

Offered by Councilors Liz Breadon, Ruthzee Louijeune, Kenzie Bok, Coletta, Arroyo, Flaherty, Lara, Mejia, Murphy, Worrell and Flynn



CITY OF BOSTON
IN THE YEAR TWO THOUSAND TWENTY-THREE
HOME RULE PETITION

WHEREAS, The Massachusetts Legislature through section 35 of chapter 448 of the Acts of 1854 (the “1854 Charter”) empowered the City of Boston by its charter to enact ordinances and annex penalties for violations not exceeding \$50; *and*

WHEREAS, The City of Boston by home rule petition approved as chapter 78 of the Acts of 1976 amended the 1854 Charter to increase the maximum amount of fines imposed for ordinance violations to \$200; *and*

WHEREAS, Chapter 401 of the Acts of 1977 inserted section 21D of chapter 40 of the General Laws to establish noncriminal disposition of ordinance, by-law, rule, or regulation violations with fines not to exceed \$200, later amended by chapter 609 of the Acts of 1987 to raise the maximum fines allowed by section 21D to \$300; *and*

WHEREAS, Subsequent to the Legislature’s 1987 amendment of section 21D to raise the maximum fine to \$300, the City of Boston through a home rule petition accepted as chapter 48 of the Acts of 1989 and amended by section 102 of chapter 341 of the Acts of 1989 further amended the 1854 Charter to separately increase the maximum amount of fines for ordinance violations to \$300; *and*

WHEREAS, The City of Boston twice unsuccessfully petitioned the General Court, through House Bill 4418 of the year 2005 and House Bill 4168 of the year 2007, to increase the maximum fines for ordinance violations to \$1,000; *and*

WHEREAS, The \$50 maximum fine enacted in 1854 is equivalent in purchasing power to about \$1,766 in 2023 dollars; the \$200 maximum fine enacted in 1976 is equivalent in purchasing power to about \$1,043 in 2023 dollars; the present \$300 maximum fine enacted in 1989 is equivalent in purchasing power to about \$718 in 2023 dollars; and the \$1,000 maximum fine petitioned for by the City of Boston in 2007 is equivalent in purchasing power to about \$1,419 in 2023 dollars; *and*

- WHEREAS*, That the maximum allowable fine imposed by the City of Boston for the noncriminal disposition of ordinance violations has remained \$300 for more than thirty years, without adjustment for inflation, has disincentivized chronic violators of the City's ordinances, particularly corporations, from compliance and instead has emboldened scofflaws to view the low fines as the cost of doing business; *and*
- WHEREAS*, Chapter 626 of the Acts of 1987 inserted section 58 of chapter 40 of the General Laws to authorize cities and towns to place liens on certain properties for any unpaid local charge or fee, but does not include unpaid fines; *and*
- WHEREAS*, The Massachusetts Legislature has approved several home rule petitions to grant additional powers for cities to place municipal charges liens than those presently provided for in section 58, authorizing liens for unpaid local fines in Somerville through chapter 252 of the Acts of 1996, Lowell through chapter 390 of the Acts of 2002, and Framingham through chapter 19 of the Acts of 2013; *and*
- WHEREAS*, Several Massachusetts cities have unsuccessfully petitioned the Legislature between 1990 to 2010 for authority to add unpaid fines to their municipal charges liens, including the cities of Cambridge, Chelsea, Everett, Lynn, and Revere; *and*
- WHEREAS*, According to the legislative history of the 189th General Court for chapter 218 of the Acts of 2016, An Act modernizing municipal finance and government, a proposed amendment of section 58 to include local fines in the municipal charges liens of all cities and towns was included in the House bill but not in the Senate bill or conference committee report, and the language was not incorporated; *and*
- WHEREAS*, Section 9 of Article 89 of the Amendments to the Massachusetts Constitution provides that special laws relating to the City of Boston existing as of November 8, 1966 shall have the force of an existing charter; *and*
- WHEREAS*, The City of Boston must possess and exercise the police powers necessary to ensure effective enforcement of its ordinances to deter willful or negligent violations and to protect the health, safety, and general welfare of its residents and for the good of the public; *NOW, THEREFORE BE IT*

