

# **CHAPTER 1**

## **GENERAL PROVISIONS**

### **RULES OF CONSTRUCTION**

#### **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 All ordinances heretofore in force are hereby repealed; provided, however, that this repeal shall not affect any acceptance of any statute of the Commonwealth; nor shall it affect any act done, any right accrued,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 UNCONSTITUTIONALITY OR INVALIDITY**

**If any provision or part of this code is held to be unconstitutional or invalid, it shall not affect the remaining provisions or parts.**

**Any provision or part of this code which conflicts with state or federal law shall be invalid; provided that, for purposes of this section, federal law shall take priority over state law.**

**A written determination by the City Solicitor, the Massachusetts Attorney General, the United States Attorney General or any federal law enforcement official shall be sufficient to render a specific section or sections invalid.**

**No officer or employee of the city shall take action to enforce any section or part of this code which has been determined, in accordance with the preceding paragraph, to be invalid and, any action so taken, shall relieve the city of any obligation to indemnify said officer or employee for any damages arising therefrom.**

#### **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.

**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**

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

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

**C.** 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."

**D.** Ordinances may be published at the discretion of the City Council.

## **ADMINISTRATION - IN GENERAL**

### **SECTION 1.5 HOURS CERTAIN OFFICES TO BE OPEN**

All municipal offices shall be opened to the public from 8:00 A.M. to 4:00 P.M., except Saturdays, Sundays, and holidays.

The Board of Assessors, Treasurer and Collector of Taxes shall also be opened 7:00 P.M. to 9:00 P.M. every Tuesday evening during the months of April and October or shall be opened the four Tuesday evenings following the mailing of real estate tax bills.

### **SECTION 1.6 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 Councillors 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 1.7 ANNUAL REPORTS FOR COMMITTEES, BOARDS, ETC.**

Unless otherwise provided by ordinance, all committees, boards, commissions, trustees and

department heads shall, annually in April, furnish to the City Council a report of activities for the previous calendar year, together with any other relevant information or suggestions. 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 December thirty-first.

The report of the Building Inspector 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, sewers, parks, playgrounds and drains.

The report of the City Engineer shall contain an evaluation of the condition of all bridges and culverts in the City.

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

## **SECTION 1.8                      FILING OF REGULATIONS AND FEE SCHEDULES; COUNCIL ACCEPTANCE**

Rules, regulations and fee schedules shall become effective 10 days after filing in the City Clerk's Office. All fees shall be set at any maximum set by law or ordinance.

## **SECTION 1.9                      FUNDS TO BE TURNED OVER TO TREASURER; REPORTS**

Unless otherwise provided by law, all funds received on behalf of the City 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 or ordinances of the City.

## **SECTION 1.10                      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 1.11 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 1.12 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 1.13 FINES AND PENALTIES FOR VIOLATION OF CITY ORDINANCE, DEPARTMENTAL RULES AND REGULATIONS OR TERMS, CONDITIONS OR RESTRICTIONS ON LICENSES AND PERMITS**

#### **A. In General**

Each twenty-four hour period during which a violation as described below exists shall constitute a separate offense, for which an additional fine may be imposed.

Failure to pay obligations incurred for violations adjudicated under Section 1.13A shall result in the imposition of a lien against the real property, if any, to which the violation relates.

#### **B. Violation of Ordinances**

If no other punishment is prescribed, violation of any ordinance may be punishable in the manner provided under Massachusetts General Laws, Chapter 40, Section 21D by a fine of not more than three hundred dollars for each offense.

Violation of any provisions of this Code, in addition to the fines and penalties set forth above, shall be cause for cancellation, suspension, revocation or modification of any permit or license, after hearing, upon at least three days written notice, sent registered or certified mail, to the last most recent address of the licensee.

#### **C. Violation of Departmental Rules and Regulations**

If no other punishment is prescribed, violation of any rule or regulations adopted pursuant to state law or city ordinance may be punished in the manner provided under Massachusetts General Laws, Chapter 40, Section 21D in accordance with the following schedule of fines:

<b>1<sup>st</sup> offense</b>	<b>\$100.00</b>
<b>2<sup>nd</sup> offense</b>	<b>\$200.00</b>

**3<sup>rd</sup> / subsequent offenses      \$300.00**

**D. Violation of Terms, Conditions or Restrictions of a License or Permit**

If no other punishment is prescribed, violation of any term, condition or restriction on any license or permit granted as authorized by state or federal law or by city ordinance may be punished in the manner provided under Massachusetts General Laws, Chapter 40, Section 21D in accordance with the following schedule of fines:

<b>1<sup>st</sup> offense</b>	<b>\$100.00</b>
<b>2<sup>nd</sup> offense</b>	<b>\$200.00</b>
<b>3<sup>rd</sup> /subsequent offenses</b>	<b>\$300.00</b>

A permit or license granting authority may, upon three days written notice, suspend, modify or revoke any permit or license previously granted.

Restrictions or conditions on any license or permit that runs with the land, including but not limited to variances or special permits granted by the Planning Board or Board of Appeal, shall be binding on assigns, successors and/or successors in interest and the penalties for violation thereof may be assessed against them in the same manner as against the original applicants or petitioners.

**E. Failure to Obtain a Required License or Permit**

Any permit or license granting authority may issue a written order for the immediate cessation of any activity for which required permits or licenses have not been obtained and my order the removal of all accoutrements associated with the activity and shall specify the date and time by which the same shall be removed.

Failure to comply with any order issued pursuant to this section may be punished in the manner provided under Massachusetts General Laws, Chapter 40, Section 21D by a fine of \$300.00, and may result in the removal by the city, at the expense of the owner, of the cause of any violation.

**SECTION 1.13A                      PROCEDURE FOR ENFORCEMENT OF ORDINANCES,  
DEPARTMENTAL RULES AND REGULATIONS AND  
CONDITIONS OR RESTRICTIONS ON LICENSES AND  
PERMITS**

**A. ENFORCEMENT AUTHORITY**

Every officer or inspector may enforce such state laws and city 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. Officers may issue orders to cease and desist from any violation and may issue citations for violation in accordance with specific sections of ordinance or, where no other punishment is proscribed, with the provisions of Section 1.13.

Members of the Compliance Bureau and members of the Malden Police Department shall have concurrent jurisdiction over all matters related to enforcement of laws, ordinances, rules and regulations, and conditions or restrictions on licenses or permits, and shall have all powers inuring to any officer to compel enforcement of the same.

**B. MANNER OF ENFORCEMENT**

The City of Malden may petition the Superior Court department of the trial court to enjoin any violation of this Code, any rules and regulations established thereunder, any order or any terms or

conditions in any permit or license granted hereunder.

Violation of any section of this code, any rules and regulations established thereunder, any order or any terms or conditions in any permit or license granted hereunder may also be enforced by non-criminal disposition in the manner provided under Massachusetts General Laws, Chapter 40, Section 21D with fines as stated therein, or, if no other fine is specified, as provided in Section 1.13.

### **C. PROCEDURE FOR NON-CRIMINAL ENFORCEMENT**

#### **1. Citation for Violation:**

Every officer or inspector taking notice of a violation shall provide the offender with a citation forthwith 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 to the owner or the owner's agent.

#### **2. Form and Contents of Citation:**

The citation shall be in tag form, prepared in triplicate and shall contain:

- a. the date, time and place of violation;
- b. the specific violation charges;
- c. the name, department and badge number, if any, of the issuing officer or inspector;
- d. the amount of the established fine; and
- e. instructions for return of the citation and an explanation of the procedure for adjudication by mail.

#### **3. Processing of Citations:**

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

#### **4. Rights and Obligations of Alleged Violator:**

The alleged violator shall, within 21 days of the issuance of a citation, return the citation to the Municipal Hearing Officer and shall:

- a. pay in full the scheduled fine;
- b. request a hearing before the Municipal Hearing Officer or request postponement of a scheduled hearing; or
- c. 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 violation and may be used in any subsequent or related proceeding against the violator.

Decisions of the Municipal Hearing Officer shall be final, subject to hearing or appeal as provided herein.

Every final decision of the Municipal Hearing Officer shall be accompanied by a notice to the violator that he may, within ten days of receipt of notice of decision, appeal to the district court, the housing court or other court of competent jurisdiction for a de novo hearing and shall provide a form for that purpose.

#### **5. Duties of the Municipal Hearing Officer:**

**.1 In General:** The Municipal Hearing Officer shall maintain a docket of all citations issued and shall note the disposition of each. Decisions of the municipal hearing officer shall be final, subject to hearing or judicial review.

**.2 Hearings:** Upon receipt of a request for hearing, the Municipal Hearing Officer shall schedule a hearing not later than 45 days from the receipt of the request and shall notify the

violator of the date, time and location of the hearing. Hearings shall be held no less than two evenings each month and shall, at the request of an alleged violator, be postponed to a later hearing date. Hearing and disposition shall be informal and the rules of evidence shall not apply.

**3. Adjudication by Mail:** Upon receipt of request of adjudication by mail, the Municipal Hearing Officer shall review the submitted materials and dismiss or uphold the violation. Within 21 days of receipt of said materials, the Municipal Hearing Officer shall notify the violator by mail of the disposition and, if the violation is upheld, shall provide an explanation of the reasons therefor. The alleged violator may, within 10 days of receipt of the decision, request a hearing on the matter.

**.4 Notice to Property Owner Regarding Unpaid Fines:** 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.

**.5 Fines Remaining Unpaid After Notice:** If the fine remains unpaid 30 days after said notice 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 add to the outstanding fine a penalty of \$300.00 and shall request that the Treasurer impose a lien on the property in the amount due to the city. The Treasurer shall impose a municipal lien on the property owner's real estate tax bill and shall charge such interest on said amount as allowed by law.

**.6 To Represent City in Appeals:** The Municipal Hearing Officer shall appear in court to defend any decision to which an appeal has been taken and shall provide the court with copies of all documentary evidence that led to his decision. As he deems necessary, the Municipal Hearing Officer may request that an enforcing officer appear in court and shall notify the enforcing officer of the time, date and place of the hearing.

## **SECTION 1.14                      FAILURE TO PAY OBLIGATIONS WHEN DUE**

- (1) 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.**
- (2) 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.**

- (3) 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.
- (4) 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.
- Said liens shall be imposed and discharged in accordance with the provision of Massachusetts General Laws Chapter 40, Section 58.
- (5) The Treasurer shall, at the request of the Municipal Hearing Officer, impose a lien upon any real property the owner of which has failed to pay fines and penalties assessed under Section 1.13A for violation of the housing or sanitary code or the snow and ice removal ordinance. Said liens shall be imposed and discharged in accordance with the provisions of Massachusetts General Laws Chapter 40 Section 42B and shall be subject to such interest as allowed by law.

## **WARD BOUNDARIES**

### **SECTION 1.15 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**

### **IN GENERAL**

#### **SECTION 2.1                    ELECTION AND APPOINTMENT OF OFFICERS; TERM**

Unless otherwise provided by Charter or ordinance, officers shall be chosen in the month of January and shall assume office on the first day of March.

#### **SECTION 2.2                    REMOVAL OF APPOINTED OFFICERS; FILLING OF VACANCIES**

Unless otherwise provided by law, any appointed officer may be removed by the appointing authority. Any vacancy in appointed office may be filled for the unexpired term, if any.

#### **SECTION 2.3                    OFFICERS TO HOLD OFFICE UNTIL SUCCESSOR CHOSEN AND QUALIFIED**

Unless otherwise provided by law, any elected or appointed officer shall hold office until a successor shall be chosen and qualified.

#### **SECTION 2.4                    ENUMERATION OF APPOINTED OFFICERS; TERMS**

Officers shall be appointed by the Mayor or City Council as follows:

<b>NOMINATED &amp; ELECTED BY THE CITY COUNCIL</b>	<b>TERM OF OFFICE</b>
Assessor (3)	3 years
Board of Health (3)	3 years
Cemetery Trustees (5)	5 years
Clerk	3 years
Clerk of Committees	1 year
Controller of Accounts	5 years
Hearing Officer- Fire/Building Code Violations	3 years
Disability Issues Commission (7)	until succeeded
Measurer of Bark, Wood & Leather	1 year
Scholarship Committee (9), including the Superintendent of Schools, the Council President or the President's designee	3 years
Solicitor	3 years
Treasurer/Collector	5 years

**APPOINTED BY MAYOR & CONFIRMED BY THE CITY COUNCIL      TERM OF OFFICE**

<b>Board of Appeal (3)</b>	<b>3 years</b>
<b>Building Committee (5-Mayor, chairman; one Councillor appointed by the Mayor; one Councillor appointed by the Council President for the municipal year of election; Inspector of Buildings; head of departments for whose use the building or addition is to be used)</b>	
<b>Code Enforcement Inspector</b>	<b>Civil Service</b>
<b>Conservation Commission (5)</b>	<b>2 years</b>
<b>Cultural Council (11)</b>	<b>3 years</b>
<b>Director of Human Services</b>	<b>5 years</b>
<b>Director of Public Facilities</b>	<b>5 years</b>
<b>Engineer</b>	<b>5 years</b>
<b>Fence Viewers (2)</b>	<b>1 year</b>
<b>Field Driver</b>	<b>annually as necessary</b>
<b>Fire Commissioner</b>	<b>3 years</b>
<b>Government Center Commission (5)</b>	<b>5 years</b>
<b>Housing Authority (4)</b>	<b>5 years</b>
<b>Human Rights Commission (9)</b>	<b>3 years</b>
<b>Human Rights Advisory Council (17)</b>	<b>2 years</b>
<b>Human Resources Director</b>	<b>5 years</b>
<b>Information Technology Director</b>	<b>5 years</b>
<b>Industrial Development Fin. Auth. (5)</b>	<b>5 years</b>
<b>Licensing Commission (3)</b>	<b>6 years</b>
<b>Messenger</b>	<b>1 year</b>
<b>Metropolitan Area Planning Council (1)</b>	<b>3 years</b>
<b>Parking Clerk</b>	<b>until succeeded</b>
<b>Personnel Director</b>	
<b>Planning Board (9)</b>	<b>5 years</b>
<b>Plumbing Inspector</b>	<b>Civil Service</b>
<b>Police Commissioner</b>	<b>3 years</b>
<b>Pound keepers</b>	<b>annually as necessary</b>
<b>Public Works Commissioners (3)</b>	<b>3 years</b>
<b>Redevelopment Authority (4)</b>	<b>5 years</b>
<b>Registrar of Voters (3)</b>	<b>4 years</b>
<b>Retirement Board (1)</b>	<b>3 years</b>
<b>Sealer of Weights &amp; Measures</b>	<b>Civil Service</b>
<b>Surveyors of Lumber</b>	<b>annually as necessary</b>
<b>and such other officers as may be deemed convenient</b>	

**APPOINTED BY THE MAYOR**  
**Building Inspector**  
**Emergency Management Director**  
**Constables**  
**Director of Inspectional Services**  
**Disability Issues Commission (6)**

**TERM OF OFFICE**  
**Civil Service**  
**Until Succeeded**  
**1 year or 3 years**  
**5 years**  
**until succeeded**

<b>Historic Commission (5)</b>	<b>2 years</b>
<b>Inspector of Wires</b>	<b>Civil Service</b>
<b>Public Weigher</b>	<b>1 year</b>
<b>Stadium &amp; Athletic Field Commission (3)</b>	<b>3 years</b>
<b>Veterans' Service Commissioner</b>	<b>1 year</b>

## **SECTION 2.5                      ONLY ONE OFFICE TO BE HELD BY INDIVIDUALS; EXCEPTIONS; PENALTY**

**A. No person shall hold more than one municipal office, except in the following case, namely,:**

- 1. the City Treasurer may hold the office of Collector of Taxes;**
- 2. the City Engineer, the office of Executive Secretary of the Traffic Commission;**
- 3. the Clerk to the Board of Registrar of Voters, the office of Clerk of the Licensing Board;**
- 4. the head clerk of the Department of Public Works, the office of Secretary to the Public Works Department;**
- 5. the Inspector of Wires, the office of Maintenance Electrician of the Traffic Commission;**
- 6. the head clerk of the Board of Registrars of Voters, the office of Clerk of the Board of Registrars of Voters;**
- 7. a fire fighter with the rank of private of the Fire Department, the position of Clerk of the Fire Department;**
- 8. any municipal officer or employee, a Reserve Police Officer;**
- 9. a Police Officer, the unpaid position of a member of the School Committee;**
- 10. the Director of the Youth and Recreation Commission, the Director of the Department of Human Services;**
- 11. the City Treasurer, the position of Parking Clerk;**
- 12. an employee of the Fire Department, the unpaid position of a member of the School Committee;**
- 13. an employee of the Fire Department, the position of Emergency Management (Civil Defense) Director.**

**B. Whoever violates the provisions of this section shall forfeit to the City the compensation from all offices during the time during which more than one office was held in violation of law. Said compensation shall be recovered by the City Solicitor, upon written complaint of ten citizens.**

## **CLERK OF COMMITTEES**

### **SECTION 2.6                      DUTIES**

**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.**

## **CITY CLERK**

### **SECTION 2.7                      DUTIES**

**The City Clerk shall have the following duties:**

**A. to administer policy concerning record storage, disposal and coordination for the City as established by the Mayor, Controller of Accounts and the City Clerk or their designees;**

**B. to attend all meetings of the City Council and shall keep an accurate record of such meetings;**

**C. 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 be given to the appropriate department;**

**D. to keep the bonds of all City officials.**

## **SECTION 2.8 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.**

## **CITY SOLICITOR**

### **SECTION 2.9 QUALIFICATIONS GENERALLY**

**The City Solicitor shall be an attorney at law.**

### **SECTION 2.10 DUTIES**

**The City Solicitor shall have the following duties:**

**A. to draft all deeds and other legal documents on behalf of the City;**

**B. to examine all real estate titles to be conveyed to the City;**

**C. 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;**

**D. to do every act incident to the office required by the City Council, or any committee thereof;**

**E. to furnish at the request of any officer a legal opinion on any municipal matter.**

### **SECTION 2.11 ASSISTANT CITY SOLICITOR - POSITION CREATED; QUALIFICATIONS**

**A. Assistant City Solicitors shall be attorneys at law licensed to practice within the Commonwealth of Massachusetts.**

**B. Assistant City Solicitors shall be appointed by the City Solicitor, subject to removal for cause**



by the City Solicitor and the City Council.

C. Assistant City Solicitors shall be under the direction and supervision of the City Solicitor and shall perform such duties as the City Solicitor shall determine.

D. Assistant City Solicitors shall work a minimum of twenty-five (25) hours per week.

## **CITY MESSENGER**

### **SECTION 2.12 DUTIES**

The City Messenger shall, as may be necessary or convenient, perform all services required by the Mayor, the City Council, and other officers of the City.

## **MAYOR**

### **SECTION 2.13 AUTHORITY OF MAYOR TO INCUR EXPENSE AND EMPLOY ASSISTANTS**

A. The Mayor may incur such expenses and employ such assistants as may be necessary in discharging the duties of office; provided, however, that total expenditures shall not exceed the amount appropriated therefor. The Mayor shall prescribe the wages, hours, and duties of said assistants.

B. The Mayor shall appoint a Director of Program Development to manage any HUD Comprehensive Planning Assistance Program and perform such other duties as the Mayor may assign.

### **SECTION 2.13A AUTHORITY OF MAYOR TO NEGOTIATE LABOR CONTRACTS**

Prior to initiating negotiations with an employee organization, the Mayor shall meet with the City Council in executive session for the purpose of providing an estimate of anticipated incremental cost items, the proposed funding source for said cost items, and general statement of the city's negotiating position with respect to wages, hours, standards of productivity and performance, and any other terms and conditions of employment that may be a subject of said negotiations.

Such statement shall be for informational purposes only and shall not be binding upon the Mayor, nor shall anything in this section be construed to alter public labor relations as set forth in Massachusetts General Laws. Prior to any vote on an executed contract, the Mayor shall provide each member of the Council with a copy of said contract.

## **SEALER OF WEIGHTS AND MEASURES**

### **SECTION 2.14 APPOINTMENT; TERM**

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

## **SECTION 2.15 DUTIES GENERALLY**

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, and shall enforce all laws relative to the use of weights and measures. The Sealer of Weights and Measures shall, as necessary, measure or weigh any commodity purchased by the City, and provide a statement containing its weight or measure to the vendor, the appropriate department head, and the Controller of Accounts.

## **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 2.17 SEALER OF WEIGHTS AND MEASURES TO BE AN AGENT  
OF THE BOARD OF HEALTH**

The Sealer of Weights and Measures shall be under the supervision of the Board of Health and shall, in addition to the duties outlined in Section 2.15, perform such duties at the Board shall from time to time proscribe.

**CITY PLANNER**

**SECTION 2.18 DELETED**

**INFORMATION TECHNOLOGY**

**SECTION 2.19 DIRECTOR OF INFORMATION TECHNOLOGY; TERMS;  
DUTIES**

**A. Commencing March 1, 2014 and every three years thereafter, the Mayor, with the approval of the City Council, shall appoint a Director of Information Technology, who shall serve for the three years next ensuing.**

**B. 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.**

**C. 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.**

## **CEMETERY TRUSTEES**

### **SECTION 2.20                      CEMETERY TRUSTEES; COMPOSITION; TERM; DUTIES**

**The Cemetery Department shall be under the charge of five trustees, one of whom shall be chosen each year 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 chairman. They shall have the care and management of the Cemeteries, and may appoint a Secretary and Superintendent, and fix their compensation subject to funding by the Mayor and City Council. 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.**

### **SECTION 2.21                      AUTHORITY OF CEMETERY DEPARTMENT**

**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 Forest Dale Cemetery, Salem Street Cemetery, and Bell Rock Cemetery 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.**

### **SECTION 2.22                      TRUSTEES OF CEMETERY DEPARTMENT TO HAVE CONTROL OF APPROPRIATIONS**

The Trustees of the Cemetery Department shall have the control of any appropriation made for the Cemeteries by the City Council, and of all receipts other than the proceeds of the sales of rights of burial.

## **SECTION 2.23                      CEMETERY DEPARTMENT AUTHORIZED TO HOLD GRANTS, DONATIONS, ETC.; USE OF GRANTS; INVESTMENT OF FUNDS**

A. 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.

B. All money received pursuant to this section shall be paid to the City Treasurer, and invested, 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.

## **SECTION 2.24                      DEEDS FOR LOTS**

Every deed for rights of burial in a municipal cemetery shall be in such form as the Trustees shall prescribe and the City Solicitor approve. It shall be signed by the Chairman 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 2.25                      COMPLIANCE OFFICERS**

The Compliance Bureau shall work under the direction and supervision of the Compliance Committee 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.

The Compliance Bureau shall endeavor to promote community awareness of and adherence to city and state requirements for specific activities or uses of property, and may assist city officers in the coordination of inspectional activities among city departments.

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.

## **SECTION 2.26 COMPLIANCE COMMITTEE**

The City Council President or his designee, the License Committee Chairperson or a License Committee member designated by the City Council President and the Ordinance Committee Chairperson or an Ordinance Committee member designated by the City Council President shall constitute the Compliance Committee.

The Compliance Committee shall direct the activities of the Compliance Bureau and shall meet at the call of the Chairperson.

## **SECTION 2.27 COMPLIANCE BUREAU; APPOINTMENT OF COMPLIANCE OFFICERS**

The Compliance Bureau shall operate under the direction and supervision of the Compliance Committee and shall be comprised of such Compliance Officers as are from time to time appointed by the City Council; Compliance Officers shall serve at the pleasure of the City Council and may be removed by the Council for cause.

All Compliance Officers shall be indemnified as city officials under Massachusetts General Laws, Chapter 258 Sections 9 and 13 and shall be indemnified pursuant to these sections for claims arising out of performance of their duties.

## **SECTION 2.28 COMPLIANCE COMMITTEE - REPORT OF ACTIVITIES TO CITY COUNCIL**

The Compliance Bureau shall submit to the City Council on a monthly basis a detailed account, via e-mail, of the activities of the Compliance Bureau.

## **SECTION 2.29 MUNICIPAL HEARING OFFICER; APPOINTMENT; DUTIES**

The Municipal Hearing Officer shall be appointed by the City Council for a three year term commencing July 1, 2010 and shall work under the administrative supervision of the City Solicitor. The Municipal Hearing officer shall, at least once annually, participate in an administrative law training program approved by the City Council Compliance Committee.

The Municipal Hearing Officer shall hear appeals, as provided in Section 1.13A, to the issuance of citations 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, shall keep records of the disposition of the same and shall authorize the placement of liens on any property which is the subject of an unpaid violation.

## **SECTION 2.30 COMMUNITY PRESERVATION COMMITTEE,**

## **COMPOSTION; DUTIES; ETC.**

### **.1 Appointment; Term; Filling of Vacancies; Officers**

**The City shall establish a Community Preservation Committee consisting of nine residents, who shall serve without compensation and shall 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.**

### **.2 Administiration**

**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.

### **.3 Authority, duties and responsibility**

(a) The Community Preservation Committee shall annually, in consultation with appropriate city boards and commissions, conduct an study of the needs, possibilities and resources of the city regarding community preservation, including the consideration of regional projects.

(b) 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.

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

(d) 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:

1. eligibility for funding under the Community Preservation Act;
2. consistency with needs outlined in the Community Preservation study;
3. the availability of matching funds from the applicant or other source.

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.

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.

(e) 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:

- (1) Open space, and land for recreational use;
- (2) Historic resources;
- (3) Community housing.

(f) 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.



## **CHAPTER 3**

### **BUILDING REGULATIONS**

#### **BUILDING**

##### **SECTION 3.1      ADMINISTRATIVE STRUCTURE OF THE DEPARTMENT OF PERMITTING, INSPECTIONS AND PLANNING SERVICES**

**The Mayor shall appoint the Inspector of Buildings, 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 Inspector of Buildings 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, the City Planner, the Municipal Hearing Officer and such administrative, clerical and assistant inspectional personnel as may be provided for by appropriation.**

**Emergency Inspection Fees collected pursuant to Sections 3.2, 3.14 and 3.33 shall be deposited, to the extent approved annually, in a revolving fund to be used at the discretion of the Director of Permits, Inspections and Planning, subject to approval of the Mayor, to provide training, equipment or compensation for overtime accrued by employees of the Department of Permits, Inspections and Planning.**

## **SECTION 3.1A**

## **APPLICABILITY OF STATE BUILDING CODE**

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

## **SECTION 3.2**

## **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:**

<b>up to \$500,000</b>	<b>\$ 75.00</b>
<b>\$500,000 to \$1,000,000</b>	<b>\$150.00</b>
<b>over \$1,000,000</b>	<b>\$250.00</b>

**Minimum fee: \$75.00**
4. **Certificates of occupancy for existing and new residential buildings.**

<b>Single family dwelling</b>	<b>\$ 75.00</b>
<b>Two family dwelling</b>	<b>\$ 95.00</b>
<b>Three family dwelling</b>	<b>\$ 115.00</b>
<b>Four family dwelling &amp; above</b>	<b>\$ 75.00 per unit</b>
5. **Certificates of occupancy for existing and new commercial buildings and retail buildings: \$125.00**
6. **Temporary certificates of occupancy: \$75.00 per month.**
7. **Demolition of Structure (except when ordered by the Building Dept):**

<b>Commercial structure: \$20.00 per \$1,000.00 of estimated cost of demolition</b>
<b>Residential structure: \$13.00 per \$1,000.00 of estimated cost of demolition</b>
8. **Signs: Minimum Fee \$100.00 plus \$5 for every \$100 value of the sign.**

- |   |  |                            |
|---|--|----------------------------|
| 9.  | <b>Wood stoves</b>   | <b>\$ 75.00</b>            |
| 10. <b>Swimming Pools</b>   |  |                            |
|   | In ground  | \$ 200.00                  |
|   | Above-ground   | \$ 85.00                   |
| 11. <b>Moving of structures</b>   |  |                            |
|   |  | \$ 525.00                  |
| 12. <b>Inspection of restrictive covenant</b>   |  |                            |
|   |  | \$ 75.00                   |
| 13. <b>Request for legal zoning status</b>  |  |                            |
|   | on residential and commercial  | \$ 50.00/address           |
| 14. <b>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</b>   |  |                            |
| 15. <b>Re-inspection: If a re-inspection is necessary because the applicant fails to meet the inspector or because the work is not complete enough to make an inspection or the applicant fails to make all the corrections from 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.</b> |  |                            |
| 16. <b>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.</b>   |  |                            |
| 17. <b>Permit for removal of illegal work</b>   |  |                            |
|   |  | \$400.00                   |
| 18. <b>Emergency Inspections</b>  |  |                            |
|   |  | \$100/hour or part thereof |
|   | <b>(Building or Sanitary)</b>  |                            |
|   | <b>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.</b> |                            |

**SECTION 3.2.1                      WORK    COMMENCED    WITHOUT    A PERMIT;  
ORDER TO REMOVE; REMOVAL PERMITS;  
PENALTIES FOR FAILURE TO REMOVE**

Upon determination that work has commenced without a permit therefor, the Inspector of Buildings shall notify the property owner in writing, detailing the nature of the violation and ordering removal of any work so commenced. The Inspector of Buildings 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 Inspector 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 41, Section 21D.

## **SECTION 3.2.2 FEES FOR STATE CERTIFICATES OF INSPECTION**

<b>State Certificate of Inspection</b>	<b>Fee</b>	<b>Use Group/ Description</b>	<b>Expiration</b>
<b>Movie Theater or Theater</b>			
<b>for Performing Acts (stage or scenery)</b>	<b>\$100</b>	<b>&gt; 400 occupant load</b>	<b>One Year</b>
<b>Same</b>	<b>\$100</b>	<b>&lt; 400 occupant load</b>	<b>One Year</b>
<b>Restaurants, Nightclubs/ Similar Uses</b>	<b>\$100</b>	<b>&gt; 400 occupant load</b>	<b>One Year</b>
<b>Same</b>	<b>\$100</b>	<b>&lt;400 occupant load</b>	<b>One Year</b>
<b>Lecture Halls, Churches, and</b>			
<b>Places of Religious Worship,</b>		<b>&gt; 400 occupant load</b>	<b>One Year</b>
<b>Recreation Centers, Terminals etc.</b>	<b>\$100</b>	<b>&lt; 400 occupant load</b>	<b>One Year</b>
<b>(Assembly)</b>			
<b>Low Density Recreation and Similar</b>	<b>\$100</b>	<b>N/A</b>	<b>Five Years</b>
<b>Special Amusement Buildings or</b>			
<b>Portions thereof</b>	<b>\$200</b>	<b>N/A</b>	<b>One Year</b>
<b>Educational, Day Care</b>	<b>\$100</b>	<b>N/A</b>	<b>One Year</b>
<b>Group Home</b>	<b>\$100</b>	<b>N/A</b>	<b>One Year</b>
<b>Residents incapable of self-preservation,</b>			

<b>Hospitals, Nursing Homes, Mental Hospitals, Certain Day Care Facilities.</b>	<b>\$200.00</b>	<b>N/A</b>	<b>One Year</b>
<b>Residents Restrained - prisons, jails, detention centers, etc.</b>	<b>\$200</b>	<b>N/A</b>	<b>One Year</b>
<b>Adult and/or child day care facilities</b>	<b>\$100</b>	<b>N/A</b>	<b>One Year</b>
<b>Hotels, Motels, Boarding Houses, etc..</b>	<b>\$200</b>	<b>N/A</b>	<b>One Year</b>
<b>Detoxification Facilities</b>	<b>\$100.00</b>	<b>N/A</b>	<b>One Year</b>
<b>Multi-Family</b>	<b>\$75.00 + \$5.00/unit</b>	<b>N/A</b>	<b>Five Years</b>
<b>Summer Camp for Children</b>	<b>\$100.00</b>	<b>N/A</b>	<b>One Year</b>
<b>Residential Care /Assisted Living Facilities</b>	<b>\$200.00</b>	<b>N/A</b>	<b>One Year</b>
<b>Facilities Licensed by the ABCC where alcohol is being served and consumed</b>	<b>\$200.00</b>	<b>N/A</b>	<b>One year as per M.G.L. c. 10 Sect 74</b>
<b>House Museums</b>	<b>\$100.00</b>	<b>N/A</b>	<b>One year</b>
<b>Fire escapes per Chapter 10</b>	<b>\$200.00</b>	<b>N/A</b>	<b>Five Years</b>

### **SECTION 3.3 FIRE LIMITS ESTABLISHED**

**For the purpose of control of use and construction of buildings (See 780 CMR 301), fire limits are hereby established, which limits shall include all that part of the City within the following boundaries:**

#### **DISTRICT ONE:**

**Beginning at the intersection of the centerline of Summer St. with the centerline of Mountain Ave.; thence running easterly by the centerline of Mountain Ave. to the centerline of Main St.; thence turning and running southerly be the centerline of Main St. to the centerline of Spring St.; thence turning and running easterly to the centerline of Park St.; thence turning and running southerly by the centerline of Park St. to the centerline of Salem St.; thence turning and running northeasterly by the centerline of Salem St. to the intersection of the westerly boundary line of Salem St. Cemetery; thence turning and running southerly along the cemetery boundary to the centerline of the Boston & Maine Railroad (Saugus Branch); thence turning and running southwesterly by the centerline of the railroad tracks to the centerline of Ferry St.; thence turning and running southeasterly by the centerline of Ferry St. to the centerline of Eastern**

Ave.; thence turning and running southwesterly by the centerline of Eastern Ave. to Main St.; thence across Main St. to Madison St.; thence running southwesterly and southerly by the centerline of Madison St. to the centerline of Medford St.; thence turning and running westerly by the centerline of Medford St. to the centerline of the Boston & Maine (Saugus Branch) railroad; thence turning and running southeasterly by the centerline of the railroad tracks to the Malden-Everett line; thence turning and running westerly and southerly along the Malden-Everett line to the intersection with the Malden-Medford City Line; thence turning and running northwesterly by the Malden-Medford City Line to the centerline of Highland Ave.; thence turning and running northerly by the centerline of Highland Ave. to the centerline of Medford St.; thence turning and running easterly by the centerline of Medford St. to the centerline of Pearl St.; thence turning and running northerly by the centerline of Pearl St. to the centerline of Pleasant St.; thence turning and running easterly by the centerline of Pleasant St. to the centerline of Cedar St.; thence turning and running northerly by the centerline of Cedar St. to the centerline of Maple St.; thence turning and running easterly by the centerline of Maple St. to the centerline of Summer St.; thence turning and running northerly by the centerline of Summer St. to the point of beginning.

## **DISTRICT TWO:**

Beginning at the intersection of the centerline of Ferry St. and the centerline of the Boston & Maine Railroad (Saugus Branch); thence turning and running easterly by the centerline of the Boston & Maine Railroad (Saugus Branch) to the intersection with the centerline of Broadway; thence turning and running southerly by the Centerline of Broadway to the intersection with the centerline of Eastern Ave.; thence turning and running westerly by the centerline of Eastern Ave. to the intersection with the centerline of Marlboro St.; thence turning and running southerly by the centerline of Marlboro St. to the intersection of the centerline of Marlboro St. with a line drawn parallel with and ninety (90) feet southerly from the southerly line of Eastern Ave.; thence turning and running westerly by a line drawn parallel with and ninety (90) feet southerly from the southerly line of Eastern Ave. to the intersection with a line drawn parallel with and two hundred (200) feet easterly of the easterly line of Maplewood St.; thence turning and running southerly by a line drawn parallel with and two hundred feet easterly from the easterly line of Maplewood St. to the intersection of the centerline of Kennard St.; thence turning and running southeasterly by a line drawn at a right angle to the centerline of Kennard St. to the intersection with the centerline of Marion St.; thence turning and running northeasterly by the centerline of Marion St. to the intersection with the centerline of Sheafe St.; thence turning and running easterly to the intersection with the centerline of Broadway; thence turning and running southerly by the centerline of Broadway to the centerline of Taylor St.; thence turning and running westerly by the centerline of Taylor St. to the intersection with the centerline of Short St.; thence turning and running northerly by the centerline of Short St. to the intersection with the centerline of Newland St.; thence turning and running westerly by the centerline of Newland St. approximately five hundred and ten feet to the intersection with the extended property line of the Malden Housing Authority; thence turning and running northerly twenty feet to the property line of the Malden Housing Authority; thence running northerly eighty five feet by the property line of the Malden Housing Authority; thence turning and running westerly by the property line of the Malden Housing Authority northerly of the northerly line of Newland St. and continuing by the property line of the Malden Housing Authority northeasterly of the northeasterly line of Bowdoin St. to the intersection with a line drawn parallel with and one hundred and twenty feet southeasterly of the southeasterly line of Holloway St.; thence turning and running northeasterly by a line drawn parallel with and one hundred and twenty feet southeasterly of the southeasterly line of Holloway St. for a distance of

three hundred and seventeen and four tenths feet to the intersection with a line drawn parallel with and four hundred and twenty five feet northeasterly of the northeasterly line of Bowdoin St.; thence turning and running northwesterly by a line drawn parallel with and four hundred and twenty five feet northeasterly of the northeasterly line of Bowdoin St. to the intersection with the property line of the Bowdoin Apartments; thence turning and running northeasterly of intersection with the extended easterly line of Lisbon St. (formerly Harvard St.); thence turning and running northerly by the extended easterly line of Lisbon St. to the intersection with the centerline of (original) Lisbon St.; thence turning and running westerly by the centerline of Lisbon St. to the intersection with the centerline of Short St.; thence turning and running northerly by the centerline of Short St. to the intersection with a line drawn parallel to and one hundred and fifty feet southerly of the southerly line of Eastern Ave.; thence turning and running westerly by a line drawn parallel to and one hundred and fifty feet southerly of the southerly line of Eastern Ave to the intersection with the centerline of Ferry St.; thence turning and running northerly by the centerline of Ferry St. to the point of beginning.

#### **OUTSIDE FIRE LIMITS:**

All other areas not included in the fire limits shall be designated as outside fire limits.

### **SECTION 3.4 SWIMMING POOLS; FENCES REQUIRED**

Any private swimming pool, as defined by the State Building Code, shall be enclosed by a fence at least five (5) feet in height, either around the perimeter of the pool or the property on or in which said pool is located. All parts of the fence shall be located not less than two (2) feet from the perimeter of the pool.

If said fence has a gate, said gate shall have a latch at least four (4) feet above the ground, which is self-latching and which is placed in a way and manner so as to make said latch as inaccessible to children as possible. Said fence shall be impassable, without large holes, gaps, or openings. Above ground pools five (5) feet high or more may substitute a retractable locking ladder, in place of a fence as described above, which ladder shall be raised or removed when said pool is not regularly in use.

### **SECTION 3.5 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 3.5A**

## **MALDEN RESIDENTS CONSTRUCTION EMPLOYMENT ORDINANCE**

### **Section 1 PURPOSE**



**Malden Residents, qualified by craft, should be part of and benefit from improvements in the City of Malden, specifically those public projects including, but not limited to, residential, institutional, industrial and commercial construction which are funded by public funds.**

**Therefore, it is appropriate for the City of Malden to make certain that each public project constructed with public funds as defined herein, includes employment opportunities for Malden residents through compliance with this Ordinance entitled the Malden Residents Construction Employment Ordinance.**

## **Section 2 DEFINITIONS:**

**(1) Malden Resident: Any persons for whom the principal place of residence is within the City of Malden for at least six (6) months immediately prior to the award, contracting and or permitting of a Public Construction project. Proof of such residence may include, but is not limited to, the following: a valid Massachusetts drivers license indicating a Malden residence, utility bills, proof of voter registration within the City of Malden or such other proof acceptable to the Monitoring Committee.**

**Any person who provides false information regarding his or her residence shall be subject to a fine of no more than One thousand (\$1,000.00) Dollars.**

**(2) Public Construction: A project or a contract for construction of a project taking place within the City of Malden which is funded in whole or in part by City, State, County, Federal or other public funds, or by grant funds administered by the City or which in accordance with a Federal, State or other grant which the city expends or administers or a contract to which the City is a signatory. All owner occupied residences; projects which cost less than One hundred thousand (\$100,000.00) Dollars; and projects undertaken by any regional commission or board to which the City is not the sole signatory are exempt from this ordinance.**

**(3) Contractor: shall mean all persons, corporations, agencies, firms, businesses, developers, bidders and subcontractors, for projects defined herein as "Public Construction", except so-called 'design services' pursuant to Massachusetts General Laws Chapter 7, Section 30K.**

**(4) Bidding Authority: City department or agency assigned or directly responsible for the bidding and/or project management of public construction.**

**(5) Malden Residents Employment Certification Form: This form must be submitted by the contractor with any and all bids for public construction. Such form may be from time to time amended by the Monitoring Committee to suit the purpose and intent of this ordinance.**

**(6) Malden Residents Employee Reporting Form: The form submitted by the contractor within twenty one (21) days of acceptance of the contractor. Such list shall contain Malden Residents that have been contacted and confirmed to be employed by the contractor. Such form may be**

from time to time amended by the Monitoring Committee to suit the purpose and intent of this ordinance.

**(7) Monitoring Committee Decision on Compliance with this Ordinance:** The form used by the Monitoring Committee to render decisions on submittals of the Malden Resident Employee Reporting Form submitted by the Bidding Authority. Such form may be from time to time amended by the Monitoring Committee to suit the purpose and intent of this ordinance.

**(8) DLI List:** Shall mean the most recent Commonwealth of Massachusetts Department of Labor and Industries List for minimum wage rates under the prevailing wage laws as determined by Chapter 149 Section 26 to 27D.

**(9) Malden Resident Employment Monitoring Committee:** Herein known as (Monitoring Committee). The Malden Residents Construction Employment Ordinance, its enforcement, and compliance with its requirements shall be monitored by the Malden Residents Construction Employment Monitoring Committee.

Such committee shall be comprised of five (5) individuals including the following and each shall serve at the discretion of his or her appointing authority:

1. Two (2) appointees of the City Council;
2. Three (3) appointees of the Mayor, one (1) of which must be recommended by the Greater Boston Labor Council.

Initially, one appointment by the Mayor and one appointment by the City Council (not the appointee recommended by the Greater Boston Labor Council) shall serve for one year. Except as noted herein all appointments made in accordance with this ordinance shall serve for two year terms. Such terms may be sooner terminated, with or without cause, by the appointing authority named herein. All action by the Monitoring Committee shall be by majority vote of a quorum of the then appointed members. A quorum shall be no less than three (3) members.

### **Section 3 CONTRACTOR RESPONSIBILITY**

On Public Construction projects as defined herein the Contractor shall comply with the following requirements:

**A.** In accordance with this ordinance the Contractor shall be required to provide employment in the amount of thirty five percent (35%) minimum per craft of the total project hours to Malden residents qualified by craft.

**B.** The Contractor shall be required to provide employment in the amount of ten percent (10%) minimum per craft of the total project hours to minorities qualified by craft.

**C.** The Contractor shall be required to provide employment in the amount of five percent (5%) minimum per craft of the total project hours to women qualified by craft.

**D.** The Contractor shall be required to provide employment in the amount of five percent (5%) minimum per craft of the total project hours to apprentices indentured to a bona fide

apprenticeship program, approved by the Commonwealth of Massachusetts.

E. The Contractor shall be required to submit with any and all bids for Public Construction the form titled "Malden Residents Employment Certification" forms which will be made available in the Bid Specifications. It is the responsibility of the Contractor to complete such form.

F. The contractor as determined by the Bidding Authority shall within 21 days of such determination complete the Malden Residents Employee Reporting Form and submit the form to the Bidding Authority.

G. The contractor may submit with the Malden Resident Employee Reporting Form a request for waiver. Such waiver shall be based on the fact that after review of sufficient data, a sufficient pool of labor to meet the minimum requirements does not exist.

H. Failure of the Contractor to submit such forms completed with the Bid or after determination of lowest bidder shall be sufficient reason for the Bidding Authority upon the recommendation of the Monitoring Committee to not accept such bid.

#### **Section 4 MONITORING COMMITTEE RESPONSIBILITY**

Such committee shall meet on a bi-weekly basis, or as needed, and shall review and monitor all information and documentation provided by developers to establish compliance with said ordinance. Upon request, all contractors shall submit weekly workforce reports listing the following; name of each employee, residential address of each employee and length of residence; craft of each employee, job category of each employee, hours worked of each employee, hourly wage of each employee and company for which each employee is employed. If through such monitoring, it is determined that one or more contractors are not complying with said ordinance, the committee shall immediately direct that the Affirmative Action Officer and/or the Bidding Authority initiate procedure for enforcement. The committee shall draft and accept all forms that are necessary for compliance with this ordinance.

In the event of violation of this ordinance, upon three (3) days written notice to the violator, the Monitoring Committee, through the City's Bidding Authority or Affirmative Action Officer, may take any or all of the following actions:

A. Assessment of a fine of \$300.00 per day of violation, or the maximum amount allowed by law whichever is greater, against the contractor who violates this ordinance. Any fine imposed which is not paid in full by the violator shall be offset by the City of Malden against any payment due to the contractor under any contract for the project.

B. Cease and desist order against any contractor to stop the project.

C. Liquidated damages payable to the City in the amount of five percent of the dollar value of the contract.

D. Only the Monitoring Committee shall be entitled to injunctive relief to enforce the terms of this ordinance.

The sole exception to the implementation of such enforcement procedures is the determination and approval of the Monitoring Committee, as defined in Section 5 that compliance cannot be obtained because of high local construction employment levels of Malden and Malden residents or cannot comply with the requirements set forth in Section 3 being unavailable, a waiver from compliance should be allowed.

## **Section 5 COMPLIANCE WAIVER**

**In the event of high local construction employment levels of qualified Malden residents, and documented inability of contractor to hire qualified and competent local employees because of such high local construction employment levels, compliance with the provisions of this ordinance shall be waived, in whole or in part, on a case by case basis, through a determination made by the Monitoring Committee, as defined in Section 4 that high local employment levels prohibit the contractor from hiring local area employees as required. Such documentation shall include evidence of efforts conducted by the developer, contractor and subcontractors which shows a high level of effort in attempting to obtain local employees. Such effort shall include local advertising to seek local employees, and solicitation of local companies for contracting purposes.**

## **Section 6 MONITORING COMMITTEE REVIEW**

**A. The monitoring committee shall review the Malden resident employee reporting form(s) as submitted by the Contractor and the Bidding Authority. The Monitoring Committee shall further be responsible for carrying out the review provisions of this ordinance.**

**B. The Monitoring Committee shall make decisions as cited below within the following criteria:**

- 1. ensure that the Contractor has completed the Malden Employee Reporting Form.**
- 2. The information provided must show compliance with minimum employment requirements cited in Section 3.**
- 3. The Contractor shall have received commitments from Malden residents in accordance with the Malden Resident Employee Reporting Form.**

**C. The Monitoring Committee shall file a final decision with the affirmative action officer within fourteen (14) days of receipt of the information as cited in above. Such decision shall also be forwarded to the Bidding Authority and sent registered mail to the Contractors who have been reviewed for compliance. Such decision shall be in the manner of the form titled "Malden Residents Employment Monitoring Committee Decision on Compliance with the Malden Residents Construction Ordinance."**

## **Section 7 BIDDING AUTHORITY RESPONSIBILITY**

**A. Fourteen days prior to the date of public bidding (including any and all subcontractor bidding) it shall be the responsibility of the Bidding Authority to serve public notice to the residents of the City of Malden that a Public Construction Project is being bid. Such notice shall be for the purpose of informing the Malden residents of employment opportunities in accordance with job classifications (the DLI list) applicable to the project being bid.**

**B. Such notice shall be placed in the newspaper of regular circulation fourteen days prior to the bid notice and shall include all project information as required and require the inclusion of the following language at the beginning of such notice:**

**CITY OF MALDEN NOTICE OF PUBLIC CONSTRUCTION MALDEN RESIDENTS CONSTRUCTION ORDINANCE REGISTRATION OF MALDEN RESIDENTS FOR EMPLOYMENT.**

**In accordance with Malden Residents Construction Ordinance this is a public notice to request Malden Residents skilled in trades as listed in MGL Chapter 149 Section 26 to 27D amended as applicable to the below project to register their names for consideration of employment for such**

project. Registration must be made on the appropriate form titled "Malden Resident Public Construction List" at 200 Pleasant Street, Malden.

C. The Bidding Authority shall include a copy of this ordinance and any and all forms in all copies of the Bid Specification for Public Construction Projects as defined herein.

D. It shall be the responsibility of the Bidding Authority to submit to the Affirmative Action Officer a copy of the DLI listing, Malden Resident Construction list with the appropriate items completed and the Malden Resident Employee Reporting Form for the lowest bidder.

## **Section 8 ADMINISTRATION**

A. It shall be the responsibility of the Affirmative Action Officer to maintain the Malden Resident Public Construction List on a project by project basis and provide copies of such list to all prospective Contractors bidding on Public Construction. A running list of all registrants shall also be maintained in a database for use by the City for contacting Malden Residents.

B. Upon receipt of such forms from the Bidding Authority, the Affirmative Action Officer shall transmit copies to the Monitoring Committee.

## **Section 9 PRIORITY OF LAW**

Where this law or any selection of employees thereto conflicts with other laws relating to affirmative action hiring requirements as set forth by Federal, State or Local Laws, those laws shall supersede this chapter.

## **Section 10 LEGALITY**

In the event any section of this ordinance is deemed illegal, unenforceable or unconstitutional, then the remaining sections shall remain in full force and effect.

## **ADDENDUM**

### **HEALTH INSURANCE**

With the submission of bids, the bidder shall submit a written statement detailing for each trade that it will employ in the performance of the contract, the health insurance that it will make available to its employees. The statement shall include, but not be limited to, the name of the insurance carrier, if any, a copy of the insurance binder, a description of the benefits provided to the employees, including all co-payments and deductibles, the cost of the insurance to the bidder and to the employee, the minimum qualifications for coverage, the names and social security numbers of all the craftsmen currently covered by the health insurance. If the bidder is the low bidder, such health insurance policy will become part of the contract documents. Receipt by the (name of the awarding authority) and inclusion in the contract document shall not be deemed to be approval by the (name of awarding authority) of the insurance or its sufficiency and shall in no event relieve the bidder of its responsibility to make comprehensive health insurance available to its employees. However, any bidder who pursuant to a collective bargaining agreement contributes to a multi-employer health and welfare trust fund may satisfy the reporting requirements of this subsection by identifying said health and welfare fund.

## **SECTION 3.5B**

## **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. Preblast surveys shall be conducted as outlined in 527 CMR 13.09 (10) Preblast 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 preblast 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 preblast 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 days 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) Preblast 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 EXTRANEEOUS 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 blaster=s 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 3.5C BLASTING - PUBLIC HEARING REQUIRED WHEN RESIDENTIAL PROPERTIES ARE AFFECTED**

**When an area encompassed by a pre-blast survey, as required in Section 3.5B, includes any structure used for residential purposes, the Fire Chief shall notify the City Council.**

**The City Council shall, within 45 days of the receipt of said notice, conduct a public hearing relative to the application for a blasting permit.**

**Notice of said hearing shall be at the expense of the petitioner and shall be made by publication**

in a newspaper of general circulation in the city once in each of two successive weeks, the first publication to be not less than fourteen days before the date of the hearing, by posting in the office of the City Clerk for a period of not less than 14 days before said hearing and by mail to all property owners within the pre-blast survey area. Said notice shall contain the name of the petitioner, a description of the area which is the subject of the petition, and the date, time and place of the hearing. Notices mailed to property owners shall also include a statement that their property is within the pre-blast survey area.

The City Council shall, within seven days of hearing, make recommendations to the Fire Chief relative to the conditions, restrictions and limitations they deem necessary to protect the health, safety and welfare of residents in the blast area. No permit shall be issued for any project affecting a residential unit until the City Council has provided notification of its deliberations to the Fire Chief or the time for said deliberations has expired, whichever is sooner.

## **CODE ENFORCEMENT INSPECTOR**

### **SECTION 3.6                      POSITION ESTABLISHED; APPOINTMENT**

The Code Enforcement Inspector shall be appointed from a Civil Service list by the Mayor and confirmed by the City Council. The Code Enforcement Inspector shall be an agent of the Board of Health and shall work under the supervision of the Director of Public Health.

### **SECTION 3.7                      DUTIES GENERALLY**

The Code Enforcement Inspector shall inspect all residential premises in the City and shall maintain records of violations of any applicable Building Code, Plumbing Code, Electrical Code, Fire Code, Sanitary Code or Health Code.

### **SECTION 3.8                      NOTIFICATION OF VIOLATIONS**

The Code Enforcement Inspector shall notify the owner, manager, tenant or person in control of the premises where any violation exists and order removal of the violation within a reasonable time, or as required by law.

### **SECTION 3.9                      ASSISTANT CODE ENFORCEMENT INSPECTORS**

Assistant Code Enforcement Inspectors shall be under the supervision and direction of the Director of Public Health. They shall be selected from the Civil Service list. The Assistant Code Enforcement Inspectors shall have a general working knowledge of the Building Code, Plumbing Code, Electrical Code, Fire Code, Sanitary Code and/or Health Code.

## **SECTION 3.10                      APPEAL FROM ORDERS OF CODE ENFORCEMENT INSPECTOR**

A. The Board of Health shall hear all appeals from orders or decisions of the Code Enforcement Inspector. A request for hearing shall be filed with the Board of Health by the person or persons to whom any order has been served within seven days after the day the order was served.

B. The hearing shall be commenced not later than thirty days after the day on which the order was served, and written notice of the time, date and place of such hearing shall be served upon the petitioner. Upon application of the petitioner, postponements may be granted if in the judgment of the Board of Health the petitioner has submitted a good and sufficient reason for such postponement.

C. The Board of Health shall uphold, sustain, modify, revoke, or amend the order and shall inform the petitioner in writing of its decision. If the Board of Health sustains or modifies the order, it shall be carried out within the time period allotted in the original order or as modified by the Board of Health.

## **CONDOMINIUM CONVERSION**

### **SECTION 3.11                      CONDOMINIUM CONVERSION REGULATION**

#### **A. PREAMBLE**

Whereas, a serious public emergency exists with respect to the housing of a substantial number of citizens of Malden; and

Whereas, the deterioration and demolition of existing housing and an insufficient supply of new housing have resulted in a substantial and critical shortage of safe, decent and reasonably priced rental housing accommodations; and

Whereas home ownership creates an interest in real estate which tends to contribute to the

**maintenance and reservation of housing and to an increase in real estate taxes which has a salutary effect on the City and its people, and the City Council should, therefore, encourage an increase in such ownership or at least should avoid discouraging it; and**

**Whereas, individual ownership of multiple unit housing accommodations offers a number of advantages when compared to an unattached one-family house, not the least of which is a considerable saving in energy used for heating, and the City Council should, therefore, encourage and increase in such ownership or at least should avoid discouraging it; and**

**Whereas, at present in the City there is a great interest in and a significant amount of conversions of multiple unit rental housing occupied by tenants to condominium units occupied by individual owners thereof; and**

**Whereas, notwithstanding the general good accomplished by such increase in home ownership, many people of limited means, particularly the elderly, are suffering thereby in that they have difficulty in obtaining alternative rental housing at prices which they can afford when evicted for condominium conversion; and**

**Whereas, the untoward effects of condominium conversion evictions on tenants can be adequately dealt with by providing potentially displaced tenant with sufficient time to examine the housing market, evaluate available housing alternatives, formulate future housing plans, secure any necessary financing and decide whether to purchase the condominium unit or relocate; and**

**Whereas, this emergency cannot be dealt with solely by the operation of the private rental housing market, and unless evictions for condominium conversions are additionally regulated and controlled, such emergency and the inflationary pressures and displacement resulting therefrom will produce serious threats to the public health, safety and general welfare of the citizens of Malden;**

**Now, therefore, be it hereby ordained by the City Council of the City of Malden as follows:**

## **B. DEFINITIONS**

**When used in this ordinance, unless the context otherwise requires, the following terms shall have the following meaning:**

**BOARD:** City of Malden Planning Board

**CONDOMINIUM CONVERSION EVICTION:** an eviction of a tenant by a landlord for the purpose of removing such tenant from a housing accommodation in order to facilitate the initial sale and transfer of legal title to that housing accommodation as a condominium unit to a

prospective purchaser or an eviction of a tenant by any other person who has purchased a housing accommodation as a condominium unit when the tenant whose eviction is sought was a resident of the housing accommodation at the time the master deed for the property wherein said housing accommodation is located was recorded pursuant to the provisions of Chapter 183A of the General Laws.

**CONDOMINIUM UNIT:** a unit of a condominium as that term is defined in Chapter 183A of the General Laws.

**HOUSING ACCOMMODATION:** any building, structure, or part thereof or land appurtenant thereto, or any other real or personal property rented or offered for rent for living or dwelling purposes, together with all services connected with the use or occupancy of such property, not including the following:

1. housing accommodations in which the United States or the Commonwealth of Massachusetts or any authority created under the laws thereof either owns, or operates, or finances or subsidizes or insures the mortgage thereon, or regulates the individual rents thereof.
2. housing accommodations in any building or structure containing no more than two dwelling units or containing three dwelling units, one of which is occupied by the owner thereof as his permanent residence; provided, that two or more adjoining buildings or structures under common legal or beneficial ownership shall constitute a single building or structure for this purpose; and provided, further, that no building or structure shall be considered occupied by the owner thereof unless all beneficial owners occupy one or more dwelling units therein as their permanent residence.
3. housing accommodations constructed, created by conversion from a non-housing use to a housing use, or substantially rehabilitated so as to constitute the equivalent of new construction after December 31, 1980 with respect to conventionally financed housing accommodations and after January 1, 1972, with respect to housing accommodations described in paragraph (d) (1) above.
4. housing accommodations in cooperatives.
5. housing accommodations in hotels, motels, inns, tourist homes and rooming or boarding houses which are occupied in the majority by transient guests for a period of less than fourteen consecutive days.

**LANDLORD:** the individual who holds title to any housing accommodation in any manner including by not limited to, a partnership, corporation, or trust. For the purposes of this ordinance, the rights and duties of the landlord hereunder shall be the obligation of anyone who manages, controls, or customarily accepts rent on behalf of the landlord.

**RENTAL HOUSING AGREEMENT:** an agreement, verbal, written or implied, between a landlord and a tenant for use on occupancy of a housing accommodation or for housing services.

**TENANT:** any person entitled under the terms of a rental housing agreement to the use and occupancy of any housing accommodation.

## **C. PRESUMPTION**

For purposes of this ordinance, any action to recover possession of a housing accommodation shall be presumed by the Board to be a condominium conversion eviction where any one or more of the following has occurred:

1. any dwelling unit in any building or structure in which the housing accommodation is located has been sold as a condominium unit; or
2. a master deed for the building or structure in which the housing accommodation is located for which recovery of possession is sought has been duly recorded pursuant to the provisions of Chapter 183A of the General Law, or
3. a master deed for the building or structure in which the housing accommodation is located for which recovery of possession was sought is duly recorded pursuant to the provisions of Chapter 183A of the General Laws within one hundred and eighty days after an action is brought to recover such possession; or
4. any tenant of any housing accommodation in the building or structure wherein the housing accommodation is located has received any notice required by the provisions of Section 4 of this ordinance or a rent increase of more than ten (10%) percent in any twelve month period; provided, however, that a landlord may seek to recover possession of a housing accommodation when any of (a), (b), (c), or (d) occurs for the purposes other than a condominium conversion when the landlord filed, under the pains and penalties of perjury, an affidavit with the Board stating that such eviction is not for the purpose of converting the housing accommodation to a condominium.

## **D. NOTICE OF CONVERSION; CONDITIONS PERMITTING CONVERSION**

No person shall bring any action to recover possession of a housing accommodation for the purpose of a condominium conversion unless there is a rental vacancy rate in the City of Malden in excess of 5.0%

In the event the above condition exists, no person shall bring any action to recover possession of a housing accommodation for the purpose of a condominium conversion until the later of the expiration of the rental housing or two years have elapsed from the date the tenant of such housing accommodation received a written notice of termination of his tenancy, provided, however, that in a case of a housing accommodation occupied, in whole or in part, by any tenant who has reached the age of sixty (60) or over on or before the date said notice is received, or has domiciled at said housing accommodation for a period of five (5) years or more, three years from such date has elapsed. The burden of providing qualification with respect to age or length of residence shall rest with the tenant.

All notices given pursuant to this ordinance shall be mailed to the tenant by certified mail, return receipt requested, and shall advise the tenant of the rights and procedures available under this ordinance, including if applicable, a statement of such tenant rights and procedures available under the rules of the Board governing recovery of a housing accommodation in order

to convert it to a condominium as adopted.

No action to recover possession of a housing accommodation for condominium conversion shall be effective unless a master deed for the building or structure in which the housing accommodation is located is duly recorded pursuant to the provisions of Chapter 183A of the General Laws of the Commonwealth of Massachusetts prior to or within the two year or three year time period specified in this section for notice to tenants of such housing accommodations. Except with respect to vacancy decontrolled housing accommodations, upon expiration of the notice period as provided herein, the landlord must provide proof satisfactory to the Board and the rules of the Board as adopted, pursuant thereto governing recovery of a housing accommodation in order to convert it to a condominium. If the Board finds that the proof is valid and in compliance with the provisions of this ordinance a certificate of eviction shall be issued.

With respect to all housing accommodation, except vacancy decontrolled housing accommodations, which are voluntarily vacated by the tenant thereof after receipt of the notice required by this section but prior to the expiration of the notice period specified therefor, the Board shall not grant a certificate of vacancy decontrol unless the landlord has recorded a master deed pursuant to Chapter 183A of the General Laws of the Commonwealth of Massachusetts for the building or structure in which the vacated housing accommodation is located.

#### **E. ENFORCEMENT**

The Board shall have the power and duty to enforce the provisions of this ordinance. Certified copies of all policies, rules and regulations shall be forwarded to the City Clerk who shall forthwith forward them to the City Council, in the case of regulations in existence, within 10 days of the effective date of this ordinance and in the case of regulations promulgated after the effective date of this ordinance, within 10 days of the promulgation thereof. The Board shall have the authority to issue certificate of eviction pursuant to this ordinance.

#### **F. VIOLATION**

Whoever willfully violates any provision of this ordinance or whoever knowingly makes any false statement or affidavit to the Board shall be punished by a fine of not more than one hundred dollars.

#### **G. TRANSITIONAL PROVISIONS**

Each owner of a building, or structure, which is presently or was used for residential commercial, industrial, office, business, or non-business use, who converts all or part of said building or structure into a condominium unit, (as defined herein) or who has converted all or part of said building or structure into condominium units but all of said units have not been sold or transferred shall file a copy of the Master Deed with the City of Malden Planning Board, together with a fee of \$100.00 for services to be done relating thereto by said Planning Board.

An additional fee of \$500.00 will be paid to the City of Malden, upon application for an occupancy permit, for each unit or units to be sold or rented or occupied after the effective date of this section , which fee shall be for services to be done by all other City departments relating to said occupancy permit. This subsection shall not apply to units which the owner presently has under Purchase and Sale Agreement. For purposes of this subsection, a Condominium Unit includes but is not limited to a condominium unit as defined by Chapter 183A and whether or not the same is used for residential, commercial, industrial, office, business or non-business use.

## **GAS FITTING**

### **SECTION 3.12 DUTIES OF GAS FITTING INSPECTORS**

The Inspectors of Gas fitting shall inspect all gas fittings for which permits are granted, which are in the process of construction, alteration or repair and also perform such other appropriate duties as may be required by law.

### **SECTION 3.13 REGISTRATION REQUIRED; ISSUANCE OF PERMITS; INSPECTIONS; RECORDS**

No person shall carry on the business of gas piping or gas fitting in the City unless registered with the office of the Inspector of Plumbing. Notice of any change in the place of business of a registered gasfitter shall be immediately given to the Inspector. The Inspector shall upon application grant permits for the installation of gas piping and gas equipment. The Plumbing Inspector shall also make inspections of all new or additional gas applications, permits issued, inspections and other work performed in accordance with the provisions of this article.

### **SECTION 3.14 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:**

<b>New Homes Residential / Single to 3 Family each unit</b>	<b>100.00 + \$5.00 per fixture</b>
<b>New Apartment Houses/ Condo/ Tower</b>	<b>300.00 + \$5.00 per fixture</b>
<b>Existing 4 unit &amp; above - each unit</b>	<b>100.00 +\$5.00 per fixture</b>

<b>Plumbing (First Fixture)</b>	<b>\$50.00 minimum Fee ( if only one fixture )</b>
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<b>Each Additional</b>	<b>\$5.00</b>
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<b>Gas (First Fixture)</b>	<b>\$50.00</b>
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<b>Each Additional</b>	<b>\$5.00</b>
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**Water Heaters:**

<b>Gas (Plumbing &amp; Gas Fee)</b>	<b>\$50.00</b>
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<b>Electric</b>	<b>\$25.00</b>
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<b>Gas Fired Boilers</b>	<b>\$100.00</b>
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**(Gas \$50.00/Plumbing \$50.00)**

<b>Remove Illegal Apartment/Plumbing</b>	<b>\$300.00</b>
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<b>Remove Illegal Apartment/Gas</b>	<b>\$300.00</b>
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<b>Re-inspection Fee</b>	<b>\$50.00</b>
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**Work Started Without Permit Double Fee**

<b>Emergency Inspections</b>	<b>\$100/hour or part thereof</b>
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**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.**

## **INSURANCE - FIRE AND BOILER**

### **SECTION 3.15 INSURANCE COMMITTEE; COMPOSITION; DUTIES**

**The Controller of Accounts, the Chairman of the Board of Assessor, the Director of Public Facilities, the Purchasing Agent and the City Solicitor shall prepare specifications, award contracts, and manage and supervise the administration of fire and boiler insurance on all city property.**

## **PLUMBING**

### **SECTION 3.16 PLUMBING INSPECTOR - APPOINTMENT**

**The Mayor and City Council shall appoint an Inspector of Plumbing and Gasfitting, who shall**  
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be in charge of the Department for Inspection of Plumbing and shall be subject to the provisions of General Laws, Chapter 142 and other applicable laws, rules and regulations.

## **SECTION 3.17                      POWERS AND DUTIES**

The Plumbing and Gasfitting Inspectors shall inspect all plumbing in process of construction, alteration or repair for which permits are granted within the City and shall perform such other appropriate duties as may be required by ordinance.

The Inspectors of Plumbing and Gasfitting shall have all the powers and be subject to all the duties conferred and required by statute, ordinance, rules and regulations.

## **SECTION 3.18                      ISSUANCE OF PERMITS; DISPOSITION OF FEES; RECORDS; INSPECTIONS**

The Inspectors of Plumbing and Gasfitting shall, upon application, grant permits for the installation, alteration and maintenance of plumbing and plumbing equipment. They shall also make inspections of all new or additional plumbing installations. They shall keep complete records of all applications, permits issued, inspections and other official work performed in accordance with the provisions of this chapter.

## **SECTION 3.19                      TO BE IN CHARGE OF PLUMBING AND HEATING REPAIRS FOR CITY BUILDINGS**

Under the direction of the Public Property Committee, the Inspector of Plumbing and Gasfitting shall have charge of all plumbing and heating repairs and installations in all municipal buildings.

## **SECTION 3.20                      ASSISTANT INSPECTORS OF PLUMBING AND GAS- FITTING**

Under the direction of the Plumbing and Gasfitting Inspector, the Assistant Inspectors of Plumbing and Gasfitting shall supervise plumbing and heating repairs and installations in all municipal buildings and shall, when so directed, make such repairs as may be required. In the event of the absence or incapacity of the Plumbing and Gas Inspector, the Assistant Plumbing and Gas Inspector shall have charge of the aforementioned repairs and installations.

