 4 months to review the Master Plan and approve as submitted, approve with conditions or disapprove.
In the event a master plan is deemed incomplete by the Planning Board, a complete plan must be submitted within three months of official notice by the Planning Board, failing which the Building Inspector shall order a cease in the temporary use until reinstituted by the Planning Board. If disapproved, the owner shall have the right to resubmit at any time within the 5 year filing time frame noted above, or if disapproval occurs after the 5 year limit, within 3 months of official notification of this original disapproval.
However, if the Master Plan is not submitted for approval within the specified time period, or if disapproved, or if the time limits above have expired, the special permit holder shall be considered in violation of the special permit conditions and the Building Inspector shall order a stop to all operation and further order removal of all equipment, and furthermore, shall forfeit the security described in 300.22.2.8. Once approved, the owner can petition the Planning Board

at any time for changes to the Master Plan. At said time the Planning Board may require additional information to substantiate the requested change, and shall seek comment from the Revere Planning Board and the Malden Redevelopment Authority.

After approval of the Master Plan the temporary uses shall be deemed permissible for a period of eight years commencing from the date of receiving the special permit for said uses. However, if by a date not less than one year from the end of the eight year period noted above development activity, in general conformance with the Master Plan, has not commenced, the holder of the special permit shall be considered in violation of the special permit conditions. At a minimum, commencement of development activity shall be construed as the filing of a building permit or subdivision plan that is generally consistent with the approved Master Plan, the completed construction value of which is at least equal to the assessed value of the temporary special permit project or projects. However, if the owner can demonstrate that due to conditions beyond its control, development consistent with the Master Plan cannot proceed, the Planning Board may extend the special permit. Conditions including but not limited to the delays in local, state or federal permitting shall be considered as appropriate conditions to extend the special permit. The extension shall be for a period of time that will result in allowing the operations of temporary uses for a period not to exceed ten years from the date of the issuance of the special permit. If development activity does not commence during the time period associated with the extension all temporary uses shall cease.

In the instance where development activity does occur within the required time frame the Planning Board may allow, upon petition of the special permit holder, a continuation of the special permit temporary uses for a period not to exceed 5 years if it can be shown that said uses will not impede development consistent with the approved Master Plan. However, in no instance shall the operation of any temporary use exceed thirteen years.

Upon request for an extension of a special permit the Planning Board may require the submission of additional or updated information regarding the Master Plan.

300.12. 2. 1. 8

The recipient of a special permit granted pursuant to this section shall provide the Planning Board with security for the performance of such recipient's obligation to prepare and file a Development Master Plan in conformance with the criteria and procedures of this section. The recipient of a special permit at the time of the issuance of said special permit shall deposit one of the following with the Planning Board:

1. Cash in the amount of \$100,000;
2. A performance bond and/or other security as the Planning Board may deem adequate to provide sufficient funds for the preparation of a Development Master Plan by the Planning Board in the event that the recipient of the special permit fails to do so in a timely manner. The amount of said financial instrument shall have a present value from the time of issuance of not less than \$150,000.

Such security shall be deposited under terms which make the security available to the Planning Board to use for the development by it of a Master Plan in the event that the recipient of the special permit fails to do so.

300.12. 2. 1. 9

The Development Master Plan (Master Plan) shall have the following requirements:

300.12. 2. 1. 9. 1

Preparation Criteria and Copies

All site plans shall be prepared and stamped by a registered land surveyor or professional engineer. All original site plans shall be prepared on standard 24"x36" mylar sheets at a minimum scale of 1"=40'. Elevation drawings, where

required, shall be drawn at a minimum scale of 1"=8'. Ten copies of all site plans and other materials constituting the Master Plan submission shall be provided to the Malden Planning Board.

300.12. 2. 1. 9. 2 Information and Analyses

- 300.12. 2. 1. 9. 2. 1** The location and boundaries of the lot, adjacent streets or ways, and the location and owners' names of all adjacent properties.
- 300.12. 2. 1. 9. 2. 2** Existing topography to include contours (two foot intervals), the location of wetlands, streams, water bodies, drainage swales, areas subject to flooding, and unique natural land features.
- 300.12. 2. 1. 9. 2. 3** A site regrading plan indicating the proposed reconstructed topography of the development site. The regrading plan shall be at two foot intervals; be conducive to the implementation of the Master Plan; and shall indicate the nature and proposed compacting density of all materials used in regrading.
- 300.12. 2. 1. 9. 2. 4** A site plan illustrating the proposed general location of structures, including estimates of dimensions, foot print, total gross floor area, number of stories, general floor elevations and building height(s).
- 300.12. 2. 1. 9. 2. 5** An overall site access plan indicating the preferred access plan and alternatives. To include site plan schematic indicating the probable location of parking and loading areas, driveways, access and egress points.
- 300.12. 2. 1. 9. 2. 6** The locations, description and capacity of all existing and proposed sanitary sewer, water supply and storm drainage systems, refuse and other waste disposal methods and any other public utility or communication easement or installation.
- 300.12. 2. 1. 9. 2. 7** Based on an estimated level of development an analysis of the impact of storm water runoff on adjacent and down stream water bodies and water tables and an analysis of the impacts to the regional waste water system.
- 300.12. 2. 1. 9. 2. 8** Identification of landscape features both natural and proposed. To include the location and a description of buffer areas, screening, fencing and planting designed to protect and enhance the surrounding areas.
- 300.12. 2. 1. 9. 2. 9** The location and description of proposed publicly accessible open space and/or recreation areas, if applicable.
- 300.12. 2. 1. 9. 2.10** The Master Plan shall provide a traffic study to include at a minimum the average daily traffic and peak hour traffic on the existing roadways that service the site (it shall be collected within one year before the Master Plan submission); projected vehicle trips after full development of the site; level of service analyses of affected intersections, before and after development; and suggested mitigation measures to insure that the level of service operates at level "D" or better. As much as is possible all traffic information should be related to roadway alterations being considered by local, state or federal authorities.
- 300.12. 2. 1. 9. 2.11** Information regarding the potential dangers of erosion, destabilization of ledges and sedimentation caused by the operation and maintenance of the proposed development and the mitigation efforts proposed.
- 300.12. 2. 1. 9. 2.12** A site plan indicating the proposed development scenario with a visual analysis indicating the visual impacts of the proposed development on all surrounding neighborhoods.
- 300.12. 2. 1. 9. 2.13** An analysis of the estimated net fiscal impacts to the City of Malden as a result of development. To be prepared in one year, three year and ten year formats.
- 300.12. 2. 1. 9. 2.14** As part of the Master Plan submission to the Planning Board, the special permit holder shall submit the name of the individual or entity chosen to develop the area covered by the Master Plan, along with a copy of its agreement with such developer. Information regarding the experience and financial capabilities of the proposed development firm or

team with examples of prior projects that are of a similar size and scope shall also be provided.

300.12. 3

Special Permit Uses

All uses permitted by right and special permit in the BH district, except motor vehicle repair shops, shall be permitted as part of the initial special permit for a Planned Development. However, all projects or any individual element must be generally consistent with the approved Master Plan or the Master Plan with approved amendments. The dimensional controls applicable in the Table of Intensity Regulations (section 400.1) shall apply to each use proposed, except where superseded by the following:

300.12. 3. 1

minimum lot size: 2 acres

300.12. 3. 2

building coverage per lot: 50%-not including parking areas or structures.

300.12. 3. 3

minimum yard setbacks: side yards-50 feet; front and rear yards - 100 feet.

300.12. 3. 4

maximum height 96 feet and 8 stories.

300.12. 4

The Planning Board must find that the Planned development is in the interest of the common good.

300.12. 5

The Planning Board must find that the Planned Development will not adversely impact the surrounding area.

300.12. 6

The Planning Board must find that traffic generated by both temporary and permanent uses will not adversely impact any of the surrounding residential streets.

300.13

RESIDENTIAL INCENTIVE OVERLAY (RIO) AND RESIDENTIAL INCENTIVE OVERLAY (RIO-B)

300.13.1

Residential Incentive Overlay (RIO) and Residential Incentive Overlay B (RIO-B). A RIO, consistent with the recommendations of the Malden Square Zoning and Design Plan dated March 1998, and an RIO-B, consistent with the City of Malden Master Plan dated July 2010, may be applied over parcels within the Central Business (BC) District. The overlay shall not restrict property owner rights relative to the underlying zone. However, if the owner elects to use the RIO or RIO-B for development purposes, development shall conform to the following regulations, and other regulations that may apply consistent with the ordinances of the City of Malden:

300.13.1.2

The RIO shall permit multi-family residential use by right up to 12 stories and a height of 120 feet from the highest point of the established grade.

300.13.1.3

The RIO-B shall permit multi-family residential use by right up to 6 stories and a height of 70 feet from the highest point of the established grade.

300.13.1.4

Property located in Central Business, Residential Incentive Overlay and Residential Incentive Overlay B zoning districts may be developed at any one time only in accordance with those regulations for one of the zoning or overlay districts (CB, RIO or RIO-B) and may not be developed simultaneously using the regulations for more than one zoning or overlay district.

300.13. 2

The RIO and RIO-B shall permit all allowed uses in the underlying Central Business Zone at street level. These uses shall not exceed 65% of the total floor area of any floor(s) at grade/street level.

300.13. 3

All uses shall be subject to the same off-street parking requirements as the underlying Central Business Zone. Parking shall be provided on site or in an off-site facility within 400 feet of any property line of the residential property. In the instance where parking is provided off site, but within 400 feet of the residential property, the Malden Traffic

Commission shall certify that said parking is available for use. In no instance shall more than 30% of the required off street parking be permitted in an off-site location. If parking requirements are reduced, the developer/owner shall contribute \$2,000 annually for each space reduced to a City of Malden Parking and Traffic Mitigation Trust Fund to be used at the City's reasonable discretion to mitigate future impacts on traffic and parking and/or for infrastructure improvements to parking and traffic systems

300.13.3.1 Compact Parking Spaces. Notwithstanding the dimensional requirements of Section 500.2.1.1 of this Ordinance, up to 30% of one-site off-street parking spaces may be seven-and-a-half feet in width by seventeen feet in length (7.5'X17') and shall be appropriately designated as restricted for use by compact cars.

300.13.3.2 Car Sharing Program. The developer shall make all reasonable efforts to participate in a car sharing program i.e., "Zip cars", whereby the development provides on-site car sharing program vehicles and designates on-site parking spaces for car sharing program vehicles that are available for use by residents of the development at a cost, typically based on usage (time and mileage); the number of car sharing program vehicles and spaces to be provided on-site by the development shall be based on the following formula: 1 car sharing program vehicles and parking space on-site per 50 residential dwelling units or fraction thereof.

300.13.3.3 Bicycle Parking. Any development shall provide on-site bicycle parking in the form of an inverted U-shaped rack in a designed secured area in accordance with the following:

1. One inverted U shaped rack to accommodate 2 bikes for every 20 residential dwelling units or part thereof above the first 20 residential dwelling units.
2. One inverted U-shaped rack to accommodate 2 bikes for every 10, 000 square feet of floor area of commercial space or part thereof.

Bicycle parking may be provided in an interior and/or covered portion of the development.

300.13. 4 Dimensional Requirements. All allowed uses in the RIO or RIO-B shall be subject to the dimensional requirements contained in Section 400.1 and Section 400.3 (but shall not be subject to the provisions contained in Section 300.10), with the exception of minimum usable open space requirements, which shall be a minimum of 50 square feet per dwelling unit, and density requirement (sf/du) which shall be a minimum of 150 square feet in the RIO or RIO-B. However, the minimum area and frontage requirements, shall apply. Provided, however, that any building that is part of an RIO-B development shall have a minimum yard setback of 10 feet from all sidewalks along Exchange St. and that any building that is a part of an RIO development shall have a minimum yard setback of 10 feet from all sidewalks, and these set-back areas shall be landscaped.

300.13. 5 Historic Structures. Development at a site where a building or buildings have been designated as historic structures by local, state, or federal historic designation statutes, the historic facade or facades of the building or buildings shall be incorporated into the design for the reuse of the building or buildings in question.

300.13. 6 Building Materials and Colors. Development shall have masonry veneer as the majority of the building facade material. The facade shall be defined as the exterior, above grade surface area of the vertical plane of all exterior building walls, not including openings, penetrations, doors, windows and door and window frames and trim. At least 85% of the masonry veneer shall be brick or stone and/or brick or stone facing or other similar products. No more than 15% of the building facade shall be exposed concrete. Rough-hewn cedar shingles, textured exterior plywood, vinyl siding, and

reflective glass shall not be used. Masonry shall not be painted. No stucco shall be used on the exterior of any building in a development. Street level parking that is located under/within a building shall be screened on the exterior with decorative grates or other facade treatment to be approved by the Site Plan Review Committee.

300.13. 7

An area of passive recreation shall be required of all residential developments.

300.13. 8

Any development shall provide commercial space on the street level. Commercial space located at the street level of an RIO or RIO-B development shall have large display windows and transparent doors along the street level facade to maintain strong visual connections between the interior and exterior. Provide a minimum of 50% of the linear frontage of the commercial facade for doors and windows with non-reflective glass. Install doors with a minimum of 50% of their area in clear glass.

300.13. 9

Refuse Removal Facilities. All multi-family residential developments shall provide a trash compactor room and facility on the premises and adequate access shall be provided for the servicing of said room and facility. Other provisions for the disposal of refuse may be permitted at the discretion of the Building Inspector, including dumpsters, if in the opinion of the Building Inspector a trash compactor room and facility cannot be adequately sited on the premises or is not deemed necessary for the safe and adequate removal of refuse given the provision of existing municipal trash collection services. However, if the Building Inspector permits dumpsters they shall be subject to the provisions contained in section 500.3.8 of this ordinance.

300.13.10

Traffic. The project proponent shall demonstrate that traffic and circulation shall be adequate following project development. The applicant shall supply a traffic study of the existing traffic on surrounding streets as well as projected loads resulting from the construction of the proposed building. Such studies shall be performed by a qualified traffic engineer in conformance with the criteria established by the Transportation Research Board of the National Research Council, and shall include AM and PM hourly peaks. For any proposal, "Adequate" shall mean a level of service of "D" or better.

300.13.11

Any development shall, at a minimum, upgrade pedestrian crossings at all intersections (signalized or unsignalized) that are abutting or adjacent or within one block of the site, improvements including, but not limited to, installation of pedestrian count-down timers at signalized intersections, upgrade of existing crosswalks to include permanent signage, specialized pavement treatment and striping, as recommended by Traffic Operations Assessment, Malden Central Business District, Malden, Massachusetts (dated July 11, 2011), in addition to any other pedestrian crossing improvements necessitated by the development as recommended by the City pursuant to its peer review of the traffic impact study for the development; all design and installation costs at the expense of the developer.

300.13.12

Any development shall implement specific improvements at all intersections (signalized or unsignalized) that are abutting or adjacent to the site, as recommended by the Traffic Operations Assessment, Malden Central Business District Malden, Massachusetts (dated July 11, 2011), in addition to any other improvements at those or any other intersection(s) impacted by the development, as recommended by the City pursuant to its peer review of the traffic impact study for the development; all design and installation costs at the expense of the developer.

300.13.13

Developer shall contribute a one-time payment of \$2,000 per dwelling unit issuance of an occupancy permit to the City of Malden Expendable Trust Fund, to be used at the City's discretion to mitigate future impacts of the development and/or for infrastructure improvements.

- 300.13.14** Shadow. The project proponent shall demonstrate that the proposed structure will create no significant new adverse shadow impact for any residential properties of two units or fewer in Residence A and B Zoning Districts. To insure the protection of solar access, the developer must provide shadow analysis, drawn by a registered architect, for 9:00 AM, 12:00 noon, and 3:00 PM based on Standard Time, for the winter solstice (December 21), Spring and Fall equinoxes (March 21 and September 21) and summer solstice (June 21).
- 300.13.15** The project proponent shall demonstrate that water, sewer and drainage systems will be adequate following project development and that adequate provisions have been made for solid waste removal and recycling. The applicant shall provide studies, performed by a registered professional engineer, showing the impact the proposed development will have on existing water, sewer and drainage systems. For any proposal, a sewer shall be deemed "adequate" if its capacity is sufficient to accept discharge equivalent to the maximum discharge per dwelling unit, as set forth in the Department of Environmental Protection standards; a drainage system shall be deemed "adequate" if its capacity is sufficient to accept post-development runoff resulting from a 10 year storm; a water system shall be deemed "adequate" if development will result in no reduction to existing pressure and volume.
- 300.13.16** Balconies. All balconies are prohibited, except for "false" balconies, a.k.a., "French", balconies, which do not provide a platform projecting from the building and which are not large enough to stand, walk or sit on, nor to provide any storage, display or patio space.
- 300.13.17** Antennas. All antennas on the rooftop and any part of the exterior of the building are prohibited, except for emergency City antennas.
- 300.13.18** Rooftop equipment. All utilities and associated equipment i.e. HVAC on the rooftop shall be screened.
- 300.13.19** Signs. All signs on the facade of any building are subject to Sign Design Review, as provided by the Ordinances.
- 300.13.20** Period Lighting. The developer and/or owner shall purchase and install period lighting per the City's specifications on all sidewalks around the perimeter of the development.
- 300.13.21** Sidewalks. The developer and/or owner shall install, repair or replace sidewalks, driveways and perform all necessary incidental work adjacent to the development property, to the satisfaction of the City's DPW Director.
- 300.13.22** Multiple buildings. Notwithstanding Section 700.1.7 of this Ordinance, provided that the parcel(s) comprising the development have a minimum total area of two (2) acres, an RIO or RIO-B development shall be allowed to be composed of two (2) or more principal buildings.
- 300.13.23** All RIO and RIO-B developments are subject to site plan review and the site plan review provisions of this Ordinance, as described in Section 300.14.

300.14 **Site Plan Review**

- 300.14. 1** **Purpose and Intent.** To ensure that the design and layout of new development will not be detrimental to surrounding land uses. The intent of the Site Plan Review process is to regulate rather than prohibit uses through reasonable conditions which may be recommended by the Site Plan Review Committee (SPRC) concerning the location of buildings, signs, open space, landscaping, parking areas, access and egress, drainage, sewage, water supply and fire safety and similar site plan related issues. The Site Plan Review is an administrative review and shall not be construed

as a special permit for review or appeal purposes.

300.14. 2 **Applicability.** A Site Plan Review is required for all developments using the Residential Incentive Overlay (RIO) or Residential Incentive Overlay B (RIO-B).

300.14. 3 **Relationship to the Building Permit and Occupancy Permit.** The Building Inspector shall not issue a building permit unless and until a Site Plan Review has been completed, and a letter with site plan conditions, if any, has been forwarded to the Building Inspector by the SPRC within the time frame noted in Section 300.28.7. If the site plan review letter contains specific conditions, said conditions shall become conditions for the issuance of the building permit, among others, that the Building Inspector may require.

Further, the Building Inspector shall not issue a final occupancy permit unless and until all site plan conditions as required by the SPRC have been implemented by the developer.

300.14. 4 **Site Plan Submission Criteria.** The applicant shall submit 12 copies of a site plan proposal drawn at a scale not to exceed one-inch equals 20 feet (1"=20'). The Site Plan Review materials shall be submitted to the Malden Planning Department; said office shall forward all materials to the Site Plan Review Committee. A registered Professional Surveyor or registered Professional Engineer must stamp the submitted site plan. Specifically, the water, sewer, and drainage portions of the submitted site plan must be stamped by a Registered Engineer. At a minimum, the submittal materials shall include the following items as applicable:

- a cover letter generally describing the nature and location of the project;
- parcel lot lines for the proposed project and abutting parcels; and all easements boundaries, if any;
- heights and use of all buildings abutting the proposed project, including a building or buildings directly across from the proposed project but separated by a public or private right of way;
- proposed parking plan including location of access and egress; location of snow storage areas;
- estimated average daily traffic and peak hour traffic to be generated by the proposal. Further, a traffic impact plan indicating impacts, if any, to surrounding intersections servicing the project site if the proposed project generates more than 200 additional vehicular trips during the peak am and pm hours;
- location of existing and proposed buildings and public/private ways on the project site;
- rendering of all facades of proposed buildings;
- foundation lines of the proposed buildings, gross floor area and building height;
- location of solid waste containers, if any;
- existing and proposed topography, including locations of culverts, and water bodies, if any;
- areas subject to a 100-year flood, if any;
- provisions for safe and adequate drainage and sewage; and the location, capacity and projected uses of all utilities;
- proposed landscaping, including all screening and buffering of adjacent residential areas; if necessary;
- location of open space, if required;
- location of all historic structures registered on a local, state, or federal list, or similar features on site; including an indication of their protective status, if any;
- fencing, walls, and existing and proposed lighting;

- location, material, and size of all signs.