ORDERED: That a petition to the General Court, accompanied by a bill for a special law relating to the City of Boston to be filed with an attested copy of this order be, and hereby is, approved under Clause (1) of Section 8 of Article 2, as amended, of the Amendments to the Constitution of the Commonwealth of Massachusetts, to the end that legislation be adopted precisely as follows, except for clerical or editorial changes of form only: –

**PETITION FOR A SPECIAL LAW RE:
AN ACT INCREASING THE MAXIMUM AMOUNT OF FINES WHICH MAY
BE IMPOSED FOR VIOLATIONS OF ORDINANCES AND AUTHORIZING
THE CITY OF BOSTON TO PLACE MUNICIPAL CHARGE LIENS ON
CERTAIN PROPERTIES IN THE CITY OF BOSTON FOR NONPAYMENT OF
ANY LOCAL CHARGES, FEE OR FINE**

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to provide for the effective enforcement of ordinances to deter willful or negligent violations in the City of Boston, therefore, it is hereby declared to be an emergency law, necessary for the immediate preservation of the public peace, health, safety, and convenience.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1.

Section 35 of chapter 448 of the acts of 1854, as amended by chapter 78 of the acts of 1976, as further amended by section 1 of chapter 48 of the acts of 1989, and further amended by section 102 of chapter 341 of the acts of 1989, is hereby further amended by striking in the second sentence the words “three hundred” and inserting in place thereof the words:– “two thousand”.

SECTION 2.

Section 35 of chapter 448 of the acts of 1854, as so appearing, is hereby further amended by inserting thereafter the following new paragraph:

The maximum fine set forth in this section shall be adjusted for inflation, round to the nearest hundred dollars, on January 1, 2025, and on January 1 every five years thereafter based on the annual percentage change in the United States Department of Labor, Bureau of Labor Statistics, Consumer Price Index for All Urban Consumers (CPI-U) for the Boston-Cambridge-Newton, Mass.-N.H. Core Based Statistical Area, all items, or its successor index.

SECTION 3.

Chapter 222 of the acts of 1949 is hereby amended by striking out section 5 and inserting in place thereof the following two sections:–

Section 5. The City of Boston may impose a lien on real property located within the city for any local charge, fee or fine that has not been paid by the due date; provided, that prior to any lien

being imposed for any local charge, fee or fine, an ordinance shall be established by a vote of the city council specifying each type of charge, fee or fine to be collected. The lien shall be known as a “municipal charges lien.” For purposes of this act, “local charge”, “municipal charge,” “fee” or “fine” shall mean any charge, fee or fine imposed by the city by ordinance, rule or regulation, statute or state regulation, or imposed by a court of the commonwealth payable to the city as a result of any action initiated by city officials to enforce city ordinances, rules, regulations, statutes, or state regulations.

A municipal charges lien authorized under this section shall take effect upon the recording of a list of unpaid municipal charges, fees or fines by parcel of land and by the name of the property owner assessed for the charge, fee or fine in the registry of deeds of Suffolk County.

If a charge, fee or fine which is secured by a municipal charges lien remains unpaid when the assessors are preparing a real estate tax list and warrant to be committed pursuant to section 53 of chapter 59 of the General Laws, then the board or officer in charge of the collection of the municipal charge, fee or fine shall certify such charge or fee to the assessors, who shall add the charge, fee or fine to the tax on the property to which it relates and commit it with the warrant to the collector of taxes as part of the tax.

If the property to which such charge, fee or fine relates is tax exempt, the charge, fee or fine shall be committed as the tax. A lien under this section may be discharged by filing in the registry of deeds of Suffolk County a certificate from the tax collector that all municipal charges, fees or fines constituting the lien, together with any interest and costs thereon, have been paid or legally abated. All costs of recording or discharging a lien under this act shall be borne by the owner of the property.

Section 6. This act shall take effect upon its passage.

SECTION 4.

The provisions of this act are severable and if any provision, or portion thereof, should be held to be unconstitutional or otherwise invalid by any court of competent jurisdiction, such unconstitutionality or invalidity shall not affect the remaining provisions, which remain in full force and effect.

SECTION 5.

This act shall take effect upon its passage.

Filed on: February 10, 2023