**SECTION 3.21****RESERVED****PUBLIC BUILDINGS****SECTION 3.22****BUILDING COMMITTEE TO BE APPOINTED FOR  
CONSTRUCTION OF NEW MUNICIPAL BUILDINGS**

Construction of municipal buildings, or additions to the floor space of any existing municipal building involving the expenditure of more than ten thousand (\$10,000.00) dollars, shall be 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 3.23****DIRECTOR OF PUBLIC FACILITIES - POWERS AND  
DUTIES**

The Director of Public Facilities shall be the executive and administrative head of the Department of Public Facilities and 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 3.22, 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.

## **WIRE DEPARTMENT**

### **SECTION 3.25                    APPOINTMENT, QUALIFICATIONS, POWERS & DUTIES, ASSISTANTS**

The Mayor shall appoint an Inspector of Wires subject to the provisions of General Laws, Chapter 31 and its rules and regulations. The Inspector of Wires shall be in charge of the Wire Department.

The Inspector of Wires shall have such licenses as required by law.

The Inspector of Wires shall have all the powers and duties conferred and required by statute, ordinance and the Board of Fire Prevention Regulations.

The Inspector of Wires may appoint an electrician under Massachusetts General Laws, Chapter 31, to act as assistant under the direction and supervision of the Inspector of Wires.

### **SECTION 3.26                    TO HAVE SUPERVISION OVER ELECTRICAL WIRES**

The Inspector of Wires shall supervise the installation, maintenance and repair of every wire designed to carry electric light, heat or power current in the City; shall notify the person owning or operating any such wire whenever its attachments, insulation, supports or appliances are improper or unsafe, or whenever the tags or marks thereof are insufficient or illegible; shall, at the expense of the City, remove every wire the use of which has been abandoned, and every wire not tagged or marked as hereinbefore required, and shall see that all laws and regulation relative to wires are strictly enforced. The City may recover from the owner of any such wire so removed, the expense incurred in the removal thereof.

### **SECTION 3.27                    TO HAVE CHARGE OF ELECTRICAL WIRING, ETC., IN MUNICIPAL BUILDINGS**

The Inspector of Wires shall have charge of all electrical wiring in all municipal buildings under

the direction of the Public Property Committee except those pertaining to the Police and Fire Department signal system.

### **SECTION 3.28                      TO ISSUE PERMITS FOR INSTALLATION OF ELECTRICAL WIRING, ETC.; RECORDS**

The Inspector of Wires shall upon application grant permits for the installation, alteration and maintenance of electric wiring, devices, appliances and equipment, the fees for which shall be paid to the City Treasurer. The Inspector of Wires shall inspect all electrical installations under permit. Complete records of all applications, permits issued, inspections and other official work performed in accordance with the provisions of this Code, shall be maintained as required by law.

### **SECTION 3.29                      SIDEWALL INSTALLATION; PERMIT REQUIRED**

Whenever a permit is issued by the Building Inspector 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. Waiver of the electrical permit requirement may be made by the Inspector upon determination that such waiver will not endanger public safety and welfare.

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.

Where metal siding is to be applied and service cable is existing as the means of electrical service entrance, such cable shall be properly protected at its point of entrance by providing rounded edges on the siding and sufficient clearance of metal edges from the cable contact. Cable supports shall be required at spacings of 18" to 24". Proper clearance and smooth edges shall also be provided for openings of fixture or receptacle outlets.

### **SECTION 3.30                      NOTICE OF CHANGE OF LOCATION; DEAD WIRES TO BE REMOVED**

The Fire Chief shall be notified immediately in writing of any changes of poles or wires, when City wires are attached. All dead wires shall be at once removed.

### **SECTION 3.31                      BADGES TO BE WORN BY EMPLOYEES**

All employees, officials or agents of any company owning or controlling any electric lines or wires in the City shall be furnished with a certificate or badge from the company, which shall be shown whenever access is desired to any premises.

### **SECTION 3.32                      ELECTRIC SIGNS**

All electric signs must be made of sheet metal and connected on inside thereof with approved metal conduits, and all receptacles or holders for such signs shall be soldered at terminals.

### **SECTION 3.33                      ELECTRICAL PERMIT FEES**

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

<b>New Homes-Residential/ Single to 3 Family each unit</b>	<b>\$300.00</b>
<b>New Apartment Houses/Condominiums/ 4 units or more-each unit</b>	<b>\$100.00</b>
<b>Receptacles &amp; Switches</b>	<b>\$ 1.00</b>
<b>Fixtures</b>	<b>\$ 2.00</b>
<b>Electric Signs-All Types</b>	<b>\$35.00</b>
<b>Motors (Including Air Conditioners &amp; Generators):</b>	
<b>Dishwasher</b>	<b>\$10.00</b>
<b>Disposal</b>	<b>\$ 7.00</b>
<b>All fractional motors (under 1HP) each</b>	<b>\$3.00</b>
<b>No fee less than</b>	<b>\$10.00</b>
<b>1HP to 5HP (including whirlpool tub)</b>	<b>\$ 7.00</b>
<b>6HP to 10HP</b>	<b>\$15.00</b>
<b>11HP to 25HP</b>	<b>\$25.00</b>
<b>Above 25HP-each addl HP</b>	<b>\$ 2.00</b>
<b>Gasoline Dispensers (each pump)</b>	<b>\$25.00</b>
<b>Air Conditioner/Combo Units</b>	<b>\$40.00</b>
<b>Cooking or Heating Devices (Electric):</b>	
<b>Electric Heating up to 5,000 watts</b>	<b>\$10.00</b>
<b>Each Additional KW-1,000 watts</b>	<b>\$ 2.00</b>
<b>Domestic Hot Water Tanks</b>	<b>\$20.00</b>
<b>Dryers</b>	<b>\$20.00</b>
<b>Range Units up to 8,000 watts</b>	<b>\$15.00</b>
<b>Each additional KW 1,000 watts</b>	<b>\$ 3.00</b>

**Transformers:**

<b>1 to 5 KVA capacity</b>	<b>\$10.00</b>
<b>6 to 25 KVA</b>	<b>\$15.00</b>
<b>Above 25 KVA each addl KVA</b>	<b>\$ 2.00</b>

**Services:**

<b>Up to 100 amperes</b>	<b>\$50.00</b>
<b>In excess of 100 amperes, charges compiled on the basis of an additional 100 amperes capacity or fraction thereof:</b>	<b>\$10.00</b>
<b>In addition: each meter &amp; panel</b>	<b>\$10.00</b>
<b>Panel Changes Only (per panel)</b>	<b>\$35.00</b>
<b>Temporary Service</b>	<b>\$60.00</b>

**Distribution:**

<b>Additional panels-subfeeder runs and/or ampere rating up to 100</b>	<b>\$20.00</b>
<b>Ampere rating 101 to 200 amperes</b>	<b>\$25.00</b>
<b>Ampere rating 201 to 400 amperes</b>	<b>\$35.00</b>
<b>Ampere in excess of 400 amperes(per 100 amperes)</b>	<b>\$ 5.00</b>

<b>Heat Units-Gas/Oil</b>	<b>\$25.00</b>
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<b>Vinyl Siding</b>	<b>\$40.00</b>
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**Swimming Pools:**

<b>Above ground</b>	<b>\$25.00</b>
<b>In ground</b>	<b>\$50.00</b>
<b>Hot Tubs</b>	<b>\$35.00</b>

**Carnivals/Christmas Decorations/**

<b>Commercial Business Area</b>	<b>\$30.00</b>
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**Welding Units:**

<b>1 to 5 KVA or KW</b>	<b>\$10.00</b>
<b>6 to 10 KVA or KW</b>	<b>\$15.00</b>
<b>Above 10KVA or KW</b>	<b>\$20.00</b>
<b>Maximum Fee/each unit</b>	<b>\$50.00</b>

<b>Battery Charger/Rectifiers/each</b>	<b>\$10.00</b>
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**Alarm Systems:**

<b>Fire/Panel Only</b>	<b>\$50.00</b>
<b>Smoke/heat detectors/pull stations</b>	
<b>Horns/audible - each</b>	<b>\$ 3.00</b>
<b>Intrusion/Burglar Flat Fee</b>	<b>\$40.00</b>

**Communication Systems:**

<b>Sound or signals/per outlet</b>	<b>\$ 3.00</b>
<b>Telephone/Data/Cable/per outlet</b>	<b>\$ 3.00</b>

**Remove Illegal Apartments** **\$300.00**

**Demolition/Remodel Purposes Only** **\$ 25.00**

**Sidewall Installation/Permit Required** **\$ 35.00**

**Minimum Fee** **\$ 25.00**

**Re-inspection fee** **\$ 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.**

**Validity of Permits**

**Permits issued are valid for a period of thirty (30) days only from the date of issue. If work is not in progress at expiration date, permits will be void. A new application and fee will be required. The electrician, upon completion of all work, must notify the Wire Inspector. Failure to comply within ten (10) working days will result in a penalty of: \$30.00**

**Late Filing Fee** **Double Fee**

**SECTION 3.34 SITE PLAN REVIEW - FEES**

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

<b>1-7 stories</b>	<b>\$10,000</b>
<b>8 stories</b>	<b>\$20,000</b>
<b>9 stories</b>	<b>\$30,000</b>
<b>10 stories</b>	<b>\$40,000</b>
<b>11 stories</b>	<b>\$50,000</b>



**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 3.35                      SIGN CONTROL**

### **.1        Intent and Purpose:**

The City of Malden recognizes that signs are an important means of visual communication in our society and that businesses and individuals have the right to convey messages using signs that are accessory to the use of the premises where the signs are located. It is the intent of this section:

- .1                      to provide a reasonable balance between the right of a business or individual to identify itself and to convey a message and the right of the public to be protected against the visual discord that results from unrestricted size, placement and design of signs.
- .2                      to promote public health, safety and welfare by insuring that signs are properly designed, constructed and maintained;
- .3                      to ensure that signs are compatible with adjacent land uses, enhance the aesthetics of the community and promote economic viability.

### **.2        Definitions:**

As used in this ordinance, the following words shall have the following meanings:

**Awning:** Any device, fixed or retractable, of any material, which projects more than 12 inches from a building wall and extends over or otherwise covers any portion of a sidewalk, walkway, dining area, or driveway.

**Sign:** Any letter, number or symbol 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:** A sign which:

- .1 advertises a business, service or product no longer occupying or available at the premises to which it is attached; or
- .2 has, in the opinion of the Building Inspector, so deteriorated that the cost of repair would exceed 30% of cost of replacement.

**Sign, Accessory:** A sign which advertises or identifies the goods or services offered by the business conducted on the premises where the sign is located.

**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, Illuminated:** A sign on which electric light is projected, whether from the interior of exterior, including signs incorporating neon or exposed gas tubes.

**Sign, Non-Accessory:** A sign which advertises or identifies goods or services not available on the premises, or relates to events or people not located on the premises.

**Sign Portable:** A sign not affixed to a building, structure or the ground.

**Sign, Primary:** A sign which advertises or identifies the business conducted on the premises where the sign is located.

**Sign, Projecting:** A sign affixed to a building and designed to be read at an angle perpendicular to the building; provided that no projecting sign shall be more than 2 linear feet in height nor project more than three feet from the building to which it is affixed.

**Sign, Roof:** A sign projecting above the lower roof line of a building or affixed to any portion of the roof.

**Sign, Temporary:** A professionally produced vinyl banner containing the name of the business conducted or to be conducted at the premises and the words “coming soon” or “now open”.

**Sign, Wall:** A sign affixed to a building and designed to be read at an angle parallel to the building.

**Sign, Window:** A sign placed in the interior of a building so as to be visible on the exterior through the glass surface of a window or door.

**Sign Area:** The measurement, in square feet, of the smallest single rectangle enclosing all elements of the sign face.

**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.

### **.3 APPROVAL REQUIRED FOR CERTAIN SIGNS; SIGN DESIGN REVIEW COMMITTEE - COMPOSITION AND DUTIES**

Except as provided in Section 3.35.4, no sign shall be refaced, constructed, altered or changed without a permit issued by the Building Inspector, provided that no permit for the construction, alteration or modification of a sign shall be issued without the approval of the Sign Design Review Committee. Any conditions or restrictions contained in the Sign Design Approval shall become conditions for the issuance of the building permit

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

The Sign Design Review Committee shall adopt rules and regulations to effectuate the intent of this ordinance, including but not limited to application requirements, detailed design guidelines, and administrative fees and may issue approvals with such conditions, restrictions and limitations as are deemed in the best interest of the public health, safety and welfare. The Sign Design Review Committee may require that signs be restricted to specific colors, sizes, methods of illumination, materials, and appearances so as to achieve uniformity.

Applications for design review shall be filed with the Department of Inspectional 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 SIGNS NOT REQUIRING A PERMIT**

Notwithstanding the provisions of Section 3.35.3, no permit shall be required for the following signs:

- .1 No more than two signs , not exceeding 6 square feet each, advertising a site for sale or lease.**
- .2 No more than one sign, not exceeding 3 square feet in area, containing only the street name or the street number of the premises;**
- .3 No more than one contractor's sign, not exceeding 3 square feet, containing information relative to a construction or renovation project in progress;**
- .4 No more than one flag, not including the flag of the United States of America, not exceeding 6 square feet;**
- .5 No more than two accessory window signs; provided that all window signs do not exceed a total of 20% of the aggregate window area;**
- .6 No more than two signs, not exceeding 3 square feet each, indicating the means of entrance or egress for a building or property.**
- .7 For non-residential properties, no more than two non-accessory window signs, not exceeding 2 square feet each; provided that any sign displayed under this section remains no longer than 30 days and is removed within 5 days of the completion of the event to which it relates;**
- .8 For residential properties, no more than one non-accessory sign not exceeding six (6) square feet; provided that any sign displayed under this section remains no longer than 60 days and is removed within 5 days of the completion of the event to which it relates;**
- .9 Temporary signs, provided that an application for a Primary Sign has been filed with the Sign Design Review Committee and provided further that said temporary sign does not exceed 32 square feet;**
- .10 Any informational or promotional banner, displayed by the city or a Malden based non-profit, on municipally owned or controlled property; provided that the design, location and duration of display has been approved by the Sign Design Review Committee;**
- .11 Any banner displayed from a utility pole with the approval of the owner;**

- .12 A billboard regulated by the state Outdoor Advertising Board.**

## **.5 PROHIBITED SIGNS**

**No approval shall be issued for the following types of signs:**

- .1 Signs designed to incorporate movement, including signs designed for propulsion by wind, including but not limited to banners, pennants, spinners and streamers;**
- .2 Signs designed to display a message which is electronically changed, whether by flashing, blinking, scrolling, digital or stationary display of letters or images, unless the sign:
  - .1 displays only time and temperature; or**
  - .2 is affixed to a state, federal or municipal property;****
- .3 Signs erected so as to obstruct any means of egress from a building;**
- .4 Roof signs, excluding bill boards regulated by the state Outdoor Advertising Board;**
- .5 Banners affixed to the exterior of a building;**
- .6 Accessory window signs covering more than 20% of the aggregate window area;**
- .7 Non-accessory window signs exceeding 6 square feet;**
- .8 Signs containing red and green lights arranged in such a manner that, in the opinion of the Traffic Supervisor, said sign would constitute a hazard to motorists or pedestrians;**
- .9 Balloons, blimps, or other three-dimensional figure anchored to building, structure or ground;**
- .10 Abandoned signs; provided that, if the premises is no longer occupied, it shall be the obligation of the building owner to remove signs and to restore the sign frieze to its original condition;**
- .11 A-Frame or T-Frame portable signs, except as permitted under Section 3.35.11.**

## **.6 REGULATION OF SIGNS - IN GENERAL**

**All signs requiring design approval shall conform to the following minimum standards:**

- .1 Signs shall incorporate no more than three colors, including the background;**
- .2 No more than one primary sign shall be permitted for any business, except as follows:
  - .1 for businesses with frontage on more than one street, one additional primary sign, 50% or less in area, may be allowed**
  - .2 for freestanding signs containing more than one sign face, one sign may be allowed on each face;****
- .3 No more than two exterior accessory signs shall be permitted for any business; provided that sign faces for accessory signs do not exceed, in the aggregate more than 25% of the wall to which they are affixed; and provided further that doors and windows shall not be included in the computation of wall area;**
- .4 All signs shall be of a color and texture compatible with the building to which it is affixed;**
  - .5 Unless primarily engaged in the sale of tobacco or alcohol for**

consumption off premise, only one sign may advertise the sale of either tobacco or alcohol.

#### **.7 REGULATION OF AWNING SIGNS**

**Awning signs shall meet the following minimum requirements:**

- .1 Awnings shall be made of flame proof materials;**
- .2 Awnings shall be located only on ground level and shall provide a minimum 8 foot clearance from the ground;**
- .3 Awning frames shall be attached flat against the building surface;**
- .4 Fixed awnings shall project no more than five feet from the building;**
- .5 Retractable awnings shall be positioned flat against the building when not in use;**
- .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 computation of the sign area.**
- .7 Awnings shall bear only primary signs.**

#### **.8 REGULATION OF WALL SIGNS**

**The Sign Design Review Committee shall adopt regulations to allow for the restoration or application of historic or artistic murals to the exposed exterior walls of buildings. All other wall signs shall meet the following minimum requirements:**

- .1 No non-illuminated wall sign shall project more than eight inches from the wall to which it is affixed;**
- .2 No illuminated wall sign shall project more than 10 inches from the wall to which it is affixed;**
- .3 The sign area of a primary wall sign shall not exceed the lesser of:**
  - .1 one square foot for each linear foot of building frontage or part thereof or;**
  - .2 25% of the surface area of the wall, excluding window and door areas.**
- .4 Accessory wall signs shall not exceed, in the aggregate, more than 20% of the surface area of the wall or walls to which they are affixed, excluding window and door areas;**

#### **.9 REGULATION OF WINDOW SIGNS**

**Window signs shall meet the following minimum requirements:**

- .1 No primary window sign at street level shall exceed 20% of the aggregate glass area nor 50% of any individual pane;**
- .2 Accessory signs at street level shall not exceed, in the aggregate, more than 10% of the aggregate glass area nor 25% of any individual pane;**
- .3 Window signs above street level, whether primary or accessory, shall be limited to one window and shall not exceed more than 20% of the glass area.**

#### **.10 REGULATION OF FREESTANDING SIGNS**

**Freestanding signs shall meet the following minimum requirements:**

- .1 No ground sign shall exceed 50 square feet for each sign face;**
- .2 No ground sign shall exceed 15 feet in height;**
- .3 No ground sign shall have a clearance from the ground between 4 feet and 8 feet.**

#### **.11 REGULATION OF PORTABLE SIGNS**

**The Sign Design Review Committee may issue annual permits for portable signs only to those businesses which, in the ordinary course of their affairs, temporarily conduct business at locations which are not their principle place of business.**

**A portable sign permitted under this section shall meet the following minimum requirements:**

- .1 Portable signs shall be either A-frame or T-Frame.**
- .2 No portable sign shall exceed 6 square feet per sign face nor contain more  
Nor contain more than two sign faces;**
- .3 Portable signs shall be removed within one hour of the conclusion of the event  
To which they relate.**

#### **.12 ENFORCEMENT**

**Violations 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 Inspectional Services or his 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.**

### **SECTION 3.36 REGULATION/REGISTRATION OF VACANT 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; or**
- .2 a residential building in which no person lawfully resides as owner or tenant; or**
- .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 or**
- .3 commencing a foreclosure action on a property in any court of competent jurisdiction;**

**An owner is 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 initiation of foreclosure procedures or the property becoming vacant, register the property with the Department of Inspectional Services.**

**Registration shall be made on a form provided by the Department of Inspectional Services 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 and for notification in the event of an emergency affecting public health or safety.**

**Upon registration of a property, the Director of Inspectional Services shall require the owner to affix at the property, in a location determined by the Director of Inspectional Services 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 initial registration, it shall be the duty of the owner or agent in charge to notify the Department of Inspectional Services 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 March 1st, the owners of a vacant building shall pay to the Department of Inspectional Services a registration fee to cover the administrative cost of monitoring the property in accordance with the following schedule:**

<b>\$ 500.00</b>	<b>for properties vacant less than one year;</b>
<b>\$1,000.00</b>	<b>for properties vacant for more than one year but less than two years;</b>
<b>\$2,000.00</b>	<b>for properties vacant for more than two years but less than three years;</b>
<b>\$3,000.00</b>	<b>for properties vacant for three years or more.</b>

Registration fees collected pursuant to this section shall be deposited to the extent approved annually in a revolving fund to be used at the discretion of the Director of Inspectional Services, subject to approval of the Mayor, for the purpose of maintaining properties in accordance with the minimum standards established in .5 below.

Violation of the provisions of this ordinance may be enforced by the Director of Inspectional Services 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 thirty day period during which a violations exists

#### **.4 APPEAL AND WAIVER OF FEES**

The Director of Inspectional Services may grant a waiver of registration fees upon application of 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, 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 Inspectional Services 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 foreclosing 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 or extermination performed to prevent infestation by rodents, wasps, hornets or fleas;
- .7 for vacant properties, water shall be drained from the system and water service terminated;
- .8 for vacant properties, gas and electricity shall be terminated, unless otherwise determined by the Director of Inspectional Services;
- .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 Inspectional Services or his designee 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 Inspectional Services or his designee to the owner or agent provided upon registration 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 re-inspection, and shall provide notice of fines to be assessed for failure to comply. An Order to Correct shall also provide the date, time and location of a hearing to be conducted by the Municipal Hearings Officer in the event that the record owner fails to correct violations within the time allowed.

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 be 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 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 Inspectional Services or his 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 Inspectional Services 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 3.37 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 Inspector of Buildings 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 must 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.**

### **SECTION 3.38     ISSUANCE OF CERTAIN BUILDING OR OCCUPANCY PERMITS – CONDITIONS PRECEDENT**

**A building permit or occupancy permit shall not be issued for any building, structure or property except in compliance with the provisions of this section.**

**Upon receipt of an application for any building or occupancy permit not specifically exempt from this section, the Building Inspector shall submit one copy of the permit application and accompanying plans to the Planning Director. The Planning Director shall, within 10 business days of receipt, review the application and transmit to the Building Inspector a written opinion as to the proposal's compliance with the zoning ordinance, the subdivision control law, and any other applicable law or ordinance regarding land use. The Planning Director shall, at the same time, transmit a copy his recommendation to the ward councilor who represents the ward in which the property is located.**

**This following are specifically exempt from the provisions of this section:**

- permits for single or two-family residential dwellings;**
- permits for demolition;**
- permits for alterations and structural and non-structural changes that do not include the expansion or extension of any finished areas of a building or structure;**
- permits for roofing, deleading or siding.**

### **SECTION 3.39     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 3.40 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.**

**Violation 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:**

<b>1<sup>st</sup> offense</b>	<b>\$ 50.00</b>
<b>2<sup>nd</sup> /subsequent offense</b>	<b>\$100.00</b>

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

## **CHAPTER 4**

### **FINANCE**

#### **IN GENERAL**

##### **SECTION 4.1 FISCAL YEAR**

The annual accounts of the Treasurer and Controller of Accounts shall include the last day of June. The financial year shall begin on the first day of July.

##### **SECTION 4.2 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 4.3 HOW MONEY TO BE WITHDRAWN FROM 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, nor shall any order be drawn in payment for services rendered or material furnished, to any department, beyond the sum appropriated therefor by the City Council; provided, however, that the Treasurer may pay any sum of money due on the principal or interest of any note, bond or other security of the City, or for state and county taxes, or any judgment against the City, and any refunds on water bills, betterment assessment bills, annual sewer rate bills, assessment bills paid in lieu of annual sewer rates, apportionment bills, whether betterment or sewer assessment bills, and sidewalk assessment bills. All refunds shall be certified by the Board or Commission from which the refund is sought.

##### **SECTION 4.4 INTRA DEPARTMENTAL TRANSFERS**

Transfers from any account in a department to another account in the same department not exceeding the sum of five hundred dollars (\$500.00) may be made on the recommendation of the Controller of Accounts with the consent of the Mayor. Transfers of amounts in excess of five hundred dollars shall be made only upon majority vote of the members of the City Council.

##### **SECTION 4.5 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 of by the City Treasurer with the approval of the Mayor; and all bonds and notes issued by the City shall be signed on behalf of the City by the City Treasurer and countersigned by the Mayor and Controller, and all bonds shall bear the seal of the City. The Controller shall keep a record of all bonds and notes so signed and countersigned entering the same against the order authorizing the loan.

## **ASSESSING DEPARTMENT**

### **SECTION 4.6 COMPOSITION, POWERS, AND DUTIES**

The Assessing Department shall be under the charge of the Board of Assessors, consisting of three Assessors, who shall have and exercise all the powers and duties of Assessors of Taxes.

### **SECTION 4.7 INTERNAL ORGANIZATION; DUTIES; RECORDS**

The Board of Assessors shall annually as soon after March first as practicable, meet and organize by selecting one of their members as Chairman, and appointing a Clerk, who shall not be a member of the Board.

The Board shall hire additional employees and assistants as required, subject to funding by the Mayor and City Council, and shall compute and cast all taxes.

The Clerk shall keep a record of all transactions of the Board, and under the direction of the Board, have charge of the books of the Assessing Department. The Clerk shall keep a complete record of transfers of real estate and all information necessary for the legal and correct assessment of taxes, and shall perform such other duties as the Board of Assessors may from time to time determine.

### **SECTION 4.8 TO ASSURE THAT THE CITY OBTAINS ITS SHARE OF TAXES ON NATIONAL BANKS AND CORPORATIONS**

The Board of Assessors shall, by an examination of the returns and records in the office of the Tax Commissioner, and by all proper methods, see that the City obtains its share of taxes on national banks and other corporations.

### **SECTION 4.9 REPORT TO CONTROLLER AND TREASURER; WHEN REQUIRED**

The Board of Assessors shall, on or before the first day of September in each year, make a true return to the Controller of Accounts of the amount of taxes set in the annual warrant and the amount of Community Preservation Fund surcharges, if any, to the Collector of Taxes, and shall, thereafter, make a return to the Controller of Accounts of all other assessments made by it. It shall make a certificate of every abatement allowed, and keep a record of the same, which certificate shall state the name of the person assessed, the ward in which he is assessed, and the amount abated; and shall present to the Controller of Accounts the sum total of all such abatements.

#### **SECTION 4.10                      TAX ASSESSMENT LIST- TO BE DELIVERED TO COLLECTOR AND CONTROLLER**

The Board of Assessors shall complete the assessment of taxes, and deliver a list thereof, including a full and exact description of the land, and the name of the owner, to the Collector, on or before the first day of September in each year. The Board of Assessors shall add to the taxes payable for each property a 1% surcharge on the real estate tax levy; provided that no such surcharge shall be assessed for \$100,000 of the value of any property; and provided further that no surcharge shall be assessed for property owned and occupied by a person qualifying for low income housing or low or moderated in come senior housing. It shall also furnish to the Collector a list of property that has become liable to sale for nonpayment of taxes.

The Board of Assessors shall render to the Controller of Accounts at the time when they deliver any tax list to the City Collector a statement of the amount of such tax list so far as the amounts thereof have not been included in any statement previously made and shall on or before the first day of each month submit a statement showing the amount of taxes which have been abated during the preceding month, giving the year in which the taxes abated were paid.

#### **SECTION 4.11                      ABATEMENT OF TAXES**

All abatement of taxes shall be made at a public meeting of the Board of Assessors, and shall be recorded in a book provided for that purpose, which record shall be kept as required by law. All votes on abatements and reviews of property shall be with the concurrence of a majority of the Board.

#### **SECTION 4.11.1                      PAYMENT VOUCHERS FOR REAL ESTATE TAXES TO SENIOR CITIZEN VOLUNTEERS**

## **A. IN GENERAL**

**The Director of the Senior Center shall, subject to funding, establish a program for residents to provide voluntary services to the city in exchange for a reduction in tax obligations on real property, subject to the following conditions:**

- 1. participants must be 60 years of age or older as of July 1<sup>st</sup> of the previous year (hereinafter “senior citizens”);**
- 2. participant must own and occupy the property to which the tax reduction is applied;**
- 3. The annual reduction on any real estate tax bill shall not exceed \$500.00.**
- 4. Each participant shall be credited with service at a rate determined by the Director; provided that no participant shall be credited at a rate in excess of minimum wage established by the Commonwealth of Massachusetts;**
- 5. Participants shall not be deemed employees and shall not be eligible for any employment-related benefits, including but not limited to health insurance, workers compensation, and sick leave or vacation time.**

**The reduction in taxes provided under this program shall be in addition to any other exemption or abatement for which the tax payer qualifies.**

## **B. APPLICATION FOR VOLUNTEER POSITION**

**The Director of the Senior Center shall, for the purposes of determining eligibility, obtain verification of age, property ownership and residence of each applicant.**

**Application shall be made in a form determined by the Director of the Senior Center and shall be designed so as to ascertain the knowledge, skills, interests and abilities of the applicant.**

## **C. AVAILABILITY OF VOLUNTEER POSITIONS**

**The head of each city department shall annually furnish to the Director of the Senior Center, on a form provided for that purpose, a list of volunteer positions available in the department. Said list shall include a description of each position, a list of required skills, dates and hours during which services are required, and such other information as the Director may require.**

**The Director of the Senior Center shall require that participants successfully complete a job readiness session and shall refer to each department such senior citizens as the Director believes are eligible and qualified to perform the tasks described. Acceptance into the program shall be subject to the approval of the department head. When required by departmental hiring practices, the department head may request that the participant submit to a criminal record check.**

## **D. CERTIFICATION OF SERVICES AND REDUCTION IN TAXES**



**The department supervising a senior citizens service shall certify to the Assessors, on a form provided for that purpose, the amount of service performed. The department shall also provide a copy of such certificate to the senior citizen.**

**The Assessor shall process all credits so that the tax bill for the fiscal year next committed after completion of service reflects the reduced tax obligation.**

## **COLLECTOR OF TAXES**

### **SECTION 4.12                    DUTIES**

**The Collector shall:**

**A. 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.**

**B. issue tax bills, including Community Preservation Fund surcharges, where applicable, as soon as practicable after the tax lists are received and, for each fiscal year, issue summonses and collect all taxes, Community Preservation surcharges and interest accruing thereon, as allowed by law.**

**C. 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.**

**D. collect, as allowed by law, all other funds, together with any interest accruing thereon, due the City;**

**E. shall annually furnish to each department, board, commission, or division that issues license or permits including renewals or transfers, 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 that such party has not filed in good faith a pending application for an abatement of such tax or a pending petition before the appellate tax board.**

## **CONTROLLER OF ACCOUNTS**

**SECTION 4.13                    TO BE IN CHARGE OF ACCOUNTING  
DEPARTMENT; RECORD OF ACCOUNTS**

**The Controller of Accounts shall be in charge of the Accounting Department and shall keep a complete set of books and accounts which shall comprise all of the financial transactions of the City through the various departments and officers under their respective appropriations. 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.**

**SECTION 4.14                    TO RECEIVE ACCOUNTS AND CLAIMS; TO ALLOW  
OR DISALLOW CLAIMS; CERTAIN PURCHASES TO  
REQUIRE OTHER APPROVAL; WHEN BILLS TO BE  
PRESENTED TO CONTROLLER**

**The Controller of Accounts shall receive and carefully examine all accounts, claims, bills and payrolls which have been approved and certified by the several boards, committees, commissions, commissioners, and officers authorized to make expenditures, if they are correctly cast and duly approved; or if such indebtedness arises from a written contract and such account, claim, bill or payroll conforms with the terms of such contract, the same shall be approved.**

**The Controller of Accounts may refuse to pay, in whole or in part, any claim on the ground that it is fraudulent, unlawful or excessive, and in that case he shall file a written statement with the Mayor stating reasons for refusal.**

**No account, claim, bill or payroll shall be approved by the Controller of Accounts unless at the time the indebtedness is contracted the unexpended balance of the appropriation to which it is chargeable is in excess of such account, claim, bill or payroll, together with all prior orders against such appropriation; nor shall it be approved if not properly chargeable to the appropriation to which it is sought to be charged and properly itemized.**

**The Controller of Accounts shall not approve or allow payment of any bill for coal in lots of one ton or more, purchased for the use of the several departments of the City, except such as have been certified to him by the Sealer of Weights and Measures, and he shall, at the time of auditing such bills, endorse on the same the number and date of certification.**

**All bills of each month which have been properly approved shall be in the hands of the Controller on or before the fifth of the succeeding month or more often as determined by the Controller.**

## **SECTION 4.15 TO DRAW ALL WARRANTS**

**The Controller of Accounts shall draw all warrants on the Treasury for the payment of such account, claims, bills and payrolls, for any amounts due on the principle or interest of any bond, note or other security of the City or any sum payable under the law regulating military and state aid, soldiers' relief, burial or indigent soldiers, or any claim which the City Council has ordered to be paid; or any sums due as wages to such of the employees of the City as are entitled by law to be paid weekly, or any salary fixed by the City Council to be paid, if there be a balance of any appropriation therefor sufficient for the payment of the final judgments of courts, sums payable to the Commonwealth or county by law. All warrants drawn by the Controller of Accounts for the payments of moneys from the Treasury shall only be valid when countersigned and approved by the Mayor.**

## **SECTION 4.16 REPORTS AND RECORDS**

**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, 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 of Accounts shall keep accounts in such form and in such detail as may be necessary to show clearly all expenditures and receipts. The Controller shall credit each City account with its appropriations for the financial year, and charge the expenditures against the same as they shall from time to time be allowed. The Controller shall provide monthly statements of expenditures and unexpended balances of each account to the Mayor and the City Council, and shall provide each board or officer a statement of the expenditures and unexpended balance of any appropriation under their charge.**

## **SECTION 4.17 QUARTERLY STATEMENT TO BE SUBMITTED**

**The Controller of Accounts shall, at the close of each quarter year, or as often as deemed expedient, examine the accounts of the Treasurer, and Collector of Taxes; and for that purpose shall have access to all books and vouchers in possession of any officer of the City. The Controller shall make report thereof to the Mayor and City Council quarterly.**

## **SECTION 4.18 TO RECEIVE INVENTORIES OF PROPERTIES**

The Controller of Accounts shall obtain from the Purchasing Agent at the end of each financial year an inventory of any property, real or personal, belonging to the City and an estimate of its value.

## **SECTION 4.19 ANNUAL AUDIT**

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 or standards set by the director of the Department of Revenue Division of Accounts. The Controller of Accounts shall petition the director of the Division of Accounts for such an annual audit.

## **SECTION 4.20 PAYROLL FORMS**

The heads of departments shall furnish payrolls of employees in their respective departments in such forms as the Controller of Accounts shall approve, duly certified as required by statute, and submit the same to the Controller of Accounts. After the certification and approval of payrolls by the Controller of Accounts the Treasurer shall pay the same by check in accordance therewith and each check shall contain the amount of every deduction.

## **ACCOUNTS AND FINANCE; FINANCE COMMITTEE; CLAIMS COMMITTEE**

### **SECTION 4.21 ACCOUNTS TO BE APPROVED BY FINANCE COMMITTEE**

If the Controller of Accounts refuses to pay any bill, said bill may be referred to the Finance Committee for its consideration and approval or rejection.

Excepting bills which may be discounted, all bills which have been approved by the Finance Committee or by the Controller of Accounts shall be payable by the City Treasurer on or after the fifteenth day of each month. All bills which may be discounted shall be payable when approved and certified as above provided and shall be paid as early as necessary to secure discount.

**SECTION 4.22                    CLAIMS AGAINST THE CITY FOR DAMAGES  
APPROVED BY COMMITTEE ON CLAIMS;  
AUTHORITY OF COMMITTEE TO ADJUST SMALL  
CLAIMS; NOTICE TO CITY SOLICITOR**

All claims made against the City for damages, and such other claims as may be referred to them, shall be examined by the Committee on Finance; and the Committee may take such steps as it deems expedient for the defense of the City 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.

**CITY TREASURER**

**SECTION 4.23                    TO BE COLLECTOR OF TAXES**

The City Treasurer shall be the collector of taxes and all sums payable to the City not otherwise provided for by law.

**SECTION 4.24                    TO KEEP ACCOUNTS, PAY WARRANTS,  
JUDGMENTS, ETC. LIMITATION ON PAYMENT OF  
MONEY; ANNUAL REPORT**

The City Treasurer shall keep an accurate account of all receipts and payments.

Prior to payment by the City Treasurer, all warrants, bonds, certificates of indebtedness and the interest due on the same shall be signed by the Controller of Accounts and Mayor. The Treasurer shall cancel all such bonds or certificates of indebtedness and coupons when paid.

The Treasurer shall, annually in October, furnish the City Council with a report of receipts and expenditures for the prior fiscal year.

**SECTION 4.24.1 TO ESTABLISH A COMMUNITY PRESERVATION FUND;  
INVESTMENT AND EXPENDITURE FROM FUND; ETC.**

**The Treasurer shall establish and act as custodian of a separate account to be known a the Community Preservation Fund, and shall deposit into said fund all of the following:**

- .1 funds collected from Community Preservation Fund surcharges on real estate;**
- .2 funds received from the Commonwealth or any other source for purposes of community preservation;**
- .3 funds allocated from city revenues for community preservation, if any;**
- .4 proceeds from bonds, if any, issued in anticipation of revenue, pursuant to Section 11 of Chapter 44B of Massachusetts General Laws.**

**The Treasurer shall invest Community Preservation funds in the manner permitted by state law and shall credit any income from said investment to the Community Preservation Fund.**

**Expenditure or revenues shall be made, upon order of the City Council and Mayor, to implement the recommendations of the Community Preservation Committee.**

#### **SECTION 4.25 TO FURNISH MONTHLY STATEMENTS TO CONTROLLER OF ACCOUNTS**

**The City Treasurer shall, on the first day of each month, give to the Controller of Accounts the following:**

- A. a detailed statement of collections, payments or receipts, including names of payers and accounts credited, during the preceding month; except that, reports of receipt of taxes, assessments and water rates, need only include the amount received and the account upon which the collection was made;**
- B. a record of all discounts, abatements and repayments allowed during the month;**
- C. a statement of all fees, charges, costs and commissions received;**
- D. a certification that all moneys received on behalf of the City by any duly appointed sheriff, deputy sheriff, or constable have been paid into the Treasury.**

#### **SECTION 4.26 SURETY BOND**

**Prior to assuming office, the City Treasurer and Collector of Taxes shall give a bond, to be approved by the City Council, in such form and amount as required by law.**

**Failure to provide such bond within the time required by the City Council, shall rescind the election, and a new election shall be held.**

**In case of bond revocation, a new bond, as herein required, shall be provided; and failure to do so within fifteen days shall be cause for removal from office.**

## **SECTION 4.27                    TO KEEP DEEDS AND INSTRUMENTS CONVEYING REAL ESTATE**

**All recorded deeds and instruments conveying real estate to the City shall be kept by the Treasurer.**

## **PURCHASING DEPARTMENT**

## **SECTION 4.28                    CONTROLLER OF ACCOUNTS TO BE PURCHASING AGENT**

**The Controller of Accounts shall be the Purchasing Agent and shall have all the powers and duties conferred upon purchasing agents or procurement officers by law and by ordinance.**

## **SECTION 4.29                    POWERS AND DUTIES**

**A. The Purchasing Agent shall have power and duty to purchase, dispose of, or contract for all supplies, materials, equipment and contractual services, including installation, repair, and maintenance thereof, as needed by any of the departments, boards, commissions and other officers or municipal agencies, hereinafter respectively called "using agencies," except those exempt under Chapter 687 of the Acts of 1989.**

**"Contractual services" shall not be construed to mean the hiring of departmental personnel, expert witnesses, labor relations representatives, medical, legal, technical and other professional services, or awarding and administering of contracts for the construction, reconstruction or alteration of City buildings and property. Also exempted are special programs or grants provided by state or federal funds or bidding procedures.**

**The term "supplies, materials, and equipment" as used throughout this article shall be construed to mean any and all articles, materials and equipment, including installation, repair, maintenance or insurance therefor, which may be furnished to or used by any using agency.**

**The Purchasing Agent shall have the power to transfer all supplies, materials, and equipment from one department to another.**

**The Purchasing Agent shall have the power to sell, exchange or trade any supplies, material and equipment which have become obsolete or are no longer suitable for public use.**

**The Purchasing Agent is designated as Chief Procurement Officer and Chapter 687 of the Acts of 1989 is hereby incorporated by reference as if set forth hereat.**

**B. The Purchasing Agent shall have authority to order or make inventories of the supplies, materials, equipment and furnishings of any and all departments. Any department possessing excess or surplus personal property of any kind or description shall not exchange, transfer or dispose thereof without first certifying such personal property as surplus to the Purchasing Agent. Thereupon, the Purchasing Agent shall notify all departments and agencies as to the availability of such surplus personal property, and may order transfer of such property from one department or agency to another. Inventory adjustments between the departments shall be made accordingly.**

**Property determined by the Purchasing Agent to be no longer useful for any municipal purpose may be sold and the proceeds shall be paid to the City Treasurer.**

**The Purchasing Agent shall require that each using agency shall provide an inventory during the month of June in each year of the personal property under its charge.**

**Between the first day of November and the first day of December in each year there shall be forwarded to the Purchasing Agent an estimate of equipment, material, supplies and contractual services that will be needed by each using agency for the ensuing year. The requirements for preparing estimates shall not prevent any using agency from filing with the Purchasing Agent at any time a requisition for any supplies, materials, equipment or contractual service, the need for which was not foreseen when the detailed estimate was filed.**

**C. The Purchasing Agent shall control and supervise any and all storerooms and warehouses.**

**The City Council, upon estimates prepared by the Purchasing Agent and submitted from time to time by the Mayor, shall provide a revolving stores fund of sufficient amount to finance the purchase and storage of standard supplies, materials and equipment for use by all departments and agencies which may be purchased and stored advantageously, and such fund shall be under the control of the Purchasing Agent who shall also be responsible and accountable for all supplies, materials and equipment under his control and shall maintain a perpetual inventory record thereof.**



**D. The Purchasing Agent shall prepare written specifications for standard supplies used by the departments. Except in the case of non-competitive purchases, all specifications shall permit competition. The Purchasing Agent shall have the authority with the approval of the Mayor, to exempt any department of the City from the use of any standard supply. The Purchasing Agent shall consult with the heads of the departments to determine their requirements and shall endeavor to prescribe those standards which best meet the needs of the majority of departments. The Agent shall have the authority to make use of the laboratory and engineering facilities of the City and technical staffs thereof.**

**E. The Purchasing Agent shall be responsible for the inspection of all supplies, materials, equipment and contractual services delivered to the City in order to determine conformance with the specifications set forth in the orders or contract and for such purpose any department or office may be authorized by the Purchasing Agent to determine such conformity as is required hereunder.**

**F. The Purchasing Agent may require any office or department head to furnish information essential to the operation of the Purchasing Department for compliance with public purchasing requirements.**

## **SECTION 4.30                      REQUISITIONS FOR SUPPLIES**

**Except as provided in Section 4.40 or Chapter 687 of the Acts of 1989, requisitions for the purchase of supplies or contractual services for any department, board or commission shall be received by the Purchasing Department prior to the issuance of a purchase order or contract for such supplies or contractual services and shall be signed by the head of the using department, or an authorized agent. The Purchasing Agent shall examine each requisition and shall have the authority, only after consultation with the department head, to revise it as to quantity, quality or estimated cost.**

## **SECTION 4.31                      REQUISITIONS AND PURCHASE ORDERS**

**No requisition, order or contract shall be subdivided to avoid public purchasing requirements.**

**The head of each using agency shall file with the Purchasing Agent the names of members of that department who shall be authorized to originate requisitions.**

**All purchase orders shall issue from the Purchasing Agent and no other person is authorized to place or commit any order for purchases.**

**All requisitions are to be made on forms approved and prepared by the Purchasing Agent.**

## **SECTION 4.32**

### **PROCEDURE FOR CONTRACT PURCHASES; LIMITATION ON AMOUNTS**

#### **A.**

**(1) All purchases of, and contracts for, supplies, materials, equipment or contractual services, and all sales of personal property which have become obsolete and unusable, involving a sum of ten thousand dollars (\$10,000.00) or more, shall be purchased or sold by competitive bid. Such bid shall be solicited by invitations to bid sent on the same day to at least three vendors.**

**(2) All purchases exceeding one thousand dollars and less than ten thousand dollars shall, whenever possible, be based on at least three comparative open market price quotations, without newspaper advertisement and without necessity of observing the procedure described at Section 4.35 (B) for the award of contracts. The order shall be awarded to the lowest responsible and responsive bidder. The purchasing agent shall keep a record of all open market orders and the price quotations submitted thereon, and such records shall be open to public inspection.**

**(3) Before entering into any contract for supplies, materials, equipment or contractual services involving the expenditure of more than ten thousand dollars (\$10,000.00), the Purchasing Agent shall prepare, or cause to be prepared, plans and specifications; notices inviting sealed competitive bids for such contracts shall be published in at least one local newspaper and one Boston newspaper at least one week before the final date for submitting bids.**

#### **B.**

**The only exception to the purchasing procedure outlined within this Chapter shall be due to emergencies where immediate procurement is essential to prevent delays in the work of the using agency which may vitally affect the life, health or convenience of citizens and in such cases a detailed report of the circumstances of the emergency shall be filed by the using agency and the Purchasing Agent with the Mayor and approved by the City Solicitor.**

**In the case of an emergency, the head of any department or those authorized by any and all using agencies may, with the approval in writing of the Purchasing Agent or the Mayor, if the Purchasing Agent is not available, purchase directly any supplies, materials, equipment or contractual services whose immediate procurement is essential to prevent delays in the work of the using agency which may vitally affect the life, health or convenience of the citizens.**

**The individual authorized to make such emergency purchase shall send to the Purchasing Department a requisition and a copy of the delivery record.**

**The Purchasing Agent may establish, with the approval of the City Council, rules and regulations prescribing the procedure under which emergency purchases may be made.**

**C.**

**Whenever a bid is solicited, the using agency shall furnish to the Purchasing Agent a complete and accurate schedule showing in detail the amount, the quality, the dimensions and all other necessary details concerning such items to be bid upon. The Purchasing Agent shall provide copies of such plans and specifications to all parties proposing to bid.**

**D.**

**All pending contracts shall be advertised by notices posted on a bulletin board in the office of the Purchasing Agent and located so as to be easily accessible to the public.**

**E.**

**Every contract awarded by competitive bid in excess of \$5,000.00 shall be executed in triplicate by the Mayor and Purchasing Agent on behalf of the City and the head of the using agency shall sign the contract indicating approval or disapproval.**

**F.**

**Every contract shall be executed in triplicate by an officer, director, owner or authorized person on behalf of the awardee and shall be accompanied by a performance bond or by the deposit of money or security in the amount of such bond.**

**G.**

**After being executed, no contract shall be altered, in any particular, unless the parties who originally signed the contract endorse on such contract their written assent to each alteration.**

**H.**

**The City Clerk and the Controller of Accounts shall be furnished all contracts or copies thereof within one week after execution.**

**I.**

**Bids shall be returned to the Purchasing Agent and City Controller in a sealed envelope, properly denoting on the face thereof the type of bid enclosed. Such bids shall be deposited in a locked box kept for that purpose by each of those officials. The Purchasing Agent shall cause these provisions to be printed on or attached to all invitations to bid.**

**J.**

**Bids shall be publicly opened and read at the hour and place designated in the advertisement, or as soon thereafter as possible, by the Purchasing Agent. Contracts shall be awarded to the lowest responsible, eligible and responsive bidder possessing the skill, ability and integrity necessary for the faithful performance of the terms and conditions thereof; provided, however, that preference**

may be given to substantially similar bids offered by responsible firms or persons established and doing business in the City.

**K.**

No proposals shall be accepted from any person who has breached a contract with the City during the three years preceding. Any contractor who furnished or seeks to furnish goods, equipment, materials, or services to the City may be debarred or excluded from eligibility for future public contracts with the City of Malden for a period of time, to be determined as set forth herein, for any of the following causes:

(1) a criminal offense involving embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property or any other offense indicating a lack of business integrity or business honesty which seriously and directly will or may affect the contractor's present responsibility or ability as contractor to comply with contractual requirements;

(2) violation of any state or federal law regulating hours of labor, prevailing wages, minimum wages, overtime pay, equal pay, child labor, or any other state or federal law regulating labor relations or occupational health or safety;

(3) violation of any state or federal law prohibiting discrimination in employment;

(4) supplying of material false information incident to obtaining or attempting to obtain or performing any public contract or subcontract;

(5) a record of failure to perform or of unsatisfactory performance in accordance with the terms of one or more public contracts, provided that such failure to perform or unsatisfactory performance has occurred within a reasonable period of time preceding the determination to debar and provided the failure to perform or unsatisfactory performance was not caused by factors beyond the control of the contractor;

(6) debarment by the Division of Capitol Planning and Operations, under Mass. G.L. chapter 149 section 44C;

**L.**

The Purchasing Agent may reject any and all bids and cause new advertisements to issue, except as otherwise allowed by law.

**M.**

"Contractor" shall be defined as any individual, partnership, corporation or any other entity, its affiliate or subsidiary or subdivision. If debarment proceedings are undertaken, the contractor shall be ineligible to bid on any City of Malden contracts from the date of notice of proceedings

herein until the proceedings are concluded. The Purchasing Agent will send notice by certified mail, return receipt requested, to the contractor, at the last known address, stating the reasons and the proposed duration of the proposed debarment. Upon request, the contractor will be given a hearing, if the request is mailed certified mail or delivered to the Purchasing Agent within 14 calendar days of receipt of the notice. If no hearing is requested, debarment as directed shall become in full force and effect. If a hearing is requested, the same shall be public or private, as requested by the contractor, and shall be held within 30 days of the request for hearing unless otherwise agreed.

Debarment shall be ordered only to protect the integrity of the public contracting process in the particular instance and shall not exceed five (5) years. Rules and regulations relating to hearings under Mass G.L. C.. 149 section 44C, as amended, if applicable, shall be complied with.

N.

All bids shall be preserved by the Purchasing Agent and shall be open to public inspection, as required by law.

#### **SECTION 4.33                      PRINTING CONTRACTS**

The Purchasing Agent shall contract annually for the printing of the City reports, the Departmental reports, the Rules and Orders of the City Council, and all letter heads and envelopes used by the City in its several departments. The cost thereof shall be charged to the appropriate departments except as otherwise provided for by budget appropriation. The using agencies shall annually on or before the first day of February in each year make requisitions for printing needed during the ensuing year. All bills for such printing shall be submitted to the Purchasing Agent for his approval prior to the approval of the same by the using agency and no such bill shall be paid by the City Treasurer until approved by the Purchasing Agent.

#### **SECTION 4.34                      PURCHASES OF FUEL**

The Purchasing Agent shall purchase fuel for the public schools, and for all buildings used by the City and shall likewise purchase all fuel used by the City whether for heating, power, or for any other purpose. The expense shall be charged to the appropriate departments. The using agency shall submit requisitions to the Purchasing Agent for fuel needed during the ensuing year. All coal purchased by the Purchasing Agent shall be weighed upon designated scales by him and without expense to the City.

#### **SECTION 4.35                      ENCUMBRANCE OF FUNDS**

No officer, department head, board or commission authorized to expend money shall submit requisitions to the Purchasing Agent for the purchase of equipment, supplies, materials, or contractual services until funds are available therefor. No obligations shall be incurred against appropriations except in the case of emergency purchases until the City Controller verifies in writing the availability of an appropriation for such expenditure. Orders issued by the Purchasing Agent shall not be delivered to the vendors until the City Controller shall have certified that there is a sufficient unencumbered balance of the appropriation to be charged to pay the amount due under the purchase order.

#### **SECTION 4.36                      CONTRACTS COVERING MORE THAN ONE YEAR**

The Purchasing Agent shall not execute any contract on behalf of the City which will extend beyond one year from the date thereof unless special permission to do so has been given by vote of the City Council or by the statutes of the Commonwealth.

#### **SECTION 4.37                      CERTIFICATION BY PURCHASING AGENT OF PURCHASES**

The Purchasing Agent shall certify to the correctness of all bills incurred by the Purchasing Department in the following manner:

- (a) that the material, supplies, equipment or contractual services were received;
- (b) that the quality of materials, supplies, etc., were in accordance with the specifications or purchase order;
- (c) that all prices charged are fair;
- (d) that a purchase order has been issued for materials, supplies, equipment or contractual services.

The above mentioned procedure must be complied with before invoices are forwarded for payment by the Controller.

#### **SECTION 4.38                      VIOLATION OF PUBLIC PURCHASING REQUIREMENTS**

Violation of public purchasing laws, rules, regulations or requirements 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.

**Violation of public purchasing laws, rules, regulations or requirements by any supplier or contractor shall be grounds for refusal of the Purchasing Agent to issue a purchase order or award a contract.**

## **SECTION 4.39                      ANNUAL REPORT**

**The Purchasing Agent shall submit annually, on or before August 1 a report to the Mayor and the City Council of the activities of the department during the preceding fiscal year, which shall contain an account of equipment, materials and supplies bought, furnished and sold, during said fiscal year and the prices paid or received therefor; an account of equipment, materials, and supplies ordered but not yet received as of the close of the fiscal year and the prices to be paid therefor; an inventory of equipment, materials, and supplies on hand, and such recommendations as he shall deem expedient.**

## **SECTION 4.40                      PURCHASING AGENT TO PREPARE RULES AND REGULATIONS**

**The Purchasing Agent shall prepare, and from time to time establish and amend such rules and regulations concerning purchasing authorized by this article and any other changes necessary to its operation. Such rules and regulations and amendments thereof shall be subject to the approval of the City Council.**

## **SECTION 4.41      DISBURSEMENT OF FUNDS FROM THE EXPENDABLE TRUST**

**.1      The Mayor shall, in conjunction with the annual appropriation order, and may, at any other time deemed appropriate, recommend that funds from the Expendable Trust Fund 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:**

**.1      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;**

**.2      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.

## **SECTION 4.42 WOMAN/MINORITY BUSINESS ENTERPRISE PLAN**

### **I OBJECTIVES AND GOALS**

The City of Malden, Women/Minority Business Enterprise (W/MBE) Program has been formulated to further implement the City's policies as set forth herein. The main objective of the Program is to increase the W/MBE participation in the City's construction contracts and in the procurement of goods, services and supplies.

The annual W/MBE utilization goal for the City of Malden shall be set at, but not limited to, at least ten per cent (10%) of the total annual dollar value of all construction contracts and the procurement of goods, services and supplies. The Woman Business Enterprise utilization goal for the City of Malden shall be set at (but not limited to) at least five per cent (5%) of the total annual dollar value of all construction contracts and the procurement of goods, services and supplies. However, this goal need not be complied with on a contract-by-contract basis.

Nothing in this program shall be construed to require W/MBE participation in circumstances where no qualified Woman/Minority Business Enterprise is available.

### **II DEFINITION, CERTIFICATION, AVAILABILITY AND QUALIFICATIONS OF WOMAN/MINORITY BUSINESS ENTERPRISES**

#### **A. DEFINITIONS**

For purposes of the Program, a "Woman/Minority Business Enterprise" (W/MBE) shall be those eligible applicants as defined at 425 CMR 2.02, Massachusetts State Office of Minority Business Assistance (SOMBA) Regulations. The precise definitions established by SOMBA are hereby incorporated by reference and the City of Malden does hereby adopt said regulations as its standard.

A "Minority Group Member" shall be as defined at 425 CRM 2.00 et seq., the SOMBA regulations.



## **B. CERTIFICATION**

The City of Malden hereby recognizes as an W/MBE, for the purposes of this program, only those eligible applicants included in SOMBA's most recently up-dated directory of certified Minority Businesses, or such individuals and firms referred to SOMBA by the City of Malden and subsequently found by them to qualify for certification in the next up-date of their directory. The City will make every effort through the local business channels to encourage potential W/MBE members to become certified through SOMBA.

## **C. AVAILABILITY**

An W/MBE shall be considered available if located within the Metropolitan Area. However, efforts to locate minority business enterprises need not be limited to this area.

## **D. QUALIFICATIONS**

An W/MBE shall be judged qualified if it can provide reasonable assurances that it can perform services or supply materials that are needed, in accordance with contract specifications, when and as due, at a satisfactory level. In construction projects, prime contractors will be expected to provide technical assistance, including assistance in obtaining bonds, to W/MBE's as needed.

# **III RESPONSIBILITY FOR IMPLEMENTATION**

## **A. CITY**

The Mayor, as Chief Executive Officer, has overall responsibility for the City's Woman/Minority Business Enterprise Program.

## **B. AFFIRMATIVE ACTION/WOMAN/MINORITY BUSINESS ENTERPRISE/ CONTRACT COMPLIANCE OFFICER**

The Affirmative Action/Woman/Minority Business Enterprise/Contract Compliance Officer (hereinafter called "AA/W/MBE CCO") shall administer the Woman/Minority Business Enterprise Program, including start-up, on-going operation, monitoring, evaluation, and reporting/functions and shall report directly to the Mayor. A major element of his/her work will be the coordination of the Program's operations throughout all the City's departments.

# **IV. ADVANCE PLANNING AND GOAL SETTING**

## **A. SIX MONTH PROJECTIONS BY DEPARTMENTS**

All City Departments shall submit to the AA/W/MBE Contract Compliance Officer on July 15 and January 15, a projection of contracts to be let and of goods and supplies to be purchased during the next two (2) calendar quarters. Insofar as possible, the projections for construction contracts requiring expertise shall include information as to which parts of the contract could be sub-contracted. An updated listing of projected contracts, by each department, shall be required when necessary.

## **B. COMPLIANCE OFFICER USE OF DEPARTMENT PROJECTIONS**

After receiving the departmental projections, the AA/W/MBE CCO shall proceed as follows:

1. Using the most recently up-dated SOMBA Minority/Women Business Directory, the AA/W/MBE CCO shall prepare for the Awarding Authority lists of minority firms to which invitations to bid or Requests-for-Proposals, where applicable, should be sent for each of the projected contracts.
2. The AA/W/MBE CCO, in consultation with the Purchasing Agent shall review reasonable proposals for subdividing projected contract work in such a way as to maximize the opportunity for small minority firms to participate. Based on this joint review, the Purchasing Agent and the AA/W/MBE CCO shall make efforts to reach agreements as to making such subdivisions of the projected work, unless otherwise prohibited by law.
3. In consultation with SOMBA, the AA/W/MBE CCO shall make recommendations to the Mayor and Purchasing Agent when determined practical, that certain subcontracts or entire contracts be designated for one hundred (100) per cent participation.
4. Also through consultation with SOMBA, the AA/W/MBE CCO shall recommend to the Mayor and/or Purchasing Agent a reasonable percentage for W/MBE participation in certain projected contracts. This determination will be based on SOMBA general knowledge of the current availability of each type of business to be involved, and may vary from zero (0) to one hundred (100) per cent.

## **V. W/MBE PROGRAM PROCEDURES FOR PUBLICLY-BID CONSTRUCTION CONTRACTS**

### **A. PREPARATION OF BIDDING DOCUMENTS AND INVITATION TO BID**

1. Focus on W/MBE Requirements- Both the cover page for the Bidding Documents and the Invitation to Bid shall provide a reference to the W/MBE requirements on the documents.
2. Certification of Compliance- The Bidding Documents shall include a Contractor Certification of Compliance with W/MBE Requirements to be filled out and submitted with the Bid Proposal.

**3. Request for Waiver-** The Bidding Documents shall include a Request for Waiver form to be submitted with the Bid Proposal in the event that a bidder has been unable to secure W/MBE participation at the minimum level specified in the Bidding Documents. In this event, full documentation of the effort is required.

**4. Per Cent W/MBE Participation-** The Bidding Documents shall clearly state the minimum W/MBE participation percentage established for the contract. (see V-B-4 above as to procedure for setting percentage)

**5. W/MBE Letter of Intent-** The Bidding Documents shall include a form (Woman/Minority Business Enterprise Participation Letter of Intent) to be filled in by each W/MBE listed in the bidder's Contractor Certification of Compliance. The Letter of Intent shall be submitted with the Bid Proposal.

**6. Ten-Day Rule-** The Bidding Documents shall include a provision that, in the event that the low bidder has submitted a Request for Waiver that is acceptable to the City, the low bidder will be allowed ten (10) additional working days to develop the required W/MBE participation and to submit the Contractor Certification of Compliance and Letters of Intent. This will provide the low bidder with an opportunity to recruit W/MBE's who were previously not available due to their tie-in with other bidders on the same contract. The Bidding Documents shall further state that the ten-day period will begin with the first working day following the low bidders receipt of written notification (by certified mail, return receipt requested) that the AA/W/MBE CCO has found the Request for Waiver satisfactory, and is, therefore, granting a ten-day additional period for meeting the W/MBE requirement. This notification shall state that the Contractor Certification of Compliance and Letters of Intent must be received and date-stamped at the Affirmative Action Office, the Malden Redevelopment Authority, or the City Purchasing Department before 5:00 P.M. on the tenth day.

**7. W/MBE Reviewing-** The Bidding Documents shall state that the City has established an AA/W/MBE CCO procedure and approval process.

**8. Compliance Details-** the Bidding Documents shall contain Compliance Details dealing with Percentage of Participation, Role of the AA/W/MBE CCO, Changes of W/MBE status and sanctions.

## **B. OUTREACH**

**1. Invitation to Bid-** Invitations to Bid shall be mailed by the AA/W/MBE CCO and/or City Purchaser at a reasonable time or as required by law prior to bid opening. The mailing list shall be prepared by the AA/W/MBE CCO as set forth in V-B-1 above.

**2. SOMBA- Copies of Invitations to Bid shall also be mailed by the AA/W/MBE CCO to the State Office of Minority Business Assistance (SOMBA).**

**3. Advertising- Bid notices shall be advertised in at least one local newspaper of general circulation, and as otherwise required by law. The AA/W/MBE CCO will notify SOMBA that City of Malden advertising will be placed in the selected publications.**

**4. Pre-Bid Conferences- A Pre-Bid Conference may be held for all publicly-bid contracts when determined appropriate by the AA/W/MBE CCO and/or the Purchasing Agent and/or the Malden Redevelopment Authority. A major function of the Pre-Bid Conference will be to explain the Woman/Minority Business Enterprise requirements. Technical assistance in preparing bids will be available. The date, time, place and W/MBE elements of the Pre-Bid Conference shall be clearly set forth in the Invitation to Bid as mailed and as advertised.**

**5. SOMBA Directories- Notice that a copy of SOMBA's Directory is available for examination at the office of the Malden Redevelopment Authority, the Purchasing Department, and/or the Affirmative Action Office shall be included in the invitation to bid.**

**6. Technical Assistance- Technical Assistance will be available to prospective bidders by available City personnel in regard to preparing the Woman/Minority Business Enterprise bid forms or as to any other aspect of preparing a bid. Both the Invitation to Bid and the Bidding Documents shall clearly identify the staff person(s) to contact.**

**7. All forms required in furtherance of the Plan shall be prepared by the AA/W/MBE CCO, as approved to form and legality by the City Solicitor.**

## **VI. W/MBE PROGRAM PROCEDURES FOR PUBLICLY-BID EQUIPMENT OR SUPPLIES CONTRACTS**

**The AA/W/MBE CCO and/or Purchasing Agent shall mail an Invitation to Bid to each W/MBE company recommended on the list prepared by the AA/W/MBE CCO pursuant to V(b)(1) above. Such Invitation to Bid shall be mailed at a reasonable time or as required by law prior to the date on which the bids will be opened, with copies of each to SOMBA.**

## **VII. W/MBE PROGRAM PROCEDURES FOR CONTRACTS UNDER \$10,000.00**

**In handling contracts below \$10,000.00 the Purchasing Agent shall seek to secure bids from all W/MBE companies identified by the AA/W/MBE/CCO as able to provide the type of equipment**

or supplies from which the informally bid contract is to be let. However, in cases where the purchase is to be below five thousand (\$5000.00) dollars, discretion may be used by the Purchasing Agent as to the optimum number of bids to solicit.

### **VIII. W/MBE PROGRAM PROCEDURES FOR CERTAIN CONTRACTS**

The City Purchaser or, if applicable, the Appointing or Awarding Authority or department head shall contact the AA/W/MBE/CCO at least ten (10) calendar days prior to distributing a Request for Proposal or contacting businesses as a first step to entering into contracts for hire, contracts for professional services, personal services, or consultants or independent contractors whether with or without a compensation on a full, regular or part-time or intermittent basis. These provisions shall not apply to the hiring of Malden salaried Personal Service account employees or to emergency requirements.

The AA/W/MBE CCO shall prepare a list of minority business firms to be contacted hereunder by Request for Proposals or otherwise, and either the City Purchaser, Appointing Authority, Awarding Authority, or department head or AA/W/MBE CCO shall send out the same within a reasonable time prior to awarding the contract hereunder.

The City department head must request written approval from the AA/W/MBE CCO before the contract is awarded. Such approval shall not be given unless the City Purchaser or Appointing or Awarding Authority or department head provides the AA/W/MBE CCO with satisfactory evidence that it has dealt with all proposals received from minority firms in an objective, fair, and otherwise appropriate manner. In the event no disapproval is received within 7 days of notice to the AA/W/MBE CCO, approval shall be deemed given.

### **IX. MONITORING, RECORD-KEEPING, REPORTING AND EVALUATION; MEETING WITH MAYOR**

**A. Monitoring-** The AA/W/MBE CCO shall monitor each department's contracting procedures at least every six (6) months in order to determine whether both the letter and the spirit of the procedures established in the W/MBE program are being properly implemented. A report on such monitoring shall be submitted by the AA/W/MBE CCO to the Mayor and to the Human Rights Commission, but only after submitting to department heads for their response.

**B. Record Keeping and Reporting-** The AA/W/MBE CCO shall maintain records necessary to provide all information needed for preparation of a report entitled **REPORT ON WOMAN/MINORITY BUSINESS ENTERPRISE CONTRACTING**. The report shall be completed and distributed by the last working day of the month following each quarter. The AA/W/MBE CCO shall determine the list.

**C. Evaluation-** The AA/W/MBE CCO shall prepare annually, following the close of the City's fiscal year, an evaluation of the City's contracting performance during the previous twelve (12) months. This report shall include reasonable recommendations for improving procedures, relative to a negative evaluation. The report shall be sent to the Mayor, the City Clerk, the City Council, and the Human Rights Commission.

**D. The Mayor shall meet either individually or in one large group with all Department Heads and the AA/W/MBE CCO quarterly, if necessary, to review and discuss the success of the program.**

#### **X. DISSEMINATION OF WOMAN/MINORITY BUSINESS ENTERPRISE PROGRAM**

The W/MBE Program shall be disseminated to those deemed appropriate by the AA/W/MBE CCO. A transmittal memorandum to each department head shall accompany the program, and shall require that the department head return the memorandum with initialing, indicating that the document has been received and read and will be complied with to the best of the department head's ability. Also, each department head shall assign an appropriate staff person, if necessary, for implementation and shall notify all personnel in the department of the requirements of this Program.