Any applicant for a development in the RIO or RIO-B district shall submit a Community Impact Statement that contains the information itemized in Chapter 8, Section 12.3 of the Malden Master Plan (2010).

300.14. 5

Site Plan Review Criteria. The SPRC shall at a minimum review all site plans for the following:

- consistency with the general design and character of Malden Center.
- consistency with sign, design and landscaping guidelines, as applicable, and approved by the City of Malden and its agencies for Malden Center.
- protection of adjoining premises against detrimental impacts of surface water drainage, sound, and excess lighting.
- convenience and safety of vehicular and pedestrian movement within the site, to and from the site, and the location of driveway openings in relation to traffic and/or adjacent streets.
- adequacy and arraignment of parking and loading spaces, and the ability of the site plan to accommodate parking in areas other than the front of the building.
- compliance with all handicapped access regulations.

300.14. 6

Site Plan Review Committee: Composition and Operation. The Site Plan Review Committee (SPRC) shall be comprised of 7 members i.e. the Mayor or Mayor's designee, the President of the City Council or designee, the Ward Councillor representing Malden Center or designee, the Executive Director or designee of the Malden Redevelopment Authority, the Chairman of the Planning Board or designee, the Planning Director or the City Planner and the Chairman of the Traffic Commission or his designee. The department head or designee from the following city departments or agencies shall provide written recommendations to the SPRC a minimum of seven (7) days prior to a public project review meeting: the Building Department, Public Works, Fire and Handicapped Access, Police, Board of Health/Public Health, Engineering and Conservation Commission. The City Council President or his designee shall serve as the Chairman of the SPRC.

The SPRC may request assistance of architects and engineers and other professionals during its deliberations and request that the applicant assist in paying for review costs consistent with M.G.L. Chapter 44, Section 53. However, only SPRC members may be party to any vote or agreement. A majority of those present shall be required to approve any and all site plan review conditions applied to a development under review. A quorum for conducting business shall be seven members.

300.14. 7

Review Schedule. The SPRC shall hold a public project review meeting with the applicant no later than 45 days after submitting the proposed site plan to the City Planner. The SPRC shall hold as many meetings as necessary within a 65-day review period to review the proposal. However, within 65 days of the submission of the plan to the City Planner the SPRC shall provide recommendations in writing to the Building Inspector. If no action is taken within 65 days, the application shall be deemed approved as submitted and the applicant may apply for a building permit without a Site Plan Review letter. Notice of the public project review meeting shall be given in accordance with the provisions of this Ordinance. The public shall be given the opportunity to be heard at the public project review meeting.

300.14. 8

Appeals. Applicants for a Site Plan Review may appeal any and all conditions approved by the SPRC to the Malden Board of Appeals. However, in no instance shall this administrative site plan approval process be construed as a special

permit for the purpose of any appeal.

300.14.9 A Site Plan Review approval will expire on the date that is one year from date of notice to the Building Inspector unless a building permit has been issued or unless otherwise specified by the Site Plan Review Committee.

300.15 **Drive-thru**, accessory to a principal restaurant, general office, convenience store, or supermarket use, may be allowed in a Neighborhood Business (BN), Central Business (BC), Highway Business (BH) or Industrial (I1 or I2) district, only by special permit granted by the Planning Board in conformance with the following requirements:

300.15. 1 For construction of new buildings, compliance with the dimensional controls and parking requirements of this Ordinance for the principal use to which the drive-thru is accessory and compliance with the parking requirements for drive-thrus.

300.15. 2 For the addition of a drive-thru to a building or for alteration, conversion or other change to a drive-thru use, lawfully existing or begun prior to the first publication of notice of the public hearing on this amendment, the Planning Board must find that any creation or increase in violations of dimensional controls or parking requirements will not be more detrimental to the neighborhood.

300.15. 3 Submission of a traffic impact study prepared by a person or firm who is a member of the Institute of Transportation Engineers (ITE) and has documented experience and qualifications in traffic planning and traffic engineering. Meeting with the planning Staff prior to beginning the study is required. The traffic impact study must demonstrate, at a minimum:

- .1 convenience and safety of vehicular and pedestrian movement within the site, to and from the site, and the convenient and safe location of driveway openings in relation to traffic on-site and offsite and adjacent streets;
- .2 adequacy, maneuverability and arrangement of parking and loading spaces;
- .3 safety and maneuverability of drive-thru lane(s).

300.15. 4 The Planning Board must find that the traffic generated by the drive-thru will not adversely impact any of the surrounding streets or create a traffic or safety hazard.

300.15. 5 There must be adequate protection against the creation and spread of litter and debris.

300.15. 6 There must be adequate landscaping and screening with regard to abutting properties.

300.15. 7 There must be adequate protection of adjacent premises against detrimental impacts of sound and lighting.

300.15. 8 The Planning Board must find that the drive-thru is in the interest of the common good.

300.16 **Gasoline Filling & Service Stations** may be allowed in a Neighborhood Business (BN), Highway Business (BH) or Industrial (I1 or I2) district, only by special permit granted by the Planning Board in conformance with the following requirements:

- For construction of new buildings, compliance with the dimensional controls and parking requirements of this Ordinance.
- For addition of a gasoline filling and service station to an existing building, or, for alteration, conversion or other change to a gasoline filling and service station lawfully existing or begun prior to the first publication of notice of

the public hearing on this amendment, the Planning Board must find that any creation or increase in violations of dimensional controls or parking requirements will not be more detrimental to the neighborhood.

- Submission of a traffic impact study prepared by a person or firm who is a member of the Institute of Transportation Engineers (ITE) and has documented experience and qualifications in traffic planning and traffic engineering. Meeting with Planning Staff to determine the scope of the study prior to beginning the study is required.
- The Planning Board must find that the traffic and traffic patterns generated by the gasoline filling and service station will not adversely impact any of the surrounding streets or create a traffic or safety hazard.
- The Planning Board must find that the gasoline filling and service station is in the interest of the common good.

300.17

Adult Bookstore, Adult Club or Adult Motion Picture Theater may be allowed in Industrial (I) Districts only by special permit granted by the Planning Board in conformance with the following controls:

300.17. 1

No adult bookstore, adult club or adult motion picture theater shall be located less than 600 feet from the property boundary lines of any lots in residential use.

300.17. 2

No adult bookstore, adult club motion picture theater shall be located less than 1,000 feet from the property boundary lines of any lots in religious facility use.

300.17. 3

No adult bookstore, adult club or adult motion picture theater shall be located less than 1,000 feet from the property boundary lines of any lots in public or non-profit school uses

300.17. 4

No adult bookstore, adult club or adult motion picture theater shall be located less than 1,000 feet from any other book store, adult club or adult motion picture theater.

300.17. 5

No adult bookstore or adult motion picture theater shall be located less than 500 feet from the property boundary lines of any establishment licensed under the provisions of Chapter 138, Section 12 of the Massachusetts General Laws. No adult club, whether or not licensed under the provisions of Chapter 138, Section 12 of Massachusetts General Laws, shall be located less than 1000 feet from the property line of any establishment licensed under the provisions of Chapter 138, Section 12 of the Massachusetts General Laws.

300.17. 6

No pictures, publications, videotape covers, or other implements, items, or advertising that fall within the definition of adult bookstore merchandise shall be displayed in store windows or visible from areas used by the general public.

300.17. 7

Compliance with all applicable dimensional control and offstreet parking regulations.

300.17. 8

The Planning Board must find that the traffic and traffic patterns generated by the proposed use will not adversely impact any of the surrounding streets or create a traffic or safety hazard. For purposes of determining traffic impact, the Planning Board may request an independent analysis of traffic data submitted by the petitioner, the cost of which will be borne by the petitioner.

300.17. 9

The Planning Board must find that the proposed use will not be more detrimental to the neighborhood.

300.17.10

The Planning Board must find that the proposed use is not in conflict with surrounding land uses.

300.17.11

The Planning Board must find that the proposed use is in the interest of the common good.

300.18

Dwelling, Two Family in Residence A Zoning District may be allowed by use variance granted by the Board of Appeal in conformance with the following requirements:

- 300.18. 1** The Board must find that the subject property has a lot area of no less than 13,000 square feet, conforms with the frontage requirements contained in 400.1.2.2 and that there is no variance of this lot area or frontage requirements;
- 300.18. 2** The Board must find that the subject property contains no fewer than 7 parking spaces and that there is no variance of this requirement;
- 300.18. 3** The Board must find that owing to circumstances relating to soil conditions, shape or topography specially affecting the subject land or structures but not the zoning district in general, a literal enforcement of the provisions of this ordinance would involve substantial hardship, financial or otherwise, to the petitioner, and that the desired relief may be granted without detriment to the public good.

- 300. 19** **A Marijuana Establishment**, as defined by this Ordinance to expressly only include Marijuana Retailer, Marijuana Cultivator, Independent Marijuana Testing Laboratory, Marijuana Product Manufacturer, Marijuana Research Facility and Marijuana Transporter, may be allowed only in the Highway Business, Industrial 1 and Industrial 2 zoning districts or the Marijuana Establishment Overlay District, only by special permit granted by the City Council and only in conformance with the following controls and requirements:
- a) For construction of new buildings, compliance with the dimensional controls and parking requirements of this Ordinance.
 - b) For Marijuana Establishment use of a building lawfully existing or begun prior to the first publication of notice of the public hearing on this Ordinance, or alteration, conversion or other change to a Marijuana Establishment use lawfully existing or begun prior to the first publication of notice of the public hearing on any amendment to this Ordinance, the City Council must find that any creation or increase in violations of dimensional controls or parking requirements will not be more detrimental to the neighborhood.
 - c) A Marijuana Establishment shall be located in a permanent building and not within a mobile facility or movable structure.
 - d) A Marijuana Establishment shall not be located inside a building containing residential units, including transient housing such as hotels, motels, dormitories.
 - e) A Marijuana Establishment must be the principal use of the property and may be accessory only to another type of Marijuana Establishment at the same property and shall be prohibited as an accessory use to any other use.
 - f) The location of a Marijuana Establishment shall comply with the following buffer zones:

- .1 The location of a Marijuana Establishment shall comply with the following buffer zones, all distances as measured from the closest property line of the proposed Marijuana Establishment to the closest property line of a property that, as of the date of filing of the petition for a special permit for the Marijuana Establishment, is lawfully used for the following. No Marijuana Establishment shall be located within:
 - i. 75 feet of a Substance Abuse Treatment Center, as defined by this Ordinance;
 - ii. 500 feet of a public or private school providing education in kindergarten, or Grades 1- 12;
 - iii. 75 feet of any residential use;

- iv. 250 feet of any park playground, recreational field or recreational facility, and including, but not limited to: the Malden Teen Enrichment Center, the YMCA and the YWCA;
- v. 75 feet of any religious facility; and
- vi. 75 feet of any daycare licensed by the Commonwealth of Massachusetts; Except for a Marijuana Establishment located at property in the Marijuana Establishment Overlay zoning district, which shall not be subject to a buffer zone from any residential use, however, shall comply with all other buffer zones specified herein this Ordinance .

.2 The City of Malden Building Commissioner shall determine whether a proposed location is compliant with the buffer zones specified herein this Ordinance.

g) Required findings: For a special permit to be granted, the City Council must find:

- .1** The proposal will not be more detrimental to the neighborhood.
- .2** The proposal is not in conflict with surrounding land uses.
- .3** The proposal is in the interest of the common good.
- .4** The traffic and traffic patterns generated by the proposal will not adversely impact any of the surrounding streets or create a traffic or safety hazard. For purposes of determining traffic impact, the City Council employ and outside consultant, in accordance with M.G.L. c. 44, Section 53G, to perform an independent peer review analysis of traffic data submitted by the petitioner, the cost of which will be borne by the petitioner.
- .5** The proposal will not generate any noise, odor, fumes, vibration, heat or other conditions that may be noxious or cause a nuisance to the community, a danger to public health, or impair public comfort and convenience.
- .6** The proposal is not detrimental to the health, safety or welfare of the neighborhood or the city.

h) Conditions to Special Permit. The City Council may impose any conditions it deems reasonable to regulate the use of a property for a Marijuana Establishment; and in addition and in all cases, any special permit granted hereunder shall be subject to the following conditions:

- i. The special permit is non-transferable and non-assignable.

- ii. The Marijuana Establishment shall design and implement a Security Plan approved by the Malden Police Chief, which shall include, without limitation: all security measures for the site and the transportation of Marijuana and Marijuana Products to and from off-site premises to ensure the safety of employees and the public and to protect the premises property from theft or other criminal activity; a detailed explanation of payment method, if applicable, acceptable at such establishment and the protection and security of such payments and, if applicable, cash on site; and the presence of a security guard on site at all hours of operation.
- iii. Consumption of Marijuana and/or Marijuana Products is prohibited at or within 500 feet of a Marijuana Establishment.
- iv. Smoking or burning of Marijuana and/or Marijuana Products is prohibited on the premises of a Marijuana Establishment.
- v. Marijuana in any form, including plants, and Marijuana Products shall not be visible from outside of the building in which the Marijuana Establishment is located.
- vi. Any outside storage of any kind is prohibited.
- vii. Any outside display of any kind is prohibited.
- viii. The Marijuana Establishment shall incorporate odor control technology and provisions, and ensure that emissions do not violate MGL Chapter 111, Section 31C, including but not limited to those specified for odors.
- ix. Prior to issuance of any building permit or occupancy permit pursuant to a special permit granted hereunder, the Marijuana Establishment shall submit copies of the following licenses and approvals:
 - A. A valid license issued by the Massachusetts Cannabis Control Commission, as defined herein this Ordinance;
 - B. A fully executed Community Host Agreement with the City of Malden, as defined herein this Ordinance;
 - C. Any required license and/or approvals issued by the Malden License Board; and
 - D. Any required license and/or approvals issued by the Malden Board of Health.
- x. The expiration, termination or revocation for any reason of any licenses and approvals as required by this Ordinance and described herein above shall be grounds for the immediate revocation of a building permit and/or occupancy permit.

i) Filing Requirements.

- .1 Site plan:** (15 copies= 3 to scale size+ 12 reduced/11"x17" size): to scale; dated; prepared, signed and stamped by a Registered or Professional Engineer or Surveyor; depicting lot boundaries and lot area, frontage and classification

- of street (public/private, width), footprint, lot coverage (SF), setbacks of existing & proposed building(s)/structure(s), parking layout (spaces, driveways, aisles), landscaping, screening, open space, snow storage and outside dumpster/trash storage.
- .2** Floor plan (15 copies= 3 to scale size+ 12reduced/11"x17" size): to scale; dated; prepared, signed and stamped by a Registered Architect; depicting entire building with total gross floor area, all separately occupied spaces with gross floor areas, subject premises with gross floor area, entrances/exits, windows, fixtures and interior walls.
- .3** Building Elevations and/or Pictorial Renderings (15 copies= 11"x17" size): to scale; dated; prepared by a Registered or Licensed Professional; depicting fa ade and views of building(s) and structure(s) on lot from all directions.
- .4** Written evidence of applicant's right to use the property for a Marijuana Establishment, such as a deed, lease, purchase and sale agreement or other legally binding document.
- .5** No more than 60 days prior to filing a petition for a special permit, a proposed Marijuana Establishment shall coordinate and host with the Ward City Councilor for the Ward where the subject property is located a Community Outreach Meeting to present the proposal to the community, and notice of this meeting shall be in accordance with the notice provisions of this Ordinance.

SECTION 400

DIMENSIONAL CONTROLS

400.1 Any building, structure, or part thereof, converted, constructed, altered, or moved shall conform with the requirements for lot area, frontage, yards, usable open space, lot coverage, density, and height as herein set forth or as provided elsewhere in this ordinance.

Note: For the Rowe's Quarry Reclamation and Redevelopment District, see Section 700.14.

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TABLE OF INTENSITY REGULATIONS

Section	Use	Area (Sq. Ft.)	Frontage	Front	Side	Both Sides	Rear	Min. Usable Open	Coverage-Principal Building	Coverage-Accessory Building	Density (Sf/DU)	Max. Height
<u>400.1.1</u>	<u>Agriculture</u>	200,000	200'	25'	25'	50'	25'	—	20%	20%	—	30' and 3 stories
<u>400.1.2</u>	<u>Residential Uses</u>											
400.1.2.1	Dwelling, Single Family	7,500+	50'	10'	10'	20'	20'	1,000	30%	10%	--	2 ½ stories but no more than 30'***
400.1.2.2	Dwelling, Two Family											
400.1.2.2.1	Detached	12,500++	50'	10'	10'	20'	20'	500	30%	10%	4,000	2 ½ stories but no more than 30'***
400.1.2.2.2	Semi-Detached, Each Half	6,250+++	35'	10'	15'	30'	20'	500	30%	10%	4,000	2 ½ stories but no more than 30'***
400.1.2.3	Dwelling, Three and Four Family	18,750	70'	20'	15'	30'	20'	500	30%	15%	3,000	3 stories but no more than 35'
400.1.2.4	Dwelling, Town or Row	18,750										
400.1.2.4.1	End Units	6,250	30'	20'	15'	30'	20'	500	30%	15%	3,000	2 ½ stories but no more than 30'
400.1.2.4.2	Middle Units	6,250	20'	20'	--	--	20'	500	30%	15%	2,000	2 ½ stories but no more than 30'
400.1.2.5	Dwelling, Multifamily up to three (3) stories inclusive	18,750	70'	30'	20'	40'	20'	250^	30%	20%	1,500	35'
400.1.2.6	Dwelling, Multifamily, more than three (3) stories but not exceeding six stories	18,750	70'	30'	20'	40'	20'	250^	40%	20%	1,000	55'
400.1.2.7	Dwelling, Multifamily, more than six (6) stories but not more than seven (7) stories	25,000	70'	30'	½ bld. ht.	bldg. ht.	½ bld. ht.	250^	50%	20%	750	75'
Section	Use	Area (Sq. Ft.)	Frontage	Front	Side	Both Sides	Rear	Min. Usable Open	Coverage-Principal Building	Coverage-Accessory Building	Density (Sf/DU)	Max. Height

400.1.2.8	Dwelling, Group	15,000	70'	20'	10'	20'	20'	100	30%	15%	1,000	2 ½ stories but no more than 30'
400.1.2.9	Rooming House	15,000	70'	20'	10'	20'	20'	100	30%	15%	1,000	2 ½ stories but no more than 30'
400.1.2.10	Dwelling, Cohousing	18,750	70'	20'	10'	20'	30'	350^^	30%^^^	15%	1,000	35' above grade, with no more than 3 stories above grade
<u>400.1.3</u>	<u>Institutional Uses</u>											
400.1.3.1	Club or Lodge	10,000	50'	10'	10'	20'	20'	--	50%	20%	---	30' and 2 stories
400.1.3.2	Day Care Center	10,000	50'	10'	10'	20'	20'	20**	50%	15%	---	30' and 2 stories
400.1.3.3	Hospitals	20,000	100'	20'	20'	40'	20'	---	50%	15%	--	6 stories
400.1.3.4	Public or Non-Profit School	10,000	50'	20'	10'	20'	20'	---	50%	20%	--	50' and 4 stories
400.1.3.5	Religious Facilities	10,000	50'	20'	10'	20'	20'	---	50%	20%	--	---
<u>400.1.4</u>	<u>Business Uses</u>											
400.1.4.1	DELETED	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----
400.1.4.2	Business School	10,000	50'	10'	10'	20'	20'	---	50%	20%	--	50' and 4 stories
400.1.4.3	Funeral Home	10,000	50'	10'	10'	20'	20'	---	30%	20%	--	30' and 2 stories
400.1.4.4	Gasoline Filling & Service Station	20,000	100'	25'	25'	50'	25'	---	50%	10%	--	30' and 1 story
400.1.4.5	Greenhouse	10,000	50'	10'	10'	20'	20'	---	50%	15%	--	30' and 1 story
400.1.4.6	Motel - Hotel	20,000	100'	20'	20'	40'	20'	---	50%	20%	--	50' and 4 stories
400.1.4.7	Nursing or Convalescent Home	20,000	100'	20'	20'	40'	20'	---	50%	15%	--	3 stories
Section	Use	Area (Sq. Ft.)	Frontage	Front	Side	Both Sides	Rear	Min. Usable Open	Coverage-Principal Building	Coverage-Accessory Building	Density (Sf/DU)	Max. Height
400.1.4.8	Medical Center	10,000	50'	10'	10'	20'	20'	---	50%	20%	--	50' and 4 stories

