



RULES AND PROCEDURES OF THE MALDEN PLANNING BOARD

Including Amendments of May 13, 2015

A. Officers and Duties

1. The Board shall elect annually a Chairman and a Clerk from among its own membership, in accordance with Section 81A of Chapter 41 of Massachusetts General Laws.
2. The Board may elect a Vice-Chairman and such other officers as it may from time to time require.
3. The Chairman shall preside at all meetings. In the absence of the Chairman, a Vice-Chairman shall preside. In the absence of both, the Clerk will preside pending the election of a Chairman pro tem.
4. The Clerk shall keep the official records of the meeting. In the absence of the Clerk, the presiding officer shall appoint a clerk pro tem.

B. Meetings

1. Regular meetings shall be held the second Wednesday of the month, Special meetings shall be held on the call of the Chairman. Meetings shall commence 7:00 P.M. (9/8/99).
2. All Board meetings shall be held at the Malden Government Center, 200 Pleasant Street, Malden (6/22/61) (Amended 8/27/64 and 11/24/75).
3. No more than four (4) public hearings shall be scheduled for any one meeting of the Planning Board, provided that the statutory requirements of Chapter 40A of the Massachusetts General Laws are met (11/13/02).
4. No public hearings shall begin after 11:00 p.m., provided that the statutory requirements of Chapter 40A of the Massachusetts General Laws are met (4/13/05).

C. Procedure

1. Rules of procedure shall be Roberts Rules of Order except as hereinafter specifically provided (9/12/07):
 - a) Reconsideration shall not be permitted on any issue at any time, except for reconsideration of repetitive petitions, which shall be permitted only in accordance with Section 16 of Chapter 40A of the Massachusetts General Laws and Chapter 12, Section 800.4.10 of the City of Malden Revised

Ordinances of 1991, as amended. (4/30/84)(Amended 11/13/02 and 10/13/04)).

- b) Any action required under Section 20 of Chapter 40A of the Massachusetts General Laws, requiring unanimous consent of the Board less one prior to a petition for a variance, etc., shall automatically be tabled for one meeting pending notification of any interested parties including the Councillor of the Ward (1/26/61), (Amended 8/27/64 and 1/28/74).
- c) The Planning Board, in making its determination as to whether or not to give its consent for reconsideration by the Board of Appeal on any previous decision by the Board under Section 20 of Chapter 40A of the Massachusetts General Laws, may take into consideration the following:
 - 1) important changes that have been made in the plans and/or text as originally submitted to the Board of Appeal;
 - 2) any new or additional evidence that has been obtained by the petitioner; and
 - 3) that the staff of the Malden Planning Board recommends that a variance procedure rather than a zone procedure is appropriate (3/24/75).
- d) All decisions of the Planning Board and actions required to be taken by it shall be in accordance with and within the time limitations set forth in the Zoning Ordinance. The Board shall cause to be made an accurate record of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote indicating such fact and setting forth clearly the reasons or reason for its decision and of its other official actions. Copies of such decisions and or actions shall, within fourteen (14) days of the decision or action thereon, be filed with the City Clerk and shall be a public record. Notice of decisions shall be mailed forthwith to all parties as defined and required under Section 11, Chapter 40A of the Massachusetts General Laws and to every person present at the hearing who requests that notice be sent to him and states the address to which such notice is to be sent.
- e) No special permit, or any extension, modification or renewal thereof, shall take effect until a copy of the decision bearing the certification of the City Clerk that twenty (20) days have elapsed and no appeal has been filed or that if such appeal has been filed, that it has been dismissed or denied, is recorded in the Middlesex South Registry of Deeds and noted on owner's certificate of title. The fee for recording or registering shall be paid by owner or applicant.
- f) Except in the case of exigent circumstances, the Planning Board will not consider a request for the withdrawal without prejudice of a petition unless said request is submitted no later than the date that is seven (7) business

days prior to the date of the scheduled public hearing on the petition (8/17/05).

- g) Except in the case of exigent circumstances, i.e., petitioner is not present due to death or emergency, the Planning Board will not consider a request for the tabling of a public hearing made by the petitioner less than seven (7) business days prior to the hearing; notwithstanding the foregoing, the Board may consider a request for the tabling of a public hearing made by the petitioner at or after the close of a public hearing and prior to the Board's final vote on the petition, and the Board, for its own reasons, may table a public hearing at anytime. In any event, the Board will not table at the request of a petitioner any hearing or action regarding any petition or matter more than one (1) time (9/12/07) (3/27/13).