## **CHAPTER 5 HUMAN SERVICES**

### **SECTION 5.1                   MALDEN CULTURAL COUNCIL**

#### **A. PURPOSE**

**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.**

#### **B. MEMBERS**

**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.**

#### **C. QUORUM**

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

#### **D. FUNDING**

**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.**

## **HUMAN RIGHTS COMMISSION**

### **SECTION 5.2           HUMAN RIGHTS, FAIR HOUSING AND DISABILITY ISSUES COMMISSION**

#### **A. PURPOSE**

The Human Rights, Fair Housing and Disability Issues Commission (hereinafter, “the 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.

#### **B. MEMBERSHIP, TERMS, COMPOSITION**

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, 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 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.

#### **C. FUNCTIONS, POWERS, DUTIES**

The Commission shall:

1. Work to increase awareness among municipal employees and residents of the problems and capabilities of disabled citizens;
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; and
  - c. securing for all residents the free exercise and enjoyment of any right or privilege accruing under state or federal law.

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:

- a. denial of any right or privilege secured under state or federal law;



**b. 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; and**

**c. alleged violation of the Americans with Disabilities Act.**

**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.**

#### **D. ADA COMPLIANCE OFFICER**

**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, and, as necessary, enlist the assistance of the Commission in resolving complaints brought under this ordinance.**

**For purposes of implementation of this ordinance, the terms of current members shall terminate upon final passage of this ordinance.**

### **SECTION 5.3 COUNCIL ON AGING/ DIRECTOR OF SENIOR CENTER**

**.1 The Mayor, with City Council confirmation, shall appoint a Director of Human Services and Community Outreach who shall serve a three year appointment. 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 shall also coordinate and collaborate with various other City Departments and programs focused on youth, health and well-being, Veterans and workforce development. The Director will also serve as the liaison to Community organizations by fostering relationships between the City of Malden and non-profit organizations, Civic, School and Community groups.**

**.2 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, who shall serve until their successors are appointed and qualified. 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.**

**.3 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.**

**.4 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. The Director may, for the purpose of providing services to the aging, act in conjunction with similar programs, both private and public and may, subject to funding, enter into agreements with such agencies for the provision of services to the aging.**

**.5 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 5.4 RECREATION PROGRAMS/ RECREATION CO-ORDINATOR**

**.1 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.**

**.2 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 fund-raising, provided that all funds so acquired be deposited in the City Treasury and expended as allowed by law.**

**.3 The Recreation Coordinator may, for the purpose of making recreational programs available to residents, make grants and awards to private organizations upon such terms and conditions as he deems appropriate; provided that no such grant or award shall exceed the amount specifically appropriated therefor.**

**.4 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.**

**Fees and regulations for the use of fields, parks, stadiums or other recreational facilities may be established by the Stadium and Athletic Field Commission; 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.**

**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 5.5  
COORDINATOR**

**TEEN PROGRAMS/ TEEN PROGRAM**

**.1 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.**

**.2 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.**

**.3 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.**

**.4 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.**

## **CHAPTER 6 LICENSING**

### **IN GENERAL**

#### **SECTION 6.1                    LICENSES GENERALLY**

**Except as otherwise provided by law, the City Council 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.**

#### **SECTION 6.1A                NOTICE TO CUSTOMERS OF LICENSED ESTABLISHMENTS**

**Any business licensed by the City Council shall continuously and prominently display the following notice so as to be visible to all consumers in the ordinary course of business:**

##### **NOTICE TO CONSUMERS**

**This business is licensed by Malden City Council. If you have any complaints or concerns regarding the operation of this business, please call the Malden Compliance Bureau at (781) 397-7024.**

**Violation of this ordinance shall be punished in the manner proscribed in MGL Chapter 40 Section 21D in accordance with the following schedule of fines:**

<b>1<sup>st</sup> offense</b>	<b>\$25.00</b>
<b>2<sup>nd</sup> offense</b>	<b>\$50.00</b>
<b>3<sup>rd</sup> offense</b>	<b>\$100 and revocation of license</b>

#### **SECTION 6.2                    HOURS OF OPERATION - IN GENERAL**

**A. Business or industrial premises may be opened for operation only during the following hours:**

<b>Automotive Repair Shop</b>	<b>7:00A.M.-11 P.M.</b>
<b>Canvassing (Door to door solicitations)</b>	<b>9:00A.M.- 6:00 P.M.</b>
<b>Restaurants without liquor/ Fast Foods</b>	<b>5:30A.M.-Midnight</b>
<b>Retail stores</b>	<b>6:00A.M.-11:00 P.M.</b>
<b>Gasoline Filling Stations</b>	<b>6:00A.M.-Midnight</b>
<b>Second Hand Dealers/Pawnshops</b>	<b>8:00 A.M.-6:00 P.M.</b>
<b>Mechanical Equipment (Noise)</b>	<b>8:00A.M.-5:00 P.M.</b>
<b>Recording Studios (Audio &amp; Video)</b>	<b>9:00A.M.-9:00P.M.</b>
<b>Residential Milk Deliveries</b>	<b>6:00A.M.-5:00 P.M.</b>
<b>Second Hand Goods</b>	<b>6:00A.M.-5:00 P.M.</b>
<b>Bowling Alley/Pool Room</b>	<b>6:00A.M.-11:45 P.M.</b>
<b>Dumpster Pick Up/Delivery</b>	<b>7:00A.M.-8:00 P.M.</b>
<b>Used Car Sales</b>	<b>9:00A.M.-9:00 P.M.</b>
<b>All other deliveries and/or services to business establishments located on Pleasant St.</b>	<b>10:00 p.m - 10 a.m.</b>
<b>All other deliveries and/or services to all other business establishments</b>	<b>6:00 a.m. - 11 p.m.</b>
<b>Drive Up Window Service at all Businesses</b>	<b>5:30A.M.-Midnight</b>
<b>Canvassing (Door-to-Door Sales)</b>	<b>9:00 A.M.-6:00 P.M.</b>

**B. No person shall operate other than between such hours, unless licensed by the City Council. 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.**

**The City Council may impose such additional restrictions and conditions on an extended hours permit as they deem expedient and in the best interests of the health, safety, welfare and peaceful, quiet enjoyment of the residents of the City of Malden.**

**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- GENERALLY**

**A. The owner, lessee, occupant, person in control or in charge of a public hall who leases, rents, causes or permits use of such public hall 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.

## **HAWKERS, PEDDLERS AND TRANSIENT VENDORS**

### **SECTION 6.4 HAWKERS AND PEDDLERS - 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.

### **SECTION 6.5 HAWKERS AND PEDDLERS - SPECIAL EVENTS**

#### **A. PERMIT REQUIRED**

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.

The Mayor may waive the application fee for Malden-based religious, fraternal and charitable organizations.

#### **B. PERMIT ISSUANCE AND CONTENTS**

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.

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.

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.

Denial of any application for a temporary permit shall cite specific reasons for the city's refusal to issue a permit.

#### **C. HOURS OF OPERATION**

Vendors shall restrict sales to the hours 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.

#### **D. STANDARDS OF CONDUCT**

Temporary vendors shall comply with provisions of Section 6.4A through 6.4G; provided that, with the approval of the Mayor, vendors may be authorized to conduct sales after 10 p.m.

No vendor shall sell items other than those specified on the temporary permit, as issued by the Mayor.



No vendor shall sell items at a location other than that specified on the temporary permit. No vendor shall transport goods to or from a parade route or special event while the parade or event is in progress.

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.

## **SECTION 6.6                      HAWKERS AND PEDDLERS - ENFORCEMENT AND PENALTIES**

The Malden Police Department shall enforce the provisions of Sections 6.4 and 6.5. Section 6.5 may also be enforced by such agents, working under the direction of the Police Chief, as the Mayor may designate for that purpose.

Any agent of the city authorized to enforce the provisions of Sections 6.4 or 6.5 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 enforcement order issued pursuant to this section may result in the removal and storage of goods or arrest of the vendor.

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.

Violation of this ordinance shall be cause for denial of temporary permits for future events.

## **SECTION 6.7                      TRANSIENT VENDOR; LICENSE REQUIRED; COMPLIANCE WITH STATE LAWS; EXEMPTIONS**

A. Every transient vendor, as defined in 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 6.8                      REGULATION OF SALE OF FLOWERS AND FLOWERING PLANTS**

**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 Inspector 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.

## **MISCELLANEOUS**

### **SECTION 6.9 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 in case of a renewal, 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 6.10 FLAMMABLE PRODUCTS- LICENSE FEES**

Fees for licenses for garages are hereby established as follows:

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

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:

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

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 6.11 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 Inspector;**
- 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 6.12                    AUTOMOTIVE REPAIR SHOPS**

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

### **A. 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(l), 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.**

## **B. BUSINESS OPERATION - MINIMUM STANDARDS**

### **1. RESTRICTIONS ON USE OF PREMISES:**

**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 6.12 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.**

**No automotive repairs shall be made in yard, parking or storage areas. 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.**

**Pursuant to 9.36 of the city ordinances, no unregistered or uninsured motor vehicle shall be stored on the premises of a motor vehicle repair shop for more than 5 days.**

### **2. MAINTENANCE OF BUSINESS PREMISES:**

**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.**

**All parts and materials incidental to the operation of said repair shop shall be stored in a designated area and concealed from public view.**

**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.**

**Disposal of residual parts and materials shall be made in a timely manner and in accordance with applicable federal, state and local regulations.**

**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.**

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.

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

### **3. 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.

### **C. FAILURE TO COMPLY WITH ORDINANCE PROVISIONS - PENALTIES**

Violation of any provision of this ordinance or of the 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 result in revocation, suspension or modification of the required permits.

### **D. IMPLEMENTATION OF ORDINANCE PROVISIONS**

This ordinance shall take effect on passage; provided that any person engaged in the business of automotive repair or maintenance who makes application for permits within thirty days of the effective date of this ordinance shall be deemed to have complied with the provisions of this ordinance until otherwise notified by an appropriate city agency.

## **SECTION 6.13                      SOIL REMOVAL- PERMIT REQUIRED**

**A. No person shall remove any soil, loam, sand or gravel from any land in the City not in public use unless such removal is authorized by a permit issued by the City Council, except in conjunction with construction of a building on the parcel, or for the continued operation of an existing sand and gravel pit on the same parcel.**

**The City Council shall hold a public hearing on the application and notice of the filing of such application and the date and time of the public hearing thereon shall be advertised in a newspaper of general distribution in the City, seven (7) days at least before the public hearing.**

**B. No person shall alter the grade of any vacant land or fill any vacant land in the City unless such person first obtains a permit from the Building Inspector and endorsed by the Director of Public Health and the City Engineer. Permits may be issued with conditions or restrictions attached. The fee for such permit shall be one hundred (\$100.00) dollars.**

## **SECTION 6.14                      MASSAGE PARLORS**

**No person shall, without a license granted by the City Council, operate or permit to be operated any establishment for giving massage, vapor, pool, shower, or other baths, on premises where massage is practiced or where therapeutic or conditioning baths or water, vapor, or other substance are given; provided that persons doing business on the premises of the Maiden YMCA or Malden YWCA are specifically exempted, together with certain persons , exempted for facial and scalp massage only, such as barbers, hairdressers, and their apprentices, as set forth in MGL Chapter 140, Section 51.**

**The presently existing Thor Physical Therapy and Health Center, 318 Clifton St., Malden, Mass., operated by Phyllis A. Thoresen, Registered Physical Therapist is specifically exempted from this provision of Ordinance as long as she so owns and operates said center.**

## **SECTION 6.15                      PREACHING, ETC., IN PUBLIC PROHIBITED; LICENSE REQUIRED**

**No person shall, in or upon any of the public grounds, streets, commons or vacant lands appurtenant to any public building, make any public address, deliver a sermon, preach, discourse, give a concert, discharge any cannon or firearms, erect or maintain any booth, stand, or tent, or apparatus for the purpose of public amusement or show in the City except by license of the City Council, or unless otherwise allowed by law.**

## **RECREATIONAL ACTIVITIES**



## **SECTION 6.16**

## **VIEW OF POOL HALLS TO BE UNOBSTRUCTED**

No licensee of premises used for the purpose of maintaining a billiard or pool table for hire, gain or reward, shall place or maintain or permit to be placed or maintained upon any premises so used, any screen, blind, shutter, curtain, partition or painted, ground or stained glass window or any other obstruction, in such a way as to interfere with a view of the interior of the premises.

The premises of all such pool, billiard rooms or bowling alleys shall be kept freely accessible to the Police during all the hours of operation. The Police may enter pool, billiard rooms or bowling alleys at any time for the purpose of enforcing the law.

## **SECTION 6.17**

## **BOWLING, ETC. ON SUNDAYS; LICENSE REQUIRED, FEE; HOURS; UNOBSTRUCTED VIEW OF INTERIOR**

A. No person shall operate a pool, billiard room or bowling alley 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.

C. The fee for every license granted under the provisions hereof shall be:

for the first alley or table	\$25.00
for each additional alley or table	\$ 5.00

D. Said license shall be subject to all state laws and the laws, ordinances and regulations of the City of Malden.

E. The hours of operation for all pool, billiard rooms or bowling alleys licensed under the provisions hereof shall be the same as weekdays.

## **SECTION 6.18**

## **DISCOTHEQUES, ETC., PROHIBITED IN NEIGHBORHOOD BUSINESS DISTRICTS; EXCEPTIONS**

A. No person shall, without a license granted by the City Council, operate or permit to be operated any disco, discotheque, cabaret, nightclub or dance or social hall in any Neighborhood Business district as defined in the City of Malden Zoning Ordinance.

**B. Institutional Uses, as defined in the City of Malden Zoning Ordinance and those places of assembly regulated by the License Board of the City of Malden are exempt from this requirement.**

## **SECTION 6.19 THEATERS- POLICE PROTECTION REQUIRED**

**All persons operating theaters in the City shall maintain at all public performances therein a special or uniformed police officer who shall patrol the theater building.**

## **SECTION 6.20 AMUSEMENT MACHINES**

### **.1 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.**

**Any premises on which five or more amusement machines are operated shall be deemed an arcade for purposes of this ordinance. No license shall be granted for an arcade except as an accessory use to a recreational business under Section 12.400.1.10 of the revised ordinances. No premises on which an arcade is operated shall obtain a license for more than 25 amusement machines.**

**Any premises on which more than 25 amusement machines are operated shall be deemed a family amusement center for purposes of this ordinance. No license shall be granted to a Family Amusement Center unless the following conditions are met:**

- 1. A minimum of 50% of all machines licensed hereunder are machines which automatically, upon accomplishment of a predetermined score, delivers to the patron a ticket entitling said patron to redeem said ticket or tickets for prizes;**
- 2. A minimum of 5% of all machines licensed hereunder shall be rides or amusement devices which require no skill on the part of the operator; provided that juke boxes shall not be considered amusement devices for purposes of this ordinance;**
- 3. A maximum of 45% of all machines licensed hereunder shall be amusement machines not included in 1 or 2 above.**

**No more than one license shall be granted for any premises nor shall any license be granted for more than 70 machines.**

## **.2 License Fees**

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

In addition to the \$100.00 fee per machine, there shall be a \$2500 Arcade or Family Amusement Center fee for premises on which more than 10 machines are offered for operation.

## **.3 Minimum Standards for Operation of Licensed 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 machine, except those which automatically dispense tickets for redemption under a Family Amusement Center License, shall bear on its face, 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.

## **.4 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 <sup>st</sup> offense	\$ 50.00
2 <sup>nd</sup> offense	\$ 100.00
3 <sup>rd</sup> 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 said violation has occurred.

## **SECTION 6.21 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 fee or otherwise, and at which there is

either wiring or 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 function.

Full time permanently appointed firefighters employed by the City of Malden and employed by the Fire Department shall be eligible for this assignment.

## **SECOND HAND DEALERS AND PAWNBROKERS**

### **SECTION 6.22                      SECOND HAND DEALER/PAWNBROKER DEFINED**

**.1 A Pawnbroker is 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.**

**.2 A Second Hand Dealer is 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.**

**.3 A Consignment Dealer is 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.**

### **SECTION 6.23                      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 pawnbrokers 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.

## **SECTION 6.24                      SECOND HAND DEALERS - RESTRICTIONS ON PURCHASES, 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 drivers 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.**

## **SECTION 6.25                      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.**

## **SECTION 6.26                      PENALTY FOR VIOLATION OF ORDINANCE**

**.1 Licenses issued under Section 6.22 shall be suspended or revoked by the City Council for violation of any provision of this ordinance in accordance with the following schedule:**

<b>1<sup>st</sup> offense</b>	<b>7 days suspension</b>
<b>2<sup>nd</sup> offense</b>	<b>30 days suspension</b>
<b>3<sup>rd</sup> offense</b>	<b>revocation</b>

**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 Sections 6.22 through 6.25 may also be punished in the manner provided in Massachusetts General Laws Chapter 40, Section 21D in accordance with the following schedule of fines:

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

## **VEHICLES FOR HIRE**

### **SECTION 6.27                      VEHICLES FOR HIRE - GENERAL REQUIREMENTS**

#### **.1 DEFINITIONS**

A taxi is 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.

A livery is 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.

#### **.2 GENERAL REQUIREMENTS - TAXIS AND LIVERIES**

.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 an 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.**

### **.3 MINIMUM REQUIREMENTS - TAXICABS**

**.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.**

#### **.4 MINIMUM REQUIREMENTS - LIVERY LICENSES**

**.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.**

#### **.5 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 licence 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

#### **.6 VIOLATIONS OF ORDINANCE; ENFORCEMENT**

- .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 6.28                      RESERVED**

**SECTION 6.29                      RESERVED**

### **CANVASSING REGULATIONS**

**SECTION 6.30                      DEFINITIONS**

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; provided, that this definition shall not include any person who, for himself, or for another person, firm or corporation, hires, leases, uses or occupies any building, structure, tent, railroad boxcar, boat, hotel room, motel room, lodging house, apartment, shop or any other place within the city for the sole purpose of exhibiting samples and taking orders for future delivery.

## **SECTION 6.31 PERMIT AND LICENSE REQUIRED**

**A. It shall be unlawful for any solicitor or canvasser to engage in such business within the corporate limits of the city without first obtaining a permit and license therefore in compliance with the provisions of this ordinance.**

**B. 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. Distributing advertising material on private property. It shall be unlawful for any person to go in or upon private residences in the city for the purpose of distributing advertising material of a commercial nature, not having been requested in writing to do so by the owner or occupant of such private residence. The foregoing provision shall not apply to the distribution of advertising material by any newspaper or the United States Postal Services.**

## **SECTION 6.32 LICENSE APPLICATION-CONTENTS; FILING FEES**

**A. Applicants for a permit and license under this ordinance must file with the city clerk a sworn application in writing, in duplicate, on a form to be furnished by the city clerk, which shall give the following information:**

- (1) Name and description of the applicant;**
- (2) Permanent home address and full local addresses of applicant;**
- (3) A brief description of the nature of the business and the goods to be sold;**
- (4) If employed, the name and address of the employer, together with credentials establishing the exact relationship;**
- (5) The length of time for which the right to do business is desired;**
- (6) 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;**

- (7) 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;**
- (8) 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;**
- (9) 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.**

**B. At the time of filing the application, a fee as determined by the City Council shall be paid to the City Clerk for each solicitor and canvasser. Exempt from payment of all fees hereunder are the following: 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.**

## **SECTION 6.33                      LICENSE INVESTIGATION AND ISSUANCE**

**A. 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:**

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

**B. If, as a result of such investigation, the Chief of Police shall find that either paragraph (a)(1) or (a)(2) is answered in the affirmative, 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 license will be issued.**

**C. If, as a result of such 30 day 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, execute a permit addressed to the applicant for the carrying on of the business applied for and return such permit along with the application to the City Clerk, who shall upon payment of the prescribed license fee, deliver to the applicant his permit and issue a license. Such license shall contain the signature and seal of the issuing officer and shall show the name and address of the licensee, the class of license issued, 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, as well as the license**

number and other identifying description of any vehicle used in such soliciting or canvassing. The Clerk shall keep a permanent record of all licenses issued.

## **SECTION 6.34                      LICENSE FEES**

**A. The license fee shall be collected by the City Clerk and a rate shall be established for an annual license and for a daily license by the City Council.**

**B. The annual license fee herein provided shall be assessed on a calendar-year basis and on or after July 1, the amount of such fee for annual license shall be one-half the amount stipulated above for the remainder of the year,**

**C. None of the license fees provided for by this ordinance shall be so applied as to occasion an undue burden upon interstate commerce. In any case where a license fee is believed by a licensee or applicant for license to place an undue burden upon such commerce, he may apply to the City Clerk for an adjustment of the fee so it shall not be discriminatory, unreasonable, or unfair as to such commerce. Such application may be made before, at, or within six (6) months after payment of the prescribed license fee. The applicant shall, by affidavit and supporting testimony, show his method of business and the gross volume or estimated gross volume of business and such other information as the City Clerk may deem necessary in order to determine the extent, if any, of such undue burden on such commerce. The City Clerk shall then conduct an investigation, comparing applicant's business with other businesses of a like nature and shall make findings of fact from which a determination may be made as to whether the fee fixed by this ordinance is unfair, unreasonable or discriminatory as to applicant's business and shall fix as the license fee for the applicant, an amount that is fair, reasonable and non-discriminatory, or, if the fee has already been paid, shall order a refund of the amount over and above the fee so fixed.**

## **SECTION 6.35                      BOND**

**Every applicant for a license under this ordinance 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.**

## **SECTION 6.36**

## **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.**

## **SECTION 6.37**

## **RECORD OF VIOLATIONS**

**The chief of police shall report to the City Clerk all convictions for violations of this article, and the City Clerk shall maintain a record for each license issued and record the reports of a violation therein.**

## **SECTION 6.38**

## **REVOCATION OF LICENSE**

**(a) Permits and licenses issued under the provisions of this ordinance may be revoked by the City Council of the City of Malden 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) Any violation of this ordinance;**
- (4) Conviction of any crime or misdemeanor involving moral turpitude;**
- (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.**

**(b) 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.**

## **SECTION 6.39**

## **APPEAL**

**Any person aggrieved by the action of the Chief of Police or the City Clerk in the denial of a permit or license as provided in §4, or the action of the City Clerk in the assessing of the fee as provided in §5(c), shall have the right of appeal to the city council. Such appeal shall be taken by filing with the council, within the fourteen (14) days after notice of the action complained of has been mailed to such person's last known address, a written statement setting forth fully the grounds for the appeal. The council shall set a time and place for a hearing on the appeal and notice of such shall hearing shall be given to the appellant in the same manner as provided in §8**

for notice of hearing on revocation. The decision and order of the council on such appeal shall be final and conclusive.

#### **SECTION 6.40                      EXPIRATION OF LICENSE**

All annual licenses issued under the provisions of this ordinance shall expire on December 31 in the year when issued. Those other than annual licenses shall expire on the date specified in the license.

#### **SECTION 6.41                      PENALTY**

Any person violating any of the provisions of this ordinance shall, upon conviction thereof, be punished pursuant to Chapter 1-13 of these ordinances.

#### **SECTION 6.42                      SEVERANCE CLAUSE**

The provisions of these regulations are declared to be severable and if any section, sentence, clause, or phrase of this ordinance shall for any reason be held invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses and phrases of this ordinance but they shall remain in effect, it being the legislative intent that this regulation shall stand notwithstanding the invalidity of any part.

#### **SECTION 6.43                      RESERVED**

#### **SECTION 6.44                      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.

## **SECTION 6.45                      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. RECORD KEEPING:**

**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. MAINTENANCE OF BUSINESS PREMISES:**

**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.**

**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.**

**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.**

#### **3. DISPLAY OF LICENSE**

**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**

#### **4. DEALER PLATES REQUIRED**

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 41, 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 6.46                      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 photostatic 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. 47                      OFFSITE PARKING FACILITIES**

### **.1        Definitions:**

**As used in this section, the following terms shall have the following meanings:**

**Open air parking is the parking or storage of motor vehicles in an unsheltered area.**

**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.**

**.2 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 ordinance 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 Inspector 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.**

**.3 Minimum Standards for Operation of an Off-Site 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.**

**.4 Penalties for Violation of Ordinance**

**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:**

<b>1<sup>st</sup> offense</b>	<b>\$ 50.00</b>
<b>2<sup>nd</sup> offense</b>	<b>\$100.00</b>

**3<sup>rd</sup>/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.**

**SECTION 6.48      DELIVERY SERVICES OFFERED BY COMMON  
VICTUALERS; CONDITIONS PRECEDENT**

**No person shall operate as a common victualer in the City of Malden without having obtained a license therefor from the Licensing Board. Common victualers licenses shall be granted for the calender year, renewable annually on or before January 1<sup>st</sup> upon such terms and conditions as the Licensing Board may deem appropriate; provided that no renewal shall be issued to a common victualer who provides a delivery service unless a list containing the names, addresses and driver's license numbers of all persons employed in said deliveries is on file with the Malden Police Department.**

**Every common victualer who offers a delivery service shall amend said list from time to time throughout the year so as to assure that it accurately reflects the names, addresses and driver's license numbers of persons making deliveries for the licensee.**

**Upon receipt of said list, the Police Chief or his designee shall determine, based on review the driver history, whether or not a person so employed is qualified to operate as a delivery driver. If the Police Chief or his designee determines that any person engaged in deliveries has a driver history that indicates that his or her continued employment would post a threat to public safety, he shall forthwith notify the common victualer of his determination. Upon receipt of said notification, the common victualer shall forthwith prohibit said individual from engaging in further deliveries.**

**Failure to comply with the provisions of this ordinance shall be cause for suspension, revocation or modification for any common victualers license issued hereunder.**

**CHAPTER 7**  
**MISCELLANEOUS OFFENSES**

**SECTION 7.1                      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 7.1(A) PROHIBITION OF PERSONS BRINGING ALCOHOLIC  
BEVERAGES TO ESTABLISHMENTS, ETC.**

**7.1(A)(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.**

**7.1(A)(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 7.1B                      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 7.2                      RESERVED**

## **SECTION 7.3                      BICYCLE PERMITS**

**It shall be unlawful for any person to ride a bicycle unless properly registered with the Police Department. Every bicycle being operated on the highway shall have a registration number attached to the same which, together with a permit, shall be furnished to the owner of a bicycle by the Police Department at a cost of twenty-five cents. The rider shall carry such permit at all times. The Police Department shall keep a record showing the name and address of the owner, registration number, make of bicycle, description and serial number.**

## **SECTION 7.4                      BLIND PERSON- USES OF WHITE CANE; OPERATION OF VEHICLES**

**It shall be unlawful for any person, except one wholly or partially blind, to carry or use in the City any cane or walking stick which is white with red color.**

**Any operator of a motor or other vehicle who approaches or comes in close proximity with a person rightfully carrying a cane or walking stick under this section shall immediately come to a full stop and take such precautions before proceeding as may be necessary to avoid injury to such person.**

## **SECTION 7.5                      CARNIVALS PROHIBITED ON PUBLIC GROUNDS AND PARKS**

Updated through 6/30/17



No public entertainment commonly known as a carnival shall be permitted on any public playground or public park, unless licensed by the Department of Public Works and the City Council.

## **SECTION 7.6 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 7.7 SNOWBALL THROWING PROHIBITED**

No person shall throw any snowball, stone or other substance, or engage in any amusement, game or exercise, interfering with the free, safe and convenient use of any street.

## **SECTION 7.8**

### **DEFACING PUBLIC PROPERTY PROHIBITED; MALICIOUS DAMAGE 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 7.9**

### **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 S1.7-1971).

#### **.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 the business of construction, demolition, excavation or landscaping or 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 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 MGL Chapter 41, Section 21D in accordance with the following schedule of fines:**

<b>1<sup>st</sup> offense</b>	<b>warning</b>
<b>2<sup>nd</sup> offense</b>	<b>\$100.00</b>
<b>3<sup>rd</sup> offense</b>	<b>\$200.00</b>
<b>4th &amp; subsequent offenses</b>	<b>\$300.00</b>

**.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; provided that no emergency medical or public safety vehicle shall operate a siren between the hours of 9 p.m. and 7 a.m. unless said siren is deemed essential to the safety of emergency personnel or the public;**
- .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 MGL Chapter 41, Section 21D in accordance with the following schedule of fines:**

<b>1<sup>st</sup> offense</b>	<b>\$100.00</b>
<b>2<sup>nd</sup> offense</b>	<b>\$200.00</b>
<b>3<sup>rd</sup>/subsequent offenses</b>	<b>\$300.00</b>

**SECTION 7.9A                      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 wilful violation of this ordinance. Wilful 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 7.10                      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 7.11                      ENTERING GARDEN WITHOUT PERMISSION  
PROHIBITED**

It shall be unlawful for any person to enter any enclosed or unenclosed vegetable garden or orchard located within the City without the consent of the owner or tenant, or agent in charge

Updated through 6/30/17

thereof, and there cut down, injure, damage, destroy, eat or carry away any portion of such garden, including any growing thing, crop, tree, timber, grass, seed, soil, fertilizer, water supply, tool, implement, fence or any other protective device or any other thing useful for the development, cultivation, maintenance and use of the aforesaid gardens or orchards.

## **SECTION 7.12                      FALSE ALARMS**

No person shall ring in a citizen's alarm without proper authority and without due cause.

## **SECTION 7.13                      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 7.14                      GAMING**

No person shall expose on any street, common or other public place any table or device of any kind, intended for playing a game of hazard or chance; and no person shall play any such game or other unlawful game in any street, common or other public place.

## **SECTION 7.15                      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 7.16                      PEEPING TOMS**

Updated through 6/30/17

No person shall enter upon the premises of another with the intention of peeping into the windows of a house or spying upon any person or persons therein; provided, however, that officers of the law may enter such premises in the performance of their duties.

## **SECTION 7.17**

## **SPRAY PAINT - SALE 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. 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.**

**D. Violation of this ordinance may be punished in the manner provided under M.G.L. c. 41 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 Superintendent of Schools, the Director of Public Works, the Building Inspector, the Fire Chief, the Police Chief, and the Ordinance Compliance Officers or their designees shall act as enforcement officers of the within ordinance.**

## **SECTION 7.18 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 7.19 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.**

## **SECTION 7.20 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 MGL Chapter 40, Section 21D in accordance with the following schedule of fines:

1 <sup>st</sup> offense	Warning
2 <sup>nd</sup> offense	\$100.00
3 <sup>rd</sup> & subsequent offenses	\$200.00

## **SECTION 7.21 SOLICITATION BY CHARITABLE ORGANIZATIONS; PERMIT REQUIRED**

- .1 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.
- .2 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.
- .3 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.

.4 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.

.5 Violations of this ordinance may be punished in the manner provided in MGL Chapter 41, Section 21D in accordance with the following schedule of fines:

1 <sup>st</sup> offense	warning
2 <sup>nd</sup> offense	\$100.00
3 <sup>rd</sup> /subsequent offenses	\$200.00

## **SECTION 7.22                      REMOVAL OF SHOPPING CARTS FROM RETAIL PREMISES**

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.

The provisions of this ordinance shall take effect on July 1, 2006.

## **SECTION 7.23                      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 MGL Chapter 40, Section 21D by a fine of \$300.00.

## **SECTION 7.24 RESTRICTIONS ON REGISTERED SEX OFFENDERS**

### **1. Definitions**

For purposes of this section, the following words shall have the following meanings:

“Registered sex offender” shall mean any person required to register pursuant to Chapter 6, Section 178C to P and who is finally classified as Level 2 or Level 3;

“Recreational facility” shall include, but not be limited to stadiums, auditoriums, pools, skating rinks and gymnasiums, whether publicly or privately owned.

### **.2 Restrictions on Activities of Registered Sex Offenders**

No registered sex offender shall enter upon the property of a school, library, elderly housing facility or recreational facility without prior written authorization the administrator. Said authorization shall specify the dates and times during which entry is authorized and may limit access to specific areas within the facility.

No registered sex offender shall enter any city park or playground.

No registered sex offender shall loiter within 500 feet of a school, library, elderly housing facility or recreational facility or within 500 feet of a school bus stop, as designated by the Malden School Department.

Any registered sex offender who, after receiving notification from the police that he or she is in violation of this provision of ordinance, remains within the proscribed area shall be deemed to be in wilful violation of this ordinance and shall be subject to arrest without a warrant under the provisions of Massachusetts General Laws Chapter 272 Section 59.

### **.3 Penalties for Violation**

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

<b>1<sup>st</sup> offense</b>	<b>\$150.00</b>
<b>2<sup>nd</sup>/subsequent offenses</b>	<b>\$300.00</b>

#### **.4 Exemptions**

Nothing in this section shall be construed to prevent a registered sex offender from participating in any federal, state or municipal election or from attending any organized religious service.

### **SECTION 7.25 POSSESSION OF MARIJUANA PROHIBITED**

No person shall, while in or upon any property owned or controlled by the city or in any place accessible to the public, possess marijuana or tetrahydrocannabinol in an amount of one ounce or less..

Violation of any provision of this ordinance shall be punishable in the manner provided in Massachusetts General Laws Chapter 40 Section 21D by a fine of \$100.00 for each offense. For purposes of enforcing this ordinance, a police officer may detain any individual who fails to provide adequate identification.

### **SECTION 7.26 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 Inspector, 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 41, Section 21D in accordance with the following schedule of fines:**

<b>1<sup>st</sup> offense</b>	<b>\$100.00</b>
<b>2<sup>nd</sup> offense</b>	<b>\$200.00</b>
<b>3<sup>rd</sup>/subsequent offenses</b>	<b>\$300.00</b>

**Every twenty four hour period during which a violation exists shall be an 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.**

**SECTION 7.27 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:

1 <sup>st</sup> offense	\$100.00
2 <sup>nd</sup> /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.

## **SECTION 7.28 REGULATION OF REPLICAS FIREARMS**

Updated through 6/30/17

## **.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.**

Updated through 6/30/17

#### **.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).**



## **CHAPTER 8**

### **HUMAN RESOURCES**

#### **SECTION 8.1 HUMAN RESOURCES DIRECTOR**

**Commencing March 1, 2015 and every three years thereafter, the Mayor, with the approval of the City Council, shall appoint a Human Resources Director, who shall serve for the three years next ensuing and have executive and administrative control of the Human Resources Department.**

#### **SECTION 8.2 DUTIES**

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

- A. Direct the Group Health and Life Insurance programs for City employees and retirees.**
- B. Supervise the Affirmative Action and Equal Employment Opportunity programs of the City.**
- C. Maintain the comprehensive personnel records of all City employees. Said records shall include, but not be limited to, vacation, sick day and personal day data, 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.**
- D. Undertake studies of personnel matters as deemed appropriate and necessary in the public interest.**
- E. Develop job titles and salary ranges in accordance with the Title/Salary Schedule. Maintain job descriptions and periodically review to ensure they accurately describe the duties of the position.**

**Post and advertise all employment opportunities within the city of Malden. All new employees shall be compensated at Step 1 in appropriate job title unless the Human Resource Director, with the recommendation from the Department Head, determines that the employee's skills are commensurate with another step within the Job Title assigned to said position.**

**F. Regularly review the salary classification plan, and prepare recommendations for the assignment of new positions or reassignment of existing positions within the classification plan;**

**G. The Salary Review Committee will regularly confer on implementation and review of policies and procedures set forth in the Salary Review Committee recommendations of November 2005, including the regular review of the Salary Plan, review recommendations as to adjustments in pay scales and the assignment of new positions or adjustments to classifications due to a change in the responsibilities of specific positions.**

**H. 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.**

**I. 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.**

**J. Undertake employee safety studies concerning action to improve working conditions and employee morale and make recommendations to department heads or the Mayor regarding the same. The Human Resources Director shall supervise all municipal employee assistance programs and serve as the municipal employee assistance officer.**

**K. Review all requests for leaves of absence for any purpose and make recommendations to department head or the Mayor as to what action should be taken thereon.**

**L. The Human Resources Director may be designated to act for the City in collective bargaining, and shall make such studies as shall be requested, and shall participate to the extent requested.**

**M. Maintain a record of all persons seeking employment with the City and shall conduct a program of recruitment to obtain for the City qualified prospective employees.**

**N. Provide liaison as fully as may be permitted by law between City departments and those agencies of the Commonwealth, including: the Civil Service Commission, the Massachusetts Commission Against Discrimination, the Department of Industrial Accidents, having jurisdiction over employment by the City and those of the federal government, including but not limited to the Federal Department of Labor.**

**O. Establish and annual 3 part employee evaluation system which will be used to determine whether an employee will receive a merit increase, establish promotions and job assignments and identify training and developmental needs. The 3 parts shall consist of Performance Planning annually in July/August, Progress Review annually in November/December and Annual Review annually in March/April. Movement between steps of the salary schedule is not automatic but a merit system designed to allow non-union employees to be recommended for and receive annual increases within the scope of their job category based on their work performance as dictated by the salary ordinance.**

**P. Establish and maintain a system of exit interviews for all full time municipal employees terminating service.**

**Q. Promulgate rules and regulations and establish policies to promote the orderly administration of employee benefits allowed by law or ordinance, to ensure that employees are made aware of their obligations to the city, co-workers and the public and to outline general standards of conduct in service to the city.**

## **SECTION 8.3                      CONTINUING REVIEW; STUDIES OF PAY RATES**

**The Policy and Salary Review Committee shall be composed of the Mayor, and the Chairman of the Council Committee on Personnel, or their designees, and the Director of Human Resources.**

**The Policy and Salary Review Committee shall confer on policies adopted under Section 8.2 Q and make such recommendations for modification or revision as it deems necessary.**

**The Committee shall assist in continuing review of the Salary Classification plan, make recommendations for classification of new positions or reclassification of existing positions, and shall investigate pay rates for comparable positions both in surrounding municipalities and in the private sector as it deems appropriate. In making recommendations for modification of the Salary Classification Plan, the Committee shall also consider changes in responsibilities of specific positions, changes in the cost of living index and other factors deemed relevant to the general economic situation.**

**The Director of Human Resources may, in the case of an emergency, add a new class or wage grade to the Salary Classification Plan or establish a new lower salary or wage grade for an existing position to be filled by a new employee. Any alteration of the Salary Classification Plan made under this paragraph shall be subject to confirmation of such action by permanent amendment of the Salary Classification Plan by the Mayor and City Council.**

#### **SECTION 8.4                    EMPLOYEES TO BE RESIDENTS; EXCEPTIONS**

**A.     Except as provided in paragraph B, any officer or employee of the City shall be a resident of the City, or shall become a resident of the City within six months of commencing employment.**

**B.     Paragraph A 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 a Malden resident  
         where technical training of candidates for the position  
         is equal; and  
         officers appointed by the Mayor or City Council.**

## **SECTION 8.5                      PRIVATE EMPLOYMENT DURING WORKING HOURS PROHIBITED**

**No officer or employee shall perform any work for private purpose during regular working hours, nor shall any officer or employee delegate or direct any other officer or employee to undertake any such activities.**

## **SECTION 8.6                      ATTENDANCE REPORTS**

**Monthly and weekly attendance reports shall be submitted to the Human Resources Director. The Human Resources Director shall keep such records as are necessary to assure proper administration of vacations and sick leave of all employees, including department heads, except those appointed by the School Committee. Department Heads shall notify the Human Resources Director immediately of all injuries incurred by municipal employees which may result in absence from work.**

## **SECTION 8.7                      OVERTIME AND HOLIDAY PAY**

**All 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.**

## **SECTION 8.8                      OVERTIME PAY**

**No clerical or administrative personnel, as enumerated in Sections 8.36 and 8.37 of this ordinance, 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, as enumerated in Section 8.35 and 8.35A of this ordinance, shall receive additional compensation for performing the duties of said office.**

## **SECTION 8.9**

## **VACATION BENEFITS**

**1. All permanent full-time City 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. Department Heads shall notify the Mayor and the Human Resources Director, in writing, of their scheduled vacations. 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. Any employee 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. Persons employed on a permanent part-time basis 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 ordinance; 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. All employees of the City who had 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 of Massachusetts shall count this time toward eligibility for vacation benefit as credited service.**

## **SECTION 8.10                LONGEVITY BENEFITS**

**(Deleted)**

## **SECTION 8.11                SICK LEAVE**

**A. Sick leave shall accrue 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.**

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

**C. 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 applied to absence without pay.**

**D. 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.**

**E. 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.**

**F. Persons employed on a permanent part-time basis who regularly work a minimum of twenty (20) hours per week shall be credited with that proportion of sick leave which their part-time service bears to full-time service.**

## **SECTION 8.12                SICK LEAVE BONUS**

**(Deleted)**

## **SECTION 8.13                SICK LEAVE BUY BACK**

**Any employee eligible for a City of Malden retirement benefit 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 employee, payment of this benefit shall be made to the employee's designated beneficiary or the employee's estate.**

## **SECTION 8.14                PERSONAL LEAVE DAY**



**All full-time employees shall be granted three (3) paid personal leave days per calendar year and such days shall not be cumulative. However, no personal day shall be allowed on Christmas Eve, or New Year's Eve, or the day before or after such holiday. Scheduling of personal days shall be subject to the approval of the Department Head.**

## **SECTION 8.15                   BEREAVEMENT LEAVE**

**Bereavement Leave of four (4) days, without loss of pay or benefits, may be granted commencing the first working day following the day of death of an employee's spouse, child, father, mother, sister, brother, grandparents, grandchild, father-in-law, mother-in-law, son-in-law, daughter-in-law, 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. 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 8.16                   LEAVE OF ABSENCE**

**The City Council may, upon the request of an 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 8.17                    NON-UNION EMPLOYEE BENEFITS**

**Benefits and terms and conditions of employment contained in section 8.7 to 8.16 shall not apply to employees covered by a collective bargaining agreement.**

**No benefit granted to employees under a collective bargaining agreement shall be extended to any employee not included in the bargaining unit without the approval of the City Council and the Mayor.**

#### **SECTION 8.18                    JURY LEAVE**

**Employees summoned for jury duty will 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 8.19                    MATERNITY AND ADOPTIVE LEAVE**

**Upon completion of a probationary period of six (6) months employment, maternity or adoptive leave without pay shall be granted to a female employee for eight (8) weeks, for childbirth or to care for a newly adopted child under the age of three (3) years of age, 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 a maternity or adoptive leave shall be submitted in writing to the Department Head and the Human Resources Director and shall include the expected date of childbirth or adoption and state that the employee intends to return to her position at the conclusion of the leave.**

**Any accumulated sick leave and vacation to which female employees are entitled may be applied to maternity leave.**

**Maternity leave shall not effect the accrual of benefits, seniority, or length of service credit.**

## **SECTION 8.20                    MILITARY LEAVE**

**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 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 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.**

## **SECTION 8.21                    CLASS DEFINITIONS**

**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.**

## **SECTION 8.22                    INTERPRETATION OF CLASS DEFINITIONS**

**The definitions of the classes shall be interpreted as descriptive only, not restrictive. The definitions for any class shall be construed solely as a means of identifying positions properly pertaining to the class, and not as prescribing what the duties or responsibilities of any position of the class shall be, nor as modifying or in any way affecting the power of any administrative authority as otherwise existing, to assign duties to, or to direct and control the work of any employee under the jurisdiction of such authority.**

## **SECTION 8.23                    CIVIL SERVICE REQUISITIONS**

**The Human Resources Director shall be notified of all requisitions for persons to fill positions to perform duties under Civil Service classifications, and of all requests for transfers, promotions, changes in ratings, or other requests to the Director of Civil Service.**

## **SECTION 8.24                    ALLOCATION OF POSITIONS TO CLASSIFICATION/ PAY GRADE**

**The Human Resources Director, in cooperation with the department head, shall recommend allocation of each position subject to the provisions of the Classification and Pay Plans to its appropriate class and pay grade. Whenever a new position is established, or the duties of an existing position are so changed that in effect a new position of a different class is substituted for the old position, the Human Resources Director, with the approval of the department head, shall allocate such position to an appropriate class and pay grade whenever such action appears warranted by reason of error in the allocation then in effect, or as a result of additional duties and changes in the job context of the class, all such actions being subject to approval of the Mayor and the City Council.**

**The Human Resources Director shall afford reasonable opportunity to be heard to any employee or any department head affected by any allocation or reallocation.**

## **SECTION 8.25                    TITLE OF POSITIONS**

**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. The title of each class shall be the official title of every position allocated to**

the class for all purposes having to do with the position as such, and shall be used to designate the position in all payrolls, budget estimates, and official records and reports, and in every other connection involving personnel and fiscal processes, but any abbreviations or code symbol approved by the Human Resources Director may be used in lieu of the title to designate the classification of a position in any such connection.

## **SECTION 8. 26                    PROMOTIONS; STEP RATE INCREASES**

A step rate increase between the minimum and maximum salaries or wages for a pay grade shall be the amount shown in the Wage and Salary Schedules based on the evaluation system and a rating of meets or exceeds the expectations. The step rate increases shown in the Salary Schedules are merit increases and are to be considered rewards for diligent and conscientious work.

No more than one step rate increase shall be allowed during any year.

All employees who have been denied step rate increases have the right to appeal such decisions to the Human Resources Director. After hearing all pertinent facts in the case the Human Resources Director may:

Uphold the denial and support a remedial action plan submitted by the Department Head , or any other appropriate action.

In any case, the decisions of the Human Resources Director are final.

A step rate increase as provided in this Section, 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.

Step rate increases shall be effective July 1<sup>st</sup>.

## **SECTION 8.27                    STEP LEVEL; PROMOTED EMPLOYEES**

**Whenever an employee covered by this ordinance receives a promotion to a higher salary grade, the rate shall be the next higher rate in said higher salary grade or the second next higher rate therein if such newer salary rate would result in an increase of salary smaller in amount than the salary increment for the higher salary grade.**

## **SECTION 8.28                    STEP LEVEL; NEW EMPLOYEES**

**Any person appointed, employed or paid as an employee in any position under this ordinance shall be paid at step one of the salary plan provided that the Human Resources Director may approve a salary at a higher step. The hiring of any person at other than step one may be permitted due to exceptional qualifications, general labor market conditions or the lack of qualified persons willing to accept employment at the lower step rate salary. Any Department Head seeking to pay a salary higher than step one shall submit a written request for approval to the Human Resources Director. The Human Resources Director shall approve or deny this request in writing. No person may be paid at higher than step one without the written approval of the Human Resources Director.**

## **SECTION 8.29                    PROBATIONARY PERIODS**

**A newly hired employee or an existing employee promoted into a higher salary position 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 the appropriate supervisor must evaluate the probationary employee's suitability for continued employment beyond the probationary period. The Department Head shall submit a written evaluation to the Human Resources Director including a recommendation of continued employment prior to the end of such probationary period. Prior to the expiration of the probationary period a new employee may be terminated. A promoted employee may be returned to their previous position prior to the end of the probationary period.**

## **SECTION 8.30                    VACANCIES, HIRING**

**A. All departments of the City shall notify the Human Resources Director of all vacancies as they occur.**

- B. In order to fill a vacancy or a new position, the department head must submit a request to the Human Resources Director. The request shall include the current job description and any proposed changes.**
- C. Upon receipt of such request the Human Resources Director shall determine if the position is budgeted, the appropriate class and the pay grade for such vacant position.**
- D. The Human Resources Director shall review civil service, relative collective bargaining agreements, city ordinances, and the City's affirmative action plan and determine the proper procedure to be used in filling the vacancy and inform the department head.**
- E. Vacancies in positions other than civil service shall, whenever possible, be filled by promotion within the department in which the vacancy exists. Promotion shall be made subject to the approval of the department head. Vacancies not filled by an employee of the department may be filled by a person in another department, subject to the approval of both department heads.**
- F. When the department head makes a selection, the Human Resources Director shall be notified and shall determine that the selection followed the proper procedures, and inform the department head.**
- G. No person shall be recommended for hiring by the Human Resources Director, nor shall any said person be hired by any appointing authority or official, until it shall be satisfied that said person has no outstanding debts to the City of Malden or the Commonwealth whatsoever, either personal or corporate, and has paid any fines, fees or other obligations thereto. The Human Resources Director shall satisfy said employable status to the appointing authority or appointing official.**
- H. Upon notification that the selection was proper, the department head may inform the individual to be hired and establish a starting date.**
- I. The Human Resources Director shall present each new employee of the City with a copy of Chapter 268A of the General Laws. Every new employee shall signify the receipt of said copy in writing.**
- J. No department shall increase the number of permanent full-time or permanent part-time positions in said department without the approval of the Mayor and City Council.**

### **SECTION 8.31                   NON-DISCRIMINATION**

**Discrimination against any employee on the basis of race, color, sex, religion, ancestry, age, handicap, national origin or sexual orientation is prohibited.**

**Every employee of the City of Malden shall have the right to be free from sexual harassment as defined in M.G.L. Chapter 151B and 151C.**

**Acts of discrimination and sexual harassment by officers, supervisors, employees or agents of the City of Malden are prohibited employment practices subject to sanctions and disciplinary measures.**

**The Human Resources Director shall adopt rules and regulations in order to implement this section.**

### **SECTION 8.32                   UNCONSTITUTIONALITY OR INVALIDITY**

**If any provision or part of this ordinance is for any reason held to be unconstitutional or invalid, it shall not affect the remaining provisions or parts.**

### **SECTION 8.33                   CIVIL SERVICE LAW**

**Nothing in this ordinance shall be construed to conflict with Chapter 31 of the M.G.L. as to those employees under the jurisdiction of Civil Service.**

### **SECTION 8.34                   RULES AND REGULATIONS**



The Human Resources Director shall establish rules and regulations as necessary to implement this Chapter.

### SECTION 8.35

### OFFICERS SALARY CLASSIFICATION PLAN

EFFECTIVE:										
7/1/16										
Job Title	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7	Step 8	Step 9	Step 10
M1A	\$73,749.05	\$75,592.77	\$77,482.60	\$79,419.66	\$81,405.16					
M1	\$85,475.40	\$87,612.29	\$89,802.60	\$92,047.66	\$94,348.86					
M2	\$85,475.40	\$87,612.29	\$89,802.60	\$92,047.66	\$94,348.86	\$101,138.62	\$103,667.08	\$106,258.77	\$108,915.23	\$111,638.11
M3						\$120,394.05	\$123,403.89	\$126,488.99	\$129,651.21	\$132,903.43

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, Director of Human Services and Community Outreach, and Assistant Controller.

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, and Inspector of Buildings

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 8.36 SPECIALIST SALARY CLASSIFICATION PLAN (ADMINISTRATIVE AND LABOR)

EFFECTIVE: 7/1/16										
Job Title	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7	Step 8	Step 9	Step 10
SPA 1	\$46,502.22	\$47,664.77	\$48,856.39	\$50,077.81	\$51,329.75					
SPA 2	\$52,612.99	\$53,928.32	\$55,276.53	\$56,658.44	\$58,074.90					
SPA 3	\$59,526.79	\$61,014.96	\$62,540.33	\$64,103.84	\$65,706.43					
SPA 4	\$67,349.08	\$69,032.81	\$70,758.63	\$72,527.60	\$74,340.79					
SPA 5	\$76,199.29	\$78,104.27	\$80,056.87	\$82,058.31	\$84,109.76					
SPL 1	\$46,502.22	\$47,664.77	\$48,856.39	\$50,077.81	\$51,329.75					
SPL 2	\$52,612.99	\$53,928.32	\$55,276.53	\$56,658.44	\$58,074.90					
SPL 3	\$59,526.79	\$61,014.96	\$62,540.33	\$64,103.84	\$65,706.43					
SPL 4	\$67,349.08	\$69,032.81	\$70,758.63	\$72,527.60	\$74,340.79					
SPL 5	\$76,199.29	\$78,104.27	\$80,056.87	\$82,058.31	\$84,109.76					

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, Traffic Supervisor\*, Supervisor - Water Utilities, Parks Supervisor, Supervisor - Solid Waste Inspection, Supervisor - Street & Sidewalk Inspection, Recreation Co-ordinator, Co-ordinator of Energy Initiatives, Senior Center Director.

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

\* SEE UNCLASSIFIED SALARY PLAN

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 8.37 CLERICAL SALARY CLASSIFICATION PLAN

EFFECTIVE:										
7/1/16										
Job Title	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7	Step 8	Step 9	Step 10

Clerk 1	\$39,120.71	\$40,098.73	\$41,101.20	\$42,128.72	\$43,181.94					
Clerk 2	\$44,261.49	\$45,368.03	\$46,502.23	\$47,664.78	\$48,856.41					
Clerk 3	\$50,077.82	\$51,329.76	\$52,613.00	\$53,928.33	\$55,276.53					
Clerk 4	\$56,658.45	\$58,074.91	\$59,526.77	\$61,014.95	\$62,540.32					

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:** Senoir 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 that 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 8.38**

## **UNCLASSIFIED EMPLOYEES SALARY SCHEDULE**

<b>Effective July 1, 2016</b>	
<b>Chairman of the Public Works Commission</b>	<b>\$6,000.00</b>
<b>Police Commissioner, Fire Commissioner,</b>	<b>\$5,000.00</b>
<b>Public Works Commissioners</b>	<b>\$5,000.00</b>
<b>Secretary, Board of Appeal</b>	<b>\$5,000.00</b>
<b>Executive Secretary to Traffic Commission</b>	<b>\$6,000.00</b>
<b>*Meter Enforcement (PT)</b>	<b>\$0.00</b>
<b>*Police Cadets</b>	<b>\$29,489.05</b>
<b>*Traffic Supervisor (incumbent until retirement)</b>	<b>\$0.00</b>
<b>Hearing Officer - Municipal Fines</b>	<b>\$10,000.00</b>
<b>Cemetery Trustees (subject to funding</b>	
<b>from the Perpetual Care Account)</b>	<b>\$3,000.00</b>
<b>Assessor (Part-time)</b>	<b>\$5,000.00</b>
<b>*Compliance Officers</b>	<b>\$24,042.56</b>

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 8.39                      MAYOR'S SALARY PLAN**

**MAYOR    \$105,000.00**

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

**SECTION 8.40****CITY COUNCIL SALARY PLAN****CITY COUNCILLOR****\$17,500.00****This section shall take effect on Jan. 1, 2006.****SECTION 8.41****SCHOOL COMMITTEE SALARY PLAN****SCHOOL COMMITTEE MEMBERS****\$ 7,000.00****including Northeast Regional Vocational School Committee****This section shall take effect Jan.1, 2006.****SECTION 8.42****UNION SALARY SCHEDULES****.1 LIBRARY SALARY SCHEDULE:**

<b>EFFECTIVE 6/30/13</b>					
<b>SR. LIBRARIAN</b>	<b>\$54,309.96</b>	<b>\$56,311.35</b>	<b>\$58,312.76</b>	<b>\$60,314.14</b>	<b>\$62,315.55</b>
<b>PROFESSIONAL</b>	<b>\$50,043.69</b>	<b>\$50,965.17</b>	<b>\$51,886.66</b>	<b>\$52,808.14</b>	<b>\$53,729.64</b>
<b>PARA- PROFESSIONAL</b>	<b>\$38,750.77</b>	<b>\$39,334.38</b>	<b>\$39,917.99</b>	<b>\$40,501.61</b>	<b>\$41,085.21</b>
<b>LIBRARY TECHNICIAN</b>	<b>\$34,702.22</b>	<b>\$35,285.83</b>	<b>\$35,869.44</b>	<b>\$36,453.06</b>	<b>\$37,036.66</b>
<b>SENIOR CUSTODIAN</b>	<b>\$45,247.47</b>	<b>\$45,848.27</b>	<b>\$46,449.06</b>	<b>\$47,049.85</b>	<b>\$47,650.63</b>
<b>CUSTODIAN</b>	<b>\$43,230.24</b>	<b>\$43,831.02</b>	<b>\$44,431.82</b>	<b>\$45,032.59</b>	<b>\$45,633.39</b>

<b>EFFECTIVE 1/1/14 (1%)</b>					
<b>SR. LIBRARIAN</b>	<b>\$54,853.06</b>	<b>\$56,874.46</b>	<b>\$58,895.89</b>	<b>\$60,917.28</b>	<b>\$62,938.71</b>
<b>PROFESSIONAL</b>	<b>\$50,544.13</b>	<b>\$51,474.82</b>	<b>\$52,405.53</b>	<b>\$53,336.22</b>	<b>\$54,266.94</b>
<b>PARA- PROFESSIONAL</b>	<b>\$39,138.28</b>	<b>\$39,727.72</b>	<b>\$40,317.17</b>	<b>\$40,906.63</b>	<b>\$41,496.06</b>
<b>LIBRARY TECHNICIAN</b>	<b>\$35,049.24</b>	<b>\$35,638.69</b>	<b>\$36,228.13</b>	<b>\$36,817.59</b>	<b>\$37,407.03</b>
<b>SENIOR CUSTODIAN</b>	<b>\$45,699.94</b>	<b>\$46,306.75</b>	<b>\$46,913.55</b>	<b>\$47,520.35</b>	<b>\$48,127.14</b>
<b>CUSTODIAN</b>	<b>\$43,662.54</b>	<b>\$44,269.33</b>	<b>\$44,876.14</b>	<b>\$45,482.92</b>	<b>\$46,089.72</b>
<b>EFFECTIVE 1/1/15 (2%)</b>					
<b>SR. LIBRARIAN</b>	<b>\$55,950.12</b>	<b>\$58,011.95</b>	<b>\$60,073.81</b>	<b>\$62,135.63</b>	<b>\$64,197.48</b>
<b>PROFESSIONAL</b>	<b>\$51,555.01</b>	<b>\$52,504.32</b>	<b>\$53,453.64</b>	<b>\$54,402.95</b>	<b>\$55,352.28</b>
<b>PARA- PROFESSIONAL</b>	<b>\$39,921.04</b>	<b>\$40,522.28</b>	<b>\$41,123.51</b>	<b>\$41,724.76</b>	<b>\$42,325.98</b>
<b>LIBRARY TECHNICIAN</b>	<b>\$35,750.23</b>	<b>\$36,351.46</b>	<b>\$36,952.70</b>	<b>\$37,553.94</b>	<b>\$38,155.17</b>
<b>SENIOR CUSTODIAN</b>	<b>\$46,613.94</b>	<b>\$47,232.89</b>	<b>\$47,851.82</b>	<b>\$48,470.76</b>	<b>\$49,089.68</b>
<b>CUSTODIAN</b>	<b>44535.793248</b>	<b>45154.716804</b>	<b>45773.660964</b>	<b>46392.574218</b>	<b>47011.518378</b>
<b>EFFECTIVE 1/1/16 (2.5%)</b>					
<b>SR. LIBRARIAN</b>	<b>\$57,348.87</b>	<b>\$59,462.25</b>	<b>\$61,575.65</b>	<b>\$63,689.02</b>	<b>\$65,802.42</b>
<b>PROFESSIONAL</b>	<b>\$52,843.88</b>	<b>\$53,816.93</b>	<b>\$54,789.98</b>	<b>\$55,763.02</b>	<b>\$56,736.08</b>

<b>PARA- PROFESSIONAL</b>	<b>\$40,919.07</b>	<b>\$41,535.34</b>	<b>\$42,151.60</b>	<b>\$42,767.88</b>	<b>\$43,384.13</b>
<b>LIBRARY TECHNICIAN</b>	<b>\$36,643.98</b>	<b>\$37,260.25</b>	<b>\$37,876.51</b>	<b>\$38,492.79</b>	<b>\$39,109.05</b>
<b>SENIOR CUSTODIAN</b>	<b>\$47,779.29</b>	<b>\$48,413.71</b>	<b>\$49,048.12</b>	<b>\$49,682.52</b>	<b>\$50,316.92</b>
<b>CUSTODIAN</b>	<b>\$45,649.19</b>	<b>\$46,283.58</b>	<b>\$46,918.00</b>	<b>\$47,552.39</b>	<b>\$48,186.81</b>

**.2 PUBLIC WORKS, PARKS, TRAFFIC, WATER, SEWER AND CEMETERY SALARY SCHEDULE:**

<b>EFFECTIVE:7/1/16</b>					
<b>WITH CDL</b>	<b>STEP 1</b>	<b>STEP 2</b>	<b>STEP 3</b>	<b>STEP 4</b>	<b>STEP 5</b>
<b>LABORER</b>	<b>\$19.20</b>	<b>\$19.87</b>	<b>\$20.35</b>	<b>\$21.11</b>	<b>\$21.74</b>
<b>GARDENER/LABORER</b>	<b>\$19.66</b>	<b>\$20.35</b>	<b>\$20.87</b>	<b>\$21.57</b>	<b>\$22.26</b>
<b>GARDNER/MEO</b>	<b>\$20.58</b>	<b>\$21.42</b>	<b>\$21.88</b>	<b>\$22.42</b>	<b>\$23.06</b>
<b>MEO/LABORER</b>	<b>\$21.44</b>	<b>\$22.13</b>	<b>\$22.68</b>	<b>\$23.35</b>	<b>\$23.97</b>
<b>HMEO/LABORER</b>	<b>\$21.44</b>	<b>\$22.13</b>	<b>\$22.68</b>	<b>\$23.35</b>	<b>\$23.97</b>
<b>SPEC. MEO/ LBR, MAINT. CRAFTSMAN/</b>					
<b>LBR, M. EQUIP/ REPAIR/LBR,</b>	<b>\$22.13</b>	<b>\$22.97</b>	<b>\$23.42</b>	<b>\$24.05</b>	<b>\$24.77</b>
<b>TREE CLIMBER/LABORER</b>					
<b>WORKING FOREMAN</b>			<b>\$24.76</b>	<b>\$25.41</b>	<b>\$26.16</b>
<b>GENERAL FOREMAN</b>	<b>\$25.66</b>	<b>\$25.66</b>	<b>\$26.13</b>	<b>\$26.73</b>	<b>\$27.49</b>
<b>WITHOUT CDL:</b>	<b>STEP 1</b>	<b>STEP 2</b>	<b>STEP 3</b>	<b>STEP 4</b>	<b>STEP 5</b>
<b>LABORER</b>	<b>\$16.49</b>	<b>\$17.18</b>	<b>\$17.66</b>	<b>\$18.42</b>	<b>\$19.04</b>
<b>GARDENER/LABORER</b>	<b>\$16.96</b>	<b>\$17.66</b>	<b>\$18.18</b>	<b>\$18.88</b>	<b>\$19.56</b>
<b>GARDNER/MEO</b>	<b>\$17.89</b>	<b>\$18.73</b>	<b>\$19.18</b>	<b>\$19.73</b>	<b>\$20.37</b>
<b>MEO/LABORER</b>	<b>\$20.70</b>	<b>\$21.54</b>	<b>\$21.97</b>	<b>\$22.53</b>	<b>\$23.13</b>
<b>HMEO/LABORER</b>	<b>\$18.75</b>	<b>\$19.44</b>	<b>\$19.99</b>	<b>\$20.66</b>	<b>\$21.27</b>



<b>SPEC. MEO/ LBR, MAINT. CRAFTSMAN/</b>					
<b>LBR, M. EQUIP/ REPAIR/LBR,</b>	<b>\$19.44</b>	<b>\$20.28</b>	<b>\$20.73</b>	<b>\$21.36</b>	<b>\$22.07</b>
<b>TREE CLIMBER/LABORER</b>					
<b>WORKING FOREMAN</b>			<b>\$22.06</b>	<b>\$22.71</b>	<b>\$23.47</b>
<b>GENERAL FOREMAN</b>	<b>\$22.97</b>	<b>\$22.97</b>	<b>\$23.44</b>	<b>\$24.04</b>	<b>\$24.80</b>

### **.3 PARKING ENFORCEMENT OFFICERS SALARY SCHEDULE:**

**Effective July 1, 2016:**

**Wages per hour:     \$15.81**

### **.4 POLICE SUPERIOR OFFICERS SALARY SCHEDULE:**

<b>EFFECTIVE 7/1/15 (2%):</b>		
<b>SERGEANT</b>	<b>STEP 1</b>	<b>STEP 2</b>
<b>Annually</b>	<b>\$66,284.89</b>	<b>\$68,897.69</b>
<b>Weekly</b>	<b>\$1,274.71</b>	<b>\$1,324.96</b>
<b>LIEUTENANT</b>		
<b>Annually</b>	<b>\$75,564.78</b>	<b>78,543.37</b>
<b>Weekly</b>	<b>\$1,453.17</b>	<b>\$1,510.45</b>
<b>CAPATAIN</b>		
<b>Annually</b>	<b>\$86,143.86</b>	<b>\$89,539.44</b>
<b>Weekly</b>	<b>\$1,656.61</b>	<b>\$1,721.91</b>

<b>CAPTAIN-SENIOR</b>		
<b>Annually</b>	<b>\$89,143.86</b>	<b>\$92,539.44</b>
<b>Weekly</b>	<b>\$1,714.30</b>	<b>\$1,779.60</b>
<b>EFFECTIVE 7/1/16 (2%)</b>		
<b>SERGEANT</b>		
<b>Annually</b>	<b>\$67,610.59</b>	<b>\$70,275.64</b>
<b>Weekly</b>	<b>\$1,300.20</b>	<b>\$1,351.46</b>
<b>LIEUTENANT</b>		
<b>Annually</b>	<b>\$77,076.08</b>	<b>\$80,114.24</b>
<b>Weekly</b>	<b>\$1,482.23</b>	<b>\$1,540.66</b>
<b>CAPATAIN</b>		
<b>Annually</b>	<b>\$87,866.74</b>	<b>\$91,330.23</b>
<b>Weekly</b>	<b>\$1,689.74</b>	<b>\$1,756.35</b>
<b>CAPTAIN-SENIOR</b>		
<b>Annually</b>	<b>\$90,926.74</b>	<b>\$94,390.23</b>
<b>Weekly</b>	<b>\$1,748.59</b>	<b>\$1,815.19</b>

**.5 Police Patrolman's Salary Schedule**

<b>EFFECTIVE 7/01/13 (2%)</b>	<b>Step 1</b>	<b>Step 2</b>	<b>Step 3</b>	<b>Step 4</b>
<b>YEARLY</b>	<b>\$54,484.62</b>	<b>\$55,091.90</b>	<b>\$55,699.17</b>	<b>\$56,306.44</b>
<b>WEEKLY</b>	<b>\$1,047.78</b>	<b>\$1,059.46</b>	<b>\$1,071.14</b>	<b>\$1,082.82</b>
<b>EFFECTIVE 7/01/14 (2%)</b>	<b>Step 1</b>	<b>Step 2</b>	<b>Step 3</b>	<b>Step 4</b>

<b>YEARLY</b>	<b>\$55,574.31</b>	<b>\$56,193.74</b>	<b>\$56,813.15</b>	<b>\$57,432.57</b>
<b>WEEKLY</b>	<b>\$1,068.74</b>	<b>\$1,080.65</b>	<b>\$1,092.56</b>	<b>\$1,104.47</b>

<b>EFFECTIVE</b>	<b>Step 1</b>	<b>Step 2</b>	<b>Step 3</b>	<b>Step 4</b>
<b>7/01/15 (2%)</b>				
<b>YEARLY</b>	<b>\$56,685.80</b>	<b>\$57,317.62</b>	<b>\$57,949.41</b>	<b>\$58,581.22</b>
<b>WEEKLY</b>	<b>\$1,090.11</b>	<b>\$1,102.26</b>	<b>\$1,114.41</b>	<b>\$1,126.56</b>

<b>EFFECTIVE</b>	<b>Step 1</b>	<b>Step 2</b>	<b>Step 3</b>	<b>Step 4</b>
<b>7/01/16 (2%)</b>				
<b>YEARLY</b>	<b>\$57,819.52</b>	<b>\$58,463.97</b>	<b>\$59,108.40</b>	<b>\$59,752.84</b>
<b>WEEKLY</b>	<b>\$1,111.91</b>	<b>\$1,124.31</b>	<b>\$1,136.70</b>	<b>\$1,149.09</b>

**\* 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.**

#### **.6 TRAFFIC SUPERVISORS SALARY SCHEDULE**

**EFFECTIVE 1/1/17: Wages per hour \$18.61**

**EFFECTIVE 1/1/18: Wages per hour \$18.79**

**EFFECTIVE 1/1/19: Wages per hour \$19.16**

#### **.7 FIREFIGHTERS' SALARY SCHEDULE**

<b>FY2016</b>					
<b>Rank</b>	<b>1ST YEAR</b>	<b>2ND YEAR</b>	<b>3RD YEAR</b>	<b>4TH YEAR</b>	<b>SENIOR BASE</b>
	<b>BASE</b>	<b>BASE</b>	<b>BASE</b>	<b>BASE</b>	

Updated through 6/30/17

<b>FIREFIGHTER</b>	<b>\$57,641</b>	<b>\$57,957</b>	<b>\$58,273</b>	<b>\$58,589</b>	<b>\$62,690</b>
<b>LIEUTENANT</b>	<b>\$67,440</b>	<b>\$67,810</b>	<b>\$68,180</b>	<b>\$68,549</b>	<b>\$73,348</b>
<b>CAPTAIN</b>	<b>\$76,882</b>	<b>\$77,303</b>	<b>\$77,725</b>	<b>\$78,146</b>	<b>\$83,616</b>
<b>DEPUTY CHIEF</b>	<b>\$86,492</b>	<b>\$86,966</b>	<b>\$87,440</b>	<b>\$87,915</b>	<b>\$94,069</b>
<b>ASSISTANT CHIEF</b>	<b>\$88,415</b>				<b>\$94,604</b>

#### FY2017

<b>Rank</b>	<b>1ST YEAR BASE</b>	<b>2ND YEAR BASE</b>	<b>3RD YEAR BASE</b>	<b>4TH YEAR BASE</b>	<b>SENIOR BASE</b>
<b>FIREFIGHTER</b>	<b>\$58,813</b>	<b>\$59,129</b>	<b>\$59,445</b>	<b>\$59,760</b>	<b>\$63,944</b>
<b>LIEUTENANT</b>	<b>\$68,811</b>	<b>\$69,181</b>	<b>\$69,551</b>	<b>\$69,920</b>	<b>\$74,815</b>
<b>CAPTAIN</b>	<b>\$78,445</b>	<b>\$78,866</b>	<b>\$79,288</b>	<b>\$79,709</b>	<b>\$85,289</b>
<b>DEPUTY CHIEF</b>	<b>\$88,250</b>	<b>\$88,724</b>	<b>\$89,199</b>	<b>\$89,673</b>	<b>\$95,950</b>
<b>ASSISTANT CHIEF</b>	<b>\$90,173</b>				<b>\$96,485</b>

#### FY2018

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

Updated through 6/30/17

CHIEF

**.8 SCHOOL CUSTODIAN SALARY SCHEDULE**

<b>Effective 6/30/11 (1%)</b>							
<b>Junior Custodian</b>	<b>\$563.64</b>	<b>\$683.91</b>	<b>\$701.04</b>	<b>\$723.50</b>	<b>\$750.56</b>	<b>\$800.14</b>	<b>\$849.76</b>
<b>Senior Custodian</b>							<b>\$925.78</b>
<b>Sr. Custodian - High School</b>							<b>\$988.71</b>
<b>Shift Differential</b>							
<b>2<sup>nd</sup> Shift</b>							<b>\$42.44</b>
<b>3<sup>rd</sup> Shift</b>							<b>\$46.52</b>
<b>Effective 1/1/12 (2%)</b>							
<b>Junior Custodian</b>	<b>\$574.91</b>	<b>\$697.59</b>	<b>\$715.06</b>	<b>\$737.97</b>	<b>\$765.57</b>	<b>\$816.14</b>	<b>\$866.76</b>
<b>Senior Custodian</b>							<b>\$944.30</b>
<b>Sr. Custodian - High School</b>							<b>\$1,008.48</b>
<b>Shift Differential</b>							

Updated through 6/30/17

<b>2<sup>nd</sup> Shift</b>							<b>\$42.44</b>
<b>3<sup>rd</sup> Shift</b>							<b>\$46.52</b>

#### **SECTION 8.43 EMPLOYEE CHARITABLE CONTRIBUTIONS**

**8.43.1 Any city employee may make a voluntary contribution of \$1.00 or more each week, to be taken as a payroll deduction, which sum shall be used to provide Malden students scholarships and/or for library improvement purposes.**

**8.43.2: Each employee shall be provided a form prepared by the City Treasurer, on or before December 15, which permits voluntary contributions hereunder. Such form shall be revocable on one week's notice to the City Treasurer, but shall provide for automatic renewal until written notice is received by the City Treasurer.**

**8.43.3: The City Council shall, on or before January 1 or each year, determine the appropriate way and manner to expend any funds donated hereunder, without further appropriation and in its sole discretion, so long as the same is expended as provided in Section 8.40.1 above. The City Council may distribute all or part of said funds each year, at their sole discretion, and may accumulate the same as it deems appropriate.**

**8.43.4: The City Treasurer shall hold said funds in a separate account and invest the same, as permitted by law and in his sole discretion, with all interest to be segregated and paid into said fund. The City Treasurer shall provide an annual accounting of said funds, at the request of the City Council.**

**8.43.5: In the event said funds are determined to be paid to a scholarship recipient, then the President of the City Council shall select three members of the City Council to serve as a scholarship committee to determine who shall be the recipient. The Superintendent of Schools shall be invited to attend all meetings of such committee. The recipients shall be residents of the City of Malden at the time financial aid is awarded and shall have been accepted to pursue education beyond the secondary school level at an institution deemed accredited by the committee. The committee shall consider each recipient's financial need, character, scholarship record and involvement in community work as well as extracurricular school activities. Recipients shall be presented the scholarship award at a public meeting of the City Council, at a time and date determined by the City Council.**

## **CHAPTER 9 PUBLIC HEALTH**

### **BOARD OF HEALTH**

#### **SECTION 9.1        POWERS AND DUTIES**

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.

