



City of Cambridge

In the Year One Thousand, Nine Hundred Ninety-one

AN ORDINANCE

In amendment to an ordinance entitled the "Cambridge Municipal Code."

Be it ordained by the City Council of the City of Cambridge as follows:

That Title 8 (Health and Safety) of the Cambridge Municipal Code is hereby amended by adding thereto the following new Chapter 8.60 (Enforcement of State Sanitary Code):

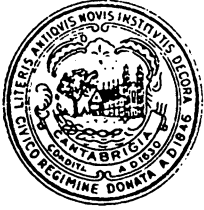
Chapter 8.60

ENFORCEMENT OF STATE SANITARY CODE

NOTE: Pursuant to the provisions of General Laws, Chapter 40, Section 32A, Tercentenary Edition, the ordinance as aforesaid which exceeds in length eight octavo pages of ordinary book print may be summarized for publication in a newspaper of general circulation in the city with the further provision that said Zoning Ordinance may be examined and obtained at the City Clerk's Office during office hours and that any objection to its invalidity by reason of any defect in the procedure of adoption may only be made within ninety days after the posting or the second publication.

Passed to a second reading at the City Council meeting held on October 21, 1991 and on or after November 4, 1991 the question comes on passing to be ordained.

ATTEST:- John E. Flynn, Deputy City Clerk.



City of Cambridge

In the Year One Thousand, Nine Hundred and Ninety-One

AN ORDINANCE

In amendment to an ordinance entitled the "Cambridge Municipal Code."

That Title 8 (Health and Safety) of the Cambridge Municipal Code is hereby amended by adding thereto the following new Chapter 8.60 (Enforcement of State Sanitary Code):

Chapter 8.60

ENFORCEMENT OF STATE SANITARY CODE

Sections

8.60.010	Declaration of Emergency
8.60.020	Definitions
8.60.030	Administrative Citations; Issuance
8.60.040	Repairs
8.60.050	Extensions
8.60.060	Fines for Failure to Repair
8.60.070	Appeals of Fines
8.60.080	Failure to Pay Fine
8.60.090	Effect of Fines in Subsequent Actions
8.60.100	Revenues Generated
8.60.110	Regulations
8.60.120	Construction
8.60.130	Severability
8.60.140	Effective Date

8.60.010 Declaration of Emergency

A serious public emergency exists in the City of Cambridge with respect to residential premises which are in violation of the State Sanitary Code, causing many citizens to live in unsafe conditions. The legal remedies available to the Inspectional Services Department in enforcing this code, as well as other applicable state laws and regulations, are insufficient to encourage timely repair of rental properties. Owners often avoid repairing sub-standard properties, thereby endangering the lives, safety, and property of tenants and severely limiting the ability of many people to remain in their homes safely.

In order to provide the Inspectional Services Department with the remedies necessary to effectively carry out its mandate under state law, to guarantee tenants of the City of Cambridge housing which complies with the State Sanitary Code and other applicable laws and regulations, and to encourage owners to maintain the buildings they own in compliance with this code, laws and regulations, the Cambridge City Council, in the exercise of its powers under Section 6 of the Home Rule Amendment, hereby enacts this ordinance under which administrative citations are issued to owners who violate the State Sanitary Code.

8.60.020 Definitions

(A) "Administrative Citation" means a notice issued to an owner by the Inspectional Services Department, pursuant to this Chapter, which provides a statement of the terms under which the owner may be fined for failure to remedy violations of the State Sanitary Code and a statement of the owner's right to appeal the issuance of the administrative citation and/or fine.

(B) "Dwelling" means every building or shelter including but not limited to rooming houses and temporary housing used or intended for human habitation and every other structure or condition located within the same lot line whose existence causes or is likely to effect noncompliance with the provisions of 105 CMR 410.000.

(C) "Dwelling Unit" means the room or group of rooms within a dwelling used or intended for use by one family or household for living, sleeping, cooking and eating. Dwelling unit shall also mean a condominium unit.

(D) "Inspectional Services Department" means the legally designated health authority for the City of Cambridge, authorized by Chapter 84 of the Acts and Resolves of 1983, to enforce the State Sanitary Code through the inspection of rental units for violations of the code and the implementation of mechanisms to ensure compliance with repair orders.

(E) "Occupant" means every person over one year of age living or sleeping in a dwelling or dwelling unit.

(F) "Owner" means every person who alone or severally with others (a) has legal title to any rental unit, or parcel of land, vacant or otherwise, including a mobile home park; or (b) has care, charge or control of any dwelling, rental unit, mobile dwelling unit or parcel of land, vacant or otherwise, including a mobile home park, in any capacity including but not limited to agent, executor, executrix, administrator, administratrix, trustee or guardian of the estate of the holder of legal title; or (c) mortgagee in possession; or (d) agent, trustee or other person appointed by the courts; (e) any officer or trustee of the association of unit owners of a condominium; (f) a bank or other lending institution in possession as a result of foreclosure; or (g) any person who operates a rooming house. The term "owner" includes landlords and lessors.

(G) "State Sanitary Code" means the State Sanitary Code, Code of Massachusetts Regulations codified at 105 CMR 400.00 - 419.00, adopted under the authority of Massachusetts General Laws, Chapter 111, §3 and §127A as it may be amended from time to time.

8.60.030 Administrative Citations; Issuance

(A) Whenever the Inspectional Services Department finds any violation of any provision of the State Sanitary Code it shall issue, in addition to its order to make repairs, an administrative citation against the owner according to the procedures set out in this Chapter.

(B) The administrative citation shall incorporate by reference the order to make repairs and shall contain the following information:

(1) the date of the inspection;

(2) the amount of fine which shall be assessed against the owner if the violation or violations are not remedied within the time set out in the order to make repairs as well as the rate at which the fine shall escalate pursuant to Section 8.60.080 (B) of this Chapter;

(3) the manner in which the owner may pay any fine assessed in accordance with the provisions of this Chapter; and

(4) a description of the owner's appeal rights with respect to the issuance of the administrative citation and of any fine.

(C) The administrative citation shall be served on the owner, along with any orders to make repairs, in accordance with the provisions of the State Sanitary Code;

(D) A copy of the administrative citation shall also be served on the occupants of the dwelling or dwelling unit in which violations have been found and shall be posted in the common areas of the dwelling. If violations of the State Sanitary Code are found in the common areas of any dwelling, a copy of the administrative citation shall be served on each and every tenant of the dwelling.

(E) A copy of the administrative citation shall be retained by the Inspectional Services Department and be available for public inspection and copying.

8.60.040 Repairs

(A) An owner shall make any and all repairs necessary to remedy any violations found by the Inspectional Services Department within the time stated on the order to make repairs, unless he or she requests a hearing pursuant to the hearing regulations of the State Sanitary Code.

(B) The Inspectional Services Department shall, within five days after the dates for compliance specified in an order to repair issued pursuant to 105 CMR 410.830, make an on-site inspection to determine whether there has been compliance with its order. This inspection shall be made within 24 hours of the dates for compliance specified in an order, however, if one or more of the violations or conditions cited in the order to repair are determined to be conditions which may endanger the health or safety, and well being of the occupant(s) as defined in 105 CMR 410.750. An inspection under 105 CMR 410.830 shall comply with the requirements of 105 CMR 410.822.

(c) If, upon re-inspection, it is determined that the Owner has remedied the violations cited in the order to make repairs, the administrative citation shall note this finding and shall be filed with the Inspectional Services Department.

(D) Copies of the administrative citation indicating that the violation has been remedied and no fine has been assessed shall be served on the same individuals who received notice of the initial administrative citation. This notice shall be served within five days of the re-inspection.

(E) If, upon re-inspection, it is determined that the owner has failed to remedy the violations cited, this shall be noted on the administrative citation and a fine shall be assessed against the owner in accordance with the terms of Section 8.60.060. of this Chapter.

(F) Copies of the administrative citation noting the assessment of a fine for failure to remedy the violations cited shall be served on the same individuals who received notice of the initial administrative citation within five days of the fine being assessed against the owner.

8.60.050 Extensions

(A) An owner who has made a good faith effort to remedy any violations cited in an order to make repairs and an administrative citation may apply to the Inspectional Services Department for an extension of the time set for making repairs by requesting a hearing under the hearing provisions of the State Sanitary Code.

(B) A good faith effort shall be found to exist only if the owner provides evidence that the repairs cannot be completed within the required time. Such evidence shall be in the form of at least

two written estimates from outside professionals, one of which the owner has accepted in writing, stating when the repairs will be made.

(C) In any case where an extension has been granted for the remedying of any violation, a new date shall be set by the Inspectional Services Department by which the owner shall remedy the violation and a re-inspection shall take place in accordance with Section 8.60.040 (C) through (F) of this Chapter.

(D) No extensions shall be granted in any case where an owner has received a fine for the same or similar violations within the twelve month period immediately preceding issuance of the current administrative citation.

(E) In no event shall the time allowed for repairs including any extensions be greater than sixty days from the date of the issuance of the order to make repairs.

8.60.060 Fines for Failure to Repair

(A) If an owner fails to remedy a violation cited in an order to make repairs within the allotted time, or fails to remedy the violation within the time set out in any extension granted under Section 8.60.050 of this Chapter, or fails to file a timely appeal, a fine shall be assessed against the owner.

(B) Notice of the assessment of a fine shall be served on the owner in accordance with the notice provisions of the State Sanitary Code.

(C) Notice of the fine shall be served on the same individuals who received notice of the initial administrative citation.

(D) The amount of the fine shall be set according to the following schedule:

(1) \$100.00 per day for each violation referred to in 105 CMR 410.830 (A) and required to be corrected within twenty-four hours; or

AW → work to correct to change to \$10 U/V 9-0 adykd

(2) \$50.00 per day for each violation referred to in 105 CMR 401.830 (B) and required to be repaired in an amount of time determined by the Inspectional Service Department but, in any event, no more than thirty days.

8.60.070 Appeals of Fines

(A) An owner or occupant who is aggrieved by the issuance of a fine or by the failure of the Inspectional Services Department to fine an owner pursuant to this Chapter may appeal to the Inspectional Services Department according to the following procedures:

(1) An appeal shall be filed within ten days of the date of the action appealed from;

(2) The appeal shall be in writing and shall state, in detail, the grounds for the appeal;

(B) The filing of a timely appeal shall stay the effect of the fine but shall not stay the owner's obligation to repair any violations cited.

(C) A hearing shall be held on the appeal following the same procedures available in an appeal of the issuance of an order to make repairs which are set out in 105 CMR §§ 410.850 and 410.860, except that any appeal to court shall be governed by the provisions of Massachusetts General Laws, Chapter 30A.

(D) Nothing in this section shall be construed to affect or impair the right to appeal the issuance of an order to make repairs.

8.60.080 Failure to Pay Fines

(A) Notice of a fine which has been issued pursuant to Section 8.60.060 of this Chapter shall be served on the owner and on the occupants who receive notice of the initial administrative citation.

(B) In addition, the owner shall be given notice that the fine shall automatically double if any violation cited in the administrative citation is not remedied within two weeks of service of the notice of the fine and shall automatically triple if any violation is not remedied within one month of service of the notice of the fine.

(C) A property tax lien shall be taken by the City of Cambridge against the owner if the tripled fine is not paid within six months of service of the notice of the fine or the issuance of the next property tax bill, whichever is later, and the owner shall be notified of this action prior to its being taken.

*J. Myers moved
to delete
Rvd call
9-0 Deleted*

(D) Any person aggrieved by the failure of the City of Cambridge to take such enforcement action, may seek injunctive relief in the district or superior court pursuant to Massachusetts General Laws, Chapter 214 and 218, §19C to require action by the City of Cambridge in accordance with its enforcement obligations under this section.

8.60.090 Effect of Fine In Subsequent Court Actions

(A) A copy of the administrative citation indicating that a fine has been issued as a result of the owner's failure to remedy a violation cited in the administrative citation shall be prima facie evidence of a violation of Massachusetts General Laws, Chapter 111, §127A et seq. and Chapter 239, §8A in any legal action by or against the owner.

8.60.100 Revenues Generated

(A) Each fiscal year the City Manager shall determine an accounting of the revenues generated by the implementation of this ordinance in excess of the cost of administration and shall make a recommendation in the budget presented to the City Council for an appropriation of said funds to the appropriate city department or agency so that said revenues will be directed toward the repair or rehabilitation of deteriorated dwellings or dwelling units in the city.

8.60.110 Regulations

The Commissioner of Inspectional Services shall promulgate regulations consistent with the terms of this Chapter and any applicable state laws and regulations.

8.60.120 Construction

Nothing in this Chapter shall be construed to conflict with the provisions of Massachusetts General Laws, Chapter 111, § 127A, et seq. governing the authority and conduct of the Inspectional Services Department or with any other law or regulation governing the rights and obligations of owners and tenants in the Commonwealth Of Massachusetts.

8.60.130 Severability

The provisions of this Chapter are severable. If any section or sections are declared invalid by a court of competent jurisdiction, the invalidity shall not affect the validity of any remaining section or sections.

8.60.140 Effective Date

The provisions of this Chapter shall take effect three months from the date of its enactment.

Ordinance #3\HealthPo.bd\Sanitar.cod

Draft - October 22, 1991

DRAFT - October 9, 1991

Administrative Citations For Violations of the State Sanitary Code

Section 1. Declaration of Emergency

A serious public emergency exists in the City of Cambridge with respect to residential premises which are in violation of the state sanitary code, causing many citizens to live in unsafe conditions. The legal remedies available to the Inspectional Services Department in enforcing this code, as well as other applicable state laws and regulations, are insufficient to encourage timely repair of rental properties. Owners often avoid repairing sub-standard properties, thereby endangering the lives, safety, and property of tenants and severely limiting the ability of many people to remain in their homes safely.

In order to provide the Inspectional Services Department with the remedies necessary to effectively carry out its mandate under state law, to guarantee tenants of the City of Cambridge housing which complies with the state sanitary code and other applicable laws and regulations, and to encourage owners to maintain the buildings they own in compliance with this code, laws and regulations, the Cambridge City Council, in the exercise of its powers under Section 6 of the Home Rule Amendment, hereby enacts this ordinance under which administrative citations are issued to owners who violate the state sanitary code.

Section 2. Definitions

(A) "Administrative Citation" means a notice issued to an owner by the Inspectional Services Department, pursuant to this ordinance, which provides a statement of the terms under which the owner may be fined for failure to remedy violations of the State Sanitary Code and a statement of the owner's right to appeal the issuance of the administrative citation and/or fine.

(B) "Dwelling" means every building or shelter including but not limited to rooming houses and temporary housing used or intended for human habitation and every other structure or condition located within the same lot line whose existence causes or is likely to effect noncompliance with the provisions of 105 CMR 410.000.

(C) "Dwelling Unit" means the room or group of rooms within a dwelling used or intended for use by one family or household for living, sleeping, cooking and eating. Dwelling unit shall also mean a condominium unit.

(D) "Inspectional Services Department" means the legally designated health authority for the City of Cambridge, authorized by Chapter 84 of the Acts and Resolves of 1983, to enforce the state sanitary code through the inspection of rental units for violations of the code and the implementation of mechanisms to ensure compliance with repair orders.

(E) "Occupant" means every person over one year of age living or sleeping in a dwelling or dwelling unit.

(F) "Owner" means every person who alone or severally with others (a) has legal title to any rental unit, or parcel of land, vacant or otherwise, including a mobile

home park; or (b) has care, charge or control of any dwelling, rental unit, mobile dwelling unit or parcel of land, vacant or otherwise, including a mobile home park, in any capacity including but not limited to agent, executor, executrix, administrator, administratrix, trustee or guardian of the estate of the holder of legal title; or (c) mortgagee in possession; or (d) agent, trustee or other person appointed by the courts; (e) any officer or trustee of the association of unit owners of a condominium; (f) a bank or other lending institution in possession as a result of foreclosure; or (g) any person who operates a rooming house. The term "owner" includes landlords and lessors.

(G) "State sanitary code" means the state sanitary code, Code of Massachusetts Regulations codified at 105 400.00 - 419.00, adopted under the authority of Massachusetts General Laws, Chapter 111, §3 and §127A as it may be amended from time to time.

Section 3. Administrative Citations: Issuance

(A) Whenever the Inspectional Services Department finds any violation of any provision of the state sanitary code it shall issue, in addition to its order to make repairs, an administrative citation against the owner according to the procedures set out in this ordinance.

(B) The administrative citation shall incorporate by reference the order to make repairs and shall contain the following information:

- (1) the date of the inspection;

(2) the amount of fine which shall be assessed against the owner if the violation or violations are not remedied within the time frame set out in order to make repairs as well as the rate at which the fine shall escalate pursuant to Section 8(B) and (C) of this ordinance;

(3) the manner in which the owner may pay any fine assessed in accordance with the provisions of this ordinance; and (4) a description of the owner's appeal rights with respect to the issuance of the administrative citation and of any fine.