400.1.4.9	Offices	10,000	50'	10'	10'	20'	20'	---	50%	20%	--	50' and 4 stories
400.1.4.10	Recreation, Gainful Business	10,000	50'	10'	10'	20'	20'	---	50%	20%	--	30' and 2 stories
400.1.1.10.1	Recreation, Gainful Business, Secondary to Principal Club/Lodge	10,000	50'	10'	10'	20'	20'	---	50%	20%	--	30' and 2 stories
400.1.4.11	Restaurant, "Fast Food" Service that does not take call-ahead orders and is in excess of 1,000 sq. ft. gross floor area	20,000	100'	20'	20'	40'	20'	---	50%	20%	--	30' and 2 stories
400.1.4.12	Restaurant, All other	5,000	50'	10'	10'	20'	20'	---	50%	No	--	30' and 2 stories
400.1.4.13	Retail Sales	10,000	50'	10'	10'	20'	20'	---	50%	No	--	30' and 2 stories
400.1.4.14	Retail Services	10,000	50'	10'	10'	20'	20'	---	50%	No	--	30' and 2 stories
400.1.4.15	Adult Bookstore	10,000	50'	10'	10'	20'	10'	---	50%	20%	--	30' and 2 stories
400.1.4.16	Adult Club	10,000	50'	10'	10'	20'	20'	---	50%	20%	--	30' and 2 stories
400.1.4.17	Adult Motion Picture Theater	10,000	50'	10'	10'	20'	10'	---	50%	20%	--	30' and 2 stories
400.1.4.18	Body Art	10,000	50'	10'	10'	20'	20'	---	50%	20%	--	30' and 2 stories
400.1.4.19	Substance Abuse Treatment Center	20,000	100'	20'	20'	40'	20'	---	50%	15%	--	30' and 2 stories
400.1.4.20	Licensed Massage Therapy Salon	10,000	50'	10'	10'	20'	20'	---	50%	20%	--	30' and 2 stories
400.1.4.21	Medical Marijuana Treatment Center	20,000	100'	20'	20'	40'	20'	---	50%	20%	--	30' and 2 stories
400.1.4.22	Adult Day Health Center	10,000	50'	10'	10'	20'	20'	---	50%	20%	---	30' and 2 stories
Section	Use	Area (Sq. Ft.)	Frontage	Front	Side	Both Sides	Rear	Min. Usable Open	Coverage-Principal Building	Coverage-Accessory Building	Density (Sf/DU)	Max. Height
400.1.4.23	Kennel	10,000	50'	10'	10'	20'	20'	--	50%	20%	--	30' and 2 stories

400.1.4.24	Marijuana Retailer	10,000	50'	10'	10'	20'	20'	---	50%	20%	--	30' and 2 stories
400.1.5	<u>Industrial Uses</u>											
400.1.5.1	Building Construction & Contracting	20,000	100'	10'	15'	30'	15'	---	50%	20%	--	50' and 4 stories
400.1.5.2	Manufacturing and Repair	20,000	100'	10'	15'	30'	15'	---	50%	20%	--	50' and 4 stories
400.1.5.3	Marina	20,000	100'	10'	15'	30'	15'	--	50%	20%	--	50' and 4 stories
400.1.5.4	Motor Vehicle Repair Shop	20,000	100'	10'	15'	30'	15'	---	50%	20%	--	50' and 4 stories
400.1.5.5	Warehouse	20,000	100'	10'	15'	30'	15'	---	50%	20%	--	50' and 4 stories
400.1.5.6	Wholesale & Distribution	20,000	100'	10'	15'	30'	15'	---	50%	20%	--	50' and 4 stories
400.1.5.7	Self Storage Facilities	20,000	100'	10'	15'	30'	15'	---	50%	20%	--	50' and 4 stories
400.1.5.8	Research and Development Facilities	20,000	100'	10'	15'	30'	15'	-	50%	20%	-	50' and 4 stories
400.1.5.9	Towing	20,000	100'	10'	10'	20'	20'	---	50%	20%	---	30' and 2 stories
400.1.5.10	Light Manufacturing	20,000	100'	10'	10'	20'	20'	---	50%	20%	---	30' and 2 stories
400.1.5.11	Asphalt, Brick, Concrete & Soil Recycling	20,000	100'	10'	15'	30'	20'	---	50%	20%	---	30' and 2 stories
400.1.5.12	Marijuana Cultivator	20,000	100'	10'	15'	30'	20'	---	50%	20%	---	30' and 2 stories
400.1.5.13	Independent Marijuana Testing Laboratory	20,000	100'	10'	15'	30'	20'	---	50%	20%	---	30' and 2 stories
400.1.5.14	Marijuana Product Manufacturer	20,000	100'	10'	15'	30'	20'	---	50%	20%	---	30' and 2 stories
400.1.5.15	Marijuana Research Facility	20,000	100'	10'	15'	30'	15'	---	50%	20%	---	50' and 4 stories
Section	Use	Area (Sq. Ft.)	Frontage	Front	Side	Both Sides	Rear	Min. Usable Open	Coverage-Principal Building	Coverage-Accessory Building	Density (Sf/DU)	Max. Height
400.1.5.16	Marijuana Transporter	20,000	100'	10'	15'	30'	20'	---	50%	20%	---	30' and 2 stories
400.1.6	<u>Other Uses</u>											

400.1.6.1	Parking Facilities, Offstreet	5,000	45'	10'	10'	20'	10'	---	---	No	--	50' and 5 stories
400.1.6.2	Public Service Corporation	20,000	100'	10'	15'	30'	20'	---	30%	20%	--	30' and 2 stories

*Square Feet per Dwelling Unit

**Square Feet per Child- For the purpose of Day Care Centers, usable open space shall include areas as small as 100 square feet per area with a minimum width in any direction of 10 feet, and may include porches and terraces and paved areas.

***Except in the case of slab construction (no cellar) on ledge or within the Flood Plain overlay district, in which case maximum height shall be three stories but no more than 30'.

+ Provided that for subdivisions of three or more, a minimum of 8,750 square feet shall be required.

++ Provided that for subdivisions of three or more, a minimum of 15,000 square feet shall be required.

+++ Provided that for subdivisions of three or more, a minimum of 7,500 square feet shall be required.

^Except in the Central Business District and the Residential Incentive Overlay, where minimum usable open space will be 200 sq. ft./dwelling unit.

^^ Provided that up to 100 Sf/dwelling unit may be provided in one or more shared, pervious, landscaped terraces of 40 SF minimum dimension and may be visible to the public, notwithstanding Sections 400.8.2 and 400.8.3 of this Ordinance.

^^^ Provided that up to 40% coverage may be allowed if a minimum of 60% of all required parking is provided underground.

400. 2

Multiple Uses

For the purpose of interpreting the intensity regulations with regard to multi-use buildings or lots, the most stringent controls of the uses of the lot shall prevail, except for the following: coverage principal building, coverage accessory building, and maximum height; where the maximum control shall apply. However, lots with gasoline filling and service stations in combination with the retail sale of food shall require a special permit by the Planning Board in conformance with the following controls:

400. 2. 1

Compliance with the dimensional and parking controls of the multiple uses.

400. 2. 2

The proposal must not endanger the public health.

400. 2. 3

The proposal must be in harmony with the surrounding land uses.

400. 2. 4

The proposal must not, in any way, create a traffic or safety hazard.

400. 2. 5

There must be adequate protection against the creation and spread of litter and debris.

400. 2. 6

The proposal must be in the interest of the common good.

400.3

In Central Business (BC) Districts All allowed uses do not have to conform with lot area, frontage, front yard, side yard, rear yard, coverage, and court requirements as they appear in Table I of Intensity Regulations, but all lots must have a minimum lot area of five thousand square ft., a frontage of fifty (50) feet, and not exceed a height of fifty five (55) feet and twelve (12) stories. Usable open space requirements may be reduced by fifty (50) percent. Density requirements may be reduced to not less than five hundred (500) square feet of lot area per dwelling unit for structures not exceeding six (6) stories in height. All allowed uses do not have to conform to height requirements as specified in the Table of Intensity Regulations, provided that no structure shall exceed twelve (12) stories, and further provided that all structures with greater than six (6) stories shall comply with Section 300.11.

400. 4

In Highway Business (BH) Districts allowed uses shall have the following dimensional controls:

400. 4. 1

Minimum setback- twenty (20) feet from the street line.

400. 4. 2

Minimum side yard- fifteen (15) feet from the property lines for all buildings up to twenty-five (25) feet in height with an additional one (1) foot of setback required for each five (5) feet of height over twenty-five (25) feet. Setback requirements shall apply where side yards are adjacent to streets.

400. 4. 3

Maximum height of buildings shall not exceed six (6) stories or fifty (50) feet in height, not including chimneys, parapets, elevators, air conditioners, penthouse towers, or other similar superstructures necessary to the permitted uses.

400. 5

In Industrial Districts.

400. 5. 1

The rear yard requirement for all allowed uses is waived in those cases where properties abut railroad or rapid transit rights-of-way, rivers or water courses, and associated properties or easements in public ownership.

400. 5. 2

The required minimum lot size may be reduced to twelve thousand (12,000) square feet by special permit issued by the Board of Appeal providing, however, that said lot reduction does not adversely affect the surrounding area.

400. 6 **Lot and Frontage Requirements for all Districts**

- 400. 6. 1** The required frontage for dwelling purposes may be reduced on existing (but not newly created) irregularly shaped lots, lots on curved streets, and lots on turning circles by not more than fifty (50) percent, provided that the required lot width is attained at the required setback line.
- 400. 6. 2** Frontage width on corner lots shall be at least five (5) feet wider than specified in the Table of Intensity Regulations.
- 400. 6. 3** No lot upon which any building or structure stands in conformance with this ordinance shall be changed for any reason in size or shape so as to violate any of the provisions of this ordinance except through an exercise of the powers of eminent domain.

400. 7 **Yard Requirements for all Districts.**

- 400. 7. 1** Front setback for single family houses and two (2) family detached and semi-detached houses shall be the greater of ten (10) feet or thirty-two and one-half (32-1/2) feet from the center line of the street, except in a Residential Office (RO) District.
- 400. 7. 2** Front setback for three (3), four (4), multi-family, town or row, rooming, and group houses shall be the greater of twenty (20) feet or forty-two and one-half (42-1/2) feet from the center line of the street, except in a Residential Office (RO) District.
- 400. 7. 3** Where a side or rear yard is adjacent to a street, the yard requirement shall be the same as the distance specified for front yard setback.
- 400. 7. 4** No building or subsurface structure, or portion thereof, shall be permitted within the required yard areas.
- 400. 7. 5** Business structures or uses shall not display goods for sale purposes or display coin-operated vending machines of any type in any location which would infringe upon the required yard areas specified in this ordinance.
- 400. 7. 6** No yard or other open space provided about any building for the purpose of complying with the provisions of this ordinance shall be considered to provide a yard or open space for any other building.
- 400. 7. 7** Buildings accessory to single, two, and town or row houses, eight (8) or less feet in height and 72 or less square feet in floor area shall be a minimum of three (3) feet from any side or rear property line, but must comply with sections 400.7.1 and 400.7.2, and buildings accessory to single and two family uses that are greater than eight (8) feet in height or 72 square feet in floor area shall be a minimum of 6' from any side or rear property line, but must comply with section 400.7.1 except swimming pools in which side or rear yards may be reduced by special permit of the Planning Board providing, however, that said reduction or reductions do not adversely affect the surrounding area. All other accessory buildings shall comply in all respects with the yard requirements of this ordinance for the principal building.
- 400. 7. 8** All required areas, including minimum open space and all yard setback areas, but excluding minimum lot area, shall not exceed a grade of 25% post-development/post-construction on the lot, and shall not include, within their limits, a ledge cut or retaining wall in excess of six (6) feet.
- 400. 7. 9** Except in the CB zone and the Residential Incentive Overlay, for multifamily residential dwellings from 1-12

stories, a minimum of 50% of the required front yard shall be devoted to lawn and/or landscaping and not paving.

400. 7.10 Any residential dwelling must be situated on a lot so that the front door faces the front yard.

400. 8

Usable Open Space Requirements for All Districts

400. 8. 1

Usable open space shall consist of areas for active or passive recreational use and shall not be used or considered for offstreet parking or vehicular access or egress.

400. 8. 2

Each usable open space area shall be a minimum of one thousand (1000) square feet in area and shall have a minimum clear width of twenty (20) feet with a maximum grade not greater than eight (8) percent in any direction. Areas for usable open space may include tennis courts, basketball courts, swimming pools, lawns, walks, benches or other active or passive recreational facilities.

400. 8. 3

In all zoning districts, open space requirement may not be met by indoor recreational facilities. All open space shall be pervious, visible to the public and a minimum of 50% shall be located in yard setback areas, where setbacks are required.

400. 8. 4

The area between the street line and any building line set by the Public Works Commission of the city of Malden shall not be included as usable open space.

400. 9

Court Requirements for all Districts

400. 9. 1

A court shall be deemed to exist between portions of a principal building(s) or structure(s) and between a principal or accessory building(s) or structure(s) located upon the same lot.

400. 9. 2

The minimum width of a court shall be the greater of fifteen (15) feet or equal to the height of the lowest building or structure.

400.10

Density Requirements

The density requirement for multifamily houses occupied by the "elderly" (as defined by the rules and regulations of the Malden Housing Authority) may be reduced to not less than seven hundred fifty (750) square feet per dwelling unit providing these houses are constructed by the Malden Housing Authority itself, built for the Housing Authority as "turnkey housing" (as defined by the rules and regulations of the Department of Housing and Urban Development), or built by non-profit organizations (as defined by the rules and regulations of the Department of Housing and Urban Development).

400.11

Height Requirements

400.11. 1

For all districts the maximum building height shall be an elevation of one hundred and fifty (150) feet above the Malden city base, except where the Inspector of Plumbing certifies that adequate water service is available at a higher elevation or where the Inspector of Plumbing approves the use of pump(s) to maintain adequate water service, and where the City Engineer certifies that the proposed building will not reduce the water service of other users in the general area to less than existing levels.

400.11. 2

Parapets less than five (5) feet high, chimneys, flag poles, ventilators, water tanks, antennas, penthouses, solar

panels, wind generators and associated towers, or other protections used for or intended to be used exclusively for utility services or access to the roof may exceed the height limitations of this ordinance by not more than twenty (20) feet.

400.11. 3 The height limitations of this ordinance shall not apply to church spires, belfries, cupolas, and domes not used for human occupancy.

400.11. 4 Buildings accessory to single and two family uses shall be limited to no more than 15' in height. All other accessory buildings shall comply in all respects with the height requirements of the ordinance for the principal building.

400.12

Dwellings, Town or Row

400.12. 1 In all districts where allowed by right or by special permit, there shall be a maximum of six (6) connected units in a row.

400.12. 2 The exterior front of the building(s) shall be interchanged such that no more than two (2) adjacent town or row house units will be of the same design.

400.12. 3 The exterior fronts of the building(s) shall be staggered such that no more than two (2) adjacent town or row house units are on the same vertical plane.

400.12. 4 **Dwelling, Town or Row** allowed in Residence A Districts under Section 700.1.3, must conform to the dimensional controls of this ordinance, unless specifically changed by this section.

400.12. 4. 1 Minimum lot size shall be eleven thousand (11,000) square feet with a minimum of four thousand (4,000) square feet for each end unit and three thousand (3,000) square feet for each middle unit.

400.12. 4. 2 Minimum rear yard requirements shall be twenty-five (25) feet.

400.12. 4. 3 No more than one (1) parking space shall be permitted between each dwelling unit and the street.

400.13

Multiple Buildings

Two (2) or more residential buildings on the same lot are to be considered separate structures, even though connected by breezeways.

SECTION 500 PARKING, LOADING, AND SCREENING REGULATIONS

500.1

Basically:

Offstreet parking and loading shall be provided in accordance with the following schedule and as otherwise required elsewhere in this ordinance. All required offstreet parking shall be provided on-site for use of the tenants and/or occupants of the property.

Note: For the Rowe's Quarry Reclamation and Redevelopment District, see Section 700.14.

