



Rules and Regulations

PART 1: COMMITTEE ORGANIZATION

1. PURPOSE:

The purpose of these rules is to establish procedures for the conduct of meetings and public hearings held by the Malden Community Preservation Committee (hereinafter "CPC" or "Committee"). They further lay out requirements for applications before the Committee. These Rules and Regulations are intended to supplement and not intended to supersede any requirements set forth in the Community Preservation Act (hereinafter "CPA") or the Code of the City of Malden, MA ("the Code").

2. AUTHORITY:

These rules and regulations are issued under the authority of MGL Ch. 44B s. 5 and the Code of the City of Malden.

3. COMPOSITION AND ORGANIZATION:

- a. Per Malden's Community Preservation Ordinance, the Committee consists of nine residents, who shall serve without compensation and shall be appointed as follows:
 - i. One member designated by the Conservation Commission from among its members who shall serve for a term as set forth in the Code or as designated by the City Council;
 - ii. One member designated by the Historical Commission from among its members who shall serve for a term as set forth in the Code or as designated by the City Council;
 - iii. One member designated by the Planning Board from among its members who shall serve for term as set forth in the Code or as designated by the City Council;
 - iv. One member designated by the Housing Authority from among its members who shall serve for term as set forth in the Code or as designated by the City Council; and
 - v. Five members, who shall serve for terms as set forth in the Code or as designated by the City Council.
- b. Officers: The Committee shall reorganize its offices annually. The Committee shall elect a Chairperson and Vice Chairperson.
 - i. Chairperson: The Chairperson shall vote and his/her vote shall be recorded on all matters coming before the Committee. Subject to these rules, the Chairperson shall decide all points of order, unless overruled by a majority of the Committee in session at the time. The Chairperson, with a simple majority approval of the Committee, shall appoint such subcommittees as may be found necessary or desirable. The Chairperson may, subject to availability of funds and a simple majority approval of the Committee, employ experts, clerical, and other assistants. The Chairperson will present the annual report of the Committee for inclusion in the City's Annual Report, and also present the report of the Committee to be included in the Finance Committee's report to the City Council. Both reports require majority approval of the CPC prior to submission. Unless otherwise approved by a majority of the CPC, the Chairperson shall be the sole

designated liaison for the CPC with all outside authorities, pursuant to the procedures set forth in paragraph 12 below.

- ii. Vice-Chairperson: The Vice Chairperson shall act as Chairperson if the Chairperson is absent, disabled, or otherwise unable to perform his/her duties. If both the Chairperson and the Vice Chairperson are absent, the Committee members present shall select an acting Chairperson.
- c. Election of Officers: Officers shall be elected at the first meeting of the new fiscal year, which shall begin on July 1, and shall serve a term of one fiscal year, unless otherwise determined. In the event that the Office of the Chairperson is vacated prior to the end of the fiscal year, the Vice-Chairperson shall serve as Acting Chairperson for the remainder of the term. Any other Office which is vacated prior to the end of a fiscal year shall be filled temporarily for the remainder of the term by an appointment of the Chairperson of a Committee member and shall be approved by a simple vote of the Committee. An Officer may be removed from an Office by a motion by two members of the Committee and by a unanimous vote of the remaining Committee.
- d. Administrative Support: The Committee is assisted by a non-voting staff Community Preservation Administrator, who assists in maintaining all financial records, information about funding applicants and recipients, monitoring funded projects for compliance with grant agreements and keeping records of all hearings and minutes. The Administrator is also responsible for submitting meeting agendas and minutes to the City Clerk, and for posting legal advertisements as needed. In coordination with the CPC Chair, the Administrator manages communications with CPC members and outside entities. Should the staff person not be available to attend a Committee meeting or otherwise fulfill the duties of record maintenance, a Committee member will be assigned to provide back up.

4. QUORUM:

The Committee shall not meet or conduct business without a quorum. Five (5) members of the Committee shall constitute a quorum for all business. All Committee actions shall be approved by majority vote of members present. The Committee's Chairperson may request that some actions, such as consideration of critical or controversial matters or adopting policies, be taken with the full Committee in attendance.

