

April 6, 2021

Via E-mail (rfragusa@sbcglobal.net)

Mr. Robert Ragusa, Chairman
Marlborough Charter Revision Commission
26 North Main Street
P.O. Box 29
Marlborough, CT 06447

**Re: Home Rule Authority Regarding Organization and Appointment of
Municipal Boards and Officials**

Chairman Ragusa and Members of the Commission,

You have asked for our opinion regarding whether your proposed amendments to the charter setting the number of the members of the municipal board of fire commissioners and the manner of appointment and term of the fire and deputy fire marshals are authorized under the home rule powers vested in a municipality in a manner that differs from the provisions of Conn. Gen. Stat. § 29-297 regarding appointment of local fire marshals.

The general statutes include many statutes establishing what are essentially the default composition of many elected and appointed municipal officials. For example, absent a town charter or special act, all towns are governed by a town meeting and three-member board of selectman and six-member board of finance. See Title 7 of the General Statutes, generally. That title also includes many “default” provisions applicable to non-charter towns such as those setting the manner and timelines for adopting budgets, ordinances and general municipal governance. However, the legislature also empowered municipalities to establish their own forms of government by charter and to set forth their own rules with respect to matters of local concern. Conn. Gen. Stat. Sections 7-187- 7-201. One of those statutes, Conn. Gen. Stat. § 7-193 (b), expressly states that a charter can modify the number and manner of selection of any municipal officer or commission. It states:

Every municipality shall have all municipal officers, departments, boards, commissions and agencies which are required by the general statutes or by the charter. Each municipality may have any municipal officers, departments, boards, commissions and agencies which are specifically allowed by the general statutes or which are necessary to carry out any municipal powers, duties or responsibilities under the general statutes. All such officers, departments, boards, commissions and agencies shall be elected, appointed and organized in the manner provided by the general statutes, except as otherwise provided by the charter or by ordinances or resolutions adopted pursuant to such charter. Any municipality

may, by charter or by ordinances or resolutions adopted pursuant to such charter, alter the method of election, appointment or organization of any or all of such officers, departments, boards, commissions or agencies, including combining or separating the duties of each, unless specifically prohibited from making such alteration by the Constitution or the general statutes.

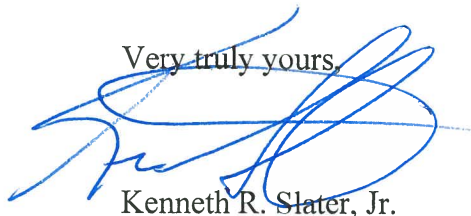
Conn. Gen. Stat. § 7-193 (b) (emphasis added).

The fire marshal and deputy fire marshal are municipal officials and a board of fire commissioners is a municipal commission. Unless another statute prohibits it, Section 7-193 authorizes a charter to organize a municipal board of fire commissioners including setting its number and can establish the method of appointment and term of a municipal fire marshal. Section 29-297, “Appointment of local fire marshals, deputies, provisional fire marshals, fire inspectors, fire code inspectors and fire investigators,” establishes the default method of appointment of fire officials but does not prohibit a local charter from modifying the manner of appointment of fire marshals, the term of office, or the constitution of a boards of fire commissions. For that reason, a municipal charter can establish the existence and membership on a board of fire commissioners and can set the method and term of appointment of a municipal fire marshal.

Although the statute is perfectly clear that a charter can establish the method of appointment of a local fire marshal, I will note that the Appellate Court in *Dumais v. Underwood*, 47 Conn. App. 783 (1998) is in accordance with this opinion. The Appellate Court, citing Conn. Gen. Stat. Section 7-193 (b), concluded that the Town of Plainville was authorized to set the manner in which a charter revision commission would be formed by charter regardless of differing statutory provisions regarding appointment of such a commission.

So, in conclusion, in our opinion a municipal charter can set the terms regarding how a board of fire commissioners is organized and can establish the method and term of appointment of the municipal fire and deputy fire marshals regardless of contrary provisions in Conn. Gen. Stat. § 29-297.

Very truly yours,

A handwritten signature in blue ink, appearing to read 'Kenneth R. Slater, Jr.', is written over the typed name below.

Kenneth R. Slater, Jr.