D. Employees

1. The City Planner shall be appointed by the Mayor with approval of the City Council, in accordance with Chapter 3, Section 3.1 of the City of Malden Revised Ordinances of 1991, with Amendments through June 30, 2012 (7/25/12).
2. Other personnel shall be hired by the Director of Permitting, Inspections and Planning Services, in accordance with Chapter 3, Section 3.1 of the City of Malden Revised Ordinances of 1991, with Amendments through June 30, 2012 (7/25/12).
3. Outside Consultants. The Planning Board may hire and employ an outside consultant to assist the Board in conducting peer review and analysis of any traffic impact study, stormwater management study and/or utility study submitted in conjunction with a petition for a special permit or application for site plan review approval, and the fees for the employment of said consultant shall be paid to the City by the petitioner or applicant at the time of submission of the study to the City, and in accordance with M.G.L. c. 44, Section 53G:
 - A. The fee for the employment of said consultant shall be reasonable.
 - B. Said fee shall be held by the City in a special account established by the City treasurer; said fee shall be expended at the direction of the Planning Board without further appropriation and only in connection with carrying out its responsibilities under the law; and any excess amount in the account attributable to a specific project, including any accrued interest, at the completion of said project shall be repaid to the applicant or to the applicant's successor in interest. (4/13/11)

E. Filing Requirements (10/13/04, 8/17/05, 5/9/07 and 4/13/11).

1. These Filing Requirements are intended to replace the Rules of the Malden Planning Board for Special Permits (Revised November 13, 2002) and the document with that same name is no longer in effect.
2. Forms for petitioning for a hearing are available in the Malden Government Center with the Building Inspector and such other locations as he may designate. The forms are self-explanatory and must be filled out completely.
3. The petition shall be submitted to the City Clerk at least four (4) weeks prior to the date of the hearing, along with a list certified by the Assessor of all the names and addresses of the parties in interest, and proof that payment has been made to the City Treasurer as per the fee schedule stated herein.
4. The City Clerk shall forthwith transmit all material to the Planning Board.
5. The following fee schedule will apply to special permits and site plan review approval issued by the Planning Board:

A. Special Permit, Swimming Pools for 1 & 2 family dwelling (\$400.7.7)	\$ 250.00
B. Other Special Permit for 1 & 2 family dwelling (Flood Plain, §300.11 Alteration of Grade/Ledge Removal, §700.13)	500.00
C. All Special Permits (Except for 1 & 2 family Dwellings,as listed above, znd Multifamily Dwelling over 6 stories, as listed below): Any Required §300 Flood Plain, §300.11 Preexisting Nonconforming, §700.1.3 Multiple Principal Buildings, §700.1.7 Alteration of Grade/Ledge Removal, §700.13	750.00
D. Special Permit for Dwelling over Six Stories (§300 and §700.1.3)	1,000.00
E. Repetitive Petition	750.00
F. Site Plan Review Approval for Drive-thrus (§300.16)	750.00

In all cases a check payable to the City of Malden shall be delivered to the City Treasurer.

6. The petitioner will publish, at his/her own expense, a notice of hearing in the local press as prepared by the Planning staff. Notice to be published once in each of two successive weeks, the first publication to be not less than fourteen (14) days before the day of the hearing (the day of the hearing should not be counted in the fourteen (14) days). The Planning staff shall post and send notices as required by Section 11 of Chapter 40A of the Massachusetts General Laws.

7. At the time of filing the petition for a hearing and no later than four (4) weeks prior to the date of the scheduled hearing, the petitioner shall comply with all ***Submission Requirements for All Special Permit Applications***, a copy of which is attached hereto and incorporated herein by reference. The petitioner shall produce to the Planning staff fifteen (15) copies of all plans, documents, and associated materials described in said ***Submission Requirements***. The petitioner may use a waiver form provided by Planning staff to request a waiver of the filing requirements for an updated site plan, floor plans of the entire building and/or building exterior elevations if there are no changes proposed to that area of the building/property. The Board may retain any records in the consideration of the case. (8/17/05) (5/9/07) (3/27/13).
8. The Board may also, at its own discretion, request additional and more detailed plans from the petitioner. It is understood that in some cases a continuance of the hearing may have to be allowed in order to give the petitioner time to secure the additional plans requested by the Board. In the event the Board grants a continuance of a hearing, it shall announce that fact to all persons present at the hearing. The Board shall give notice of the continued hearing to all persons requesting the same.
9. In the case of any petition for the construction, structural change, reconstruction, alteration, extension or change of use or occupancy of a building(s) or structure (s) containing a combined total of 10,000 square feet or more of gross floor area; containing ten (10) or more residential dwelling units; or used for a gasoline station, fast-food or take-out restaurant or any kind of establishment with a drive-thru, the petitioner shall submit to Planning Staff a minimum of four (4) weeks prior to scheduled public hearing, a traffic impact study. The person or firm preparing the traffic study must be a professional engineer licensed by the Commonwealth of Massachusetts and shall be certified as a Professional Traffic Operations Engineer and shall meet with Planning Staff prior to preparing the study. Planning Staff shall provide information as to the content of the study, and the traffic study shall examine the following, including, but not limited to:
 - a. Existing traffic conditions including street geometries, traffic volumes, safety, delays and levels of service for adjacent streets, ways and intersections potentially affected by the proposal. Intersection analysis for all conditions shall be prepared in tabular form and shall include the following:
 - Calculated queues with attached symbols provided by the LOS software that provide qualifiers to queue results.
 - Actual calculated delays, rather than just reporting the upper limit of LOS F, for either signalized or unsignalized intersections.
 - b. Future traffic conditions including trip generation (including Land Use Categories referenced and calculations), trip distribution, volume to capacity ratios and levels of service for adjacent streets, ways and