(C) The administrative citation shall be served on the owner, along with any orders to make repairs, in accordance with the provisions of the state sanitary code.

(D) A copy of the administrative citation shall also be served on the occupants of the dwelling or dwelling unit in which violations have been found and shall be posted in the common areas of the dwelling. If violations of the state sanitary code are found in the common areas of any dwelling, a copy of the administrative citation shall be served on each and every tenant of the dwelling.

(E) A copy of the administrative citation shall be retained by the Inspectional Services Department and be available for public inspection and copying.

Section 4. Repairs

(A) An owner shall make any and all repairs necessary to remedy any violations found by the Inspectional Services Department within the time frame stated

on the order to make repairs, unless he or she requests a hearing pursuant to the hearing regulations of the State Sanitary Code.

(B) The Inspectional Services Department shall, within five days after the dates for compliance specified in an order to repair issued pursuant to 105 CMR 410.830, make an onsite inspection to determine whether there has been compliance with its order. This inspection shall be made within 24 hours of the dates for compliance specified in an order, however, if one or more of the violations or conditions cited in the order to repair are determined to be conditions which may endanger the health or safety, and well-being of the occupant(s) as defined in 105 CMR 410.750. An inspection under 105 CMR 410.830 shall comply with the requirements of 105 CMR 410.822.

(C) If, upon re-inspection, it is determined that the owner has remedied the violations cited in the order to make repairs, the administrative citation shall so note this finding and shall be filed with the Inspectional Services Department.

(D) Copies of the administrative citation indicating that the violation has been remedied and no fine has been assessed shall be served on the same individuals who received notice of the initial administrative citation. This notice shall be served within five days of the re-inspection.

(E) If, upon re-inspection, it is determined that the owner has failed to remedy the violations cited, this shall be noted on the administrative citation and a fine shall be assessed against the owner in accordance with the terms of Section 6 of this ordinance.

(F) Copies of the administrative citation noting the assessment of a fine for failure to remedy the violations cited shall be served on the same individuals who received notice of the initial administrative citation within five days of the fine being assessed against the owner.

Section 5. Extensions

(A) An owner who has made a good faith effort to remedy any violations cited in an order to make repairs and an administrative citation may apply to the Inspectional Services Department for an extension of the time set for making repairs by requesting a hearing under the hearing provisions of the State Sanitary Code.

(B) A good faith effort shall be found to exist only if the owner provides evidence that the repairs cannot be completed within the required time frame. Such evidence shall be in the form of at least two written estimates from outside professionals, one of which the owner has accepted in writing, stating when the repairs will be made.

(C) In any case where an extension has been granted for the remedying of any violation, a new date shall be set by the Inspectional Services Department by which the owner shall remedy the violation and a re-inspection shall take place in accordance with Sections 4(C) through 4(F) of this ordinance.

(D) No extensions shall be granted in any case where an owner has received a fine for the same or similar violations within the twelve month period immediately preceding issuance of the current administrative citation.

(E) In no event shall the time frame for repairs including any extensions be greater than sixty days from the date of the issuance of the order to make repairs.

Section 6. Fines for Failure to Repair

(A) If an owner fails to remedy a violation cited in an order to make repairs within the allotted time frame, or fails to remedy the violation within the time frame set out in any extension granted under Section 5 of this ordinance, or fails to file a timely appeal, a fine shall be assessed against the owner.

(B) Notice of the assessment of a fine shall be served on the owner in accordance with the notice provisions of the State Sanitary Code.

(C) Notice of the fine shall be served on the same individuals who received notice of the initial administrative citation.

(D) The amount of the fine shall be set according to the following schedule:

(1) ~~\$500.00~~ ~~\$100.00~~ per day for each violation referred to in 105 CMR 410.830(A) and required to be corrected within twenty-four hours; or

(2) ~~\$250.00~~ ~~\$50.00~~ per day for each violation referred to in 105 CMR 410.830(B) and required to be repaired in an amount of time determined by the Inspectional Services Department but, in any event, no more than thirty days.

Section 7. Appeals of Fines

(A) An owner or occupant who is aggrieved by the issuance of a fine or by the failure of the Inspectional Services Department to fine an owner pursuant to this

ordinance may appeal to the Inspectional Services Department according to the following procedures:

(1) An appeal shall be filed within ten days of the date of the action appealed from;

(2) The appeal shall be in writing and shall state, in detail, the grounds for the appeal;

(B) The filing of a timely appeal shall stay the effect of the fine but shall not stay the owner's obligation to repair any violations cited.

(C) A hearing shall be held on the appeal following the same procedures available in an appeal of the issuance of an order to make repairs which are set out in 105 CMR §§ 400.850 and 400.860, except that any appeal to court shall be governed by the provisions of Massachusetts General Laws, Chapter 30A.

(D) Nothing in this section shall be construed to affect or impair the right to appeal the issuance of an order to make repairs.

Section 8. Failure To Pay Fine

(A) Notice of a fine which has been issued pursuant to Section 6 of this ordinance shall be served on the owner and on the occupants who received notice of the initial administrative citation.

(B) In addition, the owner shall be given notice that the fine shall automatically double if any violation cited in the administrative citation is not remedied within two weeks of service of the notice of the fine and shall automatically

triple if any violation is not remedied within one month of service of the notice of the fine.

(C) A property tax lien shall be taken by the City of Cambridge against the owner if the tripled fine is not paid within six months of service of the notice of the fine or the issuance of the next property tax bill, whichever is later, and the owner shall be notified of this action prior to its being taken.

(D) Any person aggrieved by the failure of the City of Cambridge to take such enforcement action, may seek injunctive relief in the district or superior court pursuant to Massachusetts General Laws, Chapters 214 and 218, §19C to require action by the City of Cambridge in accordance with its enforcement obligations under this section.

Section 9. Effect of Fine In Subsequent Court Actions

(A) A copy of the administrative citation indicating that a fine has been issued as a result of the owner's failure to remedy a violation cited in the administrative citation shall be prima facie evidence of a violation of Massachusetts General Laws, Chapter 111, §127A et seq. and Chapter 239, §8A in any legal action by or against the owner.

Section 10. Revenues Generated

(A) Each fiscal year the City Manager shall determine an accounting of the revenues generated by the implementation of this ordinance in excess of the cost of

~~administration and shall make a recommendation in the budget presented to the City Council for an appropriation of said funds to the appropriate city department or agency so that said revenues will be directed toward the repair or rehabilitation of deteriorated dwellings or dwelling units in the city. Any revenues generated by the implementation of this ordinance in excess of the cost of administering it shall be deposited by the Inspectional Services Department in a special fund and shall be allocated as follows: fifty per cent dedicated to providing financial assistance to owners who, due to financial hardship, are unable to remedy violations cited in an administrative citation; and fifty per cent dedicated to repairing dwellings and dwelling units which have so deteriorated as to constitute a public nuisance and which have been removed, by operation of law or a court order, from the control of the owner as a result of the deterioration.~~

Section 11. Regulations

The Department of Inspectional Services shall promulgate regulations consistent with the terms of this ordinance and any applicable state laws and regulations.

Section 12. Construction

Nothing in this ordinance shall be construed to conflict with the provisions of Massachusetts General Laws, Chapter 111, §127A, et seq. governing the authority and conduct of the Inspectional Services Department or with any other law or regulation

governing the rights and obligations of owners and tenants in the Commonwealth of Massachusetts.

Section 13. Severability

The provisions of this ordinance are severable. If any section or sections are declared invalid by a court of competent jurisdiction, the invalidity shall not affect the validity of any remaining section or sections.

Section 14. Effective Date

The provisions of this ordinance shall take effect three months from the date of its enactment.

City of Cambridge

October 21, 1991

The Committee on Ordinances conducted a public hearing on Thursday, October 10, 1991 in the Sullivan Chamber, City Hall beginning at 3:37 P.M. The purpose of the hearing was to receive public testimony and a report from the City Solicitor's office relative to a proposed amendment to the Municipal Code as it relates to Chapter 8.60 entitled "Enforcement of the State Sanitary Code".

Members present were: Councillor Francis Duehay, Councillor Jonathan Myers, Councillor Walter Sullivan, Councillor Ed Cyr, Councillor Sheila Russell, Councillor William Walsh, Mayor Alice Wolf, Vice Mayor Kenneth Reeves and City Clerk Joseph Connarton.

Councillor Francis Duehay, Chair of the Committee stated that this particular amendment had already been heard and that the Law Department had been requested to prepare new language in conjunction with the Cambridge Somerville Legal Services and at this time recognized Donald Drisdell, Esquire the Deputy City Solicitor.

Attorney Drisdell outlined for the Committee the revised text of the proposed amendment and specifically Section 3, entitled Administrative Citations: Issuance. This he stated, would allow members of the Inspectional Services Department to issue an administrative citation against the owner of a property in which any violations were found. He further outlined the process for such issuance.

At this time the Committee heard from Ellen Shackter, Esquire, representing the Cambridge and Somerville Legal Services who stated that she had been working very closely with the Cambridge City Solicitor's office in an effort to draft the language currently before the Committee. Furthermore, she stated that she firmly believed that any money collected from these civil fines should be designated for the repair of buildings owned by low income landlords and those buildings under receivership. Furthermore, she spoke to Section 8 (C) relative to placing a tax lien against any owner if a tripled fine is not paid within six months of service of the notice of the fine or the issuance of the next property tax bill.

Deputy City Solicitor Drisdell spoke out against this section of the proposed amendment and strongly suggested that the Committee strike out or amend this section.

City of Cambridge

-2-

At this time the Committee heard from John Natale, 92 Fourth Street, Cambridge who spoke in strong opposition to the proposed amendment, stating he believed that it was unconstitutional and that he would go to court on this issue. He furthermore stated that he questioned what real emergency exists in the City of Cambridge that such an ordinance is needed.

The Committee then heard from Salim Kabawat, 145 Bishop Richard Allen Drive, Cambridge who spoke against the proposed amendment.

At this time Councillor Cyr moved to substitute the previously submitted language relative to this section of the Municipal Code for the draft language submitted by the Solicitor's Office dated October 10, 1991.

The motion carried on a voice vote.

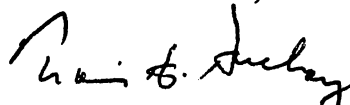
Councillor Duehay requested that the Deputy City Solicitor review the current language in Section 8(C) and make a recommendation to the full City Council as soon as possible.

Councillor Cyr moved that the proposed amendment to the Municipal Code as substituted be referred to the full City Council.

Councillor Walsh requested a roll call vote be taken on this motion and the motion to refer carried on a roll call vote of 5-2-2-0.

The hearing was adjourned at 4:24 P.M.

For the Committee,



Councillor Francis H. Duehay
Chair

COMMITTEE REPORTS

1.

Report received from Councillor Duehay,
Chairman of the Ordinance Committee for
a hearing held on Thursday, October 10,
1991 relative to a proposed amendment to
the Municipal Code regarding the
"Enforcement of the State Sanitary Code."

In City Council,

October 21, 1991

*- Report accepted
Passed to second
reading*

City of Cambridge

MASSACHUSETTS

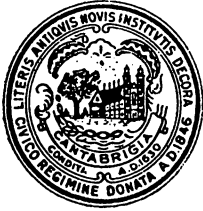
In City Council Oct. 10 1991

C. Walsh

*Referred to full City Council Re:
Proposed amendment to the Municipal Code
as it relates to Chapter 8-60*

	YEA	NAY	ABSENT	PRESENT
Mr. Ed Cyr	✓			
Mr. Francis H. Duehay	✓			
Mr. Jonathan S. Myers	✓			
Mr. Kenneth E. Reeves	✓			
Mrs. Sheila T. Russell		✓		
Mr. Walter J. Sullivan			✓	
Mr. Timothy J. Toomey, Jr.			—	
Mr. William H. Walsh		✓		
Mayor Alice K. Wolf	✓			

5 2 2



City of Cambridge

In the Year One Thousand, Nine Hundred

AN ORDINANCE

In amendment to an ordinance entitled the "Cambridge Municipal Code."

Be it ordained by the City Council of the City of Cambridge as follows:

That Title 8 (Health and Safety) of the Cambridge Municipal Code is hereby amended by adding thereto the following new Chapter 8.60 (Enforcement of State Sanitary Code):

Chapter 8.60

ENFORCEMENT OF STATE SANITARY CODE

Sections

8.60.010	Declaration of Emergency
8.60.020	Definitions
8.60.030	Administrative Citations; Issuance
8.60.040	Repairs
8.60.050	Extensions
8.60.060	Fines for Failure to Repair
8.60.070	Appeals of Fines
8.60.080	Failure to Pay Fine
8.60.090	Effect of Fines in Subsequent Actions
8.60.100	Revenues Generated
8.60.110	Regulations
8.60.120	Construction
8.60.130	Severability
8.60.140	Effective Date

COMMITTEE ON ORDINANCES

SPEAKER LIST

SANITARY CODE

IN OPPOSITION

NAME

ADDRESS

John NATALE

92-4th St. Camb.

Sch. Dabrowski

145 Kishkoy Hillen.

COMMITTEE ON ORDINANCES

SPEAKER LIST

SANITARY CODE

IN FAVOR

NAME

ADDRESS

Ellen Shachter

CASLS 17 Main Ave

DRAFT - October 9, 1991

Administrative Citations For Violations of the State Sanitary Code

Section 1. Declaration of Emergency

A serious public emergency exists in the City of Cambridge with respect to residential premises which are in violation of the state sanitary code, causing many citizens to live in unsafe conditions. The legal remedies available to the Inspectional Services Department in enforcing this code, as well as other applicable state laws and regulations, are insufficient to encourage timely repair of rental properties. Owners often avoid repairing sub-standard properties, thereby endangering the lives, safety, and property of tenants and severely limiting the ability of many people to remain in their homes safely.

In order to provide the Inspectional Services Department with the remedies necessary to effectively carry out its mandate under state law, to guarantee tenants of the City of Cambridge housing which complies with the state sanitary code and other applicable laws and regulations, and to encourage owners to maintain the buildings they own in compliance with this code, laws and regulations, the Cambridge City Council, in the exercise of its powers under Section 6 of the Home Rule Amendment, hereby enacts this ordinance under which administrative citations are issued to owners who violate the state sanitary code.

Section 2. Definitions

(A) "Administrative Citation" means a notice issued to an owner by the Inspectional Services Department, pursuant to this ordinance, which provides a statement of the terms under which the owner may be fined for failure to remedy violations of the State Sanitary Code and a statement of the owner's right to appeal the issuance of the administrative citation and/or fine.

(B) "Dwelling" means every building or shelter including but not limited to rooming houses and temporary housing used or intended for human habitation and every other structure or condition located within the same lot line whose existence causes or is likely to effect noncompliance with the provisions of 105 CMR 410.000.

(C) "Dwelling Unit" means the room or group of rooms within a dwelling used or intended for use by one family or household for living, sleeping, cooking and eating. Dwelling unit shall also mean a condominium unit.

(D) "Inspectional Services Department" means the legally designated health authority for the City of Cambridge, authorized by Chapter 84 of the Acts and Resolves of 1983, to enforce the state sanitary code through the inspection of rental units for violations of the code and the implementation of mechanisms to ensure compliance with repair orders.

(E) "Occupant" means every person over one year of age living or sleeping in a dwelling or dwelling unit.

(F) "Owner" means every person who alone or severally with others (a) has legal title to any rental unit, or parcel of land, vacant or otherwise, including a mobile

home park; or (b) has care, charge or control of any dwelling, rental unit, mobile dwelling unit or parcel of land, vacant or otherwise, including a mobile home park, in any capacity including but not limited to agent, executor, executrix, administrator, administratrix, trustee or guardian of the estate of the holder of legal title; or (c) mortgagee in possession; or (d) agent, trustee or other person appointed by the courts; (e) any officer or trustee of the association of unit owners of a condominium; (f) a bank or other lending institution in possession as a result of foreclosure; or (g) any person who operates a rooming house. The term "owner" includes landlords and lessors.

(G) "State sanitary code" means the state sanitary code, Code of Massachusetts Regulations codified at 105 400.00 - 419.00, adopted under the authority of Massachusetts General Laws, Chapter 111, §3 and §127A as it may be amended from time to time.

Section 3. Administrative Citations: Issuance

(A) Whenever the Inspectional Services Department finds any violation of any provision of the state sanitary code it shall issue, in addition to its order to make repairs, an administrative citation against the owner according to the procedures set out in this ordinance.

(B) The administrative citation shall incorporate by reference the order to make repairs and shall contain the following information:

- (1) the date of the inspection;

(2) the amount of fine which shall be assessed against the owner if the violation or violations are not remedied within the time frame set out in order to make repairs as well as the rate at which the fine shall escalate pursuant to Section 8(B) and (C) of this ordinance;

(3) the manner in which the owner may pay any fine assessed in accordance with the provisions of this ordinance; and (4) a description of the owner's appeal rights with respect to the issuance of the administrative citation and of any fine.