5. MEETINGS:

- a. Unless the Committee votes to go into executive session, all meetings, both regular and special, shall be open to the public in accordance with Open Meeting Law, MGL c. 30A §18-25.
- b. Unless an emergency exists, a notice of each Committee meeting shall be filed with the City Clerk, and a notice or a copy thereof shall be publicly posted by said Clerk at least 48 hours prior to the meeting, excluding Saturdays, Sundays and legal holidays, prior to such meetings.
- c. All decisions and votes taken by the Committee shall take place at meetings.
- d. All meetings are open to the public but not all meetings are public hearings. The Committee will seek information or testimony from the public as it deems necessary. The Chairperson may rule unsolicited comments from the public out of order. The Chairperson shall have the authority to invite public comment on issues raised during the meeting prior to the close of each meeting.

- e. A draft of the meeting's minutes shall be transmitted to members of the Committee for their review and approval within a reasonable amount of time after the meeting, in accordance with MGL c. 30, §21.
- f. Regular meetings of the Committee are normally held at least one day per month but the Committee may meet more often as circumstances dictate. If a regular meeting day falls on a holiday or any day of national, state, or municipal election or caucus or primary, or is in conflict with a required meeting by other boards, councils, or commissions of the City, the regular meeting will be cancelled and instead a special meeting will be held at some proximate and posted time and place.
- g. The Chairperson or his/her designate shall draw up the agenda for the meetings. Under the category "Other Business" information may be shared about topics which are not listed on the agenda, but no decisions or votes will be made on matters which are not specifically reflected on the agenda.
- h. The Chairperson or at least two members may call special meetings. Notice thereof, either written or verbal, shall be given to each member at least forty-eight (48) hours before the time set, or notice at any meeting attended by all members shall suffice.
- i. The Committee may hold Executive Sessions only for those purposes set forth in MGL c. 30, §21. An Executive Session may be called by roll call vote of the Committee upon the motion of at least two Committee members.
- j. Committee members must attend meetings on a regular basis. Any Committee member absent from more than 2 meetings in a row or 3 meetings in a quarter may be subject to a request for recall by a majority vote pursuant to paragraph 9 below.

6. CONFLICTS OF INTEREST:

In order to facilitate the involvement of the public, to ensure access to the Community Preservation process by the public, and to encourage a diverse array of proposals to the Committee, the Committee shall not take up any application that is submitted by a Member of the Committee nor by a member of the City Council. Additionally, no proposal will be accepted by a former member of the Committee until such member has been off the Committee for at least 1 year. If a member of the Committee is an active member of an organization that is applying or directly involved in an application for CPA funds that member will recuse themselves, abstain from voting on matters relating to that application, and/or submit an appropriate public disclosure to the City Clerk as required under Conflict of Interest Law, MGL c. 268A.

7. LIAISON AUTHORIZATION:

The Committee may vote to authorize its Chairperson to act as its liaison with the City Council to speak or to make recommendations on its behalf. Unless otherwise authorized by a vote of the majority of the Committee members, no member shall have the authority to act or speak on behalf of the Committee except the Chairperson. Any member acting without such authority or in contravention of a vote by the Committee denying such authority shall be subject to a request for recall by a majority vote pursuant to paragraph 19 below. This prohibition shall not apply to a member seeking information for their own purposes or to members seeking intervention based on a good faith belief that the actions of the Committee are in contravention of the intent and purpose of the Committee under MGL Ch. 44B and the Code of the City of Malden.

8. REQUEST FOR AN OPINION:

Any member wishing to seek an outside opinion on an issue before the Committee must first bring such issue and request to the Committee and the Chairperson. The Chairperson shall bring such

issue forward as a topic for discussion before the full Committee. After such discussion, the Committee may authorize on a vote the Chairperson to seek the opinion of the City Council President, City Solicitor, or other member of the City Executive Office.

9. VOTE OF RECALL:

Where a member shall have violated these Rules and Regulations in a manner which shall undermine the intent and purpose of the Committee, a special vote may be called by a motion for recall by any member, which must be seconded. Upon a second to the motion, the Chairperson shall call a vote. Such vote must be supported unanimously by all sitting Committee members, excepting the member subject to recall, who may not vote. Upon an affirmative vote for recall, the Chairperson shall be authorized by the Committee to request that the appointing City Councilor, City Council President, or Board/Committee recall the member and appoint a new person to fulfill the remainder of the term for said member.