#### **SECTION 9.2        ORGANIZATION; INTERNAL ORGANIZATION; QUORUM**

The Board of Health shall annually, as soon after the first Monday in March as practicable, meet and organize by the choice of a chairman 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. A majority of the Board shall constitute a quorum for the transaction of business.

#### **SECTION 9.3        SUBORDINATE OFFICERS, AGENTS, ETC.; COMPENSATION**

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.

#### **SECTION 9.4        AUTHORITY TO PROMULGATE RULES AND REGULATIONS**

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

#### **SECTION 9.5        CONTROL OF MC FADDEN MANOR BY BOARD OF HEALTH**

The City long term care facility known as McFadden Memorial Manor shall be under the control and supervision of the Board of Health.

The Board of Health shall have the authority to appoint a Director of said facility, subject to confirmation by the City Council. The Director shall carry out all orders, directives, rules and regulations of the Board of Health.

The term for the Director of McFadden Manor shall be for a period of two years. The appointment shall be made and the term commence in even years.

## **IN GENERAL**

### **SECTION 9.6 BUREAU OF MILK INSPECTION**

The Bureau of Milk Inspection shall be under the charge of the Inspector of Milk, who shall have and exercise all powers and authority, and be subject to all the duties and limitations which statutes impose upon, or require of Inspectors of Milk.

### **SECTION 9.7 DECAYED FRUIT, VEGETABLES OR MEAT NOT TO BE BROUGHT INTO CITY FOR SALE; EXCEPTIONS**

No person shall bring into the City with intent to sell, any decayed or damaged fruit, vegetable or animal substance, except in accordance with a permit from the Board of Health.

### **SECTION 9.8 DUMPING DECAYED FRUIT, VEGETABLE AND ANIMAL SUBSTANCES PROHIBITED**

No person shall deposit upon any open dump any decayed fruit, vegetable or animal substances.

### **SECTION 9.9 HOUSE OFFAL TO BE KEPT IN SUITABLE VESSELS**

No person shall keep in or upon a house or land any house offal, unless the same is placed in a suitable watertight, covered vessel, which shall be kept free from ashes and other refuse matter, and so placed as to be easily removed.

### **SECTION 9.10 WATER CLOSETS TO BE MAINTAINED IN SANITARY CONDITION, ETC.**

Residential properties shall be equipped with sufficient and suitable water closets or privies for the persons ordinarily residing therein.

Every person owning or occupying premises on which there is a water closet, privy or cesspool, shall keep the same in a sanitary manner. Upon refusal or neglect to do so, the City may put the same in a sanitary condition in accordance with the provisions of Chapter 1.12.



**SECTION 9.11                      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 Inspectional Services 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.

**SECTION 9.12                      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 9.13                      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 9.14                      RETAIL SALES OF GASOLINE; FOOD TO BE SEPARATED; COMPUTATION OF DISTANCE; EXCEPTION**

DELETED BY PAPER #496 OF 1992

**TOBACCO CONTROL**

**SECTION 9.15                      CONTROL OF TOBACCO AND NICOTINE DELIVERY SYSTEMS**

Updated through 6/30/17

## **1. 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 MGL Chapter 40 Section 21 D by a fine of \$25.00 and/or by seizure of said products.

## **.2 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 of Malden. 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 in the manner provided in MGL Chapter 40, Section 21D by a fine of \$100.00.

## **DOGS, ANIMALS AND FOWL**

### **SECTION 9.16 LICENSE REQUIRED; PREREQUISITES**

A. On or before January 1st of each year, the owner of each dog shall apply to the City Clerk's Office for a license to keep said dog within the City of Malden.

B. Application shall include the name, address, and telephone number of the dog's owner and the sex, 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 for a dog specially trained to lead or serve a blind person; provided that the state Commission for the Blind certifies that such dog is so trained and actually in service of a blind person.

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.

Updated through 6/30/17

**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 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.**

## **SECTION 9.17 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.**

## **SECTION 9.18 IMPOUNDMENT OF DOGS; RECORD KEEPING; NOTICE OF IMPOUNDMENT**

**The Canine Compliance Officer (also known as Animal Control Officer) may impound any dog found in violation of Sections 9.16 or 9.17 and shall make a complete registry of dogs taken into custody, including the name and address of the owner of any licensed dog.**

**Upon impoundment of a dog, the Animal Control Officer shall immediately notify the dog's owner of said impoundment. If the Animal Control Officer is unable to determine the owner, notice of impoundment shall be posted in the Office of the City Clerk for 10 days immediately following said impoundment. Such notice shall include, at a minimum, a description of the dog, and the date, time and place at which the dog was taken into custody.**

## **SECTION 9.19 UNCLAIMED DOGS TO BECOME CITY PROPERTY**

**An impounded dog, if unclaimed 10 days following the notice of impoundment as provided in Section 9.18, shall become the property of the city and final disposition of the dog shall be determined by the Animal Control Officer.**

## **SECTION 9.20 CLAIM FEES**

**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 9.16.**

## **SECTION 9. 21      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. In accordance with Section 9.15.4, 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. In accordance with Section 9.23, handlers shall remove feces defecated 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 person 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 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 9.21A      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.

#### **SECTION 9.22                      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 of Malden 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.

#### **SECTION 9.23                      NUISANCE BY ANIMALS PROHIBITED**

The following activities 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.

## **SECTION 9.23A                      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:

<b>1<sup>st</sup> offense</b>	<b>\$ 25.00</b>
<b>2<sup>nd</sup> offense</b>	<b>\$ 50.00</b>
<b>3<sup>rd</sup>/subsequent/offense</b>	<b>\$100.00</b>

## **SECTION 9.24                      VIOLATIONS; PENALTIES**

Violations of Sections 9.17 through 9.23 may be enforced in the manner provided under Massachusetts General Laws Chapter 40, Section 21D and shall be punishable by a fine of \$25.00. Each twenty-four hour period during which a violation exists shall constitute a separate offense, and an additional fine may be imposed for each twenty-four hour period during which a violation exists.

Violation of Section 9.22 or 9.23 may also be punished by restraint or disposition of the animal, after investigation conducted in accordance with the provisions of Chapter 140 of the Massachusetts General Laws.

## **SECTION 9.25                      DANGEROUS OR VICIOUS DOGS**

### **.1            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.

### **.2            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.

**.3 Penalties for Violation**

Violation of the provisions of this ordinance may be punished in the manner provided in MGL 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 Canine Compliance 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 MGL Chapter 140, Section 157.

**SECTION 9.25A RABIES VACCINATION REQUIRED**

The owner of every 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 ordinance may be punished 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.

**SOLID WASTE MANAGEMENT**

**SECTION 9.26 DECLARATION OF POLICY**

A. 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 Malden.

B. The City of Malden 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.

C. 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 may be determined by the City of Malden or its designee.

D. 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, employees 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 may be determined by the City of Malden or its designee.

E. 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.

## **SECTION 9.27                      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

Updated through 6/30/17



**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, 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.

## **SECTION 9.28 STANDARDS AND REGULATIONS**

### **A. RESIDENTIAL WASTE**

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.

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.

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.

Said solid waste shall be placed in City of Malden approved trash bags and shall not exceed thirty-five (35) pounds in weight.

Solid waste shall be prepared and stored as follows:

1. garbage shall be drained of all liquid;
2. 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;
3. 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.
4. waste shall be deposited in an approved container;
5. Printed and photographic material shall be enclosed in approved trash bags so as to be concealed from the view of casual observers.

No white goods of any kind shall be placed at the curb without a collection sticker attached and all doors removed.

**Mandatory Recycling:**

**1. Intent.**

It is intended that the mandatory recycling provisions shall be liberally construed in order to implement and optimize mandatory recycling of the solid waste generated within the City of Malden, to require residents of every household utilizing solid waste municipal collection to separate designated recyclable materials, so that they may be recycled.

**2. Definitions.**

For the purposes of these provisions, the term "recyclable" shall mean: glass, corrugated cardboard, metal cans, as well as any other material the City may determine from time to time can be recycled. The following items shall be required to be properly secured and placed in an approved recycling bin for collection:

- Number 1-7 plastics
- Cardboard
- Glass
- Metal cans
- Newspaper
- Paper
- Styrofoam

- Boxes
- Cartons
- Packing materials

Said items and materials shall be collapsed or broken up and securely tied in compact units prior to being placed in an approved recycling bin. Solid waste of this nature shall not be collected unless properly secured and placed in an approved recycling bin for disposal.

Recycling will continue on the existing weekly schedule. Recycle bins may be obtained and purchased from the Department of Public Works. Damaged bins may be turned in for free replacement. Specialized recycling days will be scheduled based on availability of funding as published by the Department of Public Works.

The Department of Public Works shall provide at the city yard, during regular hours of operation and on Saturdays from 9:00 a.m. to noon, a facility for recycling of paper, plastic, cans and bottles.

### **3. Hazardous Materials:**

The following items are deemed "hazardous" under Department of Environmental Protection guidelines, and shall not be placed in approved trash bags or recycling bins for collection:

- 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

These items 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.

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.

The city will provide for collection of garden and 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.

## **B. COMMERCIAL WASTE COLLECTION & RECYCLING**

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.

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 and Section 9.29 of this ordinance.

### **1. SOLID WASTE COLLECTION BY DUMPSTER**

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.

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.

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.

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.

### **2. SOLID WASTE COLLECTION BY CITY COLLECTOR**

Upon the approval of the Director, 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.

C. PROVISIONS APPLICABLE TO ALL WASTE

1. FEES

Fees for collection of residential waste and for collection of commercial waste 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.

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.

1.1 ALTERATION OF FEES

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. LITTER

No solid waste, including styrofoam, boxes, or packing materials, shall be stored or packaged for disposal unless properly secured so as to prevent it from being effected by wind or weather conditions.

3. SCAVENGING

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.

4. ORDER TO REMOVE WASTE FROM PREMISES

The Director of Public Health, the Director of Public Works, the Building Inspector, 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 a warning issued under this section shall result in the imposition of fines as outlined in Section 9.32.

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.

### **SECTION 9.29 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.

### **SECTION 9.30                      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 or debris of any nature within 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.

### **SECTION 9.31                      ADMINISTRATION**

The Board of Health shall adopt, revise, and revoke rules and regulations governing the administration of this ordinance.

The Director is hereby authorized to issue permits for all elements of Waste management. The Director shall prepare application forms for all permits. Such forms shall require all information necessary to fulfill the intent of this ordinance. All permits shall be non-transferable. Permits for non-commercial use shall be issued for a twenty-four (24) hour period. Permits for commercial use shall expire at the end of the calendar year in which issued.

### **SECTION 9.32                      ENFORCEMENT**

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.

Violation of this ordinance may also be enforced in the manner provided under Massachusetts General Laws Chapter 40, Section 21D and shall punishable as follows:

- |                         |   |
|-------------------------|---|
| (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 | not less than \$100.00 nor more than \$300.00 plus item collection fee, if applicable |

Each twenty-four hour period during which a violation shall exist 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.

The provisions of this ordinance relative to commercial collection shall take effect on July 1, 2000. The provisions of this ordinance relative to residential collection shall take effect on September 1, 2000.

### **SECTION 9.33                      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:

- |                               |               |
|-------------------------------|---------------|
| (a) first offense             | warning       |
| (b) second offense            | \$ 50.00 fine |
| (c) third/subsequent offenses | \$100.00 fine |

Each twenty-four hour period during which a violation shall exist 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.

All owners, agents in charge, or occupants of land or buildings, as described herein, shall comply with the Board of Health Rules and Regulations relating to cleanliness and removal of trash, bottles, cans, refuse, rubbish, garbage, debris, scrap, waste or other material of any kind located upon yards, parking areas, or private land used for business, and said rules and regulations shall be strictly enforced.

### **TRAILERS, TRAILER CAMPS AND MOTOR VEHICLES**

#### **SECTION 9.34                      TRAILER CAMPS- GENERALLY**

No trailer for habitation or business or commercial use shall be allowed in the City of Malden except in a licensed trailer camp or park. Such camp shall be licensed by the City Council and the Board of Health.



## **SECTION 9.35**

## **TEMPORARY USE**

The preceding section shall not prohibit the granting of a permit for the temporary use of a trailer for business or commercial purposes, during the construction of permanent structures for commercial or business uses.

Such trailer shall be located at or near the location of permanent construction and shall be removed upon completion of permanent structure.

Such permit may be issued by the Building Inspector for a period not to exceed sixty (60) days. Such permit shall be subject to renewal at the discretion of the Building Inspector.

## **SECTION 9.36**

## **REMOVAL OF CERTAIN MOTOR VEHICLES FROM PUBLIC OR PRIVATE PROPERTY**

### **A. IN GENERAL**

**MOTOR VEHICLE DEFINED:** For purposes of this section, "motor vehicle" shall include all vehicles described in MGL 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.

**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.

**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 vehicle towed and stored under the provision of this ordinance. The record shall also include the name of the person ordering the vehicle removed and the reasons for removal.

**TOWING AND STORAGE COSTS:** The owner of any vehicle removed under the provisions of this ordinance shall be liable for any costs associated with towing and storage of the vehicle.

**RECOVERY OF VEHICLE BY OWNER:** Prior to the sale or disposition of a vehicle under the provisions of this ordinance, the owner may reclaim the vehicle by presentation to the Police Department of proof of ownership and verification that towing, storage and associated cost have been paid.

**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 and shall be punishable as follows:

First Offense	\$ 50.00
Second/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.

**B. PLACEMENT OF MOTOR VEHICLES ON A PUBLIC WAY OR PUBLIC PROPERTY**

When, in the judgement of the Police Chief, Fire Chief or Fire Marshall, a motor vehicle has been placed on a public way or public property in such a manner or in such a condition as to pose a threat to public safety, the Police Chief or Fire Chief may order its immediate removal.

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 Inspector 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.

**C. 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 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.

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 Inspector 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.

## **UNDERTAKERS AND BURIALS**

### **SECTION 9.37 FUNERAL UNDERTAKERS TO BE APPOINTED**

Persons not licensed pursuant to Massachusetts General Laws are forbidden to act as funeral directors or embalmers.

### **SECTION 9.38 PERMIT REQUIRED FOR BURIAL; INFORMATION REQUIRED**

No person shall bury or inter, or cause to be buried or interred, in the City, or remove or cause to be removed, from the City, the body of a deceased person, or its remains, without having obtained a permit to do so from the Board of Health. The Board or its agents shall not grant the same, unless a certificate of the cause of death, signed or approved as required by law has been obtained.

### **SECTION 9.39 BURIALS PROHIBITED AT CERTAIN TIMES; PERMIT REQUIRED FOR DISINTERRING BODIES**

No person shall bury or inter, or cause to be buried or interred, any dead body, at any other time than between sunrise and sunset, except when ordered by the Board of Health; and no person shall remove or cause to be removed from a grave or tomb, or disturb or cause to be disturbed in a grave or tomb any human body or its remains, without a permit therefor from the Board of Health.

### **SECTION 9.40 RENTAL UNITS - INSPECTION REQUIRED**

#### **. 1 IN GENERAL**

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

**MGL 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.**

## **.2 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.**

## **.3 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.**

## **.4 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 effect 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.

#### **.5 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 9.41 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 Inspector, 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 Inspector, 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 9.42**

## **REGULATION OF HOTELS/MOTELS**

**.1 Definitions:** 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.

**.2 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 ordinance. 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.

**.3 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.

**.4 Minimum Standards of 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.**

**.5Enforcement: Provisions of this ordinance 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 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.**

**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.**

**.6 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 ordinance. 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.

For purposes of implementation of this ordinance, all licensed hotels/motels shall install approved video surveillance equipment within 90 days of passage of this ordinance.

#### **SECTION 9.43            REGULATION OF LEAD PIPES WITHIN 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 supplies to the property is being done so with lead free water line. The cost of said certificate shall be (\$25.00) Twenty-Five Dollars**
- (b)            Prior to any and all apartments being rented within the City of Malden be it market rate or Section (8) Eight Housing, it shall be the obligation of the property owner to obtain a certificate from the Department of Public Works, stating that the property is not serviced by lead water lines and that water produced from the taps within the building is within acceptable levels as determined by the Malden Board of Health. The cost of testing and certification shall not exceed (\$25.00) Twenty Five Dollars**

## **CHAPTER 10 PUBLIC SAFETY**

### **CIVIL DEFENSE**

#### **SECTION 10.1                      EMERGENCY MANAGEMENT GENERALLY**

**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 10.2                      EMERGENCY MANAGEMENT DIRECTOR**

**The Director of Emergency Management shall be designated by the Mayor from among the members of the Emergency Management Board and shall serve at the Mayor's pleasure.**

**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 10.3                      EMERGENCY COMMUNICATIONS**

**The Mayor shall, from time to time, designate a Emergency Communications Co-ordinator, who shall serve at the Mayor's pleasure; provided that the Emergency Communications Co-ordinator shall not be a member of the Emergency Management Board.**

**The Emergency Communications Co-ordinator 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.

## **FIRE PREVENTION CODE**

### **SECTION 10.4                      AUXILIARY FIREFIGHTERS**

The Fire Commissioner may appoint, train, and equip volunteer unpaid auxiliary firefighters.

### **SECTION 10.5                      FIRE PREVENTION CODE**

For the purpose of prescribing regulations governing conditions hazardous to life and property from fire or explosion, the Fire Prevention Code of the American Insurance Association, 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 10.5A                      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:

<b>1<sup>st</sup> offense</b>	<b>\$100.00</b>
<b>2<sup>nd</sup> offense</b>	<b>\$200.00</b>
<b>3<sup>rd</sup> &amp; subsequent offenses</b>	<b>\$300.00.</b>

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 10.6**

### **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 10.7**

### **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 10.8**

### **AMENDMENTS/MODIFICATION OF THE FIRE PREVENTION CODE**

**The Fire Chief shall have the power to modify or amend the applicability of any of the provisions of the Fire Prevention Code upon application in writing by the owner or tenant, or a duly authorized agent, provided that the spirit of the code is observed, public safety secured and substantial justice done. The particulars of such modification when granted or allowed and the decision of the Fire Marshall thereon shall be entered upon the records of the department and a signed copy shall be furnished the applicant.**

## **SECTION 10.9                      APPEALS**

**Whenever the Chief of the Fire Department disapproves an application or refuses to grant a permit, or when it is claimed that the provisions of the code do not apply or that the true intent and meaning of the code have been misconstrued or wrongly interpreted, the applicant may appeal from the decision of the Chief of the Fire Department to the Board of Appeal within 30 days from the date of the decision appealed.**

## **SECTION 10.10            NEW MATERIALS, PROCESSES OR OCCUPANCIES WHICH MAY REQUIRE PERMITS**

**The Building Inspector, the Chief of the Fire Department and the Fire Marshall shall act as a committee to determine and specify, after giving effected persons an opportunity to be heard, any new materials, processes or occupancies, which shall require permits in addition to those now enumerated in said Code. The Fire Chief shall post such list in a conspicuous place in his office, file a copy thereof with the City Clerk, and distribute copies thereof to interested persons.**

## **SECTION 10.11            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 the job, 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 10.12                      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 Malden Police Department 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 by a fine of \$50.00 for each 24 hours during which a violation exists; provided that a warning shall be provided for a first offense..**

## **SECTION 10.13      CHARCOAL AND PROPANE BARBECUE GRILLES**

**A. Any barbecue grilles are to be placed outside buildings in an area clear of heavy grass and brush when in use. They must be at least 5 feet (5') away from any structure and away from any overhead hazards such as tree branches, awnings, clotheslines, etc.**

**B. Charcoal is to be ignited only by charcoal lighter fluid or electricity.**

**C. Barbecue grilles are not permitted on porches, rooftops or balconies when in use. Storage or use of liquid propane gas containers above the first floor of a building used for habitation is prohibited.**

**D. Any barbecue grille is not to be left unattended at any time while in use.**

**E. Upon completion of use of a charcoal grille, charcoal or charcoal briquettes are to be thoroughly extinguished.**

**F. A permit must be obtained from the Malden Fire Department for the use and storage of propane.**

**G. The use of a barbecue grille may be prohibited by the Chief of the Malden Fire Department, in his discretion, for failure to comply with any provision of this section, for any conduct which constitutes a violation of the laws of the City of Malden, or in the event the use thereof will cause a dangerous or hazardous condition. Failure to comply with the provisions of this section shall be punishable by fines and penalties as set forth in Section 1.13.**

## **SECTION 10.14      LODGING HOUSES - SPRINKLER SYSTEMS REQUIRED**

Every lodging house or boarding house in the City of Malden and the Malden YMCA and Malden YWCA 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 10.15      PENALTIES**

Violation of Sections 10.5 through 10.14 may also be enforced in the manner provided under Massachusetts General Laws Chapter 40, Section 21D and shall be punishable as follows:

- |                               |               |
|-------------------------------|---------------|
| (a) first offense             | warning       |
| (b) second offense            | \$ 50.00 fine |
| (c) third/subsequent offenses | \$100.00 fine |

**Each twenty-four hour period during which a violation shall exist 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.**

## **SECTION 10.16      FIRE ALARM REGULATION**

### **A. PURPOSE**

**The Malden Fire Department shall regulate the installation and use of Fire Alarms for the following purposes:**

- 1. to provide efficient Fire Department service to owners and tenants for private alarm systems in the City of Malden, and;**
- 2. to establish policies, regulations, and minimum standards applicable to fire alarm systems, alarm installers, and alarm users.**

### **B. DEFINITIONS**

**"Alarm business" means any business operated by an organization for a profit which engages in or causes the activity of altering, installing, leasing, maintaining, repairing, replacing, selling, servicing, or responding to a burglar, holdup or fire alarm system.**

**"Alarm installer" means any person employed by or associated with an alarm business whose duties include the altering, installing, maintaining, moving, repairing, replacing, selling, or servicing an alarm device.**

**"Alarm system" means an assembly of equipment and devices (or a single device such as a solid state unit that plugs into a 110 Volt current outlet) arranged to signal the presence of a hazard requiring urgent attention and to which Fire Department personnel are expected to respond.**

**"Central station" means an office to which remote alarm and supervisory signaling devices are connected, where operators**

**supervise the circuits, and where guards are maintained continuously to investigate signals.**

**"Chief of Police" means the Chief of the Malden Police Department or a designated representative.**

**"City Council" means the Malden City Council.**

**"False alarm" means the activation of an alarm system through mechanical failure, malfunction, improper installation, or the negligence of the owner or lessee of an alarm system or of employees or agents or alarm business employees. Such term does not include, for example, alarms caused by hurricanes, tornadoes, earthquakes or other conditions which are clearly beyond the control of the alarm system user.**

**"Fire Chief" means the Chief of the Malden Fire Department or a designated representative.**

**"Fire Department" means the Malden Fire Department.**

**"Licensing Authority" means the licensing authority function of the City Council.**

**"Owner" means a person who holds an interest of 15% or more in an alarm business.**

**"Police Department" means the Malden Police Department.**

**"Primary trunkline" means a telephone line leading directly into the communication center of the fire station that is for the purpose of handling emergency calls on a person-to-person basis. The telephone line is identified as such by a specific number included among the emergency numbers listed in the telephone company directory issued by the telephone company.**

**"Principal corporate officer" means the president, vice-president, treasurer, secretary, and comptroller as well as any other person who performs functions for the corporation corresponding to those performed by the foregoing officers.**

**"Special trunkline" means a telephone line leading into the communication center of the fire station that is for the purpose of handling emergency signals or messages originating directly from automatic dialing devices.**

**"Subscriber" means a person or business who buys and/or leases, or otherwise obtains a burglar alarm system and thereafter:**

- a. contacts with or hires an alarm business to service the alarm device installed within the subscriber's facility;**
- b. pays the City an annual alarm connection license fee in order to connect the system directly to the Fire Alarm Headquarters.**

**"Wire Inspector" means the Malden Inspector of Wires.**

## **C. ALARM BUSINESS INSTALLERS**

### **1. APPLICATION FOR LICENSE**

- a. Any person engaging in a fire alarm business in the City of Malden, shall apply to the Fire Chief on a form furnished by the Fire Department, for a license to operate. Such application shall be signed by the individual proprietor of such business, or by a partner, or by the proper corporate official, as is appropriate for the form of business seeking the license.**
- b. The Fire Chief shall specify the information required on the license application.**
- c. Applicants already in the alarm business in the City of Malden may continue in business while their license applications are being processed. An applicant not previously in the alarm business in the City of Malden shall not commence doing business until a license is granted.**
- d. If applicant's business involves both burglar and fire alarm systems, and alarm business license covering both types of systems can be applied for at either the Police or Fire Departments.**

### **2. LICENSE FEE**

- a. License applications shall be accompanied by a non-refundable fee payable to the City of Malden, to cover the costs to the City for processing the application and investigating the applicant.**
- b. The license fee shall be based on the following schedule:**

#### **No. of Agents Representing**

<b>Alarm business in Malden</b>	<b>License Fee</b>
<b>1-3</b>	<b>\$10.00</b>
<b>4-6</b>	<b>\$15.00</b>
<b>7-9</b>	<b>\$20.00</b>
<b>10 and over</b>	<b>\$25.00</b>

### **3. ACTION ON ALARM BUSINESS LICENSE APPLICATIONS**

- a. The Fire Chief, after consultation with the Chief of Police, shall cause a report on the applicant to be prepared based on the information contained in the application**

together with such other relevant information as may be obtained pertaining to the applicant and his business.

b. The Fire Chief shall within thirty (30) days after the receipt of the application submit his report and recommendation to the Licensing Authority on whether to issue or deny a license to the applicant.

c. The Licensing Authority shall within ninety (90) days after the receipt of the application for an alarm business license either approve or deny the issuance of a license.

d. No alarm business license shall be issued if:

(1) Any employee engaged in the installation or maintenance of alarm systems within the City, owners, partners or in the case of a corporation, principal corporate officers of the applicant or those with authority and responsibility for the management and operation of the alarm business within the City, including those not residing within the State, have been convicted of a felony or a misdemeanor (excluding misdemeanor motor vehicle violations) which the Licensing Authority finds to reflect unfavorably upon the alarm business' fitness to sell, install or maintain alarm systems within the City of Malden.

(2) The application contains any false statements.

e. Applicants shall be required to file a surety bond or carry a liability insurance policy, in a form and sum satisfactory to the said Licensing Authority but in no event less than ten thousand dollars (\$10,000.00) for the purpose of protecting the City of Malden from any damage, loss, injury or liability as a result of the failure of the applicant to fulfill the obligations and conditions imposed under this ordinance.

#### **4. CHANGES TO ALARM BUSINESS LICENSE**

The licensee shall immediately notify the Fire Chief whenever any information on the alarm business license is subject to change.

#### **5. REVOCATION OF ALARM BUSINESS LICENSE**

a. In addition to any penalties imposed under Section 1.13 for the violation of this ordinance, the Licensing Authority upon written recommendation from the Fire Chief, may, pursuant to the provisions of this Section, revoke the license of an alarm business on any of the following grounds:

(1) Fraud or misrepresentation or false statement made in an application for a license.

**(2) Fraud or misrepresentation or false statement made in the conduct of an alarm business.**

**(3) Conviction of any of the employees engaged in the installation or maintenance of alarm systems within the City, owners, partners or in the case of a corporation, principal corporate officers of the applicant or those with authority and responsibility for the management and operation of the alarm business within the City, including those not residing within the state, of a felony or a misdemeanor (excluding misdemeanor motor vehicle violations) which the Licensing Authority finds to reflect unfavorably upon the alarm business' fitness to sell, install or maintain alarm systems within the City of Malden.**

**(4) Failure to correct any deficiencies in the operation of a subscriber's equipment within eight (8) hours after receipt of notice of same from the Fire Chief.**

**(5) Failure to notify the Fire Chief of any changes in alarm business license information.**

**(6) Failure to comply within a reasonable time with any order issued or policy and procedure established by the Licensing Authority pursuant to this ordinance.**

**b. No alarm business license shall be revoked until a hearing is held by the Licensing Authority.**

## **6. SUSPENSION OF ALARM BUSINESS LICENSE**

**a. The Fire Chief or Licensing Authority may suspend an alarm business license without notice for any of the reasons cited above pending a hearing to be held by the Licensing Authority within ninety days (90) after suspension.**

## **7. RENEWAL OF ALARM BUSINESS LICENSE**

**a. An alarm business license shall be subject to renewal every two (2) years from date of issuance.**

**b. The issuance procedures and fee for an initial alarm business license application shall apply to an alarm business license renewal.**

## **8.IDENTIFICATION**

**Alarm agents representing a licensed alarm business shall carry proper identification whenever engaged in the business of installing or maintaining alarm systems in the City of Malden. Such identification shall be exhibited at the demand of any member of the Police Department or the Fire Department or the Wire Inspector or occupant**



of the premises where the alarm installer is either maintaining or installing an alarm system.

#### **D. ALARM INSTALLATIONS**

##### **1. PERMITS**

a. An application for Permit must be submitted to the Fire Department for each alarm system installed in all new construction in the City of Malden. The application, available from the Fire Department, adheres to the provisions of Chapter 148, General Laws of the Commonwealth of Massachusetts.

b. In accordance with provisions of Chapter 148, General Laws of the Commonwealth of Massachusetts, the Fire Chief shall grant an alarm installation permit if the purposed alarm system in the application, meets or exceeds the applicable National Fire Prevention Association standards.

##### **2. INSPECTION**

The Fire Chief, the Wire Inspector or their representatives, shall have the authority, at reasonable times and upon reasonable notice, to enter any premises in the City of Malden, in which alarm systems subject to this ordinance are located, to inspect the installation and/or operation of such alarm systems on official City business.

#### **E. DIRECT CONNECTION TO FIRE ALARM HEADQUARTERS**

1. Upon the favorable recommendation of the Fire Chief, fire alarms from business premises and financial institutions may be connected to Fire Alarm Headquarters by means of a Gamewell/Buss Master Fire Alarms Box.

2. The installation of a Master Fire Alarm Box which is connected into the Malden Fire Alarm System shall meet all installation specifications as set forth by the Fire Chief and Superintendent of Fire Alarm.

#### **F. RETRANSMISSION OF FIRE ALARM SIGNALS**

Equipment used to retransmit fire alarm signals from a central station to the fire alarm station shall meet the specifications set forth by the Fire Chief and Superintendent.

## **G. ALARM INSTALLATIONS**

### **1. CERTIFICATIONS**

**Each alarm system installed in the City of Malden after the effective date of this ordinance must be certified by the alarm company selling or leasing its system, on a form provided by the Fire Department. It must state that the alarm system meets the minimum standards established by the City of Malden.**

### **2. INSPECTIONS**

**For the purpose of enforcing the provisions of this ordinance, the Fire Chief or the Wire Inspector or their representatives, shall have the authority, at reasonable times and upon reasonable notice, to enter any premises in the City of Malden, in which alarm systems subject to this ordinance are located, to inspect the installation and /or operation of such alarm systems on official City business.**

## **H. AUTOMATIC DIALING DEVICES**

### **1. INTERCONNECTING TO FIRE DEPARTMENT TRUNKLINES**

**a. Automatic dialing devices designed to transmit signals directly to the fire alarm headquarters may be interconnected, at the discretion of the Fire Chief, to either a primary or special trunkline into the stations. Before such a device is interconnected, the person performing this operation shall first obtain instructions from the Fire Chief concerning the procedure to be followed. The Fire Chief shall designate the telephone number to be used for this purpose. Failure to follow these procedures shall be a violation of this ordinance.**

**b. Automatic dialing devices interconnected to Fire Department trunklines shall be registered with the Fire Department within ninety (90) days after the effective date of this ordinance.**

### **2. STANDARDS**

**Automatic dialing devices installed on any premises within the City of Malden which are interconnected to a trunkline transmitting signals into the Police or Fire Stations shall meet the minimum standards established by the Fire Chief.**

## **I. DIRECT CONNECTIONS TO THE FIRE ALARM HEADQUARTERS**

## **1. APPLICATION FOR ALARM CONNECTION LICENSE**

- a. For an alarm system to be connected directly to the Fire Alarm Headquarters (F.A.H.), the owner or lessee of the alarm system shall submit an application for an alarm connection license to the Fire Chief.**
- b. If the application is approved by the Fire Department, the Fire Chief shall cause an alarm connection license to be issued to the subscriber.**
- c. No alarm connection license shall be issued if:**
  - (1) The application contains any false statements;**
  - (2) Alarm system installed without Certification (Section 5.0);**
  - (3) Alarm system is not compatible with the fire alarm monitoring equipment located at F.A.H.**
- d. The alarm subscriber approved for a direct connection to the F.A.H. or the alarm business contracting for servicing the subscriber's alarm system, shall be responsible for obtaining the leased telephone line between the subscriber's premises and the F.A.H.**
- e. The Fire Chief shall determine the location within the F.A.H. where the telephone lines will terminate.**
- f. All alarm connections within the F.A.H. shall be made by the City or its authorized representative.**

## **2. ALARM CONNECTION LICENSE FEE**

- a. The fire alarm subscriber shall be assessed an annual alarm connection license fee of seventy-five Dollars (\$75.00) payable to the City of Malden.**
- b. In addition to the annual alarm connection license fee provided in (a), there shall be an annual fee of two hundred (\$200.00) payable to the City of Malden, to those subscribers which are directly connected to F.A.H. by means of a Master Fire Alarm Box.**
- c. If an alarm connection license is issued after the beginning of the City's fiscal year, the license fee shall be prorated on the basis of the remaining months.**
- d. The alarm subscriber shall be sent an annual bill by the City for renewal of his alarm connection license annually in July.**

**e. Non payment of the annual alarm connection license renewal fee may result, at the discretion of the Fire Chief, in the disconnection of the alarm at the F.A.H.**

## **J. FALSE ALARMS**

**1. More than four false alarms in the calendar year from any alarm system constitute a violation of this ordinance subject to the provisions below.**

**2. After the Fire Department has recorded four "false alarms" within a calendar year from any alarm system, it shall notify the alarm user and the alarm business providing service or inspection to the alarm user in writing by first class mail of such fact and require that the alarm user submit a report to the Fire Chief within 7 days after receipt of such notice, describing efforts to discover and eliminate the cause or causes of the false alarms. If, however, the alarm user by reason of absence from the City or on any other reasonable basis requests an extension of time to file the report, the Fire Chief shall extend the 7-day period for a reasonable period. If the alarm user fails to submit such a report within 7 days or within any such extended period, the alarm user shall be in violation of this ordinance.**

**3. If the alarm user submits a report as required by paragraph 2. of this Section but the Fire Chief determines that the report is unsatisfactory or that the alarm user has failed to show by the report that reasonable steps are or will be taken to eliminate or reduce false alarms, the alarm user shall be in violation of this ordinance.**

## **K. VIOLATIONS AND PENALTIES**

**The following shall be considered violation of the Fire Alarm Regulations:**

**1.Failure to obtain an alarm business license;**

**2. Conducting an alarm business in the City of Malden after revocation of license;**

**3.Installing an alarm system in new construction without obtaining a permit;**

**4. Failure to adhere to automatic dialing device, direct connect or retransmission specifications; such violation shall be punishable by a fine of up to the current maximum amount as defined by Chapter 40, Section 21D of the Massachusetts General Laws. Each day that such violation continues after the expiration of the period allowed for compliance under the provisions of this ordinance shall constitute a separate offense.**

**5. Any user of an alarm system which transmits false alarms shall be assessed a fine in accordance with the following schedule:**

<b>NO. OF FALSE ALARMS</b>	<b>FINE</b>
----------------------------	-------------

<b>0- 3</b>	<b>NO CHARGE</b>
-------------	------------------

<b>4-20</b>	<b>\$50.00</b>
-------------	----------------

<b>21 OR MORE</b>	<b>\$75.00</b>
-------------------	----------------

#### **L. DISCLAIMER OF LIABILITY**

**The City, its agents, employees and designees, shall not be liable for any claimed failure of service or any damages that may result from the installation, operation or failure of an alarm system connected to the Fire Stations.**

#### **M. EXCEPTIONS**

**This ordinance shall not apply to:**

- 1. the use of alarm systems by law enforcement personnel for law enforcement purposes;**
- 2. alarm systems installed in motor vehicles, boats, or aircraft;**
- 3. persons engaged solely in the manufacture, sale or repair of alarm systems or components from a fixed location who do not install, maintain, or service alarm system at a user's premises, or who do not plan the alarm system for a specific location;**
- 4. any alarm system used, operated, or installed in any premises or place owned by the governments of the United States, the Commonwealth of Massachusetts, or the City of Malden, nor to any officer, agent or employee of these governments while acting or employed in an official capacity.**

#### **POLICE IN GENERAL**

#### **SECTION 10.17      AUXILIARY POLICE**

**The Police Commissioner may appoint, train, and equip volunteer, unpaid auxiliary policemen. Said Auxiliary Police Force may be activated at the discretion of the Police Commissioner.**

**Persons appointed to the Auxiliary Police Force in the City shall, when called to active duty by the Police Commissioner, exercise such powers and perform such duties as may be prescribed by the Commissioner. All members of the Auxiliary Police Force shall, when on active duty, display a badge or other authorized insignia.**

#### **SECTION 10.18      SPECIAL POLICE OFFICERS MAY BE APPOINTED**

**In addition to the Police Force provided for in Chapter 16 of the Acts of 1911, the Mayor may from time to time appoint additional Police Officers who shall be called Special Police Officers.**

#### **SECTION 10.19      OATH OF OFFICE**

**Before entering upon service, each member of the Police Department shall be sworn to the faithful discharge of duties.**

#### **SECTION 10.20      RESERVED**

#### **SECTION 10.21      DISPOSITION OF FINES, ETC.; DEDUCTION OF FINES FOR DISOBEDIENCE OF POLICE RULES**

**The Police Commissioner and all members of the police department shall account to the Treasurer for all fees received. The Police Commissioner, when applicable, shall collect and pay to the Treasurer, rendering a detailed account of the same, all fines and penalties for violations of the rules, regulations and ordinances of the City of Malden and its departments, and all fees received as witnesses as aforesaid, or for service of criminal processes. A duplicate account of such payments shall be rendered to the Controller of Accounts.**

## **SECTION 10.22      INSTITUTION OF LEGAL PROCEEDINGS ON ENFORCING CODE, ETC.**

**The Police Commissioner shall cause proceedings to be instituted for the prosecution of violations of all laws and all rules, regulations and ordinances of the City of Malden and all departments thereof. Each member of the department shall enforce the laws of the Commonwealth, and all rules, regulations and ordinances of the City and discharge such other duties as may be required.**

## **SECTION 10.23      MUTUAL AID TO OTHER CITIES**

**The Police Commissioner is hereby authorized to permit members of the Police Department to aid another city or town at the request of such city or town in the suppression of riots or other forms of violence therein. While in the performance of their duties in extending such aid, the members of such department shall have the same powers, duties, immunities and privileges as if performing the same within the City. Any city or town aided under and in accordance with this section shall compensate the City for aid rendered as aforesaid for the whole or any part of any damage to its property sustained in the course of rendering the same and shall reimburse it in whole or in part for any payments lawfully made to any member of the Police Department of the City or to a surviving spouse or other dependents on account of injuries or death suffered in the course of rendering aid as aforesaid.**

## **SECTION 10.24      REGULATION OF BURGLAR ALARM SYSTEMS**

### **A. PURPOSE**

**The Malden Police Department shall regulate the installation and use of burglar alarms for the following purposes:**

- 1. to provide efficient Police Department service to owners and lessees of private alarm systems in the City of Malden;**
- 2. to reduce police response to excessive false alarms which tend to diminish general police service, and;**
- 3. to establish policies, regulations, and minimum standards applicable to burglar and hold-up alarm systems, alarm installers, and alarm users.**

### **B. DEFINITIONS**

**"Alarm Systems" means the assembly of equipment and devices or a single device such as a solid line, arranged to signal the**

**presence of a hazard requiring urgent attention and to which police are expected to respond. Fire alarm systems and alarm systems which monitor temperature, smoke, humidity or any other condition not directly related to the detection of an unauthorized intrusion into a premises or an attempted robbery at the premises are specifically excluded from the provisions of this ordinance.**

**"Alarm User or User" means any person on whose premises an alarm system is maintained within the City except for alarm systems on motor vehicles or proprietary systems. Excluded from this definition and from the coverage of this ordinance are central station personnel and persons who use alarm systems to alert or signal persons within the premises in which the alarm system is located of an attempted unauthorized intrusion or hold up attempt. If such system, however, employs an audible signal emitting sounds or a flashing light or beacon designed to signal persons outside the premises, such system shall be within the definition of "alarm system" as that term is used in this ordinance, and shall be subject to this ordinance.**

**"Automatic dialing device" refers to an alarm system which automatically sends over regular telephone lines, by direct connection or otherwise, a prerecorded voice message or coded**



**signal indicating the existence of the emergency situation that the alarm system is designed to detect.**

**"Central station" means an office to which remote alarm and supervisory signaling devices are connected, where operators supervise circuits or where guards are maintained continuously to investigate signals.**

**"City" means the City of Malden.**

**"City Council" means the Malden City Council.**

**"Communications Console" means the instrumentation of an alarm console at the receiving terminal of the signal line which, through both visual and audible signals, indicates activation of an alarm system at a particular location, or which indicates line trouble.**

**"Direct Connect" means an alarm system which has the capability of transmitting system signals to and receiving them at the Malden Police Department Communications Center.**

**"False Alarm" means (1) the activation of an alarm system through mechanical failure, malfunction, improper installation or negligence of the user ; (2) any signal or oral communication transmitted to the Police Department requesting or requiring or resulting in a response on the part of the Police Department when, in fact, there has been no unauthorized intrusion or attempted unauthorized intrusion into a premises and no attempted robbery or burglary at a premises. Excluded from this definition are**

**activations of alarm systems caused by power outages, hurricanes, tornadoes, earthquakes, and similar conditions.**

**"Interconnect" means to connect an alarm system to a voice-grade telephone line, either directly or through a mechanical device that utilizes a standard telephone, for the purpose of using the telephone line to transmit an emergency message upon the activation of the alarm system.**

**"Licensing Authority" means the Licensing Authority function of the City Council.**

**"Owner" means a person who holds an interest of 15% or more in an alarm business.**

**"Police Chief" means the Chief of Police of the City of Malden or a designated representative.**

**"Police" or "Police Department" means the City of Malden Police Department, or any authorized agent thereof.**

**"Principal Corporate Officer" means the president, vice president, treasurer, secretary and comptroller as well as any other person who performs functions for the corporation corresponding to those performed by the foregoing officers.**

**"Wire Inspector" means the Malden Inspector of Wires.**

## 1. APPLICATION FOR LICENSE

- ## 2. LICENSE FEE

- No. of Agents Representing

1023

7-9

\$20.00

10 and over

\$25.00

### **3. ACTION ON ALARM BUSINESS LICENSE APPLICATIONS**

- a. The Chief of Police, after consultation with the Fire Chief, shall cause a report on the applicant to be prepared based in the information contained in the application together with such other relevant information as may be obtained pertaining to the applicant and the business.**
- b. The Chief of Police shall within (30) days after the receipt of the application submit a report and recommendation to the Licensing Authority on whether to issue or deny a license to the applicant.**
- c. The Licensing Authority shall within ninety (90) days after the receipt of the application for an alarm business license either approve or deny the issuance of a license.**
- d. No alarm business license shall be issued if:**
  - (1) Any employee engaged in the installation or maintenance of alarm systems within the City, owners, partners or in the case of a corporation, principal corporate officers of the applicant or those with authority and responsibility for the management and operation of the alarm business within the City, including those not residing within the State, have been convicted of a felony or a misdemeanor (excluding misdemeanor motor vehicle violations) which the Licensing Authority finds to reflect unfavorably upon the alarm business' fitness to sell, install or maintain alarm systems within the City of Malden.**
  - (2) The application contains any false statements.**
- e. Applicants shall be required to file a surety bond or carry a liability insurance policy, in a form and sum satisfactory to the said Licensing Authority but in no event less than ten thousand dollars (\$10,000.00) for the purpose of protecting the City of Malden from any damage, loss, injury or liability as a result of the failure of the applicant to fulfill the obligations and conditions imposed under this ordinance.**

### **4. CHANGES TO ALARM BUSINESS LICENSE**

**The licensee shall immediately notify the Chief of Police whenever any information on the alarm business license is subject to change.**

## **5. REVOCATION OF ALARM BUSINESS LICENSE**

**a. In addition to any penalties imposed under Section 1.13 for the violation of this ordinance, the Licensing Authority upon written recommendation from the Chief of Police, may, pursuant to the provisions of this Section, revoke the license of an alarm business on any of the following grounds:**

- 1. Fraud or misrepresentation or false statement made in an application for a license.**
  - 2. Fraud or misrepresentation or false statement made in the conduct of an alarm business.**
  - 3. Conviction of any of the employees engaged in the installation or maintenance of alarm systems within the City, owners, partners or in the case of a corporation, principal corporate officers of the applicant or those with authority and responsibility for the management and operation of the alarm business within the City, including those not residing within the state, of an felony or a misdemeanor (excluding misdemeanor motor vehicle violations) which the Licensing Authority finds to reflect unfavorably upon the alarm business' fitness to sell, install or maintain alarm systems within the City of Malden.**
  - 4. Failure to respond in an order to correct any deficiencies in the operation of a subscriber's equipment within eight (8) hours after receipt of notice of same from the Chief of Police (Fire Chief).**
  - 5. Failure to notify the Chief of Police (Fire Chief) of any changes in alarm business license information.**
  - 6. Failure to comply within a reasonable time with any order issued or policy and procedure established by the Licensing Authority pursuant to this ordinance.**
- b. No alarm business license shall be revoked until a hearing is held by the Licensing Authority.**

## **6. SUSPENSION OF ALARM BUSINESS LICENSE**

**The Chief of Police or the Licensing Authority may suspend an alarm business license without notice for any of the reasons cited above pending a hearing to be held by the Licensing Authority within ninety days (90) after suspension.**

## **7. RENEWAL OF ALARM BUSINESS LICENSE**

- a. An alarm business license shall be subject to renewal every two (2) years from date of issuance.**
- b. The issuance procedures and fee for an initial alarm business license application shall apply to an alarm business license renewal.**

## **8. IDENTIFICATION**

**Alarm agents representing a licensed alarm business shall carry proper identification whenever engaged in the business of installing or maintaining alarm systems in the City of Malden.**

**Such identification shall be exhibited at the demand of any member of the Police Department or the Fire Department or the Wire Inspector or occupant of the premises where the alarm installer is either maintaining or installing an alarm system.**

## **D. AUTOMATIC DIALING DEVICES, INTERCONNECTION TO POLICE DEPARTMENT**

- a. Automatic dialing devices may be interconnected only to telephone numbers at the Police Department as are specially designated to receive such calls by the Police Department.**
- b. Within six (6) months after effective date of this ordinance, all dialers shall be reprogrammed to interconnect as indicated above.**

## **E. AUTOMATIC DIALING DEVICES, INTERMEDIARY SERVICES**

**Any person using an automatic dialing device may have the device interconnected to a telephone line transmitting directly to:**

- 1. A central station**

2. An answering service; or
3. Any privately-owner or privately-operated facility or terminal.

#### **F. DIRECT CONNECTIONS TO POLICE DEPARTMENT**

1. Alarm systems may be connected to the communications console in the Police Department, after prior authorization by the Chief of Police.
2. In accordance with the normal practices in the City, the Chief of Police shall have the authority to request proposals and bids from alarm companies in order to furnish, at no cost to the City, a communications console and the necessary telephone lines which are compatible to the receipt of alarm signals from alarm systems whose lines are connected to the Police Department. Each of the said bids shall set forth the annual fee each alarm user will be required to pay the alarm company for services rendered with respect to the communications console, except that no fee shall be assessed to the municipality for any alarms or connections to the console from properties owned by the municipality. Such services shall be set forth in the form of a written contract between the alarm company and each alarm user. The provisions of this paragraph (b) relate solely to the aforementioned communications console. Any alarm user may contract with any alarm company for the sale, installation, maintenance, and/or servicing of the alarm system to be installed on the user's premises.
3. The alarm user, or the alarm business contracting for servicing the alarm user's alarm system, shall be responsible for obtaining the leased telephone line between the alarm user's premises and the alarm-receiving equipment at the Police Department and for furnishing the appropriate interface equipment if required in order to provide an input signal which is compatible with the receiving equipment used to operate the communications console.
4. The provisions of this chapter concerning false alarms shall apply to all alarm users or persons having direct connect systems except municipal, county and state agencies.

#### **G. CONTROL AND CURTAILMENT OF SIGNALS EMITTED BY ALARM SYSTEMS**

1. Every business establishment within the City of Malden, whether alarmed or not, shall provide written notice to the Chief of Police listing the names, addresses, and telephone numbers of at least two persons who may be reached at any time, day or night, and who are authorized to respond to any emergency which has caused the police to be dispatched to said premises. Such notice shall be submitted during the first month of each year and shall be

kept current at all times reflecting any changes in authorized personnel. Owner-residents shall be excluded from this paragraph.

2. All alarm systems installed after July 1, 1984 which use an audible horn or bell shall be equipped with a device that will shut off such horn or bell within thirty (30) minutes or less after activation of the alarm system.

3. Any alarm system emitting a continuous and uninterrupted signal for more than thirty (30) minutes between 7:00 P.M. and 6:00 A.M. which cannot be shut off or otherwise curtailed due to the absence or unavailability of the alarm user or those persons designated under paragraph (a) of this section, and which disturb the peace, comfort or repose of a community, a neighborhood, or inhabitants of the area where the alarm system is located, shall constitute a public nuisance. Upon receiving complaints regarding such a continuous and uninterrupted signal, the Police Chief shall endeavor to contact the alarm user, or members of the alarm user's family, or those persons designated by the alarm user under paragraph (a) of this section in an effort to abate the nuisance. The Police Chief shall cause to be recorded the names and addresses of all complainants and the time each complaint was made. In the event that the Police Chief is unable to contact the alarm user or members of the alarm user's family or those persons designated by the alarm user under paragraph (a) of this section, or if the aforesaid persons cannot or will not curtail the audible signal being emitted by the alarm system and if the Police Chief is otherwise unable to abate the nuisance, a Police Officer or a firefighter or a qualified alarm technician may be directed to enter upon the property, outside the home or building in which the alarm system is located and take any reasonable action necessary to abate the nuisance.

If entry upon property outside the home or building in which the alarm system is located is made in accordance with this section, the person so entering upon such property (1) shall not conduct, engage in or undertake any search, seizure, inspection or investigation while upon the property; (2) shall not cause any unnecessary damage to the alarm system or to any part of the home or building; and (3) shall leave the property immediately after the audible signal has ceased. After an entry upon property has been made in accordance with this section, the Police Chief shall have the property secured, if necessary. The reasonable cost of abating a nuisance in accordance with this section may be assessed to the alarm user, said assessment not to exceed \$50.00.

## **H. TESTING OF EQUIPMENT**

No alarm system designated to transmit emergency messages directly to the Police Department shall be worked on, tested, or demonstrated without obtaining permission from the Police Chief.

**Permission is not required to test or demonstrate alarm devices not transmitting emergency messages directly to the Police Department. An unauthorized test constitutes a False Alarm.**

## **I. FALSE ALARMS**

- 1. When messages are received by the Police Department that evidence false alarms, the Police Chief shall take such action as may be appropriate under paragraphs (b),(c),(d), and (e) of this section, and when so required by the terms of the aforementioned paragraphs, order that use of an alarm system be discontinued.**
- 2. After the Police Department has recorded three (3) separate false alarms within the calendar year from an alarm system, the Police Chief shall notify the alarm user, in person, by telephone, in writing or by mail of such fact and require said user to submit, within fifteen (15) days after receipt of such notice, a report describing efforts to discover and eliminate the cause or causes of the false alarms. If the said user, on the basis of absence from the City, or on any other reasonable basis, requests an extension of time for filing the report, the Police Chief may extend the fifteen (15) day period. If the said user fails to submit such a report within fifteen (15) days or within any such extended period, the Police Chief may order that use of the alarm system be discontinued. Any such discontinuance shall be effectuated with fifteen (15) days from the date of receipt of the Police Chief's order.**
- 3. In the event that the Police Chief determines that a report submitted in accordance with paragraph (b) of this section is unsatisfactory, or that the alarm user has failed to show by the report that reasonable steps to eliminate or reduce false alarms have or will be taken, then the Police Chief may order that use of the alarm system be discontinued. Any such discontinuance shall be effectuated within fifteen (15) days from the date or receipt of the Police Chief's order.**
- 4. In the event that the Police Department records five (5) false alarms within the calendar year from an alarm system, the Police Chief may order that the user of the Alarm system discontinue use of the alarm system for not less than six (6) months from the date the alarm was disconnected.**
- 5. Any user of an alarm system which transmits false alarms shall be assessed a fine in accordance with the following schedule:**

<b>NO. OF FALSE ALARMS</b>	<b>FINE</b>
<b>0-3</b>	<b>NO CHARGE</b>
<b>4-20</b>	<b>\$50.00</b>
<b>21 OR MORE</b>	<b>\$75.00</b>



**6. Any user of an alarm system which has, in accordance with this section been ordered by the Police Chief to discontinue use of an alarm system may appeal the order of discontinuance to the Police Commissioner. An appeal shall be filed within ten (10) days of the date of the order of discontinuance. Thereafter, the Commissioner shall consider the merits of the appeal, and in connection therewith shall hear evidence. The Police Commissioner may affirm, vacate or modify the order of discontinuance.**

## **J. VIOLATIONS AND PENALTIES**

**The following acts and omissions shall constitute violations of this ordinance punishable by fines of up to the current maximum amount as defined by Chap. 40, Section 21D of Mass. General Laws:**

- 1. Failure to obey an order of the Police Chief or a designee, to discontinue use of an alarm system after exhaustion of the right of appeal;**
- 2. Unauthorized interconnection of an automatic dialing device to any telephone numbers at the Police Department.**
- 3. Failure to pay any fines assessed under this ordinance within sixty (60) days from the date of assessment;**
- 4. Failure to comply with the requirements of Sections (a) and (c) of this ordinance.**

**Each day during which the aforesaid violations continue shall constitute a separate offense.**

**Any fines not paid within one year of assessment shall become a lien on the property involved.**

## **K. ADMINISTRATIVE RULES**

**The Police Chief may promulgate such rules as may be necessary for the implementation of this ordinance.**

## **L. DISCLAIMER OF LIABILITY**

**The City, its agents, employees and designees, shall not be liable for any claimed failure of service or any damages that may result from the installation, operation or failure of an alarm system connected to the Fire Stations.**

## **M. EXCEPTIONS**

**This ordinance shall not apply to:**

- 1. the use of alarm systems by law enforcement personnel for law enforcement purposes;**
- 2. alarm systems installed in motor vehicles, boats, or aircraft;**
- 3. persons engaged solely in the manufacture, sale or repair of alarm systems or components from a fixed location who do not install, maintain, or service alarm system at a user's premises, or who do not plan the alarm system for a specific location;**
- 4. any alarm system used, operated, or installed in any premises or place owned by the governments of the United States, the Commonwealth of Massachusetts, or the City of Malden, nor to any officer, agent or employee of these governments while acting or employed in an official capacity.**

**CHAPTER 11**  
**PUBLIC WORKS**

**PUBLIC WORKS COMMISSION**

**SECTION 11.1                      TO PROVIDE FOR INTERNAL ORGANIZATION**

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

- A. to promulgate such rules and regulations necessary for the administration of its duties;**
- B. to manage and control the sanitation and cleanliness of City property, unless otherwise provided by law;**
- C. to have charge of the lighting of street and all appropriations therefor;**
- D. to assess charges for the use of facilities, utilities and other property of every nature under their control, unless otherwise provided by law.**

**CITY ENGINEER**

**SECTION 11.2                      CITY ENGINEER - DUTIES GENERALLY**

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

**The City Engineer shall have the following powers and duties:**

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- .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 assess for sewer betterments;**
- .5 to make such surveys, plans, profiles, estimates and descriptions as may be required by the Mayor or City Council.**

#### **SECTION 11.2.1. DIRECTOR OF PUBLIC WORKS TO ASSUME RESPONSIBILITY FOR WATERWORKS**

**The Director Of Public Works shall have executive and administrative oversight of waterworks and shall be charged with providing for the repair, maintenance and extension of municipal water, sewer and drainage systems. The Director shall hire such subordinates and assistants as may be provided for by appropriation and shall have all powers, duties and authority incidental to providing a supply of pure water for the use of residents of the city and shall establish rules and regulations for connection to municipal water, sewer and drainage systems and shall provide for the means of assessing charges for the use thereof.**

#### **SEWERS**

#### **SECTION 11.3 CITY SEWERS TO BE UNDER CHARGE OF Director of Public Works; CONNECTIONS TO BE MADE UNDER HIS SUPERVISION; COMMON**

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## **SEWER DEFINED; COMMON SEWERS TO BE LAID BY CITY**

**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 11.4                      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 for water, gas or any other purposes, such laying of pipe or conduit and the work connected therewith, 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 11.5                      DELETED**

## **SECTION 11.6**

## **DELETED**

### **SECTION 11.17 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 fined in accordance with the provisions of Section 1.13; 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.**

## **SECTION 11.8**

## **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 11.9**

### **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.

## **SECTION 11.10**

### **BOND REQUIRED OF LICENSED SEWER LAYERS**

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 a sum of not less than five thousand dollars (\$5,000.00), 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 11.11**

### **REPAIR OF SEWERS**

**Whenever any private sewer shall become 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 Commission 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 in accordance with the provisions of Section 1.13.**

#### **SECTION 11.12      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; but all connections within such building and within ten feet of such building shall be subject to the Plumbing and Gasfitting Ordinances. The Director of Public Works may also determine the grade of such particular sewer; the place and manner of connection with the common sewer; and in private ways shall require such filling to a grade as may be determined by the Director of Public Works, proper drainage facilities and all other construction necessary and incident to the protection and satisfactory performance of the sewer.**

#### **SECTION 11.13      BOND REQUIRED**

**The Director of Public Works shall require a performance bond or deposit of money in such amount as he determines to be sufficient to cover the cost of all improvements specified in Section 11.11. Such bond shall be approved as to form and manner of execution by the City**



**Solicitor, and shall be contingent on the completion of such improvements within one year of the date of the bond. Such bond or deposit shall be filed and approved before and as a condition of beginning construction of the improvement.**

#### **SECTION 11.14 EXHAUSTS AND BLOWOFFS NOT TO BE CONNECTED TO SEWER**

**No exhaust from a steam engine and no blowoff from a steam boiler shall be connected with any common sewer or private drain connecting with a common sewer.**

#### **SECTION 11.15 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, MGL Chapter 21 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 Civil Defense Director, and 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 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 proscribed in Massachusetts General Laws Chapter 41, 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.**

## **SECTION 11.16      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. All owners of buildings where roof, ground or surface water is being disposed of contrary to the provisions of the above shall be notified by the Director of Public Works to cease doing the same. The Director of Public Works shall also notify the Inspector of Plumbing, who shall cause 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 11.17      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. The Public Works Commission shall place permanent landmarks and bounds on any street repaired or altered hereunder.**

**SECTION 11.18      TEMPORARY REPAIRS ON PRIVATE WAYS; SCOPE;  
COUNCIL APPROVAL REQUIRED; ASSESSMENT OF  
PROPERTY OWNERS; LIABILITY**

**A. Pursuant to Mass. General Laws Chapter 40:6N, the Public**

**Works Commission 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 on any such private way, 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.**

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## **SECTION 11.19 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 way, whether public or private, 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 Chapter eighty-five of the General Laws of Massachusetts.**

## **SECTION 11.20 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 of Malden 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 41 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**

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**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 sidewall 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**

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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.

## **F. SEVERABILITY**

If any section or provision of this ordinance is held invalid by any court, the same shall not affect any other section or provision, except in so far as the section or provision deemed invalid is inseparable for the remainder.

## **SECTION 11.21      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.**

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**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, which may be imposed 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 assessed.**

## **SECTION 11.22      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 under Section 11.20 or 11.21; 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 a \$300.00 fine, which may be imposed 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 assessed.

## **SECTION 11.23      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 notified in writing by the Public Works Commission that in their opinion such excavation constitutes a hazard to public safety. The penalty for violation of this section shall be in accordance with Section 1.13 of this Code.

## **SECTION 11.24      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 shall make, or cause to be made any coal hole, or other opening in a street, except in accordance with a permit from the Commission, and no person shall leave such coal hole or opening uncovered or unfastened, except while actually in use, in which event it shall be properly guarded.