(C) The administrative citation shall be served on the owner, along with any orders to make repairs, in accordance with the provisions of the state sanitary code.

(D) A copy of the administrative citation shall also be served on the occupants of the dwelling or dwelling unit in which violations have been found and shall be posted in the common areas of the dwelling. If violations of the state sanitary code are found in the common areas of any dwelling, a copy of the administrative citation shall be served on each and every tenant of the dwelling.

(E) A copy of the administrative citation shall be retained by the Inspectional Services Department and be available for public inspection and copying.

Section 4. Repairs

(A) An owner shall make any and all repairs necessary to remedy any violations found by the Inspectional Services Department within the time frame stated

on the order to make repairs, unless he or she requests a hearing pursuant to the hearing regulations of the State Sanitary Code.

(B) The Inspectional Services Department shall, within five days after the dates for compliance specified in an order to repair issued pursuant to 105 CMR 410.830, make an onsite inspection to determine whether there has been compliance with its order. This inspection shall be made within 24 hours of the dates for compliance specified in an order, however, if one or more of the violations or conditions cited in the order to repair are determined to be conditions which may endanger the health or safety, and well-being of the occupant(s) as defined in 105 CMR 410.750. An inspection under 105 CMR 410.830 shall comply with the requirements of 105 CMR 410.822.

(C) If, upon re-inspection, it is determined that the owner has remedied the violations cited in the order to make repairs, the administrative citation shall so note this finding and shall be filed with the Inspectional Services Department.

(D) Copies of the administrative citation indicating that the violation has been remedied and no fine has been assessed shall be served on the same individuals who received notice of the initial administrative citation. This notice shall be served within five days of the re-inspection.

(E) If, upon re-inspection, it is determined that the owner has failed to remedy the violations cited, this shall be noted on the administrative citation and a fine shall be assessed against the owner in accordance with the terms of Section 6 of this ordinance.

(F) Copies of the administrative citation noting the assessment of a fine for failure to remedy the violations cited shall be served on the same individuals who received notice of the initial administrative citation within five days of the fine being assessed against the owner.

Section 5. Extensions

(A) An owner who has made a good faith effort to remedy any violations cited in an order to make repairs and an administrative citation may apply to the Inspectional Services Department for an extension of the time set for making repairs by requesting a hearing under the hearing provisions of the State Sanitary Code.

(B) A good faith effort shall be found to exist only if the owner provides evidence that the repairs cannot be completed within the required time frame. Such evidence shall be in the form of at least two written estimates from outside professionals, one of which the owner has accepted in writing, stating when the repairs will be made.

(C) In any case where an extension has been granted for the remedying of any violation, a new date shall be set by the Inspectional Services Department by which the owner shall remedy the violation and a re-inspection shall take place in accordance with Sections 4(C) through 4(F) of this ordinance.

(D) No extensions shall be granted in any case where an owner has received a fine for the same or similar violations within the twelve month period immediately preceding issuance of the current administrative citation.

(E) In no event shall the time frame for repairs including any extensions be greater than sixty days from the date of the issuance of the order to make repairs.

Section 6. Fines for Failure to Repair

(A) If an owner fails to remedy a violation cited in an order to make repairs within the allotted time frame, or fails to remedy the violation within the time frame set out in any extension granted under Section 5 of this ordinance, or fails to file a timely appeal, a fine shall be assessed against the owner.

(B) Notice of the assessment of a fine shall be served on the owner in accordance with the notice provisions of the State Sanitary Code.

(C) Notice of the fine shall be served on the same individuals who received notice of the initial administrative citation.

(D) The amount of the fine shall be set according to the following schedule:

(1) ~~\$500.00~~ ~~\$100.00~~ per day for each violation referred to in 105 CMR 410.830(A) and required to be corrected within twenty-four hours; or

(2) ~~\$250.00~~ ~~\$50.00~~ per day for each violation referred to in 105 CMR 410.830(B) and required to be repaired in an amount of time determined by the Inspectional Services Department but, in any event, no more than thirty days.

Section 7. Appeals of Fines

(A) An owner or occupant who is aggrieved by the issuance of a fine or by the failure of the Inspectional Services Department to fine an owner pursuant to this

ordinance may appeal to the Inspectional Services Department according to the following procedures:

(1) An appeal shall be filed within ten days of the date of the action appealed from;

(2) The appeal shall be in writing and shall state, in detail, the grounds for the appeal;

(B) The filing of a timely appeal shall stay the effect of the fine but shall not stay the owner's obligation to repair any violations cited.

(C) A hearing shall be held on the appeal following the same procedures available in an appeal of the issuance of an order to make repairs which are set out in 105 CMR §§ 400.850 and 400.860, except that any appeal to court shall be governed by the provisions of Massachusetts General Laws, Chapter 30A.

(D) Nothing in this section shall be construed to affect or impair the right to appeal the issuance of an order to make repairs.

Section 8. Failure To Pay Fine

(A) Notice of a fine which has been issued pursuant to Section 6 of this ordinance shall be served on the owner and on the occupants who received notice of the initial administrative citation.

(B) In addition, the owner shall be given notice that the fine shall automatically double if any violation cited in the administrative citation is not remedied within two weeks of service of the notice of the fine and shall automatically

triple if any violation is not remedied within one month of service of the notice of the fine.

*Don
Should be
deleted*

(C) A property tax lien shall be taken by the City of Cambridge against the owner if the tripled fine is not paid within six months of service of the notice of the fine or the issuance of the next property tax bill, whichever is later, and the owner shall be notified of this action prior to its being taken.

(D) Any person aggrieved by the failure of the City of Cambridge to take such enforcement action, may seek injunctive relief in the district or superior court pursuant to Massachusetts General Laws, Chapters 214 and 218, §19C to require action by the City of Cambridge in accordance with its enforcement obligations under this section.

Section 9. Effect of Fine In Subsequent Court Actions

(A) A copy of the administrative citation indicating that a fine has been issued as a result of the owner's failure to remedy a violation cited in the administrative citation shall be prima facie evidence of a violation of Massachusetts General Laws, Chapter 111, §127A et seq. and Chapter 239, §8A in any legal action by or against the owner.

Section 10. Revenues Generated

(A) Each fiscal year the City Manager shall determine an accounting of the revenues generated by the implementation of this ordinance in excess of the cost of

~~administration and shall make a recommendation in the budget presented to the City Council for an appropriation of said funds to the appropriate city department or agency so that said revenues will be directed toward the repair or rehabilitation of deteriorated dwellings or dwelling units in the city. Any revenues generated by the implementation of this ordinance in excess of the cost of administering it shall be deposited by the Inspectional Services Department in a special fund and shall be allocated as follows: fifty per cent dedicated to providing financial assistance to owners who, due to financial hardship, are unable to remedy violations cited in an administrative citation; and fifty per cent dedicated to repairing dwellings and dwelling units which have so deteriorated as to constitute a public nuisance and which have been removed, by operation of law or a court order, from the control of the owner as a result of the deterioration.~~

Section 11. Regulations

The Department of Inspectional Services shall promulgate regulations consistent with the terms of this ordinance and any applicable state laws and regulations.

Section 12. Construction

Nothing in this ordinance shall be construed to conflict with the provisions of Massachusetts General Laws, Chapter 111, §127A, et seq. governing the authority and conduct of the Inspectional Services Department or with any other law or regulation

governing the rights and obligations of owners and tenants in the Commonwealth of Massachusetts.

Section 13. Severability

The provisions of this ordinance are severable. If any section or sections are declared invalid by a court of competent jurisdiction, the invalidity shall not affect the validity of any remaining section or sections.

Section 14. Effective Date

The provisions of this ordinance shall take effect three months from the date of its enactment.

DRAFT - October 9, 1991

Administrative Citations For Violations of the State Sanitary Code

Section 1. Declaration of Emergency

A serious public emergency exists in the City of Cambridge with respect to residential premises which are in violation of the state sanitary code, causing many citizens to live in unsafe conditions. The legal remedies available to the Inspectional Services Department in enforcing this code, as well as other applicable state laws and regulations, are insufficient to encourage timely repair of rental properties. Owners often avoid repairing sub-standard properties, thereby endangering the lives, safety, and property of tenants and severely limiting the ability of many people to remain in their homes safely.

In order to provide the Inspectional Services Department with the remedies necessary to effectively carry out its mandate under state law, to guarantee tenants of the City of Cambridge housing which complies with the state sanitary code and other applicable laws and regulations, and to encourage owners to maintain the buildings they own in compliance with this code, laws and regulations, the Cambridge City Council, in the exercise of its powers under Section 6 of the Home Rule Amendment, hereby enacts this ordinance under which administrative citations are issued to owners who violate the state sanitary code.

Section 2. Definitions

(A) "Administrative Citation" means a notice issued to an owner by the Inspectional Services Department, pursuant to this ordinance, which provides a statement of the terms under which the owner may be fined for failure to remedy violations of the State Sanitary Code and a statement of the owner's right to appeal the issuance of the administrative citation and/or fine.

(B) "Dwelling" means every building or shelter including but not limited to rooming houses and temporary housing used or intended for human habitation and every other structure or condition located within the same lot line whose existence causes or is likely to effect noncompliance with the provisions of 105 CMR 410.000.

(C) "Dwelling Unit" means the room or group of rooms within a dwelling used or intended for use by one family or household for living, sleeping, cooking and eating. Dwelling unit shall also mean a condominium unit.

(D) "Inspectional Services Department" means the legally designated health authority for the City of Cambridge, authorized by Chapter 84 of the Acts and Resolves of 1983, to enforce the state sanitary code through the inspection of rental units for violations of the code and the implementation of mechanisms to ensure compliance with repair orders.

(E) "Occupant" means every person over one year of age living or sleeping in a dwelling or dwelling unit.

(F) "Owner" means every person who alone or severally with others (a) has legal title to any rental unit, or parcel of land, vacant or otherwise, including a mobile

home park; or (b) has care, charge or control of any dwelling, rental unit, mobile dwelling unit or parcel of land, vacant or otherwise, including a mobile home park, in any capacity including but not limited to agent, executor, executrix, administrator, administratrix, trustee or guardian of the estate of the holder of legal title; or (c) mortgagee in possession; or (d) agent, trustee or other person appointed by the courts; (e) any officer or trustee of the association of unit owners of a condominium; (f) a bank or other lending institution in possession as a result of foreclosure; or (g) any person who operates a rooming house. The term "owner" includes landlords and lessors.

(G) "State sanitary code" means the state sanitary code, Code of Massachusetts Regulations codified at 105 400.00 - 419.00, adopted under the authority of Massachusetts General Laws, Chapter 111, §3 and §127A as it may be amended from time to time.

Section 3. Administrative Citations: Issuance

(A) Whenever the Inspectional Services Department finds any violation of any provision of the state sanitary code it shall issue, in addition to its order to make repairs, an administrative citation against the owner according to the procedures set out in this ordinance.

(B) The administrative citation shall incorporate by reference the order to make repairs and shall contain the following information:

- (1) the date of the inspection;

(2) the amount of fine which shall be assessed against the owner if the violation or violations are not remedied within the time frame set out in order to make repairs as well as the rate at which the fine shall escalate pursuant to Section 8(B) and (C) of this ordinance;

(3) the manner in which the owner may pay any fine assessed in accordance with the provisions of this ordinance; and (4) a description of the owner's appeal rights with respect to the issuance of the administrative citation and of any fine.

(C) The administrative citation shall be served on the owner, along with any orders to make repairs, in accordance with the provisions of the state sanitary code.

(D) A copy of the administrative citation shall also be served on the occupants of the dwelling or dwelling unit in which violations have been found and shall be posted in the common areas of the dwelling. If violations of the state sanitary code are found in the common areas of any dwelling, a copy of the administrative citation shall be served on each and every tenant of the dwelling.

(E) A copy of the administrative citation shall be retained by the Inspectional Services Department and be available for public inspection and copying.

Section 4. Repairs

(A) An owner shall make any and all repairs necessary to remedy any violations found by the Inspectional Services Department within the time frame stated

on the order to make repairs, unless he or she requests a hearing pursuant to the hearing regulations of the State Sanitary Code.

(B) The Inspectional Services Department shall, within five days after the dates for compliance specified in an order to repair issued pursuant to 105 CMR 410.830, make an onsite inspection to determine whether there has been compliance with its order. This inspection shall be made within 24 hours of the dates for compliance specified in an order, however, if one or more of the violations or conditions cited in the order to repair are determined to be conditions which may endanger the health or safety, and well-being of the occupant(s) as defined in 105 CMR 410.750. An inspection under 105 CMR 410.830 shall comply with the requirements of 105 CMR 410.822.

(C) If, upon re-inspection, it is determined that the owner has remedied the violations cited in the order to make repairs, the administrative citation shall so note this finding and shall be filed with the Inspectional Services Department.

(D) Copies of the administrative citation indicating that the violation has been remedied and no fine has been assessed shall be served on the same individuals who received notice of the initial administrative citation. This notice shall be served within five days of the re-inspection.

(E) If, upon re-inspection, it is determined that the owner has failed to remedy the violations cited, this shall be noted on the administrative citation and a fine shall be assessed against the owner in accordance with the terms of Section 6 of this ordinance.

(F) Copies of the administrative citation noting the assessment of a fine for failure to remedy the violations cited shall be served on the same individuals who received notice of the initial administrative citation within five days of the fine being assessed against the owner.

Section 5. Extensions

(A) An owner who has made a good faith effort to remedy any violations cited in an order to make repairs and an administrative citation may apply to the Inspectional Services Department for an extension of the time set for making repairs by requesting a hearing under the hearing provisions of the State Sanitary Code.

(B) A good faith effort shall be found to exist only if the owner provides evidence that the repairs cannot be completed within the required time frame. Such evidence shall be in the form of at least two written estimates from outside professionals, one of which the owner has accepted in writing, stating when the repairs will be made.

(C) In any case where an extension has been granted for the remedying of any violation, a new date shall be set by the Inspectional Services Department by which the owner shall remedy the violation and a re-inspection shall take place in accordance with Sections 4(C) through 4(F) of this ordinance.

(D) No extensions shall be granted in any case where an owner has received a fine for the same or similar violations within the twelve month period immediately preceding issuance of the current administrative citation.

(E) In no event shall the time frame for repairs including any extensions be greater than sixty days from the date of the issuance of the order to make repairs.

Section 6. Fines for Failure to Repair

(A) If an owner fails to remedy a violation cited in an order to make repairs within the allotted time frame, or fails to remedy the violation within the time frame set out in any extension granted under Section 5 of this ordinance, or fails to file a timely appeal, a fine shall be assessed against the owner.

(B) Notice of the assessment of a fine shall be served on the owner in accordance with the notice provisions of the State Sanitary Code.

(C) Notice of the fine shall be served on the same individuals who received notice of the initial administrative citation.

(D) The amount of the fine shall be set according to the following schedule:

(1) ~~\$500.00~~ ~~\$100.00~~ per day for each violation referred to in 105 CMR 410.830(A) and required to be corrected within twenty-four hours; or

(2) ~~\$250.00~~ ~~\$50.00~~ per day for each violation referred to in 105 CMR 410.830(B) and required to be repaired in an amount of time determined by the Inspectional Services Department but, in any event, no more than thirty days.

Section 7. Appeals of Fines

(A) An owner or occupant who is aggrieved by the issuance of a fine or by the failure of the Inspectional Services Department to fine an owner pursuant to this

ordinance may appeal to the Inspectional Services Department according to the following procedures:

(1) An appeal shall be filed within ten days of the date of the action appealed from;

(2) The appeal shall be in writing and shall state, in detail, the grounds for the appeal;

(B) The filing of a timely appeal shall stay the effect of the fine but shall not stay the owner's obligation to repair any violations cited.

(C) A hearing shall be held on the appeal following the same procedures available in an appeal of the issuance of an order to make repairs which are set out in 105 CMR §§ 400.850 and 400.860, except that any appeal to court shall be governed by the provisions of Massachusetts General Laws, Chapter 30A.

(D) Nothing in this section shall be construed to affect or impair the right to appeal the issuance of an order to make repairs.

Section 8. Failure To Pay Fine

(A) Notice of a fine which has been issued pursuant to Section 6 of this ordinance shall be served on the owner and on the occupants who received notice of the initial administrative citation.

(B) In addition, the owner shall be given notice that the fine shall automatically double if any violation cited in the administrative citation is not remedied within two weeks of service of the notice of the fine and shall automatically

triple if any violation is not remedied within one month of service of the notice of the fine.

(C) A property tax lien shall be taken by the City of Cambridge against the owner if the tripled fine is not paid within six months of service of the notice of the fine or the issuance of the next property tax bill, whichever is later, and the owner shall be notified of this action prior to its being taken.