PART 2: COMMITTEE FUNCTIONS

10. RESPONSIBILITIES:

The CPC is responsible for evaluating the community preservation needs of the City of Malden and making recommendations to the City Council for the use of Community Preservation Act funds. As part of this responsibility, the Committee will perform the following:

- a. Annual Needs Study: The Committee will study the community preservation needs, possibilities and resources of the City of Malden by consulting with various City agencies, particularly those represented on the committee. The Committee will also hold a public informational hearing every year or more frequently at the request of the Chairperson. As a result of this review process the Committee will develop and subsequently update a Community Preservation Plan. The Plan shall:
 - i. identify long term and short term goals, needs, and priorities;
 - ii. set criteria for evaluating proposed acquisitions and initiatives;
 - iii. estimate budgets for the categories.
- b. Annual Budget: Each year the Committee will submit a Community Preservation budget via the Mayor to the City Council for approval. The Community Preservation budget will include the Committee's projected revenue for the fiscal year and reserve a minimum of 10% of the annual revenue to each of the three program areas, Open Space/Recreation, Historic Preservation, and Community Housing. The budget will also include committee administrative and operating expenses (up to 5% of the annual revenue), debt service and any other existing or ongoing obligations. The balance of revenue will remain in the General Reserve.
- c. Application Process: The Committee establishes an application process including timeline, instructions, forms, and evaluation criteria for the purpose of determining what projects CPA funds will be used to support.
- d. Recommendations: At the conclusion of each application process, the Committee will make recommendations via the Mayor to the City Council for funding Community Preservation initiatives. The Committee may propose appropriations from the Community Preservation Fund for specific projects or reserve additional funds for program area categories. Under exigent time sensitive circumstances the Committee may make recommendations outside of the application cycle to the extent funds are available to support them. Recommendations should specify which CPA reserve accounts the project is to be appropriated from.

City Council Action on Recommendations: The City Council may make appropriations from or reservations of community preservation funds in the amount recommended by the Committee or it may reduce or reject any recommended amount. The City Council may not increase any recommended appropriation or reservation. In addition, it may not appropriate or reserve any fund monies on its own initiative without a prior recommendation by the Committee.

11. COMMITTEE HEARINGS:

- a. The Committee will hold public informational hearings at least two times per year in accordance with Malden’s Community Preservation Ordinance. The purpose of the hearings will be to gather public input on projects that have applied for CPA funding, or an informational public hearing to gather input on the needs, possibilities, and resources of the City regarding community preservation program areas.
- b. Notice of hearings shall be publicly posted in accordance with MGL c. 39, §23B and published in a newspaper of general circulation once in each of two (2) successive weeks. The first such publication shall appear not less than fourteen (14) days before the day of the hearing and a copy of the notice shall be posted on the City’s website for a period of not less than fourteen (14) days before the date of the hearing. The day of the hearing shall not be counted as one of the required fourteen days. All hearings shall be open to the public. No person shall be excluded unless he/she is considered by the Chairperson to be a serious hindrance to the workings of the Committee. The hearing shall start no earlier than the time specified in the printed notice.
- c. The Chairperson shall preside over Public Hearings. The Chairperson may establish time limits for presentation, and then take public comments, and pertinent questions. The process at a minimum shall include:
 - i. Opening the Public Hearing by the Chairperson and Roll Call. The Chairperson will open each hearing by reading the notice as published and providing an explanation of procedures the hearing.
 - ii. Presentation of the project(s) by the applicant(s), or in the case of informational public hearings, an introduction or overview to be presented by the Chairperson;
 - iii. Comments and questions by Committee Members;
 - iv. Comments and questions by members of the public. Upon recognition by the Chairperson, individuals shall give their name and address before proceeding. Questions or comments shall be directed to the Chairperson.
 - v. Opportunity for the applicant and Committee to address issues identified;
 - vi. When all the information has been presented and all persons wishing to speak have been heard, the Chairperson shall close the public hearing.