**Whenever any person shall dig or sink any well, cistern or other cavity in the ground near to or adjoining any street, a sufficient and suitable railing or fence, well-lighted at night shall be maintained, on the line of such street.**

## **SECTION 11.25      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 11.26      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 11.27      REMOVAL OF VEHICLES OBSTRUCTING SNOW REMOVAL**

**The Director of the Public Works Department, for the purpose of removing or plowing snow, or removing ice from any way may remove, or cause to be removed, to some convenient place, including a public garage, any vehicle interfering with such work, and shall be reimbursed for the cost of such removal, and of the storage charges, if any, resulting therefrom, by the owner of such vehicle.**

**SECTION 11.28      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 11.29      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. The Chief of Police or a designee, shall remove, to some convenient place through the agency of a person or persons in the employ of the Police Department or by an independent contractor selected in accordance with law, or ordinance, on the basis of competitive bids, any vehicle parked or standing on any part of any way under the control of the municipality in such a manner as to obstruct any curb ramp designed for use by handicapped persons, or to occupy or obstruct any parking space reserved for a vehicle used by a disabled veteran or handicapped person whose vehicle bears the distinguishing, authorized license plates.**

**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 11.30 PERMIT REQUIRED FOR POSTS**

**No person shall set up a post in any street, except by permission of the Commission.**

## **SECTION 11.31 DANGEROUS SUBSTANCES IN STREETS PROHIBITED**

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**No person shall put or place, or cause to be put or placed in any street, land, alley or any other place, public or private, where it may be offensive or objectionable, any ashes, dirt or refuse; nor shall any piece of hoop or wood, or any board, wire, glass, tacks or other material or any other rubbish injurious to tires of bicycles or other vehicles be put, placed or thrown into or on any street, walkway, lane, alley or public place. No person shall place or cause to be placed on any sidewalk, walkway or crosswalk any article or thing whatsoever, so as to interfere with the safe and convenient use of the same by any person traveling thereon. This section shall not apply to building materials so placed with permission of the Commission.**

## **SECTION 11.32      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.**

### **SECTION 11.33      PRINTED MATTER VENDING MACHINES**

**A. No person, firm, corporation, association, partnership, trust or other type of entity shall place, install, use or maintain any printed matter vending machine on any public property, without obtaining a written permit therefor from the Public Works Commission.**

**B. A "printed matter vending machine" (hereinafter called "machines") shall mean any coin or token operated box, container, stand, rack, storage unit or other dispenser or device installed, placed, used, operated or maintained for the display and sale or distribution of newspapers, periodicals, or other printed matter**

**for public use.**

**C. The application for the permit shall fully and specifically describe the printed matter vending machine by setting forth its height, depth, and width or any other relevant dimensions if varying in height, depth, and width, the name and business address of the applicant, the exact date or dates said machines will be in place or in operation, the exact place where said machine will be located, the manner by which said machine shall be affixed or held in place and the description of any object to which said machine shall be affixed. Further reasonable information which may affect the public safety, health, or order in the community may be requested from the applicant. An annual application fee, the amount of which will be determined annually thereafter by the Public Works Commission, which fee will be reasonably related to the costs of processing said application, shall be paid for each machine licensed. The form of application shall be approved by the City Solicitor.**

**D. A certificate of insurance indemnifying and saving harmless the City of Malden from any loss or damage from all suits, actions and claims of any and every nature for or on account of any injuries or damage received or sustained by any person or company or other entity arising from the installation, use or maintenance of such machines shall be filed with the Public Works Commission, prior to their issuance of any permit hereunder; further said policy will directly provide for payment to any person or company or other entity injured thereby.**

**E. Within twenty days of receipt of such completed application, the Public Works Commission shall grant a permit or shall order a hearing within an additional 10 days, giving at least 5 days written notice to the applicant.**

**F. Within ten days next following the close of the hearing the Public Works Commission shall grant such permit or shall deny such application upon a finding that issuance of such a permit would lead to the creation of a nuisance or would endanger the public health, safety or order by:**

**1. unreasonably increasing pedestrian traffic in the area in**

**which the machine is located;**

**2. endangering the public safety as follows: by reason of the**

**machine's projecting onto, into, or over any part of the roadway of any public street; by reason of its being affixed to a site or location used for public utility purposes, public transportation purposes, or governmental use; or by reason of its being located in such a manner as to unreasonably interfere with or impede the flow of pedestrian or vehicular traffic, sidewalk or street cleaning and/or snow removal, and the ingress or egress from any residence, place of business or any legally parked or stopped vehicle; by reason of esthetic harm and defacement caused by its being affixed to poles, posts, traffic signs or signals, hydrants, mailboxes or other objects at or near such location.**

**G. No machine shall be chained, bolted or otherwise attached to property owned or maintained by the City of Malden; within three feet of any crosswalk; within fifteen feet of any fire hydrant; within five feet of any fire or police call box or other emergency facility; within five feet of any driveway, public or private; within three feet ahead or fifteen feet to the rear of any designated bus stop, taxi stand, or place marked for handicapped parking; within three feet of any bus bench or shelter; at any location whereby the clear space for the passageway of pedestrians is reduced to less than four feet; within three feet of any display window of any building abutting**

**the sidewalk or other public place in such a manner as to impede or interfere with the reasonable use of such window for display purposes.**

**H. No machine shall be used for advertising signs or publicity purposes other than that which is essential to identify on no more than two sides of the machine the printed matter offered for sale therein. No letter thereon shall exceed two square inches in size.**

**I. Each machine shall be maintained in a clean and neat condition and in good repair at all times, and it shall be of one color that does not unnecessarily contrast with the immediate surroundings except that the lettering may contrast with such one color. No reflectorized paint, day-glo, fluorescent, or scotchlite reflective materials or materials of like nature may be used on such machine.**

**J. The person who places or maintains such machine shall have a name or Massachusetts agent's name, address, and telephone number affixed thereto in a place where such information may easily be seen.**

**K. Notice of the denial of an application for permit shall be in writing and accompanied by a statement of the reasons therefor. No application shall be denied if the anticipated harm is not significant or if the likelihood of its occurrence is remote. The Public Works Commission may impose conditions upon the permit but said conditions may only relate to compliance with applicable laws or 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 and security for the public. No applicant having been denied a permit as aforesaid shall submit the same or similar application within one year of said denial without including in said new application facts showing that the circumstances upon which the original denial was based have substantially changed.**

**L. Violation of the terms and conditions in this ordinance or in any permit granted hereunder shall be punishable by fines and penalties as provided by Chapter 1.13 and said violation shall be cause for cancellation, suspension, revocation or modification, after hearing, upon three days written notice, sent registered or certified mail, to the name and address set forth in the annual application. The City of Malden may petition the Superior Court department of the trial court**

to enjoin any violation of this ordinance or the conditions in any permit granted hereunder. If, after hearing, the applicant fails to comply with the order of the Public Works Commission, said Commission may order the removal of said machines and place them in storage in a secure place; the cost of removal and storage shall be paid by the permit holder.

M. If such machine is not used for the distribution of printed matter for a period of 60 calendar days, the same shall be deemed as abandoned property and may be disposed of according to law.

## **SECTION 11.33A SHOPPING CARTS PROHIBITED ON PUBLIC WAYS**

### **.1 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.

### **.2 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 posts 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.

### **.3 DISPOSAL OF SHOPPING CARTS ON PUBLIC WAYS**

- .1 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
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4 <sup>th</sup> and subsequent carts	\$50.00 per cart.
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- .2 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.
- .3 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 41 Section 21D, has been requested, the shopping cart shall be deemed to be abandoned.
- .4 The Director of Public Works may, as he deems appropriate dispose of abandoned shopping carts in the following manner:

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- .1 by return to the owner upon payment of fines and costs;**
- .2 by public auction;**
- .3 by destruction of the carts.**

#### **SECTION 11.34      RESERVED**

#### **SECTION 11.35      REMOVAL OF SNOW AND ICE FROM SIDEWALKS**

**A. The owner, occupant or agent in charge of any land or building abutting a paved sidewalk in the City of Malden shall make said sidewalk safe and convenient for public use by removing any snow or ice accumulating thereon or by otherwise make the same safe by covering with sand or other suitable substance.**

**B. Removal of hazardous conditions shall be made within the first twenty four hours after such snow or ice accumulates on said sidewalk. Sidewalks shall be cleared to provide a minimum passage of thirty six inches in width. A minimum passage of thirty six inches in width shall also be cleared to the street. Handicapped access ramps shall be cleared to the full extent of the width and length of the main slope and side slopes.**

**C. This ordinance may be enforced in the manner provided in Massachusetts General Laws Chapter 40 Section 21D by regular enforcement officers and by Department of Public Works storm supervisory personnel. 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 up to \$200.00 for each violation.**

#### **SECTION 11.36      THROWING SNOW, ICE ON PUBLIC WAYS PROHIBITED; PENALTY**

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**(a) No person shall throw or place, or permit to be thrown or place, any snow or ice on any street or sidewalk, except as directed by the D.P.W. Commissioners or their designees, exclusive of such portion thereof as may be occupied by street railway tracks. No snow or ice shall be removed from private property and deposited on any sidewalk, public way or way to which the public has access.**

**(b) This ordinance may be enforced in the manner provided in Massachusetts General Laws Chapter 40 Section 21D by regular enforcement officers and by Department of Public Works storm supervisory personnel. 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 up to \$300.00 for each violation.**

#### **SECTION 11.37      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 11.38      CONSENT OF OWNER REQUIRED TO POST HANDBILLS, ETC., BULLETIN BOARDS PROHIBITED WITHOUT LICENSE**

**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 11.39      OVERHANGING SIGNS, ETC.**

**No person shall establish or maintain any sign, signboard, shade or awning over any portion of a street without a permit therefor from the Public Works Commission and subject to the rules and regulations thereof.**

## **SECTION 11.40      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 11.41      EXTINGUISHING LIGHTS ON STREETS PROHIBITED**

**No person shall remove, extinguish or diminish a light placed in any street, in accordance with the provisions of this chapter. No person shall light or extinguish any public lamp, except by permission of the Commission.**

## **SECTION 11.42      PERMIT REQUIRED TO HEAT TAR IN STREETS**

**No person shall set up or use any kettle or other receptacle for the purpose of heating tar or other substance, for roofing or otherwise, in any street, without obtaining a permit in writing from the Commission**

## **SECTION 11.43      MOVING BUILDINGS**

**No person shall move any building through any streets, unless a permit is obtained from the Commission and under such restrictions as the Commission may proscribe; but, no permit shall be given, nor shall any building be moved, which will, in the opinion of the Commission 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 11.44      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.**

## **SECTION 11.45      STREET SIGNS- DESTROYED- PENALTY**

**It shall be unlawful for any person or persons to destroy, obliterate, remove, damage or change any street sign, stop sign, directional sign or sign post designating streets, as erected by the Public Works Commission or the Traffic Commission, except by a permit granted by the Public Works Commission or the Traffic Commission. No street directional sign as erected by the Traffic Commission shall be changed in direction except by permit of the Public Works Commission or Traffic Commission.**

**Any person violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in accordance with the provisions of Chapter 1.13.**

#### **SECTION 11.46      MINIMUM WIDTH OF STREETS**

**No street shall be laid out of a less width than forty feet, excepting such streets as were in public use prior to the year 1890. This, however, shall not apply to extensions of streets**

**already accepted. In all streets hereafter laid out by the Public Works Commission at a width of less than forty feet, suitable edgestones shall be placed.**

#### **SECTION 11.47      PERMIT REQUIRED; SIGNS, MARQUEES, AWNINGS, ETC.**

**A. No person shall place or maintain any sign, advertising device, lettering, clock, marquee, permanent or temporary awning, canopy, post or other structure projecting into or placed on, in or over a public street or way in the City without a permit issued by the Public Works Commission.**

**B. Temporary canopies with side curtains, but with an opening for pedestrians may be placed and maintained from buildings to the inner line of the curb for use during rain or snow storms and during festivals and social or other functions at churches, halls and private residences. The cover of such canopy shall have the lowest part thereof at least seven feet above the sidewalk and shall be erected on iron frames securely fastened to the building or to the sidewalk, the sidewalk fastenings, if of a permanent nature, to be embedded in the sidewalk and level with the same. Such canopies and frames shall be removed within two hours after the storm has cleared or the social or other function has ended.**

**C. No advertising matter except as authorized by the Commission shall be placed on temporary structures involving the closing or occupation of public highways during repairs on the same or during building operations which are authorized by the Inspector of Buildings.**

**D. Applications for a permit for marquees, permanent awnings and other structures shall be advertised for a public hearing and notice thereof mailed to abutting owners by certified or registered mail.**

**E. Applications for permits shall be made on blank forms furnished by the Commission. Petitions shall set forth the purpose for which such sign, advertising device, clock, marquee, permanent awning or structure is to be used, the manner in which it is to project into or over the public highway, and such other requirements as the Commission may deem necessary.**

**F. Applications for permits shall, if the commission so orders, be accompanied by detailed plans, made to scale, showing the character of the construction of the same. Permits may be granted for not more than one year and must be renewed on expiration or within thirty (30) days thereafter. A permit may be renewed without the filing of additional plans; provided, that the applicant certifies to the Commission that there has been no change in the conditions under which the permit was first granted.**

**G. The foregoing section shall not apply to signs or other structures projecting onto or over a street or way a distance of less than six inches, nor to poles, wires, conduits, and appurtenances of steam railroad, street railway, telegraph and telephone, water, gas, electric light, heat and power companies.**

## **SECTION 11.48      INSPECTOR OF BUILDINGS TO APPROVE ENCROACHMENTS**

**All signs, advertising devices, clocks, marquees, permanent and temporary awnings and structures authorized by the Public Works**

Updated through 6/30/17

**Commission shall be subject to the requirements of the Inspector of Buildings as to their construction and their physical connection with the building to which they are attached.**

#### **SECTION 11.49 INSPECTOR OF WIRES TO APPROVE WIRING**

**The installation of wiring or apparatus for electricity to be used in connection with a sign, advertising device, clock, marquee, permanent awning or other structure shall be subject to the approval of the Inspector of Wires of the City.**

#### **SECTION 11.50 CERTAIN FLAGS, ETC., NOT SUBJECT TO ARTICLE; LIMITATION ON LOCATION OF FLAGS**

**United States flags, state and City flags, flags of United States recruiting stations, of foreign nations and of private clubs and institutions shall not be subject to this chapter; provided, that such flags shall not be suspended across a public highway by ropes or wires attached to structures on either side of such highway; and provided, also, that the lowest part of such flags shall be at least ten feet above the sidewalk.**

#### **SECTION 11.51 MINIMUM HEIGHT FROM GROUND; LIMITATION OF PROJECTION**

**A. Signs and advertising devices attached to buildings and projecting more than six inches therefrom shall have the lowest part thereof at least eight feet above the sidewalk. Private lamps for lighting purposes, on which no lettering is displayed, may be projected from buildings at a height of not less than ten feet above the sidewalk.**



**B. No sign or advertising device shall project into a highway more than three feet except by special permission of the Commission, but in no case more than six feet. Clocks attached to buildings may project into a highway not more than five feet.**

**C. Flat signs, drum signs and sill signs may be attached to building at any height above the sidewalk, providing such signs do not project into the highway more than six inches.**

**D. Temporary or permanent signs for benevolent, charitable, religious, educational, temperance, entertainment or political purposes, attached to buildings, and signs indicating places of historical interest, if projecting into the highway more than six inches, shall have the lowest part thereof at least eight feet above the sidewalk, and shall not project into the highway in any case more than two feet.**

**E. No movable awning, which is made to roll over a framework of iron or other material or to fold close to or against a building, shall be erected or maintained over a highway unless it is placed at least seven feet above the sidewalk. Such awning and all its cloth parts shall, unless otherwise ordered by the Commission be kept rolled or folded against the building, except at such times as the sun shines on the part of the building on which the awning is placed; and no cloth parts except such as may be rolled or folded against the building shall be attached to such awning or framework.**

## **SECTION 11.52      PERMITS FOR LETTERING IN SIDEWALKS AND FOR HOISTING MERCHANDISE**

**Permits for lettering in or on sidewalks and for devices for hoisting merchandise over a public highway may be issued by the Commission.**

## **SECTION 11.53      DENIAL OF PERMITS**

Updated through 6/30/17

**Notice of the denial of an application for permit sought under this Chapter shall be in writing and accompanied by a statement of the reasons therefor. No application shall be denied if the anticipated harm is not significant or if the likelihood of its occurrence is remote. The Public Works Commission may impose conditions upon the permit but said conditions may only relate to compliance with applicable laws or 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 and security for the public. No applicant having been denied a permit as aforesaid shall submit the same or similar application within one year of said denial without including in said new application facts showing that the circumstances upon which the original denial was based have substantially changed.**

#### **SECTION 11.54 EXCAVATIONS- WHEN TO BE FILLED**

**If a person having a building permit makes an excavation for the construction of a building and the same is allowed to remain uncovered or unprotected for six months thereafter, the Building Inspector may revoke the permit and order the owner to level the lot to uniform grade by a proper sanitary fill.**

#### **SECTION 11.55 PUBLIC WORKS COMMISSION WILL SERVE AS TREE BOARD TO DEVELOP AND ADMINISTER A COMMUNITY FORESTRY PROGRAM AND DESIGNATE A TREE WARDEN**

**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.**

Updated through 6/30/17

**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 under the jurisdiction of the park commissioners. State Law reference G.L. c. 87, sec. 2.**

## **SECTION 11.56 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 11.57 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 11.58 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.**

Updated through 6/30/17

**When a tree is removed, the Tree Warden shall immediately cause the stump to be removed below the surface of the ground.**

**SECTION 11.59 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 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 41, Section 21D. Each twenty-four hours during which a violation exists shall constitute a separate offense.**

## **WATER**

### **SECTION 11.60 DELETED**

### **SECTION 11.61 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 11.62 AGREEMENT TO PAY COST OF LAYING PIPE, ETC., TO BE SIGNED BEFORE WORK COMMENCED**

**The Director of Public Works shall not lay pipe or supply water to any property abutting a private way without having obtained an agreement to pay all costs incident thereto, including but not limited to the cost of cutting or filling the trench or way to the required grade.**

**Owners of property who wish to connect to a common water main and for which a common water main has been constructed or which common water main is accessible to such property shall construct and maintain such pipes or connections to the common water main as may be**

Updated through 6/30/17

necessary to conduct the water to said property, at the sole expense of the owner and shall enter the pipes and/or connections therefor into the common water main.

#### **SECTION 11.63 ASSESSMENT FOR LAYING WATER PIPE**

The Director of Public Works shall notify the Treasurer of the cost incurred for laying pipes in public and private ways for the conveyance or distribution of water to its inhabitants. The Treasurer shall levy special assessments against said inhabitants to meet the whole or part of said costs.

The assessment for the cost of providing and laying water pipes hereafter in public and private ways shall be made upon the several parcels of land receiving benefit from the laying of such pipes by a fixed uniform rate based upon the estimated average cost of all the water pipes therein and the laying thereof according to the frontage on such land on any way in which a water pipe is laid.

#### **SECTION 11.64 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 Director of Public Works shall oversee installation of water meters and establish rules and regulations for the use of water.

## **SECTION 11.65 WATER BILLS; ANNUAL INSPECTION OF PREMISES**

**Water usage in the City shall be metered, and, under the direction of the Director of Public Works, all meters shall be read and all charges for water usage shall be recorded and billed at least once each year. The Director of Public Works shall deliver to the Collector of Taxes complete schedules of such charges.**

## **SECTION 11.66 DISPOSITION OF INCOME; APPLICATION OF FUNDS**

**All sums paid into the Treasury on account of the Department of Water Utilities shall be applied, as allowed by law and as appropriated by the City of Malden, to the payment of the expenses of maintenance and operation incurred by such Director of Public Works; the interest requirements of all bonds and notes issued on account of the waterworks; the water assessment of the city to be paid to the Treasurer of the Commonwealth; the expenses of the extension of the works; and the balance, if any, as the City may determine.**

## **SECTION 11.67 RECORDS REQUIRED**

**The Director of Public Works 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 charged.**

## **SECTION 11.68 TAMPERING WITH WATER PIPES, METERS, ETC. PROHIBITED; MAINTENANCE OF WATER PIPES 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.**

**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 Director of Public Works, allow agents of the city to enter the premises to inspect, make repairs or replace equipment, as deemed necessary by the Director of Public Works.**

**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 City shall install in every property in the city a water meter, and shall repair or replace meters as deemed necessary by the Director of Public Works. 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.**

**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 enforced in the manner provided under Massachusetts General Laws Chapter 40, Section 21D and shall be punishable by a fine of \$300.00 for each offense. Each twenty-four hour period during which a violation shall exist 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.**

#### **SECTION 11.69 RULES AND REGULATIONS FOR USE OF WATER TO BE PRINTED ON BILLS; BINDING ON USERS**

**Rules and regulations established by the Director of Public Works shall be binding upon every person who uses 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.**

#### **SECTION 11.70 SPECIAL PROVISIONS FOR ASSESSMENT WHERE LAND NOT BUILT UPON**

**If the order for easement is upon vacant land, the Commission may extend the time for payment until such time as the land is built upon. Interest on said assessment shall be charged at prevailing legal rates. The assessment and interest shall be paid within three months after such land is built upon.**

## **SECTION 11.71 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 11.72 BADGES TO BE WORN BY EMPLOYEES**

Updated through 6/30/17

**All employees, officials or agents of any company owning or controlling any electric line of wires in the City shall be furnished with a certificate or badge from the company, which shall be shown whenever access is desired to any premises.**

## **SECTION 11.73                    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**

Updated through 6/30/17



**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 11.74      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.**

Updated through 6/30/17

#### **.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:**

Updated through 6/30/17

- .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 curbcut 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 harvy 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 11.75                      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. 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**

**Floodplains**

**200.4.1**

**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**

**Base Flood Elevation and Floodway Data**

**200. 4. 2. 1**

**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 residential use "dwelling, multifamily, more than 6 stories but not to exceed 12 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 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 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.**

**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:**

**TABLE OF USE REGULATIONS\*\***

Section Number	Use	A	B	C	RO	BN	BC	BH	I1	I2
<b><u>300.3.1</u></b>	<b><u>Agriculture</u></b>	Yes	Yes	Yes	No	No	No	No	No	No
<b><u>300.3.2</u></b>	<b><u>Residential</u></b>									
<b>300.3.2.1</b>	<b>Dwelling, Single Family</b>	Yes	Yes	Yes	Yes	Yes	No	No	No	No
<b>300.3.2.2</b>	<b>Dwelling, Two Family</b>	No	Yes	Yes	Yes	Yes	No	No	No	No
<b>300.3.2.3</b>	<b>Dwelling, Three &amp; Four Family</b>	No	SP	SP	SP	SP	No	SP	No	No
<b>300.3.2.4</b>	<b>Dwelling, Town or Row</b>	No	SP	SP	SP	SP	SP	SP	No	No
<b>300.3.2.5</b>	<b>Dwelling, Multi-family, up to 3 stories inclusive</b>	No	SP	SP	SP	SP	SP	SP	No	No
<b>300.3.2.6</b>	<b>Dwelling, Multi-family, more than three stories but not exceeding 6 stories</b>	No	No	No	No	No	SP	No	No	No
<b>300.3.2.7</b>	<b>Dwelling, Multi-family, more than 6 stories but not exceeding 12 stories</b>	No	No	No	No	No	SP	No	No	No
<b>300.3.2.8</b>	<b>Dwelling, Multi-family, more than 12 stories</b>	No	No	No	No	No	No	No	No	No
<b>300.3.2.9</b>	<b>Dwelling, Group</b>	Yes	No	Yes	Yes	Yes	Yes	No	No	No
<b>300.3.2.10</b>	<b>Rooming House</b>	No	No	SP	No	No	No	No	No	No
<b>300.3.2.11</b>	<b>Manufactured Home</b>	SP*	SP*	SP*	SP*	SP*	SP*	SP*	SP*	SP*
<b>300.3.2.12</b>	<b>Planned Unit Development</b>	No	No	SP	SP	No	No	No	No	No
<b><u>300.3.3</u></b>	<b><u>Institutional Use</u></b>									

**TABLE OF USE REGULATIONS\*\***

Section Number	Use	A	B	C	RO	BN	BC	BH	I1	I2
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	No	No	No
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	Yes	Yes	No	No
300. 3. 4. 7	Nursing or Convalescent Home	No	Yes	Yes	Yes	Yes	No	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	SP	SP
300. 3. 4.10. 1	Recreation, Gainful Business, Secondary to Principal Club/Lodge	No	No	No	SP	No	SP	SP	SP	SP

**TABLE OF USE REGULATIONS\*\***

<b>Section Number</b>	<b>Use</b>	<b>A</b>	<b>B</b>	<b>C</b>	<b>RO</b>	<b>BN</b>	<b>BC</b>	<b>BH</b>	<b>I1</b>	<b>I2</b>
<b>300. 3. 4.11</b>	<b>Restaurant, “Fast Food” Service, that does not take call-ahead orders and is in excess of 1000 sq. ft. gross floor area</b>	<b>No</b>	<b>No</b>	<b>No</b>	<b>No</b>	<b>No</b>	<b>SP</b>	<b>SP</b>	<b>SP</b>	<b>SP</b>
<b>300. 3. 4.12</b>	<b>Restaurant, All Other</b>	<b>No</b>	<b>No</b>	<b>No</b>	<b>No</b>	<b>SP</b>	<b>Yes</b>	<b>SP</b>	<b>SP</b>	<b>SP</b>
<b>300. 3. 4.13</b>	<b>Retail Sales</b>									
<b>300. 3.4.13.1</b>	<b>Less than 5,000 sq. feet gross floor area</b>	<b>No</b>	<b>No</b>	<b>No</b>	<b>No</b>	<b>Yes</b>	<b>Yes</b>	<b>Yes</b>	<b>Yes</b>	<b>Yes</b>
<b>300. 3.4.13.2</b>	<b>5,000 Sq. Feet or more gross floor area</b>	<b>No</b>	<b>No</b>	<b>No</b>	<b>No</b>	<b>SP</b>	<b>SP</b>	<b>SP</b>	<b>SP</b>	<b>SP</b>
<b>300. 3. 4.14</b>	<b>Retail Sales, only in conjunction with On Site Manufacturing, Warehousing, Wholesaling &amp; Distribution</b>	<b>No</b>	<b>No</b>	<b>No</b>	<b>No</b>	<b>No</b>	<b>No</b>	<b>No</b>	<b>Yes</b>	<b>Yes</b>
<b>300. 3. 4.15</b>	<b>Retail Services</b>	<b>No</b>	<b>No</b>	<b>No</b>	<b>Yes</b>	<b>Yes</b>	<b>Yes</b>	<b>Yes</b>	<b>Yes</b>	<b>Yes</b>
<b>300. 3. 4.16</b>	<b>Adult Bookstore</b>	<b>No</b>	<b>No</b>	<b>No</b>	<b>No</b>	<b>No</b>	<b>No</b>	<b>No</b>	<b>SP</b>	<b>SP</b>
<b>300. 3. 4.17</b>	<b>Adult Motion Picture Theater</b>	<b>No</b>	<b>No</b>	<b>No</b>	<b>No</b>	<b>No</b>	<b>No</b>	<b>No</b>	<b>SP</b>	<b>SP</b>
<b>300. 3. 4.18</b>	<b>Planned Development</b>	<b>No</b>	<b>No</b>	<b>No</b>	<b>No</b>	<b>No</b>	<b>No</b>	<b>SP</b>	<b>No</b>	<b>No</b>
<b>300. 3. 4.19</b>	<b>Adult Club</b>	<b>No</b>	<b>No</b>	<b>No</b>	<b>No</b>	<b>No</b>	<b>No</b>	<b>No</b>	<b>SP</b>	<b>SP</b>
<b>300. 3. 4.20</b>	<b>Body Art</b>	<b>No</b>	<b>No</b>	<b>No</b>	<b>No</b>	<b>SP</b>	<b>No</b>	<b>No</b>	<b>SP</b>	<b>SP</b>

**TABLE OF USE REGULATIONS\*\***

Section Number	Use	A	B	C	RO	BN	BC	BH	I1	I2
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
300.3.4.28	Kennel	No	No	No	No	SP	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	No	No	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	SP	SP



<b>300.3.5.11</b>	<b>Asphalt, Brick, Concrete &amp; Soil Recycling</b>	<b>No</b>	<b>No</b>	<b>No</b>	<b>No</b>	<b>No</b>	<b>No</b>	<b>No</b>	<b>SP</b>	<b>SP</b>
<b><u>300. 3. 6</u></b>	<b><u>Other Uses</u></b>									
<b>300. 3. 6. 1</b>	<b>Fill</b>	<b>SP</b>	<b>SP</b>	<b>SP</b>	<b>SP</b>	<b>SP</b>	<b>SP</b>	<b>SP</b>	<b>SP</b>	<b>SP</b>
<b>300. 3. 6. 2</b>	<b>Parking Facilities, Offsite</b>	<b>SP</b>	<b>SP</b>	<b>SP</b>	<b>Yes</b>	<b>SP</b>	<b>Yes</b>	<b>Yes</b>	<b>Yes</b>	<b>Yes</b>
<b>300. 3. 6. 3</b>	<b>Flood Plain - All Uses</b>	<b>SP</b>	<b>SP</b>	<b>SP</b>	<b>SP</b>	<b>SP</b>	<b>SP</b>	<b>SP</b>	<b>SP</b>	<b>SP</b>
<b>300. 3. 6. 4</b>	<b>Artist Live/Work Space</b>	<b>No</b>	<b>No</b>	<b>No</b>	<b>No</b>	<b>No</b>	<b>Yes</b>	<b>No</b>	<b>No</b>	<b>No</b>
<b>300. 3. 6. 5</b>	<b>Public Service Corporation</b>	<b>No</b>	<b>No</b>	<b>No</b>	<b>No</b>	<b>Yes</b>	<b>Yes</b>	<b>Yes</b>	<b>Yes</b>	<b>Yes</b>

**\* 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 12) 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 Residence A, Residence B, and Residence C 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.

The Planning Board must find that the facility is not detrimental to the public good.

**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 below 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 it's 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**

**General retail sales with gross floor area less than 5,000 square feet are allowed in Central Business (BC), Highway Business (HB) and Industrial (I1 and I2) districts and shall require Site Plan Review by the Planning Board in conformance with the following requirements:**

- 1. Purpose and Intent is described in §300.14 (Site Plan Review) of this Ordinance**
- 2. Relationship to Building Permit and Occupancy Permit is described in §300.15 of this Ordinance**
- 3. Site Plan Submission Criteria are described in §300.14 (Site Plan Review) of this Ordinance**
- 4. Review Schedule is described in §300.14 (Site Plan Review) of this Ordinance**
- 5. Appeals are described in §300.14 (Site Plan Review) of this Ordinance**
- 6. Signs are subject to Sign Design Review and other applicable provisions of this Ordinance.**
- 7. Site Plan Review Criteria. The Planning Board shall at a minimum review all site plans for the following:**
  - a) Adequacy of landscaping and screening with regard to abutting properties.**
  - b) Protection of adjoining premises against detrimental impacts of sound and lighting.**
  - c) Litter and debris management plan.**
  - d) 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.**
  - e) Adequacy and arrangement of parking and loading spaces.**
- 8. Site Plan Review Committee shall be the Planning Board.**

**300.17**

**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.**

- 300.18                      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:**
- 300.18. 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.**
- 300.18. 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.**
- 300.18. 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**

- 300.18. 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.
- 300.18. 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.
- 300.18. 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.
- 300.18. 7** Compliance with all applicable dimensional control and offstreet parking regulations.
- 300.18. 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.
- 300.18. 9** The Planning Board must find that the proposed use will not be more detrimental to the neighborhood.
- 300.18.10** The Planning Board must find that the proposed use is not in conflict with surrounding land uses.
- 300.18.11** The Planning Board must find that the proposed use is in the interest of the common good.
- 300.19** 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:

- 300.19. 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;**
- 300.19. 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;**
- 300.19. 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 he 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.**

## **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 Number	Use	Area (Sq. Ft.)	Frontage	Front	Side	Both Sides	Rear	Minimum Usable Open Space (Sf/Du)	Coverage-Principal Building	Coverage-Accessory Building	Density (Sf/DU)	Maximum 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'

**Table of Intensity Regulations**

Section Number	Use	Area (Sq. Ft.)	Frontage	Front	Side	Both Sides	Rear	Minimum Usable Open Space (Sf/Du)	Coverage-Principal Building	Coverage-Accessory Building	Density (Sf/DU)	Maximum Height
400.1.2.7	Dwelling, Multifamily, more than six (6) stories but not more than twelve (12) stories	25,000	70'	30'	½ bld. ht.	bldg. ht.	½ bld. ht.	250^	50%	20%	750	120'
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'
<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



## Table of Intensity Regulations

Section Number	Use	Area (Sq. Ft.)	Frontage	Front	Side	Both Sides	Rear	Minimum Usable Open Space (Sf/Du)	Coverage-Principal Building	Coverage-Accessory Building	Density (Sf/DU)	Maximum Height
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
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

## Table of Intensity Regulations

Section Number	Use	Area (Sq. Ft.)	Frontage	Front	Side	Both Sides	Rear	Minimum Usable Open Space (Sf/Du)	Coverage-Principal Building	Coverage-Accessory Building	Density (Sf/DU)	Maximum Height
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
400.1.4.23	Kennel	10,000	50'	10'	10'	20'	20'	--	50%	20%	--	30' and 2 stories
<u>400.1.5</u>	<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

**Table of Intensity Regulations**

Section Number	Use	Area (Sq. Ft.)	Frontage	Front	Side	Both Sides	Rear	Minimum Usable Open Space (Sf/Du)	Coverage-Principal Building	Coverage-Accessory Building	Density (Sf/DU)	Maximum Height
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
<u>400.1.6</u>	<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.

## **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 the Table of Intensity Regulations, but all lots must have a minimum lot area of five thousand (5000) square feet, a frontage of fifty (50) feet, and not exceed a height of twelve (12) stories. Usable open space requirements may be reduced by fifty percent (50%). 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 the 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 greater than six (6) stories shall comply with the provisions of 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.**

**(This space intentionally left blank.)**

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
<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/Non profit schools	1 per 1000 sq ft of gross floor area	0	1
500.1.3.5	Religious facilities	20 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
<b>500.1.4</b>	<b><u>Business Uses</u></b>			
<b>500.1.4.1</b>	<b>Auditoriums/ theaters</b>	<b>1 per 2 seats</b>	<b>0</b>	<b>0</b>
<b>500.1.4.2</b>	<b>DELETED</b>	<b>----</b>	<b>----</b>	<b>----</b>
<b>500.1.4.3</b>	<b>Business school</b>	<b>4 per 1000 sq ft of gross floor area</b>	<b>0</b>	<b>0</b>
<b>500.1.4.4</b>	<b>Car wash</b>	<b>2 per 1000 sq ft of gross floor area plus line up area of 9' x 180'</b>	<b>0</b>	<b>0</b>
<b>500.1.4.5</b>	<b>Convalescent rest and nursing homes</b>	<b>1 per 2 beds</b>	<b>0</b>	<b>1</b>
<b>500.1.4.6</b>	<b>Funeral home</b>	<b>6 per 1000 sq ft of gross floor area</b>	<b>0</b>	<b>1</b>
<b>500.1.4.7</b>	<b>Gasoline filling or service station</b>	<b>6 per 1000 sq ft of gross floor area</b>	<b>1</b>	<b>0</b>
<b>500.1.4.8</b>	<b>Greenhouses</b>	<b>4.4 per 1000 sq ft of gross floor area</b>	<b>0</b>	<b>0</b>
<b>500.1.4.9</b>	<b>Motel - hotel</b>	<b>1.2 per unit</b>	<b>0</b>	<b>1</b>
<b>500.1.4.10</b>	<b>Museums and libraries</b>	<b>2 per 1000 sq ft of gross floor area</b>	<b>0</b>	<b>0</b>
<b>500.1.4.11</b>	<b>Offices, banks</b>	<b>4 per 1000 sq ft of gross floor area</b>	<b>0</b>	<b>0</b>
<b>500.1.4.12</b>	<b>Offices, general</b>	<b>4 per 1000 sq ft of gross floor area</b>	<b>0</b>	<b>0</b>
<b>500.1.4.13</b>	<b>Medical Center</b>	<b>5.5 per 1000 sq ft of gross floor area</b>	<b>0</b>	<b>0</b>
<b>500.1.4.14</b>	<b>Recreation, gainful business</b>	<b>4 per 1000 sq ft of gross floor area</b>	<b>0</b>	<b>0</b>

Table of Offstreet Parking and Loading Regulations

<b>Section Number</b>	<b>Use</b>	<b>Minimum Number of Parking Spaces</b>	<b>Minimum Number of Loading Bays</b>	<b>Minimum Number of Loading Spaces</b>
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
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

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
500.1.4.26	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
<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
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

**Table of Offstreet Parking and Loading Regulations**

<b>Section Number</b>	<b>Use</b>	<b>Minimum Number of Parking Spaces</b>	<b>Minimum Number of Loading Bays</b>	<b>Minimum Number of Loading Spaces</b>
<b>500.1.5.10</b>	<b>Light Manufacturing</b>	<b>1.2 per 1,000 sq fet of gross floor area</b>	<b>Section 500.3.5</b>	<b>Section 500.3.5</b>
<b>500.1.5.11</b>	<b>Public Service Corporations</b>	<b>4 per 1,000 sq ft of gross floor area</b>	<b>Section 500.3.5</b>	<b>Section 500.3.5</b>
<b>500.1.5.12</b>	<b>Asphalt, Brick, Concrete &amp; Soil Recycling</b>	<b>1.2 per 1,000 sq. ft. of gross floor area</b>	<b>Section 500.3.5</b>	<b>Section 500.3.5</b>

**+ For residential uses where one parking space per bedroom is required, each studio unit shall require one parking space.**

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
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**500. 2**

**General Offstreet Parking Requirements**

**500. 2. 1**

**Parking Spaces:** All spaces shall be clearly marked in the following dimensions:

**500. 2. 1. 1**

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;

**500. 2. 1. 2**

for trucks: twelve (12) feet in width by twenty eight (28) feet in length with twelve (12) feet in vertical clearance.

**500. 2. 2**

**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:

<u>Parking Angle</u>	<u>Circulation Pattern</u>	
	<u>One-Way</u>	<u>Two-Way</u>
<b>0-45 deg.</b>	<b>14 ft.</b>	<b>19 ft.</b>
<b>46-60 deg.</b>	<b>14 ft.</b>	<b>19 ft.</b>
<b>61-90 deg.</b>	<b>24 ft.</b>	<b>24 ft.</b>



- 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 fifty (50) 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 Planning Board. There shall be a minimum of one (1) tree for every fifteen (15) 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 curb or berm 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**                    **General Loading Requirements:**
- 500. 3. 1**                    All loading areas shall have the following minimum dimensions:
- 500. 3. 1. 1**                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**

**Screening Regulations:**

**500. 4. 1**

**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**

### **Nonconforming Uses, Lots, Buildings and Structures.**

#### **700. 1. 1**

**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;**
- 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.

**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.**

- 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**

**Rowe's Quarry Reclamation & Redevelopment District**

**700.14. 1**

**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"), incorporated herein by reference and available for public inspection the Office of Planning, Engineering and Waterworks.**

**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 <sup>st</sup> and 2 <sup>nd</sup> 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**                    **Dimensional Regulations.** 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**                **Standards:** 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**                **Dimensional Regulations:**
- 700.14. 4. 2. 1**              **Minimum Distance Between Principle Buildings:** 30 feet, 20 feet of which may not be encumbered by a structure.
- 700.14. 4. 2. 2**              **Maximum Height:** 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

**Minimum Setback from Property Lines:** 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

**Minimum Building Setback from Streets or Ways, Public or Private:** 20 feet

700.14. 4. 5

**Minimum Usable Open Space:** The minimum usable open space shall be

700.14. 4. 5. 1

For residential uses

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**

**Other**

**700.14. 4. 5. 2. 1**

**Total usable open space shall be no less than 10% of the total land area of the RQRRD.**

**700.14. 4. 5. 2. 2**

**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**

**Compliance with open space requirements shall be subject to Site Plan Review.**

**700.14. 4. 6**

**Frontage: Frontage shall meet the following requirements:**

**700.14. 4. 6. 1**

**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**

**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**

**700.14. 4. 6. 3**

**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

<b>700.14. 6. 9</b>	<b>Hotel not exceeding 12 stories</b>	<b>1 per room</b>
<b>700.14. 6.10</b>	<b>Offices, General not exceeding 12 stories</b>	<b>Section 500</b>
<b>700.14. 6.11</b>	<b>Medical Centers, not exceeding 12 stories</b>	<b>Section 500</b>
<b>700.14. 6.12</b>	<b>Uses Accessory to Allowed Uses</b>	<b>Section 500</b>

**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:

**1<sup>st</sup> installment:** upon granting of a building permit, and as prerequisite to the issuance of the building permit;

**2<sup>nd</sup> 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 herebefore 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

**Asphalt, Brick, Concrete & Soil Recycling:** 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      **Base Flood:** The flood having a one percent chance of being equalled or exceeded in any given year.
800. 6. 2. 10     **Basement:** 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      **Batching Plant:** 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      **Body Art Establishment:** 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      **Breezeway:** 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      **Building:** 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      **Building, Principal:** The structure in which is conducted the principal use of the lot.
800. 6. 2.16      **Cellar:** 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**                    **Club or Lodge:** 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**                    **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. 2.19**                    **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.
- 800. 6. 2.20**                    **Density:** Lot area per dwelling unit (expressed in square feet).
- 800. 6. 2.21**                    **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. 2.22**                    **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. 2.23**                    **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. 2.24**                    **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. 2.25                    **Dwelling, Multifamily:** A building used for, or occupied by, five (5) or more dwelling units.
800. 6. 2.26                    **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. 2.27                    **Dwelling, Town or Row:** A single family attached unit with party walls.
800. 6. 2.28                    **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. 2.29                    **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. 2.30                    **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. 2.31                    **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. 2.32                    **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. 2.33                    **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. 2.34                    **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. 2.35      **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. 2.36      **General 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.
800. 6. 2.37      **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. 2.38      **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. 2.39      **Inspector of Buildings:** The officially established zoning and building enforcement officer for the city of Malden.
800. 6. 2.40      **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. 2.41      **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. 2.42

**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, 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. 2.43

**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. 2.44

**Lot Coverage:** That percentage of the lot area which is devoted to the building area.

800. 6. 2.45

**Lot Line:** The boundary of the lot.

800. 6. 2.46

**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. 2.47

**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. 2.48

**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. 2.49

**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. 2.50

**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.

800.6.2.51

**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.

800. 6. 2.52

**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. 2.53

**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. 2.54

**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. 2.55

**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. 2.56

**Parking Aisle:** That area adjacent to a parking space or spaces through which a motor vehicle must move to enter or exit.

800. 6. 2.57

**Planned Development:** A multi-use development guided by a Development Master Plan, as defined by this ordinance, see Section 300.13.

- 800. 6. 2.58** **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. 2.59** **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. 2.60** **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. 2.61** **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. Some test production may be included, but the primary function is research.
- 800. 6. 2.62** **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. 2.63** **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. 2.64** **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. 2.65

**Setback:** The horizontal distance measured perpendicularly from the street line into the lot. (See Front Yard).

800. 6. 2.66

**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. 2.67

**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. 2.68

**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. 2.69

**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. 2.70

**Street Line:** The outside limit of a street or way dividing it from the abutting lots.

800. 6. 2.71

**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. 2.72**      **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. 2.73**      **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. 2.74**      **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. 2.75**      **Use, Accessory:** A purpose supportive to or dependent upon the principal purpose of a building, structure, or lot.
- 800. 6. 2.76**      **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. 2.77**      **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. 2.78

**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. 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. 2.79

**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. 2.80

**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. 2.81

**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. 2.82

**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. 2.83**                      **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. 2.84**                      **Zone AE: the 100-year floodplain where the base flood elevation has been determined.**
- 800. 6. 2.85**                      **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.





## **CHAPTER 4**

### **FINANCE**

#### **IN GENERAL**

##### **SECTION 4.1                      FISCAL YEAR**

**The annual accounts of the Treasurer and Controller of Accounts shall include the last day of June. The financial year shall begin on the first day of July.**

##### **SECTION 4.2                      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 4.3                      HOW MONEY TO BE WITHDRAWN FROM 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, nor shall any order be drawn in payment for services rendered or material furnished, to any department, beyond the sum appropriated therefor by the City Council; provided, however, that the Treasurer may pay any sum of money due on the principal or interest of any note, bond or other security of the City, or for state and county taxes, or any judgment against the City, and any refunds on water bills, betterment assessment bills, annual sewer rate bills, assessment bills paid in lieu of annual sewer rates, apportionment bills, whether betterment or sewer assessment bills, and sidewalk assessment bills. All refunds shall be certified by the Board or Commission from which the refund is sought.**

#### **SECTION 4.4**

#### **INTRA DEPARTMENTAL TRANSFERS**

**Transfers from any account in a department to another account in the same department not exceeding the sum of five hundred dollars (\$500.00) may be made on the recommendation of the Controller of Accounts with the consent of the Mayor. Transfers of amounts in excess of five hundred dollars shall be made only upon majority vote of the members of the City Council.**

#### **SECTION 4.5**

#### **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 of by the City Treasurer with the approval of the Mayor; and all bonds and notes issued by the City shall be signed on behalf of the City by the City Treasurer and countersigned by the Mayor and Controller, and all bonds shall bear the seal**

of the City. The Controller shall keep a record of all bonds and notes so signed and countersigned entering the same against the order authorizing the loan.

## **ASSESSING DEPARTMENT**

### **SECTION 4.6 COMPOSITION, POWERS, AND DUTIES**

The Assessing Department shall be under the charge of the Board of Assessors, consisting of three Assessors, who shall have and exercise all the powers and duties of Assessors of Taxes.

### **SECTION 4.7 INTERNAL ORGANIZATION; DUTIES; RECORDS**

The Board of Assessors shall annually as soon after March first as practicable, meet and organize by selecting one of their members as Chairman, and appointing a Clerk, who shall not be a member of the Board.

The Board shall hire additional employees and assistants as required, subject to funding by the Mayor and City Council, and shall compute and cast all taxes.

**The Clerk shall keep a record of all transactions of the Board, and under the direction of the Board, have charge of the books of the Assessing Department. The Clerk shall keep a complete record of transfers of real estate and all information necessary for the legal and correct assessment of taxes, and shall perform such other duties as the Board of Assessors may from time to time determine.**

**SECTION 4.8 TO ASSURE THAT THE CITY OBTAINS ITS SHARE OF TAXES ON NATIONAL BANKS AND CORPORATIONS**

**The Board of Assessors shall, by an examination of the returns and records in the office of the Tax Commissioner, and by all proper methods, see that the City obtains its share of taxes on national banks and other corporations.**

## SECTION 4.9 REPORT TO CONTROLLER AND TREASURER; WHEN REQUIRED

**The Board of Assessors shall, on or before the first day of September in each year, make a true return to the Controller of Accounts of the amount of taxes set in the annual warrant and the amount of Community Preservation Fund surcharges, if any, to the Collector of Taxes, and shall, thereafter, make a return to the Controller of Accounts of all other assessments made by it. It shall make a certificate of every abatement allowed, and keep a record of the same, which certificate shall state the name of the person assessed, the ward in which he is assessed, and the amount abated; and shall present to the Controller of Accounts the sum total of all such abatements.**

#### **SECTION 4.10**

#### **TAX ASSESSMENT LIST- TO BE DELIVERED TO COLLECTOR AND CONTROLLER**

**The Board of Assessors shall complete the assessment of taxes, and deliver a list thereof, including a full and exact description of the land, and the name of the owner, to the Collector, on or before the first day of September in each year. The Board of Assessors shall add to the taxes payable for each property a 1% surcharge on the real estate tax levy; provided that no such surcharge shall be assessed for \$100,000 of the value of any property; and provided further that no surcharge shall be assessed for property owned and occupied by a person qualifying for low income housing or low or moderated income senior housing. It shall also furnish to the Collector a list of property that has become liable to sale for nonpayment of taxes.**

**The Board of Assessors shall render to the Controller of Accounts at the time when they deliver any tax list to the City Collector a statement of the amount of such tax list so far as the amounts thereof have not been included in any statement previously made and shall on or before the first day of each month submit a statement showing the amount of taxes which have been abated during the preceding month, giving the year in which the taxes abated were paid.**

#### **SECTION 4.11**

#### **ABATEMENT OF TAXES**

**All abatement of taxes shall be made at a public meeting of the Board of Assessors, and shall be recorded in a book provided for that purpose, which record shall be kept as required by law. All votes on abatements and reviews of property shall be with the concurrence of a majority of the Board.**

## **SECTION 4.11.1**

### **PAYMENT VOUCHERS FOR REAL ESTATE TAXES TO SENIOR CITIZEN VOLUNTEERS**

#### **A. IN GENERAL**

The Director of the Senior Center shall, subject to funding, establish a program for residents to provide voluntary services to the city in exchange for a reduction in tax obligations on real property, subject to the following conditions:

1. participants must be 60 years of age or older as of July 1<sup>st</sup> of the previous year (hereinafter “senior citizens”);
2. participant must own and occupy the property to which the tax reduction is applied;
3. The annual reduction on any real estate tax bill shall not exceed \$500.00.
4. Each participant shall be credited with service at a rate determined by the Director; provided that no participant shall be credited at a rate in excess of minimum wage established by the Commonwealth of Massachusetts;
5. Participants shall not be deemed employees and shall not be eligible for any employment-related benefits, including but not limited to health insurance, workers compensation, and sick leave or vacation time.

The reduction in taxes provided under this program shall be in addition to any other exemption or abatement for which the tax payer qualifies.

#### **B. APPLICATION FOR VOLUNTEER POSITION**

**The Director of the Senior Center shall, for the purposes of determining eligibility, obtain verification of age, property ownership and residence of each applicant.**

**Application shall be made in a form determined by the Director of the Senior Center and shall be designed so as to ascertain the knowledge, skills, interests and abilities of the applicant.**

### **C. AVAILABILITY OF VOLUNTEER POSITIONS**

**The head of each city department shall annually furnish to the Director of the Senior Center, on a form provided for that purpose, a list of volunteer positions available in the department. Said list shall include a description of each position, a list of required skills, dates and hours during which services are required, and such other information as the Director may require.**

**The Director of the Senior Center shall require that participants successfully complete a job readiness session and shall refer to each department such senior citizens as the Director believes are eligible and qualified to perform the tasks described. Acceptance into the program shall be subject to the approval of the department head. When required by departmental hiring practices, the department head may request that the participant submit to a criminal record check.**

### **D. CERTIFICATION OF SERVICES AND REDUCTION IN TAXES**

**The department supervising a senior citizens service shall certify to the Assessors, on a form provided for that purpose, the amount of service performed. The department shall also provide a copy of such certificate to the senior citizen.**



**The Assessor shall process all credits so that the tax bill for the fiscal year next committed after completion of service reflects the reduced tax obligation.**

## **COLLECTOR OF TAXES**

### **SECTION 4.12**

### **DUTIES**

**The Collector shall:**

**A. 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.**

**B. issue tax bills, including Community Preservation Fund surcharges, where applicable, as soon as practicable after the tax lists are received and, for each fiscal year, issue summonses and collect all taxes, Community Preservation surcharges and interest accruing thereon, as allowed by law.**

**C. 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.**

**D. collect, as allowed by law, all other funds, together with any interest accruing thereon, due the City;**

**E. shall annually furnish to each department, board, commission, or division that issues license or permits including renewals or transfers, 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 that such party has not filed in good faith a pending application for an abatement of such tax or a pending petition before the appellate tax board.**

## **CONTROLLER OF ACCOUNTS**

### **SECTION 4.13**

### **TO BE IN CHARGE OF ACCOUNTING DEPARTMENT; RECORD OF ACCOUNTS**

**The Controller of Accounts shall be in charge of the Accounting Department and shall keep a complete set of books and accounts which shall comprise all of the financial transactions of the City through the various departments and officers under their respective appropriations. 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.**

#### **SECTION 4.14**

#### **TO RECEIVE ACCOUNTS AND CLAIMS; TO ALLOW OR DISALLOW CLAIMS; CERTAIN PURCHASES TO REQUIRE OTHER APPROVAL; WHEN BILLS TO BE PRESENTED TO CONTROLLER**

**The Controller of Accounts shall receive and carefully examine all accounts, claims, bills and payrolls which have been approved and certified by the several boards, committees, commissions, commissioners, and officers authorized to make expenditures, if they are correctly cast and duly approved; or if such indebtedness arises from a written contract and such account, claim, bill or payroll conforms with the terms of such contract, the same shall be approved.**

**The Controller of Accounts may refuse to pay, in whole or in part, any claim on the ground that it is fraudulent, unlawful or excessive, and in that case he shall file a written statement with the Mayor stating reasons for refusal.**

**No account, claim, bill or payroll shall be approved by the Controller of Accounts unless at the time the indebtedness is contracted the unexpended balance of the appropriation to which it is chargeable is in excess of such account, claim, bill or payroll, together with all prior orders against such appropriation; nor shall it be approved if not properly chargeable to the appropriation to which it is sought to be charged and properly itemized.**

**The Controller of Accounts shall not approve or allow payment of any bill for coal in lots of one ton or more, purchased for the use of the several departments of the City, except such as have been certified to him by the Sealer of Weights and Measures, and he shall, at the time of auditing such bills, endorse on the same the number and date of certification.**

**All bills of each month which have been properly approved shall be in the hands of the Controller on or before the fifth of the succeeding month or more often as determined by the Controller.**

## SECTION 4.15 TO DRAW ALL WARRANTS

**The Controller of Accounts shall draw all warrants on the Treasury for the payment of such account, claims, bills and payrolls, for any amounts due on the principle or interest of any bond, note or other security of the City or any sum payable under the law regulating military and state aid, soldiers' relief, burial or indigent soldiers, or any claim which the City Council has ordered to be paid; or any sums due as wages to such of the employees of the City as are entitled by law to be paid weekly, or any salary fixed by the City Council to be paid, if there be a balance of any appropriation therefor sufficient for the payment of the final judgments of courts, sums payable to the Commonwealth or county by law. All warrants drawn by the Controller of Accounts for the payments of moneys from the Treasury shall only be valid when countersigned and approved by the Mayor.**

## SECTION 4.16 REPORTS AND RECORDS

**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, 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 of Accounts shall keep accounts in such form and in such detail as may be necessary to show clearly all expenditures and receipts. The Controller shall credit each City account with its appropriations for the financial year, and charge the expenditures against the same as they shall from time to time be allowed. The Controller shall provide monthly statements of expenditures and unexpended balances of each account to the Mayor and the City Council, and shall provide each board or officer a statement of the expenditures and unexpended balance of any appropriation under their charge.**

#### **SECTION 4.17**

#### **QUARTERLY STATEMENT TO BE SUBMITTED**

**The Controller of Accounts shall, at the close of each quarter year, or as often as deemed expedient, examine the accounts of the Treasurer, and Collector of Taxes; and for that purpose shall have access to all books and vouchers in possession of any officer of the City. The Controller shall make report thereof to the Mayor and City Council quarterly.**

#### **SECTION 4.18**

#### **TO RECEIVE INVENTORIES OF PROPERTIES**

**The Controller of Accounts shall obtain from the Purchasing Agent at the end of each financial year an inventory of any property, real or personal, belonging to the City and an estimate of its value.**

## **SECTION 4.19**

## **ANNUAL AUDIT**

**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 or standards set by the director of the Department of Revenue Division of Accounts. The Controller of Accounts shall petition the director of the Division of Accounts for such an annual audit.**

## **SECTION 4.20**

## **PAYROLL FORMS**

**The heads of departments shall furnish payrolls of employees in their respective departments in such forms as the Controller of Accounts shall approve, duly certified as required by statute, and submit the same to the Controller of Accounts. After the certification and approval of payrolls by the Controller of Accounts the Treasurer shall pay the same by check in accordance therewith and each check shall contain the amount of every deduction.**

## **ACCOUNTS AND FINANCE; FINANCE COMMITTEE; CLAIMS COMMITTEE**

## **SECTION 4.21**

## **ACCOUNTS TO BE APPROVED BY FINANCE COMMITTEE**

**If the Controller of Accounts refuses to pay any bill, said bill may be referred to the Finance Committee for its consideration and approval or rejection.**

**Excepting bills which may be discounted, all bills which have been approved by the Finance Committee or by the Controller of Accounts shall be payable by the City Treasurer on or after the fifteenth day of each month. All bills which may be discounted shall be payable when approved and certified as above provided and shall be paid as early as necessary to secure discount.**

## **SECTION 4.22**

### **CLAIMS AGAINST THE CITY FOR DAMAGES APPROVED BY COMMITTEE ON CLAIMS; AUTHORITY OF COMMITTEE TO ADJUST SMALL CLAIMS; NOTICE TO CITY SOLICITOR**

**All claims made against the City for damages, and such other claims as may be referred to them, shall be examined by the Committee on Finance; and the Committee may take such steps as it deems expedient for the defense of the City 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.**

## **CITY TREASURER**

**SECTION 4.23**

**TO BE COLLECTOR OF TAXES**

**The City Treasurer shall be the collector of taxes and all sums payable to the City not otherwise provided for by law.**

**SECTION 4.24**

**TO KEEP ACCOUNTS, PAY WARRANTS, JUDGMENTS, ETC. LIMITATION  
ON PAYMENT OF MONEY; ANNUAL REPORT**

**The City Treasurer shall keep an accurate account of all receipts and payments.**

**Prior to payment by the City Treasurer, all warrants, bonds, certificates of indebtedness and the interest due on the same shall be signed by the Controller of Accounts and Mayor. The Treasurer shall cancel all such bonds or certificates of indebtedness and coupons when paid.**

**The Treasurer shall, annually in October, furnish the City Council with a report of receipts and expenditures for the prior fiscal year.**

**SECTION 4.24.1**

**TO ESTABLISH A COMMUNITY PRESERVATION FUND; INVESTMENT AND  
EXPENDITURE FROM FUND; ETC.**



**The Treasurer shall establish and act as custodian of a separate account to be known a the Community Preservation Fund, and shall deposit into said fund all of the following:**

- .1 funds collected from Community Preservation Fund surcharges on real estate;**
- .2 funds received from the Commonwealth or any other source for purposes of community preservation;**
- .3 funds allocated from city revenues for community preservation, if any;**
- .4 proceeds from bonds, if any, issued in anticipation of revenue, pursuant to Section 11 of Chapter 44B of Massachusetts General Laws.**

**The Treasurer shall invest Community Preservation funds in the manner permitted by state law and shall credit any income from said investment to the Community Preservation Fund.**

**Expenditure or revenues shall be made, upon order of the City Council and Mayor, to implement the recommendations of the Community Preservation Committee.**

## **SECTION 4.25 TO FURNISH MONTHLY STATEMENTS TO CONTROLLER OF ACCOUNTS**

**The City Treasurer shall, on the first day of each month, give to the Controller of Accounts the following:**

**A. a detailed statement of collections, payments or receipts, including names of payers and accounts credited, during the preceding month; except that, reports of receipt of taxes, assessments and water rates, need only include the amount received and the account upon which the collection was made;**

**B. a record of all discounts, abatements and repayments allowed during the month;**

**C. a statement of all fees, charges, costs and commissions received;**

**D. a certification that all moneys received on behalf of the City by any duly appointed sheriff, deputy sheriff, or constable have been paid into the Treasury.**

## **SECTION 4.26**

## **SURETY BOND**

**Prior to assuming office, the City Treasurer and Collector of Taxes shall give a bond, to be approved by the City Council, in such form and amount as required by law.**

**Failure to provide such bond within the time required by the City Council, shall rescind the election, and a new election shall be held.**

**In case of bond revocation, a new bond, as herein required, shall be provided; and failure to do so within fifteen days shall be cause for removal from office.**

**SECTION 4.27** **TO KEEP DEEDS AND INSTRUMENTS CONVEYING REAL ESTATE**

**All recorded deeds and instruments conveying real estate to the City shall be kept by the Treasurer.**

## PURCHASING DEPARTMENT

**SECTION 4.28** **CONTROLLER OF ACCOUNTS TO BE PURCHASING AGENT**

**The Controller of Accounts shall be the Purchasing Agent and shall have all the powers and duties conferred upon purchasing agents or procurement officers by law and by ordinance.**

## SECTION 4.29 POWERS AND DUTIES

**A. The Purchasing Agent shall have power and duty to purchase, depose of, or contract for all supplies, materials, equipment and contractual services, including installation, repair, and maintenance thereof, as needed by any of the departments, boards, commissions and other officers or municipal agencies, hereinafter respectively called "using agencies," except those exempt under Chapter 687 of the Acts of 1989.**

**"Contractual services" shall not be construed to mean the hiring of departmental personnel, expert witnesses, labor relations representatives, medical, legal, technical and other professional services, or awarding and administering of contracts for the construction, reconstruction or alteration of City buildings and property. Also exempted are special programs or grants provided by state or federal funds or bidding procedures.**

**The term "supplies, materials, and equipment" as used throughout this article shall be construed to mean any and all articles, materials and equipment, including installation, repair, maintenance or insurance therefor, which may be furnished to or used by any using agency.**

**The Purchasing Agent shall have the power to transfer all supplies, materials, and equipment from one department to another.**

**The Purchasing Agent shall have the power to sell, exchange or trade any supplies, material and equipment which have become obsolete or are no longer suitable for public use.**

**The Purchasing Agent is designated as Chief Procurement Officer and Chapter 687 of the Acts of 1989 is hereby incorporated by reference as if set forth hereat.**

**B. The Purchasing Agent shall have authority to order or make inventories of the supplies, materials, equipment and furnishings of any and all departments. Any department possessing excess or surplus personal property of any kind or description shall not exchange, transfer or dispose thereof without first certifying such personal property as surplus to the Purchasing Agent. Thereupon, the Purchasing Agent shall notify all departments and agencies as to the availability of such surplus personal property, and may order transfer of such property from one department or agency to another. Inventory adjustments between the departments shall be made accordingly.**

**Property determined by the Purchasing Agent to be no longer useful for any municipal purpose may be sold and the proceeds shall be paid to the City Treasurer.**

**The Purchasing Agent shall require that each using agency shall provide an inventory during the month of June in each year of the personal property under its charge.**

**Between the first day of November and the first day of December in each year there shall be forwarded to the Purchasing Agent an estimate of equipment, material, supplies and contractual services that will be needed by each using agency for the ensuing year. The requirements for preparing estimates shall not prevent any using agency from filing with the Purchasing Agent at any time a requisition for any supplies, materials, equipment or contractual service, the need for which was not foreseen when the detailed estimate was filed.**

**C. The Purchasing Agent shall control and supervise any and all storerooms and warehouses.**

**The City Council, upon estimates prepared by the Purchasing Agent and submitted from time to time by the Mayor, shall provide a revolving stores fund of sufficient amount to finance the purchase and storage of standard supplies, materials and equipment for use by all departments and agencies which may be purchased and stored advantageously, and such fund shall be under the control of the Purchasing Agent who shall also be responsible and accountable for all supplies, materials and equipment under his control and shall maintain a perpetual inventory record thereof.**

**D. The Purchasing Agent shall prepare written specifications for standard supplies used by the departments. Except in the case of non-competitive purchases, all specifications shall permit competition. The Purchasing Agent shall have the authority with the approval of the Mayor, to exempt any department of the City from the use of any standard supply. The Purchasing Agent shall consult with the heads of the departments to determine their requirements and shall endeavor to prescribe those standards which best meet the needs of the majority of departments. The Agent shall have the authority to make use of the laboratory and engineering facilities of the City and technical staffs thereof.**

**E. The Purchasing Agent shall be responsible for the inspection of all supplies, materials, equipment and contractual services delivered to the City in order to determine conformance with the specifications set forth in the orders or contract and for such purpose any department or office may be authorized by the Purchasing Agent to determine such conformity as is required hereunder.**

**F. The Purchasing Agent may require any office or department head to furnish information essential to the operation of the Purchasing Department for compliance with public purchasing requirements.**

## **SECTION 4.30**

## **REQUISITIONS FOR SUPPLIES**

**Except as provided in Section 4.40 or Chapter 687 of the Acts of 1989, requisitions for the purchase of supplies or contractual services for any department, board or commission shall be received by the Purchasing Department prior to the issuance of a purchase order or contract for such supplies or contractual services and shall be signed by the head of the using department, or an authorized agent. The Purchasing Agent shall examine each requisition and shall have the authority, only after consultation with the department head, to revise it as to quantity, quality or estimated cost.**

## **SECTION 4.31**

## **REQUISITIONS AND PURCHASE ORDERS**

**No requisition, order or contract shall be subdivided to avoid public purchasing requirements.**

**The head of each using agency shall file with the Purchasing Agent the names of members of that department who shall be authorized to originate requisitions.**

**All purchase orders shall issue from the Purchasing Agent and no other person is authorized to place or commit any order for purchases.**

**All requisitions are to be made on forms approved and prepared by the Purchasing Agent.**

## **SECTION 4.32**

## **PROCEDURE FOR CONTRACT PURCHASES; LIMITATION ON AMOUNTS**

### **A.**

**(1) All purchases of, and contracts for, supplies, materials, equipment or contractual services, and all sales of personal property which have become obsolete and unusable, involving a sum of ten thousand dollars (\$10,000.00) or more, shall be purchased or sold by competitive bid. Such bid shall be solicited by invitations to bid sent on the same day to at least three vendors.**

**(2) All purchases exceeding one thousand dollars and less than ten thousand dollars shall, whenever possible, be based on at least three comparative open market price quotations, without newspaper advertisement and without necessity of observing the procedure described at Section 4.35 (B) for the award of contracts. The order shall be awarded to the lowest responsible and responsive bidder. The purchasing agent shall keep a record of all open market orders and the price quotations submitted thereon, and such records shall be open to public inspection.**

**(3) Before entering into any contract for supplies, materials, equipment or contractual services involving the expenditure of more than ten thousand dollars (\$10,000.00), the Purchasing Agent shall prepare, or cause to be prepared, plans and specifications; notices inviting sealed competitive bids for such contracts shall be published in at least one local newspaper and one Boston newspaper at least one week before the final date for submitting bids.**

### **B.**



**The only exception to the purchasing procedure outlined within this Chapter shall be due to emergencies where immediate procurement is essential to prevent delays in the work of the using agency which may vitally affect the life, health or convenience of citizens and in such cases a detailed report of the circumstances of the emergency shall be filed by the using agency and the Purchasing Agent with the Mayor and approved by the City Solicitor.**

**In the case of an emergency, the head of any department or those authorized by any and all using agencies may, with the approval in writing of the Purchasing Agent or the Mayor, if the Purchasing Agent is not available, purchase directly any supplies, materials, equipment or contractual services whose immediate procurement is essential to prevent delays in the work of the using agency which may vitally affect the life, health or convenience of the citizens.**

**The individual authorized to make such emergency purchase shall send to the Purchasing Department a requisition and a copy of the delivery record.**

**The Purchasing Agent may establish, with the approval of the City Council, rules and regulations prescribing the procedure under which emergency purchases may be made.**

**C.**

**Whenever a bid is solicited, the using agency shall furnish to the Purchasing Agent a complete and accurate schedule showing in detail the amount, the quality, the dimensions and all other necessary details concerning such items to be bid upon. The Purchasing Agent shall provide copies of such plans and specifications to all parties proposing to bid.**

**D.**

**All pending contracts shall be advertised by notices posted on a bulletin board in the office of the Purchasing Agent and located so as to be easily accessible to the public.**

**E.**

**Every contract awarded by competitive bid in excess of \$5,000.00 shall be executed in triplicate by the Mayor and Purchasing Agent on behalf of the City and the head of the using agency shall sign the contract indicating approval or disapproval.**

**F.**

**Every contract shall be executed in triplicate by an officer, director, owner or authorized person on behalf of the awardee and shall be accompanied by a performance bond or by the deposit of money or security in the amount of such bond.**

**G.**

**After being executed, no contract shall be altered, in any particular, unless the parties who originally signed the contract endorse on such contract their written assent to each alteration.**