intersections affected by the proposal at the time of completion and 5 years beyond anticipated completion taking into account background growth projections. If field studies are used to develop trip generation instead of those cited by the Institute of Transportation Engineers Trip Generation Handbook, then actual documentation and calculations should be provided.

- c. A summary of existing and future parking, with each related to zoning requirements.
- d. Crash rate summaries should include State and District averages for a comparison.
- e. Mitigation measures.
(10/13/04) (5/9/07) (7/25/12) (5/13/15)

10. Employment of Outside Consultants. The Planning Board may hire and employ an outside consultant to assist the Board in conducting peer review and analysis of any traffic impact study, stormwater management study and/or utility study submitted in conjunction with a petition for a special permit or application for site plan review approval, and the fees for the employment of said consultant shall be paid to the City by the petitioner or applicant at the time of submission of the study to the City, and in accordance with M.G.L. c. 44, Section 53G and as further described herein above in the section "Employees, Outside Consultants." Outside Consultants shall have the following minimum qualifications:

- i. educational degree: bachelors degree in engineering
- ii. licensed and registered as a professional engineer in Massachusetts
- iii. three or more years practice in the field
- iv. other qualifications set by the Planning Board as may be deemed relevant to review a particular project

Administrative appeal from the selection of an outside consultant shall be to the City Council; grounds for appeal shall be limited to claims that the consultant selected has a conflict of interest or does not possess the minimum, required qualifications.

(4/13/11)

SUBMISSION REQUIREMENTS FOR ALL SPECIAL PERMIT APPLICATIONS

DUE WHEN APPLICATION FILED - APPLICATION INCOMPLETE WITHOUT:

- SITE PLAN (15 copies= 3 full size + 12 reduced/11"x17" size)**
 - To Scale Dated
 - Prepared by Registered or Professional Engineer or Surveyor
 - Depicting lot boundaries and lot area
 - Depicting frontage and classification of street (public/private, width)
 - Depicting footprint, lot coverage (SF), setbacks of existing & proposed building(s)/structure(s)
 - Depicting parking layout (spaces, driveways, aisles)
 - Depicting landscaping, screening, open space, snow storage
 - Depicting outside dumpster/trash storage

- FLOOR PLAN (15 copies= 3 full size + 12 reduced/11"x17" size)**
 - To Scale Dated
 - Of entire building with total gross floor area
 - Depicting all separately occupied spaces with gross floor areas
 - Of subject premises with gross floor area
 - Depicting entrances/exits, fixtures, interior walls

- BUILDING ELEVATIONS and/or PICTORIAL RENDERINGS (15 copies= 11"x17" size)**
 - To Scale Dated
 - Depicting façade and views of building(s) and structure(s) on lot from all directions

- TOPOGRAPHIC PLAN (15 copies=5 full size + 10 reduced/11x17 size)**
(For Development in Flood Plain & Ledge Removal/Alteration of Grade)
 - To Scale Dated
 - Prepared by Registered or Professional Engineer or Surveyor
 - Depicting footprint, area (SF) and setbacks of existing and proposed building(s)/structure(s)
 - Including elevations of existing and proposed building(s)/structure(s)
 - Depicting existing and proposed contours/grade
 - Other requirements described in zoning ordinance

- FEE** See **Malden Planning Board Fee Schedule** for applicable fee.

- WRITTEN AUTHORIZATION** of **RECORD OWNER** to apply for permits.

- TRAFFIC STUDY (5 copies).**
(For building(s) w/total gfa 10,000 SF; containing \geq 10 residential dwellings units; or used for gasoline station, fast-food/take-out restaurant or drive-thru)
 - See Section E.9, *Rules and Procedures of the Malden Planning Board* for details
 - Requires meeting with Planning Staff in advance to determine scope
 - Must be submitted 4 weeks prior to public hearing
 - At same time study is submitted to City, submit fee for peer review of study by outside consultant employed by City.