(D) Any person aggrieved by the failure of the City of Cambridge to take such enforcement action, may seek injunctive relief in the district or superior court pursuant to Massachusetts General Laws, Chapters 214 and 218, §19C to require action by the City of Cambridge in accordance with its enforcement obligations under this section.

Section 9. Effect of Fine In Subsequent Court Actions

(A) A copy of the administrative citation indicating that a fine has been issued as a result of the owner's failure to remedy a violation cited in the administrative citation shall be prima facie evidence of a violation of Massachusetts General Laws, Chapter 111, §127A et seq. and Chapter 239, §8A in any legal action by or against the owner.

Section 10. Revenues Generated

(A) Each fiscal year the City Manager shall determine an accounting of the revenues generated by the implementation of this ordinance in excess of the cost of

~~administration and shall make a recommendation in the budget presented to the City Council for an appropriation of said funds to the appropriate city department or agency so that said revenues will be directed toward the repair or rehabilitation of deteriorated dwellings or dwelling units in the city. Any revenues generated by the implementation of this ordinance in excess of the cost of administering it shall be deposited by the Inspectional Services Department in a special fund and shall be allocated as follows: fifty per cent dedicated to providing financial assistance to owners who, due to financial hardship, are unable to remedy violations cited in an administrative citation; and fifty per cent dedicated to repairing dwellings and dwelling units which have so deteriorated as to constitute a public nuisance and which have been removed, by operation of law or a court order, from the control of the owner as a result of the deterioration.~~

Section 11. Regulations

The Department of Inspectional Services shall promulgate regulations consistent with the terms of this ordinance and any applicable state laws and regulations.

Section 12. Construction

Nothing in this ordinance shall be construed to conflict with the provisions of Massachusetts General Laws, Chapter 111, §127A, et seq. governing the authority and conduct of the Inspectional Services Department or with any other law or regulation

governing the rights and obligations of owners and tenants in the Commonwealth of Massachusetts.

Section 13. Severability

The provisions of this ordinance are severable. If any section or sections are declared invalid by a court of competent jurisdiction, the invalidity shall not affect the validity of any remaining section or sections.

Section 14. Effective Date

The provisions of this ordinance shall take effect three months from the date of its enactment.

DRAFT - October 9, 1991

Administrative Citations For Violations of the State Sanitary Code

Section 1. Declaration of Emergency

A serious public emergency exists in the City of Cambridge with respect to residential premises which are in violation of the state sanitary code, causing many citizens to live in unsafe conditions. The legal remedies available to the Inspectional Services Department in enforcing this code, as well as other applicable state laws and regulations, are insufficient to encourage timely repair of rental properties. Owners often avoid repairing sub-standard properties, thereby endangering the lives, safety, and property of tenants and severely limiting the ability of many people to remain in their homes safely.

In order to provide the Inspectional Services Department with the remedies necessary to effectively carry out its mandate under state law, to guarantee tenants of the City of Cambridge housing which complies with the state sanitary code and other applicable laws and regulations, and to encourage owners to maintain the buildings they own in compliance with this code, laws and regulations, the Cambridge City Council, in the exercise of its powers under Section 6 of the Home Rule Amendment, hereby enacts this ordinance under which administrative citations are issued to owners who violate the state sanitary code.

Section 2. Definitions

(A) "Administrative Citation" means a notice issued to an owner by the Inspectional Services Department, pursuant to this ordinance, which provides a statement of the terms under which the owner may be fined for failure to remedy violations of the State Sanitary Code and a statement of the owner's right to appeal the issuance of the administrative citation and/or fine.

(B) "Dwelling" means every building or shelter including but not limited to rooming houses and temporary housing used or intended for human habitation and every other structure or condition located within the same lot line whose existence causes or is likely to effect noncompliance with the provisions of 105 CMR 410.000.

(C) "Dwelling Unit" means the room or group of rooms within a dwelling used or intended for use by one family or household for living, sleeping, cooking and eating. Dwelling unit shall also mean a condominium unit.

(D) "Inspectional Services Department" means the legally designated health authority for the City of Cambridge, authorized by Chapter 84 of the Acts and Resolves of 1983, to enforce the state sanitary code through the inspection of rental units for violations of the code and the implementation of mechanisms to ensure compliance with repair orders.

(E) "Occupant" means every person over one year of age living or sleeping in a dwelling or dwelling unit.

(F) "Owner" means every person who alone or severally with others (a) has legal title to any rental unit, or parcel of land, vacant or otherwise, including a mobile

home park; or (b) has care, charge or control of any dwelling, rental unit, mobile dwelling unit or parcel of land, vacant or otherwise, including a mobile home park, in any capacity including but not limited to agent, executor, executrix, administrator, administratrix, trustee or guardian of the estate of the holder of legal title; or (c) mortgagee in possession; or (d) agent, trustee or other person appointed by the courts; (e) any officer or trustee of the association of unit owners of a condominium; (f) a bank or other lending institution in possession as a result of foreclosure; or (g) any person who operates a rooming house. The term "owner" includes landlords and lessors.

(G) "State sanitary code" means the state sanitary code, Code of Massachusetts Regulations codified at 105 400.00 - 419.00, adopted under the authority of Massachusetts General Laws, Chapter 111, §3 and §127A as it may be amended from time to time.

Section 3. Administrative Citations: Issuance

(A) Whenever the Inspectional Services Department finds any violation of any provision of the state sanitary code it shall issue, in addition to its order to make repairs, an administrative citation against the owner according to the procedures set out in this ordinance.

(B) The administrative citation shall incorporate by reference the order to make repairs and shall contain the following information:

(1) the date of the inspection;

(2) the amount of fine which shall be assessed against the owner if the violation or violations are not remedied within the time frame set out in order to make repairs as well as the rate at which the fine shall escalate pursuant to Section 8(B) and (C) of this ordinance;

(3) the manner in which the owner may pay any fine assessed in accordance with the provisions of this ordinance; and (4) a description of the owner's appeal rights with respect to the issuance of the administrative citation and of any fine.

(C) The administrative citation shall be served on the owner, along with any orders to make repairs, in accordance with the provisions of the state sanitary code.

(D) A copy of the administrative citation shall also be served on the occupants of the dwelling or dwelling unit in which violations have been found and shall be posted in the common areas of the dwelling. If violations of the state sanitary code are found in the common areas of any dwelling, a copy of the administrative citation shall be served on each and every tenant of the dwelling.

(E) A copy of the administrative citation shall be retained by the Inspectional Services Department and be available for public inspection and copying.

Section 4. Repairs

(A) An owner shall make any and all repairs necessary to remedy any violations found by the Inspectional Services Department within the time frame stated

on the order to make repairs, unless he or she requests a hearing pursuant to the hearing regulations of the State Sanitary Code.

(B) The Inspectional Services Department shall, within five days after the dates for compliance specified in an order to repair issued pursuant to 105 CMR 410.830, make an onsite inspection to determine whether there has been compliance with its order. This inspection shall be made within 24 hours of the dates for compliance specified in an order, however, if one or more of the violations or conditions cited in the order to repair are determined to be conditions which may endanger the health or safety, and well-being of the occupant(s) as defined in 105 CMR 410.750. An inspection under 105 CMR 410.830 shall comply with the requirements of 105 CMR 410.822.

(C) If, upon re-inspection, it is determined that the owner has remedied the violations cited in the order to make repairs, the administrative citation shall so note this finding and shall be filed with the Inspectional Services Department.

(D) Copies of the administrative citation indicating that the violation has been remedied and no fine has been assessed shall be served on the same individuals who received notice of the initial administrative citation. This notice shall be served within five days of the re-inspection.

(E) If, upon re-inspection, it is determined that the owner has failed to remedy the violations cited, this shall be noted on the administrative citation and a fine shall be assessed against the owner in accordance with the terms of Section 6 of this ordinance.

(F) Copies of the administrative citation noting the assessment of a fine for failure to remedy the violations cited shall be served on the same individuals who received notice of the initial administrative citation within five days of the fine being assessed against the owner.

Section 5. Extensions

(A) An owner who has made a good faith effort to remedy any violations cited in an order to make repairs and an administrative citation may apply to the Inspectional Services Department for an extension of the time set for making repairs by requesting a hearing under the hearing provisions of the State Sanitary Code.

(B) A good faith effort shall be found to exist only if the owner provides evidence that the repairs cannot be completed within the required time frame. Such evidence shall be in the form of at least two written estimates from outside professionals, one of which the owner has accepted in writing, stating when the repairs will be made.

(C) In any case where an extension has been granted for the remedying of any violation, a new date shall be set by the Inspectional Services Department by which the owner shall remedy the violation and a re-inspection shall take place in accordance with Sections 4(C) through 4(F) of this ordinance.

(D) No extensions shall be granted in any case where an owner has received a fine for the same or similar violations within the twelve month period immediately preceding issuance of the current administrative citation.

(E) In no event shall the time frame for repairs including any extensions be greater than sixty days from the date of the issuance of the order to make repairs.

Section 6. Fines for Failure to Repair

(A) If an owner fails to remedy a violation cited in an order to make repairs within the allotted time frame, or fails to remedy the violation within the time frame set out in any extension granted under Section 5 of this ordinance, or fails to file a timely appeal, a fine shall be assessed against the owner.

(B) Notice of the assessment of a fine shall be served on the owner in accordance with the notice provisions of the State Sanitary Code.

(C) Notice of the fine shall be served on the same individuals who received notice of the initial administrative citation.

(D) The amount of the fine shall be set according to the following schedule:

(1) ~~\$500.00~~ ~~\$100.00~~ per day for each violation referred to in 105 CMR 410.830(A) and required to be corrected within twenty-four hours; or

(2) ~~\$250.00~~ ~~\$50.00~~ per day for each violation referred to in 105 CMR 410.830(B) and required to be repaired in an amount of time determined by the Inspectional Services Department but, in any event, no more than thirty days.

Section 7. Appeals of Fines

(A) An owner or occupant who is aggrieved by the issuance of a fine or by the failure of the Inspectional Services Department to fine an owner pursuant to this

ordinance may appeal to the Inspectional Services Department according to the following procedures:

(1) An appeal shall be filed within ten days of the date of the action appealed from;

(2) The appeal shall be in writing and shall state, in detail, the grounds for the appeal;

(B) The filing of a timely appeal shall stay the effect of the fine but shall not stay the owner's obligation to repair any violations cited.

(C) A hearing shall be held on the appeal following the same procedures available in an appeal of the issuance of an order to make repairs which are set out in 105 CMR §§ 400.850 and 400.860, except that any appeal to court shall be governed by the provisions of Massachusetts General Laws, Chapter 30A.

(D) Nothing in this section shall be construed to affect or impair the right to appeal the issuance of an order to make repairs.

Section 8. Failure To Pay Fine

(A) Notice of a fine which has been issued pursuant to Section 6 of this ordinance shall be served on the owner and on the occupants who received notice of the initial administrative citation.

(B) In addition, the owner shall be given notice that the fine shall automatically double if any violation cited in the administrative citation is not remedied within two weeks of service of the notice of the fine and shall automatically

triple if any violation is not remedied within one month of service of the notice of the fine.

(C) A property tax lien shall be taken by the City of Cambridge against the owner if the tripled fine is not paid within six months of service of the notice of the fine or the issuance of the next property tax bill, whichever is later, and the owner shall be notified of this action prior to its being taken.

(D) Any person aggrieved by the failure of the City of Cambridge to take such enforcement action, may seek injunctive relief in the district or superior court pursuant to Massachusetts General Laws, Chapters 214 and 218, §19C to require action by the City of Cambridge in accordance with its enforcement obligations under this section.

Section 9. Effect of Fine In Subsequent Court Actions

(A) A copy of the administrative citation indicating that a fine has been issued as a result of the owner's failure to remedy a violation cited in the administrative citation shall be prima facie evidence of a violation of Massachusetts General Laws, Chapter 111, §127A et seq. and Chapter 239, §8A in any legal action by or against the owner.

Section 10. Revenues Generated

(A) Each fiscal year the City Manager shall determine an accounting of the revenues generated by the implementation of this ordinance in excess of the cost of

~~administration and shall make a recommendation in the budget presented to the City Council for an appropriation of said funds to the appropriate city department or agency so that said revenues will be directed toward the repair or rehabilitation of deteriorated dwellings or dwelling units in the city. Any revenues generated by the implementation of this ordinance in excess of the cost of administering it shall be deposited by the Inspectional Services Department in a special fund and shall be allocated as follows: fifty per cent dedicated to providing financial assistance to owners who, due to financial hardship, are unable to remedy violations cited in an administrative citation; and fifty per cent dedicated to repairing dwellings and dwelling units which have so deteriorated as to constitute a public nuisance and which have been removed, by operation of law or a court order, from the control of the owner as a result of the deterioration.~~

Section 11. Regulations

The Department of Inspectional Services shall promulgate regulations consistent with the terms of this ordinance and any applicable state laws and regulations.

Section 12. Construction

Nothing in this ordinance shall be construed to conflict with the provisions of Massachusetts General Laws, Chapter 111, §127A, et seq. governing the authority and conduct of the Inspectional Services Department or with any other law or regulation

governing the rights and obligations of owners and tenants in the Commonwealth of Massachusetts.

Section 13. Severability

The provisions of this ordinance are severable. If any section or sections are declared invalid by a court of competent jurisdiction, the invalidity shall not affect the validity of any remaining section or sections.

Section 14. Effective Date

The provisions of this ordinance shall take effect three months from the date of its enactment.

DRAFT - October 9, 1991

Administrative Citations For Violations of the State Sanitary Code

Section 1. Declaration of Emergency

A serious public emergency exists in the City of Cambridge with respect to residential premises which are in violation of the state sanitary code, causing many citizens to live in unsafe conditions. The legal remedies available to the Inspectional Services Department in enforcing this code, as well as other applicable state laws and regulations, are insufficient to encourage timely repair of rental properties. Owners often avoid repairing sub-standard properties, thereby endangering the lives, safety, and property of tenants and severely limiting the ability of many people to remain in their homes safely.

In order to provide the Inspectional Services Department with the remedies necessary to effectively carry out its mandate under state law, to guarantee tenants of the City of Cambridge housing which complies with the state sanitary code and other applicable laws and regulations, and to encourage owners to maintain the buildings they own in compliance with this code, laws and regulations, the Cambridge City Council, in the exercise of its powers under Section 6 of the Home Rule Amendment, hereby enacts this ordinance under which administrative citations are issued to owners who violate the state sanitary code.

Section 2. Definitions

(A) "Administrative Citation" means a notice issued to an owner by the Inspectional Services Department, pursuant to this ordinance, which provides a statement of the terms under which the owner may be fined for failure to remedy violations of the State Sanitary Code and a statement of the owner's right to appeal the issuance of the administrative citation and/or fine.

(B) "Dwelling" means every building or shelter including but not limited to rooming houses and temporary housing used or intended for human habitation and every other structure or condition located within the same lot line whose existence causes or is likely to effect noncompliance with the provisions of 105 CMR 410.000.

(C) "Dwelling Unit" means the room or group of rooms within a dwelling used or intended for use by one family or household for living, sleeping, cooking and eating. Dwelling unit shall also mean a condominium unit.

(D) "Inspectional Services Department" means the legally designated health authority for the City of Cambridge, authorized by Chapter 84 of the Acts and Resolves of 1983, to enforce the state sanitary code through the inspection of rental units for violations of the code and the implementation of mechanisms to ensure compliance with repair orders.

(E) "Occupant" means every person over one year of age living or sleeping in a dwelling or dwelling unit.

(F) "Owner" means every person who alone or severally with others (a) has legal title to any rental unit, or parcel of land, vacant or otherwise, including a mobile

home park; or (b) has care, charge or control of any dwelling, rental unit, mobile dwelling unit or parcel of land, vacant or otherwise, including a mobile home park, in any capacity including but not limited to agent, executor, executrix, administrator, administratrix, trustee or guardian of the estate of the holder of legal title; or (c) mortgagee in possession; or (d) agent, trustee or other person appointed by the courts; (e) any officer or trustee of the association of unit owners of a condominium; (f) a bank or other lending institution in possession as a result of foreclosure; or (g) any person who operates a rooming house. The term "owner" includes landlords and lessors.

(G) "State sanitary code" means the state sanitary code, Code of Massachusetts Regulations codified at 105 400.00 - 419.00, adopted under the authority of Massachusetts General Laws, Chapter 111, §3 and §127A as it may be amended from time to time.

Section 3. Administrative Citations: Issuance

(A) Whenever the Inspectional Services Department finds any violation of any provision of the state sanitary code it shall issue, in addition to its order to make repairs, an administrative citation against the owner according to the procedures set out in this ordinance.