Table of Offstreet Parking and Loading Regulations

Section Number	Use	Minimum Number of Parking Spaces	Minimum Number of Loading Bays	Minimum Number of Loading Spaces
<u>500.1.1</u>	<u>Agriculture</u>	1	0	0
<u>500.1.2</u>	<u>Residential Uses +</u>			
500.1.2.1	Dwelling single family	1 per bedroom	0	0
500.1.2.1.1	Dwelling single family with two kitchens	1 per bedroom	0	0
500.1.2.2	Dwelling two family	1 per bedroom	0	0
500.1.2.3	Dwelling three and four family	1 per bedroom	0	0
500.1.2.4	Dwelling town or row house	1 per bedroom	0	0
500.1.2.5	Dwelling multi family	1 per bedroom	0	0
500.1.2.6	Dwelling group	2 parking spaces	0	0
500.1.2.7	Rooming house	1 per rentable room	0	0
500.1.2.8	Mobile home	2 per unit	0	0
500.1.2.9	Dwelling, cohousing	1 per bedroom	0	0
<u>500.1.3</u>	<u>Institutional Uses</u>			
500.1.3.1	Clubs and lodges	10 per 1000 sq ft of gross floor area	0	1
500.1.3.2	Daycare centers	2 per 1000 sq ft of gross floor area	0	0
500.1.3.3	Hospitals	1.7 per 1000 sq ft of gross floor area	0	2
500.1.3.4	Public/Nonprofit schools	1 per 1000 sq ft of gross floor area	0	1

Table of Offstreet Parking and Loading Regulations

Section Number	Use	Minimum Number of Parking Spaces	Minimum Number of Loading Bays	Minimum Number of Loading Spaces
500.1.3.5	Religious facilities	20 per 1000 sq ft of gross floor area	0	0
<u>500.1.4</u>	<u>Business Uses</u>			
500.1.4.1	Auditoriums/ theaters	1 per 2 seats	0	0
500.1.4.2	DELETED	----	----	----
500.1.4.3	Business school	4 per 1000 sq ft of gross floor area	0	0
500.1.4.4	Car wash	2 per 1000 sq ft of gross floor area plus line up area of 9' x 180'	0	0
500.1.4.5	Convalescent rest and nursing homes	1 per 2 beds	0	1
500.1.4.6	Funeral home	6 per 1000 sq ft of gross floor area	0	1
500.1.4.7	Gasoline filling or service station	6 per 1000 sq ft of gross floor area	1	0
500.1.4.8	Greenhouses	4.4 per 1000 sq ft of gross floor area	0	0
500.1.4.9	Motel - hotel	1.2 per unit	0	1
500.1.4.10	Museums and libraries	2 per 1000 sq ft of gross floor area	0	0
500.1.4.11	Offices, banks	4 per 1000 sq ft of gross floor area	0	0

Table of Offstreet Parking and Loading Regulations

Section Number	Use	Minimum Number of Parking Spaces	Minimum Number of Loading Bays	Minimum Number of Loading Spaces
500.1.4.12	Offices, general	4 per 1000 sq ft of gross floor area	0	0
500.1.4.13	Medical Center	5.5 per 1000 sq ft of gross floor area	0	0
500.1.4.14	Recreation, gainful business	4 per 1000 sq ft of gross floor area	0	0
500.1.4.14.1	Recreation, gainful business, Secondary to Principal Club/Lodge	4 per 1000 sq ft of gross floor area	0	0
500.1.4.15	Restaurants, “fast food” service that does not take call ahead orders and is in excess of 1000 sq ft gross floor area	25 per 1000 sq ft of gross floor area	Section 500.3.5	Section 500.3.5
500.1.4.16	Restaurants, other	12 per 1000 sq ft of gross floor area	Section 500.3.5	Section 500.3.5
500.1.4.17	Retail sales and services	4 per 1000 sq ft of gross floor area	Section 500.3.5	Section 500.3.5
500.1.4.18	Adult bookstore	4 per 1000 sq ft of gross floor area	Section 500.3.5	0
500.1.4.19	Adult motion picture theater	1 per 4 seats	0	0
500.1.4.20	Adult club	10 per 1000 sq ft of gross floor area	Section 500.3.5	0
500.1.4.21	Body art	4 per 1000 sq ft of gross floor area	Section 500.3.5	
500.1.4.22	Vehicle sales or rental	18	0	1

Table of Offstreet Parking and Loading Regulations

Section Number	Use	Minimum Number of Parking Spaces	Minimum Number of Loading Bays	Minimum Number of Loading Spaces
500.1.4.23	Outdoor Restaurant Seating	6 per 1000 sq ft of area used for outdoor seating	0	0
500.1.4.24	Substance Abuse Treatment Center	5.5 per 1,000 sq ft of gross floor area	Section 500.3.5	Section 500.3.5
500.1.4.25	Licensed Massage Therapy Salon	4 per 1,000 sq ft of gross floor area	Section 500.3.5	Section 500.3.5
500.1.4.26	Medical Marijuana Treatment Center	5.5 per 1,000 sq ft of gross floor area	Section 500.3.5	Section 500.3.5
500.1.4.27	Adult Day Health Center	12 per 1,000 sq ft gross floor area	0	Section 500.3.5
500.1.4.28	Kennel	4 per 1, 000 sq ft gross floor area	Section 500.3.5	Section 500.3.5
500.1.4.29	Marijuana Retailer	4 per 1, 000 sq ft gross floor area	Section 500.3.5	Section 500.3.5
<u>500.1.5</u>	<u>Industrial Uses</u>			
500.1.5.1	Building construction and contracting	1.2 per 1000 sq ft of gross floor area	Section 500.3.5	0
500.1.5.2	Manufacturing and repair	1.2 per 1000 sq ft of gross floor area	Section 500.3.5	0
500.1.5.3	Marina	7 per 10 docking slips	0	0

Table of Offstreet Parking and Loading Regulations

Section Number	Use	Minimum Number of Parking Spaces	Minimum Number of Loading Bays	Minimum Number of Loading Spaces
500.1.5.4	Motor vehicle repair shop	5 per 1000 sq ft of gross floor area	1	0
500.1.5.5	Warehousing	1 per 1000 sq ft of gross floor area	Section 500.3.5	0
500.1.5.6	Wholesale and distribution	1.2 per 1000 sq ft of gross floor area	Section 500.3.5	0
500.1.5.7	Self storage facility	1 per 1000 sq ft of gross floor area	Section 500.3.5	0
500.1.5.8	Research and development facilities	1.2 per 1000 sq ft of gross floor area	Section 500.3.5	0
500.1.5.9	Towing	18	0	1
500.1.5.10	Light Manufacturing	1.2 per 1,000 sq feet of gross floor area	Section 500.3.5	Section 500.3.5
500.1.5.11	Public Service Corporations	4 per 1,000 sq ft of gross floor area	Section 500.3.5	Section 500.3.5
500.1.5.12	Asphalt, Brick, Concrete & Soil Recycling	1.2 per 1,000 sq. ft. of gross floor area	Section 500.3.5	Section 500.3.5
500.1.5.13	Marijuana Cultivator	1.2 per 1,000 sq. ft. of gross floor area	Section 500.3.5	Section 500.3.5
500.1.5.14	Independent Marijuana Testing Laboratory	1.2 per 1,000 sq. ft. of gross floor area	Section 500.3.5	Section 500.3.5
500.1.5.15	Marijuana Product Manufacturer	1.2 per 1,000 sq. ft. of gross floor area	Section 500.3.5	Section 500.3.5
500.1.5.16	Marijuana Research Facility	1.2 per 1,000 sq. ft. of gross floor area	Section 500.3.5	Section 500.3.5

Table of Offstreet Parking and Loading Regulations

Section Number	Use	Minimum Number of Parking Spaces	Minimum Number of Loading Bays	Minimum Number of Loading Spaces
500.1.5.17	Marijuana Transporter	1.2 per 1,000 sq. ft. of gross floor area	Section 500.3.5	Section 500.3.5

+ For residential uses where one parking space per bedroom is required, each studio unit shall require one parking space.

500. 2

500. 2. 1

500. 2. 1. 1

500. 2. 1. 2

500. 2. 2

General Offstreet Parking Requirements

Parking Spaces: All spaces shall be clearly marked in the following dimensions:

for cars: for non-residential uses and elderly housing, nine (9) feet in width by eighteen (18) feet in length with seven and one half (7 ½) feet in vertical clearance; for all other uses, eight and one-half (8 ½) feet in width by seventeen (17) feet in length with seven and one-half (7 ½) feet in vertical clearance; for trucks: twelve (12) feet in width by twenty eight (28) feet in length with twelve (12) feet in vertical clearance.

Aisles: Required parking for single and two family houses may be arranged such that no more than two (2) vehicles may be parked one behind the other. For all other uses, each space shall be provided direct access to an aisle, drive, or street. Parking aisles providing shall have the following minimum widths:

Parking Angle	Circulation Pattern	
	One-Way	Two-Way
0-45 deg.	14 ft.	19 ft.

46-60 deg.	14 ft.	19 ft.
61-90 deg.	24 ft.	24 ft.

- 500. 2. 3** Driveways: Access and egress driveways shall be a minimum of fifteen (15) feet in width for one-way traffic, and eighteen (18) feet for two-way traffic.
- 500. 2. 4** All drive-up windows, drive-thrus and similar facilities shall be provided with an exclusive line-up area a minimum of eight and one-half (8 1/2) feet in width by ninety (90) feet in length.
- 500. 2. 5** Pavements: All areas subject to wheeled or pedestrian traffic and parking shall be adequately drained and paved with bituminous concrete or equivalent surfacing; shall be clearly marked and provided with appropriate wheel guards, railings, or bumper guards; and shall be permanently maintained.
- 500. 2. 6** Restrictions: No land in any residential district shall be used as an offsite parking lot for the customers or employees of any business, office, lodge, or industry whether or not any charge is made for such parking privileges.
- 500. 2. 7** Elderly: The on-site offstreet parking requirement for multifamily houses occupied by the "elderly"(as defined by the rules and regulations of the Malden Housing Authority) may be reduced to not less than one (1) parking space for every apartment unit contained within the apartment building or building constructed or rehabilitated by the Malden Housing Authority itself, built or rehabilitated for the Housing Authority as "turnkey housing" (as defined by the rules and regulations of the Department of Housing and Urban Development, built or rehabilitated by non-profit organizations (as defined by the rules and regulations of the Department of Housing and Urban Development) or built or rehabilitated with financing provided by Massachusetts Housing Finance Agency.
- 500. 2. 8** In the Central Business District:

- 500. 2. 8. 1** All allowed non-residential uses do not have to conform with offstreet parking requirements.
- 500. 2. 8. 2** For residential uses, if parking requirements are reduced, the developer/owner shall contribute \$2,000 annually for each space reduced to a City of Malden Parking and Traffic Mitigation Trust Fund to be used at the City's reasonable discretion to mitigate future impacts on traffic and parking and/or for infrastructure improvements to parking and traffic systems.
- 500. 2. 8. 3** The onsite parking requirements for residential uses may be further reduced by special permit granted by the City Council provided, however, that the Malden Traffic Commission certifies that the parking will be provided offsite in a city of Malden public parking facility within 400 feet of the residential property, and further provided that the reduction will not be detrimental to the public good.
- 500.2.8.4** All allowed residential uses shall make all reasonable efforts to participate in a car sharing program i.e., "zip cars", whereby the development provides on-site car sharing program vehicles and designates on-site parking spaces for car sharing program vehicles that are available for use by residents of the development at a cost, typically based on usage (time and mileage); the number of car sharing program vehicles and spaces to be provided on-site by the development shall be based on the following formula: 1 car sharing program vehicles and parking space on-site per 50 residential dwelling units or fraction thereof.
- 500.2.8.5** Bicycle parking in the form of an inverted U-shaped rack or designated secured area shall be provided for any residential dwelling in accordance with the following: one inverted U shaped rack to accommodate 2 bikes for every 20 units or part thereof above the first 20 units.
- 500. 2. 9** **Lighting:** Lights used to illuminate parking areas and driveways shall be arranged to reflect light away from adjoining residential areas and away from all ways or streets.
- 500. 2.10** **Building Lines:** No parking shall be permitted within the building line as set by the Public Works Commission of the City of Malden.
- 500. 2.11** **Backing Prohibited:** Other than for structures containing six (6) or less dwelling units, no parking space shall be so located where a vehicle parked in the space must back out into a street or way.
- 500. 2.12** **Commercial Vehicles:** Only one (1) commercial vehicle, not exceeding two (2) axles nor more than ten thousand (10,000) lbs. gross vehicle weight, shall be parked out of doors overnight, holidays, or on Sunday in conjunction with a residential property.
- 500. 2.13** **Landscaping:** All required yard areas shall be landscaped except where paved for parking or access. All other yard areas not paved or covered by building shall be landscaped, mulched, covered with crushed stone, or otherwise treated so as to prevent erosion. Offstreet parking areas of twenty (20) or more parking spaces, with the exception of parking structures, shall be planted with shade trees of a species and location approved

by the Malden Tree Warden. There shall be a minimum of one (1) tree for every ten (10) parking spaces. Each tree shall be a minimum of one and one-half (1-1/2) inches in caliper and eight (8) feet in height at time of planting. Any tree surrounded on three (3) or more sides by pavement shall be planted within a raised island, bound by a granite curb a minimum of six (6) inches in height, covered with a porous material for water drainage to the tree roots, and have a minimum surface drainage area immediately surrounding the tree of thirty (30) square feet.

500. 2.14 **Snow Storage:** For other than single and two (2) family offstreet parking areas or covered parking areas, forty (40) square feet of lot area for each parking space for a car and sixty (60) square feet of lot area for each parking space for a truck is to be provided for the storage of plowed snow. Said area is not to be the area designated for parking spaces, walks, and driveways, nor any areas planted to shrubs, ivy, and/or trees designated as screen and/or foundation planting, and must abut the parking area which it services.

500. 2.15 **Grades:**

500. 2.15. 1 No area used for parking of vehicles shall have a grade in any direction in excess of eight (8) percent.

500. 2.15. 2 No driveway, aisle, or other means of vehicular access shall have a grade in any direction in excess of fifteen (15) percent.

500. 2.16 **Computation:** When unit of measurement determining number of required parking spaces result in a fractional space, any fraction of one-half (1/2) or more shall require one (1) space, and any fraction less than one-half (1/2) shall be disregarded.

500. 2.17 **Seating:** Where seating consists of benches or pews, each twenty (20) inches shall be considered as one (1) seat.

500. 2.18 **Multiple Use:** Lots containing more than one (1) principle use shall provide parking in the amount equal to the sum of the requirement for the various individual uses. Accessory uses shall be treated as part of the principle use.

500. 2.19 **Handicapped Parking:** All Parking required by this ordinance shall be in full compliance with the requirements of the Architectural Access Board with regard to number of spaces, size of such spaces, location and pedestrian access thereto. However, this Section shall not be interpreted as requiring more parking spaces than would otherwise be required by this ordinance.

500. 2.20 **Front yards, side yards and rear yards:** A minimum of 50% of the front yards, **side yards and rear yards** of single, two, three and four family and town/row residential uses shall be devoted to a lawn and/or landscaping area (not paving).

500. 2.21 **Multi-Family Dwellings:** Parking requirements for multi-family dwellings may be reduced to 1.5 spaces per

dwelling unit by special permit granted by the Planning Board for properties located within 1,000 feet of a rapid transit or train station and provided that the Planning Board makes the finding that the reduction will not be detrimental to the public good or surrounding neighborhood.

500.2.22

Bicycle Parking in the form of an inverted U-shaped rack or designated secured area shall be provided for any multifamily residential dwelling or development and for the occupancy for any institutional or business use of a building in accordance with the following:

1. One inverted U shaped rack to accommodate 2 bikes for every 20 units or part thereof above the first 20 units.
2. One inverted U-shaped rack to accommodate 2 bikes for every 10,000 square feet of floor area or part thereof above the first 10,000 square feet.

500.3

500.3.1

500.3.1.1

General Loading Requirements:

All loading areas shall have the following minimum dimensions:

Loading bays shall measure on the ground twelve (12) feet wide by fifty-five (55) feet long by fourteen (14) feet of clear vertical height.

500.3.1.2

Loading spaces shall measure on the ground ten (10) feet wide by twenty-four (24) feet long by eight (8) feet of clear vertical height.

Where the Table of Offstreet Parking and Loading Regulations indicates a “Minimum Number of Loading Bays” and a “Minimum Number of Loading Spaces”, one or the other shall be required.

500.3.2

Front Yards: No loading bay or space shall be located within the required front yard area.

500.3.3

Lighting: Lights used to illuminate loading areas shall be arranged to reflect light away from adjoining residential areas and away from all ways or streets.

500.3.4

Access to each structure for purposes of loading and service shall be provided in such manner as to eliminate conflict with pedestrian or vehicular traffic.

500.3.5

Number of Bays or Areas Required: The following loading bay and area requirements shall be in conformance for the uses indicated in the Table of Offstreet Parking and Loading Regulations.

500.3.5.1

One (1) per each establishment.

500.3.5.2

Two (2) per each establishment from 25,000 to 75,000 sq. ft. of floor space.

500.3.5.3

Three (3) per each establishment from 75,000 to 150,000 sq. ft. of floor space.

500.3.5.4

Four (4) per each establishment from 150,000 to 250,000 sq. ft. of floor space.

500.3.5.5

One (1) additional per each establishment for each additional 100,000 sq. ft. of floor space.

- 500. 3. 5. 6** **Railroad Sidings** loading may be substituted at a ratio of one (1) freight car length for each required loading bay except for Section 500.3.7.
- 500. 3. 5. 7** **Multiple Uses:** Lots containing more than one (1) principal use shall provide offstreet loading in the amount equal to the sum of the requirements for the various individual uses. Accessory uses shall be treated as part of the principal use.
- 500. 3. 5. 8** **Dumpsters:** All multifamily buildings shall provide one (1) paved area measuring ten (10) feet by eleven (11) feet for each forty (40) dwelling units or fraction thereof for use by a dumpster, unless other provisions for the disposal of refuse are documented at the time the building permit is issued. Adequate access must be provided for servicing. Dumpsters shall not be permitted in front yard areas nor within twenty (20) feet of any property line, and shall be visually screened.
- 500. 3. 5. 9** Loading bays may be substituted for loading spaces.
- 500. 3. 5.10** In the Central Business District, all allowed uses do not have to conform with the loading requirements provided, however, that the Malden Traffic Commission certifies to the provision of adequate onstreet loading.
- 500. 4**
- 500. 4. 1** **Screening Regulations:** Any nonresidential use which adjoins or abuts residential uses or educational uses; or any multifamily offstreet parking facility abutting other residential uses or educational uses shall be screened along the property line adjoining such residential or educational use by means of foliage or fencing provided and maintained by the owners of the nonresidential or multifamily property.
- 500. 4. 2** Any area used for loading and any area used for open or semi-enclosed storage shall be screened and maintained in such manner as approved by the Planning Board to prevent said area from being readily viewed from a street or from adjoining properties.
- 500. 4. 3** The required screening area shall not be devoted for any other use or purpose and shall be planted and/or constructed in accordance with plans on file with the Inspector of Buildings entitled "Suggested Plant Materials Plan for Screen Planting," hereby incorporated as part of this ordinance.
- 500. 4. 4** Screening areas between nonresidential uses and residential uses or educational uses shall be at least ten (10) feet wide.
- 500. 4. 5** Screening areas between multifamily offstreet parking facilities and other residential uses or educational uses shall be at least three (3) feet in width.

SECTION 600 SIGN CONTROL

All signs are subject to the regulations and requirements of Chapter 3, Section 3.35 of the Revised Ordinances of 1991 as amended and provided that:

1. All exterior signs shall require a building permit;
2. Freestanding accessory ground signs shall be allowed only in the Business Highway, Central Business and Industrial zoning districts, and there is no variance of this provision;
3. All freestanding non-accessory ground signs, i.e., billboards, are prohibited;
4. Preexisting nonconforming freestanding ground signs shall be considered structures and regulated by Section 700.1 of this Ordinance.

SECTION 700

GENERAL REGULATIONS

700. 1

700. 1. 1

Nonconforming Uses, Lots, Buildings and Structures.

Except as otherwise provided in this ordinance, the lawful use of land, buildings, or structures existing or lawfully begun prior to the first publication of notice of the public hearing on this ordinance may be continued even though such use or building does not conform to the regulations specified by this ordinance.

700. 1. 2

Any single or two-family residential structure may be altered or structurally changed provided said alteration or structural change conforms to current dimensional controls of this Ordinance. Any single or two-family residential structure may be reconstructed in the same dimensions and in the same location.

700. 1. 2. 1

Any three-family residential dwelling may be reconstructed in the same dimensions or lesser dimensions, in the same location or location that does not exceed the existing footprint, and having the same number of bedrooms or fewer.

700. 1. 3. 1

Preexisting nonconforming uses, lots, buildings or structures in the Residence A, Residence B and Residence C zoning districts, other than those provided for in Section 700.1.2, may be reconstructed in the same dimensions and a design compatible with the neighborhood and occupied for the same use, extended, structurally changed, altered or occupied for different use, only for the purposes of converting to:

1. residential use; provided that, in the case of an existing building or structure containing more than three stories and/or having a height of 35 feet or more, where the change of use is to multifamily dwelling use, no increase in height shall be allowed; and in the case of reconstruction or new construction, the only multifamily dwelling use of the property that shall be allowed is "Dwelling, Multifamily, up to 3 stories inclusive;" these provisions are use regulations and there shall be no variance of these provisions;
2. day care use in Residence B;
3. general office use and occupancy; or
4. general or convenience retail service use;
5. recreation for gainful business, secondary to existing principal club/lodge.

by special permit granted by the Planning Board, provided said Board finds that said reconstruction, extension, structural change, alteration or change of use is not more detrimental to the neighborhood. Reconstruction of a preexisting nonconforming porch or deck in the same location and of the same dimensions, or lesser dimensions not to exceed the location of the existing footprint, shall not require a special permit.