**H.**

**The City Clerk and the Controller of Accounts shall be furnished all contracts or copies thereof within one week after execution.**

**I.**

**Bids shall be returned to the Purchasing Agent and City Controller in a sealed envelope, properly denoting on the face thereof the type of bid enclosed. Such bids shall be deposited in a locked box kept for that purpose by each of those officials. The Purchasing Agent shall cause these provisions to be printed on or attached to all invitations to bid.**

**J.**

**Bids shall be publicly opened and read at the hour and place designated in the advertisement, or as soon thereafter as possible, by the Purchasing Agent. Contracts shall be awarded to the lowest responsible, eligible and responsive bidder possessing the skill, ability and integrity necessary for the faithful performance of the terms and conditions thereof; provided, however, that preference may be given to substantially similar bids offered by responsible firms or persons established and doing business in the City.**

**K.**

**No proposals shall be accepted from any person who has breached a contract with the City during the three years preceding. Any contractor who furnished or seeks to furnish goods, equipment, materials, or services to the City may be debarred or excluded from eligibility for future public contracts with the City of Malden for a period of time, to be determined as set forth herein, for any of the following causes:**

**(1) a criminal offense involving embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property or any other offense indicating a lack of business integrity or business honesty which seriously and directly will or may affect the contractor's present responsibility or ability as contractor to comply with contractual requirements;**

**(2) violation of any state or federal law regulating hours of labor, prevailing wages, minimum wages, overtime pay, equal pay, child labor, or any other state or federal law regulating labor relations or occupational health or safety;**

**(3) violation of any state or federal law prohibiting discrimination in employment;**

**(4) supplying of material false information incident to obtaining or attempting to obtain or performing any public contract or subcontract;**

**(5) a record of failure to perform or of unsatisfactory performance in accordance with the terms of one or more public contracts, provided that such failure to perform or unsatisfactory performance has occurred within a reasonable period of time preceding the determination to debar and provided the failure to perform or unsatisfactory performance was not caused by factors beyond the control of the contractor;**

**(6) debarment by the Division of Capitol Planning and Operations, under Mass. G.L. chapter 149 section 44C;**

**L.**

**The Purchasing Agent may reject any and all bids and cause new advertisements to issue, except as otherwise allowed by law.**

**M.**

**"Contractor" shall be defined as any individual, partnership, corporation or any other entity, its affiliate or subsidiary or subdivision. If debarment proceedings are undertaken, the contractor shall be ineligible to bid on any City of Malden contracts from the date of notice of proceedings herein until the proceedings are concluded. The Purchasing Agent will send notice by certified mail, return receipt requested, to the contractor, at the last known address, stating the reasons and the proposed duration of the proposed debarment. Upon request, the contractor will be given a hearing, if the request is mailed certified mail or delivered to the Purchasing Agent within 14 calendar days of receipt of the notice. If no hearing is requested, debarment as directed shall become in full force and effect. If a hearing is requested, the same shall be public or private, as requested by the contractor, and shall be held within 30 days of the request for hearing unless otherwise agreed.**

**Debarment shall be ordered only to protect the integrity of the public contracting process in the particular instance and shall not exceed five (5) years. Rules and regulations relating to hearings under Mass G.L. C.. 149 section 44C, as amended, if applicable, shall be complied with.**

**N.**

**All bids shall be preserved by the Purchasing Agent and shall be open to public inspection, as required by law.**

## **SECTION 4.33**

## **PRINTING CONTRACTS**

**The Purchasing Agent shall contract annually for the printing of the City reports, the Departmental reports, the Rules and Orders of the City Council, and all letter heads and envelopes used by the City in its several departments. The cost thereof shall be charged to the appropriate departments except as otherwise provided for by budget appropriation. The using agencies shall annually on or before the first day of February in each year make requisitions for printing needed during the ensuing year. All bills for such printing shall be submitted to the Purchasing Agent for his approval prior to the approval of the same by the using agency and no such bill shall be paid by the City Treasurer until approved by the Purchasing Agent.**

#### **SECTION 4.34**

#### **PURCHASES OF FUEL**

**The Purchasing Agent shall purchase fuel for the public schools, and for all buildings used by the City and shall likewise purchase all fuel used by the City whether for heating, power, or for any other purpose. The expense shall be charged to the appropriate departments. The using agency shall submit requisitions to the Purchasing Agent for fuel needed during the ensuing year. All coal purchased by the Purchasing Agent shall be weighed upon designated scales by him and without expense to the City.**

#### **SECTION 4.35**

#### **ENCUMBRANCE OF FUNDS**

**No officer, department head, board or commission authorized to expend money shall submit requisitions to the Purchasing Agent for the purchase of equipment, supplies, materials, or contractual services until funds are available therefor. No obligations shall be incurred against appropriations except in the case of emergency purchases until the City Controller verifies in writing the availability of an appropriation for such expenditure. Orders issued by the Purchasing Agent shall not be delivered to the vendors until the City**

**Controller shall have certified that there is a sufficient unencumbered balance of the appropriation to be charged to pay the amount due under the purchase order.**

#### **SECTION 4.36**

#### **CONTRACTS COVERING MORE THAN ONE YEAR**

**The Purchasing Agent shall not execute any contract on behalf of the City which will extend beyond one year from the date thereof unless special permission to do so has been given by vote of the City Council or by the statutes of the Commonwealth.**

#### **SECTION 4.37**

#### **CERTIFICATION BY PURCHASING AGENT OF PURCHASES**

**The Purchasing Agent shall certify to the correctness of all bills incurred by the Purchasing Department in the following manner:**

- (a) that the material, supplies, equipment or contractual services were received;**
- (b) that the quality of materials, supplies, etc., were in accordance with the specifications or purchase order;**
- (c) that all prices charged are fair;**
- (d) that a purchase order has been issued for materials, supplies, equipment or contractual services.**

**The above mentioned procedure must be complied with before invoices are forwarded for payment by the Controller.**

#### **SECTION 4.38**

#### **VIOLATION OF PUBLIC PURCHASING REQUIREMENTS**

**Violation of public purchasing laws, rules, regulations or requirements 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.**

**Violation of public purchasing laws, rules, regulations or requirements by any supplier or contractor shall be grounds for refusal of the Purchasing Agent to issue a purchase order or award a contract.**

#### **SECTION 4.39**

#### **ANNUAL REPORT**

**The Purchasing Agent shall submit annually, on or before August 1 a report to the Mayor and the City Council of the activities of the department during the preceding fiscal year, which shall contain an account of equipment, materials and supplies bought, furnished and sold, during said fiscal year and the prices paid or received therefor; an account of equipment, materials, and supplies ordered but not yet received as of the close of the fiscal year and the prices to be paid therefor; an inventory of equipment, materials, and supplies on hand, and such recommendations as he shall deem expedient.**



## **SECTION 4.40**

## **PURCHASING AGENT TO PREPARE RULES AND REGULATIONS**

**The Purchasing Agent shall prepare, and from time to time establish and amend such rules and regulations concerning purchasing authorized by this article and any other changes necessary to its operation. Such rules and regulations and amendments thereof shall be subject to the approval of the City Council.**

## **SECTION 4.41**

## **DISBURSEMENT OF FUNDS FROM THE EXPENDABLE TRUST**

**.1 The Mayor shall, in conjunction with the annual appropriation order, and may, at any other time deemed appropriate, recommend that funds from the Expendable Trust Fund 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:**

**.1 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;**

**.2 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.**

## **SECTION 4.42**

## **WOMAN/MINORITY BUSINESS ENTERPRISE PLAN**

### **I**

### **OBJECTIVES AND GOALS**

**The City of Malden, Women/Minority Business Enterprise (W/MBE) Program has been formulated to further implement the City's policies as set forth herein. The main objective of the Program is to increase the W/MBE participation in the City's construction contracts and in the procurement of goods, services and supplies.**

**The annual W/MBE utilization goal for the City of Malden shall be set at, but not limited to, at least ten per cent (10%) of the total annual dollar value of all construction contracts and the procurement of goods, services and supplies. The Woman Business Enterprise utilization goal for the City of Malden shall be set at (but not limited to) at least five per cent (5%) of the total annual dollar value of all construction contracts and the procurement of goods, services and supplies. However, this goal need not be complied with on a contract-by-contract basis.**

**Nothing in this program shall be construed to require W/MBE participation in circumstances where no qualified Woman/Minority Business Enterprise is available.**

## II DEFINITION, CERTIFICATION, AVAILABILITY AND QUALIFICATIONS OF WOMAN/MINORITY BUSINESS ENTERPRISES

## A. DEFINITIONS

**For purposes of the Program, a "Woman/Minority Business Enterprise" (W/MBE) shall be those eligible applicants as defined at 425 CMR 2.02, Massachusetts State Office of Minority Business Assistance (SOMBA) Regulations. The precise definitions established by SOMBA are hereby incorporated by reference and the City of Malden does hereby adopt said regulations as its standard.**

**A "Minority Group Member" shall be as defined at 425 CRM 2.00 et seq., the SOMBA regulations.**

## B. CERTIFICATION

**The City of Malden hereby recognizes as an W/MBE, for the purposes of this program, only those eligible applicants included in SOMBA's most recently up-dated directory of certified Minority Businesses, or such individuals and firms referred to SOMBA by the**

**City of Malden and subsequently found by them to qualify for certification in the next up-date of their directory. The City will make every effort through the local business channels to encourage potential W/MBE members to become certified through SOMBA.**

**C. AVAILABILITY**

**An W/MBE shall be considered available if located within the Metropolitan Area. However, efforts to locate minority business enterprises need not be limited to this area.**

**D. QUALIFICATIONS**

**An W/MBE shall be judged qualified if it can provide reasonable assurances that it can perform services or supply materials that are needed, in accordance with contract specifications, when and as due, at a satisfactory level. In construction projects, prime contractors will be expected to provide technical assistance, including assistance in obtaining bonds, to W/MBE's as needed.**

**III RESPONSIBILITY FOR IMPLEMENTATION**

**A. CITY**

**The Mayor, as Chief Executive Officer, has overall responsibility for the City's Woman/Minority Business Enterprise Program.**

**B. AFFIRMATIVE ACTION/WOMAN/MINORITY BUSINESS ENTERPRISE/ CONTRACT COMPLIANCE OFFICER**

**The Affirmative Action/Woman/Minority Business Enterprise/Contract Compliance Officer (hereinafter called "AA/W/MBE CCO") shall administer the Woman/Minority Business Enterprise Program, including start-up, on-going operation, monitoring, evaluation, and reporting/functions and shall report directly to the Mayor. A major element of his/her work will be the coordination of the Program's operations throughout all the City's departments.**

**IV. ADVANCE PLANNING AND GOAL SETTING**

**A. SIX MONTH PROJECTIONS BY DEPARTMENTS**

**All City Departments shall submit to the AA/W/MBE Contract Compliance Officer on July 15 and January 15, a projection of contracts to be let and of goods and supplies to be purchased during the next two (2) calendar quarters. Insofar as possible, the projections for construction contracts requiring expertise shall include information as to which parts of the contract could be sub-contracted. An updated listing of projected contracts, by each department, shall be required when necessary.**

**B. COMPLIANCE OFFICER USE OF DEPARTMENT PROJECTIONS**

After receiving the departmental projections, the AA/W/MBE CCO shall proceed as follows:

1. Using the most recently up-dated SOMBA Minority/Women Business Directory, the AA/W/MBE CCO shall prepare for the Awarding Authority lists of minority firms to which invitations to bid or Requests-for-Proposals, where applicable, should be sent for each of the projected contracts.
2. The AA/W/MBE CCO, in consultation with the Purchasing Agent shall review reasonable proposals for subdividing projected contract work in such a way as to maximize the opportunity for small minority firms to participate. Based on this joint review, the Purchasing Agent and the AA/W/MBE CCO shall make efforts to reach agreements as to making such subdivisions of the projected work, unless otherwise prohibited by law.
3. In consultation with SOMBA, the AA/W/MBE CCO shall make recommendations to the Mayor and Purchasing Agent when determined practical, that certain subcontracts or entire contracts be designated for one hundred (100) per cent participation.
4. Also through consultation with SOMBA, the AA/W/MBE CCO shall recommend to the Mayor and/or Purchasing Agent a reasonable percentage for W/MBE participation in certain projected contracts. This determination will be based on SOMBA general knowledge of the current availability of each type of business to be involved, and may vary from zero (0) to one hundred (100) per cent.

**V. W/MBE PROGRAM PROCEDURES FOR PUBLICLY-BID CONSTRUCTION CONTRACTS**

**A. PREPARATION OF BIDDING DOCUMENTS AND INVITATION TO BID**

**1. Focus on W/MBE Requirements-** Both the cover page for the Bidding Documents and the Invitation to Bid shall provide a reference to the W/MBE requirements on the documents.

**2. Certification of Compliance-** The Bidding Documents shall include a Contractor Certification of Compliance with W/MBE Requirements to be filled out and submitted with the Bid Proposal.

**3. Request for Waiver-** The Bidding Documents shall include a

**Request for Waiver form to be submitted with the Bid Proposal in the event that a bidder has been unable to secure W/MBE participation at the minimum level specified in the Bidding Documents. In this event, full documentation of the effort is required.**

**4. Per Cent W/MBE Participation-** The Bidding Documents shall clearly state the minimum W/MBE participation percentage established for the contract. (see V-B-4 above as to procedure for setting percentage)

**5. W/MBE Letter of Intent-** The Bidding Documents shall include a form (Woman/Minority Business Enterprise Participation Letter of Intent) to be filled in by each W/MBE listed in the bidder's Contractor Certification of Compliance. The Letter of Intent shall be submitted with the Bid Proposal.

**6. Ten-Day Rule-** The Bidding Documents shall include a provision that, in the event that the low bidder has submitted a Request for Waiver that is acceptable to the City, the low bidder will be allowed ten (10) additional working days to develop the required W/MBE participation and to submit the Contractor Certification of Compliance and Letters of Intent. This will provide the low bidder with an opportunity to recruit W/MBE's who were previously not available due to their tie-in with other bidders on the same contract. The Bidding Documents shall further state that the ten-day period will begin with the first working day following the low bidders receipt of written notification (by certified mail, return receipt requested) that the AA/W/MBE CCO has found the Request for Waiver satisfactory, and is, therefore, granting a ten-day additional period for meeting the W/MBE requirement. This notification shall state that the Contractor Certification of Compliance and Letters of Intent must be received and date-stamped at the Affirmative Action Office, the Malden Redevelopment Authority, or the City Purchasing Department before 5:00 P.M. on the tenth day.

**7. W/MBE Reviewing-** The Bidding Documents shall state that the City has established an AA/W/MBE CCO procedure and approval process.

**8. Compliance Details-** the Bidding Documents shall contain Compliance Details dealing with Percentage of Participation, Role of the AA/W/MBE CCO, Changes of W/MBE status and sanctions.

**B.**

## **OUTREACH**



**1. Invitation to Bid-** Invitations to Bid shall be mailed by the AA/W/MBE CCO and/or City Purchaser at a reasonable time or as required by law prior to bid opening. The mailing list shall be prepared by the AA/W/MBE CCO as set forth in V-B-1 above.

**2. SOMBA-** Copies of Invitations to Bid shall also be mailed by the AA/W/MBE CCO to the State Office of Minority Business Assistance (SOMBA).

**3. Advertising-** Bid notices shall be advertised in at least one local newspaper of general circulation, and as otherwise required by law. The AA/W/MBE CCO will notify SOMBA that City of Malden advertising will be placed in the selected publications.

**4. Pre-Bid Conferences-** A Pre-Bid Conference may be held for all publicly-bid contracts when determined appropriate by the AA/W/MBE CCO and/or the Purchasing Agent and/or the Malden Redevelopment Authority. A major function of the Pre-Bid Conference will be to explain the Woman/Minority Business Enterprise requirements. Technical assistance in preparing bids will be available. The date, time, place and W/MBE elements of the Pre-Bid Conference shall be clearly set forth in the Invitation to Bid as mailed and as advertised.

**5. SOMBA Directories-** Notice that a copy of SOMBA's Directory is available for examination at the office of the Malden Redevelopment Authority, the Purchasing Department, and/or the Affirmative Action Office shall be included in the invitation to bid.

**6. Technical Assistance- Technical Assistance will be available to prospective bidders by available City personnel in regard to preparing the Woman/Minority Business Enterprise bid forms or as to any other aspect of preparing a bid. Both the Invitation to Bid and the Bidding Documents shall clearly identify the staff person(s) to contact.**

**7. All forms required in furtherance of the Plan shall be prepared by the AA/W/MBE CCO, as approved to form and legality by the City Solicitor.**

**VI. W/MBE PROGRAM PROCEDURES FOR PUBLICLY-BID EQUIPMENT OR SUPPLIES CONTRACTS**

**The AA/W/MBE CCO and/or Purchasing Agent shall mail an Invitation to Bid to each W/MBE company recommended on the list prepared by the AA/W/MBE CCO pursuant to V(b)(1) above. Such Invitation to Bid shall be mailed at a reasonable time or as required by law prior to the date on which the bids will be opened, with copies of each to SOMBA.**

**VII. W/MBE PROGRAM PROCEDURES FOR CONTRACTS UNDER \$10,000.00**

**In handling contracts below \$10,000.00 the Purchasing Agent shall seek to secure bids from all W/MBE companies identified by the AA/W/MBE/CCO as able to provide the type of equipment or supplies from which the informally bid contract is to be let. However, in**

**cases where the purchase is to be below five thousand (\$5000.00) dollars, discretion may be used by the Purchasing Agent as to the optimum number of bids to solicit.**

#### **VIII. W/MBE PROGRAM PROCEDURES FOR CERTAIN CONTRACTS**

**The City Purchaser or, if applicable, the Appointing or Awarding Authority or department head shall contact the AA/W/MBE/CCO at least ten (10) calendar days prior to distributing a Request for Proposal or contacting businesses as a first step to entering into contracts for hire, contracts for professional services, personal services, or consultants or independent contractors whether with or without a compensation on a full, regular or part-time or intermittent basis. These provisions shall not apply to the hiring of Malden salaried Personal Service account employees or to emergency requirements.**

**The AA/W/MBE CCO shall prepare a list of minority business firms to be contacted hereunder by Request for Proposals of otherwise, and either the City Purchaser, Appointing Authority, Awarding Authority, or department head or AA/W/MBE CCO shall send out the same within a reasonable time prior to awarding the contract hereunder.**

**The City department head must request written approval from the AA/W/MBE CCO before the contract is awarded. Such approval shall not be given unless the City Purchaser or Appointing or Awarding Authority or department head provides the AA/W/MBE CCO with satisfactory evidence that it has dealt with all proposals received from minority firms in an objective, fair, and otherwise appropriate manner. In the event no disapproval is received within 7 days of notice to the AA/W/MBE CCO, approval shall be deemed given.**

**IX. MONITORING, RECORD-KEEPING, REPORTING AND EVALUATION; MEETING WITH MAYOR**

**A. Monitoring-** The AA/W/MBE CCO shall monitor each department's contracting procedures at least every six (6) months in order to determine whether both the letter and the spirit of the procedures established in the W/MBE program are being properly implemented. A report on such monitoring shall be submitted by the AA/W/MBE CCO to the Mayor and to the Human Rights Commission, but only after submitting to department heads for their response.

**B. Record Keeping and Reporting-** The AA/W/MBE CCO shall maintain records necessary to provide all information needed for preparation of a report entitled **REPORT ON WOMAN/MINORITY BUSINESS ENTERPRISE CONTRACTING**. The report shall be completed and distributed by the last working day of the month following each quarter. The AA/W/MBE CCO shall determine the list.

**C. Evaluation-** The AA/W/MBE CCO shall prepare annually, following the close of the City's fiscal year, an evaluation of the City's contracting performance during the previous twelve (12) months. This report shall include reasonable recommendations for improving procedures, relative to a negative evaluation. The report shall be sent to the Mayor, the City Clerk, the City Council, and the Human Rights Commission.

**D. The Mayor shall meet either individually or in one large group with all Department Heads and the AA/W/MBE CCO quarterly, if necessary, to review and discuss the success of the program.**

## **X. DISSEMINATION OF WOMAN/MINORITY BUSINESS ENTERPRISE PROGRAM**

**The W/MBE Program shall be disseminated to those deemed appropriate by the AA/W/MBE CCO. A transmittal memorandum to each department head shall accompany the program, and shall require that the department head return the memorandum with initialing, indicating that the document has been received and read and will be complied with to the best of the department head's ability. Also, each department head shall assign an appropriate staff person, if necessary, for implementation and shall notify all personnel in the department of the requirements of this Program.**

## **CHAPTER 5**

### **HUMAN SERVICES**

#### **SECTION 5.1                      MALDEN CULTURAL COUNCIL**

##### **A. PURPOSE**

**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.**

##### **B. MEMBERS**

**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.**

### **C. QUORUM**

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

### **D. FUNDING**

**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.**

## **HUMAN RIGHTS COMMISSION**

### **SECTION 5.2**

### **HUMAN RIGHTS, FAIR HOUSING AND DISABILITY ISSUES COMMISSION**

#### **A. PURPOSE**

**The Human Rights, Fair Housing and Disability Issues Commission (hereinafter, “the 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.**

## **B. MEMBERSHIP, TERMS, COMPOSITION**

**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, 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 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.**

## **C. FUNCTIONS, POWERS, DUTIES**

**The Commission shall:**

- 1. Work to increase awareness among municipal employees and residents of the problems and capabilities of disabled citizens;**



- 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; and**
  - c. securing for all residents the free exercise and enjoyment of any right or privilege accruing under state or federal law.**

**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:**

- a. denial of any right or privilege secured under state or federal law;**
- b. 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; and**
- c. alleged violation of the Americans with Disabilities Act.**

**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.**

#### **D. ADA COMPLIANCE OFFICER**

**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, and, as necessary, enlist the assistance of the Commission in resolving complaints brought under this ordinance.**

**For purposes of implementation of this ordinance, the terms of current members shall terminate upon final passage of this ordinance.**

### **SECTION 5.3 COUNCIL ON AGING/ DIRECTOR OF SENIOR CENTER**

**.1 The Mayor, with City Council confirmation, shall appoint a Director of Human Services and Community Outreach who shall serve a three year appointment. 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 shall also coordinate and collaborate with various other City Departments and programs focused on youth, health and well-being, Veterans and workforce development. The Director will also serve as the liaison to Community organizations by fostering relationships between the City of Malden and non-profit organizations, Civic, School and Community groups.**

**.2 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, who shall serve until their successors are appointed and qualified. 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.**

**.3 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.**

**.4 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. The Director may, for the purpose of providing services to the aging, act in conjunction with similar programs, both private and public and may, subject to funding, enter into agreements with such agencies for the provision of services to the aging.**

**.5 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 5.4 RECREATION PROGRAMS/ RECREATION CO-ORDINATOR**

**.1 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.**

**.2 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 fund-raising, provided that all funds so acquired be deposited in the City Treasury and expended as allowed by law.**

**.3 The Recreation Coordinator may, for the purpose of making recreational programs available to residents, make grants and awards to private organizations upon such terms and conditions as he deems appropriate; provided that no such grant or award shall exceed the amount specifically appropriated therefor.**

**.4 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.**

**Fees and regulations for the use of fields, parks, stadiums or other recreational facilities may be established by the Stadium and Athletic Field Commission; 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.**

**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 5.5                      TEEN PROGRAMS/ TEEN PROGRAM COORDINATOR**

**.1 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.**

**.2 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.**

**.3 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.**

**.4 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.**

## **CHAPTER 6**

### **LICENSING**

#### **IN GENERAL**

##### **SECTION 6.1            LICENSES GENERALLY**

**Except as otherwise provided by law, the City Council 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.**

## **SECTION 6.1A NOTICE TO CUSTOMERS OF LICENSED ESTABLISHMENTS**

**Any business licensed by the City Council shall continuously and prominently display the following notice so as to be visible to all consumers in the ordinary course of business:**

### **NOTICE TO CONSUMERS**

**This business is licensed by Malden City Council. If you have any complaints or concerns regarding the operation of this business, please call the Malden Compliance Bureau at (781) 397-7024.**

**Violation of this ordinance shall be punished in the manner proscribed in MGL Chapter 40 Section 21D in accordance with the following schedule of fines:**

<b>1<sup>st</sup> offense</b>	<b>\$25.00</b>
<b>2<sup>nd</sup> offense</b>	<b>\$50.00</b>
<b>3<sup>rd</sup> offense</b>	<b>\$100 and revocation of license</b>

## **SECTION 6.2 HOURS OF OPERATION - IN GENERAL**

**A. Business or industrial premises may be opened for operation only during the following hours:**

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



**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**

**Canvassing (Door-to-Door Sales)**

**9:00 A.M.-6:00 P.M.**

**B. No person shall operate other than between such hours, unless licensed by the City Council. 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.**

**The City Council may impose such additional restrictions and conditions on an extended hours permit as they deem expedient and in the best interests of the health, safety, welfare and peaceful, quiet enjoyment of the residents of the City of Malden.**

**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- GENERALLY**

**A. The owner, lessee, occupant, person in control or in charge of a public hall who leases, rents, causes or permits use of such public hall 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.**

## **HAWKERS, PEDDLERS AND TRANSIENT VENDORS**

### **SECTION 6.4                    HAWKERS AND PEDDLERS - 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 be 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.**

## **SECTION 6.5                      HAWKERS AND PEDDLERS - SPECIAL EVENTS**

### **A. PERMIT REQUIRED**

**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:**

<b>all items except food</b>	<b>\$100.00</b>
<b>food</b>	<b>\$250.00.</b>

**The Mayor may waive the application fee for Malden-based religious, fraternal and charitable organizations.**

## **B. PERMIT ISSUANCE AND CONTENTS**

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.

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.

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.

Denial of any application for a temporary permit shall cite specific reasons for the city's refusal to issue a permit.

## **C. HOURS OF OPERATION**

Vendors shall restrict sales to the hours 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.

#### **D. STANDARDS OF CONDUCT**

**Temporary vendors shall comply with provisions of Section 6.4A through 6.4G; provided that, with the approval of the Mayor, vendors may be authorized to conduct sales after 10 p.m.**

**No vendor shall sell items other than those specified on the temporary permit, as issued by the Mayor.**

**No vendor shall sell items at a location other than that specified on the temporary permit. No vendor shall transport goods to or from a parade route or special event while the parade or event is in progress.**

**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.**

#### **SECTION 6.6                      HAWKERS AND PEDDLERS - ENFORCEMENT AND PENALTIES**

**The Malden Police Department shall enforce the provisions of Sections 6.4 and 6.5. Section 6.5 may also be enforced by such agents, working under the direction of the Police Chief, as the Mayor may designate for that purpose.**

**Any agent of the city authorized to enforce the provisions of Sections 6.4 or 6.5 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 enforcement order issued pursuant to this section may result in the removal and storage of goods or arrest of the vendor.**

**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.**

**Violation of this ordinance shall be cause for denial of temporary permits for future events.**

## **SECTION 6.7                   TRANSIENT VENDOR; LICENSE REQUIRED; COMPLIANCE WITH STATE LAWS; EXEMPTIONS**

**A. Every transient vendor, as defined in 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 6.8                      REGULATION OF SALE OF FLOWERS AND FLOWERING PLANTS**

**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 Inspector 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.**

## **MISCELLANEOUS**

### **SECTION 6.9 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 in case of a renewal, 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 6.10                      FLAMMABLE PRODUCTS- LICENSE FEES**

**Fees for licenses for garages are hereby established as follows:**

<b>Aggregate Storage Capacity for</b>	<b>Fee for Original License</b>
---------------------------------------	---------------------------------

**each garage**

<b>5-10 cars</b>	<b>\$ 50.00</b>
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<b>11-50 cars</b>	<b>\$100.00</b>
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<b>51 or more cars</b>	<b>\$200.00</b>
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**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:**

<b>Aggregate Storage Capacity for</b>	<b>Fee for Original License</b>
---------------------------------------	---------------------------------

**entire Parcel of Land Licensed**

<b>166-1,000 gallons</b>	<b>\$        30.00/hundred gallons</b>
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<b>1,001-12,000 gallons</b>	<b>\$        300.00 total</b>
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<b>12,001-20,000 gallons</b>	<b>\$ 500.00 total</b>
<b>20,001-30,000 gallons</b>	<b>\$ 700.00 total</b>
<b>30,001-100,000 gallons</b>	<b>\$ 1100.00 total</b>
<b>100,001-1,000,000 gallons</b>	<b>\$ 1600.00 total</b>
<b>over 1,000,000 gallons</b>	<b>\$ 3000.00 total</b>

**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 6.11 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 Inspector;
- 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 6.12**

## **AUTOMOTIVE REPAIR SHOPS**

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

### **A. 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(l), 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.**

## **B. BUSINESS OPERATION - MINIMUM STANDARDS**

### **1. RESTRICTIONS ON USE OF PREMISES:**

**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 6.12 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.**

**No automotive repairs shall be made in yard, parking or storage areas. 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.**



**Pursuant to 9.36 of the city ordinances, no unregistered or uninsured motor vehicle shall be stored on the premises of a motor vehicle repair shop for more than 5 days.**

## **2. MAINTENANCE OF BUSINESS PREMISES:**

**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.**

**All parts and materials incidental to the operation of said repair shop shall be stored in a designated area and concealed from public view.**

**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.**

**Disposal of residual parts and materials shall be made in a timely manner and in accordance with applicable federal, state and local regulations.**

**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.**

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.

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

### **3. 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.

### **C. FAILURE TO COMPLY WITH ORDINANCE PROVISIONS - PENALTIES**

Violation of any provision of this ordinance or of the 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 result in revocation, suspension or modification of the required permits.**

#### **D. IMPLEMENTATION OF ORDINANCE PROVISIONS**

**This ordinance shall take effect on passage; provided that any person engaged in the business of automotive repair or maintenance who makes application for permits within thirty days of the effective date of this ordinance shall be deemed to have complied with the provisions of this ordinance until otherwise notified by an appropriate city agency.**

### **SECTION 6.13                      SOIL REMOVAL- PERMIT REQUIRED**

**A. No person shall remove any soil, loam, sand or gravel from any land in the City not in public use unless such removal is authorized by a permit issued by the City Council, except in conjunction with construction of a building on the parcel, or for the continued operation of an existing sand and gravel pit on the same parcel.**

**The City Council shall hold a public hearing on the application and notice of the filing of such application and the date and time of the public hearing thereon shall be advertised in a newspaper of general distribution in the City, seven (7) days at least before the public hearing.**

**B. No person shall alter the grade of any vacant land or fill any vacant land in the City unless such person first obtains a permit from the Building Inspector and endorsed by the Director of Public Health and the City Engineer. Permits may be issued with conditions or restrictions attached. The fee for such permit shall be one hundred (\$100.00) dollars.**

## **SECTION 6.14                      MESSAGE PARLORS**

**No person shall, without a license granted by the City Council, operate or permit to be operated any establishment for giving massage, vapor, pool, shower, or other baths, on premises where massage is practiced or where therapeutic or conditioning baths or water, vapor, or other substance are given; provided that persons doing business on the premises of the Maiden YMCA or Malden YWCA are specifically exempted, together with certain persons , exempted for facial and scalp massage only, such as barbers, hairdressers, and their apprentices, as set forth in MGL Chapter 140, Section 51.**

**The presently existing Thor Physical Therapy and Health Center, 318 Clifton St., Malden, Mass., operated by Phyllis A. Thoresen, Registered Physical Therapist is specifically exempted from this provision of Ordinance as long as she so owns and operates said center.**

## **SECTION 6.15**

### **PREACHING, ETC., IN PUBLIC PROHIBITED; LICENSE REQUIRED**

**No person shall, in or upon any of the public grounds, streets, commons or vacant lands appurtenant to any public building, make any public address, deliver a sermon, preach, discourse, give a concert, discharge any cannon or firearms, erect or maintain any booth, stand, or tent, or apparatus for the purpose of public amusement or show in the City except by license of the City Council, or unless otherwise allowed by law.**

## **RECREATIONAL ACTIVITIES**

## **SECTION 6.16**

### **VIEW OF POOL HALLS TO BE UNOBSTRUCTED**

**No licensee of premises used for the purpose of maintaining a billiard or pool table for hire, gain or reward, shall place or maintain or permit to be placed or maintained upon any premises so used, any screen, blind, shutter, curtain, partition or painted, ground or stained glass window or any other obstruction, in such a way as to interfere with a view of the interior of the premises.**

**The premises of all such pool, billiard rooms or bowling alleys shall be kept freely accessible to the Police during all the hours of operation. The Police may enter pool, billiard rooms or bowling alleys at any time for the purpose of enforcing the law.**

**SECTION 6.17 BOWLING, ETC. ON SUNDAYS; LICENSE REQUIRED, FEE; HOURS; UNOBSTRUCTED VIEW OF INTERIOR**

**SECTION 6.17 BOWLING, ETC. ON SUNDAYS; LICENSE REQUIRED, FEE; HOURS; UNOBSTRUCTED VIEW OF INTERIOR**

**A. No person shall operate a pool, billiard room or bowling alley 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.**

**C. The fee for every license granted under the provisions hereof shall be:**

**for the first alley or table                      \$25.00**

**for each additional alley**

**or table** **\$ 5.00**

**D. Said license shall be subject to all state laws and the laws, ordinances and regulations of the City of Malden.**

**E. The hours of operation for all pool, billiard rooms or bowling alleys licensed under the provisions hereof shall be the same as weekdays.**

**SECTION 6.18                    DISCOTHEQUES, ETC., PROHIBITED IN NEIGHBORHOOD BUSINESS DISTRICTS;  
EXCEPTIONS**

**A. No person shall, without a license granted by the City Council, operate or permit to be operated any disco, discotheque, cabaret, nightclub or dance or social hall in any Neighborhood Business district as defined in the City of Malden Zoning Ordinance.**

**B. Institutional Uses, as defined in the City of Malden Zoning Ordinance and those places of assembly regulated by the License Board of the City of Malden are exempt from this requirement.**

**SECTION 6.19                    THEATERS- POLICE PROTECTION REQUIRED**

**All persons operating theaters in the City shall maintain at all public performances therein a special or uniformed police officer who shall patrol the theater building.**

**SECTION 6.20                    AMUSEMENT MACHINES**

## **.1 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.**

**Any premises on which five or more amusement machines are operated shall be deemed an arcade for purposes of this ordinance. No license shall be granted for an arcade except as an accessory use to a recreational business under Section 12.400.1.10 of the revised ordinances. No premises on which an arcade is operated shall obtain a license for more than 25 amusement machines.**

**Any premises on which more than 25 amusement machines are operated shall be deemed a family amusement center for purposes of this ordinance. No license shall be granted to a Family Amusement Center unless the following conditions are met:**

- 1. A minimum of 50% of all machines licensed hereunder are machines which automatically, upon accomplishment of a predetermined score, delivers to the patron a ticket entitling said patron to redeem said ticket or tickets for prizes;**
- 2. A minimum of 5% of all machines licensed hereunder shall be rides or amusement devices which require no skill on the part of the operator; provided that juke boxes shall not be considered amusement devices for purposes of this ordinance;**
- 3. A maximum of 45% of all machines licensed hereunder shall be amusement machines not included in 1 or 2 above.**



**No more than one license shall be granted for any premises nor shall any license be granted for more than 70 machines.**

## **.2 License Fees**

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

**In addition to the \$100.00 fee per machine, there shall be a \$2500 Arcade or Family Amusement Center fee for premises on which more than 10 machines are offered for operation.**

## **.3 Minimum Standards for Operation of Licensed 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 machine, except those which automatically dispense tickets for redemption under a Family Amusement Center License, shall bear on its face, 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.**

#### **.4 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:**

<b>1<sup>st</sup> offense</b>	<b>\$ 50.00</b>
<b>2<sup>nd</sup> offense</b>	<b>\$ 100.00</b>
<b>3<sup>rd</sup> offense</b>	<b>\$ 200.00.</b>

**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 said violation has occurred.**

## **SECTION 6.21**

### **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 fee or otherwise, and at which there is either wiring or 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 function.**

**Full time permanently appointed firefighters employed by the City of Malden and employed by the Fire Department shall be eligible for this assignment.**

## **SECOND HAND DEALERS AND PAWNBROKERS**

## **SECTION 6.22**

### **SECOND HAND DEALER/PAWNBROKER DEFINED**

**.1 A Pawnbroker is 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.**

**.2 A Second Hand Dealer is 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.**

**.3 A Consignment Dealer is 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.**

## **SECTION 6.23            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 pawnbrokers 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.**

**SECTION 6.24                      SECOND HAND DEALERS - RESTRICTIONS ON PURCHASES, 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 drivers 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.**

## **SECTION 6.25            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.**

## **SECTION 6.26                    PENALTY FOR VIOLATION OF ORDINANCE**

**.1 Licenses issued under Section 6.22 shall be suspended or revoked by the City Council for violation of any provision of this ordinance in accordance with the following schedule:**

<b>1<sup>st</sup> offense</b>	<b>7 days suspension</b>
<b>2<sup>nd</sup> offense</b>	<b>30 days suspension</b>
<b>3<sup>rd</sup> offense</b>	<b>revocation</b>

**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 Sections 6.22 through 6.25 may also be punished in the manner provided in Massachusetts General Laws Chapter 40, Section 21D in accordance with the following schedule of fines:**

<b>1<sup>st</sup> offense</b>	<b>\$100.00</b>
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<b>2<sup>nd</sup> offense</b>	<b>\$200.00</b>
<b>3<sup>rd</sup>/subsequent offense</b>	<b>\$300.00</b>

## **VEHICLES FOR HIRE**

### **SECTION 6.27            VEHICLES FOR HIRE - GENERAL REQUIREMENTS**

#### **.1 DEFINITIONS**

**A taxi is 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.**

**A livery is 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.**

#### **.2        GENERAL REQUIREMENTS - TAXIS AND LIVERIES**

**.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 an 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.**

### **.3 MINIMUM REQUIREMENTS - TAXICABS**

**.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.**

#### **.4 MINIMUM REQUIREMENTS - LIVERY LICENSES**

**.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.**

## **.5 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 licence 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**

**.6 VIOLATIONS OF ORDINANCE; ENFORCEMENT**

**.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 6.28            RESERVED**

**SECTION 6.29            RESERVED**

## **CANVASSING REGULATIONS**

**SECTION 6.30            DEFINITIONS**



**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; provided, that this definition shall not include any person who, for himself, or for another person, firm or corporation, hires, leases, uses or occupies any building, structure, tent, railroad boxcar, boat, hotel room, motel room, lodging house, apartment, shop or any other place within the city for the sole purpose of exhibiting samples and taking orders for future delivery.**

## **SECTION 6.31                      PERMIT AND LICENSE REQUIRED**

**A. It shall be unlawful for any solicitor or canvasser to engage in such business within the corporate limits of the city without first obtaining a permit and license therefore in compliance with the provisions of this ordinance.**

**B. 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. Distributing advertising material on private property. It shall be unlawful for any person to go in or upon private residences in the city for the purpose of distributing advertising material of a commercial nature, not having been requested in writing to do so by the owner or occupant of such private residence. The foregoing provision shall not apply to the distribution of advertising material by any newspaper or the United States Postal Services.**

## **SECTION 6.32**

## **LICENSE APPLICATION-CONTENTS; FILING FEES**

**A. Applicants for a permit and license under this ordinance must file with the city clerk a sworn application in writing, in duplicate, on a form to be furnished by the city clerk, which shall give the following information:**

- (1) Name and description of the applicant;**
- (2) Permanent home address and full local addresses of applicant;**
- (3) A brief description of the nature of the business and the goods to be sold;**
- (4) If employed, the name and address of the employer, together with credentials establishing the exact relationship;**
- (5) The length of time for which the right to do business is desired;**
- (6) 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;**
- (7) 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;**
- (8) 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;**
- (9) 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.**

**B. At the time of filing the application, a fee as determined by the City Council shall be paid to the City Clerk for each solicitor and canvasser. Exempt from payment of all fees hereunder are the following: 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.**

### **SECTION 6.33                      LICENSE INVESTIGATION AND ISSUANCE**

**A. 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:**

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

**B. If, as a result of such investigation, the Chief of Police shall find that either paragraph (a)(1) or (a)(2) is answered in the affirmative, 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 license will be issued.**

**C. If, as a result of such 30 day 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, execute a permit addressed to the applicant for the carrying on of the business applied for and return such permit along with the application to the City Clerk, who shall upon payment of the prescribed license fee, deliver to the applicant his permit and issue a license. Such license shall contain the signature and seal of the issuing officer**

and shall show the name and address of the licensee, the class of license issued, 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, as well as the license number and other identifying description of any vehicle used in such soliciting or canvassing. The Clerk shall keep a permanent record of all licenses issued.

## **SECTION 6.34                      LICENSE FEES**

**A. The license fee shall be collected by the City Clerk and a rate shall be established for an annual license and for a daily license by the City Council.**

**B. The annual license fee herein provided shall be assessed on a calendar-year basis and on or after July 1, the amount of such fee for annual license shall be one-half the amount stipulated above for the remainder of the year,**

**C. None of the license fees provided for by this ordinance shall be so applied as to occasion an undue burden upon interstate commerce. In any case where a license fee is believed by a licensee or applicant for license to place an undue burden upon such commerce, he may apply to the City Clerk for an adjustment of the fee so it shall not be discriminatory, unreasonable, or unfair as to such commerce. Such application may be made before, at, or within six (6) months after payment of the prescribed license fee. The applicant shall, by affidavit and supporting testimony, show his method of business and the gross volume or estimated gross volume of business and such other information as the City Clerk may deem necessary in order to determine the extent, if any, of such undue burden on such commerce. The City Clerk shall then conduct an investigation, comparing applicant's business with other businesses of a like nature and shall make findings of fact from which a determination may be made as to whether the fee fixed by this ordinance is unfair, unreasonable or**

**discriminatory as to applicant's business and shall fix as the license fee for the applicant, an amount that is fair, reasonable and non-discriminatory, or, if the fee has already been paid, shall order a refund of the amount over and above the fee so fixed.**

## **SECTION 6.35            BOND**

**Every applicant for a license under this ordinance 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.**

## **SECTION 6.36            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.**

## **SECTION 6.37                      RECORD OF VIOLATIONS**

**The chief of police shall report to the City Clerk all convictions for violations of this article, and the City Clerk shall maintain a record for each license issued and record the reports of a violation therein.**

## **SECTION 6.38                      REVOCATION OF LICENSE**

**(a) Permits and licenses issued under the provisions of this ordinance may be revoked by the City Council of the City of Malden 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) Any violation of this ordinance;**
- (4) Conviction of any crime or misdemeanor involving moral turpitude;**
- (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.**

**(b) 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.**

## **SECTION 6.39            APPEAL**

**Any person aggrieved by the action of the Chief of Police or the City Clerk in the denial of a permit or license as provided in §4, or the action of the City Clerk in the assessing of the fee as provided in §5(c), shall have the right of appeal to the city council. Such appeal shall be taken by filing with the council, within the fourteen (14) days after notice of the action complained of has been mailed to such person's last known address, a written statement setting forth fully the grounds for the appeal. The council shall set a time and place for a hearing on the appeal and notice of such shall hearing shall be given to the appellant in the same manner as provided in §8 for notice of hearing on revocation. The decision and order of the council on such appeal shall be final and conclusive.**

## **SECTION 6.40            EXPIRATION OF LICENSE**

**All annual licenses issued under the provisions of this ordinance shall expire on December 31 in the year when issued. Those other than annual licenses shall expire on the date specified in the license.**

**SECTION 6.41           PENALTY**

**Any person violating any of the provisions of this ordinance shall, upon conviction thereof, be punished pursuant to Chapter 1-13 of these ordinances.**

**SECTION 6.42           SEVERANCE CLAUSE**

**The provisions of these regulations are declared to be severable and if any section, sentence, clause, or phrase of this ordinance shall for any reason be held invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses and phrases of this ordinance but they shall remain in effect, it being the legislative intent that this regulation shall stand notwithstanding the invalidity of any part.**

**SECTION 6.43           RESERVED**

**SECTION 6.44           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.**

## **SECTION 6.45            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. RECORD KEEPING:**

**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. MAINTENANCE OF BUSINESS PREMISES:**

**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.**

**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.**

**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.**

## **3. DISPLAY OF LICENSE**

**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**

## **4. DEALER PLATES REQUIRED**

**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 41, Section 21D in accordance with the following schedule:**

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

**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 6.46**

## **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 photostatic 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. 47                    OFFSITE PARKING FACILITIES**

### **.1        Definitions:**

**As used in this section, the following terms shall have the following meanings:**

**Open air parking is the parking or storage of motor vehicles in an unsheltered area.**

**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.**

### **.2        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 ordinance 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 Inspector 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.**

**.3 Minimum Standards for Operation of an Off-Site 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.**

**.4 Penalties for Violation of Ordinance**

**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:**

<b>1<sup>st</sup> offense</b>	<b>\$ 50.00</b>
<b>2<sup>nd</sup> offense</b>	<b>\$100.00</b>
<b>3<sup>rd</sup>/subsequent offenses</b>	<b>\$200.00;</b>

**provided that every 24 hours during which a violation exists shall constitute a separate offense for which an additional penalty may be imposed.**

#### **SECTION 6.48 DELIVERY SERVICES OFFERED BY COMMON VICTUALERS; CONDITIONS PRECEDENT**

**No person shall operate as a common victualer in the City of Malden without having obtained a license therefor from the Licensing Board. Common victualers licenses shall be granted for the calender year, renewable annually on or before January 1<sup>st</sup> upon such terms and conditions as the Licensing Board may deem appropriate; provided that no renewal shall be issued to a common victualer who provides a delivery service unless a list containing the names, addresses and driver's license numbers of all persons employed in said deliveries is on file with the Malden Police Department.**

**Every common victualer who offers a delivery service shall amend said list from time to time throughout the year so as to assure that it accurately reflects the names, addresses and driver's license numbers of persons making deliveries for the licensee.**

**Upon receipt of said list, the Police Chief or his designee shall determine, based on review the driver history, whether or not a person so employed is qualified to operate as a delivery driver. If the Police Chief or his designee determines that any person engaged in deliveries has a driver history that indicates that his or her continued employment would post a threat to public safety, he shall forthwith notify the common victualer of his determination. Upon receipt of said notification, the common victualer shall forthwith prohibit said individual from engaging in further deliveries.**

**Failure to comply with the provisions of this ordinance shall be cause for suspension, revocation or modification for any common victualers license issued hereunder.**

**CHAPTER 7**  
**MISCELLANEOUS OFFENSES**

**SECTION 7.1                    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 7.1(A) PROHIBITION OF PERSONS BRINGING ALCOHOLIC BEVERAGES TO ESTABLISHMENTS, ETC.**

**7.1(A)(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.**

**7.1(A)(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 7.1B                    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 7.2                RESERVED**

## **SECTION 7.3                BICYCLE PERMITS**

**It shall be unlawful for any person to ride a bicycle unless properly registered with the Police Department. Every bicycle being operated on the highway shall have a registration number attached to the same which, together with a permit, shall be furnished to the owner of a bicycle by the Police Department at a cost of twenty-five cents. The rider shall carry such permit at all times. The Police Department shall keep a record showing the name and address of the owner, registration number, make of bicycle, description and serial number.**

## **SECTION 7.4                BLIND PERSON- USES OF WHITE CANE; OPERATION OF VEHICLES**

Updated through 6/30/17

**It shall be unlawful for any person, except one wholly or partially blind, to carry or use in the City any cane or walking stick which is white with red color.**

**Any operator of a motor or other vehicle who approaches or comes in close proximity with a person rightfully carrying a cane or walking stick under this section shall immediately come to a full stop and take such precautions before proceeding as may be necessary to avoid injury to such person.**

## **SECTION 7.5 CARNIVALS PROHIBITED ON PUBLIC GROUNDS AND PARKS**

**No public entertainment commonly known as a carnival shall be permitted on any public playground or public park, unless licensed by the Department of Public Works and the City Council.**

## **SECTION 7.6 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 7.7                      SNOWBALL THROWING PROHIBITED**

**No person shall throw any snowball, stone or other substance, or engage in any amusement, game or exercise, interfering with the free, safe and convenient use of any street.**

## **SECTION 7.8                      DEFACING PUBLIC PROPERTY PROHIBITED; MALICIOUS DAMAGE 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 7.9                      NOISE ABATEMENT; DISTURBING THE PEACE PROHIBITED**

### **.1        PURPOSE**

Updated through 6/30/17

**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 the business of construction, demolition, excavation or landscaping or 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 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 MGL Chapter 41, Section 21D in accordance with the following schedule of fines:**

<b>1<sup>st</sup> offense</b>	<b>warning</b>
<b>2<sup>nd</sup> offense</b>	<b>\$100.00</b>

**4th & subsequent offenses \$300.00**

**The following noise producing activities are specifically exempt from the provisions of this ordinance:**

## .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 MGL Chapter 41, Section 21D in accordance with the following schedule of fines:**

<b>1<sup>st</sup> offense</b>	<b>\$100.00</b>
<b>2<sup>nd</sup> offense</b>	<b>\$200.00</b>
<b>3<sup>rd</sup>/subsequent offenses</b>	<b>\$300.00</b>

**SECTION 7.9A 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 wilful violation of this ordinance. Wilful 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 7.10                      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 7.11                    ENTERING GARDEN WITHOUT PERMISSION PROHIBITED**

**It shall be unlawful for any person to enter any enclosed or unenclosed vegetable garden or orchard located within the City without the consent of the owner or tenant, or agent in charge thereof, and there cut down, injure, damage, destroy, eat or carry away any portion of such garden, including any growing thing, crop, tree, timber, grass, seed, soil, fertilizer, water supply, tool, implement, fence or any other protective device or any other thing useful for the development, cultivation, maintenance and use of the aforesaid gardens or orchards.**

## **SECTION 7.12                    FALSE ALARMS**

**No person shall ring in a citizen's alarm without proper authority and without due cause.**



## **SECTION 7.13**

## **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 7.14**

## **GAMING**

**No person shall expose on any street, common or other public place any table or device of any kind, intended for playing a game of hazard or chance; and no person shall play any such game or other unlawful game in any street, common or other public place.**

## **SECTION 7.15**

## **GASOLINE PRICES TO BE MARKED ON PUMP**

Updated through 6/30/17

**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 7.16                    PEEPING TOMS**

**No person shall enter upon the premises of another with the intention of peeping into the windows of a house or spying upon any person or persons therein; provided, however, that officers of the law may enter such premises in the performance of their duties.**

## **SECTION 7.17                    SPRAY PAINT - SALE 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. 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.**

**D. Violation of this ordinance may be punished in the manner provided under M.G.L. c. 41 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 Superintendent of Schools, the Director of Public Works, the Building Inspector, the Fire Chief, the Police Chief, and the Ordinance Compliance Officers or their designees shall act as enforcement officers of the within ordinance.**

## **SECTION 7.18                    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 7.19**

## **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.**

## **SECTION 7.20**

## **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 MGL Chapter 40, Section 21D in accordance with the following schedule of fines:**

<b>1<sup>st</sup> offense</b>	<b>Warning</b>
<b>2<sup>nd</sup> offense</b>	<b>\$100.00</b>

**3<sup>rd</sup> & subsequent offenses    \$200.00**

**SECTION 7.21                      SOLICITATION BY CHARITABLE ORGANIZATIONS; PERMIT REQUIRED**

- .1      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.**
- .2      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.**
- .3 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.**
- .4 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.**

**.5 Violations of this ordinance may be punished in the manner provided in MGL Chapter 41, Section 21D in accordance with the following schedule of fines:**

<b>1<sup>st</sup> offense</b>	<b>warning</b>
<b>2<sup>nd</sup> offense</b>	<b>\$100.00</b>
<b>3<sup>rd</sup>/subsequent offenses</b>	<b>\$200.00</b>

## **SECTION 7.22                      REMOVAL OF SHOPPING CARTS FROM RETAIL PREMISES**

**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.**

**The provisions of this ordinance shall take effect on July 1, 2006.**



## **SECTION 7.23**

## **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 MGL Chapter 40, Section 21D by a fine of \$300.00.**

## **SECTION 7.24    RESTRICTIONS ON REGISTERED SEX OFFENDERS**

### **1. Definitions**

**For purposes of this section, the following words shall have the following meanings:**

**“Registered sex offender” shall mean any person required to register pursuant to Chapter 6, Section 178C to P and who is finally classified as Level 2 or Level 3;**

**“Recreational facility” shall include, but not be limited to stadiums, auditoriums, pools, skating rinks and gymnasiums, whether publicly or privately owned.**

### **.2        Restrictions on Activities of Registered Sex Offenders**

**No registered sex offender shall enter upon the property of a school, library, elderly housing facility or recreational facility without prior written authorization the administrator. Said authorization shall specify the dates and times during which entry is authorized and may limit access to specific areas within the facility.**

**No registered sex offender shall enter any city park or playground.**

**No registered sex offender shall loiter within 500 feet of a school, library, elderly housing facility or recreational facility or within 500 feet of a school bus stop, as designated by the Malden School Department.**

**Any registered sex offender who, after receiving notification from the police that he or she is in violation of this provision of ordinance, remains within the proscribed area shall be deemed to be in wilful violation of this ordinance and shall be subject to arrest without a warrant under the provisions of Massachusetts General Laws Chapter 272 Section 59.**

### **.3 Penalties for Violation**

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

<b>1<sup>st</sup> offense</b>	<b>\$150.00</b>
<b>2<sup>nd</sup>/subsequent offenses</b>	<b>\$300.00</b>

### **.4 Exemptions**

**Nothing in this section shall be construed to prevent a registered sex offender from participating in any federal, state or municipal election or from attending any organized religious service.**

## **SECTION 7.25 POSSESSION OF MARIJUANA PROHIBITED**

Updated through 6/30/17

**No person shall, while in or upon any property owned or controlled by the city or in any place accessible to the public, possess marijuana or tetrahydrocannabinol in an amount of one ounce or less..**

**Violation of any provision of this ordinance shall be punishable in the manner provided in Massachusetts General Laws Chapter 40 Section 21D by a fine of \$100.00 for each offense. For purposes of enforcing this ordinance, a police officer may detain any individual who fails to provide adequate identification.**

## **SECTION 7.26                      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 Inspector, 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 41, Section 21D in accordance with the following schedule of fines:

1 <sup>st</sup> offense	\$100.00
2 <sup>nd</sup> offense	\$200.00
3 <sup>rd</sup> /subsequent offenses	\$300.00

Every twenty four hour period during which a violation exists shall be an 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.

**SECTION 7.27 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:**

<b>1<sup>st</sup> offense</b>	<b>\$100.00</b>
<b>2<sup>nd</sup>/subsequent offense</b>	<b>\$250.00</b>

**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.**



## **SECTION 7.28 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**

Updated through 6/30/17

**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).**

## **CHAPTER 8**

### **HUMAN RESOURCES**

#### **SECTION 8.1                      HUMAN RESOURCES DIRECTOR**

**Commencing March 1, 2015 and every three years thereafter, the Mayor, with the approval of the City Council, shall appoint a Human Resources Director, who shall serve for the three years next ensuing and have executive and administrative control of the Human Resources Department.**

#### **SECTION 8.2                      DUTIES**

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

**A. Direct the Group Health and Life Insurance programs for City employees and retirees.**

**B. Supervise the Affirmative Action and Equal Employment Opportunity programs of the City.**

**C. Maintain the comprehensive personnel records of all City employees. Said records shall include, but not be limited to, vacation, sick day and personal day data, 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.**

**D. Undertake studies of personnel matters as deemed appropriate and necessary in the public interest.**

**E. Develop job titles and salary ranges in accordance with the Title/Salary Schedule. Maintain job descriptions and periodically review to ensure they accurately describe the duties of the position.**

**Post and advertise all employment opportunities within the city of Malden. All new employees shall be compensated at Step 1 in appropriate job title unless the Human Resource Director, with the recommendation from the Department Head, determines that the employee's skills are commensurate with another step within the Job Title assigned to said position.**

**F. Regularly review the salary classification plan, and prepare recommendations for the assignment of new positions or reassignment of existing positions within the classification plan;**

**G. The Salary Review Committee will regularly confer on implementation and review of policies and procedures set forth in the Salary Review Committee recommendations of November 2005, including the regular review of the Salary Plan, review recommendations as to adjustments in pay scales and the assignment of new positions or adjustments to classifications due to a change in the responsibilities of specific positions.**

**H. 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.**

**I. 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.**

**J. Undertake employee safety studies concerning action to improve working conditions and employee morale and make recommendations to department heads or the Mayor regarding the same. The Human Resources Director shall supervise all municipal employee assistance programs and serve as the municipal employee assistance officer.**

**K. Review all requests for leaves of absence for any purpose and make recommendations to department head or the Mayor as to what action should be taken thereon.**

**L. The Human Resources Director may be designated to act for the City in collective bargaining, and shall make such studies as shall be requested, and shall participate to the extent requested.**

**M. Maintain a record of all persons seeking employment with the City and shall conduct a program of recruitment to obtain for the City qualified prospective employees.**

**N. Provide liaison as fully as may be permitted by law between City departments and those agencies of the Commonwealth, including: the Civil Service Commission, the Massachusetts Commission Against Discrimination, the Department of Industrial Accidents, having jurisdiction over employment by the City and those of the federal government, including but not limited to the Federal Department of Labor.**

**O. Establish and annual 3 part employee evaluation system which will be used to determine whether an employee will receive a merit increase, establish promotions and job assignments and identify training and developmental needs. The 3 parts shall consist of Performance Planning annually in July/August, Progress Review annually in November/December and Annual Review annually in March/April. Movement between steps of the salary schedule is not automatic but a merit system designed to allow non-union employees to be recommended for and receive annual increases within the scope of their job category based on their work performance as dictated by the salary ordinance.**

**P. Establish and maintain a system of exit interviews for all full time municipal employees terminating service.**

**Q. Promulgate rules and regulations and establish policies to promote the orderly administration of employee benefits allowed by law or ordinance, to ensure that employees are made aware of their obligations to the city, co-workers and the public and to outline general standards of conduct in service to the city.**

## **SECTION 8.3**

### **CONTINUING REVIEW; STUDIES OF PAY RATES**

**The Policy and Salary Review Committee shall be composed of the Mayor, and the Chairman of the Council Committee on Personnel, or their designees, and the Director of Human Resources.**

**The Policy and Salary Review Committee shall confer on policies adopted under Section 8.2 Q and make such recommendations for modification or revision as it deems necessary.**

**The Committee shall assist in continuing review of the Salary Classification plan, make recommendations for classification of new positions or reclassification of existing positions, and shall investigate pay rates for comparable positions both in surrounding municipalities and in the private sector as it deems appropriate. In making recommendations for modification of the Salary Classification Plan, the Committee shall also consider changes in responsibilities of specific positions, changes in the cost of living index and other factors deemed relevant to the general economic situation.**

**The Director of Human Resources may, in the case of an emergency, add a new class or wage grade to the Salary Classification Plan or establish a new lower salary or wage grade for an existing position to be filled by a new employee. Any alteration of the Salary Classification Plan made under this paragraph shall be subject to confirmation of such action by permanent amendment of the Salary Classification Plan by the Mayor and City Council.**



## **SECTION 8.4                    EMPLOYEES TO BE RESIDENTS; EXCEPTIONS**

- A.     Except as provided in paragraph B, any officer or employee of the City shall be a resident of the City, or shall become a resident of the City within six months of commencing employment.**
- B.     Paragraph A 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 a Malden resident**
  - where technical training of candidates for the position**
  - is equal; and**
  - officers appointed by the Mayor or City Council.**

## **SECTION 8.5                    PRIVATE EMPLOYMENT DURING WORKING HOURS PROHIBITED**

**No officer or employee shall perform any work for private purpose during regular working hours, nor shall any officer or employee delegate or direct any other officer or employee to undertake any such activities.**

## **SECTION 8.6                      ATTENDANCE REPORTS**

**Monthly and weekly attendance reports shall be submitted to the Human Resources Director. The Human Resources Director shall keep such records as are necessary to assure proper administration of vacations and sick leave of all employees, including department heads, except those appointed by the School Committee. Department Heads shall notify the Human Resources Director immediately of all injuries incurred by municipal employees which may result in absence from work.**

## **SECTION 8.7                      OVERTIME AND HOLIDAY PAY**

**All 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.**

## **SECTION 8.8                      OVERTIME PAY**

**No clerical or administrative personnel, as enumerated in Sections 8.36 and 8.37 of this ordinance, 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, as enumerated in Section 8.35 and 8.35A of this ordinance, shall receive additional compensation for performing the duties of said office.**

## **SECTION 8.9                      VACATION BENEFITS**

**1. All permanent full-time City 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. Department Heads shall notify the Mayor and the Human Resources Director, in writing, of their scheduled vacations. 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. Any employee 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. Persons employed on a permanent part-time basis 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 ordinance; 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. All employees of the City who had 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 of Massachusetts shall count this time toward eligibility for vacation benefit as credited service.**

## **SECTION 8.10                      LONGEVITY BENEFITS**

**(Deleted)**

## **SECTION 8.11                      SICK LEAVE**

**A. Sick leave shall accrue 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.**

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

**C. 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 applied to absence without pay.**

**D. 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.**

**E. 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.**

**F. Persons employed on a permanent part-time basis who regularly work a minimum of twenty (20) hours per week shall be credited with that proportion of sick leave which their part-time service bears to full-time service.**

## **SECTION 8.12            SICK LEAVE BONUS**

**(Deleted)**

### **SECTION 8.13            SICK LEAVE BUY BACK**

**Any employee eligible for a City of Malden retirement benefit 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 employee, payment of this benefit shall be made to the employee's designated beneficiary or the employee's estate.**

### **SECTION 8.14            PERSONAL LEAVE DAY**

**All full-time employees shall be granted three (3) paid personal leave days per calendar year and such days shall not be cumulative. However, no personal day shall be allowed on Christmas Eve, or New Year's Eve, or the day before or after such holiday. Scheduling of personal days shall be subject to the approval of the Department Head.**

### **SECTION 8.15            BEREAVEMENT LEAVE**

**Bereavement Leave of four (4) days, without loss of pay or benefits, may be granted commencing the first working day following the day of death of an employee's spouse, child, father, mother, sister, brother, grandparents, grandchild, father-in-law, mother-in-law, son-in-law, daughter-in-law, 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. 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 8.16            LEAVE OF ABSENCE**

**The City Council may, upon the request of an 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 8.17                    NON-UNION EMPLOYEE BENEFITS**

**Benefits and terms and conditions of employment contained in section 8.7 to 8.16 shall not apply to employees covered by a collective bargaining agreement.**

**No benefit granted to employees under a collective bargaining agreement shall be extended to any employee not included in the bargaining unit without the approval of the City Council and the Mayor.**

## **SECTION 8.18                    JURY LEAVE**

**Employees summoned for jury duty will 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 8.19**

## **MATERNITY AND ADOPTIVE LEAVE**

**Upon completion of a probationary period of six (6) months employment, maternity or adoptive leave without pay shall be granted to a female employee for eight (8) weeks, for childbirth or to care for a newly adopted child under the age of three (3) years of age, 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 a maternity or adoptive leave shall be submitted in writing to the Department Head and the Human Resources Director and shall include the expected date of childbirth or adoption and state that the employee intends to return to her position at the conclusion of the leave.**

**Any accumulated sick leave and vacation to which female employees are entitled may be applied to maternity leave.**

**Maternity leave shall not effect the accrual of benefits, seniority, or length of service credit.**

## **SECTION 8.20**

## **MILITARY LEAVE**

**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 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 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.**

## **SECTION 8.21            CLASS DEFINITIONS**

**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.**

## **SECTION 8.22            INTERPRETATION OF CLASS DEFINITIONS**

**The definitions of the classes shall be interpreted as descriptive only, not restrictive. The definitions for any class shall be construed solely as a means of identifying positions properly pertaining to the class, and not as prescribing what the duties or responsibilities of any position of the class shall be, nor as modifying or in any way affecting the power of any administrative authority as otherwise existing, to assign duties to, or to direct and control the work of any employee under the jurisdiction of such authority.**

## **SECTION 8.23                    CIVIL SERVICE REQUISITIONS**

**The Human Resources Director shall be notified of all requisitions for persons to fill positions to perform duties under Civil Service classifications, and of all requests for transfers, promotions, changes in ratings, or other requests to the Director of Civil Service.**

## **SECTION 8.24                    ALLOCATION OF POSITIONS TO CLASSIFICATION/ PAY GRADE**

**The Human Resources Director, in cooperation with the department head, shall recommend allocation of each position subject to the provisions of the Classification and Pay Plans to its appropriate class and pay grade. Whenever a new position is established, or the duties of an existing position are so changed that in effect a new position of a different class is substituted for the old position, the Human Resources Director, with the approval of the department head, shall allocate such position to an appropriate class and pay grade whenever such action appears warranted by reason of error in the allocation then in effect, or as a result of additional duties and changes in the job context of the class, all such actions being subject to approval of the Mayor and the City Council.**

**The Human Resources Director shall afford reasonable opportunity to be heard to any employee or any department head affected by any allocation or reallocation.**

## **SECTION 8.25                    TITLE OF POSITIONS**

**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. The title of each class shall be the official title of every position allocated to the class for all purposes having to do with the position as such, and shall be used to designate the position in all payrolls, budget estimates, and official records and reports, and in every other connection involving personnel and fiscal processes, but any abbreviations or code symbol approved by the Human Resources Director may be used in lieu of the title to designate the classification of a position in any such connection.**

## **SECTION 8. 26                    PROMOTIONS; STEP RATE INCREASES**

**A step rate increase between the minimum and maximum salaries or wages for a pay grade shall be the amount shown in the Wage and Salary Schedules based on the evaluation system and a rating of meets or exceeds the expectations. The step rate increases shown in the Salary Schedules are merit increases and are to be considered rewards for diligent and conscientious work.**

**No more than one step rate increase shall be allowed during any year.**

**All employees who have been denied step rate increases have the right to appeal such decisions to the Human Resources Director. After hearing all pertinent facts in the case the Human Resources Director may:**

**Uphold the denial and support a remedial action plan submitted by the Department Head , or any other appropriate action.**

**In any case, the decisions of the Human Resources Director are final.**

**A step rate increase as provided in this Section, 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.**

**Step rate increases shall be effective July 1<sup>st</sup>.**

## **SECTION 8.27            STEP LEVEL; PROMOTED EMPLOYEES**

**Whenever an employee covered by this ordinance receives a promotion to a higher salary grade, the rate shall be the next higher rate in said higher salary grade or the second next higher rate therein if such newer salary rate would result in an increase of salary smaller in amount than the salary increment for the higher salary grade.**

## **SECTION 8.28                    STEP LEVEL; NEW EMPLOYEES**

**Any person appointed, employed or paid as an employee in any position under this ordinance shall be paid at step one of the salary plan provided that the Human Resources Director may approve a salary at a higher step. The hiring of any person at other than step one may be permitted due to exceptional qualifications, general labor market conditions or the lack of qualified persons willing to accept employment at the lower step rate salary. Any Department Head seeking to pay a salary higher than step one shall submit a written request for approval to the Human Resources Director. The Human Resources Director shall approve or deny this request in writing. No person may be paid at higher than step one without the written approval of the Human Resources Director.**

## **SECTION 8.29                    PROBATIONARY PERIODS**

**A newly hired employee or an existing employee promoted into a higher salary position 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 the appropriate supervisor must evaluate the probationary employee's suitability for continued employment beyond the probationary period. The Department Head shall submit a written evaluation to the Human Resources Director including a recommendation of continued employment prior to the end of**

**such probationary period. Prior to the expiration of the probationary period a new employee may be terminated. A promoted employee may be returned to their previous position prior to the end of the probationary period.**

## **SECTION 8.30                    VACANCIES, HIRING**

**A. All departments of the City shall notify the Human Resources Director of all vacancies as they occur.**

**B. In order to fill a vacancy or a new position, the department head must submit a request to the Human Resources Director. The request shall include the current job description and any proposed changes.**

**C. Upon receipt of such request the Human Resources Director shall determine if the position is budgeted, the appropriate class and the pay grade for such vacant position.**

**D. The Human Resources Director shall review civil service, relative collective bargaining agreements, city ordinances, and the City's affirmative action plan and determine the proper procedure to be used in filling the vacancy and inform the department head.**



**E. Vacancies in positions other than civil service shall, whenever possible, be filled by promotion within the department in which the vacancy exists. Promotion shall be made subject to the approval of the department head. Vacancies not filled by an employee of the department may be filled by a person in another department, subject to the approval of both department heads.**

**F. When the department head makes a selection, the Human Resources Director shall be notified and shall determine that the selection followed the proper procedures, and inform the department head.**

**G. No person shall be recommended for hiring by the Human Resources Director, nor shall any said person be hired by any appointing authority or official, until it shall be satisfied that said person has no outstanding debts to the City of Malden or the Commonwealth whatsoever, either personal or corporate, and has paid any fines, fees or other obligations thereto. The Human Resources Director shall satisfy said employable status to the appointing authority or appointing official.**

**H. Upon notification that the selection was proper, the department head may inform the individual to be hired and establish a starting date.**

**I. The Human Resources Director shall present each new employee of the City with a copy of Chapter 268A of the General Laws. Every new employee shall signify the receipt of said copy in writing.**

**J. No department shall increase the number of permanent full-time or permanent part-time positions in said department without the approval of the Mayor and City Council.**

## **SECTION 8.31            NON-DISCRIMINATION**

**Discrimination against any employee on the basis of race, color, sex, religion, ancestry, age, handicap, national origin or sexual orientation is prohibited.**

**Every employee of the City of Malden shall have the right to be free from sexual harassment as defined in M.G.L. Chapter 151B and 151C.**

**Acts of discrimination and sexual harassment by officers, supervisors, employees or agents of the City of Malden are prohibited employment practices subject to sanctions and disciplinary measures.**

**The Human Resources Director shall adopt rules and regulations in order to implement this section.**

## **SECTION 8.32            UNCONSTITUTIONALITY OR INVALIDITY**

**If any provision or part of this ordinance is for any reason held to be unconstitutional or invalid, it shall not affect the remaining provisions or parts.**

### SECTION 8.33                      CIVIL SERVICE LAW

Nothing in this ordinance shall be construed to conflict with Chapter 31 of the M.G.L. as to those employees under the jurisdiction of Civil Service.