(B) The administrative citation shall incorporate by reference the order to make repairs and shall contain the following information:

- (1) the date of the inspection;

(2) the amount of fine which shall be assessed against the owner if the violation or violations are not remedied within the time frame set out in order to make repairs as well as the rate at which the fine shall escalate pursuant to Section 8(B) and (C) of this ordinance;

(3) the manner in which the owner may pay any fine assessed in accordance with the provisions of this ordinance; and (4) a description of the owner's appeal rights with respect to the issuance of the administrative citation and of any fine.

(C) The administrative citation shall be served on the owner, along with any orders to make repairs, in accordance with the provisions of the state sanitary code.

(D) A copy of the administrative citation shall also be served on the occupants of the dwelling or dwelling unit in which violations have been found and shall be posted in the common areas of the dwelling. If violations of the state sanitary code are found in the common areas of any dwelling, a copy of the administrative citation shall be served on each and every tenant of the dwelling.

(E) A copy of the administrative citation shall be retained by the Inspectional Services Department and be available for public inspection and copying.

Section 4. Repairs

(A) An owner shall make any and all repairs necessary to remedy any violations found by the Inspectional Services Department within the time frame stated

on the order to make repairs, unless he or she requests a hearing pursuant to the hearing regulations of the State Sanitary Code.

(B) The Inspectional Services Department shall, within five days after the dates for compliance specified in an order to repair issued pursuant to 105 CMR 410.830, make an onsite inspection to determine whether there has been compliance with its order. This inspection shall be made within 24 hours of the dates for compliance specified in an order, however, if one or more of the violations or conditions cited in the order to repair are determined to be conditions which may endanger the health or safety, and well-being of the occupant(s) as defined in 105 CMR 410.750. An inspection under 105 CMR 410.830 shall comply with the requirements of 105 CMR 410.822.

(C) If, upon re-inspection, it is determined that the owner has remedied the violations cited in the order to make repairs, the administrative citation shall so note this finding and shall be filed with the Inspectional Services Department.

(D) Copies of the administrative citation indicating that the violation has been remedied and no fine has been assessed shall be served on the same individuals who received notice of the initial administrative citation. This notice shall be served within five days of the re-inspection.

(E) If, upon re-inspection, it is determined that the owner has failed to remedy the violations cited, this shall be noted on the administrative citation and a fine shall be assessed against the owner in accordance with the terms of Section 6 of this ordinance.

(F) Copies of the administrative citation noting the assessment of a fine for failure to remedy the violations cited shall be served on the same individuals who received notice of the initial administrative citation within five days of the fine being assessed against the owner.

Section 5. Extensions

(A) An owner who has made a good faith effort to remedy any violations cited in an order to make repairs and an administrative citation may apply to the Inspectional Services Department for an extension of the time set for making repairs by requesting a hearing under the hearing provisions of the State Sanitary Code.

(B) A good faith effort shall be found to exist only if the owner provides evidence that the repairs cannot be completed within the required time frame. Such evidence shall be in the form of at least two written estimates from outside professionals, one of which the owner has accepted in writing, stating when the repairs will be made.

(C) In any case where an extension has been granted for the remedying of any violation, a new date shall be set by the Inspectional Services Department by which the owner shall remedy the violation and a re-inspection shall take place in accordance with Sections 4(C) through 4(F) of this ordinance.

(D) No extensions shall be granted in any case where an owner has received a fine for the same or similar violations within the twelve month period immediately preceding issuance of the current administrative citation.

(E) In no event shall the time frame for repairs including any extensions be greater than sixty days from the date of the issuance of the order to make repairs.

Section 6. Fines for Failure to Repair

(A) If an owner fails to remedy a violation cited in an order to make repairs within the allotted time frame, or fails to remedy the violation within the time frame set out in any extension granted under Section 5 of this ordinance, or fails to file a timely appeal, a fine shall be assessed against the owner.

(B) Notice of the assessment of a fine shall be served on the owner in accordance with the notice provisions of the State Sanitary Code.

(C) Notice of the fine shall be served on the same individuals who received notice of the initial administrative citation.

(D) The amount of the fine shall be set according to the following schedule:

(1) ~~\$500.00~~ ~~\$100.00~~ per day for each violation referred to in 105 CMR 410.830(A) and required to be corrected within twenty-four hours; or

(2) ~~\$250.00~~ ~~\$50.00~~ per day for each violation referred to in 105 CMR 410.830(B) and required to be repaired in an amount of time determined by the Inspectional Services Department but, in any event, no more than thirty days.

Section 7. Appeals of Fines

(A) An owner or occupant who is aggrieved by the issuance of a fine or by the failure of the Inspectional Services Department to fine an owner pursuant to this

ordinance may appeal to the Inspectional Services Department according to the following procedures:

(1) An appeal shall be filed within ten days of the date of the action appealed from;

(2) The appeal shall be in writing and shall state, in detail, the grounds for the appeal;

(B) The filing of a timely appeal shall stay the effect of the fine but shall not stay the owner's obligation to repair any violations cited.

(C) A hearing shall be held on the appeal following the same procedures available in an appeal of the issuance of an order to make repairs which are set out in 105 CMR §§ 400.850 and 400.860, except that any appeal to court shall be governed by the provisions of Massachusetts General Laws, Chapter 30A.

(D) Nothing in this section shall be construed to affect or impair the right to appeal the issuance of an order to make repairs.

Section 8. Failure To Pay Fine

(A) Notice of a fine which has been issued pursuant to Section 6 of this ordinance shall be served on the owner and on the occupants who received notice of the initial administrative citation.

(B) In addition, the owner shall be given notice that the fine shall automatically double if any violation cited in the administrative citation is not remedied within two weeks of service of the notice of the fine and shall automatically

triple if any violation is not remedied within one month of service of the notice of the fine.

(C) A property tax lien shall be taken by the City of Cambridge against the owner if the tripled fine is not paid within six months of service of the notice of the fine or the issuance of the next property tax bill, whichever is later, and the owner shall be notified of this action prior to its being taken.

(D) Any person aggrieved by the failure of the City of Cambridge to take such enforcement action, may seek injunctive relief in the district or superior court pursuant to Massachusetts General Laws, Chapters 214 and 218, §19C to require action by the City of Cambridge in accordance with its enforcement obligations under this section.

Section 9. Effect of Fine In Subsequent Court Actions

(A) A copy of the administrative citation indicating that a fine has been issued as a result of the owner's failure to remedy a violation cited in the administrative citation shall be prima facie evidence of a violation of Massachusetts General Laws, Chapter 111, §127A et seq. and Chapter 239, §8A in any legal action by or against the owner.

Section 10. Revenues Generated

(A) Each fiscal year the City Manager shall determine an accounting of the revenues generated by the implementation of this ordinance in excess of the cost of

~~administration and shall make a recommendation in the budget presented to the City Council for an appropriation of said funds to the appropriate city department or agency so that said revenues will be directed toward the repair or rehabilitation of deteriorated dwellings or dwelling units in the city. Any revenues generated by the implementation of this ordinance in excess of the cost of administering it shall be deposited by the Inspectional Services Department in a special fund and shall be allocated as follows: fifty per cent dedicated to providing financial assistance to owners who, due to financial hardship, are unable to remedy violations cited in an administrative citation; and fifty per cent dedicated to repairing dwellings and dwelling units which have so deteriorated as to constitute a public nuisance and which have been removed, by operation of law or a court order, from the control of the owner as a result of the deterioration.~~

Section 11. Regulations

The Department of Inspectional Services shall promulgate regulations consistent with the terms of this ordinance and any applicable state laws and regulations.

Section 12. Construction

Nothing in this ordinance shall be construed to conflict with the provisions of Massachusetts General Laws, Chapter 111, §127A, et seq. governing the authority and conduct of the Inspectional Services Department or with any other law or regulation

governing the rights and obligations of owners and tenants in the Commonwealth of Massachusetts.

Section 13. Severability

The provisions of this ordinance are severable. If any section or sections are declared invalid by a court of competent jurisdiction, the invalidity shall not affect the validity of any remaining section or sections.

Section 14. Effective Date

The provisions of this ordinance shall take effect three months from the date of its enactment.



FIRST PUBLICATION NO. 2557.

City of Cambridge

In the Year One Thousand, Nine Hundred Ninety-one

AN ORDINANCE

In amendment to an ordinance entitled the "Cambridge Municipal Code."

Be it ordained by the City Council of the City of Cambridge as follows:

That Title 8 (Health and Safety) of the Cambridge Municipal Code is hereby amended by adding thereto the following new Chapter 8.60 (Enforcement of State Sanitary Code):

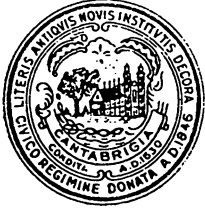
Chapter 8.60

ENFORCEMENT OF STATE SANITARY CODE

NOTE: Pursuant to the provisions of General Laws, Chapter 40, Section 32A, Tercentenary Edition, the ordinance as aforesaid which exceeds in length eight octavo pages of ordinary book print may be summarized for publication in a newspaper of general circulation in the city with the further provision that said Zoning Ordinance may be examined and obtained at the City Clerk's Office during office hours and that any objection to its invalidity by reason of any defect in the procedure of adoption may only be made within ninety days after the posting or the second publication.

Passed to a second reading at the City Council meeting held on October 21, 1991 and on or after November 4, 1991 the question comes on passing to be ordained.

ATTEST:- John E. Flynn, Deputy City Clerk.



City of Cambridge

In the Year One Thousand, Nine Hundred and Ninety-One

AN ORDINANCE

In amendment to an ordinance entitled the "Cambridge Municipal Code."

That Title 8 (Health and Safety) of the Cambridge Municipal Code is hereby amended by adding thereto the following new Chapter 8.60 (Enforcement of State Sanitary Code):

Chapter 8.60

ENFORCEMENT OF STATE SANITARY CODE

Sections

8.60.010	Declaration of Emergency
8.60.020	Definitions
8.60.030	Administrative Citations; Issuance
8.60.040	Repairs
8.60.050	Extensions
8.60.060	Fines for Failure to Repair
8.60.070	Appeals of Fines
8.60.080	Failure to Pay Fine
8.60.090	Effect of Fines in Subsequent Actions
8.60.100	Revenues Generated
8.60.110	Regulations
8.60.120	Construction
8.60.130	Severability
8.60.140	Effective Date

8.60.010 Declaration of Emergency

A serious public emergency exists in the City of Cambridge with respect to residential premises which are in violation of the State Sanitary Code, causing many citizens to live in unsafe conditions. The legal remedies available to the Inspectional Services Department in enforcing this code, as well as other applicable state laws and regulations, are insufficient to encourage timely repair of rental properties. Owners often avoid repairing sub-standard properties, thereby endangering the lives, safety, and property of tenants and severely limiting the ability of many people to remain in their homes safely.

In order to provide the Inspectional Services Department with the remedies necessary to effectively carry out its mandate under state law, to guarantee tenants of the City of Cambridge housing which complies with the State Sanitary Code and other applicable laws and regulations, and to encourage owners to maintain the buildings they own in compliance with this code, laws and regulations, the Cambridge City Council, in the exercise of its powers under Section 6 of the Home Rule Amendment, hereby enacts this ordinance under which administrative citations are issued to owners who violate the State Sanitary Code.

8.60.020 Definitions

(A) "Administrative Citation" means a notice issued to an owner by the Inspectional Services Department, pursuant to this Chapter, which provides a statement of the terms under which the owner may be fined for failure to remedy violations of the State Sanitary Code and a statement of the owner's right to appeal the issuance of the administrative citation and/or fine.

(B) "Dwelling" means every building or shelter including but not limited to rooming houses and temporary housing used or intended for human habitation and every other structure or condition located within the same lot line whose existence causes or is likely to effect noncompliance with the provisions of 105 CMR 410.000.

(C) "Dwelling Unit" means the room or group of rooms within a dwelling used or intended for use by one family or household for living, sleeping, cooking and eating. Dwelling unit shall also mean a condominium unit.

(D) "Inspectional Services Department" means the legally designated health authority for the City of Cambridge, authorized by Chapter 84 of the Acts and Resolves of 1983, to enforce the State Sanitary Code through the inspection of rental units for violations of the code and the implementation of mechanisms to ensure compliance with repair orders.

(E) "Occupant" means every person over one year of age living or sleeping in a dwelling or dwelling unit.

(F) "Owner" means every person who alone or severally with others (a) has legal title to any rental unit, or parcel of land, vacant or otherwise, including a mobile home park; or (b) has care, charge or control of any dwelling, rental unit, mobile dwelling unit or parcel of land, vacant or otherwise, including a mobile home park, in any capacity including but not limited to agent, executor, executrix, administrator, administratrix, trustee or guardian of the estate of the holder of legal title; or (c) mortgagee in possession; or (d) agent, trustee or other person appointed by the courts; (e) any officer or trustee of the association of unit owners of a condominium; (f) a bank or other lending institution in possession as a result of foreclosure; or (g) any person who operates a rooming house. The term "owner" includes landlords and lessors.

(G) "State Sanitary Code" means the State Sanitary Code, Code of Massachusetts Regulations codified at 105 CMR 400.00 - 419.00, adopted under the authority of Massachusetts General Laws, Chapter 111, §3 and §127A as it may be amended from time to time.

8.60.030 Administrative Citations; Issuance

(A) Whenever the Inspectional Services Department finds any violation of any provision of the State Sanitary Code it shall issue, in addition to its order to make repairs, an administrative citation against the owner according to the procedures set out in this Chapter.

(B) The administrative citation shall incorporate by reference the order to make repairs and shall contain the following information:

(1) the date of the inspection;

(2) the amount of fine which shall be assessed against the owner if the violation or violations are not remedied within the time set out in the order to make repairs as well as the rate at which the fine shall escalate pursuant to Section 8.60.080 (B) of this Chapter;

(3) the manner in which the owner may pay any fine assessed in accordance with the provisions of this Chapter; and

(4) a description of the owner's appeal rights with respect to the issuance of the administrative citation and of any fine.

(C) The administrative citation shall be served on the owner, along with any orders to make repairs, in accordance with the provisions of the State Sanitary Code;

(D) A copy of the administrative citation shall also be served on the occupants of the dwelling or dwelling unit in which violations have been found and shall be posted in the common areas of the dwelling. If violations of the State Sanitary Code are found in the common areas of any dwelling, a copy of the administrative citation shall be served on each and every tenant of the dwelling.

(E) A copy of the administrative citation shall be retained by the Inspectional Services Department and be available for public inspection and copying.

8.60.040 Repairs

(A) An owner shall make any and all repairs necessary to remedy any violations found by the Inspectional Services Department within the time stated on the order to make repairs, unless he or she requests a hearing pursuant to the hearing regulations of the State Sanitary Code.

(B) The Inspectional Services Department shall, within five days after the dates for compliance specified in an order to repair issued pursuant to 105 CMR 410.830, make an on-site inspection to determine whether there has been compliance with its order. This inspection shall be made within 24 hours of the dates for compliance specified in an order, however, if one or more of the violations or conditions cited in the order to repair are determined to be conditions which may endanger the health or safety, and well being of the occupant(s) as defined in 105 CMR 410.750. An inspection under 105 CMR 410.830 shall comply with the requirements of 105 CMR 410.822.

(c) If, upon re-inspection, it is determined that the Owner has remedied the violations cited in the order to make repairs, the administrative citation shall note this finding and shall be filed with the Inspectional Services Department.

(D) Copies of the administrative citation indicating that the violation has been remedied and no fine has been assessed shall be served on the same individuals who received notice of the initial administrative citation. This notice shall be served within five days of the re-inspection.

(E) If, upon re-inspection, it is determined that the owner has failed to remedy the violations cited, this shall be noted on the administrative citation and a fine shall be assessed against the owner in accordance with the terms of Section 8.60.060. of this Chapter.

(F) Copies of the administrative citation noting the assessment of a fine for failure to remedy the violations cited shall be served on the same individuals who received notice of the initial administrative citation within five days of the fine being assessed against the owner.

8.60.050 Extensions

(A) An owner who has made a good faith effort to remedy any violations cited in an order to make repairs and an administrative citation may apply to the Inspectional Services Department for an extension of the time set for making repairs by requesting a hearing under the hearing provisions of the State Sanitary Code.

(B) A good faith effort shall be found to exist only if the owner provides evidence that the repairs cannot be completed within the required time. Such evidence shall be in the form of at least

two written estimates from outside professionals, one of which the owner has accepted in writing, stating when the repairs will be made.

(C) In any case where an extension has been granted for the remedying of any violation, a new date shall be set by the Inspectional Services Department by which the owner shall remedy the violation and a re-inspection shall take place in accordance with Section 8.60.040 (C) through (F) of this Chapter.

(D) No extensions shall be granted in any case where an owner has received a fine for the same or similar violations within the twelve month period immediately preceding issuance of the current administrative citation.

(E) In no event shall the time allowed for repairs including any extensions be greater than sixty days from the date of the issuance of the order to make repairs.