- 700. 1. 3. 2** Preexisting nonconforming uses, lots, buildings or structures in the Residential Office, all business and all industrial zoning districts, other than those provided for in Section 700.1.2, may be reconstructed in the same dimensions and occupied for the same use, or extended, structurally changed or altered only for a use allowed in the district, by special permit granted by the Planning Board provided said Board finds that said reconstruction, extension, structural change, or alteration is not more detrimental to the neighborhood. Change of use without extension or structural change may only be to a use allowed in the district and shall not require a special permit; except for Marijuana Retailer, Marijuana Cultivator, Independent Marijuana Testing Laboratory, Marijuana Product Manufacturer, Marijuana Research Facility and Marijuana Transporter, where a special permit shall be required by the City Council in accordance with Section 300.19, in all cases, whether or not there is extension or structural change.
- 700. 1. 3. 3** As used herein, the meaning of “extend: or “extension” includes any increase of an existing nonconformity or violation and creation of a new nonconformity or violation and any increase in habitable area, including but not limited to, enclosing a porch or deck or finishing an attic or basement.
- 700. 1. 4** No nonconforming lot shall be further reduced in size.
- 700. 1. 5** Any nonconforming building, structure, or use abandoned or not used for a period of two (2) or more years shall thereafter be used only in conformance with the provisions of this ordinance. When an application is filed regarding a nonconforming building, structure or use where the building is currently vacant or the use is inactive, this period will be determined by the Board of Appeal per a petition filed in accordance with the provisions of Section 800.4.1.3.
- 700. 1. 6** No nonconforming use shall, if once changed into a conforming use, be changed back again to a nonconforming use.
- 700. 1. 7** Multiple Principal Buildings on One Lot shall be prohibited except for town/row residential dwellings, where allowed and except for property consisting of a minimum of two (2) acres that is developed in accordance with the provisions of the Residential Incentive Overlay (RIO) or Residential Incentive Overlay B(RIO-B); provided

that any lot upon which there are located two (2) or more principal buildings lawfully existing or lawfully begun as provided by Section 700.1.1 shall be considered nonconforming and the buildings shall be considered nonconforming, and any alteration, reconstruction, structural change or occupation for a different use of any building of that lot may be allowed only by special permit granted by the Planning Board, provided said Board finds that said alteration, reconstruction, structural or change of use is not more detrimental to the neighborhood.

700. 2

Conforming Lots

No lot conforming in whole or in part to the requirements of this ordinance shall be reduced in size so as to create new dimensional violations.

700. 3

Home Occupations

700. 3. 1

Authorization Home occupations shall be permitted in any dwelling unit which is the bona fide residence of the principal practitioner or in an accessory building thereto, subject to the following provisions:

700. 3. 2

Permitted Occupations Home occupations shall be limited to the following and similar uses:

Artists, sculptors, and photographers, provided that no retail or wholesale transactions are made on the premises.

Authors and composers.

Dressmakers, seamstresses, and tailors.

State licensed family day care facilities, provided that the number of children on the premises does not exceed the number permitted by the license and provided that the home occupation complies with all other provisions of this ordinance except Section 700.3.5.

Telephone soliciting and mailing services.

Home crafts, such as model making, rug weaving, jewelry making, and woodworking.

Office facility, provided that no retail or wholesale transactions are made on the premises.

School or special education or tutorer whose class size does not exceed six (6) pupils at any given time.

700. 3. 3

Prohibited Occupations However, occupations which shall be specifically prohibited include the following and similar uses:

Repair and painting of automobiles, trailers, boats, or other vehicles,

Barber shop or beauty parlor,

Funeral home,
Restaurant,
Stable or kennel,
Letting of rooms or lodging,
Towing Service,
Trucking,
Building Construction and Contracting Offices,
Real Estate Offices,
Substance Abuse Treatment Centers,
Marijuana Establishment,
Marijuana Retailer,
Marijuana Cultivator, Independent
Marijuana Testing Laboratory,
Marijuana Product Manufacturer,
Marijuana Research Facility,
Marijuana Transporter,
Marijuana Social Consumption Establishment.

- 700. 3. 4** **Accessory Use** Any home occupation shall be strictly incidental and subordinate to its use for residential purposes and shall be restricted to not more than twenty-five (25) percent of the gross floor area. No building or structure shall be erected or enlarged to accommodate a home occupation.
- 700. 3. 5** **Employment** No person other than a member of the immediate family shall be employed in the occupation.
- 700. 3. 6** **Appearance** The appearance of the site or building in which the occupation is conducted shall not be altered in a manner which would change the residential character of the premises, either by the use of colors, patterns, materials, construction, signs, or lighting. This shall include the banning of any open storage or the storage of motor vehicles.
- 700. 3. 7** **Traffic and Parking** No home occupation shall generate traffic volumes greater than would normally be expected in a residential neighborhood, and any need for parking generated by the occupation shall be provided on the site.
- 700. 3. 8** **Nuisance** No home occupation shall generate any noise, vibration, glare, fumes, odors, or electrical interference beyond that which could be normally expected from a residential use.

- 700. 4** **Applicability of Regulations.** No building shall hereafter be erected, constructed, or placed; no existing building shall be moved, altered, rebuilt, converted, added to, or enlarged; and no land shall be used for any purpose other than listed as permitted uses in each zone except in conformance with the requirements set forth in this ordinance. Nor shall any required open space or yard contiguous to any building be encroached upon or reduced in any manner. In the event of any such unlawful encroachment or reduction, such building or uses shall be deemed to be in violation of this ordinance, and the certificate of occupancy shall automatically become void.
- 700. 5** **Preservation of Natural Features** Existing natural features such as trees, brooks, drainage channels, and views shall be retained wherever possible. Whenever such features interfere with the proposed use of such property, a retention of the maximum amount of such features consistent with the use of the property shall be required as recommended by the Planning Board.
- 700. 6** **Obstructions.** At the intersection of two (2) or more streets, no fence, wall, sign or other structure shall be erected and no tree, shrub or other planting shall be planted or maintained, and no vehicle shall be parked which prevents an unobstructed view through the space between three (3) and eight (8) feet in height, above the plane of the established grades of the streets within the triangular area formed by the intersecting street lines and a straight line joining each street line ten (10) feet distant from said intersection measured along said street line. On rounded corners, said ten (10) foot distance shall be measured from the intersecting point resulting from the projection of the street lines immediately adjacent to the rounding.
- 700. 7** **Building Lines.** Where a building lot has frontage on a street upon which a Public Works building line for right-of-way widening has been designated, the required setback shall be measured from such building line.
- 700. 8** **Boundaries.** No nonconforming lot shall be further reduced in size, and any changes to the boundaries of lots on which there is an existing building or use shall be carried out in such a manner as to be in compliance with all of the provisions of this ordinance.
- 700. 9** **Utilities.** The provisions of this ordinance shall not apply to customary local utility distribution or collection lines for water, gas, telephone, or electric service. However, all facilities such as pumping stations, repeater stations, and electric substations which require a structure above grade shall be allowed only by Special Permit of the

Planning Board, with the following requirements:

700.9.1 Dimensional control requirements shall be as follows: minimum lot area- 5,000 square feet; minimum frontage- 45 feet; minimum yard dimensions, front, side, and rear- equal to the full height of the highest structure, as measured from the lowest part of the base to the highest part of the structure; coverage principal building- 30%; coverage accessory building- 20%.

700.9.2 Parking and loading spaces shall be provided where the Board finds a need. Loading shall not exceed the requirements of Section 500.3. Parking shall not exceed the ratio of 1.2 spaces per employee.

700.9.3 The Planning Board must find that the facilities will not unduly impinge upon the character or the health and safety of the neighborhood.

700.10 **Retaining Walls** Any person erecting, altering or constructing a wall of three (3) or more feet in height along or within ten (10) feet of a property line, public way or private way; for the purpose of retaining any organic, inorganic or any other material, shall have the following material prepared by a registered civil engineer and submitted to the City Engineer:

700.10.1 A site plan drawn to a scale of at least forty (40) feet to the inch indicating at least the location of the wall, distance to structures and property lines within one hundred (100) feet, and existing and proposed topography to at least two (2) foot contours.

700.10.2 A detailed three (3) dimensional construction plan of the wall drawn to a scale of at least forty (40) feet to the inch.

700.10.3 Detailed construction specifications.

700.10.4 The City Engineer shall examine these materials and make recommendations to the Inspector of Buildings within ten (10) working days to either approve, approve with conditions or disapprove the proposed activity.

700.11 **Storage Tanks.** Tanks for storage of flammable fluids shall be located within buildings or underground.

700.12 **Drainage and Stormwater Management** The grade of a lot may not be altered by more than 25%, except in accordance with the following:

700.12.1 Submit drainage calculations to the City Engineer, prepared by a registered engineer, demonstrating that following the proposed alteration, the amount of run-off shall not exceed the amount of run-off prior to the alteration.

700.12.2 Where deemed necessary, in the opinion of the City Engineer, underground and surface drainage facilities shall

be installed to prevent surface erosion, undermining, flooding and post-development run-off that exceeds pre-development run-off.

700.13

Alteration of Grade and/or Ledge Removal

Excluding routine utility work, any alteration of the grade of any required yard area by 25% or more; any property where the grade of any required yard area is 25% or more before construction or development; or any removal or excavation of ledge or other material from any property by chipping or blasting or any other means, shall require a special permit from the Planning Board, in accordance with the following:

700.13. 1

The Board must find the proposal is not detrimental to the neighborhood; and

700.13. 2

The Board must find that the proposal will not adversely affect the general welfare or public safety.

700.13. 3

Submission Requirements for all permits at time of application:

- a.** Topographic plan, prepared by a registered/licensed professional, showing the existing grade of the subject property and grade of the property and elevations of the proposed building(s) on the property after construction.
- b.** Pre-ledge removal survey of the subject property prepared by a geotechnical professional engineer.
- c.** Erosion prevention plan, prepared by a registered/licensed professional, which includes calculations and measures to prevent erosion and undermining of the subject property and abutting properties.
- d.** Drainage calculations, prepared by a registered/licensed engineer, demonstrating that following the proposed removal, the amount of run-off shall not exceed the amount of run-off prior to the removal.
- e.** Stormwater management plan, subject to the reasonable approval of the City Engineer, and installation of underground and surface drainage facilities to prevent surface erosion, undermining, flooding and post-development run-off that exceeds pre-development run-off.

700.13. 4

Any special permit granted shall be subject to the following conditions:

- a.** Pre-ledge removal survey of all buildings within 300-feet of the property lines of the subject property.
- b.** Seismograph shall located on the site at all times, and placed at such distances as determined by the geotechnical professional engineer with a copy of all tapes to be submitted on a daily basis to the Fire Marshall.
- c.** Liability insurance of a minimum of \$100,000.00/\$300,000.00, with the City of Malden named as a loss-payee.
- d.** Hiring of such fire details as the Fire Chief deems appropriate in his reasonable discretion.
- e.** Hiring of such police details as the Police Chief deems appropriate in his reasonable discretion.

- f. Written notice to be delivered to all premises within 300 feet of the property lines of the subject property, indicating the date or dates such activity will be conducted and the hours of beginning and ending daily for the same.
- g. All retaining walls shall comply with Section 700.10 of this Ordinance.
- h. All blasting shall comply with Section 3.5B of Chapter 3 of the Revised Ordinances of 1991, As Amended.

700.14

700.14. 1

Rowe's Quarry Reclamation & Redevelopment District

Purpose: The Rowe's Quarry Reclamation & Redevelopment District (RQRRD) is intended to encourage development of a comprehensive mixed use project on large, contiguous and underutilized parcels of land while conserving public health, securing public safety, providing sufficient light and air, making adequate provisions for transportation, water, water supply, drainage, sewerage, parks, open space and preservation of natural resources, increasing public amenities and providing adequate tax revenue to offset effects of large-scale development.

700.14. 2

Definitions: Except as otherwise provided, terms used in this section shall have the meanings ascribed in Section 800.6.

700.14. 3

Uses. All development shall comply with

1. the terms of the Land Reclamation Agreement, dated January 30, 2007, between Overlook Ridge, LLC, the City of Malden and the City of Revere (hereinafter, "the Land Reclamation Agreement") incorporated herein by reference and available for public inspection in the City Clerk's Office

2. the "Full Build Master Plan, Malden & Revere, The Highlands at Overlook Ridge", prepared by CDM, ADD Inc. and Roseland Properties Co., revised September 29, 2007 (hereinafter, "the Master Plan"),

700.14. 3. 1

Allowed Uses: Only the following uses shall be allowed, either by Site Plan Review (SPR) by the Rowe's Quarry Site Plan Review Committee (RQSPRC) or by special permit (SP) issued by the City Council, or combination of both per the schedule set forth below or permitted by right as indicated by "Yes". "No" indicates that the use is prohibited.

	Use	RQ1	RQ2	RQ3
700.14.3.1.1	Dwelling, Multifamily up to 8 stories inclusive	SPR	SPR	No

700.14.3.1.2	Dwelling, Multifamily more than 8 stories but not exceeding 10 stories	SPR & SP	SPR & SP	No
700.14.3.1.3	Retail Sales, Convenience	SPR	SPR	SPR
700.14.3.1.4	Retail Sales, General	SPR	SPR	SPR
700.14.3.1.5	Retail Services, Convenience	SPR	SPR	SPR
700.14.3.1.6	Retail Services, General	SPR	SPR	SPR
700.14.3.1.7	Restaurant, All Other and including coffee shops	SPR	SPR	SPR
700.14.3.1.8	Excavation/Gravel Operations	Yes	Yes	Yes
700.14.3.1.9	Hotel not exceeding 12 stories	No	SPR	SPR
700.14.3.1.10	Offices, General not exceeding 12 stories	No	SPR	SPR
700.14.3.1.11	Medical Centers not exceeding 12 stories	No	No	SPR
700.14.3.1.12	1 st and 2 nd floor Retail, Sales & Service, Convenience & General, Restaurants including coffee shops and General Offices	SPR	SPR	SPR
700.14.3.1.13	Uses Accessory to Allowed Uses	SPR	SPR	SPR
700.14.3.1.14	Load Dock & Exterior Dumpsters	No	No	SPR

- 700.14.3.2** **Restrictions on Residential Units:** Residential units shall be limited to two bedrooms, except on the top story of any building, where units shall be limited to three bedrooms.
- 700.14.3.3** **Prohibited Uses:** The following uses shall be prohibited in all subdistricts:
- 700.14.3.3.1** Any use not specifically allowed by Section 700.14.2;
- 700.14.3.3.2** Batching Plant;
- 700.14.3.3.3** Automotive sales and sale of automotive parts;
- 700.14.3.3.4** Stand alone buildings for retail use containing a single tenant occupying more than 30,000 square feet.

700.14. 4	<u>Dimensional Regulations.</u> All development within the Rowe’s Quarry Redevelopment and Reclamation District (RQRRD) shall conform to the dimensional regulations set forth below.
700.14. 4. 1	<u>Standards:</u> For purposes of determining whether the proposal satisfies dimensional regulations, the following standards shall apply: 1.Where a proposed building is located partially within the City of Malden and partially within the City of Revere, dimensional requirements shall only apply to that portion of a proposed building located in the City of Malden. 2.Land within another municipality may not be used to satisfy dimensional requirements applicable in Malden.
700.14. 4. 2	<u>Dimensional Regulations:</u>
700.14. 4. 2. 1	<u>Minimum Distance Between Principle Buildings:</u> 30 feet, 20 feet of which may not be encumbered by a structure.
700.14. 4. 2. 2	<u>Maximum Height:</u> 12 feet per story for residential and office use and 18 feet for retail and restaurant use. Parapets less than five (5) feet high, chimneys, flag poles, ventilators, water tanks, antennas, penthouses, solar panels, wind generators and associated towers, and other projections used for or intended to be used exclusively for utility services or access to the roof may exceed the height limitations of this section by not more than twenty (20) feet. In the RQRRD, height shall be the vertical dimension of a building as measured from the mean level of the established grade at the building to the mean height of the roof.
700.14. 4. 2. 3	<u>Minimum Setback from Property Lines:</u> 30 feet, except for lots on Vining Street. Minimum setbacks from property lines on Vining Street shall be 50 feet; provided that the 25 feet from the property line shall be a Buffer Area devoted solely to landscape screening; and provided further that:
700.14. 4. 3. 1	No structure greater than 6 stories may be located within 200 feet of the property line of the nearest residential lot on Vining Street;
700.14. 4. 3. 2	No retail or restaurant uses shall be located within 100 feet of the closest Vining Street property line;
700.14. 4. 3. 3	No hotel or office building shall be located within 400 feet of the closest Vining Street property line.
700.14. 4. 3. 4	In RQ1, a landscape plan for the Buffer Area shall be submitted and subject to Site Plan Review and approval.
700.14. 4. 4	<u>Minimum Building Setback from Streets or Ways, Public or Private:</u> 20 feet
700.14. 4. 5	<u>Minimum Usable Open Space:</u> The minimum usable open space shall be
700.14. 4. 5. 1	<u>For residential uses</u>
700.14. 4. 5. 1. 1	200 square feet per dwelling unit, which shall be reasonably available and proximate to the residential building to which it is allocated and, in no event, more than 200 feet from the building;
700.14. 4. 5. 1. 2	A maximum of 25% of the usable open spaces may be provided on the roof or within a building and may include,

but not be limited to, sauna and whirlpool baths; physical exercise rooms; handball, paddleball, and/or squash courts; tennis courts; basketball courts; swimming pools; lawns or greens; walks; benches; and other active or passive recreational facilities.

700.14. 4. 5. 2
700.14. 4. 5. 2. 1
700.14. 4. 5. 2. 2

Other

Total usable open space shall be no less than 10% of the total land area of the RQRRD.

Town Common: A certificate of occupancy for any building within RQ1 shall not be issued until the developer has designated a location for a Town Common, containing a minimum of 50,000 square feet, which may include land located in Malden and/or Revere, and has commenced construction of such Town Common. The Town Common shall be completed within 2 months following issuance of such certificate of occupancy. Plans for the Town Common shall be submitted to the RQSPRC together with the application for site plan approval of the first residential building within RQ1. Land within the Town Common shall not be counted toward the minimum usable open space requirement for residential use, but shall be counted toward the minimum open space requirement of 10% of the land area of the RQRRD.

700.14. 4. 5. 2. 3
700.14. 4. 6
700.14. 4. 6. 1

Compliance with open space requirements shall be subject to Site Plan Review.

Frontage: Frontage shall meet the following requirements:

70 feet along a public way, a private way approved and endorsed by the Malden Planning Board, or a private internal access drive.

700.14. 4. 6. 2
700.14. 4. 6. 3

Where frontage is provided by an internal access drive such access drive shall contain a paved roadway width from curb to curb of at least twenty-four (24) feet

Where parking is allowed on the access drive, the paved width shall be increased nine (9) feet for each side of the access drive used for parallel parking and eighteen (18) feet for each side of the access drive used for head-in parking.

700.14. 4. 6. 4

Notwithstanding the foregoing, the main access boulevard that provides access from Salem Street to Route One shall require approval by the Planning Board under the Subdivision Control Law.

700.14. 4. 6. 5

Compliance with frontage requirements shall be subject to Site Plan Review.

700.14. 4. 7

Sidewalks: Sidewalks shall be required on all ways open for public use and shall be subject to Site Plan Review.

700.14. 4. 8

Density, Lot Area Per Dwelling Unit: 750 square feet per dwelling unit.

700.14. 4. 9

Massing Impact: Any building proposed in RQ1 shall be sited and designed to reduce, as much as is reasonably practicable, any massing impacts on property located on Vining Street. The location, design and massing impact of any proposed building shall be subject to Site Plan Review.