### SECTION 8.34                      RULES AND REGULATIONS

The Human Resources Director shall establish rules and regulations as necessary to implement this Chapter.

### SECTION 8.35                      OFFICERS SALARY CLASSIFICATION PLAN

<b>EFFECTIVE:</b>										
<b>7/1/16</b>										
<b>Job</b>										
<b>Title</b>	<b>Step 1</b>	<b>Step 2</b>	<b>Step 3</b>	<b>Step 4</b>	<b>Step 5</b>	<b>Step 6</b>	<b>Step 7</b>	<b>Step 8</b>	<b>Step 9</b>	<b>Step 10</b>
<b>M1A</b>	<b>\$73,749.05</b>	<b>\$75,592.77</b>	<b>\$77,482.60</b>	<b>\$79,419.66</b>	<b>\$81,405.16</b>					
<b>M1</b>	<b>\$85,475.40</b>	<b>\$87,612.29</b>	<b>\$89,802.60</b>	<b>\$92,047.66</b>	<b>\$94,348.86</b>					

<b>M2</b>	<b>\$85,475.40</b>	<b>\$87,612.29</b>	<b>\$89,802.60</b>	<b>\$92,047.66</b>	<b>\$94,348.86</b>	<b>\$101,138.62</b>	<b>\$103,667.08</b>	<b>\$106,258.77</b>	<b>\$108,915.23</b>	<b>\$111,638.11</b>
<b>M3</b>						<b>\$120,394.05</b>	<b>\$123,403.89</b>	<b>\$126,488.99</b>	<b>\$129,651.21</b>	<b>\$132,903.43</b>

**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, Director of Human Services and Community Outreach, and Assistant Controller.**

**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, and Inspector of Buildings**

**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 8.36 SPECIALIST SALARY CLASSIFICATION PLAN (ADMINISTRATIVE AND LABOR)

EFFECTIVE: 7/1/16										
Job Title	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7	Step 8	Step 9	Step 10
SPA 1	\$46,502.22	\$47,664.77	\$48,856.39	\$50,077.81	\$51,329.75					
SPA 2	\$52,612.99	\$53,928.32	\$55,276.53	\$56,658.44	\$58,074.90					
SPA 3	\$59,526.79	\$61,014.96	\$62,540.33	\$64,103.84	\$65,706.43					
SPA 4	\$67,349.08	\$69,032.81	\$70,758.63	\$72,527.60	\$74,340.79					
SPA 5	\$76,199.29	\$78,104.27	\$80,056.87	\$82,058.31	\$84,109.76					
SPL 1	\$46,502.22	\$47,664.77	\$48,856.39	\$50,077.81	\$51,329.75					
SPL 2	\$52,612.99	\$53,928.32	\$55,276.53	\$56,658.44	\$58,074.90					
SPL 3	\$59,526.79	\$61,014.96	\$62,540.33	\$64,103.84	\$65,706.43					
SPL 4	\$67,349.08	\$69,032.81	\$70,758.63	\$72,527.60	\$74,340.79					
SPL 5	\$76,199.29	\$78,104.27	\$80,056.87	\$82,058.31	\$84,109.76					

**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 MaintenanceIII, Veteran's Service Commissioner.**

**The following positions shall be classified Specialist 4: Code Inspector, Traffic Supervisor\*, Supervisor - Water Utilities, Parks Supervisor, Supervisor - Solid Waste Inspection, Supervisor - Street & Sidewalk Inspection, Recreation Co-ordinator, Co-ordinator of Energy Initiatives, Senior Center Director.**

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

**\* SEE UNCLASSIFIED SALARY PLAN**

**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 8.37 CLERICAL SALARY CLASSIFICATION PLAN

EFFECTIVE:										
7/1/16										
Job Title	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7	Step 8	Step 9	Step 10
Clerk 1	\$39,120.71	\$40,098.73	\$41,101.20	\$42,128.72	\$43,181.94					
Clerk 2	\$44,261.49	\$45,368.03	\$46,502.23	\$47,664.78	\$48,856.41					
Clerk 3	\$50,077.82	\$51,329.76	\$52,613.00	\$53,928.33	\$55,276.53					
Clerk 4	\$56,658.45	\$58,074.91	\$59,526.77	\$61,014.95	\$62,540.32					

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: Senoir 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 that 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 8.38**

## **UNCLASSIFIED EMPLOYEES SALARY SCHEDULE**

<b>Effective July 1, 2016</b>	
<b>Chairman of the Public Works Commission</b>	<b>\$6,000.00</b>
<b>Police Commissioner, Fire Commissioner,</b>	<b>\$5,000.00</b>

Updated through 6/30/17



<b>Public Works Commissioners</b>	<b>\$5,000.00</b>
<b>Secretary, Board of Appeal</b>	<b>\$5,000.00</b>
<b>Executive Secretary to Traffic Commission</b>	<b>\$6,000.00</b>
<b>*Meter Enforcement (PT)</b>	<b>\$0.00</b>
<b>*Police Cadets</b>	<b>\$29,489.05</b>
<b>*Traffic Supervisor (incumbent until retirement)</b>	<b>\$0.00</b>
<b>Hearing Officer - Municipal Fines</b>	<b>\$10,000.00</b>
<b>Cemetery Trustees (subject to funding from the Perpetual Care Account)</b>	<b>\$3,000.00</b>
<b>Assessor (Part-time)</b>	<b>\$5,000.00</b>
<b>*Compliance Officers</b>	<b>\$24,042.56</b>

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 8.39**

## **MAYOR'S SALARY PLAN**

**MAYOR** **\$105,000.00**

Updated through 6/30/17

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

## SECTION 8.40 CITY COUNCIL SALARY PLAN

**CITY COUNCILLOR** **\$17,500.00**

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

## SECTION 8.41 SCHOOL COMMITTEE SALARY PLAN

<b>SCHOOL COMMITTEE MEMBERS</b>	<b>\$ 7,000.00</b>
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**including Northeast Regional Vocational School Committee**

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

**SECTION 8.42****UNION SALARY SCHEDULES****.1 LIBRARY SALARY SCHEDULE:**

<b>EFFECTIVE 6/30/13</b>					
<b>SR. LIBRARIAN</b>	<b>\$54,309.96</b>	<b>\$56,311.35</b>	<b>\$58,312.76</b>	<b>\$60,314.14</b>	<b>\$62,315.55</b>
<b>PROFESSIONAL</b>	<b>\$50,043.69</b>	<b>\$50,965.17</b>	<b>\$51,886.66</b>	<b>\$52,808.14</b>	<b>\$53,729.64</b>
<b>PARA- PROFESSIONAL</b>	<b>\$38,750.77</b>	<b>\$39,334.38</b>	<b>\$39,917.99</b>	<b>\$40,501.61</b>	<b>\$41,085.21</b>
<b>LIBRARY TECHNICIAN</b>	<b>\$34,702.22</b>	<b>\$35,285.83</b>	<b>\$35,869.44</b>	<b>\$36,453.06</b>	<b>\$37,036.66</b>
<b>SENIOR CUSTODIAN</b>	<b>\$45,247.47</b>	<b>\$45,848.27</b>	<b>\$46,449.06</b>	<b>\$47,049.85</b>	<b>\$47,650.63</b>
<b>CUSTODIAN</b>	<b>\$43,230.24</b>	<b>\$43,831.02</b>	<b>\$44,431.82</b>	<b>\$45,032.59</b>	<b>\$45,633.39</b>
<b>EFFECTIVE 1/1/14 (1%)</b>					
<b>SR. LIBRARIAN</b>	<b>\$54,853.06</b>	<b>\$56,874.46</b>	<b>\$58,895.89</b>	<b>\$60,917.28</b>	<b>\$62,938.71</b>
<b>PROFESSIONAL</b>	<b>\$50,544.13</b>	<b>\$51,474.82</b>	<b>\$52,405.53</b>	<b>\$53,336.22</b>	<b>\$54,266.94</b>
<b>PARA- PROFESSIONAL</b>	<b>\$39,138.28</b>	<b>\$39,727.72</b>	<b>\$40,317.17</b>	<b>\$40,906.63</b>	<b>\$41,496.06</b>
<b>LIBRARY TECHNICIAN</b>	<b>\$35,049.24</b>	<b>\$35,638.69</b>	<b>\$36,228.13</b>	<b>\$36,817.59</b>	<b>\$37,407.03</b>
<b>SENIOR CUSTODIAN</b>	<b>\$45,699.94</b>	<b>\$46,306.75</b>	<b>\$46,913.55</b>	<b>\$47,520.35</b>	<b>\$48,127.14</b>

<b>CUSTODIAN</b>	<b>\$43,662.54</b>	<b>\$44,269.33</b>	<b>\$44,876.14</b>	<b>\$45,482.92</b>	<b>\$46,089.72</b>
<b>EFFECTIVE 1/1/15 (2%)</b>					
<b>SR. LIBRARIAN</b>	<b>\$55,950.12</b>	<b>\$58,011.95</b>	<b>\$60,073.81</b>	<b>\$62,135.63</b>	<b>\$64,197.48</b>
<b>PROFESSIONAL</b>	<b>\$51,555.01</b>	<b>\$52,504.32</b>	<b>\$53,453.64</b>	<b>\$54,402.95</b>	<b>\$55,352.28</b>
<b>PARA- PROFESSIONAL</b>	<b>\$39,921.04</b>	<b>\$40,522.28</b>	<b>\$41,123.51</b>	<b>\$41,724.76</b>	<b>\$42,325.98</b>
<b>LIBRARY TECHNICIAN</b>	<b>\$35,750.23</b>	<b>\$36,351.46</b>	<b>\$36,952.70</b>	<b>\$37,553.94</b>	<b>\$38,155.17</b>
<b>SENIOR CUSTODIAN</b>	<b>\$46,613.94</b>	<b>\$47,232.89</b>	<b>\$47,851.82</b>	<b>\$48,470.76</b>	<b>\$49,089.68</b>
<b>CUSTODIAN</b>	<b>44535.793248</b>	<b>45154.716804</b>	<b>45773.660964</b>	<b>46392.574218</b>	<b>47011.518378</b>
<b>EFFECTIVE 1/1/16 (2.5%)</b>					
<b>SR. LIBRARIAN</b>	<b>\$57,348.87</b>	<b>\$59,462.25</b>	<b>\$61,575.65</b>	<b>\$63,689.02</b>	<b>\$65,802.42</b>
<b>PROFESSIONAL</b>	<b>\$52,843.88</b>	<b>\$53,816.93</b>	<b>\$54,789.98</b>	<b>\$55,763.02</b>	<b>\$56,736.08</b>
<b>PARA- PROFESSIONAL</b>	<b>\$40,919.07</b>	<b>\$41,535.34</b>	<b>\$42,151.60</b>	<b>\$42,767.88</b>	<b>\$43,384.13</b>
<b>LIBRARY TECHNICIAN</b>	<b>\$36,643.98</b>	<b>\$37,260.25</b>	<b>\$37,876.51</b>	<b>\$38,492.79</b>	<b>\$39,109.05</b>
<b>SENIOR CUSTODIAN</b>	<b>\$47,779.29</b>	<b>\$48,413.71</b>	<b>\$49,048.12</b>	<b>\$49,682.52</b>	<b>\$50,316.92</b>
<b>CUSTODIAN</b>	<b>\$45,649.19</b>	<b>\$46,283.58</b>	<b>\$46,918.00</b>	<b>\$47,552.39</b>	<b>\$48,186.81</b>

**.2 PUBLIC WORKS, PARKS, TRAFFIC, WATER, SEWER AND CEMETERY SALARY SCHEDULE:**

**EFFECTIVE:7/1/16**

<b>WITH CDL</b>	<b>STEP 1</b>	<b>STEP 2</b>	<b>STEP 3</b>	<b>STEP 4</b>	<b>STEP 5</b>
<b>LABORER</b>	<b>\$19.20</b>	<b>\$19.87</b>	<b>\$20.35</b>	<b>\$21.11</b>	<b>\$21.74</b>
<b>GARDENER/LABORER</b>	<b>\$19.66</b>	<b>\$20.35</b>	<b>\$20.87</b>	<b>\$21.57</b>	<b>\$22.26</b>
<b>GARDNER/MEO</b>	<b>\$20.58</b>	<b>\$21.42</b>	<b>\$21.88</b>	<b>\$22.42</b>	<b>\$23.06</b>
<b>MEO/LABORER</b>	<b>\$21.44</b>	<b>\$22.13</b>	<b>\$22.68</b>	<b>\$23.35</b>	<b>\$23.97</b>
<b>HMEO/LABORER</b>	<b>\$21.44</b>	<b>\$22.13</b>	<b>\$22.68</b>	<b>\$23.35</b>	<b>\$23.97</b>
<b>SPEC. MEO/ LBR, MAINT. CRAFTSMAN/</b>					
<b>LBR, M. EQUIP/ REPAIR/LBR,</b>	<b>\$22.13</b>	<b>\$22.97</b>	<b>\$23.42</b>	<b>\$24.05</b>	<b>\$24.77</b>
<b>TREE CLIMBER/LABORER</b>					
<b>WORKING FOREMAN</b>			<b>\$24.76</b>	<b>\$25.41</b>	<b>\$26.16</b>
<b>GENERAL FOREMAN</b>	<b>\$25.66</b>	<b>\$25.66</b>	<b>\$26.13</b>	<b>\$26.73</b>	<b>\$27.49</b>
<b>WITHOUT CDL:</b>	<b>STEP 1</b>	<b>STEP 2</b>	<b>STEP 3</b>	<b>STEP 4</b>	<b>STEP 5</b>
<b>LABORER</b>	<b>\$16.49</b>	<b>\$17.18</b>	<b>\$17.66</b>	<b>\$18.42</b>	<b>\$19.04</b>
<b>GARDENER/LABORER</b>	<b>\$16.96</b>	<b>\$17.66</b>	<b>\$18.18</b>	<b>\$18.88</b>	<b>\$19.56</b>
<b>GARDNER/MEO</b>	<b>\$17.89</b>	<b>\$18.73</b>	<b>\$19.18</b>	<b>\$19.73</b>	<b>\$20.37</b>
<b>MEO/LABORER</b>	<b>\$20.70</b>	<b>\$21.54</b>	<b>\$21.97</b>	<b>\$22.53</b>	<b>\$23.13</b>
<b>HMEO/LABORER</b>	<b>\$18.75</b>	<b>\$19.44</b>	<b>\$19.99</b>	<b>\$20.66</b>	<b>\$21.27</b>
<b>SPEC. MEO/ LBR, MAINT. CRAFTSMAN/</b>					
<b>LBR, M. EQUIP/ REPAIR/LBR,</b>	<b>\$19.44</b>	<b>\$20.28</b>	<b>\$20.73</b>	<b>\$21.36</b>	<b>\$22.07</b>
<b>TREE CLIMBER/LABORER</b>					
<b>WORKING FOREMAN</b>			<b>\$22.06</b>	<b>\$22.71</b>	<b>\$23.47</b>
<b>GENERAL FOREMAN</b>	<b>\$22.97</b>	<b>\$22.97</b>	<b>\$23.44</b>	<b>\$24.04</b>	<b>\$24.80</b>
Updated through 6/30/17			834		

**.3 PARKING ENFORCEMENT OFFICERS SALARY SCHEDULE:**

**Effective July 1, 2016:**

**Wages per hour:     \$15.81**

**.4 POLICE SUPERIOR OFFICERS SALARY SCHEDULE:**

<b>EFFECTIVE 7/1/15 (2%):</b>		
<b>SERGEANT</b>	<b>STEP 1</b>	<b>STEP 2</b>
<b>Annually</b>	<b>\$66,284.89</b>	<b>\$68,897.69</b>
<b>Weekly</b>	<b>\$1,274.71</b>	<b>\$1,324.96</b>
<b>LIEUTENANT</b>		
<b>Annually</b>	<b>\$75,564.78</b>	<b>78,543.37</b>
<b>Weekly</b>	<b>\$1,453.17</b>	<b>\$1,510.45</b>
<b>CAPATAIN</b>		
<b>Annually</b>	<b>\$86,143.86</b>	<b>\$89,539.44</b>

<b>Weekly</b>	<b>\$1,656.61</b>	<b>\$1,721.91</b>
<b>CAPTAIN-SENIOR</b>		
<b>Annually</b>	<b>\$89,143.86</b>	<b>\$92,539.44</b>
<b>Weekly</b>	<b>\$1,714.30</b>	<b>\$1,779.60</b>
<b>EFFECTIVE 7/1/16 (2%)</b>		
<b>SERGEANT</b>		
<b>Annually</b>	<b>\$67,610.59</b>	<b>\$70,275.64</b>
<b>Weekly</b>	<b>\$1,300.20</b>	<b>\$1,351.46</b>
<b>LIEUTENANT</b>		
<b>Annually</b>	<b>\$77,076.08</b>	<b>\$80,114.24</b>
<b>Weekly</b>	<b>\$1,482.23</b>	<b>\$1,540.66</b>
<b>CAPATAIN</b>		
<b>Annually</b>	<b>\$87,866.74</b>	<b>\$91,330.23</b>
<b>Weekly</b>	<b>\$1,689.74</b>	<b>\$1,756.35</b>
<b>CAPTAIN-SENIOR</b>		
<b>Annually</b>	<b>\$90,926.74</b>	<b>\$94,390.23</b>
<b>Weekly</b>	<b>\$1,748.59</b>	<b>\$1,815.19</b>

#### **.5 Police Patrolman's Salary Schedule**

<b>EFFECTIVE 7/01/13 (2%)</b>	<b>Step 1</b>	<b>Step 2</b>	<b>Step 3</b>	<b>Step 4</b>
<b>YEARLY</b>	<b>\$54,484.62</b>	<b>\$55,091.90</b>	<b>\$55,699.17</b>	<b>\$56,306.44</b>
<b>WEEKLY</b>	<b>\$1,047.78</b>	<b>\$1,059.46</b>	<b>\$1,071.14</b>	<b>\$1,082.82</b>

<b>EFFECTIVE 7/01/14 (2%)</b>	<b>Step 1</b>	<b>Step 2</b>	<b>Step 3</b>	<b>Step 4</b>
<b>YEARLY</b>	<b>\$55,574.31</b>	<b>\$56,193.74</b>	<b>\$56,813.15</b>	<b>\$57,432.57</b>
<b>WEEKLY</b>	<b>\$1,068.74</b>	<b>\$1,080.65</b>	<b>\$1,092.56</b>	<b>\$1,104.47</b>

<b>EFFECTIVE 7/01/15 (2%)</b>	<b>Step 1</b>	<b>Step 2</b>	<b>Step 3</b>	<b>Step 4</b>
<b>YEARLY</b>	<b>\$56,685.80</b>	<b>\$57,317.62</b>	<b>\$57,949.41</b>	<b>\$58,581.22</b>
<b>WEEKLY</b>	<b>\$1,090.11</b>	<b>\$1,102.26</b>	<b>\$1,114.41</b>	<b>\$1,126.56</b>

<b>EFFECTIVE 7/01/16 (2%)</b>	<b>Step 1</b>	<b>Step 2</b>	<b>Step 3</b>	<b>Step 4</b>
<b>YEARLY</b>	<b>\$57,819.52</b>	<b>\$58,463.97</b>	<b>\$59,108.40</b>	<b>\$59,752.84</b>
<b>WEEKLY</b>	<b>\$1,111.91</b>	<b>\$1,124.31</b>	<b>\$1,136.70</b>	<b>\$1,149.09</b>

**\* 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.**

#### **.6 TRAFFIC SUPERVISORS SALARY SCHEDULE**



**EFFECTIVE 1/1/17: Wages per hour \$18.61**

**EFFECTIVE 1/1/18: Wages per hour \$18.79**

**EFFECTIVE 1/1/19: Wages per hour \$19.16**

**.7 FIREFIGHTERS' SALARY SCHEDULE**

FY2016					
Rank	1ST YEAR BASE	2ND YEAR BASE	3RD YEAR BASE	4TH YEAR BASE	SENIOR BASE
FIREFIGHTER	\$57,641	\$57,957	\$58,273	\$58,589	\$62,690
LIEUTENANT	\$67,440	\$67,810	\$68,180	\$68,549	\$73,348
CAPTAIN	\$76,882	\$77,303	\$77,725	\$78,146	\$83,616
DEPUTY CHIEF	\$86,492	\$86,966	\$87,440	\$87,915	\$94,069
ASSISTANT CHIEF	\$88,415				\$94,604

FY2017					
Rank	1ST YEAR BASE	2ND YEAR BASE	3RD YEAR BASE	4TH YEAR BASE	SENIOR BASE
FIREFIGHTER	\$58,813	\$59,129	\$59,445	\$59,760	\$63,944
LIEUTENANT	\$68,811	\$69,181	\$69,551	\$69,920	\$74,815
CAPTAIN	\$78,445	\$78,866	\$79,288	\$79,709	\$85,289
DEPUTY CHIEF ASSISTANT CHIEF	\$88,250	\$88,724	\$89,199	\$89,673	\$95,950
	\$90,173				\$96,485

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 ASSISTANT CHIEF	\$90,044	\$90,518	\$90,992	\$91,466	\$97,869
	\$91,966				\$98,404

## .8 SCHOOL CUSTODIAN SALARY SCHEDULE

<b>Effective 6/30/11 (1%)</b>							
<b>Junior Custodian</b>	<b>\$563.64</b>	<b>\$683.91</b>	<b>\$701.04</b>	<b>\$723.50</b>	<b>\$750.56</b>	<b>\$800.14</b>	<b>\$849.76</b>
<b>Senior Custodian</b>							<b>\$925.78</b>
<b>Sr. Custodian - High School</b>							<b>\$988.71</b>
<b>Shift Differential</b>							
<b>2<sup>nd</sup> Shift</b>							<b>\$42.44</b>
<b>3<sup>rd</sup> Shift</b>							<b>\$46.52</b>
<b>Effective 1/1/12 (2%)</b>							
<b>Junior Custodian</b>	<b>\$574.91</b>	<b>\$697.59</b>	<b>\$715.06</b>	<b>\$737.97</b>	<b>\$765.57</b>	<b>\$816.14</b>	<b>\$866.76</b>
<b>Senior Custodian</b>							<b>\$944.30</b>
<b>Sr. Custodian - High School</b>							<b>\$1,008.48</b>
<b>Shift Differential</b>							
<b>2<sup>nd</sup> Shift</b>							<b>\$42.44</b>
<b>3<sup>rd</sup> Shift</b>							<b>\$46.52</b>

#### SECTION 8.43

#### EMPLOYEE CHARITABLE CONTRIBUTIONS

Updated through 6/30/17

**8.43.1 Any city employee may make a voluntary contribution of \$1.00 or more each week, to be taken as a payroll deduction, which sum shall be used to provide Malden students scholarships and/or for library improvement purposes.**

**8.43.2: Each employee shall be provided a form prepared by the City Treasurer, on or before December 15, which permits voluntary contributions hereunder. Such form shall be revocable on one week's notice to the City Treasurer, but shall provide for automatic renewal until written notice is received by the City Treasurer.**

**8.43.3: The City Council shall, on or before January 1 or each year, determine the appropriate way and manner to expend any funds donated hereunder, without further appropriation and in its sole discretion, so long as the same is expended as provided in Section 8.40.1 above. The City Council may distribute all or part of said funds each year, at their sole discretion, and may accumulate the same as it deems appropriate.**

**8.43.4: The City Treasurer shall hold said funds in a separate account and invest the same, as permitted by law and in his sole discretion, with all interest to be segregated and paid into said fund. The City Treasurer shall provide an annual accounting of said funds, at the request of the City Council.**

**8.43.5: In the event said funds are determined to be paid to a scholarship recipient, then the President of the City Council shall select three members of the City Council to serve as a scholarship committee to determine who shall be the recipient. The Superintendent of Schools shall be invited to attend all meetings of such committee. The recipients shall be residents of the City of Malden at the time financial aid is awarded and shall have been accepted to pursue education beyond the secondary school level at an institution deemed accredited by the committee. The committee shall consider each recipient's financial need, character, scholarship record and involvement in community work as well as extracurricular school activities. Recipients shall be presented the scholarship award at a public meeting of the City Council, at a time and date determined by the City Council.**

## **CHAPTER 9**

### **PUBLIC HEALTH**

#### **BOARD OF HEALTH**

##### **SECTION 9.1      POWERS AND DUTIES**

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.

##### **SECTION 9.2      ORGANIZATION; INTERNAL ORGANIZATION; QUORUM**

The Board of Health shall annually, as soon after the first Monday in March as practicable, meet and organize by the choice of a chairman 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. A majority of the Board shall constitute a quorum for the transaction of business.

##### **SECTION 9.3      SUBORDINATE OFFICERS, AGENTS, ETC.; COMPENSATION**

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.

## **SECTION 9.4            AUTHORITY TO PROMULGATE RULES AND REGULATIONS**

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

## **SECTION 9.5            CONTROL OF MC FADDEN MANOR BY BOARD OF HEALTH**

**The City long term care facility known as McFadden Memorial Manor shall be under the control and supervision of the Board of Health.**

**The Board of Health shall have the authority to appoint a Director of said facility, subject to confirmation by the City Council. The Director shall carry out all orders, directives, rules and regulations of the Board of Health.**

**The term for the Director of McFadden Manor shall be for a period of two years. The appointment shall be made and the term commence in even years.**

## **IN GENERAL**

## **SECTION 9.6            BUREAU OF MILK INSPECTION**

**The Bureau of Milk Inspection shall be under the charge of the Inspector of Milk, who shall have and exercise all powers and authority, and be subject to all the duties and limitations which statutes impose upon, or require of Inspectors of Milk.**

**SECTION 9.7            DECAYED FRUIT, VEGETABLES OR MEAT NOT TO BE BROUGHT INTO CITY  
FOR SALE; EXCEPTIONS**

**No person shall bring into the City with intent to sell, any decayed or damaged fruit, vegetable or animal substance, except in accordance with a permit from the Board of Health.**

**SECTION 9.8            DUMPING DECAYED FRUIT, VEGETABLE AND ANIMAL SUBSTANCES  
PROHIBITED**

**No person shall deposit upon any open dump any decayed fruit, vegetable or animal substances.**

**SECTION 9.9            HOUSE OFFAL TO BE KEPT IN SUITABLE VESSELS**

**No person shall keep in or upon a house or land any house offal, unless the same is placed in a suitable watertight, covered vessel, which shall be kept free from ashes and other refuse matter, and so placed as to be easily removed.**

**SECTION 9.10            WATER CLOSETS TO BE MAINTAINED IN SANITARY CONDITION, ETC.**

**Residential properties shall be equipped with sufficient and suitable water closets or privies for the persons ordinarily residing therein.**

**Every person owning or occupying premises on which there is a water closet, privy or cesspool, shall keep the same in a sanitary manner. Upon refusal or neglect to do so, the City may put the same in a sanitary condition in accordance with the provisions of Chapter 1.12.**

SECTION 9.11

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 Inspectional Services 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.

SECTION 9.12

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 9.13                      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 9.14                      RETAIL SALES OF GASOLINE; FOOD TO BE SEPARATED; COMPUTATION OF DISTANCE; EXCEPTION**

**DELETED BY PAPER #496 OF 1992**

## **TOBACCO CONTROL**

## **SECTION 9.15              CONTROL OF TOBACCO AND NICOTINE DELIVERY SYSTEMS**

### **1.        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 MGL Chapter 40 Section 21 D by a fine of \$25.00 and/or by seizure of said products.**

### **.2        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 of Malden. 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 in the manner provided in MGL Chapter 40, Section 21D by a fine of \$100.00.

**DOGS, ANIMALS AND FOWL**

**SECTION 9.16                      LICENSE REQUIRED; PREREQUISITES**

- A. On or before January 1st of each year, the owner of each dog shall apply to the City Clerk's Office for a license to keep said dog within the City of Malden.
- B. Application shall include the name, address, and telephone number of the dog's owner and the sex, 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 for a dog specially trained to lead or serve a blind person; provided that the state Commission for the Blind certifies that such dog is so trained and actually in service of a blind person.
- 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.

- 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 in the manner provided in Massachusetts General Laws Chapter40, 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.

**SECTION 9.17                      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.

**SECTION 9.18                      IMPOUNDMENT OF DOGS; RECORD KEEPING; NOTICE OF IMPOUNDMENT**

The Canine Compliance Officer (also known as Animal Control Officer) may impound any dog found in violation of Sections 9.16 or 9.17 and shall make a complete registry of dogs taken into custody, including the name and address of the owner of any licensed dog.

Upon impoundment of a dog, the Animal Control Officer shall immediately notify the dog's owner of said impoundment. If the Animal Control Officer is unable to determine the owner, notice of impoundment shall be posted in the Office of the City Clerk for 10 days immediately following said impoundment. Such notice shall include, at a minimum, a description of the dog, and the date, time and place at which the dog was taken into custody.

**SECTION 9.19                      UNCLAIMED DOGS TO BECOME CITY PROPERTY**

An impounded dog, if unclaimed 10 days following the notice of impoundment as provided in Section 9.18, shall become the property of the city and final disposition of the dog shall be determined by the Animal Control Officer.

**SECTION 9.20 CLAIM FEES**

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 9.16.

**SECTION 9. 21 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. In accordance with Section 9.15.4, 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. In accordance with Section 9.23, handlers shall remove feces defecated 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 person 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 a 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 9.21A      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.

**SECTION 9.22                      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 of Malden 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.

**SECTION 9.23                      NUISANCE BY ANIMALS PROHIBITED**

The following activities 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.

## SECTION 9.23A 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 <sup>st</sup> offense	\$ 25.00
2 <sup>nd</sup> offense	\$ 50.00
3 <sup>rd</sup> /subsequent/offense	\$100.00

## SECTION 9.24 VIOLATIONS; PENALTIES

Violations of Sections 9.17 through 9.23 may be enforced in the manner provided under Massachusetts General Laws Chapter 40, Section 21D and shall be punishable by a fine of \$25.00. Each twenty-four hour period during which a violation exists shall constitute a separate offense, and an additional fine may be imposed for each twenty-four hour period during which a violation exists.

Violation of Section 9.22 or 9.23 may also be punished by restraint or disposition of the animal, after investigation conducted in accordance with the provisions of Chapter 140 of the Massachusetts General Laws.

SECTION 9.25

DANGEROUS OR VICIOUS DOGS

**.1 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.

**.2 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.

**.3 Penalties for Violation**

Violation of the provisions of this ordinance may be punished in the manner provided in MGL 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 Canine Compliance 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 MGL Chapter 140, Section 157.

## **SECTION 9.25A                      RABIES VACCINATION REQUIRED**

The owner of every 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 ordinance may be punished 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.

## **SOLID WASTE MANAGEMENT**

### **SECTION 9.26                      DECLARATION OF POLICY**

A. 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 Malden.

B. The City of Malden 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.

C. 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 may be determined by the City of Malden or its designee.

**D. 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, employees 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 may be determined by the City of Malden or its designee.**

**E. 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.**

## **SECTION 9.27                      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, 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.

**SECTION 9.28                      STANDARDS AND REGULATIONS**

**A.        RESIDENTIAL WASTE**

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.

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.

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.

Said solid waste shall be placed in City of Malden approved trash bags and shall not exceed thirty-five (35) pounds in weight.

Solid waste shall be prepared and stored as follows:

1. garbage shall be drained of all liquid;
2. 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;
3. 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.
4. waste shall be deposited in an approved container;
5. Printed and photographic material shall be enclosed in approved trash bags so as to be concealed from the view of casual observers.

No white goods of any kind shall be placed at the curb without a collection sticker attached and all doors removed.

#### **Mandatory Recycling:**

##### **1. Intent.**

It is intended that the mandatory recycling provisions shall be liberally construed in order to implement and optimize mandatory recycling of the solid waste generated within the City of Malden, to require residents of every household utilizing solid waste municipal collection to separate

designated recyclable materials, so that they may be recycled.

##### **2. Definitions.**

For the purposes of these provisions, the term "recyclable" shall mean: glass, corrugated cardboard, metal cans, as well as any other material the City may determine from time to time can be recycled. The

following items shall be required to be properly secured and placed in an approved recycling bin for collection:

- Number 1-7 plastics
- Cardboard
- Glass
- Metal cans
- Newspaper
- Paper
  
- Styrofoam
  
- Boxes
  
- Cartons
  
- Packing materials

Said items and materials shall be collapsed or broken up and securely tied in compact units prior to being placed in an approved recycling bin. Solid waste of this nature shall not be collected unless properly secured and placed in an approved recycling bin for disposal.

Recycling will continue on the existing weekly schedule. Recycle bins may be obtained and purchased from the Department of Public Works. Damaged bins may be turned in for free replacement. Specialized recycling days will be scheduled based on availability of funding as published by the Department of Public Works.

The Department of Public Works shall provide at the city yard, during regular hours of operation and on Saturdays from 9:00 a.m. to noon, a facility for recycling of paper, plastic, cans and bottles.

### **3. Hazardous Materials:**

The following items are deemed "hazardous" under Department of Environmental Protection guidelines, and shall not be placed in approved trash bags or recycling bins for collection:

- 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

These items 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.

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.

The city will provide for collection of garden and 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.

## **B. COMMERCIAL WASTE COLLECTION & RECYCLING**

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.

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 and Section 9.29 of this ordinance.

### **1. SOLID WASTE COLLECTION BY DUMPSTER**

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.

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.

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.

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.

## **2. SOLID WASTE COLLECTION BY CITY COLLECTOR**

Upon the approval of the Director, 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.

### **C. PROVISIONS APPLICABLE TO ALL WASTE**



**1. FEES**

Fees for collection of residential waste and for collection of commercial waste 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.

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.

**1.1 ALTERATION OF FEES**

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. LITTER**

No solid waste, including styrofoam, boxes, or packing materials, shall be stored or packaged for disposal unless properly secured so as to prevent it from being effected by wind or weather conditions.

**3. SCAVENGING**

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.

#### **4. ORDER TO REMOVE WASTE FROM PREMISES**

The Director of Public Health, the Director of Public Works, the Building Inspector, 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 a warning issued under this section shall result in the imposition of fines as outlined in Section 9.32.

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.

### **SECTION 9.29 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.

## **SECTION 9.30                      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 or debris of any nature within 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.

**SECTION 9.31                      ADMINISTRATION**

The Board of Health shall adopt, revise, and revoke rules and regulations governing the administration of this ordinance.

The Director is hereby authorized to issue permits for all elements of Waste management. The Director shall prepare application forms for all permits. Such forms shall require all information necessary to fulfill the intent of this ordinance. All permits shall be non-transferable. Permits for non-commercial use shall be issued for a twenty-four (24) hour period. Permits for commercial use shall expire at the end of the calendar year in which issued.

**SECTION 9.32                      ENFORCEMENT**

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.

Violation of this ordinance may also be enforced in the manner provided under Massachusetts General Laws Chapter 40, Section 21D and shall punishable as follows:

- (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                      not less than \$100.00 nor more than \$300.00 plus item collection fee, if applicable

Each twenty-four hour period during which a violation shall exist 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.

The provisions of this ordinance relative to commercial collection shall take effect on July 1, 2000. The provisions of this ordinance relative to residential collection shall take effect on September 1, 2000.

### **SECTION 9.33                      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:

- |                               |               |
|-------------------------------|---------------|
| (a) first offense             | warning       |
| (b) second offense            | \$ 50.00 fine |
| (c) third/subsequent offenses | \$100.00 fine |

Each twenty-four hour period during which a violation shall exist 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.

All owners, agents in charge, or occupants of land or buildings, as described herein, shall comply with the Board of Health Rules and Regulations relating to cleanliness and removal of trash, bottles, cans, refuse, rubbish, garbage, debris, scrap, waste or other material of any kind located upon yards,

parking areas, or private land used for business, and said rules and regulations shall be strictly enforced.

## **TRAILERS, TRAILER CAMPS AND MOTOR VEHICLES**

### **SECTION 9.34 TRAILER CAMPS- GENERALLY**

No trailer for habitation or business or commercial use shall be allowed in the City of Malden except in a licensed trailer camp or park. Such camp shall be licensed by the City Council and the Board of Health.

### **SECTION 9.35 TEMPORARY USE**

The preceding section shall not prohibit the granting of a permit for the temporary use of a trailer for business or commercial purposes, during the construction of permanent structures for commercial or business uses.

Such trailer shall be located at or near the location of permanent construction and shall be removed upon completion of permanent structure.

Such permit may be issued by the Building Inspector for a period not to exceed sixty (60) days. Such permit shall be subject to renewal at the discretion of the Building Inspector.

### **SECTION 9.36 REMOVAL OF CERTAIN MOTOR VEHICLES FROM PUBLIC OR PRIVATE PROPERTY**

Updated through 6/30/17

**A. IN GENERAL**

**MOTOR VEHICLE DEFINED:** For purposes of this section, "motor vehicle" shall include all vehicles described in MGL 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.

**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.

**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 vehicle towed and stored under the provision of this ordinance. The record shall also include the name of the person ordering the vehicle removed and the reasons for removal.

**TOWING AND STORAGE COSTS:** The owner of any vehicle removed under the provisions of this ordinance shall be liable for any costs associated with towing and storage of the vehicle.

**RECOVERY OF VEHICLE BY OWNER:** Prior to the sale or disposition of a vehicle under the provisions of this ordinance, the owner may reclaim the vehicle by presentation to the Police Department of proof of ownership and verification that towing, storage and associated cost have been paid.

**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 and shall be punishable as follows:

<b>First Offense</b>	<b>\$ 50.00</b>
<b>Second/subsequent Offense</b>	<b>\$100.00</b>

Updated through 6/30/17

Each twenty four hour period during which a violation exists shall constitute a separate offence, punishable by the imposition of an additional fine.

**B. PLACEMENT OF MOTOR VEHICLES ON A PUBLIC WAY OR PUBLIC PROPERTY**

When, in the judgement of the Police Chief, Fire Chief or Fire Marshall, a motor vehicle has been placed on a public way or public property in such a manner or in such a condition as to pose a threat to public safety, the Police Chief or Fire Chief may order its immediate removal.

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 Inspector 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.

**C. 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 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.

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 Inspector 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.

## **UNDERTAKERS AND BURIALS**

### **SECTION 9.37 FUNERAL UNDERTAKERS TO BE APPOINTED**

Persons not licensed pursuant to Massachusetts General Laws are forbidden to act as funeral directors or embalmers.

### **SECTION 9.38 PERMIT REQUIRED FOR BURIAL; INFORMATION REQUIRED**

No person shall bury or inter, or cause to be buried or interred, in the City, or remove or cause to be removed, from the City, the body of a deceased person, or its remains, without having obtained a

Updated through 6/30/17

permit to do so from the Board of Health. The Board or its agents shall not grant the same, unless a certificate of the cause of death, signed or approved as required by law has been obtained.

## **SECTION 9.39                      BURIALS PROHIBITED AT CERTAIN TIMES; PERMIT REQUIRED FOR DISINTERRING BODIES**

No person shall bury or inter, or cause to be buried or interred, any dead body, at any other time than between sunrise and sunset, except when ordered by the Board of Health; and no person shall remove or cause to be removed from a grave or tomb, or disturb or cause to be disturbed in a grave or tomb any human body or its remains, without a permit therefor from the Board of Health.

## **SECTION 9.40                      RENTAL UNITS - INSPECTION REQUIRED**

### **. 1        IN GENERAL**

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 MGL 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.

## **.2 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.

### **.3 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.

#### **.4 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 effect 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.

#### **.5 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 9.41 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 Inspector, 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 Inspector, 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 9.42                      REGULATION OF HOTELS/MOTELS**

**.1 Definitions:** 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.

**.2 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 ordinance. 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.

**.3 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.**

**.4 Minimum Standards of 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 of 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.

**.5Enforcement:** Provisions of this ordinance may be enforced by members of the police department, the Compliance Bureau, and the Board of Health and its agents and employees.

Updated through 6/30/17

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.

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.

**.6 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 ordinance. 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.

For purposes of implementation of this ordinance, all licensed hotels/motels shall install approved video surveillance equipment within 90 days of passage of this ordinance.

## **SECTION 9.43            REGULATION OF LEAD PIPES WITHIN 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 supplies to the property is being done so with lead free water line. The cost of said certificate shall be (\$25.00) Twenty-Five Dollars**
- (b) Prior to any and all apartments being rented within the City of Malden be it market rate or Section (8) Eight Housing, it shall be the obligation of the property owner to obtain a certificate from the Department of Public Works, stating that the property is not serviced by lead water lines and that water produced from the taps within the building is within acceptable levels as determined by the Malden Board of Health. The cost of testing and certification shall not exceed (\$25.00) Twenty Five Dollars**

## **CHAPTER 10**

### **PUBLIC SAFETY**

#### **CIVIL DEFENSE**

##### **SECTION 10.1                      EMERGENCY MANAGEMENT GENERALLY**

**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 10.2                      EMERGENCY MANAGEMENT DIRECTOR**

**The Director of Emergency Management shall be designated by the Mayor from among the members of the Emergency Management Board and shall serve at the Mayor's pleasure.**

**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 10.3**

### **EMERGENCY COMMUNICATIONS**

**The Mayor shall, from time to time, designate a Emergency Communications Co-ordinator, who shall serve at the Mayor's pleasure; provided that the Emergency Communications Co-ordinator shall not be a member of the Emergency Management Board.**

**The Emergency Communications Co-ordinator 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.**

### **FIRE PREVENTION CODE**

### **SECTION 10.4**

### **AUXILIARY FIREFIGHTERS**

**The Fire Commissioner may appoint, train, and equip volunteer unpaid auxiliary firefighters.**

### **SECTION 10.5**

### **FIRE PREVENTION CODE**

**For the purpose of prescribing regulations governing conditions hazardous to life and property from fire or explosion, the Fire Prevention Code of the American Insurance Association, 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 10.5A**

### **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 <sup>st</sup> offense	\$100.00
2 <sup>nd</sup> offense	\$200.00
3 <sup>rd</sup> & 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 10.6**

### **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 10.7                      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 10.8                      AMENDMENTS/MODIFICATION OF THE FIRE PREVENTION CODE**

**The Fire Chief shall have the power to modify or amend the applicability of any of the provisions of the Fire Prevention Code upon application in writing by the owner or tenant, or a duly authorized agent, provided that the spirit of the code is observed, public safety secured and substantial justice done. The particulars of such modification when granted or allowed and the decision of the Fire Marshall thereon shall be entered upon the records of the department and a signed copy shall be furnished the applicant.**



## **SECTION 10.9**

## **APPEALS**

**Whenever the Chief of the Fire Department disapproves an application or refuses to grant a permit, or when it is claimed that the provisions of the code do not apply or that the true intent and meaning of the code have been misconstrued or wrongly interpreted, the applicant may appeal from the decision of the Chief of the Fire Department to the Board of Appeal within 30 days from the date of the decision appealed.**

## **SECTION 10.10      NEW MATERIALS, PROCESSES OR OCCUPANCIES WHICH MAY REQUIRE PERMITS**

**The Building Inspector, the Chief of the Fire Department and the Fire Marshall shall act as a committee to determine and specify, after giving effected persons an opportunity to be heard, any new materials, processes or occupancies, which shall require permits in addition to those now enumerated in said Code. The Fire Chief shall post such list in a conspicuous place in his office, file a copy thereof with the City Clerk, and distribute copies thereof to interested persons.**

## **SECTION 10.11      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 the job, 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 10.12                      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 Malden Police Department 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 by a fine of \$50.00 for each 24 hours during which a violation exists; provided that a warning shall be provided for a first offense..**

### **SECTION 10.13      CHARCOAL AND PROPANE BARBECUE GRILLES**

**A. Any barbecue grilles are to be placed outside buildings in an area clear of heavy grass and brush when in use. They must be at least 5 feet (5') away from any structure and away from any overhead hazards such as tree branches, awnings, clotheslines, etc.**

**B. Charcoal is to be ignited only by charcoal lighter fluid or electricity.**

**C. Barbecue grilles are not permitted on porches, rooftops or balconies when in use. Storage or use of liquid propane gas containers above the first floor of a building used for habitation is prohibited.**

**D. Any barbecue grille is not to be left unattended at any time while in use.**

**E. Upon completion of use of a charcoal grille, charcoal or charcoal briquettes are to be thoroughly extinguished.**

**F. A permit must be obtained from the Malden Fire Department for the use and storage of propane.**

**G. The use of a barbecue grille may be prohibited by the Chief of the Malden Fire Department, in his discretion, for failure to comply with any provision of this section, for any conduct which constitutes a violation of the laws of the City of Malden, or in the event the use thereof will cause a dangerous or hazardous condition. Failure to comply with the provisions of this section shall be punishable by fines and penalties as set forth in Section 1.13.**

## **SECTION 10.14      LODGING HOUSES - SPRINKLER SYSTEMS REQUIRED**

**Every lodging house or boarding house in the City of Malden and the Malden YMCA and Malden YWCA 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 10.15      PENALTIES**

**Violation of Sections 10.5 through 10.14 may also be enforced in the manner provided under Massachusetts General Laws Chapter 40, Section 21D and shall be punishable as follows:**

- |                                      |                      |
|--------------------------------------|----------------------|
| <b>(a) first offense</b>             | <b>warning</b>       |
| <b>(b) second offense</b>            | <b>\$ 50.00 fine</b> |
| <b>(c) third/subsequent offenses</b> | <b>\$100.00 fine</b> |

**Each twenty-four hour period during which a violation shall exist 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.**

## **SECTION 10.16      FIRE ALARM REGULATION**

### **A. PURPOSE**

**The Malden Fire Department shall regulate the installation and use of Fire Alarms for the following purposes:**

- 1. to provide efficient Fire Department service to owners and tenants for private alarm systems in the City of Malden, and;**
- 2. to establish policies, regulations, and minimum standards applicable to fire alarm systems, alarm installers, and alarm users.**

## **B. DEFINITIONS**

**"Alarm business" means any business operated by an organization for a profit which engages in or causes the activity of altering, installing, leasing, maintaining, repairing, replacing, selling, servicing, or responding to a burglar, holdup or fire alarm system.**

**"Alarm installer" means any person employed by or associated with an alarm business whose duties include the altering, installing, maintaining, moving, repairing, replacing, selling, or servicing an alarm device.**

**"Alarm system" means an assembly of equipment and devices (or a single device such as a solid state unit that plugs into a 110 Volt current outlet) arranged to signal the presence of a hazard requiring urgent attention and to which Fire Department personnel are expected to respond.**

**"Central station" means an office to which remote alarm and supervisory signaling devices are connected, where operators**

**supervise the circuits, and where guards are maintained continuously to investigate signals.**

**"Chief of Police" means the Chief of the Malden Police Department or a designated representative.**

**"City Council" means the Malden City Council.**

**"False alarm" means the activation of an alarm system through mechanical failure, malfunction, improper installation, or the negligence of the owner or lessee of an alarm system or of employees or agents or alarm business employees. Such term does not include, for example, alarms caused by hurricanes, tornadoes, earthquakes or other conditions which are clearly beyond the control of the alarm system user.**

**"Fire Chief" means the Chief of the Malden Fire Department or a designated representative.**

**"Fire Department" means the Malden Fire Department.**

**"Licensing Authority" means the licensing authority function of the City Council.**

**"Owner" means a person who holds an interest of 15% or more in an alarm business.**

**"Police Department" means the Malden Police Department.**

**"Primary trunkline" means a telephone line leading directly into the communication center of the fire station that is for the purpose of handling emergency calls on a person-to-person basis. The telephone line is identified as such by a specific number included among the emergency numbers listed in the telephone company directory issued by the telephone company.**

**"Principal corporate officer" means the president, vice-president, treasurer, secretary, and comptroller as well as any other person who performs functions for the corporation corresponding to those performed by the foregoing officers.**

**"Special trunkline" means a telephone line leading into the communication center of the fire station that is for the purpose of handling emergency signals or messages originating directly from automatic dialing devices.**

**"Subscriber" means a person or business who buys and/or leases, or otherwise obtains a burglar alarm system and thereafter:**

- a. contacts with or hires an alarm business to service the alarm device installed within the subscriber's facility;**
- b. pays the City an annual alarm connection license fee in order to connect the system directly to the Fire Alarm Headquarters.**

**"Wire Inspector" means the Malden Inspector of Wires.**

## **C. ALARM BUSINESS INSTALLERS**

### **1. APPLICATION FOR LICENSE**

- a. Any person engaging in a fire alarm business in the City of Malden, shall apply to the Fire Chief on a form furnished by the Fire Department, for a license to operate. Such application shall be signed by the individual proprietor of such business, or by a partner, or by the proper corporate official, as is appropriate for the form of business seeking the license.**
- b. The Fire Chief shall specify the information required on the license application.**
- c. Applicants already in the alarm business in the City of Malden may continue in business while their license applications are being processed. An applicant not**

previously in the alarm business in the City of Malden shall not commence doing business until a license is granted.

d. If applicant's business involves both burglar and fire alarm systems, and alarm business license covering both types of systems can be applied for at either the Police or Fire Departments.

## **2. LICENSE FEE**

a. License applications shall be accompanied by a non-refundable fee payable to the City of Malden, to cover the costs to the City for processing the application and investigating the applicant.

b. The license fee shall be based on the following schedule:

### **No. of Agents Representing**

<b>Alarm business in Malden</b>	<b>License Fee</b>
<b>1-3</b>	<b>\$10.00</b>
<b>4-6</b>	<b>\$15.00</b>
<b>7-9</b>	<b>\$20.00</b>
<b>10 and over</b>	<b>\$25.00</b>

## **3. ACTION ON ALARM BUSINESS LICENSE APPLICATIONS**

a. The Fire Chief, after consultation with the Chief of Police, shall cause a report on the applicant to be prepared based on the information contained in the application together with such other relevant information as may be obtained pertaining to the applicant and his business.

b. The Fire Chief shall within thirty (30) days after the receipt of the application submit his report and recommendation to the Licensing Authority on whether to issue or deny a license to the applicant.

c. The Licensing Authority shall within ninety (90) days after the receipt of the application for an alarm business license either approve or deny the issuance of a license.

d. No alarm business license shall be issued if:

(1) Any employee engaged in the installation or maintenance of alarm systems within the City, owners, partners or in the case of a corporation, principal corporate



**officers of the applicant or those with authority and responsibility for the management and operation of the alarm business within the City, including those not residing within the State, have been convicted of a felony or a misdemeanor (excluding misdemeanor motor vehicle violations) which the Licensing Authority finds to reflect unfavorably upon the alarm business' fitness to sell, install or maintain alarm systems within the City of Malden.**

**(2) The application contains any false statements.**

**e. Applicants shall be required to file a surety bond or carry a liability insurance policy, in a form and sum satisfactory to the said Licensing Authority but in no event less than ten thousand dollars (\$10,000.00) for the purpose of protecting the City of Malden from any damage, loss, injury or liability as a result of the failure of the applicant to fulfill the obligations and conditions imposed under this ordinance.**

#### **4. CHANGES TO ALARM BUSINESS LICENSE**

**The licensee shall immediately notify the Fire Chief whenever any information on the alarm business license is subject to change.**

#### **5. REVOCATION OF ALARM BUSINESS LICENSE**

**a. In addition to any penalties imposed under Section 1.13 for the violation of this ordinance, the Licensing Authority upon written recommendation from the Fire Chief, may, pursuant to the provisions of this Section, revoke the license of an alarm business on any of the following grounds:**

**(1) Fraud or misrepresentation or false statement made in an application for a license.**

**(2) Fraud or misrepresentation or false statement made in the conduct of an alarm business.**

**(3) Conviction of any of the employees engaged in the installation or maintenance of alarm systems within the City, owners, partners or in the case of a corporation, principal corporate officers of the applicant or those with authority and responsibility for the management and operation of the alarm business within the City, including those not residing within the state, of a felony or a misdemeanor (excluding misdemeanor motor vehicle violations) which the Licensing Authority finds to reflect unfavorably upon the alarm business' fitness to sell, install or maintain alarm systems within the City of Malden.**

**(4) Failure to correct any deficiencies in the operation of a subscriber's equipment within eight (8) hours after receipt of notice of same from the Fire Chief.**

**(5) Failure to notify the Fire Chief of any changes in alarm business license information.**

**(6) Failure to comply within a reasonable time with any order issued or policy and procedure established by the Licensing Authority pursuant to this ordinance.**

**b. No alarm business license shall be revoked until a hearing is held by the Licensing Authority.**

## **6. SUSPENSION OF ALARM BUSINESS LICENSE**

**a. The Fire Chief or Licensing Authority may suspend an alarm business license without notice for any of the reasons cited above pending a hearing to be held by the Licensing Authority within ninety days (90) after suspension.**

## **7. RENEWAL OF ALARM BUSINESS LICENSE**

**a. An alarm business license shall be subject to renewal every two (2) years from date of issuance.**

**b. The issuance procedures and fee for an initial alarm business license application shall apply to an alarm business license renewal.**

## **8.IDENTIFICATION**

**Alarm agents representing a licensed alarm business shall carry proper identification whenever engaged in the business of installing or maintaining alarm systems in the City of Malden. Such identification shall be exhibited at the demand of any member of the Police Department or the Fire Department or the Wire Inspector or occupant of the premises where the alarm installer is either maintaining or installing an alarm system.**

## **D. ALARM INSTALLATIONS**

### **1. PERMITS**

**a. An application for Permit must be submitted to the Fire Department for each alarm system installed in all new construction in the City of Malden. The application, available from the Fire Department, adheres to the provisions of Chapter 148, General Laws of the Commonwealth of Massachusetts.**

**b. In accordance with provisions of Chapter 148, General Laws of the Commonwealth of Massachusetts, the Fire Chief shall grant an alarm installation**

**permit if the purposed alarm system in the application, meets or exceeds the applicable National Fire Prevention Association standards.**

## **2. INSPECTION**

**The Fire Chief, the Wire Inspector or their representatives, shall have the authority, at reasonable times and upon reasonable notice, to enter any premises in the City of Malden, in which alarm systems subject to this ordinance are located, to inspect the installation and/or operation of such alarm systems on official City business.**

## **E. DIRECT CONNECTION TO FIRE ALARM HEADQUARTERS**

- 1. Upon the favorable recommendation of the Fire Chief, fire alarms from business premises and financial institutions may be connected to Fire Alarm Headquarters by means of a Gamewell/Buss Master Fire Alarms Box.**
- 2. The installation of a Master Fire Alarm Box which is connected into the Malden Fire Alarm System shall meet all installation specifications as set forth by the Fire Chief and Superintendent of Fire Alarm.**

## **F. RETRANSMISSION OF FIRE ALARM SIGNALS**

**Equipment used to retransmit fire alarm signals from a central station to the fire alarm station shall meet the specifications set forth by the Fire Chief and Superintendent.**

## **G. ALARM INSTALLATIONS**

### **1. CERTIFICATIONS**

**Each alarm system installed in the City of Malden after the effective date of this ordinance must be certified by the alarm company selling or leasing its system, on a form provided by the Fire Department. It must state that the alarm system meets the minimum standards established by the City of Malden.**

### **2. INSPECTIONS**

**For the purpose of enforcing the provisions of this ordinance, the Fire Chief or the Wire Inspector or their representatives, shall have the authority, at reasonable times and upon reasonable notice, to enter any premises in the City of Malden, in which alarm systems**

subject to this ordinance are located, to inspect the installation and /or operation of such alarm systems on official City business.

## **H. AUTOMATIC DIALING DEVICES**

### **1. INTERCONNECTING TO FIRE DEPARTMENT TRUNKLINES**

a. Automatic dialing devices designed to transmit signals directly to the fire alarm headquarters may be interconnected, at the discretion of the Fire Chief, to either a primary or special trunkline into the stations. Before such a device is interconnected, the person performing this operation shall first obtain instructions from the Fire Chief concerning the procedure to be followed. The Fire Chief shall designate the telephone number to be used for this purpose. Failure to follow these procedures shall be a violation of this ordinance.

b. Automatic dialing devices interconnected to Fire Department trunklines shall be registered with the Fire Department within ninety (90) days after the effective date of this ordinance.

### **2. STANDARDS**

Automatic dialing devices installed on any premises within the City of Malden which are interconnected to a trunkline transmitting signals into the Police or Fire Stations shall meet the minimum standards established by the Fire Chief.

## **I. DIRECT CONNECTIONS TO THE FIRE ALARM HEADQUARTERS**

### **1. APPLICATION FOR ALARM CONNECTION LICENSE**

a. For an alarm system to be connected directly to the Fire Alarm Headquarters (F.A.H.), the owner or lessee of the alarm system shall submit an application for an alarm connection license to the Fire Chief.

b. If the application is approved by the Fire Department, the Fire Chief shall cause an alarm connection license to be issued to the subscriber.

c. No alarm connection license shall be issued if:

(1) The application contains any false statements;

(2) Alarm system installed without Certification (Section 5.0);

**(3) Alarm system is not compatible with the fire alarm monitoring equipment located at F.A.H.**

**d. The alarm subscriber approved for a direct connection to the F.A.H. or the alarm business contracting for servicing the subscriber's alarm system, shall be responsible for obtaining the leased telephone line between the subscriber's premises and the F.A.H.**

**e. The Fire Chief shall determine the location within the F.A.H. where the telephone lines will terminate.**

**f. All alarm connections within the F.A.H. shall be made by the City or its authorized representative.**

## **2. ALARM CONNECTION LICENSE FEE**

**a. The fire alarm subscriber shall be assessed an annual alarm connection license fee of seventy-five Dollars (\$75.00) payable to the City of Malden.**

**b. In addition to the annual alarm connection license fee provided in (a), there shall be an annual fee of two hundred (\$200.00) payable to the City of Malden, to those subscribers which are directly connected to F.A.H. by means of a Master Fire Alarm Box.**

**c. If an alarm connection license is issued after the beginning of the City's fiscal year, the license fee shall be prorated on the basis of the remaining months.**

**d. The alarm subscriber shall be sent an annual bill by the City for renewal of his alarm connection license annually in July.**

**e. Non payment of the annual alarm connection license renewal fee may result, at the discretion of the Fire Chief, in the disconnection of the alarm at the F.A.H.**

## **J. FALSE ALARMS**

**1. More than four false alarms in the calendar year from any alarm system constitute a violation of this ordinance subject to the provisions below.**

**2. After the Fire Department has recorded four "false alarms" within a calendar year from any alarm system, it shall notify the alarm user and the alarm business providing service or inspection to the alarm user in writing by first class mail of such fact and require that the alarm user submit a report to the Fire Chief within 7 days after receipt of such notice, describing efforts to discover and eliminate the cause or causes of the false alarms. If,**

however, the alarm user by reason of absence from the City or on any other reasonable basis requests an extension of time to file the report, the Fire Chief shall extend the 7-day period for a reasonable period. If the alarm user fails to submit such a report within 7 days or within any such extended period, the alarm user shall be in violation of this ordinance.

3. If the alarm user submits a report as required by paragraph 2. of this Section but the Fire Chief determines that the report is unsatisfactory or that the alarm user has failed to show by the report that reasonable steps are or will be taken to eliminate or reduce false alarms, the alarm user shall be in violation of this ordinance.

## **K. VIOLATIONS AND PENALTIES**

The following shall be considered violation of the Fire Alarm Regulations:

- 1.Failure to obtain an alarm business license;
2. Conducting an alarm business in the City of Malden after revocation of license;
- 3.Installing an alarm system in new construction without obtaining a permit;
4. Failure to adhere to automatic dialing device, direct connect or retransmission specifications; such violation shall be punishable by a fine of up to the current maximum amount as defined by Chapter 40, Section 21D of the Massachusetts General Laws. Each day that such violation continues after the expiration of the period allowed for compliance under the provisions of this ordinance shall constitute a separate offense.
5. Any user of an alarm system which transmits false alarms shall be assessed a fine in accordance with the following schedule:

NO. OF FALSE ALARMS	FINE
0- 3	NO CHARGE
4-20	\$50.00
21 OR MORE	\$75.00

## **L. DISCLAIMER OF LIABILITY**

The City, its agents, employees and designees, shall not be liable for any claimed failure of service or any damages that may result from the installation, operation or failure of an alarm system connected to the Fire Stations.

## **M. EXCEPTIONS**

**This ordinance shall not apply to:**

- 1. the use of alarm systems by law enforcement personnel for law enforcement purposes;**
- 2. alarm systems installed in motor vehicles, boats, or aircraft;**
- 3. persons engaged solely in the manufacture, sale or repair of alarm systems or components from a fixed location who do not install, maintain, or service alarm system at a user's premises, or who do not plan the alarm system for a specific location;**
- 4. any alarm system used, operated, or installed in any premises or place owned by the governments of the United States, the Commonwealth of Massachusetts, or the City of Malden, nor to any officer, agent or employee of these governments while acting or employed in an official capacity.**

## **POLICE IN GENERAL**

### **SECTION 10.17      AUXILIARY POLICE**

**The Police Commissioner may appoint, train, and equip volunteer, unpaid auxiliary policemen. Said Auxiliary Police Force may be activated at the discretion of the Police Commissioner.**

**Persons appointed to the Auxiliary Police Force in the City shall, when called to active duty by the Police Commissioner, exercise such powers and perform such duties as may be prescribed by the Commissioner. All members of the Auxiliary Police Force shall, when on active duty, display a badge or other authorized insignia.**

### **SECTION 10.18      SPECIAL POLICE OFFICERS MAY BE APPOINTED**

**In addition to the Police Force provided for in Chapter 16 of the Acts of 1911, the Mayor may from time to time appoint additional Police Officers who shall be called Special Police Officers.**

#### **SECTION 10.19      OATH OF OFFICE**

**Before entering upon service, each member of the Police Department shall be sworn to the faithful discharge of duties.**

#### **SECTION 10.20      RESERVED**

#### **SECTION 10.21      DISPOSITION OF FINES, ETC.; DEDUCTION OF FINES FOR DISOBEDIENCE OF POLICE RULES**

**The Police Commissioner and all members of the police department shall account to the Treasurer for all fees received. The Police Commissioner, when applicable, shall collect and pay to the Treasurer, rendering a detailed account of the same, all fines and penalties for violations of the rules, regulations and ordinances of the City of Malden and its departments, and all fees received as witnesses as aforesaid, or for service of criminal processes. A duplicate account of such payments shall be rendered to the Controller of Accounts.**

#### **SECTION 10.22      INSTITUTION OF LEGAL PROCEEDINGS ON ENFORCING CODE, ETC.**



**The Police Commissioner shall cause proceedings to be instituted for the prosecution of violations of all laws and all rules, regulations and ordinances of the City of Malden and all departments thereof. Each member of the department shall enforce the laws of the Commonwealth, and all rules, regulations and ordinances of the City and discharge such other duties as may be required.**

## **SECTION 10.23      MUTUAL AID TO OTHER CITIES**

**The Police Commissioner is hereby authorized to permit members of the Police Department to aid another city or town at the request of such city or town in the suppression of riots or other forms of violence therein. While in the performance of their duties in extending such aid, the members of such department shall have the same powers, duties, immunities and privileges as if performing the same within the City. Any city or town aided under and in accordance with this section shall compensate the City for aid rendered as aforesaid for the whole or any part of any damage to its property sustained in the course of rendering the same and shall reimburse it in whole or in part for any payments lawfully made to any member of the Police Department of the City or to a surviving spouse or other dependents on account of injuries or death suffered in the course of rendering aid as aforesaid.**

## **SECTION 10.24      REGULATION OF BURGLAR ALARM SYSTEMS**

### **A. PURPOSE**

**The Malden Police Department shall regulate the installation and use of burglar alarms for the following purposes:**

- 1. to provide efficient Police Department service to owners and lessees of private alarm systems in the City of Malden;**
- 2. to reduce police response to excessive false alarms which tend to diminish general police service, and;**

**3. to establish policies, regulations, and minimum standards applicable to burglar and hold-up alarm systems, alarm installers, and alarm users.**

## **B. DEFINITIONS**

**"Alarm Systems" means the assembly of equipment and devices or a single device such as a solid line, arranged to signal the**

**presence of a hazard requiring urgent attention and to which police are expected to respond. Fire alarm systems and alarm systems which monitor temperature, smoke, humidity or any other condition not directly related to the detection of an unauthorized intrusion into a premises or an attempted robbery at the premises are specifically excluded from the provisions of this ordinance.**

**"Alarm User or User" means any person on whose premises an alarm system is maintained within the City except for alarm systems on motor vehicles or proprietary systems. Excluded from this definition and from the coverage of this ordinance are central station personnel and persons who use alarm systems to alert or signal persons within the premises in which the alarm system is located of an attempted unauthorized intrusion or hold up attempt. If such system, however, employs an audible signal emitting sounds or a flashing light or beacon designed to signal persons outside the premises, such system shall be within the definition of "alarm system" as that term is used in this ordinance, and shall be subject to this ordinance.**

**"Automatic dialing device" refers to an alarm system which**

**automatically sends over regular telephone lines, by direct connection or otherwise, a prerecorded voice message or coded**

**signal indicating the existence of the emergency situation that the alarm system is designed to detect.**

**"Central station" means an office to which remote alarm and supervisory signaling devices are connected, where operators supervise circuits or where guards are maintained continuously to investigate signals.**

**"City" means the City of Malden.**

**"City Council" means the Malden City Council.**

**"Communications Console" means the instrumentation of an alarm console at the receiving terminal of the signal line which, through both visual and audible signals, indicates activation of an alarm system at a particular location, or which indicates line trouble.**

**"Direct Connect" means an alarm system which has the capability of transmitting system signals to and receiving them at the Malden Police Department Communications Center.**

**"False Alarm" means (1) the activation of an alarm system through mechanical failure, malfunction, improper installation or negligence of the user ; (2) any signal or oral communication transmitted to the Police Department requesting or requiring or resulting in a response on the part of the Police Department when, in fact, there has been no unauthorized intrusion or attempted unauthorized intrusion into a premises and no attempted robbery or burglary at a premises. Excluded from this definition are**

**activations of alarm systems caused by power outages, hurricanes, tornadoes, earthquakes, and similar conditions.**

**"Interconnect" means to connect an alarm system to a voice-grade telephone line, either directly or through a mechanical device that utilizes a standard telephone, for the purpose of using the telephone line to transmit an emergency message upon the activation of the alarm system.**

**"Licensing Authority" means the Licensing Authority function of the City Council.**

**"Owner" means a person who holds an interest of 15% or more in an alarm business.**

**"Police Chief" means the Chief of Police of the City of Malden or a designated representative.**

**"Police" or "Police Department" means the City of Malden Police Department, or any authorized agent thereof.**

**"Principal Corporate Officer" means the president, vice president, treasurer, secretary and comptroller as well as any other person who performs functions for the corporation corresponding to those performed by the foregoing officers.**

**"Public Nuisance" means anything which annoys, injures or endangers the comfort, repose, health or safety of any persons or of any community or neighborhood.**

**"Wire Inspector" means the Malden Inspector of Wires.**

## **C. ALARM BUSINESS INSTALLERS**

### **1. APPLICATION FOR LICENSE**

- a. Any person engaging in an alarm business in the City of Malden, shall apply to the Chief of Police on a form furnished by the Police Department, for a license to operate an alarm business. Such application shall be signed by the individual proprietor of**

such business, or by a partner, or by the proper corporate official, as is appropriate for the form of business seeking the license.

b. The Chief of Police shall specify the information required on the license application.

c. Applicants already in the alarm business in the City of Malden may continue in the alarm business while their license applications are being processed. An applicant not previously in the alarm business in the City of Malden shall not commence doing business until the license is granted.

d. If applicant's business involves both burglar and fire alarm systems, and alarm business license covering both types of systems can be applied for at either the Police or Fire Departments.