12. FORM OF COMMITTEE RECOMMENDATIONS:

The Committee may develop templates, models, and checklists to assist the Committee in rendering recommendations to the City Council. The CPC will issue one of three determinations for each project:

1. **Recommended for Funding:** This means the application has been selected and a funding amount will be recommended to the City Council for approval.
 - a. The CPC may recommend for funding:
 1. The Project as proposed by the applicant;
 2. Partial funding or funding for only a portion or phase of the proposed project.

3. Modifications to or conditions for the project:
 - b. The CPC reserves the right to attach conditions to ensure CPA compliance and project performance, including but not limited to:
 1. An applicant's receipt of matching funds in a specific amount;
 2. Approval or input from other committees such as Conservation Commission, Planning or Disability Commission;
 3. Coordination with City staff such as Engineer or DPW;
 4. Requiring public input during a design process;
 5. An applicant's commitment to place a perpetual preservation restriction on a property to ensure its continued use for the purpose for which CPA funds were committed;
 6. A public access agreement, where relevant; and/or,

Note: If the Applicant wishes to request substantial changes to the conditions placed on the funding recommendation, this will need to be reviewed and approved by the CPC prior to submission to City Council.

2. **Denied with Invitation to Re-Submit for Future Funding Cycle:** This means that the project is desirable, but the CPC, in its discretion, chose not to recommend funding during this cycle. A funding recommendation may be considered at subsequent funding rounds, or sooner, if the CPC decides. However, the proponent will need to submit a new application for the project in the next cycle.
 3. **Denied for Funding:** This means the application as submitted is not recommended for funding. The decision not to recommend is at the discretion of the CPC and may be based on various factors. No application will be re-considered absent a material change in the contents of the application. If the proponent desires to re-submit a project proposal, the application process must begin with a new Pre-Application. At the request of the applicant, the CPC may provide a debrief of the denial.
16. **APPEALS:**
 Any Proponent who is dissatisfied with the decision of the Committee denying funding, denying in part, denying with an invitation to re-submit, or approving in part a request for funding may seek reconsideration from the Committee. All reconsideration requests shall be made in writing to the CPC Chairperson within 14 days of receiving the Committee's determination. Upon receipt of a request for reconsideration the Committee shall review any additional information the proponent may provide at the next scheduled CPC meeting. The Committee may affirm, reverse, or modify its decision. The Committee's reconsideration determination shall be in writing and shall be included in the committee records. All decisions on appeals must be made within 60 days of the filing of appeal. The Committee's appeal decision shall be final.
17. **INPUT FROM OTHER COMMITTEES:**
 The Committee values the expertise and thoughts of the members of other City Boards, Commissions, and Committees, and may refer applications before the Committee to such other bodies for comments and recommendations.

18. COMMUNICATIONS WITH THE COMMUNITY PRESERVATION COMMITTEE:

The Committee encourages all communications from applicants or their agents to be sent via email to the CPA Administrator and/or to maldencpc@cityofmalden.org. Any communications in writing shall be addressed to the Community Preservation Committee, City of Malden, 110 Pleasant Street, Malden, MA 02148. At the discretion of the Chairperson, communications to or from the Committee may be posted to the CPC's web site in those cases in which there is an interest by the general public.

After projects are funded, a Committee member will be assigned as a Project Liaison. The Project Liaison will coordinate with Grantees to monitor the progress of projects and report back to the Committee.

19. RECORD KEEPING:

In accordance with MGL c. 44B §13, the Committee shall keep a full account of all of its actions, including its recommendations and the action taken on them and records of all appropriations or expenditures made from the CPF. The Committee shall also keep records of any real property interests acquired, disposed of, or improved by the City upon its recommendations, including the name and addresses of the grantors or grantees and the nature of the consideration. All records and accounts shall be public record.