700.14. 4.10

Dimensional Limitations on Retail Use:

- 700.14. 4.10. 1** Retail uses in residential buildings shall not exceed 40,000 gross square feet in the aggregate.
- 700.14. 4.10. 2** Stand-alone retail buildings may not exceed 90,000 gross square feet in the aggregate.
- 700.14. 4.10. 3** No individual tenant or occupant of a stand alone building used for retail uses shall occupy more than 15,000 gross square feet, except that a supermarket may have up to 30,000 gross square feet.
- 700.14. 4.10. 4** Notwithstanding the foregoing, the maximum area devoted to retail use set forth herein shall be reduced proportionately (on a one to one basis) upon the issuance of a building permit by the City of Revere that authorizes retail uses on land within the City of Revere that is (a) contiguous to land within the RQRRD, and (b) subject to the Land Reclamation Agreement. By way of example, if a building permit is issued for 20,000 gross square feet of stand alone retail use on such contiguous land within the City of Revere, then only 70,000 gross square feet of stand alone retail use will thereafter be allowed within the RQRRD in Malden.
- 700.14. 4.10. 5** In **RQ1 and RQ2, Convenience Retail Sales and Services, General Retail Sales and Services, Restaurants, including coffee shops and General Offices** within a residential building shall be entirely contained on the first or second floor and no individual tenant shall occupy more than 5,000 square feet.
- 700.14. 4.10. 6** In **RQ3**, stand-alone buildings shall not exceed 30 feet or 2 stories for **Convenience Retail Sales and Services, General Retail Sales and Services** or 10,000 square feet for **Restaurants, including coffee shops.**
- 700.14. 5** **Site Plan Review Required.** Any proposed project within the RQRRD must undergo Site Plan Review by the Rowe's Quarry Site Plan Review Committee ("RQSPRC") in accordance with the provisions below.
- 700.14. 5. 1** **Purpose and Intent.** To preserve or improve the visual and environmental character of the RQRRD and the City of Malden, generally; to ensure that the design and layout of new development will not be detrimental to surrounding land uses; and to separate different and potentially incompatible adjacent land uses from each other in order to partially or completely reduce potential nuisances such as dirt, dust, litter, noise, glare from artificial lighting, or the view of unsightly buildings and parking lots. The intent of the Site Plan Review process is to regulate uses through reasonable conditions imposed by the RQSPRC concerning the location of buildings, open space, landscaping, parking areas, access and egress, drainage, sewage, water supply, public safety and fire safety and similar site plan related issues. If in the judgment of the RQSPRC, the imposition of reasonable conditions would not ensure that the proposed development would conform to the standards and criteria set forth herein, the RQSPRC may deny site plan approval entirely.
- 700.14. 5. 2** **Composition of RQSPRC.** The RQSPRC shall consist of the following:
1. the Mayor or his designee;
 2. the Ward City Councillor or his designee;
 3. the Planning Board Chairman or his designee;

4. the City Engineer or his designee;
5. the City Planner;
6. the Director of the Malden Redevelopment Authority;
7. a Councillor At Large, designated by the Council President

The RQSPRC shall be provided with written recommendations on a proposed plan from the director of public works, the fire chief or fire prevention officer, the head of the traffic division of the police department, the director of public health, the conservation commission and the Building Inspector.

700.14. 5.3

Relationship to the Building Permit or Occupancy Permit. The Building Inspector shall not issue a building permit unless and until a Site Plan Review has been completed, and a letter with site plan conditions, if any, has been forwarded to the Building Inspector by the RQSPRC within the time frame noted in the Site Plan Review Schedule. If the Site Plan Review letter contains specific conditions, said conditions shall become conditions for the issuance of the building permit. Further, the Building Inspector shall not issue a final occupancy permit unless and until all site plan conditions as required by the RQSPRC have been implemented by the developer.

700.14. 5. 4

Site Plan Submission Criteria. The applicant for Site Plan Review shall submit 12 copies of a site plan prepared on standard 24"x36" mylar sheets drawn at a scale not to exceed one-inch equals 40 feet (1"=40'). The Site Plan Review materials shall be submitted to the Malden Planning Department. A registered Professional Survey or registered Professional Engineer must stamp the submitted site plans. Specifically, the water, sewer, and drainage portions of the submitted site plans must be stamped by a Registered Engineer. At a minimum, the submittal materials shall include the following items as applicable:

- A cover letter generally describing the nature and location of the project.
- Parcel lot lines for the proposed project and abutting parcels; and all easement boundaries, if any.
- Heights and use of all buildings abutting the proposed project, including a building or buildings directly across from the proposed project but separated by a public or private right of way.
- Proposed parking plans including location of access and egress; location of snow storage areas.
- A traffic impact assessment (TIA) with the estimated average daily traffic and morning and evening peak hour traffic to be generated by the proposal. Further, the TIA must assess impacts, if any, to surrounding intersections servicing the project site if the proposed project generates more than 200 additional trips during the peak morning and evening hours. The TIA must be performed by a qualified traffic engineer in conformance with the criteria established by the Transportation Research Board of the National Research Council. Notwithstanding the foregoing, a final certificate under the Massachusetts Environmental Policy Act from the Secretary of the Executive Office of Environmental Affairs that authorizes the proposed development may be substituted for the

TIA.

- Location of existing and proposed buildings and public/private ways on the project site.
- Rendering of all facades of proposed buildings. Where practicable, drawings of elevations shall be at a scale of 1"=8'.
- Foundation lines of the proposed buildings, gross floor area and building height.
- Location of solid waste containers.
- Existing and proposed topography, including location of culverts, and water bodies, if any.
- Areas subject to a 100-year flood, if any, as shown on the most recent, applicable Federal Emergency Management Agency Flood Insurance Rate Map.
- Provisions for safe and adequate drainage and sewage; and the location, capacity and projected uses of all utilities.
- Proposed landscaping, including all screening and buffering of adjacent residential areas, if necessary.
- Location of open space, if required.
- Location of all historic structures registered on a local, state, or federal list, or similar features on site, including an indication of their protective status, if any.
- Fencing, walls, and existing and proposed lighting.
- Location, material, and size of all signs.
- For projects located in RQ1, a shadow study showing impacts, if any, on Vining Street residences.

700.14. 5. 5

Site Plan Review Criteria. The RQSPRC shall at a minimum review all site plans for the following:

- Protection of adjoining premises against detrimental impacts of surface water drainage, sound, and excess lighting.
- Convenience and safety of vehicular and pedestrian movement within the site and to and from the site, and the location of driveway openings in relation to traffic and/or adjacent streets, whether private or public.
- Adequacy and arrangement of parking and loading spaces, and the ability of the site plan to accommodate parking in areas other than the front of a building.
- Compliance with handicapped access regulations;
- Protection against impacts to surface water, groundwater, wetlands, and other natural resources on or under the site.
- Adequacy of roadways for the provision of safe and convenient access.
- Building design to ensure that the proposed project is architecturally compatible with neighboring structures within the RQRRD, including building massing, proportions, setbacks, materials, fenestration, ground level

treatment and other related architectural characteristics.

- Within surface parking areas serving retail and restaurant uses there shall be a minimum of one tree per every 20 cars, located within a landscaped island within the parking lot. Within such parking lots there shall be no uninterrupted run of parking spaces for over 20 cars without a break for landscaping. Additional landscaping shall be provided along the edge of all parking areas.
- Trees shall be installed in sidewalks running in front of retail stores spaced at 30 feet on center.
- Roadway widths and turning radii shall meet the requirements of service and fire protection vehicles. Service areas shall be screened from pedestrian view by either architectural or landscape screening elements. All trash areas shall be screened with architectural enclosures.
- Provisions for with grading, ledge removal, blasting, or similar construction-related activity;
- Adequacy of retaining walls;
- Consistency with the Master Plan for the RQRRD and land adjacent to the RQRRD, as the same may be amended, and as adopted pursuant to the Land Reclamation Agreement.

700.14. 5. 6

Review Schedule.

The RQSPRC shall hold a public project review meeting with the applicant within 30 days of submission to the City Planner of a proposed Site Plan that complies with Site Plan Submission Criteria described herein. The RQSPRC shall hold as many public project review meetings thereafter as are reasonably necessary to review the proposal. The RQSPRC shall provide recommendations in writing to the Building Inspector, in the form of a Site Plan Review letter, a copy of which shall be filed with the Office of the City Clerk, within 14 days of the final public project review meeting.

700.14. 5. 7

Appeals. Applicants for a Site Plan Review may appeal any and all conditions imposed by the RQSPRC to the Board of Appeal within thirty (30) days of the date on which the Site Plan Review letter is filed with the City Clerk by filing written notice of appeal, specifying the grounds thereof, with the City Clerk who shall forthwith transmit copies to the RQSPRC, the Inspector of Buildings, and the Board of Appeal. The RQSPRC and the Inspector of Buildings shall forthwith transmit to the Board of Appeal all documents and papers constituting the record of the case in which the appeal is taken. In no instance shall the administrative Site Plan Approval process be construed as a special permit for the purpose of any appeal.

700.14. 5. 8

Amendments. The applicant may petition the RQSPRC at any time to amend the conditions contained the Site Plan Review letter filed with the City Clerk and the conditions of the building permit based on that Site Plan Review letter, which shall be reviewed by the RQSPRC in accordance with the Site Plan Review Schedule.

700.14. 6

Parking. Where a proposed building is located partially within the City of Malden and partially within the City of

Revere, parking requirements shall only apply to that portion of the building located in the City of Malden. No land within another municipality may be used to satisfy parking requirements applicable in Malden. Parking spaces serving a use in RQ2 or RQ3 may be located in either RQ2 or RQ3. Parking spaces located in RQ1 may only serve a use in RQ1 and all parking spaces required for a use in RQ1 must be located in RQ1. The foregoing limitations on the location of parking spaces shall not apply where the parking space serves a residential use. In no event may a parking space be located more than 400 feet from the use that it serves.

	Use	Minimum number of parking spaces
700.14. 6. 1	Dwelling, Multifamily up to 8 stories inclusive	2.0 per dwelling unit
700.14. 6. 2	Dwelling, Multifamily more than 8 stories but not exceeding 10 stories	2.0 per dwelling unit
700.14. 6. 3	Retail Sales, Convenience	4.5 per 1,000 gross square feet
700.14. 6. 4	Retail Sales, General	4.5 per 1,000 gross square feet
700.14. 6. 5	Retail Services, Convenience	4.5 per 1,000 gross square feet
700.14. 6. 6	Retail Services, General	4.5 per 1,000 gross square feet
700.14. 6. 7	Restaurant, All Other and including coffee shops	10 per 1,000 gross square feet
700.14. 6. 8	Excavation/Gravel Operations	Section 500
700.14. 6. 9	Hotel not exceeding 12 stories	1 per room
700.14. 6.10	Offices, General not exceeding 12 stories	Section 500
700.14. 6.11	Medical Centers, not exceeding 12 stories	Section 500
700.14. 6.12	Uses Accessory to Allowed Uses	Section 500

- 700.14. 6.13** Loading requirements may be reduced pursuant to Site Plan Review upon a finding by the RQSPRC that the required number of loading spaces exceeds the likely need for loading spaces with respect to a specific use.
- 700.14. 6.14** Off-street parking and loading facilities shall comply with the dimensions for parking spaces and loading spaces and the minimum widths for parking aisles and access and egress driveways required pursuant to Section 500 of this ordinance, unless deviations from these requirements are requested, and approved through the Site Plan Review process. In addition, off-street parking and loading facilities shall provide adequate lighting and screening as required by the RQSPRC pursuant to Site Plan Review.
- 700.14. 7** **Signs:** Signs within the RQRRD shall comply all provisions of city ordinance, including Section 600, and shall be subject to Sign Design Review.
- 700.14. 8** **City of Malden Expendable Trust Fund**
- 700.14. 8. 1** In addition to any per unit payment required under the Land Reclamation Agreement, an applicant who receives a special permit shall be required to make a payment into the City of Malden Expendable Trust Fund for that portion of the structure or structures which exceed eight stories. By way of example, if a special permit is granted authorizing an increase from eight stories to ten stories, the payments described herein shall be owed only for floors nine and ten.
- 700.14. 8. 2** **Payment Amount:** Payments under this section shall be equal to 3% of total applicable construction cost, as determined by an independent cost estimator. The selection of a cost estimator shall be approved by the City Council. The cost of estimation services shall be borne by the applicant.
- 700.14. 8. 3** **Schedule of Payments:** Payment shall be made in two equal installments, payable in accordance with the following schedule:
 1st installment: upon granting of a building permit, and as prerequisite to the issuance of the building permit;
 2nd installment: upon granting of a temporary or permanent occupancy permit for any portion of the project, and as a prerequisite to the issuance of the occupancy permit;
 provided that, at any time prior to the time for payment described herein, the applicant may elect to make a lump sum payment of the entire required contribution.
- 700.14. 8. 4** As a mitigation fee, a developer shall contribute \$2,000 per dwelling unit to the City of Malden Expendable Trust Fund to be used at the City's reasonable discretion to mitigate future impacts of the development and/or for infrastructure improvements; the fee shall be payable upon application for an occupancy permit; provided that no payment shall be required for any unit assessed a similar fee under the Land Reclamation Agreement.
- 700.14. 9** **General Regulations for the RQRRD:** Notwithstanding any other provisions of this ordinance, the following shall be allowed in the RQRRD, subject to site plan review:

- 700.14. 9. 1** multiple buildings on a single lot are allowed, provided that the dimensional requirement for building separation is met;
- 700.14. 9. 2** retaining walls, alteration of grade and ledge removal; however, blasting shall be subject to the Land Reclamation Agreement;
- 700.14. 9. 3** after the issuance of Site Plan Review Letter and any building permits based thereon, the owner of the property on which the development is proposed may divide or subdivide the property and convey the property or portions thereof to related or unrelated entities, as necessary to complete the development plans, and this subdivision or conveyance shall be deemed to be in compliance with this section, provided that the use of the property remains in compliance with the conditions of the Site Plan Review letter and the building permit. For instance, it is the intent of this provision that the proponent shall be able to record a Master Deed and Unit Deeds for condominiums created within the contiguous development and to convey ownership of the common areas to an association of unit owners and ownership of units to individuals.

SECTION 800 ADMINISTRATION

- 800. 1** This ordinance, by its adoption, shall incorporate Chapter 40A as amended December 22, 1975 or as further amended.
- 800. 2** **Enforcement.** The duty of administering and enforcing the provisions of this ordinance is hereby conferred upon the Inspector of Buildings who shall be appointed as inspector by city ordinance and who shall have such powers as are conferred upon him by this ordinance, and as may be reasonably implied.
- 800. 2. 1** **Examination of Plans and Premises** As of the effective date of this ordinance, it shall be the duty of the Inspector of Buildings to cause any plans, buildings or premises to be examined or inspected to determine whether or not they conform to the provisions of this ordinance.
- 800. 2. 2** **Violations** Where the Inspector of Buildings determines that the construction, alteration, or moving of any building or structure would be in violation of this ordinance, he/she shall withhold any and all permits and certificates required for said construction, alteration, or moving.
- 800. 2. 3** **Withholding of Permits** The Inspector of Buildings shall grant no certificate, permit, or license for any new use of a building, structure, or land which use would be in violation of this ordinance.
- 800. 2. 4** **Revocation of Permits** If, in the course of his business, the Inspector of Buildings finds that a building or structure has been constructed, altered, or moved in violation of this ordinance; or that a building, structure, or land is being used in violation of this ordinance, he/she shall forthwith revoke and/or withhold any and all certificates, permits, and licenses required by said building, structure, or use.
- 800. 2. 5** **Written Notification** In either case above, the Inspector of Buildings shall, within fourteen (14) days of his/her finding, detail to the responsible party in writing the nature of the violation(s), the remedy ordered, time permitted for such action, the penalties and remedies which may be invoked by the city, and the right of appeal, all as specified in this ordinance.
- 800. 2. 6** **Basic Information** Every applicant for a permit, certificate, or license for any construction, alteration, movement, or use of any building, structure, or land shall provide the Inspector of Buildings with such written information, plans, specifications, and/or other similar data as may be deemed necessary for full and accurate examination of the proposed construction, alteration, movement, or use with regard to the provisions of this ordinance.
- 800. 2. 7** **Records** The Inspector of Buildings shall maintain a permanent public record of all matters considered, all supporting data supplied to him, and all action taken by him; and such records shall form a part of the records of his office.
- 800. 2. 8** **Penalties** The penalty for violating the provisions of this ordinance shall be no more than three hundred dollars

(\$300.00) per day per violation, paid to the city of Malden.

- 800. 2. 9** **Complaints** Whenever a violation of this ordinance occurs, any person, office, or board may file a complaint in regard thereto. All such complaints must be in writing and shall be filed with the Inspector of Buildings, who shall properly record such complaint immediately and investigate and notify the complaining party in writing within fourteen (14) days of receipt of said complaint of any action or refusal to act and the reasons therefor.
- 800. 2.10** **Legal Rights** In addition to the remedy or remedies here before provided, any person, persons, company, or corporation violating this ordinance or any provision or section thereof, may be proceeded against by the city of Malden or by the aggrieved owner of any property in the city of Malden by appropriate action or by proceeding in equity or otherwise to prevent and enjoin any threatened violation of this ordinance.
- 800. 2.11** **Notice.** For any public hearing or public project review meeting required under this Ordinance, in addition to publication and posting required by statute, the City shall notify by mail, postage prepaid, all property owners of land located within 300 feet of the property lines of the subject property. (Note: Paper #92/07 added Section 800.2.11 and provided that it would become effective on Jan. 1, 2008.)
- 800. 3** **Certificates and Permits** No building, structure, or land shall be constructed, altered, moved, occupied or used in whole or in part for any purpose until the appropriate certificates, permits, and/or licenses have been issued by the Inspector of Buildings.
- 800. 3. 1** **Building Permit** The Inspector of Buildings shall, upon application, issue a building permit for the construction, alteration, moving, or use of any building, structure, land or part thereof where he/she determines that such action will not be in violation of the provisions of this ordinance.
- 800. 3. 1. 1** All applications for building permits shall be made in writing to the Inspector of Buildings in the detail specified in this ordinance.
- 800. 3. 1. 2** Where the proposed use is a single or two (2) family detached or semi-detached dwelling in a residential zone, the Inspector of Buildings shall carefully consider the application and supporting documents for compliance with this ordinance and either issue or deny the building permit.
- 800. 3. 1. 3** A building permit or occupancy permit shall not be issued for any building, structure or property except in compliance with the provisions of Section 3.38, Chapter 3, Revised Ordinances of 1991 as Amended of City of Malden, Building Regulations, ISSUANCE OF CERTAIN BUILDING OR OCCUPANCY PERMITS – CONDITIONS PRECEDENT
- 800. 3. 1. 4** A "Developers Procedural Form" shall be given to the applicant, to be signed by all departments listed on the form before being returned to the Inspector of Buildings for his issuance or denial of a building permit.

- 800. 3. 1. 5** When any application is in an area under the control of the Malden Redevelopment Authority, the Inspector of Buildings shall, prior to the issuance of any permit, refer one (1) copy of the plans, drawings and statements to the Malden Redevelopment Authority for review.
- 800. 3. 2** **Special Permits** The Inspector of Buildings shall, upon written direction of the special permit granting authority, issue a special permit as provided for elsewhere in this ordinance, said permit to be a prerequisite to the issuance of a building permit as prescribed by the building code.
- 800. 3. 2. 1** All applications for special permits, as provided for elsewhere in this ordinance, shall be filed by the petitioner with the Inspector of Buildings who shall forthwith transmit copies of the application, site plan, and all other supporting documents to the special permit granting authority and the Planning Board.
- 800. 3. 2. 2** In those cases where the Board of Appeal or City Council is the special permit granting authority, the Planning Board shall review the application and site plan, evaluate the proposed use and its relationship and conformity to the goals and objectives and policies established by the city Comprehensive Plan, and within twenty-one (21) days after the receipt of such application make a written report to the Board of Appeal setting forth its findings and recommendations. In making its recommendations, the Planning Board may suggest any revision to the site plan or other plans as will, in its opinion, cause the proposed use to be in substantial conformance with the Comprehensive Plan and its principles of land use and development. The Board of Appeal shall not hold a public hearing for that particular application until either the Planning Board report is received or the elapse of the twenty-one (21) day time limit.
- 800. 3. 2. 3** The special permit granting authority shall hold a public hearing within sixty-five (65) days of the proper filing of each application for a special permit.
- 800. 3. 2. 4** The special permit granting authority shall act within ninety (90) days following a public hearing for a special permit, failing which, such permit shall be deemed to be granted.
- 800. 3. 2. 5** Special permits shall require a vote of at least four (4) of the five (5) members of the Board of Appeal, or a two-thirds (2/3) vote of all members of the Planning Board or City Council, as applicable. Associate members shall be allowed, when necessary, to act on applications for special permits before the Planning Board in accordance with Chapter 40A Section 9.
- 800. 3. 2. 6** The special permit granting authority shall furnish the Inspector of Buildings, Planning Board, and City Clerk with a copy of all decisions regarding special permits.
- 800. 3. 2. 7** All rights authorized by a special permit shall lapse within one (1) year from the date of granting if substantial construction or substantial use has not sooner commenced, as determined by the Planning Board at a public hearing convened for that purpose with notice as required by this ordinance.