## **2. LICENSE FEE**

a. License applications shall be accompanied by a non-refundable fee payable to the City of Malden, to cover the costs to the City for processing the application and investigating the applicant.

b. The license fee shall be based on the following schedule

**No. of Agents Representing**

<b>Alarm business in Malden</b>	<b>License Fee</b>
<b>1-3</b>	<b>\$10.00</b>
<b>4-6</b>	<b>\$15.00</b>
<b>7-9</b>	<b>\$20.00</b>
<b>10 and over</b>	<b>\$25.00</b>

## **3. ACTION ON ALARM BUSINESS LICENSE APPLICATIONS**

a. The Chief of Police, after consultation with the Fire Chief, shall cause a report on the applicant to be prepared based in the information contained in the application together with such other relevant information as may be obtained pertaining to the applicant and the business.

**b. The Chief of Police shall within (30) days after the receipt of the application submit a report and recommendation to the Licensing Authority on whether to issue or deny a license to the applicant.**

**c. The Licensing Authority shall within ninety (90) days after the receipt of the application for an alarm business license either approve or deny the issuance of a license.**

**d. No alarm business license shall be issued if:**

**(1) Any employee engaged in the installation or maintenance of alarm systems within the City, owners, partners or in the case of a corporation, principal corporate officers of the applicant or those with authority and responsibility for the management and operation of the alarm business within the City, including those not residing within the State, have been convicted of a felony or a misdemeanor (excluding misdemeanor motor vehicle violations) which the Licensing Authority finds to reflect unfavorably upon the alarm business' fitness to sell, install or maintain alarm systems within the City of Malden.**

**(2) The application contains any false statements.**

**e. Applicants shall be required to file a surety bond or carry a liability insurance policy, in a form and sum satisfactory to the said Licensing Authority but in no event less than ten thousand dollars (\$10,000.00) for the purpose of protecting the City of Malden from any damage, loss, injury or liability as a result of the failure of the applicant to fulfill the obligations and conditions imposed under this ordinance.**

#### **4. CHANGES TO ALARM BUSINESS LICENSE**

**The licensee shall immediately notify the Chief of Police whenever any information on the alarm business license is subject to change.**

#### **5. REVOCATION OF ALARM BUSINESS LICENSE**

**a. In addition to any penalties imposed under Section 1.13 for the violation of this ordinance, the Licensing Authority upon written recommendation from the Chief of Police, may, pursuant to the provisions of this Section, revoke the license of an alarm business on any of the following grounds:**

**1. Fraud or misrepresentation or false statement made in an application for a license.**

**2. Fraud or misrepresentation or false statement made in the conduct of an alarm business.**

**3. Conviction of any of the employees engaged in the installation or maintenance of alarm systems within the City, owners, partners or in the case of a corporation, principal corporate officers of the applicant or those with authority and responsibility for the management and operation of the alarm business within the City, including those not residing within the state, of an felony or a misdemeanor (excluding misdemeanor motor vehicle violations) which the Licensing Authority finds to reflect unfavorably upon the alarm business' fitness to sell, install or maintain alarm systems within the City of Malden.**

**4. Failure to respond in an order to correct any deficiencies in the operation of a subscriber's equipment within eight (8) hours after receipt of notice of same from the Chief of Police (Fire Chief).**

**5. Failure to notify the Chief of Police (Fire Chief) of any changes in alarm business license information.**

**6. Failure to comply within a reasonable time with any order issued or policy and procedure established by the Licensing Authority pursuant to this ordinance.**

**b. No alarm business license shall be revoked until a hearing is held by the Licensing Authority.**

## **6. SUSPENSION OF ALARM BUSINESS LICENSE**

**The Chief of Police or the Licensing Authority may suspend an alarm business license without notice for any of the reasons cited above pending a hearing to be held by the Licensing Authority within ninety days (90) after suspension.**

## **7. RENEWAL OF ALARM BUSINESS LICENSE**

**a. An alarm business license shall be subject to renewal every two (2) years from date of issuance.**

**b. The issuance procedures and fee for an initial alarm business license application shall apply to an alarm business license renewal.**

## **8. IDENTIFICATION**

**Alarm agents representing a licensed alarm business shall carry proper identification whenever engaged in the business of installing or maintaining alarm systems in the City of Malden.**

**Such identification shall be exhibited at the demand of any member of the Police Department or the Fire Department or the Wire Inspector or occupant of the premises where the alarm installer is either maintaining or installing an alarm system.**

### **D. AUTOMATIC DIALING DEVICES, INTERCONNECTION TO POLICE DEPARTMENT**

- a. Automatic dialing devices may be interconnected only to telephone numbers at the Police Department as are specially designated to receive such calls by the Police Department.**
- b. Within six (6) months after effective date of this ordinance, all dialers shall be reprogrammed to interconnect as indicated above.**

### **E. AUTOMATIC DIALING DEVICES, INTERMEDIARY SERVICES**

**Any person using an automatic dialing device may have the device interconnected to a telephone line transmitting directly to:**

- 1. A central station**
- 2. An answering service; or**
- 3. Any privately-owner or privately-operated facility or terminal.**

### **F. DIRECT CONNECTIONS TO POLICE DEPARTMENT**

- 1. Alarm systems may be connected to the communications console in the Police Department, after prior authorization by the Chief of Police.**
- 2. In accordance with the normal practices in the City, the Chief of Police shall have the authority to request proposals and bids from alarm companies in order to furnish, at no cost to the City, a communications console and the necessary telephone lines which are compatible to the receipt of alarm signals from alarm systems whose lines are connected to**

the Police Department. Each of the said bids shall set forth the annual fee each alarm user will be required to pay the alarm company for services rendered with respect to the communications console, except that no fee shall be assessed to the municipality for any alarms or connections to the console from properties owned by the municipality. Such services shall be set forth in the form of a written contract between the alarm company and each alarm user. The provisions of this paragraph (b) relate solely to the aforementioned communications console. Any alarm user may contract with any alarm company for the sale, installation, maintenance, and/or servicing of the alarm system to be installed on the user's premises.

3. The alarm user, or the alarm business contracting for servicing the alarm user's alarm system, shall be responsible for obtaining the leased telephone line between the alarm user's premises and the alarm-receiving equipment at the Police Department and for furnishing the appropriate interface equipment if required in order to provide an input signal which is compatible with the receiving equipment used to operate the communications console.

4. The provisions of this chapter concerning false alarms shall apply to all alarm users or persons having direct connect systems except municipal, county and state agencies.

#### **G. CONTROL AND CURTAILMENT OF SIGNALS EMITTED BY ALARM SYSTEMS**

1. Every business establishment within the City of Malden, whether alarmed or not, shall provide written notice to the Chief of Police listing the names, addresses, and telephone numbers of at least two persons who may be reached at any time, day or night, and who are authorized to respond to any emergency which has caused the police to be dispatched to said premises. Such notice shall be submitted during the first month of each year and shall be kept current at all times reflecting any changes in authorized personnel. Owner-residents shall be excluded from this paragraph.

2. All alarm systems installed after July 1, 1984 which use an audible horn or bell shall be equipped with a device that will shut off such horn or bell within thirty (30) minutes or less after activation of the alarm system.

3. Any alarm system emitting a continuous and uninterrupted signal for more than thirty (30) minutes between 7:00 P.M. and 6:00 A.M. which cannot be shut off or otherwise curtailed due to the absence or unavailability of the alarm user or those persons designated under paragraph (a) of this section, and which disturb the peace, comfort or repose of a community, a neighborhood, or inhabitants of the area where the alarm system is located, shall constitute a public nuisance. Upon receiving complaints regarding such a continuous and uninterrupted signal, the Police Chief shall endeavor to contact the alarm user, or members of the alarm user's family, or those persons designated by the alarm user under paragraph (a) of this section in an effort to abate the nuisance. The Police Chief shall cause



to be recorded the names and addresses of all complainants and the time each complaint was made. In the event that the Police Chief is unable to contact the alarm user or members of the alarm user's family or those persons designated by the alarm user under paragraph (a) of this section, or if the aforesaid persons cannot or will not curtail the audible signal being emitted by the alarm system and if the Police Chief is otherwise unable to abate the nuisance, a Police Officer or a firefighter or a qualified alarm technician may be directed to enter upon the property, outside the home or building in which the alarm system is located and take any reasonable action necessary to abate the nuisance.

If entry upon property outside the home or building in which the alarm system is located is made in accordance with this section, the person so entering upon such property (1) shall not conduct, engage in or undertake any search, seizure, inspection or investigation while upon the property; (2) shall not cause any unnecessary damage to the alarm system or to any part of the home or building; and (3) shall leave the property immediately after the audible signal has ceased. After an entry upon property has been made in accordance with this section, the Police Chief shall have the property secured, if necessary. The reasonable cost of abating a nuisance in accordance with this section may be assessed to the alarm user, said assessment not to exceed \$50.00.

## **H. TESTING OF EQUIPMENT**

No alarm system designated to transmit emergency messages directly to the Police Department shall be worked on, tested, or demonstrated without obtaining permission from the Police Chief. Permission is not required to test or demonstrate alarm devices not transmitting emergency messages directly to the Police Department. An unauthorized test constitutes a False Alarm.

## **I. FALSE ALARMS**

1. When messages are received by the Police Department that evidence false alarms, the Police Chief shall take such action as may be appropriate under paragraphs (b),(c),(d), and (e) of this section, and when so required by the terms of the aforementioned paragraphs, order that use of an alarm system be discontinued.

2. After the Police Department has recorded three (3) separate false alarms within the calendar year from an alarm system, the Police Chief shall notify the alarm user, in person, by telephone, in writing or by mail of such fact and require said user to submit, within fifteen (15) days after receipt of such notice, a report describing efforts to discover and eliminate the cause or causes of the false alarms. If the said user, on the basis of absence from the City, or on any other reasonable basis, requests an extension of time for filing the

report, the Police Chief may extend the fifteen (15) day period. If the said user fails to submit such a report within fifteen (15) days or within any such extended period, the Police Chief may order that use of the alarm system be discontinued. Any such discontinuance shall be effectuated with fifteen (15) days from the date of receipt of the Police Chief's order.

3. In the event that the Police Chief determines that a report submitted in accordance with paragraph (b) of this section is unsatisfactory, or that the alarm user has failed to show by the report that reasonable steps to eliminate or reduce false alarms have or will be taken, then the Police Chief may order that use of the alarm system be discontinued. Any such discontinuance shall be effectuated within fifteen (15) days from the date or receipt of the Police Chief's order.

4. In the event that the Police Department records five (5) false alarms within the calendar year from an alarm system, the Police Chief may order that the user of the Alarm system discontinue use of the alarm system for not less than six (6) months from the date the alarm was disconnected.

5. Any user of an alarm system which transmits false alarms shall be assessed a fine in accordance with the following schedule:

NO. OF FALSE ALARMS	FINE
0-3	NO CHARGE
4-20	\$50.00
21 OR MORE	\$75.00

6. Any user of an alarm system which has, in accordance with this section been ordered by the Police Chief to discontinue use of an alarm system may appeal the order of discontinuance to the Police Commissioner. An appeal shall be filed within ten (10) days of the date of the order of discontinuance. Thereafter, the Commissioner shall consider the merits of the appeal, and in connection therewith shall hear evidence. The Police Commissioner may affirm, vacate or modify the order of discontinuance.

## **J. VIOLATIONS AND PENALTIES**

The following acts and omissions shall constitute violations of this ordinance punishable by fines of up to the current maximum amount as defined by Chap. 40, Section 21D of Mass. General Laws:

1. Failure to obey an order of the Police Chief or a designee, to discontinue use of an alarm system after exhaustion of the right of appeal;

- 2. Unauthorized interconnection of an automatic dialing device to any telephone numbers at the Police Department.**
- 3. Failure to pay any fines assessed under this ordinance within sixty (60) days from the date of assessment;**
- 4. Failure to comply with the requirements of Sections (a) and (c) of this ordinance.**

**Each day during which the aforesaid violations continue shall constitute a separate offense.**

**Any fines not paid within one year of assessment shall become a lien on the property involved.**

#### **K. ADMINISTRATIVE RULES**

**The Police Chief may promulgate such rules as may be necessary for the implementation of this ordinance.**

#### **L. DISCLAIMER OF LIABILITY**

**The City, its agents, employees and designees, shall not be liable for any claimed failure of service or any damages that may result from the installation, operation or failure of an alarm system connected to the Fire Stations.**

#### **M. EXCEPTIONS**

**This ordinance shall not apply to:**

- 1. the use of alarm systems by law enforcement personnel for law enforcement purposes;**
- 2. alarm systems installed in motor vehicles, boats, or aircraft;**
- 3. persons engaged solely in the manufacture, sale or repair of alarm systems or components from a fixed location who do not install, maintain, or service alarm system at a user's premises, or who do not plan the alarm system for a specific location;**
- 4. any alarm system used, operated, or installed in any premises or place owned by the governments of the United States, the Commonwealth of Massachusetts, or the City of Malden, nor to any officer, agent or employee of these governments while acting or employed in an official capacity.**

**CHAPTER 11**  
**PUBLIC WORKS**

**PUBLIC WORKS COMMISSION**

**SECTION 11.1**                      **TO PROVIDE FOR INTERNAL ORGANIZATION**

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

- A. to promulgate such rules and regulations necessary for the administration of its duties;**
- B. to manage and control the sanitation and cleanliness of City property, unless otherwise provided by law;**
- C. to have charge of the lighting of street and all appropriations therefor;**
- D. to assess charges for the use of facilities, utilities and other property of every nature under their control, unless otherwise provided by law.**

**CITY ENGINEER**

**SECTION 11.2**                      **CITY ENGINEER - DUTIES GENERALLY**

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

**The City Engineer shall have the following powers and duties:**

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- .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 assess for sewer betterments;**
- .5 to make such surveys, plans, profiles, estimates and descriptions as may be required by the Mayor or City Council.**

#### **SECTION 11.2.1. DIRECTOR OF PUBLIC WORKS TO ASSUME RESPONSIBILITY FOR WATERWORKS**

**The Director Of Public Works shall have executive and administrative oversight of waterworks and shall be charged with providing for the repair, maintenance and extension of municipal water, sewer and drainage systems. The Director shall hire such subordinates and assistants as may be provided for by appropriation and shall have all powers, duties and authority incidental to providing a supply of pure water for the use of residents of the city and shall establish rules and regulations for connection to municipal water, sewer and drainage systems and shall provide for the means of assessing charges for the use thereof.**

#### **SEWERS**

#### **SECTION 11.3 CITY SEWERS TO BE UNDER CHARGE OF Director of Public Works; CONNECTIONS TO BE MADE UNDER HIS SUPERVISION; COMMON**

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## **SEWER DEFINED; COMMON SEWERS TO BE LAID BY CITY**

**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 11.4                      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 for water, gas or any other purposes, such laying of pipe or conduit and the work connected therewith, 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 11.5                      DELETED**

## **SECTION 11.6**

## **DELETED**

### **SECTION 11.17 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 fined in accordance with the provisions of Section 1.13; 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.**

## **SECTION 11.8**

## **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 11.9**

### **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.

## **SECTION 11.10**

### **BOND REQUIRED OF LICENSED SEWER LAYERS**

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 a sum of not less than five thousand dollars (\$5,000.00), 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 11.11**

### **REPAIR OF SEWERS**



**Whenever any private sewer shall become 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 Commission 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 in accordance with the provisions of Section 1.13.**

#### **SECTION 11.12      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; but all connections within such building and within ten feet of such building shall be subject to the Plumbing and Gasfitting Ordinances. The Director of Public Works may also determine the grade of such particular sewer; the place and manner of connection with the common sewer; and in private ways shall require such filling to a grade as may be determined by the Director of Public Works, proper drainage facilities and all other construction necessary and incident to the protection and satisfactory performance of the sewer.**

#### **SECTION 11.13      BOND REQUIRED**

**The Director of Public Works shall require a performance bond or deposit of money in such amount as he determines to be sufficient to cover the cost of all improvements specified in Section 11.11. Such bond shall be approved as to form and manner of execution by the City**

**Solicitor, and shall be contingent on the completion of such improvements within one year of the date of the bond. Such bond or deposit shall be filed and approved before and as a condition of beginning construction of the improvement.**

#### **SECTION 11.14 EXHAUSTS AND BLOWOFFS NOT TO BE CONNECTED TO SEWER**

**No exhaust from a steam engine and no blowoff from a steam boiler shall be connected with any common sewer or private drain connecting with a common sewer.**

#### **SECTION 11.15 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, MGL Chapter 21 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 Civil Defense Director, and 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 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 proscribed in Massachusetts General Laws Chapter 41, 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.**

## **SECTION 11.16      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. All owners of buildings where roof, ground or surface water is being disposed of contrary to the provisions of the above shall be notified by the Director of Public Works to cease doing the same. The Director of Public Works shall also notify the Inspector of Plumbing, who shall cause 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 11.17      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. The Public Works Commission shall place permanent landmarks and bounds on any street repaired or altered hereunder.**

**SECTION 11.18      TEMPORARY REPAIRS ON PRIVATE WAYS; SCOPE;  
COUNCIL APPROVAL REQUIRED; ASSESSMENT OF  
PROPERTY OWNERS; LIABILITY**

**A. Pursuant to Mass. General Laws Chapter 40:6N, the Public**

**Works Commission 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 on any such private way, 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.**

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## **SECTION 11.19 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 way, whether public or private, 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 Chapter eighty-five of the General Laws of Massachusetts.**

## **SECTION 11.20 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 of Malden 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 41 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**

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**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 sidewall 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**

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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.

## **F. SEVERABILITY**

If any section or provision of this ordinance is held invalid by any court, the same shall not affect any other section or provision, except in so far as the section or provision deemed invalid is inseparable for the remainder.

**SECTION 11.21      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, which may be imposed 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 assessed.**

## **SECTION 11.22      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 under Section 11.20 or 11.21; 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 a \$300.00 fine, which may be imposed 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 assessed.

## **SECTION 11.23      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 notified in writing by the Public Works Commission that in their opinion such excavation constitutes a hazard to public safety. The penalty for violation of this section shall be in accordance with Section 1.13 of this Code.

## **SECTION 11.24      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 shall make, or cause to be made any coal hole, or other opening in a street, except in accordance with a permit from the Commission, and no person shall leave such coal hole or opening uncovered or unfastened, except while actually in use, in which event it shall be properly guarded.

**Whenever any person shall dig or sink any well, cistern or other cavity in the ground near to or adjoining any street, a sufficient and suitable railing or fence, well-lighted at night shall be maintained, on the line of such street.**

## **SECTION 11.25      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 11.26      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 11.27      REMOVAL OF VEHICLES OBSTRUCTING SNOW REMOVAL**



**The Director of the Public Works Department, for the purpose of removing or plowing snow, or removing ice from any way may remove, or cause to be removed, to some convenient place, including a public garage, any vehicle interfering with such work, and shall be reimbursed for the cost of such removal, and of the storage charges, if any, resulting therefrom, by the owner of such vehicle.**

**SECTION 11.28      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 11.29      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. The Chief of Police or a designee, shall remove, to some convenient place through the agency of a person or persons in the employ of the Police Department or by an independent contractor selected in accordance with law, or ordinance, on the basis of competitive bids, any vehicle parked or standing on any part of any way under the control of the municipality in such a manner as to obstruct any curb ramp designed for use by handicapped persons, or to occupy or obstruct any parking space reserved for a vehicle used by a disabled veteran or handicapped person whose vehicle bears the distinguishing, authorized license plates.**

**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 11.30 PERMIT REQUIRED FOR POSTS**

**No person shall set up a post in any street, except by permission of the Commission.**

## **SECTION 11.31 DANGEROUS SUBSTANCES IN STREETS PROHIBITED**

**No person shall put or place, or cause to be put or placed in any street, land, alley or any other place, public or private, where it may be offensive or objectionable, any ashes, dirt or refuse; nor shall any piece of hoop or wood, or any board, wire, glass, tacks or other material or any other rubbish injurious to tires of bicycles or other vehicles be put, placed or thrown into or on any street, walkway, lane, alley or public place. No person shall place or cause to be placed on any sidewalk, walkway or crosswalk any article or thing whatsoever, so as to interfere with the safe and convenient use of the same by any person traveling thereon. This section shall not apply to building materials so placed with permission of the Commission.**

## **SECTION 11.32      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.**

### **SECTION 11.33      PRINTED MATTER VENDING MACHINES**

**A. No person, firm, corporation, association, partnership, trust or other type of entity shall place, install, use or maintain any printed matter vending machine on any public property, without obtaining a written permit therefor from the Public Works Commission.**

**B. A "printed matter vending machine" (hereinafter called "machines") shall mean any coin or token operated box, container, stand, rack, storage unit or other dispenser or device installed, placed, used, operated or maintained for the display and sale or distribution of newspapers, periodicals, or other printed matter**

**for public use.**

**C. The application for the permit shall fully and specifically describe the printed matter vending machine by setting forth its height, depth, and width or any other relevant dimensions if varying in height, depth, and width, the name and business address of the applicant, the exact date or dates said machines will be in place or in operation, the exact place where said machine will be located, the manner by which said machine shall be affixed or held in place and the description of any object to which said machine shall be affixed. Further reasonable information which may affect the public safety, health, or order in the community may be requested from the applicant. An annual application fee, the amount of which will be determined annually thereafter by the Public Works Commission, which fee will be reasonably related to the costs of processing said application, shall be paid for each machine licensed. The form of application shall be approved by the City Solicitor.**

**D. A certificate of insurance indemnifying and saving harmless the City of Malden from any loss or damage from all suits, actions and claims of any and every nature for or on account of any injuries or damage received or sustained by any person or company or other entity arising from the installation, use or maintenance of such machines shall be filed with the Public Works Commission, prior to their issuance of any permit hereunder; further said policy will directly provide for payment to any person or company or other entity injured thereby.**

**E. Within twenty days of receipt of such completed application, the Public Works Commission shall grant a permit or shall order a hearing within an additional 10 days, giving at least 5 days written notice to the applicant.**

**F. Within ten days next following the close of the hearing the Public Works Commission shall grant such permit or shall deny such application upon a finding that issuance of such a permit would lead to the creation of a nuisance or would endanger the public health, safety or order by:**

**1. unreasonably increasing pedestrian traffic in the area in**

**which the machine is located;**

**2. endangering the public safety as follows: by reason of the**

**machine's projecting onto, into, or over any part of the roadway of any public street; by reason of its being affixed to a site or location used for public utility purposes, public transportation purposes, or governmental use; or by reason of its being located in such a manner as to unreasonably interfere with or impede the flow of pedestrian or vehicular traffic, sidewalk or street cleaning and/or snow removal, and the ingress or egress from any residence, place of business or any legally parked or stopped vehicle; by reason of esthetic harm and defacement caused by its being affixed to poles, posts, traffic signs or signals, hydrants, mailboxes or other objects at or near such location.**

**G. No machine shall be chained, bolted or otherwise attached to property owned or maintained by the City of Malden; within three feet of any crosswalk; within fifteen feet of any fire hydrant; within five feet of any fire or police call box or other emergency facility; within five feet of any driveway, public or private; within three feet ahead or fifteen feet to the rear of any designated bus stop, taxi stand, or place marked for handicapped parking; within three feet of any bus bench or shelter; at any location whereby the clear space for the passageway of pedestrians is reduced to less than four feet; within three feet of any display window of any building abutting**

**the sidewalk or other public place in such a manner as to impede or interfere with the reasonable use of such window for display purposes.**

**H. No machine shall be used for advertising signs or publicity purposes other than that which is essential to identify on no more than two sides of the machine the printed matter offered for sale therein. No letter thereon shall exceed two square inches in size.**

**I. Each machine shall be maintained in a clean and neat condition and in good repair at all times, and it shall be of one color that does not unnecessarily contrast with the immediate surroundings except that the lettering may contrast with such one color. No reflectorized paint, day-glo, fluorescent, or scotchlite reflective materials or materials of like nature may be used on such machine.**

**J. The person who places or maintains such machine shall have a name or Massachusetts agent's name, address, and telephone number affixed thereto in a place where such information may easily be seen.**

**K. Notice of the denial of an application for permit shall be in writing and accompanied by a statement of the reasons therefor. No application shall be denied if the anticipated harm is not significant or if the likelihood of its occurrence is remote. The Public Works Commission may impose conditions upon the permit but said conditions may only relate to compliance with applicable laws or 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 and security for the public. No applicant having been denied a permit as aforesaid shall submit the same or similar application within one year of said denial without including in said new application facts showing that the circumstances upon which the original denial was based have substantially changed.**

**L. Violation of the terms and conditions in this ordinance or in any permit granted hereunder shall be punishable by fines and penalties as provided by Chapter 1.13 and said violation shall be cause for cancellation, suspension, revocation or modification, after hearing, upon three days written notice, sent registered or certified mail, to the name and address set forth in the annual application. The City of Malden may petition the Superior Court department of the trial court**



to enjoin any violation of this ordinance or the conditions in any permit granted hereunder. If, after hearing, the applicant fails to comply with the order of the Public Works Commission, said Commission may order the removal of said machines and place them in storage in a secure place; the cost of removal and storage shall be paid by the permit holder.

M. If such machine is not used for the distribution of printed matter for a period of 60 calendar days, the same shall be deemed as abandoned property and may be disposed of according to law.

## **SECTION 11.33A SHOPPING CARTS PROHIBITED ON PUBLIC WAYS**

### **.1 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.

### **.2 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 posts 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.

### **.3 DISPOSAL OF SHOPPING CARTS ON PUBLIC WAYS**

- .1 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
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4 <sup>th</sup> and subsequent carts	\$50.00 per cart.
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- .2 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.
- .3 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 41 Section 21D, has been requested, the shopping cart shall be deemed to be abandoned.
- .4 The Director of Public Works may, as he deems appropriate dispose of abandoned shopping carts in the following manner:

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- .1 by return to the owner upon payment of fines and costs;**
- .2 by public auction;**
- .3 by destruction of the carts.**

#### **SECTION 11.34      RESERVED**

#### **SECTION 11.35      REMOVAL OF SNOW AND ICE FROM SIDEWALKS**

**A. The owner, occupant or agent in charge of any land or building abutting a paved sidewalk in the City of Malden shall make said sidewalk safe and convenient for public use by removing any snow or ice accumulating thereon or by otherwise make the same safe by covering with sand or other suitable substance.**

**B. Removal of hazardous conditions shall be made within the first twenty four hours after such snow or ice accumulates on said sidewalk. Sidewalks shall be cleared to provide a minimum passage of thirty six inches in width. A minimum passage of thirty six inches in width shall also be cleared to the street. Handicapped access ramps shall be cleared to the full extent of the width and length of the main slope and side slopes.**

**C. This ordinance may be enforced in the manner provided in Massachusetts General Laws Chapter 40 Section 21D by regular enforcement officers and by Department of Public Works storm supervisory personnel. 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 up to \$200.00 for each violation.**

#### **SECTION 11.36      THROWING SNOW, ICE ON PUBLIC WAYS PROHIBITED; PENALTY**

Updated through 6/30/17

**(a) No person shall throw or place, or permit to be thrown or place, any snow or ice on any street or sidewalk, except as directed by the D.P.W. Commissioners or their designees, exclusive of such portion thereof as may be occupied by street railway tracks. No snow or ice shall be removed from private property and deposited on any sidewalk, public way or way to which the public has access.**

**(b) This ordinance may be enforced in the manner provided in Massachusetts General Laws Chapter 40 Section 21D by regular enforcement officers and by Department of Public Works storm supervisory personnel. 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 up to \$300.00 for each violation.**

#### **SECTION 11.37      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 11.38      CONSENT OF OWNER REQUIRED TO POST HANDBILLS, ETC., BULLETIN BOARDS PROHIBITED WITHOUT LICENSE**

**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 11.39      OVERHANGING SIGNS, ETC.**

**No person shall establish or maintain any sign, signboard, shade or awning over any portion of a street without a permit therefor from the Public Works Commission and subject to the rules and regulations thereof.**

## **SECTION 11.40      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 11.41      EXTINGUISHING LIGHTS ON STREETS PROHIBITED**

**No person shall remove, extinguish or diminish a light placed in any street, in accordance with the provisions of this chapter. No person shall light or extinguish any public lamp, except by permission of the Commission.**

## **SECTION 11.42      PERMIT REQUIRED TO HEAT TAR IN STREETS**

**No person shall set up or use any kettle or other receptacle for the purpose of heating tar or other substance, for roofing or otherwise, in any street, without obtaining a permit in writing from the Commission**

## **SECTION 11.43      MOVING BUILDINGS**

**No person shall move any building through any streets, unless a permit is obtained from the Commission and under such restrictions as the Commission may proscribe; but, no permit shall be given, nor shall any building be moved, which will, in the opinion of the Commission 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 11.44      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.**

## **SECTION 11.45      STREET SIGNS- DESTROYED- PENALTY**

**It shall be unlawful for any person or persons to destroy, obliterate, remove, damage or change any street sign, stop sign, directional sign or sign post designating streets, as erected by the Public Works Commission or the Traffic Commission, except by a permit granted by the Public Works Commission or the Traffic Commission. No street directional sign as erected by the Traffic Commission shall be changed in direction except by permit of the Public Works Commission or Traffic Commission.**

**Any person violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in accordance with the provisions of Chapter 1.13.**

#### **SECTION 11.46      MINIMUM WIDTH OF STREETS**

**No street shall be laid out of a less width than forty feet, excepting such streets as were in public use prior to the year 1890. This, however, shall not apply to extensions of streets**

**already accepted. In all streets hereafter laid out by the Public Works Commission at a width of less than forty feet, suitable edgestones shall be placed.**

#### **SECTION 11.47      PERMIT REQUIRED; SIGNS, MARQUEES, AWNINGS,ETC.**

**A. No person shall place or maintain any sign, advertising device, lettering, clock, marquee, permanent or temporary awning, canopy, post or other structure projecting into or placed on, in or over a public street or way in the City without a permit issued by the Public Works Commission.**

**B. Temporary canopies with side curtains, but with an opening for pedestrians may be placed and maintained from buildings to the inner line of the curb for use during rain or snow storms and during festivals and social or other functions at churches, halls and private residences. The cover of such canopy shall have the lowest part thereof at least seven feet above the sidewalk and shall be erected on iron frames securely fastened to the building or to the sidewalk, the sidewalk fastenings, if of a permanent nature, to be embedded in the sidewalk and level with the same. Such canopies and frames shall be removed within two hours after the storm has cleared or the social or other function has ended.**

**C. No advertising matter except as authorized by the Commission shall be placed on temporary structures involving the closing or occupation of public highways during repairs on the same or during building operations which are authorized by the Inspector of Buildings.**

**D. Applications for a permit for marquees, permanent awnings and other structures shall be advertised for a public hearing and notice thereof mailed to abutting owners by certified or registered mail.**

**E. Applications for permits shall be made on blank forms furnished by the Commission. Petitions shall set forth the purpose for which such sign, advertising device, clock, marquee, permanent awning or structure is to be used, the manner in which it is to project into or over the public highway, and such other requirements as the Commission may deem necessary.**

**F. Applications for permits shall, if the commission so orders, be accompanied by detailed plans, made to scale, showing the character of the construction of the same. Permits may be granted for not more than one year and must be renewed on expiration or within thirty (30) days thereafter. A permit may be renewed without the filing of additional plans; provided, that the applicant certifies to the Commission that there has been no change in the conditions under which the permit was first granted.**

**G. The foregoing section shall not apply to signs or other structures projecting onto or over a street or way a distance of less than six inches, nor to poles, wires, conduits, and appurtenances of steam railroad, street railway, telegraph and telephone, water, gas, electric light, heat and power companies.**

## **SECTION 11.48      INSPECTOR OF BUILDINGS TO APPROVE ENCROACHMENTS**

**All signs, advertising devices, clocks, marquees, permanent and temporary awnings and structures authorized by the Public Works**

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**Commission shall be subject to the requirements of the Inspector of Buildings as to their construction and their physical connection with the building to which they are attached.**

#### **SECTION 11.49 INSPECTOR OF WIRES TO APPROVE WIRING**

**The installation of wiring or apparatus for electricity to be used in connection with a sign, advertising device, clock, marquee, permanent awning or other structure shall be subject to the approval of the Inspector of Wires of the City.**

#### **SECTION 11.50 CERTAIN FLAGS, ETC., NOT SUBJECT TO ARTICLE; LIMITATION ON LOCATION OF FLAGS**

**United States flags, state and City flags, flags of United States recruiting stations, of foreign nations and of private clubs and institutions shall not be subject to this chapter; provided, that such flags shall not be suspended across a public highway by ropes or wires attached to structures on either side of such highway; and provided, also, that the lowest part of such flags shall be at least ten feet above the sidewalk.**

#### **SECTION 11.51 MINIMUM HEIGHT FROM GROUND; LIMITATION OF PROJECTION**

**A. Signs and advertising devices attached to buildings and projecting more than six inches therefrom shall have the lowest part thereof at least eight feet above the sidewalk. Private lamps for lighting purposes, on which no lettering is displayed, may be projected from buildings at a height of not less than ten feet above the sidewalk.**

**B. No sign or advertising device shall project into a highway more than three feet except by special permission of the Commission, but in no case more than six feet. Clocks attached to buildings may project into a highway not more than five feet.**

**C. Flat signs, drum signs and sill signs may be attached to building at any height above the sidewalk, providing such signs do not project into the highway more than six inches.**

**D. Temporary or permanent signs for benevolent, charitable, religious, educational, temperance, entertainment or political purposes, attached to buildings, and signs indicating places of historical interest, if projecting into the highway more than six inches, shall have the lowest part thereof at least eight feet above the sidewalk, and shall not project into the highway in any case more than two feet.**

**E. No movable awning, which is made to roll over a framework of iron or other material or to fold close to or against a building, shall be erected or maintained over a highway unless it is placed at least seven feet above the sidewalk. Such awning and all its cloth parts shall, unless otherwise ordered by the Commission be kept rolled or folded against the building, except at such times as the sun shines on the part of the building on which the awning is placed; and no cloth parts except such as may be rolled or folded against the building shall be attached to such awning or framework.**

## **SECTION 11.52      PERMITS FOR LETTERING IN SIDEWALKS AND FOR HOISTING MERCHANDISE**

**Permits for lettering in or on sidewalks and for devices for hoisting merchandise over a public highway may be issued by the Commission.**

## **SECTION 11.53      DENIAL OF PERMITS**

Updated through 6/30/17

**Notice of the denial of an application for permit sought under this Chapter shall be in writing and accompanied by a statement of the reasons therefor. No application shall be denied if the anticipated harm is not significant or if the likelihood of its occurrence is remote. The Public Works Commission may impose conditions upon the permit but said conditions may only relate to compliance with applicable laws or 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 and security for the public. No applicant having been denied a permit as aforesaid shall submit the same or similar application within one year of said denial without including in said new application facts showing that the circumstances upon which the original denial was based have substantially changed.**

#### **SECTION 11.54      EXCAVATIONS- WHEN TO BE FILLED**

**If a person having a building permit makes an excavation for the construction of a building and the same is allowed to remain uncovered or unprotected for six months thereafter, the Building Inspector may revoke the permit and order the owner to level the lot to uniform grade by a proper sanitary fill.**

#### **SECTION 11.55      PUBLIC WORKS COMMISSION WILL SERVE AS TREE BOARD TO DEVELOP AND ADMINISTER A COMMUNITY FORESTRY PROGRAM AND DESIGNATE A TREE WARDEN**

**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.**

Updated through 6/30/17

**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 under the jurisdiction of the park commissioners. State Law reference G.L. c. 87, sec. 2.**

## **SECTION 11.56 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 11.57 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 11.58 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.**

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**When a tree is removed, the Tree Warden shall immediately cause the stump to be removed below the surface of the ground.**

**SECTION 11.59 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 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 41, Section 21D. Each twenty-four hours during which a violation exists shall constitute a separate offense.**

## **WATER**

### **SECTION 11.60 DELETED**

### **SECTION 11.61 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 11.62 AGREEMENT TO PAY COST OF LAYING PIPE, ETC., TO BE SIGNED BEFORE WORK COMMENCED**

**The Director of Public Works shall not lay pipe or supply water to any property abutting a private way without having obtained an agreement to pay all costs incident thereto, including but not limited to the cost of cutting or filling the trench or way to the required grade.**

**Owners of property who wish to connect to a common water main and for which a common water main has been constructed or which common water main is accessible to such property shall construct and maintain such pipes or connections to the common water main as may be**

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necessary to conduct the water to said property, at the sole expense of the owner and shall enter the pipes and/or connections therefor into the common water main.

#### **SECTION 11.63 ASSESSMENT FOR LAYING WATER PIPE**

The Director of Public Works shall notify the Treasurer of the cost incurred for laying pipes in public and private ways for the conveyance or distribution of water to its inhabitants. The Treasurer shall levy special assessments against said inhabitants to meet the whole or part of said costs.

The assessment for the cost of providing and laying water pipes hereafter in public and private ways shall be made upon the several parcels of land receiving benefit from the laying of such pipes by a fixed uniform rate based upon the estimated average cost of all the water pipes therein and the laying thereof according to the frontage on such land on any way in which a water pipe is laid.

#### **SECTION 11.64 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 Director of Public Works shall oversee installation of water meters and establish rules and regulations for the use of water.



## **SECTION 11.65 WATER BILLS; ANNUAL INSPECTION OF PREMISES**

**Water usage in the City shall be metered, and, under the direction of the Director of Public Works, all meters shall be read and all charges for water usage shall be recorded and billed at least once each year. The Director of Public Works shall deliver to the Collector of Taxes complete schedules of such charges.**

## **SECTION 11.66 DISPOSITION OF INCOME; APPLICATION OF FUNDS**

**All sums paid into the Treasury on account of the Department of Water Utilities shall be applied, as allowed by law and as appropriated by the City of Malden, to the payment of the expenses of maintenance and operation incurred by such Director of Public Works; the interest requirements of all bonds and notes issued on account of the waterworks; the water assessment of the city to be paid to the Treasurer of the Commonwealth; the expenses of the extension of the works; and the balance, if any, as the City may determine.**

## **SECTION 11.67 RECORDS REQUIRED**

**The Director of Public Works 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 charged.**

## **SECTION 11.68 TAMPERING WITH WATER PIPES, METERS, ETC. PROHIBITED; MAINTENANCE OF WATER PIPES 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.**

**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 Director of Public Works, allow agents of the city to enter the premises to inspect, make repairs or replace equipment, as deemed necessary by the Director of Public Works.**

**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 City shall install in every property in the city a water meter, and shall repair or replace meters as deemed necessary by the Director of Public Works. 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.**

**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 enforced in the manner provided under Massachusetts General Laws Chapter 40, Section 21D and shall be punishable by a fine of \$300.00 for each offense. Each twenty-four hour period during which a violation shall exist 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.**

#### **SECTION 11.69 RULES AND REGULATIONS FOR USE OF WATER TO BE PRINTED ON BILLS; BINDING ON USERS**

**Rules and regulations established by the Director of Public Works shall be binding upon every person who uses 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.**

#### **SECTION 11.70 SPECIAL PROVISIONS FOR ASSESSMENT WHERE LAND NOT BUILT UPON**

**If the order for easement is upon vacant land, the Commission may extend the time for payment until such time as the land is built upon. Interest on said assessment shall be charged at prevailing legal rates. The assessment and interest shall be paid within three months after such land is built upon.**

## **SECTION 11.71 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 11.72 BADGES TO BE WORN BY EMPLOYEES**

Updated through 6/30/17

**All employees, officials or agents of any company owning or controlling any electric line of wires in the City shall be furnished with a certificate or badge from the company, which shall be shown whenever access is desired to any premises.**

## **SECTION 11.73                    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**

Updated through 6/30/17

**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 11.74      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.**

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#### **.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:**

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- .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 curbcut 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 harvy 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 11.75                      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. 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**

**Floodplains**

**200.4.1**

**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**

**Base Flood Elevation and Floodway Data**

**200. 4. 2. 1**

**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 residential use "dwelling, multifamily, more than 6 stories but not to exceed 12 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 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 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.**

**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:**

**TABLE OF USE REGULATIONS\*\***

Section Number	Use	A	B	C	RO	BN	BC	BH	I1	I2
<b><u>300.3.1</u></b>	<b><u>Agriculture</u></b>	Yes	Yes	Yes	No	No	No	No	No	No
<b><u>300.3.2</u></b>	<b><u>Residential</u></b>									
<b>300.3.2.1</b>	<b>Dwelling, Single Family</b>	Yes	Yes	Yes	Yes	Yes	No	No	No	No
<b>300.3.2.2</b>	<b>Dwelling, Two Family</b>	No	Yes	Yes	Yes	Yes	No	No	No	No
<b>300.3.2.3</b>	<b>Dwelling, Three &amp; Four Family</b>	No	SP	SP	SP	SP	No	SP	No	No
<b>300.3.2.4</b>	<b>Dwelling, Town or Row</b>	No	SP	SP	SP	SP	SP	SP	No	No
<b>300.3.2.5</b>	<b>Dwelling, Multi-family, up to 3 stories inclusive</b>	No	SP	SP	SP	SP	SP	SP	No	No
<b>300.3.2.6</b>	<b>Dwelling, Multi-family, more than three stories but not exceeding 6 stories</b>	No	No	No	No	No	SP	No	No	No
<b>300.3.2.7</b>	<b>Dwelling, Multi-family, more than 6 stories but not exceeding 12 stories</b>	No	No	No	No	No	SP	No	No	No
<b>300.3.2.8</b>	<b>Dwelling, Multi-family, more than 12 stories</b>	No	No	No	No	No	No	No	No	No
<b>300.3.2.9</b>	<b>Dwelling, Group</b>	Yes	No	Yes	Yes	Yes	Yes	No	No	No
<b>300.3.2.10</b>	<b>Rooming House</b>	No	No	SP	No	No	No	No	No	No
<b>300.3.2.11</b>	<b>Manufactured Home</b>	SP*	SP*	SP*	SP*	SP*	SP*	SP*	SP*	SP*
<b>300.3.2.12</b>	<b>Planned Unit Development</b>	No	No	SP	SP	No	No	No	No	No
<b><u>300.3.3</u></b>	<b><u>Institutional Use</u></b>									

**TABLE OF USE REGULATIONS\*\***

Section Number	Use	A	B	C	RO	BN	BC	BH	I1	I2
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	No	No	No
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	Yes	Yes	No	No
300. 3. 4. 7	Nursing or Convalescent Home	No	Yes	Yes	Yes	Yes	No	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	SP	SP
300. 3. 4.10. 1	Recreation, Gainful Business, Secondary to Principal Club/Lodge	No	No	No	SP	No	SP	SP	SP	SP

**TABLE OF USE REGULATIONS\*\***

<b>Section Number</b>	<b>Use</b>	<b>A</b>	<b>B</b>	<b>C</b>	<b>RO</b>	<b>BN</b>	<b>BC</b>	<b>BH</b>	<b>I1</b>	<b>I2</b>
<b>300. 3. 4.11</b>	<b>Restaurant, “Fast Food” Service, that does not take call-ahead orders and is in excess of 1000 sq. ft. gross floor area</b>	<b>No</b>	<b>No</b>	<b>No</b>	<b>No</b>	<b>No</b>	<b>SP</b>	<b>SP</b>	<b>SP</b>	<b>SP</b>
<b>300. 3. 4.12</b>	<b>Restaurant, All Other</b>	<b>No</b>	<b>No</b>	<b>No</b>	<b>No</b>	<b>SP</b>	<b>Yes</b>	<b>SP</b>	<b>SP</b>	<b>SP</b>
<b>300. 3. 4.13</b>	<b>Retail Sales</b>									
<b>300. 3.4.13.1</b>	<b>Less than 5,000 sq. feet gross floor area</b>	<b>No</b>	<b>No</b>	<b>No</b>	<b>No</b>	<b>Yes</b>	<b>Yes</b>	<b>Yes</b>	<b>Yes</b>	<b>Yes</b>
<b>300. 3.4.13.2</b>	<b>5,000 Sq. Feet or more gross floor area</b>	<b>No</b>	<b>No</b>	<b>No</b>	<b>No</b>	<b>SP</b>	<b>SP</b>	<b>SP</b>	<b>SP</b>	<b>SP</b>
<b>300. 3. 4.14</b>	<b>Retail Sales, only in conjunction with On Site Manufacturing, Warehousing, Wholesaling &amp; Distribution</b>	<b>No</b>	<b>No</b>	<b>No</b>	<b>No</b>	<b>No</b>	<b>No</b>	<b>No</b>	<b>Yes</b>	<b>Yes</b>
<b>300. 3. 4.15</b>	<b>Retail Services</b>	<b>No</b>	<b>No</b>	<b>No</b>	<b>Yes</b>	<b>Yes</b>	<b>Yes</b>	<b>Yes</b>	<b>Yes</b>	<b>Yes</b>
<b>300. 3. 4.16</b>	<b>Adult Bookstore</b>	<b>No</b>	<b>No</b>	<b>No</b>	<b>No</b>	<b>No</b>	<b>No</b>	<b>No</b>	<b>SP</b>	<b>SP</b>
<b>300. 3. 4.17</b>	<b>Adult Motion Picture Theater</b>	<b>No</b>	<b>No</b>	<b>No</b>	<b>No</b>	<b>No</b>	<b>No</b>	<b>No</b>	<b>SP</b>	<b>SP</b>
<b>300. 3. 4.18</b>	<b>Planned Development</b>	<b>No</b>	<b>No</b>	<b>No</b>	<b>No</b>	<b>No</b>	<b>No</b>	<b>SP</b>	<b>No</b>	<b>No</b>
<b>300. 3. 4.19</b>	<b>Adult Club</b>	<b>No</b>	<b>No</b>	<b>No</b>	<b>No</b>	<b>No</b>	<b>No</b>	<b>No</b>	<b>SP</b>	<b>SP</b>
<b>300. 3. 4.20</b>	<b>Body Art</b>	<b>No</b>	<b>No</b>	<b>No</b>	<b>No</b>	<b>SP</b>	<b>No</b>	<b>No</b>	<b>SP</b>	<b>SP</b>



**TABLE OF USE REGULATIONS\*\***

Section Number	Use	A	B	C	RO	BN	BC	BH	I1	I2
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
300.3.4.28	Kennel	No	No	No	No	SP	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	No	No	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	SP	SP

<b>300.3.5.11</b>	<b>Asphalt, Brick, Concrete &amp; Soil Recycling</b>	<b>No</b>	<b>No</b>	<b>No</b>	<b>No</b>	<b>No</b>	<b>No</b>	<b>No</b>	<b>SP</b>	<b>SP</b>
<b><u>300. 3. 6</u></b>	<b><u>Other Uses</u></b>									
<b>300. 3. 6. 1</b>	<b>Fill</b>	<b>SP</b>	<b>SP</b>	<b>SP</b>	<b>SP</b>	<b>SP</b>	<b>SP</b>	<b>SP</b>	<b>SP</b>	<b>SP</b>
<b>300. 3. 6. 2</b>	<b>Parking Facilities, Offsite</b>	<b>SP</b>	<b>SP</b>	<b>SP</b>	<b>Yes</b>	<b>SP</b>	<b>Yes</b>	<b>Yes</b>	<b>Yes</b>	<b>Yes</b>
<b>300. 3. 6. 3</b>	<b>Flood Plain - All Uses</b>	<b>SP</b>	<b>SP</b>	<b>SP</b>	<b>SP</b>	<b>SP</b>	<b>SP</b>	<b>SP</b>	<b>SP</b>	<b>SP</b>
<b>300. 3. 6. 4</b>	<b>Artist Live/Work Space</b>	<b>No</b>	<b>No</b>	<b>No</b>	<b>No</b>	<b>No</b>	<b>Yes</b>	<b>No</b>	<b>No</b>	<b>No</b>
<b>300. 3. 6. 5</b>	<b>Public Service Corporation</b>	<b>No</b>	<b>No</b>	<b>No</b>	<b>No</b>	<b>Yes</b>	<b>Yes</b>	<b>Yes</b>	<b>Yes</b>	<b>Yes</b>

**\* 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 Residence A, Residence B, and Residence C 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.

The Planning Board must find that the facility is not detrimental to the public good.

**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 below 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 it's 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**

**General retail sales with gross floor area less than 5,000 square feet are allowed in Central Business (BC), Highway Business (HB) and Industrial (I1 and I2) districts and shall require Site Plan Review by the Planning Board in conformance with the following requirements:**

- 1. Purpose and Intent is described in §300.14 (Site Plan Review) of this Ordinance**
- 2. Relationship to Building Permit and Occupancy Permit is described in §300.15 of this Ordinance**
- 3. Site Plan Submission Criteria are described in §300.14 (Site Plan Review) of this Ordinance**
- 4. Review Schedule is described in §300.14 (Site Plan Review) of this Ordinance**
- 5. Appeals are described in §300.14 (Site Plan Review) of this Ordinance**
- 6. Signs are subject to Sign Design Review and other applicable provisions of this Ordinance.**
- 7. Site Plan Review Criteria. The Planning Board shall at a minimum review all site plans for the following:**
  - a) Adequacy of landscaping and screening with regard to abutting properties.**
  - b) Protection of adjoining premises against detrimental impacts of sound and lighting.**
  - c) Litter and debris management plan.**
  - d) 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.**
  - e) Adequacy and arrangement of parking and loading spaces.**
- 8. Site Plan Review Committee shall be the Planning Board.**

**300.17**

**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.**

- 300.18                      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:**
- 300.18. 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.**
- 300.18. 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.**
- 300.18. 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**

- 300.18. 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.
- 300.18. 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.
- 300.18. 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.
- 300.18. 7** Compliance with all applicable dimensional control and offstreet parking regulations.
- 300.18. 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.
- 300.18. 9** The Planning Board must find that the proposed use will not be more detrimental to the neighborhood.
- 300.18.10** The Planning Board must find that the proposed use is not in conflict with surrounding land uses.
- 300.18.11** The Planning Board must find that the proposed use is in the interest of the common good.
- 300.19** 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:

- 300.19. 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;**
- 300.19. 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;**
- 300.19. 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 he 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.**

## **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 Number	Use	Area (Sq. Ft.)	Frontage	Front	Side	Both Sides	Rear	Minimum Usable Open Space (Sf/Du)	Coverage-Principal Building	Coverage-Accessory Building	Density (Sf/DU)	Maximum 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'



**Table of Intensity Regulations**

Section Number	Use	Area (Sq. Ft.)	Frontage	Front	Side	Both Sides	Rear	Minimum Usable Open Space (Sf/Du)	Coverage-Principal Building	Coverage-Accessory Building	Density (Sf/DU)	Maximum Height
400.1.2.7	Dwelling, Multifamily, more than six (6) stories but not more than twelve (12) stories	25,000	70'	30'	½ bld. ht.	bldg. ht.	½ bld. ht.	250^	50%	20%	750	120'
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'
<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

## Table of Intensity Regulations

Section Number	Use	Area (Sq. Ft.)	Frontage	Front	Side	Both Sides	Rear	Minimum Usable Open Space (Sf/Du)	Coverage-Principal Building	Coverage-Accessory Building	Density (Sf/DU)	Maximum Height
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
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

## Table of Intensity Regulations

Section Number	Use	Area (Sq. Ft.)	Frontage	Front	Side	Both Sides	Rear	Minimum Usable Open Space (Sf/Du)	Coverage-Principal Building	Coverage-Accessory Building	Density (Sf/DU)	Maximum Height
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
400.1.4.23	Kennel	10,000	50'	10'	10'	20'	20'	--	50%	20%	--	30' and 2 stories
<u>400.1.5</u>	<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

**Table of Intensity Regulations**

Section Number	Use	Area (Sq. Ft.)	Frontage	Front	Side	Both Sides	Rear	Minimum Usable Open Space (Sf/Du)	Coverage-Principal Building	Coverage-Accessory Building	Density (Sf/DU)	Maximum Height
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
<u>400.1.6</u>	<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.

## **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 the Table of Intensity Regulations, but all lots must have a minimum lot area of five thousand (5000) square feet, a frontage of fifty (50) feet, and not exceed a height of twelve (12) stories. Usable open space requirements may be reduced by fifty percent (50%). 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 the 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 greater than six (6) stories shall comply with the provisions of 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.**

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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
<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/Non profit schools	1 per 1000 sq ft of gross floor area	0	1
500.1.3.5	Religious facilities	20 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
<b>500.1.4</b>	<b><u>Business Uses</u></b>			
<b>500.1.4.1</b>	<b>Auditoriums/ theaters</b>	<b>1 per 2 seats</b>	<b>0</b>	<b>0</b>
<b>500.1.4.2</b>	<b>DELETED</b>	<b>----</b>	<b>----</b>	<b>----</b>
<b>500.1.4.3</b>	<b>Business school</b>	<b>4 per 1000 sq ft of gross floor area</b>	<b>0</b>	<b>0</b>
<b>500.1.4.4</b>	<b>Car wash</b>	<b>2 per 1000 sq ft of gross floor area plus line up area of 9' x 180'</b>	<b>0</b>	<b>0</b>
<b>500.1.4.5</b>	<b>Convalescent rest and nursing homes</b>	<b>1 per 2 beds</b>	<b>0</b>	<b>1</b>
<b>500.1.4.6</b>	<b>Funeral home</b>	<b>6 per 1000 sq ft of gross floor area</b>	<b>0</b>	<b>1</b>
<b>500.1.4.7</b>	<b>Gasoline filling or service station</b>	<b>6 per 1000 sq ft of gross floor area</b>	<b>1</b>	<b>0</b>
<b>500.1.4.8</b>	<b>Greenhouses</b>	<b>4.4 per 1000 sq ft of gross floor area</b>	<b>0</b>	<b>0</b>
<b>500.1.4.9</b>	<b>Motel - hotel</b>	<b>1.2 per unit</b>	<b>0</b>	<b>1</b>
<b>500.1.4.10</b>	<b>Museums and libraries</b>	<b>2 per 1000 sq ft of gross floor area</b>	<b>0</b>	<b>0</b>
<b>500.1.4.11</b>	<b>Offices, banks</b>	<b>4 per 1000 sq ft of gross floor area</b>	<b>0</b>	<b>0</b>
<b>500.1.4.12</b>	<b>Offices, general</b>	<b>4 per 1000 sq ft of gross floor area</b>	<b>0</b>	<b>0</b>
<b>500.1.4.13</b>	<b>Medical Center</b>	<b>5.5 per 1000 sq ft of gross floor area</b>	<b>0</b>	<b>0</b>
<b>500.1.4.14</b>	<b>Recreation, gainful business</b>	<b>4 per 1000 sq ft of gross floor area</b>	<b>0</b>	<b>0</b>

Table of Offstreet Parking and Loading Regulations

<b>Section Number</b>	<b>Use</b>	<b>Minimum Number of Parking Spaces</b>	<b>Minimum Number of Loading Bays</b>	<b>Minimum Number of Loading Spaces</b>
<b>500.1.4.14.1</b>	<b>Recreation, gainful business, Secondary to Principal Club/Lodge</b>	<b>4 per 1000 sq ft of gross floor area</b>	<b>0</b>	<b>0</b>
<b>500.1.4.15</b>	<b>Restaurants, “fast food” service that does not take call ahead orders and is in excess of 1000 sq ft gross floor area</b>	<b>25 per 1000 sq ft of gross floor area</b>	<b>section 500.3.5</b>	<b>section 500.3.5</b>
<b>500.1.4.16</b>	<b>Restaurants, other</b>	<b>12 per 1000 sq ft of gross floor area</b>	<b>section 500.3.5</b>	<b>section 500.3.5</b>
<b>500.1.4.17</b>	<b>Retail sales and services</b>	<b>4 per 1000 sq ft of gross floor area</b>	<b>section 500.3.5</b>	<b>section 500.3.5</b>
<b>500.1.4.18</b>	<b>Adult bookstore</b>	<b>4 per 1000 sq ft of gross floor area</b>	<b>section 500.3.5</b>	<b>0</b>
<b>500.1.4.19</b>	<b>Adult motion picture theater</b>	<b>1 per 4 seats</b>	<b>0</b>	<b>0</b>
<b>500.1.4.20</b>	<b>Adult club</b>	<b>10 per 1000 sq ft of gross floor area</b>	<b>section 500.3.5</b>	<b>0</b>
<b>500.1.4.21</b>	<b>Body art</b>	<b>4 per 1000 sq ft of gross floor area</b>	<b>section 500.3.5</b>	
<b>500.1.4.22</b>	<b>Vehicle sales or rental</b>	<b>18</b>	<b>0</b>	<b>1</b>
<b>500.1.4.23</b>	<b>Outdoor Restaurant Seating</b>	<b>6 per 1000 sq ft of area used for outdoor seating</b>	<b>0</b>	<b>0</b>
<b>500.1.4.24</b>	<b>Substance Abuse Treatment Center</b>	<b>5.5 per 1,000 sq ft of gross floor area</b>	<b>Section 500.3.5</b>	<b>Section 500.3.5</b>
<b>500.1.4.25</b>	<b>Licensed Massage Therapy Salon</b>	<b>4 per 1,000 sq ft of gross floor area</b>	<b>Section 500.3.5</b>	<b>Section 500.3.5</b>

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
500.1.4.26	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
<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
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

**Table of Offstreet Parking and Loading Regulations**

<b>Section Number</b>	<b>Use</b>	<b>Minimum Number of Parking Spaces</b>	<b>Minimum Number of Loading Bays</b>	<b>Minimum Number of Loading Spaces</b>
<b>500.1.5.10</b>	<b>Light Manufacturing</b>	<b>1.2 per 1,000 sq fet of gross floor area</b>	<b>Section 500.3.5</b>	<b>Section 500.3.5</b>
<b>500.1.5.11</b>	<b>Public Service Corporations</b>	<b>4 per 1,000 sq ft of gross floor area</b>	<b>Section 500.3.5</b>	<b>Section 500.3.5</b>
<b>500.1.5.12</b>	<b>Asphalt, Brick, Concrete &amp; Soil Recycling</b>	<b>1.2 per 1,000 sq. ft. of gross floor area</b>	<b>Section 500.3.5</b>	<b>Section 500.3.5</b>

**+ For residential uses where one parking space per bedroom is required, each studio unit shall require one parking space.**



## 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
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### 500. 2

#### General Offstreet Parking Requirements

#### 500. 2. 1

Parking Spaces: All spaces shall be clearly marked in the following dimensions:

##### 500. 2. 1. 1

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;

##### 500. 2. 1. 2

for trucks: twelve (12) feet in width by twenty eight (28) feet in length with twelve (12) feet in vertical clearance.

#### 500. 2. 2

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:

<u>Parking Angle</u>	<u>Circulation Pattern</u>	
	<u>One-Way</u>	<u>Two-Way</u>
<b>0-45 deg.</b>	<b>14 ft.</b>	<b>19 ft.</b>
<b>46-60 deg.</b>	<b>14 ft.</b>	<b>19 ft.</b>
<b>61-90 deg.</b>	<b>24 ft.</b>	<b>24 ft.</b>

- 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 fifty (50) 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 Planning Board. There shall be a minimum of one (1) tree for every fifteen (15) 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 curb or berm 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** **General Loading Requirements:**
- 500. 3. 1** All loading areas shall have the following minimum dimensions:
- 500. 3. 1. 1** 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**

**Screening Regulations:**

**500. 4. 1**

**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**

### **Nonconforming Uses, Lots, Buildings and Structures.**

#### **700. 1. 1**

**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;**
- 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.

**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.**

- 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**

**Rowe's Quarry Reclamation & Redevelopment District**

**700.14. 1**

**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"), incorporated herein by reference and available for public inspection the Office of Planning, Engineering and Waterworks.**

**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 <sup>st</sup> and 2 <sup>nd</sup> 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**                    **Dimensional Regulations.** 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**                **Standards:** 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**                **Dimensional Regulations:**
- 700.14. 4. 2. 1**                **Minimum Distance Between Principle Buildings:** 30 feet, 20 feet of which may not be encumbered by a structure.
- 700.14. 4. 2. 2**                **Maximum Height:** 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

**Minimum Setback from Property Lines:** 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

**Minimum Building Setback from Streets or Ways, Public or Private:** 20 feet

700.14. 4. 5

**Minimum Usable Open Space:** The minimum usable open space shall be

700.14. 4. 5. 1

For residential uses

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**

**Other**

**700.14. 4. 5. 2. 1**

**Total usable open space shall be no less than 10% of the total land area of the RQRRD.**

**700.14. 4. 5. 2. 2**

**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**

**Compliance with open space requirements shall be subject to Site Plan Review.**

**700.14. 4. 6**

**Frontage: Frontage shall meet the following requirements:**

**700.14. 4. 6. 1**

**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**

**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**

**700.14. 4. 6. 3**

**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

<b>700.14. 6. 9</b>	<b>Hotel not exceeding 12 stories</b>	<b>1 per room</b>
<b>700.14. 6.10</b>	<b>Offices, General not exceeding 12 stories</b>	<b>Section 500</b>
<b>700.14. 6.11</b>	<b>Medical Centers, not exceeding 12 stories</b>	<b>Section 500</b>
<b>700.14. 6.12</b>	<b>Uses Accessory to Allowed Uses</b>	<b>Section 500</b>

- 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:

**1<sup>st</sup> installment:** upon granting of a building permit, and as prerequisite to the issuance of the building permit;

**2<sup>nd</sup> 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 herebefore 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

**Asphalt, Brick, Concrete & Soil Recycling:** 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      **Base Flood:** The flood having a one percent chance of being equalled or exceeded in any given year.
800. 6. 2. 10     **Basement:** 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      **Batching Plant:** 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      **Body Art Establishment:** 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      **Breezeway:** 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      **Building:** 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      **Building, Principal:** The structure in which is conducted the principal use of the lot.
800. 6. 2.16      **Cellar:** 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**      **Club or Lodge:** 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**      **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. 2.19**      **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.
- 800. 6. 2.20**      **Density:** Lot area per dwelling unit (expressed in square feet).
- 800. 6. 2.21**      **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. 2.22**      **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. 2.23**      **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. 2.24**      **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. 2.25                    **Dwelling, Multifamily:** A building used for, or occupied by, five (5) or more dwelling units.
800. 6. 2.26                    **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. 2.27                    **Dwelling, Town or Row:** A single family attached unit with party walls.
800. 6. 2.28                    **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. 2.29                    **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. 2.30                    **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. 2.31                    **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. 2.32                    **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. 2.33                    **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. 2.34                    **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. 2.35      **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. 2.36      **General 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.
800. 6. 2.37      **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. 2.38      **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. 2.39      **Inspector of Buildings:** The officially established zoning and building enforcement officer for the city of Malden.
800. 6. 2.40      **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. 2.41      **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. 2.42

**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, 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. 2.43

**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. 2.44

**Lot Coverage:** That percentage of the lot area which is devoted to the building area.

800. 6. 2.45

**Lot Line:** The boundary of the lot.

800. 6. 2.46

**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. 2.47

**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. 2.48

**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. 2.49

**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. 2.50

**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.

800.6.2.51

**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.

800. 6. 2.52

**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. 2.53

**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. 2.54

**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. 2.55

**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. 2.56

**Parking Aisle:** That area adjacent to a parking space or spaces through which a motor vehicle must move to enter or exit.

800. 6. 2.57

**Planned Development:** A multi-use development guided by a Development Master Plan, as defined by this ordinance, see Section 300.13.

- 800. 6. 2.58** **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. 2.59** **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. 2.60** **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. 2.61** **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. Some test production may be included, but the primary function is research.
- 800. 6. 2.62** **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. 2.63** **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. 2.64** **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. 2.65

**Setback:** The horizontal distance measured perpendicularly from the street line into the lot. (See Front Yard).

800. 6. 2.66

**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. 2.67

**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. 2.68

**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. 2.69

**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. 2.70

**Street Line:** The outside limit of a street or way dividing it from the abutting lots.

800. 6. 2.71

**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. 2.72**                    **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. 2.73**                    **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. 2.74**                    **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. 2.75**                    **Use, Accessory:** A purpose supportive to or dependent upon the principal purpose of a building, structure, or lot.
- 800. 6. 2.76**                    **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. 2.77**                    **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. 2.78

**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. 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. 2.79

**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. 2.80

**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. 2.81

**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. 2.82

**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. 2.83**                      **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. 2.84**                      **Zone AE: the 100-year floodplain where the base flood elevation has been determined.**
- 800. 6. 2.85**                      **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.