20. ANNUAL REPORTING REQUIREMENTS:

- a. In compliance with applicable laws, regulations, and ordinances, the following reports shall be submitted annually to the Commonwealth of Massachusetts Department of Revenue (As amended by IGR 01- 207):
 - i. A "Community Preservation Surcharge Report" to the Municipal Data Management/Technical Assistance Bureau by September 15. This report details surcharge commitments, abatements, and exemptions of the previous fiscal year and is required for a state trust fund distribution to be made to the community. (To be prepared by Finance Department)
 - ii. A "Community Preservation Fund Report" to the Bureau of Accounts by October 31. This report details all fund activity of the previous fiscal year. A copy must also be submitted to the Executive Office of Environmental Affairs (EOEA). (To be prepared by Finance Department)
 - iii. A "Community Preservation Initiatives Report" to the EOEA by August 15. This report details acquisitions and other community preservation initiatives of the previous fiscal year. (To be prepared by Community Preservation Administrator)
- b. Additionally, in compliance with City of Malden Ordinance Section 1.7, the Committee shall submit the following report to the City Council:
 - i. CPC Report of activities, to be submitted to the City Clerk's Office no later than the first week of January;
 - ii. Financial Report of the CPC for the City Budget to be submitted per the instructions of the Finance Committee; and
 - iii. CPC Annual Calendar.

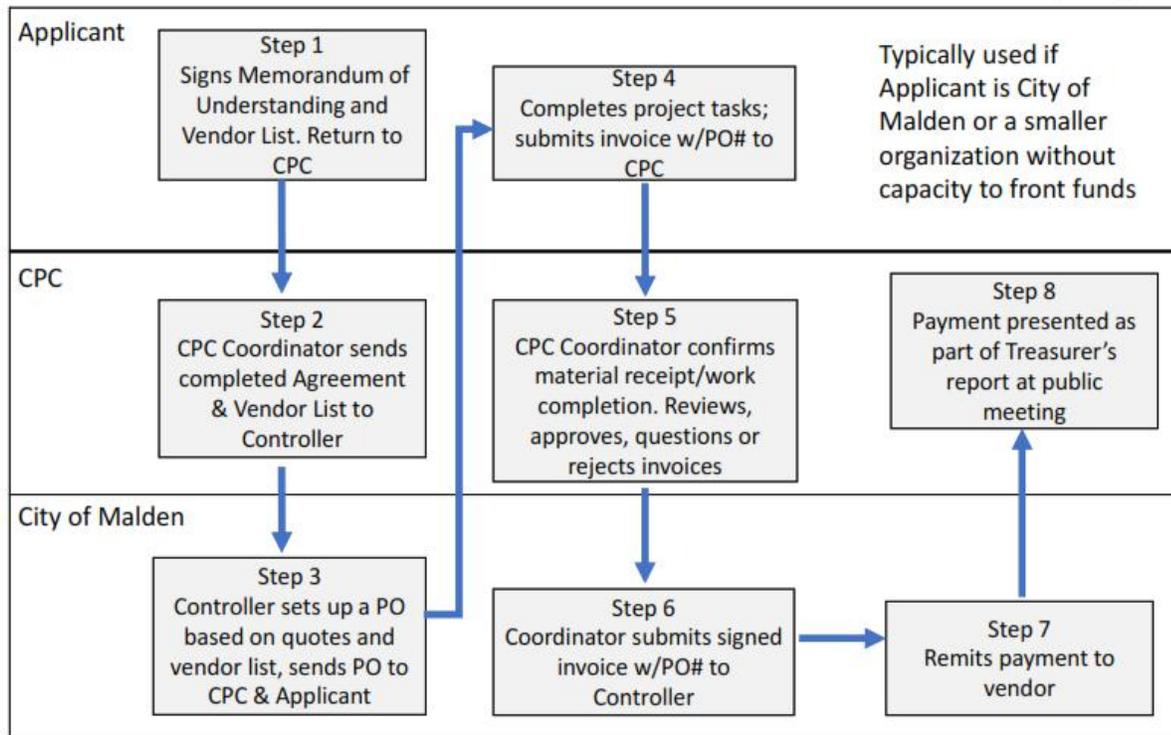
21. ADOPTION AND AMENDMENT:

These Rules and Regulations shall be adopted, and may be amended from time to time following a majority vote of the Committee at a public meeting.

APPENDIX: PAYMENT WORKFLOW

Scenario 1: Direct Payment

Updated 1/2021



Scenario 2: Reimbursement