8.60.060 Fines for Failure to Repair

(A) If an owner fails to remedy a violation cited in an order to make repairs within the allotted time, or fails to remedy the violation within the time set out in any extension granted under Section 8.60.050 of this Chapter, or fails to file a timely appeal, a fine shall be assessed against the owner.

(B) Notice of the assessment of a fine shall be served on the owner in accordance with the notice provisions of the State Sanitary Code.

(C) Notice of the fine shall be served on the same individuals who received notice of the initial administrative citation.

(D) The amount of the fine shall be set according to the following schedule:

(1) \$100.00 per day for each violation referred to in 105 CMR 410.830 (A) and required to be corrected within twenty-four hours; or

(2) \$50.00 per day for each violation referred to in 105 CMR 401.830 (B) and required to be repaired in an amount of time determined by the Inspectional Service Department but, in any event, no more than thirty days.

8.60.070 Appeals of Fines

(A) An owner or occupant who is aggrieved by the issuance of a fine or by the failure of the Inspectional Services Department to fine an owner pursuant to this Chapter may appeal to the Inspectional Services Department according to the following procedures:

(1) An appeal shall be filed within ten days of the date of the action appealed from;

(2) The appeal shall be in writing and shall state, in detail, the grounds for the appeal;

(B) The filing of a timely appeal shall stay the effect of the fine but shall not stay the owner's obligation to repair any violations cited.

(C) A hearing shall be held on the appeal following the same procedures available in an appeal of the issuance of an order to make repairs which are set out in 105 CMR §§ 410.850 and 410.860, except that any appeal to court shall be governed by the provisions of Massachusetts General Laws, Chapter 30A.

(D) Nothing in this section shall be construed to affect or impair the right to appeal the issuance of an order to make repairs.

8.60.080 Failure to Pay Fines

(A) Notice of a fine which has been issued pursuant to Section 8.60.060 of this Chapter shall be served on the owner and on the occupants who receive notice of the initial administrative citation.

(B) In addition, the owner shall be given notice that the fine shall automatically double if any violation cited in the administrative citation is not remedied within two weeks of service of the notice of the fine and shall automatically triple if any violation is not remedied within one month of service of the notice of the fine.

(C) A property tax lien shall be taken by the City of Cambridge against the owner if the tripled fine is not paid within six months of service of the notice of the fine or the issuance of the next property tax bill, whichever is later, and the owner shall be notified of this action prior to its being taken.

(D) Any person aggrieved by the failure of the City of Cambridge to take such enforcement action, may seek injunctive relief in the district or superior court pursuant to Massachusetts General Laws, Chapter 214 and 218, §19C to require action by the City of Cambridge in accordance with its enforcement obligations under this section.

8.60.090 Effect of Fine In Subsequent Court Actions

(A) A copy of the administrative citation indicating that a fine has been issued as a result of the owner's failure to remedy a violation cited in the administrative citation shall be prima facie evidence of a violation of Massachusetts General Laws, Chapter 111, §127A et seq. and Chapter 239, §8A in any legal action by or against the owner.

8.60.100 Revenues Generated

(A) Each fiscal year the City Manager shall determine an accounting of the revenues generated by the implementation of this ordinance in excess of the cost of administration and shall make a recommendation in the budget presented to the City Council for an appropriation of said funds to the appropriate city department or agency so that said revenues will be directed toward the repair or rehabilitation of deteriorated dwellings or dwelling units in the city.

8.60.110 Regulations

The Commissioner of Inspectional Services shall promulgate regulations consistent with the terms of this Chapter and any applicable state laws and regulations.

8.60.120 Construction

Nothing in this Chapter shall be construed to conflict with the provisions of Massachusetts General Laws, Chapter 111, § 127A, et seq. governing the authority and conduct of the Inspectional Services Department or with any other law or regulation governing the rights and obligations of owners and tenants in the Commonwealth Of Massachusetts.

8.60.130 Severability

The provisions of this Chapter are severable. If any section or sections are declared invalid by a court of competent jurisdiction, the invalidity shall not affect the validity of any remaining section or sections.

8.60.140 Effective Date

The provisions of this Chapter shall take effect three months from the date of its enactment.

Ordinance #3\HealthPo.bd\Sanitar.cod

Draft - October 22, 1991

DRAFT - October 9, 1991

Administrative Citations For Violations of the State Sanitary Code

Section 1. Declaration of Emergency

A serious public emergency exists in the City of Cambridge with respect to residential premises which are in violation of the state sanitary code, causing many citizens to live in unsafe conditions. The legal remedies available to the Inspectional Services Department in enforcing this code, as well as other applicable state laws and regulations, are insufficient to encourage timely repair of rental properties. Owners often avoid repairing sub-standard properties, thereby endangering the lives, safety, and property of tenants and severely limiting the ability of many people to remain in their homes safely.

In order to provide the Inspectional Services Department with the remedies necessary to effectively carry out its mandate under state law, to guarantee tenants of the City of Cambridge housing which complies with the state sanitary code and other applicable laws and regulations, and to encourage owners to maintain the buildings they own in compliance with this code, laws and regulations, the Cambridge City Council, in the exercise of its powers under Section 6 of the Home Rule Amendment, hereby enacts this ordinance under which administrative citations are issued to owners who violate the state sanitary code.

Section 2. Definitions

(A) "Administrative Citation" means a notice issued to an owner by the Inspectional Services Department, pursuant to this ordinance, which provides a statement of the terms under which the owner may be fined for failure to remedy violations of the State Sanitary Code and a statement of the owner's right to appeal the issuance of the administrative citation and/or fine.

(B) "Dwelling" means every building or shelter including but not limited to rooming houses and temporary housing used or intended for human habitation and every other structure or condition located within the same lot line whose existence causes or is likely to effect noncompliance with the provisions of 105 CMR 410.000.

(C) "Dwelling Unit" means the room or group of rooms within a dwelling used or intended for use by one family or household for living, sleeping, cooking and eating. Dwelling unit shall also mean a condominium unit.

(D) "Inspectional Services Department" means the legally designated health authority for the City of Cambridge, authorized by Chapter 84 of the Acts and Resolves of 1983, to enforce the state sanitary code through the inspection of rental units for violations of the code and the implementation of mechanisms to ensure compliance with repair orders.

(E) "Occupant" means every person over one year of age living or sleeping in a dwelling or dwelling unit.

(F) "Owner" means every person who alone or severally with others (a) has legal title to any rental unit, or parcel of land, vacant or otherwise, including a mobile

home park; or (b) has care, charge or control of any dwelling, rental unit, mobile dwelling unit or parcel of land, vacant or otherwise, including a mobile home park, in any capacity including but not limited to agent, executor, executrix, administrator, administratrix, trustee or guardian of the estate of the holder of legal title; or (c) mortgagee in possession; or (d) agent, trustee or other person appointed by the courts; (e) any officer or trustee of the association of unit owners of a condominium; (f) a bank or other lending institution in possession as a result of foreclosure; or (g) any person who operates a rooming house. The term "owner" includes landlords and lessors.

(G) "State sanitary code" means the state sanitary code, Code of Massachusetts Regulations codified at 105 400.00 - 419.00, adopted under the authority of Massachusetts General Laws, Chapter 111, §3 and §127A as it may be amended from time to time.

Section 3. Administrative Citations: Issuance

(A) Whenever the Inspectional Services Department finds any violation of any provision of the state sanitary code it shall issue, in addition to its order to make repairs, an administrative citation against the owner according to the procedures set out in this ordinance.

(B) The administrative citation shall incorporate by reference the order to make repairs and shall contain the following information:

- (1) the date of the inspection;

(2) the amount of fine which shall be assessed against the owner if the violation or violations are not remedied within the time frame set out in order to make repairs as well as the rate at which the fine shall escalate pursuant to Section 8(B) and (C) of this ordinance;

(3) the manner in which the owner may pay any fine assessed in accordance with the provisions of this ordinance; and (4) a description of the owner's appeal rights with respect to the issuance of the administrative citation and of any fine.

(C) The administrative citation shall be served on the owner, along with any orders to make repairs, in accordance with the provisions of the state sanitary code.

(D) A copy of the administrative citation shall also be served on the occupants of the dwelling or dwelling unit in which violations have been found and shall be posted in the common areas of the dwelling. If violations of the state sanitary code are found in the common areas of any dwelling, a copy of the administrative citation shall be served on each and every tenant of the dwelling.

(E) A copy of the administrative citation shall be retained by the Inspectional Services Department and be available for public inspection and copying.

Section 4. Repairs

(A) An owner shall make any and all repairs necessary to remedy any violations found by the Inspectional Services Department within the time frame stated

on the order to make repairs, unless he or she requests a hearing pursuant to the hearing regulations of the State Sanitary Code.

(B) The Inspectional Services Department shall, within five days after the dates for compliance specified in an order to repair issued pursuant to 105 CMR 410.830, make an onsite inspection to determine whether there has been compliance with its order. This inspection shall be made within 24 hours of the dates for compliance specified in an order, however, if one or more of the violations or conditions cited in the order to repair are determined to be conditions which may endanger the health or safety, and well-being of the occupant(s) as defined in 105 CMR 410.750. An inspection under 105 CMR 410.830 shall comply with the requirements of 105 CMR 410.822.

(C) If, upon re-inspection, it is determined that the owner has remedied the violations cited in the order to make repairs, the administrative citation shall so note this finding and shall be filed with the Inspectional Services Department.

(D) Copies of the administrative citation indicating that the violation has been remedied and no fine has been assessed shall be served on the same individuals who received notice of the initial administrative citation. This notice shall be served within five days of the re-inspection.

(E) If, upon re-inspection, it is determined that the owner has failed to remedy the violations cited, this shall be noted on the administrative citation and a fine shall be assessed against the owner in accordance with the terms of Section 6 of this ordinance.

(F) Copies of the administrative citation noting the assessment of a fine for failure to remedy the violations cited shall be served on the same individuals who received notice of the initial administrative citation within five days of the fine being assessed against the owner.

Section 5. Extensions

(A) An owner who has made a good faith effort to remedy any violations cited in an order to make repairs and an administrative citation may apply to the Inspectional Services Department for an extension of the time set for making repairs by requesting a hearing under the hearing provisions of the State Sanitary Code.

(B) A good faith effort shall be found to exist only if the owner provides evidence that the repairs cannot be completed within the required time frame. Such evidence shall be in the form of at least two written estimates from outside professionals, one of which the owner has accepted in writing, stating when the repairs will be made.

(C) In any case where an extension has been granted for the remedying of any violation, a new date shall be set by the Inspectional Services Department by which the owner shall remedy the violation and a re-inspection shall take place in accordance with Sections 4(C) through 4(F) of this ordinance.

(D) No extensions shall be granted in any case where an owner has received a fine for the same or similar violations within the twelve month period immediately preceding issuance of the current administrative citation.

(E) In no event shall the time frame for repairs including any extensions be greater than sixty days from the date of the issuance of the order to make repairs.

Section 6. Fines for Failure to Repair

(A) If an owner fails to remedy a violation cited in an order to make repairs within the allotted time frame, or fails to remedy the violation within the time frame set out in any extension granted under Section 5 of this ordinance, or fails to file a timely appeal, a fine shall be assessed against the owner.

(B) Notice of the assessment of a fine shall be served on the owner in accordance with the notice provisions of the State Sanitary Code.

(C) Notice of the fine shall be served on the same individuals who received notice of the initial administrative citation.

(D) The amount of the fine shall be set according to the following schedule:

(1) ~~\$500.00~~ ~~\$100.00~~ per day for each violation referred to in 105 CMR 410.830(A) and required to be corrected within twenty-four hours; or

(2) ~~\$250.00~~ ~~\$50.00~~ per day for each violation referred to in 105 CMR 410.830(B) and required to be repaired in an amount of time determined by the Inspectional Services Department but, in any event, no more than thirty days.

Section 7. Appeals of Fines

(A) An owner or occupant who is aggrieved by the issuance of a fine or by the failure of the Inspectional Services Department to fine an owner pursuant to this

ordinance may appeal to the Inspectional Services Department according to the following procedures:

(1) An appeal shall be filed within ten days of the date of the action appealed from;

(2) The appeal shall be in writing and shall state, in detail, the grounds for the appeal;

(B) The filing of a timely appeal shall stay the effect of the fine but shall not stay the owner's obligation to repair any violations cited.

(C) A hearing shall be held on the appeal following the same procedures available in an appeal of the issuance of an order to make repairs which are set out in 105 CMR §§ 400.850 and 400.860, except that any appeal to court shall be governed by the provisions of Massachusetts General Laws, Chapter 30A.

(D) Nothing in this section shall be construed to affect or impair the right to appeal the issuance of an order to make repairs.

Section 8. Failure To Pay Fine

(A) Notice of a fine which has been issued pursuant to Section 6 of this ordinance shall be served on the owner and on the occupants who received notice of the initial administrative citation.

(B) In addition, the owner shall be given notice that the fine shall automatically double if any violation cited in the administrative citation is not remedied within two weeks of service of the notice of the fine and shall automatically

triple if any violation is not remedied within one month of service of the notice of the fine.

(C) A property tax lien shall be taken by the City of Cambridge against the owner if the tripled fine is not paid within six months of service of the notice of the fine or the issuance of the next property tax bill, whichever is later, and the owner shall be notified of this action prior to its being taken.

(D) Any person aggrieved by the failure of the City of Cambridge to take such enforcement action, may seek injunctive relief in the district or superior court pursuant to Massachusetts General Laws, Chapters 214 and 218, §19C to require action by the City of Cambridge in accordance with its enforcement obligations under this section.

Section 9. Effect of Fine In Subsequent Court Actions

(A) A copy of the administrative citation indicating that a fine has been issued as a result of the owner's failure to remedy a violation cited in the administrative citation shall be prima facie evidence of a violation of Massachusetts General Laws, Chapter 111, §127A et seq. and Chapter 239, §8A in any legal action by or against the owner.

Section 10. Revenues Generated

(A) Each fiscal year the City Manager shall determine an accounting of the revenues generated by the implementation of this ordinance in excess of the cost of

~~administration and shall make a recommendation in the budget presented to the City Council for an appropriation of said funds to the appropriate city department or agency so that said revenues will be directed toward the repair or rehabilitation of deteriorated dwellings or dwelling units in the city. Any revenues generated by the implementation of this ordinance in excess of the cost of administering it shall be deposited by the Inspectional Services Department in a special fund and shall be allocated as follows: fifty per cent dedicated to providing financial assistance to owners who, due to financial hardship, are unable to remedy violations cited in an administrative citation; and fifty per cent dedicated to repairing dwellings and dwelling units which have so deteriorated as to constitute a public nuisance and which have been removed, by operation of law or a court order, from the control of the owner as a result of the deterioration.~~

Section 11. Regulations

The Department of Inspectional Services shall promulgate regulations consistent with the terms of this ordinance and any applicable state laws and regulations.

Section 12. Construction

Nothing in this ordinance shall be construed to conflict with the provisions of Massachusetts General Laws, Chapter 111, §127A, et seq. governing the authority and conduct of the Inspectional Services Department or with any other law or regulation

governing the rights and obligations of owners and tenants in the Commonwealth of Massachusetts.

Section 13. Severability

The provisions of this ordinance are severable. If any section or sections are declared invalid by a court of competent jurisdiction, the invalidity shall not affect the validity of any remaining section or sections.

Section 14. Effective Date

The provisions of this ordinance shall take effect three months from the date of its enactment.



OFFICE OF THE CITY CLERK

CITY OF CAMBRIDGE

CITY HALL, CAMBRIDGE, MASSACHUSETTS 02139

JOSEPH E. CONNARTON
CITY CLERK

(617) 349-4260

JOHN E. FLYNN
DEPUTY CITY CLERK

April 22, 1991

Russell B. Higley
City Solicitor
City Hall
Cambridge, MA 02139

Dear Sir:

I am in receipt of a communication from Councillor Duehay who has instructed me to secure from your office a review of the Ordinance pertaining to Administrative Citations for Violations of the State Sanitary Code so that it is in context with the Municipal Code of the City.

Councillor Duehay is under the assumption that the Home Rule legislation will not be required due to the way the ordinance was been drafted by Judith Lennett, Chief Counsel for Cambridge and Somerville Legal Services, Inc.

Please inform me, prior to the Ordinance Committee hearing which is scheduled for May 29, 1991 at 5:30 p. m., if this Home Rule legislation is not required and further that the content has been prepared for incorporation into the Municipal Code of the City of Cambridge.

Thank you for your cooperation in this matter.

Sincerely yours,

Joseph E. Connarton
City Clerk

JEC/dl



CITY OF CAMBRIDGE
MASSACHUSETTS 02139 • 617-498-9094

Councillor Francis H. Duehay
26 LOWELL STREET
CAMBRIDGE, MASSACHUSETTS 02138
617-547-0271

April 18, 1991

Mr. Joseph E. Connarton, City Clerk
City Hall
Cambridge, MA 02139

Dear Joe:

I have scheduled an Ordinance Committee meeting for Wednesday, May 29, 1991 at 5:30 p.m. to hear the Ordinance introduced by Councillor Cyr entitled "Administrative Citations for Violations of the State Sanitary Code." there may be other items we should also schedule for that date.

