

David Hoicka

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Cambridge, MA 02139

May 7, 1998

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To the Honorable, the Cambridge City Council,

Charter Reform to Enhance City Council and Voter Powers

Cambridge adopted the Plan E form of government 58 years ago, on November 5, 1940. According to the Secretary of State, Cambridge is the only City in the Commonwealth which has adopted Plan E with Proportional Representation, and this law applies only to us.

The Plan E Charter is part of the Massachusetts General Laws, Chapter 43 §93 et seq. Although much in society has changed in 58 years, the Plan E charter has not been significantly amended in all this time, except to provide for raising the salary of the City Manager in 1973 and 1979.

This 58-year old charter fails to comply with modern management provisions, seriously limiting the power and authority of the City Council. Moreover, it contains truly draconian provisions which tie the hands of City Council – for example, improperly criminalizing city council conduct:

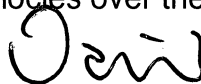
“Neither the city council nor any of its committees or members shall direct or request the appointment of any person to, or his removal from, office by the city manager Any member of the city council who violates, or participates in the violation of, any provision of this section shall be punished by a fine of not more than five hundred dollars or by imprisonment for not more than six months, or both, and upon final conviction thereof his office in the city council shall thereby be vacated and he shall never again be eligible for any office or position, elective or otherwise, in the service of the city.” See MGL c. 43 §107, annexed.

This kind of punitive restriction against city councillors – criminal penalties and lifetime exclusion from government – is worse than many penalties against drug dealers. It is barbaric to think that a well-meaning councillor could be forever evicted from office for a simple constituent service – recommending someone for a job. No wonder our city councillors sometimes seem afraid of taking action – who wouldn't be, with such penalties hanging over them?

Forfeitures and lifetime exclusions may have been common generations ago, but are uncivilized today for an enlightened Cambridge. The *in terrorem* effect of statutes such as this, which appear to solely affect Cambridge, prevent our elected councilors from truly doing what they were elected to do.

These statutes, enacted by the legislature, can readily be amended by the legislature to be fairer to the Cambridge City Council. For example, a home rule petition sponsored by Cambridge's four state representatives and three senators, could surely be brought to bear to better empower Cambridge's own City Council.

Therefore, I respectfully propose we open a dialogue on all sides in the City of Cambridge to review this draconian, 58-year old charter, to sponsor new remedial legislation to support and improve the workings of the Cambridge City Council – and eliminate the Sword of Damocles over them.



David Hoicka, 547-4000

ANNOTATED LAWS OF MASSACHUSETTS
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PART I. ADMINISTRATION OF THE GOVERNMENT
TITLE VII. CITIES, TOWNS AND DISTRICTS
CHAPTER 43. CITY CHARTERS
PLAN E.--GOVERNMENT BY A CITY COUNCIL INCLUDING A MAYOR
ELECTED FROM ITS NUMBER, AND A CITY MANAGER, WITH ALL
ELECTIVE BODIES ELECTED AT LARGE BY PROPORTIONAL
REPRESENTATION.

Mass. Ann. Laws ch. 43, § 107 (1998)

§ 107. City Council Not to Interfere With City Manager; Penalty.

Neither the city council nor any of its committees or members shall direct or request the appointment of any person to, or his removal from, office by the city manager or any of his subordinates, or in any manner take part in the appointment or removal of officers and employees in that portion of the service of said city for whose administration the city manager is responsible. Except for the purpose of inquiry, the city council and its members shall deal with that portion of the service of the city as aforesaid solely through the city manager, and neither the city council nor any member thereof shall give orders to any subordinate of the city manager either publicly or privately. Any member of the city council who violates, or participates in the violation of, any provision of this section shall be punished by a fine of not more than five hundred dollars or by imprisonment for not more than six months, or both, and upon final conviction thereof his office in the city council shall thereby be vacated and he shall never again be eligible for any office or position, elective or otherwise, in the service of the city.

HISTORY: 1938, 378, § 15

Consent Communicaiton #16

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A communciation was received from
David Hoicka, transmitting a letter
relative to the Charter Reform to
Enhance City Council and Voter
Powers.

In City Council May 11, 1998:

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