800. 3. 2. 8 All applications for special permits shall, as required by General Laws, be accompanied by fees established from time to time by the special permit granting authority, if the appellant, applicant or petitioner is not an officer or board of the city; plus the cost of notices.

800. 3. 3 **Certificate of Occupancy** The Inspector of Buildings is thereby empowered to issue a certificate of occupancy which shall certify that all provisions of this ordinance have been complied with in respect to the location and use of the building, structure or premises in question. No building or structure shall be used or occupied unless a Certificate of Occupancy is obtained.

800. 3. 3. 1 Applications for Certificates of Occupancy shall be made in writing to the Inspector of Buildings in the detail specified in this ordinance prior to any use or reuse of a building, structure, or land.

Notwithstanding the foregoing, no special permit, variance, site plan approval or building permit shall be issued for construction or creation of any multi-family residential dwelling unit containing five units or more, commencing on the first date of publication of this ordinance amendment and ending December 31, 2017. This provision shall apply to property in all zoning districts in the city but shall not apply to any application for or special permit, site plan approval, variance or building permit filed for or granted on or before the first publication of this ordinance amendment.

The foregoing moratorium is imposed to allow the City time to undertake studies and obtain citizen input on the impacts of increased population and density and adequacy of the City's infrastructure and financial ability to accommodate increased population and density, as described in RFP #9423-B, and to consider amendments to the ordinance.

800. 4 **The Board of Appeal**, established by Chapter 220 of the Acts of 1920, Chapter 361 of the Acts of 1941, and Chapter 280 of the Acts of 1946, as amended, shall constitute the Board of Appeal as required under Chapter 40A, Massachusetts General Laws and under this ordinance.

800. 4. 1 **Powers** The Board of Appeal shall have the following powers:

800. 4. 1. 1 Upon appeal to grant variances from the terms of this ordinance where the Board finds that, owing to circumstances relating to soil conditions, shape, or topography specially affecting such land or structures but not the zoning district in general, a literal enforcement of the provisions of this ordinance would involve substantial hardship, financial or otherwise, to the petitioner or appellant, and that desirable relief may be granted without substantial detriment to the

- public good and without nullifying or substantially derogating from the intent or purpose of such ordinance.
- 800. 4. 1. 2** To hear and to decide applications for special permits as provided for elsewhere in this ordinance.
- 800. 4. 1. 3** To hear and decide appeals of decisions or orders made by the Inspector of Buildings or other administrative official.
- 800. 4. 2** Any appeal of a decision or order made by the Inspector Buildings or other administrative official shall be taken within thirty (30) days from the date of such decisions or order by filing written notice of appeal, specifying the grounds thereof, with the City Clerk who shall forthwith transmit copies to such person whose decision or order is being appealed, and to the Board of Appeal. Such person shall forthwith transmit to the Board of Appeal all documents and papers constituting the record of the case in which the appeal is taken.
- 800. 4. 3** Petitions shall specify, as appropriate, the grounds of the appeal; the specific subsections of the ordinance or the specific decision from which the appeal is made, applied under or to be varied; the land, buildings, or parts thereof, for which the variance is sought; and the duration of time for which it is to apply, whether in terms of a stated number of years, the life of the existing building, or otherwise; and shall be accompanied by site plans and such other data, plans, and specifications as are required by this ordinance or by the Board of Appeal for the purpose of a clear understanding by said board of the issues, situations, or facts of the case.
- 800. 4. 4** All applications for appeals and petitions for variances shall, as required by the General Laws, be accompanied by fees as established from time to time by the Board of Appeal, if the appellant, applicant, or petitioner is not an officer or board of the city; plus cost of notices.
- 800. 4. 5** The Board of Appeal shall hold a public hearing on any appeal, application, or petition transmitted to it by the City Clerk within sixty-five (65) days of the date of transmittal.
- 800. 4. 6** All rights authorized by a variance shall be exercised within one (1) year from the date of grant, or such rights shall lapse, except that the Board of Appeal may, upon written application prior to the expiration of the one year time limit, extend such deadline for a period not to exceed six (6) months.
- 800. 4. 7** All decisions of the Board of Appeal shall be by a vote of at least four (4) of its five (5) members and shall be specific as to the subject granted or denied and the location to which it applies. Grants of variances shall, in addition, specify any limitations of time and use imposed; and any regulations made or amended, compliance with which is a condition of the use permitted. Failure of the Board of Appeal to act within seventy-five (75) days shall be deemed to be a granting of the relief, application, or petition sought. Decisions of the Board of Appeal shall be interpreted as follows:
- 800. 4. 7. 1** All grants of variances shall be for the duration specified in the petition; or if none is specified therein, for a period of one (1) year from the date of the petition unless otherwise specifically set forth in the Board's decision.
- 800. 4. 7. 2** All grants of variances shall apply to the land, building, or buildings or parts thereof specified in the petition; or if

none is specified therein, to the single building or structure or part thereof most directly affected, if any exist, or are proposed in connection with the variance rather than to the land, unless specified in the Board's decision.

800. 4. 7. 3 All data, plans, and specifications presented by the applicant, appellant, or petitioner shall be considered to be incorporated as part of the Board's decision unless specifically excluded therein.

800. 4. 7. 4 Every decision of the Board of Appeal shall contain a full record of the findings of the Board pertaining to the particular case. The Board shall keep minutes of its proceedings showing the vote of each member, or associate member, upon every question, or if absent or failing to vote, indicating such fact, and clearly setting forth the reason(s) for its decision and/or action, copies of which shall be filed with the City Clerk within fourteen (14) days of the hearing.

800. 4. 8 The Planning Board may submit recommendations on matters before the Board of Appeal. Said recommendations shall be in the form of a written report, shall be read aloud at the public hearing by a duly authorized person representing the Planning Board, and shall become part of the recorded minutes of that public hearing.

800. 4. 9 No appeal or petition for a variance from the terms of this ordinance with respect to a particular parcel of land or the building thereon, and no application for a special permit to the terms of this ordinance, which has been unfavorably acted upon by the Board of Appeal, shall be considered on its merits within two (2) years after the date of such unfavorable action unless said Board, by a vote of four (4) of its five (5) members, finds there are specific and material changes in the conditions upon which the previous unfavorable action was based, and unless, after serving notice to the parties of interest of the time and place of proceedings, eight (8) of the nine (9) members of the Planning Board consent thereto.

800. 5 **Amendments.** The City Council, Board of Appeal, an individual owning land to be affected by the zoning amendments, ten (10) registered voters, Planning Board, and regional planning agency may petition for an amendment to this ordinance. Said petition shall be in writing, shall, as required by the General Laws, be accompanied by a fee to be established by the City Council, if the petitioner is not an officer or board of the city, plus the cost of notices, and shall be submitted to the City Council. The Council shall submit the proposed amendment to the Planning Board for review within fourteen (14) days of receipt.

800. 5. 1 The Planning Board and the City Council, or committee designated thereof, shall within sixty-five (65) days of the receipt of the proposed amendment jointly hold a public hearing as required by the Massachusetts General Laws.

800. 5. 2 No City Council vote to adopt or reject the amendment shall take place until after the Planning Board has submitted a final report with recommendations, or after twenty-one (21) days have elapsed after such hearing without the

submission of such report or recommendations.

- 800. 5. 3** Adoption of any amendments by the City Council shall be by a two-thirds (2/3) vote of all members, provided, that in case a written protest as defined in the Massachusetts General Laws is filed against such change, said vote for adoption shall be by a three- fourths (3/4) vote of all the members.
- 800. 5. 4** If the City Council fails to act within ninety (90) days after the public hearing, it shall not act thereon until after a new duly advertised public hearing is held.
- 800. 5. 5** No proposed ordinance amendment which has been unfavorably acted upon by the City Council shall be considered on its merits by the City Council within two (2) years after the date of such unfavorable action unless the adoption of said amendment is recommended in the final report of the Planning Board.
- 800. 5. 6** The effective date of any amendments of this ordinance shall be the date of the City Council vote.
- 800. 5. 7** The Planning Board shall notify by mail, postage prepaid, all property owners, abutters, and abutters-to-abutters of land to be included in any proposed zoning map change.

800. 6

Definitions

800. 6. 1

Generally, for the purpose of this ordinance, the following rules of construction apply:

800. 6. 1. 1

All words used in the present tense include the future tense; all words in the plural number include the singular number; all words in the singular number include the plural number, unless the natural construction of the word indicates otherwise; the word "person" includes a firm, association, organization, partnership, trust, company, or corporation as well as an individual; the word "shall" is mandatory and directory; and word "may" is permissive; and the word "used" includes "designed, intended, proposed, existing, or arranged to be used."

800. 6. 1. 2

Terms or words not defined herein but defined in the Massachusetts State Building Code shall have meanings given therein , unless a contrary intention clearly appears, otherwise as the meaning quoted in the Random House Unabridged Dictionary of The English Language, 1967 Copyright.

800. 6. 2

Definitions For the purposes of this ordinance, certain terms, words and/or series of words, whether or not the definition stated herein is contrary to common usage or contrary as quoted in a dictionary, shall be interpreted as follows:

800. 6. 2. 1

Adult Bookstore: An establishment having greater than 10% of its gross floor area or a substantial/significant portion of its stock in trade devoted to books, magazines, videotapes, implements, and other matter or paraphernalia which are distinguished or characterized by their emphasis depicting, describing, or relating to sexual conduct or sexual excitement as defined in M.G.L. c. 272, S. 31 and which excludes minors by virtue of age.

800. 6. 2. 2

Adult Day Health Center: A program and facility licensed by the state Department of Public Health or otherwise

operated pursuant to equivalent federal or state government approval and authority, however organized, whether conducted for profit or not for profit, that: is community-based and non-residential; provides nursing care, supervision, and health related support services in a structured group setting to persons 18 years of age or older who have physical, cognitive, or behavioral health impairments; and supports families and other caregivers thereby enabling the participant to live in the community. Services provided may be activities of daily living and personal care activities, including but not limited to, bathing, dressing, grooming, toileting, transfers, ambulation, personal hygiene and eating; recreational activities; and social services. All services shall be provided on an outpatient basis and shall not include provisions for overnight stays or any form of residential living. An Adult Day Health Center may be allowed as an accessory use only to a Medical Center or Hospital use and shall not be allowed as an accessory use to any other use. Licensed Massage Therapy Salon, Medical Center, Medical Marijuana Treatment Center and Substance Abuse Treatment Center are specifically excluded from this definition and may not be accessory to an Adult Day Health Center.

- 800. 6. 2. 3** **Adult Club:** An establishment having as a substantial/significant portion of its entertainment a person or persons performing in a state of nudity or distinguished by an emphasis on matter depicting, describing or relating to sexual conduct or sexual excitement, as defined in MGL Chapter 272, Section 31.
- 800. 6. 2. 4** **Adult Motion Picture Theater:** An enclosed building used for presenting material distinguished by an emphasis on matters depicting, describing, or relating to sexual conduct or sexual excitement as defined in M.G.L. c. 272, S.31.
- 800. 6. 2. 5** **Alteration:** As applied to a building or a structure, a substantial change or rearrangement in its exterior structural parts or an enlargement whether by extending on a side, increasing in height, or the moving of a particular part from one location or position to another.
- 800. 6. 2. 6** **Artist live/work space:** A single residential dwelling unit occupied by a **Working Artist** to both live and work, where a minimum of forty percent (40%) of the gross floor area of the unit is used for **Art Use** by the artist residing therein, and where the unit is located above the first floor of a building in which the first floor is occupied for restaurant, retail sales, retail services, general offices, medical or dental offices. Application for a permit shall be accompanied by a floor plan certified by a registered professional. For the purposes of determining the dimensional controls for an artist live/work space, the most similar residential use based on number of units and/or stories shall be used; and for purposes of determining the parking requirements, artist live/work space shall be considered a business use.
- 800. 6. 2. 7** **Art Use:** The production of art or creative work that is written, composed, created, performed or executed for a “one of a kind, limited” production, exclusive of industry-oriented distribution or production. Sale or display of the art or creative work may be accessory to the production

800. 6. 2. 8	<u>Asphalt, Brick, Concrete & Soil Recycling:</u> A building, structure or property, or part thereof, in which the following or similar kinds of construction and/or excavation materials and/or debris are processed, stored and/or transferred, and/or the vehicles and/or equipment used to process, store and/or transfer are parked and/or stored: asphalt, brick, concrete, and soil. All forms of scrap metal are specifically excluded. Asphalt, Brick, Concrete & Soil Recycling may not be allowed as an accessory use to any other use and shall not be classified or categorized as a building, constructing & contracting use; however, provided that, Asphalt, Brick, Concrete & Soil Recycling may be allowed as a temporary construction activity of specific and limited duration only when performed pursuant to work authorized by a building permit and all materials must be from the site. All materials must be used onsite. Activity may only be by a licensed contractor with proper insurance.
800. 6. 2. 9	<u>Base Flood:</u> The flood having a one percent chance of being equaled or exceeded in any given year.
800. 6. 2. 10	<u>Basement:</u> A story partly underground and having more than one half (1/2) of the height, between floor and ceiling or floor and roof, above the average level of the finished outside grade of the lot.
800. 6. 2.11	<u>Batching Plant:</u> A manufacturing facility with associated structures designed to produce bituminous concrete, portland cement concrete and other similar products used in roadway and/or building construction; including the transportation of said materials.
800. 6. 2.12	<u>Body Art Establishment:</u> A facility that engages in the practice of physical body adornment, alteration or modification by means including, but not limited to, body piercing, tattooing, cosmetic tattooing, branding and scarification, but not including practices that are considered medical procedures by the Board of Registration in Medicine.
800. 6. 2.13	<u>Breezeway:</u> A roofed structure, with or without a foundation, with open or enclosed sides, the purpose of which is to connect two (2) or more buildings.
800. 6. 2.14	<u>Building:</u> Any structure having a roof supported by columns, piers, or walls, and intended for the shelter, housing, or enclosure of persons, animals, or chattel.
800. 6. 2.15	<u>Building, Principal:</u> The structure in which is conducted the principal use of the lot.
800. 6. 2.16	<u>Cellar:</u> A story, partly or entirely underground, having more than one half (1/2) of its clear height below the average level of the finished outside grade of the lot.
800. 6. 2.17	<u>Club or Lodge:</u> A building used to house a non-profit social, fraternal, or service organization which is not an adjunct to or operated as or in conjunction with, a public tavern, cafe, or similar place of business.
800. 6. 2. 18	<u>Commission:</u> The Massachusetts Cannabis Control Commission, and any successor or other licensing entity or agency with jurisdiction over marijuana licensing in the Commonwealth of Massachusetts
800. 6.2. 19	<u>Community Host Agreement:</u> The Agreement by and between the City of Malden and the proposed Marijuana

Establishment that identifies the fees/funds that will be paid to the City by the proposed Marijuana Establishment to be used by the City to mitigate the impacts to the community of the Marijuana Establishment. Community impact fees/funds hereunder are in addition to taxes collected by the City per M.G.L. c. 64N, §3.

800. 6. 2.20 **Community Residences:** A cooperative living facility for physically or mentally handicapped persons who live together for the purpose of learning housekeeping tasks and social services thus facilitating their independent living skills.

800. 6. 2.21 **Convenience Store:** A retail store that carries a limited selection of basic items, such as packaged foods, drugstore items, household items, tobacco products, newspapers and magazines, candy and snack foods, hot and cold beverages and lottery, and is open longer hours for the convenience of shoppers. Convenience stores include marts, variety stores and superettes. Dimensional controls and parking requirements shall be the same as for convenience retail sales. Convenience stores are expressly prohibited from any retail sale of Marijuana or Marijuana Products.

800. 6. 2.22 **Density:** Lot area per dwelling unit (expressed in square feet).

800. 6. 2.23 **Development:** Any manmade change to improved or unimproved real estate, including but not limited to building or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.

800. 6. 2.24 **Drive-thru:** A facility where food, goods or services are purchased or obtained from a building or structure on the same lot via a window or similar opening in the building or structure and accessed while in a vehicle. A drive-thru is accessory to the principle use of the building or structure and operated in conjunction with same.

800. 6. 2.25 **Dwelling, Single Family:** A detached building used for, or occupied exclusively by, one (1) dwelling unit. Two (2) kitchens are prohibited in one dwelling unit in a single family dwelling.

800. 6. 2.26 **Dwelling, Cohousing:** A building containing a minimum total of ten (10) dwelling units but a maximum of no more than thirty-five (35) dwelling units (each dwelling unit containing no more than three (3) bedrooms) used and occupied by, an association of residents, which association shall be established and maintained in accordance with a legally binding written agreement, a copy of which shall be submitted to the City Building Inspector, that shall include shared kitchen and dining facilities, and continuous indoor and open space areas of sufficient size to accommodate assembly of the majority of the residents, and all interior shared spaces combined shall comprise a minimum total of fifteen percent (15%) of the entire gross floor area of the building, exclusive of corridors and parking.

800. 6. 2.27 **Dwelling, Group:** A building used for, or occupied by, an assemblage of persons associated or related only through a common cause, action, or association and living together as a housekeeping unit in separate rooms, series of rooms, common room, or as a commercial, educational, or institutional unit. Specific examples include convents, rectories,

halfway houses, community residences, dormitories, and correctional or remedial facilities.

800. 6. 2.28

Dwelling, Multifamily: A building used for, or occupied by, five (5) or more dwelling units.

800. 6. 2.29

Dwelling, Three and Four Family: A building used, or occupied by, three (3) or four (4) dwelling units, but not to include town or row houses.

800. 6. 2.30

Dwelling, Town or Row: A single family attached unit with party walls.

800. 6. 2.31

Dwelling, Two Family: A building used for, or occupied by, two (2) dwelling units. Two (2) kitchens are prohibited in either or both of the two (2) dwelling units in a two family dwelling.

800. 6. 2.32

Dwelling Unit: One (1) or more rooms providing living facilities for one (1) family including equipment for both cooking and sanitation or provisions for the same within the building in which the dwelling unit is located.

800. 6. 2.33

Excavation and Gravel Operations: Buildings and equipment associated with the extraction and processing of stone, sand or gravel and the transportation of said materials.

800. 6. 2.34

Family: One or more persons related by blood, adoption, or marriage, living and cooking together as a single housekeeping unit, exclusive of household servants. A number of persons but not exceeding two (2) living and cooking together as a single housekeeping unit though not related by blood, adoption, or marriage shall be deemed to constitute a family.

800. 6. 2.35

Fast Food Service: Food and drink prepared in advance of ordering by the purchaser or prepared "quick order" upon direct instructions to personnel other than a waitress and/or waiter; packaged and/or containerized other than in dishes for convenience and ease of carrying by the customer; and consumed within the structure or upon the associated grounds, in motor vehicles, and/or off premises.

800. 6. 2.36

Floodway or Regulatory Floodway: The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation.

800. 6. 2.37

Frontage: The continuous and contiguous length of a lot along the street line of a public way, a private way approved and endorsed by the Planning Board and constructed, or a private way certified by the City Clerk and Planning and Engineering Department as used and maintained as a public way.

800. 6. 2.38

Gasoline Filling Station: A building or part thereof, used in connection with tanks, pumps, and other appliances for supplying motor vehicles with gasoline, compressed air, oil, water, automotive accessories, and similar supplies for profit.

800. 6. 2.39

Hospital: A place for medical, dental, or psychological testing, diagnosis and/or treatment of persons or animals with a medical doctor on the premises, and including provisions for overnight and longer stays.

800. 6. 2.40

Height: The vertical dimension of a building as measured from the mean level of the established grade at the building to the mean height of the roof, provided that for residential developments in excess of 6 stories, height shall mean the

vertical dimension of a building measured from the lowest elevation of the lot to the maximum height roof.