I am enclosing copies of the Ordinance and a summary supplied by Councillor Cyr. Well before the Committee hearing, may I request to you to secure the Law Department's review of this Ordinance. Specifically, I have been told by the principal drafter of the Ordinance that it has been drafted in such a way as to not require state enabling legislation. The person who has drafted this Ordinance is Judith Lennett, Chief Counsel for Cambridge and Somerville Legal Services, Inc. (494-1800). Ms. Lennett has agreed to respond to any inquiries the Law Department may have on this point.

Sincerely,

A handwritten signature in black ink, appearing to read "Francis H. Duehay".

Francis H. Duehay

enclosure

cc: Mr. Robert W. Healy
Councillor Ed Cyr
Judith Lennett, Esquire
Mr. Russell B. Higley
Mr. Neil Rohr

Administrative Citations For Violations of the
State Sanitary Code

SECTION-BY-SECTION SUMMARY

SECTION 1. Declaration of Emergency

This Section declares that a serious problem exists with regard to State Sanitary Code Enforcement and sets out the general purpose of this Ordinance which is to create an out-of-court, self-executing mechanism for fining owners of residential property who fail to bring their properties into compliance with the Code.

SECTION 2. Definitions

In this Section, pertinent terms are defined. Where terms are used in this Ordinance which appear elsewhere in applicable laws and regulations, the definitions in the Ordinance generally track those in the laws and regulations. For example, the definitions of "dwelling" and "dwelling unit" are essentially identical to those found in the State Sanitary Code.

SECTION 3. Administrative Citation: Issuance

This Section calls for the issuance of an administrative citation each time the Inspectional Services Department (ISD) finds a violation of the State Sanitary Code. The Administrative Citation refers to the ISD order to make repairs, warns the owner that he or she may be fined if repairs are not made in accordance with the ISD order, and gives the owner notice of appeal rights. Lastly, this Section mandates that copies of the Administrative Citation be provided to all tenants of the dwelling or dwelling unit.

SECTION 4. Repairs

The procedure to be followed by ISD in determining whether repairs have been made are set out in this Section. If repairs have not been made, a fine is assessed against the owner according to the schedule which is set out in Section 6.

SECTION 5. Extensions

In this Section, an owner's right to obtain additional time in which to make repairs and the procedures which ISD must follow in determining whether to grant an extension are detailed.

SECTION 6. Fine for Failure to Repair

The schedule of fines for failure to make repairs and the method for notifying an owner that a fine has been assessed are set out in this Section. The amount of fines corresponds to the severity of violations cited. Those violations which ISD orders repaired within 24 hours carry a fine of \$500 per day for each violation cited. Typically these are violations which may endanger or materially impair the health or safety of an occupant. Violations which are less serious carry a fine of \$250 per day for each violation cited by ISD.

SECTION 7. Appeals of Fines

Appeal rights associated with fines are set out in this Section. Owners have an express right to appeal the assessment of a fine and occupants have a right to appeal the failure of ISD to assess a fine against an owner. In either case, appeals are governed by current State Sanitary Code appeal procedures. The filing of an appeal keeps a fine from being assessed but does not halt the owner's obligation to make repairs.

SECTION 8. Failure to Pay Fine

This Section provides that if an owner fails make repairs within two weeks after the assessment of a fine, the fine automatically doubles. If the owner fails to make repairs within a month, the fine automatically triples. If the tripled fine is not paid within six months, the City of Cambridge is obliged to take a property tax lien against the owner in the amount of the fine. Occupants have a private right of action to enforce this Section of the Ordinance.

SECTION 9. Effect of Fine in Subsequent Court Actions

Under this Section, the Administrative Citation may be used as prima facie evidence in court of a violation of the State Sanitary Code in eviction and civil code enforcement proceedings. This means that in such an action, a tenant

will not have to prove that his or her apartment had conditions which violate the State Sanitary Code.

SECTION 10. Revenues Generated

Any revenues generated by this Ordinance must, first, be used to offset the cost of administering it. Any surplus revenues would be dedicated equally to two endeavors: first, to a fund for assisting those owners who, due to financial hardship, cannot make necessary repairs to their residential property; and, second, to a fund for repairing premises which have deteriorated to the point of having to be taken out of the owner's control in order to guarantee that repairs will be made.

SECTION 11. Regulations

This section requires ISD to promulgate regulations to implement the details of this Ordinance.

SECTION 12. Construction

This Section states that it is the intent of this Ordinance to compliment rather than conflict with state laws and regulations governing ISD and the rights and responsibilities of owners and occupants of residential property.

SECTION 13. Severability

Under this Section, if a court were to declare any part of this Ordinance to be invalid, the rest of the Ordinance would remain in effect.

SECTION 14. Effective Date

This Section provides that the Ordinance takes effect three months after its enactment.

Administrative Citations For Violations of the
State Sanitary Code

Section 1. Declaration of Emergency

A serious public emergency exists in the City of Cambridge with respect to residential premises which are in violation of the state sanitary code, causing many citizens to live in unsafe conditions. The legal remedies available to the Inspectional Services Department in enforcing this code, as well as other applicable state laws and regulations, are insufficient to encourage timely repair of rental properties. Owners often avoid repairing sub-standard properties, thereby endangering the lives, safety, and property of tenants and severely limiting the ability of many people to remain in their homes safely.

In order to provide the Inspectional Services Department with the remedies necessary to effectively carry out its mandate under state law, to guarantee tenants of the City of Cambridge housing which complies with the state sanitary code and other applicable laws and regulations, and to encourage owners to maintain the buildings they own in compliance with this code, laws and regulations, the Cambridge City Council, in the exercise of its powers under Section 6 of the Home Rule Amendment, hereby enacts this ordinance under which administrative citations are issued to owners who violate the state sanitary code.

Section 2. Definitions

(A) "Administrative Citation" means a notice issued to an owner by the Inspectional Services Department, pursuant to this ordinance, which provides a statement of the terms under which the owner may be fined for failure to remedy violations of the State Sanitary Code and a statement of the owner's right to appeal the issuance of the administrative citation and/or fine.

(B) "Dwelling" means every building or shelter including but not limited to rooming houses and temporary housing used or intended for human habitation and every other structure or condition located within the same lot line whose existence causes or is likely to effect noncompliance with the provisions of 105 CMR 410.000.

(C) "Dwelling Unit" means the room or group of rooms within a dwelling used or intended for use by one family or household for living, sleeping, cooking and eating. Dwelling unit shall also mean a condominium unit.

(D) "Inspectional Services Department" means the legally designated health authority for the City of Cambridge, authorized by Chapter 84 of the Acts and Resolves of 1983, to enforce the state sanitary code through the inspection of rental units for violations of the code and the implementation of mechanisms to ensure compliance with repair orders.

(E) "Occupant" means every person over one year of age living or sleeping in a dwelling or dwelling unit.

(F) "Owner" means every person who alone or severally with others (a) has legal title to any rental unit, or parcel of land, vacant or otherwise, including a mobile home park; or (b) has care, charge or control of any dwelling, rental unit, mobile dwelling unit or parcel of land, vacant or otherwise, including a mobile home park, in any capacity including but not limited to agent, executor, executrix, administrator, administratrix, trustee or guardian of the estate of the holder of legal title; or (c) mortgagee in possession; or (d) agent, trustee or other person appointed by the courts; (e) any officer or trustee of the association of unit owners of a condominium; (f) a bank or other lending institution in possession as a result of foreclosure; or (g) any person who operates a rooming house. The term "owner" includes landlords and lessors.

(G) "State sanitary code" means the state sanitary code, Code of Massachusetts Regulations codified at 105 400.00 - 419.00, adopted under the authority of Massachusetts General Laws, Chapter 111, §3 and §127A as it may be amended from time to time.

Section 3. Administrative Citations: Issuance

(A) Whenever the Inspectional Services Department finds any violation of any provision of the state sanitary code it shall issue, in addition to its order to make repairs, an administrative citation against the owner according to the procedures set out in this ordinance.

(B) The administrative citation shall incorporate by reference the order to make repairs and shall contain the following information:

(1) the date of the inspection;

(2) the amount of fine which shall be assessed against the owner if the violation or violations are not remedied within the time frame set out in order to make repairs as well as the rate at which the fine shall escalate pursuant to Section 8(B) and (C) of this ordinance;

(3) the manner in which the owner may pay any fine assessed in accordance with the provisions of this ordinance; and

(4) a description of the owner's appeal rights with respect to the issuance of the administrative citation and of any fine.

(C) The administrative citation shall be served on the owner, along with any orders to make repairs, in accordance with the provisions of the state sanitary code.

(D) A copy of the administrative citation shall also be served on the occupants of the dwelling or dwelling unit in which violations have been found and shall be posted in the common areas of the dwelling. If violations of the state sanitary code are found in the common areas of any dwelling, a copy of the administrative citation shall be served on each and every tenant of the dwelling.

(E) A copy of the administrative citation shall be retained by the Inspectional Services Department and be available for public inspection and copying.

Section 4. Repairs

(A) An owner shall make any and all repairs necessary to remedy any violations found by the Inspectional Services Department within the time frame stated on the order to make repairs, unless he or she requests a hearing pursuant to the hearing regulations of the State Sanitary Code.

(B) The Inspectional Services Department shall, within five days after the dates for compliance specified in an order to repair issued pursuant to 105 CMR 410.830, make an onsite inspection to determine whether there has been compliance with its order. This inspection shall be made within 24 hours of the dates for compliance specified in an order, however, if one or more of the violations or conditions cited in the order to repair are determined to be conditions which may endanger the health or safety, and well-being of the occupant(s) as defined in 105 CMR 410.750. An inspection under 105 CMR 410.830 shall comply with the requirements of 105 CMR 410.822.

(C) If, upon re-inspection, it is determined that the owner has remedied the violations cited in the order to make repairs, the administrative citation shall so note this finding and shall be filed with the Inspectional Services Department.

(D) Copies of the administrative citation indicating that the violation has been remedied and no fine has been assessed shall be served on the same individuals who received notice of the initial administrative citation. This notice shall be served within five days of the re-inspection.

(E) If, upon re-inspection, it is determined that the owner has failed to remedy the violations cited, this shall be noted on the administrative citation and a fine shall be assessed against the owner in accordance with the terms of Section 6 of this ordinance.

(F) Copies of the administrative citation noting the assessment of a fine for failure to remedy the violations cited shall be served on the same individuals who received notice of the initial administrative citation within five days of the fine being assessed against the owner.

Section 5. Extensions

(A) An owner who has made a good faith effort to remedy any violations cited in an order to make repairs and an administrative citation may apply to the Inspectional Services Department for an extension of the time set for making repairs by requesting a hearing under the hearing provisions of the State Sanitary Code.

(B) A good faith effort shall be found to exist only if the owner provides evidence that the repairs cannot be completed within the required time frame. Such evidence shall be in the

form of at least two written estimates from outside professionals, one of which the owner has accepted in writing, stating when the repairs will be made.

(C) In any case where an extension has been granted for the remedying of any violation, a new date shall be set by the Inspectional Services Department by which the owner shall remedy the violation and a re-inspection shall take place in accordance with Sections 4(C) through 4(F) of this ordinance.

(D) No extensions shall be granted in any case where an owner has received a fine for the same or similar violations within the twelve month period immediately preceding issuance of the current administrative citation.

(E) In no event shall the time frame for repairs including any extensions be greater than sixty days from the date of the issuance of the order to make repairs.

Section 6. Fines for Failure to Repair

(A) If an owner fails to remedy a violation cited in an order to make repairs within the allotted time frame, or fails to remedy the violation within the time frame set out in any extension granted under Section 5 of this ordinance, or fails to file a timely appeal, a fine shall be assessed against the owner.

(B) Notice of the assessment of a fine shall be served on the owner in accordance with the notice provisions of the State Sanitary Code.

(C) Notice of the fine shall be served on the same individuals who received notice of the initial administrative citation.

(D) The amount of the fine shall be set according to the following schedule:

(1) \$500.00 per day for each violation referred to in 105 CMR 410.830(A) and required to be corrected within twenty-four hours; or

(2) \$250.00 per day for each violation referred to in 105 CMR 410.830(B) and required to be repaired in an amount of time determined by the Inspectional Services Department but, in any event, no more than thirty days.

Section 7. Appeals of Fines

(A) An owner or occupant who is aggrieved by the issuance of a fine or by the failure of the Inspectional Services Department to fine an owner pursuant to this ordinance may appeal to the Inspectional Services Department according to the following procedures:

(1) An appeal shall be filed within ten days of the date of the action appealed from;

(2) The appeal shall be in writing and shall state, in detail, the grounds for the appeal;

(B) The filing of a timely appeal shall stay the effect of the fine but shall not stay the owner's obligation to repair any violations cited.

(C) A hearing shall be held on the appeal following the same procedures available in an appeal of the issuance of an order to make repairs which are set out in 105 CMR §§ 400.850 and 400.860, except that any appeal to court shall be governed by the provisions of Massachusetts General Laws, Chapter 30A.

(D) Nothing in this section shall be construed to affect or impair the right to appeal the issuance of an order to make repairs.

Section 8. Failure To Pay Fine

(A) Notice of a fine which has been issued pursuant to Section 6 of this ordinance shall be served on the owner and on the occupants who received notice of the initial administrative citation.

(B) In addition, the owner shall be given notice that the fine shall automatically double if any violation cited in the administrative citation is not remedied within two weeks of service of the notice of the fine and shall automatically triple if any violation is not remedied within one month of service of the notice of the fine.

(C) A property tax lien shall be taken by the City of Cambridge against the owner if the tripled fine is not paid within six months of service of the notice of the fine or the issuance of the next property tax bill, whichever is later, and the owner shall be notified of this action prior to its being taken.

(D) Any person aggrieved by the failure of the City of Cambridge to take such enforcement action, may seek injunctive relief in the district or superior court pursuant to Massachusetts General Laws, Chapters 214 and 218, §19C to require action by the City of Cambridge in accordance with its enforcement obligations under this section.

Section 9. Effect of Fine In Subsequent Court Actions

(A) A copy of the administrative citation indicating that a fine has been issued as a result of the owner's failure to remedy a violation cited in the administrative citation shall be prima facie evidence of a violation of Massachusetts General Laws, Chapter 111, §127A et seq. and Chapter 239, §8A in any legal action by or against the owner.

Section 10. Revenues Generated

(A) Any revenues generated by the implementation of this ordinance in excess of the cost of administering it shall be deposited by the Inspectional Services Department in a special fund and shall be allocated as follows: fifty per cent dedicated to providing financial assistance to owners who, due to financial hardship, are unable to remedy violations cited in an administrative citation; and fifty per cent dedicated to repairing dwellings and dwelling units which have so deteriorated as to constitute a public nuisance and which have been removed,

~~as to constitute a public nuisance and which have been removed,~~
by operation of law or a court order, from the control of the
owner as a result of the deterioration.

Section 11. Regulations

The Department of Inspectional Services shall promulgate regulations consistent with the terms of this ordinance and any applicable state laws and regulations.

Section 12. Construction

Nothing in this ordinance shall be construed to conflict with the provisions of Massachusetts General Laws, Chapter 111, §127A, et seq. governing the authority and conduct of the Inspectional Services Department or with any other law or regulation governing the rights and obligations of owners and tenants in the Commonwealth of Massachusetts.

Section 13. Severability

The provisions of this ordinance are severable. If any section or sections are declared invalid by a court of competent jurisdiction, the invalidity shall not affect the validity of any remaining section or sections.

Section 14. Effective Date

The provisions of this ordinance shall take effect three months from the date of its enactment.



OFFICE OF THE CITY CLERK

CITY OF CAMBRIDGE

CITY HALL, CAMBRIDGE, MASSACHUSETTS 02139

JOSEPH E. CONNARTON
CITY CLERK

(617) 349-4260

JOHN E. FLYNN
DEPUTY CITY CLERK

April 10, 1991

Mr. Russell B. Higley
City Solicitor
City Hall
Cambridge, MA

Dear Mr. Higley:

Enclosed you will find a copy of an order adopted by the City Council at its meeting of April 8, 1991 which was referred to the Ordinance Committee for a hearing and report on a proposed amendment to the State Sanitary Code.

Would you kindly review this proposed amendment and incorporate this into the text of the Municipal Code and return to this office.

Your kind attention in this matter will be greatly appreciated.

Very truly yours,

Joseph E. Connarton
City Clerk

JEC/dl

Enc. Order # 47 of April 8, 1991



City of Cambridge

47.

IN CITY COUNCIL

April 8, 1991

COUNCILLOR CYR

ORDERED: That the attached amendment to the Municipal Code entitled "Administrative Review for Violations of the State Sanitary Code" be referred to the Ordinance Committee.