800. 6. 2.41 **Independent Marijuana Testing Laboratory:** A laboratory that is licensed by the Commission and is (i) accredited to the most current International Organization for Standardization 17025 by a third party accrediting body that is signatory to the International Laboratory Accreditation Cooperation mutual recognition arrangement or that is otherwise approved by the Commission; (ii) independent financially from any Medical Marijuana Treatment Center or any licensee or Marijuana Establishment for which it conducts a test; and (iii) qualified to test marijuana in compliance with regulations promulgated by the Commission.

800. 6. 2.42 **Inspector of Buildings:** The officially established zoning and building enforcement officer for the city of Malden.

800. 6. 2.43 **Kennel:** A building or lot sheltering cats, dogs or domesticated animals. A kennel that is accessory to another use shall require a special permit. A kennel may not be accessory to a residential use. Any kennel use shall require on site supervision when animals are present.

800.6. 2.44 **Licensed Massage Therapy Salon:** A place, office, clinic or establishment licensed by the state Board of Health to offer massage services or acupuncture. “Massage” means but is not limited to, the systematic treatment of the soft tissues of the body by use of pressure, friction, stroking, percussion, kneading, vibration by manual or mechanical means, range of motion for purposes of demonstrating muscle excursion or muscle flexibility and nonspecific stretching. Massage therapy may include the use of oil, ice, hot and cold packs, tub, shower, steam, dry heat or cabinet baths, in which the primary intent is to enhance or restore the health and well-being of the client. Massage therapy shall not include diagnoses, the prescribing of drugs or medicines, spinal or other joint manipulations or any services or procedures for which a license to practice medicine, chiropractic, occupational therapy, physical therapy or podiatry is required by law. “Massage therapist” or “Massage practitioner”, a person licensed by the State Board of Health who instructs or administers massage or massage therapy for compensation. “Adult Day Health Center” is specifically excluded from this definition.

800. 6. 2.45 **Light Manufacturing:** Fabrication, assembly, processing or packaging operations employing only electric or other substantially noiseless and inoffensive motor power, utilizing hand labor or quiet machinery and processes, specifically excluding any Marijuana Establishment and Marijuana Product Manufacturer, but subject, however to the following conditions: any light manufacturing business, the conduct of which may be detrimental to the health, safety or welfare of persons working in or living near the proposed location of such manufacturing, including, without limiting the generality of the foregoing, special danger of fire or explosion, pollution of waterway, corrosive or toxic fumes, gas, smoke, soot, dust or foul odors and offensive noise and vibrations is EXPRESSLY PROHIBITED.

800. 6. 2.46 **Lot:** A parcel or area of land, under one (1) ownership after October 1, 1962 the dimensions and extent of which are determined by the latest duly recorded or registered plan, by the latest endorsed plan of a subdivision of which the lot

is a part, or by the latest endorsed "....Approval Not Required..." plan as described in the Malden Planning Board Subdivision Regulations.

800. 6. 2.47 **Lot Coverage:** That percentage of the lot area which is devoted to the building area.

800. 6. 2.48 **Lot Line:** The boundary of the lot.

800. 6. 2.49 **Lot line, front:** The boundary line of a lot that separates the lot from the street, which is the frontage of the lot and the side of the legal address of the lot.

800. 6. 2.50 **Lot line, side:** The boundary line of a lot that is not the front lot line and not the rear lot line, and where the lot has more than one boundary line on a side, for the purposes of determining side yard setback, the side lot line used shall be the line closest to the proposed structure.

800. 6. 2.51 **Lot line, rear:** Where the lot has only four (4) boundary lines, the boundary line that is the most distant and opposite from the front lot line; and where the lot has more than four (4) boundary lines, the boundary line that is the least distant from the front lot line and not contiguous with the front lot line.

800. 6. 2.52 **Manufactured Home** means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. Manufactured home shall be synonymous with "mobile home" as regulated under MGL 40A, Section 3. For flood plain management purposes the term "manufactured home" also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days. For insurance purposes the term "manufactured home" does not include park trailers, travel trailers, and other similar vehicles.

800. 6. 2.53 **Marijuana:** In accordance with Chapter 94C of the Massachusetts General Laws, all parts of any plant of the genus Cannabis, whether growing or not; the seeds thereof; and resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or resin including tetrahydrocannabinol; however, excluding, the mature stalks of the plant, fiber produced from the stalks, oil, or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture or preparation of the mature stalks, fiber, oil, or cake made from the seeds of the plant or the sterilized seed of the plant that is incapable of germination.

Marijuana also includes Marijuana Products. Marijuana is expressly defined to exclude Marijuana for Medical Use as defined herein this Ordinance.

800. 6. 2.54 **Marijuana Cultivator:** An entity licensed by the Commission to cultivate, process, and package Marijuana, to deliver Marijuana to Marijuana Establishments, and to transfer Marijuana to other Marijuana Establishments, but not to consumers.

800. 6. 2.55 **Marijuana Establishment:** A Marijuana Cultivator, Independent Marijuana Testing Laboratory,

Marijuana Product Manufacturer, Marijuana Research Facility, marijuana Retailer or Marijuana Transporter. Marijuana Establishment is specifically and expressly defined to exclude a Marijuana Social Consumption Establishment, Medical Marijuana Treatment Center, and any other type of licensed Marijuana-related businesses. A Marijuana Establishment may not be classified as any other use in this Ordinance. A Marijuana Establishment must be the principal use of the property and may be accessory only to another type of Marijuana Establishment at the same property and shall be prohibited as an accessory use to any other use. Any Marijuana Establishment use, whether principal or accessory, shall require a special permit in accordance with Section 300.20 and other applicable provisions of this Ordinance.

800. 6. 2.56 **Marijuana for Medical Use.** Marijuana that is designed and restricted for use by, and for the benefit of, qualifying patients in the treatment of debilitating medical conditions in accordance with Chapter 369 of the Acts of 2012 and 105 CMR 725.000 Implementation of an Act for the Humanitarian Medical Use of Marijuana, as regulated by Medical Marijuana Treatment Center per this Ordinance.

800. 6. 2.57 **Marijuana Product Manufacturer:** An entity licensed by the Commission to obtain, manufacture, process, and package Marijuana, or Marijuana Products, to deliver Marijuana and Marijuana Products to Marijuana Establishments, and to transfer Marijuana and Marijuana Products to other Marijuana Establishments, but not to consumers.

800. 6. 2.58 **Marijuana Products:** Products that have been manufactured and contain Marijuana or an extract of Marijuana, including concentrated forms of Marijuana and products composed of Marijuana and other ingredients that are intended for use or consumption, including edible products, beverages, topical products, ointments, oils, and tinctures. Marijuana for Medical Use as defined herein this Ordinance is expressly excluded from this definition.

800. 6. 2.59 **Marijuana Research Facility:** An entity that cultivates purchases or otherwise acquires Marijuana for the purpose of conducting research regarding Marijuana Products.

800. 6. 2.60 **Marijuana Retailer:** An entity licensed by the Commission to purchase marijuana and Marijuana Products from Marijuana Establishments and to sell-marijuana and Marijuana Products to Marijuana Establishments and/or to consumers.

800. 6. 2.61 **Marijuana Social Consumption Establishment:** An entity that sells Marijuana or Marijuana Products for consumption or use on the premises where sold.

800. 6. 2.62 **Marijuana Transporter:** An entity which transports Marijuana and/or Marijuana Products to, from and/or between Marijuana Establishments, however, expressly excluding transportation, deliveries or

other form of transfer to consumers, which are expressly prohibited, including but not limited to home deliveries or transportation, deliveries or other form of transfer to, from and/or between any other property except a Marijuana Establishment.

800. 6. 2.63

Medical Center: An entity, however organized, providing medical, surgical, dental, physical rehabilitation, or mental health services, including, but not limited to testing, diagnosis, and/or for treatment of persons or animals, with or without a medical doctor on the premises, on an outpatient basis, not including provisions for overnight stays. Examples of services that a medical center may provide include, but are not limited to: blood draw; counseling; dental; dialysis; prenatal and post-natal care; swab-testing and related laboratory services; urinalysis; vaccinations. Medical centers are various types of healthcare facilities, including, but not limited to, the office of an individual practitioner, clinics and group practices; however, “Substance Abuse Treatment Center” and “Hospital” are specifically excluded from this definition. Medical Centers that are physically located within/part of institutions or entities, such as hospitals, schools or pharmacies, shall be considered accessory to the principal use. A special permit issued to a Medical Center is non-transferable and non-assignable. “Licensed Massage Therapy Salon”, “Medical Marijuana Treatment Center” and “Adult Day Health Center” are specifically excluded from this definition.

800. 6 .2.64

Medical Marijuana Treatment Center: An entity, however organized, as defined by Massachusetts law only, registered under this law, licensed by the state Department of Public Health or other applicable state entity, that routinely acquires, cultivates, possesses, processes (including development of related products such as food, tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana products containing marijuana, related supplies, or educational material to qualifying patients or their personal caregivers, or who prescribes or prepares a written or other recommendation, certificate or other documentation used to obtain a registration card, or an unmanned machine that dispenses marijuana products. No Medical Marijuana Treatment Center shall be located within 1,500 feet of the property line of a property used for a residential dwelling, public or nonprofit school, or public park or playground, daycare, religious facility, or any facility in which children commonly congregate. A special permit issued to a Medical Marijuana Treatment Center is non-transferable and non-assignable. A Medical Marijuana Treatment Center shall not be allowed as an accessory use to any other use. A Medical Marijuana Treatment Center may not be classified as, or a type or kind of, any other business, institutional or other use set forth by this Ordinance. “Adult Day Health Center” is specifically excluded from this definition. Marijuana Establishments are specifically excluded. Medical Marijuana Treatment Center may also be known as a Registered Marijuana Dispensary.

800. 6. 2.65

Motor Vehicle Repair Shop: A building, or part thereof, in which major repairs, structural or mechanical, are made to motor vehicles, or in which heavy machinery is used in repairing motor vehicles. This is to include body work and painting of motor vehicles.

800. 6. 2.66

Nonconforming Building: A building lawfully existing or lawfully begun at the date of the first publication of notice

of the public hearing on this ordinance which in its location upon a lot does not conform with the regulations of this ordinance.

- 800. 6. 2.67** **Nonconforming Lot:** A lot lawfully existing at the date of the first publication of notice of the public hearing on this ordinance which does not conform with the minimum dimensional controls of the ordinance.
- 800. 6. 2.68** **Nonconforming Use:** A use of a building or of land lawfully existing or lawfully begun at the date of the first publication of notice of the public hearing on this ordinance that does not conform with the regulations of this ordinance.
- 800. 6. 2.69** **Parking Aisle:** That area adjacent to a parking space or spaces through which a motor vehicle must move to enter or exit.
- 800. 6. 2.70** **Planned Development:** A multi-use development guided by a Development Master Plan, as defined by this ordinance, see Section 300.13.
- 800. 6. 2.71** **Porch:** An exterior covered or uncovered area as an appendage to a house at least large enough in area to place a chair without interfering with pedestrian movement.
- 800. 6. 2.72** **Public Service Corporation:** A utility controlled and licensed by the state Department of Public Utilities, general offices and may include accessory warehouse, motor vehicle repair, parking facility.
- 800. 6. 2.73** **Recreation for Gainful Business Secondary to Club/Lodge:** A recreation for gainful business that is secondary to a Club or Lodge, as defined by this ordinance. A recreation for gainful business use secondary to club/lodge shall be restricted to a specific occupant or tenant and may only be for one of the following types of recreation for gainful business: dance studio, fitness studio, gym, karate studio, martial arts studio, yoga studio, or similar type of recreation for gainful business. The following types of recreation for gainful business use are expressly excluded: arcade, billiards/pool hall, bowling alley, movie theatre, playhouse/theatre and radio-controlled car track. Only movable, non-permanent equipment may be used and no permanent equipment or fixtures may be installed at the property to accommodate a recreation for gainful business use secondary to club/lodge. No building or structure may be erected or enlarged to accommodate the recreation for gainful business use secondary to club/lodge.
- 800. 6. 2.74** **Research and Development Facilities:** Facilities including but not limited to laboratories which engage in research, experimental and testing activities, and product development, including but not limited to the fields of biology, biotechnology, chemistry, electronics, engineering, geology, medicine and physics, specifically excluding any Marijuana Establishment, Independent Marijuana Testing Laboratory and Marijuana Research Facility. Some test production may be included, but the primary function is research.
- 800. 6. 2.75** **Retail Sales:** A retail store that carries a broad range of different products, such as a dollar store, or a large selection of a particular kind of products, such as an auto parts store, and specifically excluding a supermarket or grocery store,

and specifically excluding any Marijuana Establishment and Marijuana Social Consumption Establishment.

800. 6. 2.76 **Rooming House:** A building in which three (3) or more persons either individually or as families are housed for hire in individual rooms with or without meals and shall include lodging, boarding, and tourists houses.

800. 6. 2.77 **Self Storage Facility:** A building or structure whose primary purpose is the rental of specifically designated areas within the facility to unrelated individuals for storage of personal property.

800. 6. 2.78 **Service Station:** A building or structure or part thereof, used for supplying accessories to or parts of motor vehicles for profit, including fuel, with facilities for making minor changes and adjustments to motor vehicles, without the use of heavy machinery, but not structural changes nor major mechanical repairs.

800. 6. 2.79 **Setback:** The horizontal distance measured perpendicularly from the street line into the lot. (See Front Yard).

800. 6. 2.80 **Sign:** Individual or groups of letters, words, pictures, logos, emblems, objects, or symbols arranged in such manner as to attract visual attention from outside a building; intending to convey a coherent message or messages (i.e., company name, logo, product, service, activity, etc.); and consisting of similar or related materials within reasonable proximity of each other.

800. 6. 2.81 **Sign Area:** The face of a sign, to be measured in square feet. In the case of signs enclosed within an obvious border or built as a separate unit, the entire area (including border) shall be included in the computation of sign area. In the case of affixed to the side of a building or structure, but not enclosed within an obvious border, sign area shall be computed on the basis of the smallest simple geometric shape which encompasses the entire sign.

800. 6. 2.82 **Story:** The part of a building or structure between any floor and the floor or roof above, not less than seven and one-half (7 1/2) feet average vertical height, excluding cellar, steeples, penthouses, or other projections used or intended to be used exclusively for utility services or access to the roof. A story which encompasses fifty (50) percent or less of the footprint of a building shall be considered a one-half (1/2) story.

800. 6. 2.83 **Street:** A public way which has been accepted for public use; an existing private way in use which has not been accepted for public use; a way approved under the Planning Board Subdivision Regulations.

800. 6. 2.84 **Street Line:** The outside limit of a street or way dividing it from the abutting lots.

800. 6. 2.85 **Structure:** A combination of materials assembled at a fixed location requiring a permit to erect, place, or construct, and includes, but is not limited to, buildings, stadiums, platforms, radio towers, sheds, storage bins, signs, swimming pools, gas or liquid storage tanks, and fences.

800. 6. 2.86 **Substance Abuse Treatment Center:** An entity, however, organized, routinely providing substance abuse treatment services, including, but not limited to consultation; counseling; dispensing of medication to treat substance abuse; dispensing prescriptions (to be filled) for medication to treat substance abuse; examination; all forms of sample collection and laboratory testing, including, but not limited to blood draw, swab-testing and urinalysis; therapy. No

Substance Abuse Treatment Center shall be located within 300 feet of the property line of a property used for a residential dwelling, public or non-profit school or public park or playground. A special permit issued to a Substance Abuse Treatment Center is non-transferable and non-assignable. "Adult Day Health Center" is specifically excluded from this definition.

- 800. 6. 2.87** **Supermarket:** A retail store that carries a broad range of food products and may also sell limited selection of other items, such as household items, flowers and books. Supermarkets include grocery stores and exclude convenience stores. Dimensional controls and parking requirements shall be the same as for general retail sales.
- 800. 6. 2.88** **Towing:** A building, or part thereof, and/or a lot, or part thereof, used for the storage for any length of time of any number of commercial and/or noncommercial, registered and/or unregistered, automobiles, trucks and/or other motorized vehicles that have been towed for any purpose or reason and/or that is used to perform towing. This is to include any individual or business that performs towing as its primary purpose and/or performs towing independently of any other business in which it engages.
- 800. 6. 2.89** **Use, Accessory:** A purpose supportive to or dependent upon the principal purpose of a building, structure, or lot.
- 800. 6. 2.90** **Use, Principal:** The primary purpose of a building, structure, or lot, including accessory uses. In the case of residential apartments, different height categories in the Table of Intensity Regulations, Section 400.1, shall be interpreted as distinct uses.
- 800. 6. 2.91** **Vehicles Sales or Rental:** A building or part thereof, and the adjacent parking area, used for the storage or display of automobiles or trucks for sale or use under a rental agreement. Truck shall mean a commercial vehicle. Any unregistered vehicles in excess of 10,000 lbs. gross vehicle weight shall be considered a truck. A vehicle sales or rental business is a type of general sales and/or general retail services business.
- 800. 6. 2.92** **Warehouse:** A building or structure whose primary purpose is for the storage of goods and materials intended for use in manufacturing or the post-production storage of goods and merchandise prior to distribution for sale, specifically excluding any Marijuana or Marijuana Products. This shall not be interpreted to include storage incidental to the normal operation of a retail sales or service operation within the same building or structure.
- 800. 6. 2.93** **Working Artist:** A person who is able to present a recent body of work and who derives a substantial portion of his/her annual income from art or creative work that is written, composed, created, performed or executed for a "one of a kind," limited production, exclusive of industry-oriented distribution or production, including but not limited to, art directors; craft artists; fine artists (including painters, printmakers, sculptors, photographers, illustrators, multi-media artists and animators); performing artists (dancer, actor, performer, musician or singer); art teachers; painting restorers and/or other art-related workers. "Body Art" is excluded from this definition. Said working artist shall be certified as such by a letter from the Malden Redevelopment Authority confirming that the artist has been reviewed

by a committee of three (3) peers and has demonstrated that he is a working artist as defined by this section.

800. 6. 2.94 **Yard, Front:** An open, unoccupied space extending the full width of the lot and situated between the street line and the nearest part of a building including steps, landings and porches. (See Setback).

800. 6. 2.95 **Yard, Rear:** An open unoccupied space extending across the full width of the lot and lying between the rear line of the lot and the nearest part of a building including steps, landings and porches.

800. 6. 2.96 **Yard, Side:** An open unoccupied space between the side line of the lot and the nearest part of a building including steps, landings and porches and extending from the front yard to the rear yard, or in the absence of either, to the street or rear lot lines as the case may be.

800. 6. 2.97 **Zone A:** the 100-year floodplain area where the base flood elevation (BFE) has not been determined. To determine the BFE, the best available federal, state, local and other data will be used.

800. 6. 2.98 **Zone AE:** the 100-year floodplain where the base flood elevation has been determined.

800. 6. 2.99 **Zone X:** areas identified in the community Flood Insurance Study as areas of moderate or minimal flood hazard.

SECTION 900

VALIDITY

900. 1

Interpretation. The interpretation and application of the provisions of this ordinance shall be held to be the minimum requirements adopted for the promotion of the public health, safety, comfort, convenience and general welfare. It is not intended by this ordinance to repeal, abrogate, annul, or in any way to impair or interfere with any existing provisions of the law or ordinance or any rules, regulations, or permits previously adopted or issued, or which shall be adopted or issued pursuant to law relating to the use of buildings or premises; nor is it intended by this ordinance to interfere with or abrogate or annul any easements, covenants, other agreements between parties; provided, however, that where this ordinance imposes a greater restriction upon the use of buildings or premises or upon the height of buildings or requires larger yards, courts, or other open spaces than are imposed or required by such existing provisions of law or ordinance, or by such rules, regulations, or permits, or by such easements, covenants, or agreements, the provisions of this ordinance shall control.

900. 2

Severability. Should any section or provision of this ordinance be held invalid in any court the same shall not affect any other section or provision of this ordinance, except so far as the section or portion so declared invalid shall be inseparable from the remainder of any portion thereof.

900. 3

Effective Date. This ordinance shall be in full force as of August 8, 1977.