In City Council April 8, 1991.

Adopted by the affirmative vote of nine members.

Attest:- Joseph E. Connarton, City Clerk.

A true copy;

ATTEST:-

A handwritten signature in black ink that reads "Joseph E. Connarton".

Joseph E. Connarton, City Clerk

Administrative Citations For Violations of the
State Sanitary Code

Section 1. Declaration of Emergency

A serious public emergency exists in the City of Cambridge with respect to residential premises which are in violation of the state sanitary code, causing many citizens to live in unsafe conditions. The legal remedies available to the Inspectional Services Department in enforcing this code, as well as other applicable state laws and regulations, are insufficient to encourage timely repair of rental properties. Owners often avoid repairing sub-standard properties, thereby endangering the lives, safety, and property of tenants and severely limiting the ability of many people to remain in their homes safely.

In order to provide the Inspectional Services Department with the remedies necessary to effectively carry out its mandate under state law, to guarantee tenants of the City of Cambridge housing which complies with the state sanitary code and other applicable laws and regulations, and to encourage owners to maintain the buildings they own in compliance with this code, laws and regulations, the Cambridge City Council, in the exercise of its powers under Section 6 of the Home Rule Amendment, hereby enacts this ordinance under which administrative citations are issued to owners who violate the state sanitary code.

Section 2. Definitions

(A) "Administrative Citation" means a notice issued to an owner by the Inspectional Services Department, pursuant to this ordinance, which provides a statement of the terms under which the owner may be fined for failure to remedy violations of the State Sanitary Code and a statement of the owner's right to appeal the issuance of the administrative citation and/or fine.

(B) "Dwelling" means every building or shelter including but not limited to rooming houses and temporary housing used or intended for human habitation and every other structure or condition located within the same lot line whose existence causes or is likely to effect noncompliance with the provisions of 105 CMR 410.000.

(C) "Dwelling Unit" means the room or group of rooms within a dwelling used or intended for use by one family or household for living, sleeping, cooking and eating. Dwelling unit shall also mean a condominium unit.

(D) "Inspectional Services Department" means the legally designated health authority for the City of Cambridge, authorized by Chapter 84 of the Acts and Resolves of 1983, to enforce the state sanitary code through the inspection of rental units for violations of the code and the implementation of mechanisms to ensure compliance with repair orders.

(E) "Occupant" means every person over one year of age living or sleeping in a dwelling or dwelling unit.

(F) "Owner" means every person who alone or severally with others (a) has legal title to any rental unit, or parcel of land, vacant or otherwise, including a mobile home park; or (b) has care, charge or control of any dwelling, rental unit, mobile dwelling unit or parcel of land, vacant or otherwise, including a mobile home park, in any capacity including but not limited to agent, executor, executrix, administrator, administratrix, trustee or guardian of the estate of the holder of legal title; or (c) mortgagee in possession; or (d) agent, trustee or other person appointed by the courts; (e) any officer or trustee of the association of unit owners of a condominium; (f) a bank or other lending institution in possession as a result of foreclosure; or (g) any person who operates a rooming house. The term "owner" includes landlords and lessors.

(G) "State sanitary code" means the state sanitary code, Code of Massachusetts Regulations codified at 105 400.00 - 419.00, adopted under the authority of Massachusetts General Laws, Chapter 111, §3 and §127A as it may be amended from time to time.

Section 3. Administrative Citations: Issuance

(A) Whenever the Inspectional Services Department finds any violation of any provision of the state sanitary code it shall issue, in addition to its order to make repairs, an administrative citation against the owner according to the procedures set out in this ordinance.

(B) The administrative citation shall incorporate by reference the order to make repairs and shall contain the following information:

- (1) the date of the inspection;
- (2) the amount of fine which shall be assessed against the owner if the violation or violations are not remedied within the time frame set out in order to make repairs as well as the rate at which the fine shall escalate pursuant to Section 8(B) and (C) of this ordinance;
- (3) the manner in which the owner may pay any fine assessed in accordance with the provisions of this ordinance; and
- (4) a description of the owner's appeal rights with respect to the issuance of the administrative citation and of any fine.

(C) The administrative citation shall be served on the owner, along with any orders to make repairs, in accordance with the provisions of the state sanitary code.

(D) A copy of the administrative citation shall also be served on the occupants of the dwelling or dwelling unit in which violations have been found and shall be posted in the common areas of the dwelling. If violations of the state sanitary code are found in the common areas of any dwelling, a copy of the administrative citation shall be served on each and every tenant of the dwelling.

(E) A copy of the administrative citation shall be retained by the Inspectional Services Department and be available for public inspection and copying.

Section 4. Repairs

(A) An owner shall make any and all repairs necessary to remedy any violations found by the Inspectional Services Department within the time frame stated on the order to make repairs, unless he or she requests a hearing pursuant to the hearing regulations of the State Sanitary Code.

(B) The Inspectional Services Department shall, within five days after the dates for compliance specified in an order to repair issued pursuant to 105 CMR 410.830, make an onsite inspection to determine whether there has been compliance with its order. This inspection shall be made within 24 hours of the dates for compliance specified in an order, however, if one or more of the violations or conditions cited in the order to repair are determined to be conditions which may endanger the health or safety, and well-being of the occupant(s) as defined in 105 CMR 410.750. An inspection under 105 CMR 410.830 shall comply with the requirements of 105 CMR 410.822.

(C) If, upon re-inspection, it is determined that the owner has remedied the violations cited in the order to make repairs, the administrative citation shall so note this finding and shall be filed with the Inspectional Services Department.

(D) Copies of the administrative citation indicating that the violation has been remedied and no fine has been assessed shall be served on the same individuals who received notice of the initial administrative citation. This notice shall be served within five days of the re-inspection.

(E) If, upon re-inspection, it is determined that the owner has failed to remedy the violations cited, this shall be noted on the administrative citation and a fine shall be assessed against the owner in accordance with the terms of Section 6 of this ordinance.

(F) Copies of the administrative citation noting the assessment of a fine for failure to remedy the violations cited shall be served on the same individuals who received notice of the initial administrative citation within five days of the fine being assessed against the owner.

Section 5. Extensions

(A) An owner who has made a good faith effort to remedy any violations cited in an order to make repairs and an administrative citation may apply to the Inspectional Services Department for an extension of the time set for making repairs by requesting a hearing under the hearing provisions of the State Sanitary Code.

(B) A good faith effort shall be found to exist only if the owner provides evidence that the repairs cannot be completed within the required time frame. Such evidence shall be in the

form of at least two written estimates from outside professionals, one of which the owner has accepted in writing, stating when the repairs will be made.

(C) In any case where an extension has been granted for the remedying of any violation, a new date shall be set by the Inspectional Services Department by which the owner shall remedy the violation and a re-inspection shall take place in accordance with Sections 4(C) through 4(F) of this ordinance.

(D) No extensions shall be granted in any case where an owner has received a fine for the same or similar violations within the twelve month period immediately preceding issuance of the current administrative citation.

(E) In no event shall the time frame for repairs including any extensions be greater than sixty days from the date of the issuance of the order to make repairs.

Section 6. Fines for Failure to Repair

(A) If an owner fails to remedy a violation cited in an order to make repairs within the allotted time frame, or fails to remedy the violation within the time frame set out in any extension granted under Section 5 of this ordinance, or fails to file a timely appeal, a fine shall be assessed against the owner.

(B) Notice of the assessment of a fine shall be served on the owner in accordance with the notice provisions of the State Sanitary Code.

(C) Notice of the fine shall be served on the same individuals who received notice of the initial administrative citation.

(D) The amount of the fine shall be set according to the following schedule:

(1) \$500.00 per day for each violation referred to in 105 CMR 410.830(A) and required to be corrected within twenty-four hours; or

(2) \$250.00 per day for each violation referred to in 105 CMR 410.830(B) and required to be repaired in an amount of time determined by the Inspectional Services Department but, in any event, no more than thirty days.

Section 7. Appeals of Fines

(A) An owner or occupant who is aggrieved by the issuance of a fine or by the failure of the Inspectional Services Department to fine an owner pursuant to this ordinance may appeal to the Inspectional Services Department according to the following procedures:

(1) An appeal shall be filed within ten days of the date of the action appealed from;

(2) The appeal shall be in writing and shall state, in detail, the grounds for the appeal;

(B) The filing of a timely appeal shall stay the effect of the fine but shall not stay the owner's obligation to repair any violations cited.

(C) A hearing shall be held on the appeal following the same procedures available in an appeal of the issuance of an order to make repairs which are set out in 105 CMR §§ 400.850 and 400.860, except that any appeal to court shall be governed by the provisions of Massachusetts General Laws, Chapter 30A.

(D) Nothing in this section shall be construed to affect or impair the right to appeal the issuance of an order to make repairs.

Section 8. Failure To Pay Fine

(A) Notice of a fine which has been issued pursuant to Section 6 of this ordinance shall be served on the owner and on the occupants who received notice of the initial administrative citation.

(B) In addition, the owner shall be given notice that the fine shall automatically double if any violation cited in the administrative citation is not remedied within two weeks of service of the notice of the fine and shall automatically triple if any violation is not remedied within one month of service of the notice of the fine.

(C) A property tax lien shall be taken by the City of Cambridge against the owner if the tripled fine is not paid within six months of service of the notice of the fine or the issuance of the next property tax bill, whichever is later, and the owner shall be notified of this action prior to its being taken.

(D) Any person aggrieved by the failure of the City of Cambridge to take such enforcement action, may seek injunctive relief in the district or superior court pursuant to Massachusetts General Laws, Chapters 214 and 218, §19C to require action by the City of Cambridge in accordance with its enforcement obligations under this section.

Section 9. Effect of Fine In Subsequent Court Actions

(A) A copy of the administrative citation indicating that a fine has been issued as a result of the owner's failure to remedy a violation cited in the administrative citation shall be prima facie evidence of a violation of Massachusetts General Laws, Chapter 111, §127A et seq. and Chapter 239, §8A in any legal action by or against the owner.

Section 10. Revenues Generated

(A) Any revenues generated by the implementation of this ordinance in excess of the cost of administering it shall be deposited by the Inspectional Services Department in a special fund and shall be allocated as follows: fifty per cent dedicated to providing financial assistance to owners who, due to financial hardship, are unable to remedy violations cited in an administrative citation; and fifty per cent dedicated to repairing dwellings and dwelling units which have so deteriorated as to constitute a public nuisance and which have been removed,

as to constitute a public nuisance and which have been removed, by operation of law or a court order, from the control of the owner as a result of the deterioration.

Section 11. Regulations

The Department of Inspectional Services shall promulgate regulations consistent with the terms of this ordinance and any applicable state laws and regulations.

Section 12. Construction

Nothing in this ordinance shall be construed to conflict with the provisions of Massachusetts General Laws, Chapter 111, §127A, et seq. governing the authority and conduct of the Inspectional Services Department or with any other law or regulation governing the rights and obligations of owners and tenants in the Commonwealth of Massachusetts.

Section 13. Severability

The provisions of this ordinance are severable. If any section or sections are declared invalid by a court of competent jurisdiction, the invalidity shall not affect the validity of any remaining section or sections.

Section 14. Effective Date

The provisions of this ordinance shall take effect three months from the date of its enactment.



City of Cambridge

47.

IN CITY COUNCIL

April 8, 1991

COUNCILLOR CYR

ORDERED: That the attached amendment to the Municipal Code entitled "Administrative Review for Violations of the State Sanitary Code" be referred to the Ordinance Committee.

In City Council April 8, 1991.
Adopted by the affirmative vote of nine members.
Attest:- Joseph E. Connarton, City Clerk.

A true copy;

ATTEST:-

Joseph E. Connarton, City Clerk

Administrative Citations For Violations of the
State Sanitary Code

Section 1. Declaration of Emergency

A serious public emergency exists in the City of Cambridge with respect to residential premises which are in violation of the state sanitary code, causing many citizens to live in unsafe conditions. The legal remedies available to the Inspectional Services Department in enforcing this code, as well as other applicable state laws and regulations, are insufficient to encourage timely repair of rental properties. Owners often avoid repairing sub-standard properties, thereby endangering the lives, safety, and property of tenants and severely limiting the ability of many people to remain in their homes safely.

In order to provide the Inspectional Services Department with the remedies necessary to effectively carry out its mandate under state law, to guarantee tenants of the City of Cambridge housing which complies with the state sanitary code and other applicable laws and regulations, and to encourage owners to maintain the buildings they own in compliance with this code, laws and regulations, the Cambridge City Council, in the exercise of its powers under Section 6 of the Home Rule Amendment, hereby enacts this ordinance under which administrative citations are issued to owners who violate the state sanitary code.

Section 2. Definitions

(A) "Administrative Citation" means a notice issued to an owner by the Inspectional Services Department, pursuant to this ordinance, which provides a statement of the terms under which the owner may be fined for failure to remedy violations of the State Sanitary Code and a statement of the owner's right to appeal the issuance of the administrative citation and/or fine.

(B) "Dwelling" means every building or shelter including but not limited to rooming houses and temporary housing used or intended for human habitation and every other structure or condition located within the same lot line whose existence causes or is likely to effect noncompliance with the provisions of 105 CMR 410.000.

(C) "Dwelling Unit" means the room or group of rooms within a dwelling used or intended for use by one family or household for living, sleeping, cooking and eating. Dwelling unit shall also mean a condominium unit.

(D) "Inspectional Services Department" means the legally designated health authority for the City of Cambridge, authorized by Chapter 84 of the Acts and Resolves of 1983, to enforce the state sanitary code through the inspection of rental units for violations of the code and the implementation of mechanisms to ensure compliance with repair orders.

(E) "Occupant" means every person over one year of age living or sleeping in a dwelling or dwelling unit.

(F) "Owner" means every person who alone or severally with others (a) has legal title to any rental unit, or parcel of land, vacant or otherwise, including a mobile home park; or (b) has care, charge or control of any dwelling, rental unit, mobile dwelling unit or parcel of land, vacant or otherwise, including a mobile home park, in any capacity including but not limited to agent, executor, executrix, administrator, administratrix, trustee or guardian of the estate of the holder of legal title; or (c) mortgagee in possession; or (d) agent, trustee or other person appointed by the courts; (e) any officer or trustee of the association of unit owners of a condominium; (f) a bank or other lending institution in possession as a result of foreclosure; or (g) any person who operates a rooming house. The term "owner" includes landlords and lessors.

(G) "State sanitary code" means the state sanitary code, Code of Massachusetts Regulations codified at 105 400.00 - 419.00, adopted under the authority of Massachusetts General Laws, Chapter 111, §3 and §127A as it may be amended from time to time.

Section 3. Administrative Citations: Issuance

(A) Whenever the Inspectional Services Department finds any violation of any provision of the state sanitary code it shall issue, in addition to its order to make repairs, an administrative citation against the owner according to the procedures set out in this ordinance.

(B) The administrative citation shall incorporate by reference the order to make repairs and shall contain the following information:

(1) the date of the inspection;

(2) the amount of fine which shall be assessed against the owner if the violation or violations are not remedied within the time frame set out in order to make repairs as well as the rate at which the fine shall escalate pursuant to Section 8(B) and (C) of this ordinance;

(3) the manner in which the owner may pay any fine assessed in accordance with the provisions of this ordinance; and

(4) a description of the owner's appeal rights with respect to the issuance of the administrative citation and of any fine.

(C) The administrative citation shall be served on the owner, along with any orders to make repairs, in accordance with the provisions of the state sanitary code.

(D) A copy of the administrative citation shall also be served on the occupants of the dwelling or dwelling unit in which violations have been found and shall be posted in the common areas of the dwelling. If violations of the state sanitary code are found in the common areas of any dwelling, a copy of the administrative citation shall be served on each and every tenant of the dwelling.

(E) A copy of the administrative citation shall be retained by the Inspectional Services Department and be available for public inspection and copying.

Section 4. Repairs

(A) An owner shall make any and all repairs necessary to remedy any violations found by the Inspectional Services Department within the time frame stated on the order to make repairs, unless he or she requests a hearing pursuant to the hearing regulations of the State Sanitary Code.

(B) The Inspectional Services Department shall, within five days after the dates for compliance specified in an order to repair issued pursuant to 105 CMR 410.830, make an onsite inspection to determine whether there has been compliance with its order. This inspection shall be made within 24 hours of the dates for compliance specified in an order, however, if one or more of the violations or conditions cited in the order to repair are determined to be conditions which may endanger the health or safety, and well-being of the occupant(s) as defined in 105 CMR 410.750. An inspection under 105 CMR 410.830 shall comply with the requirements of 105 CMR 410.822.

(C) If, upon re-inspection, it is determined that the owner has remedied the violations cited in the order to make repairs, the administrative citation shall so note this finding and shall be filed with the Inspectional Services Department.

(D) Copies of the administrative citation indicating that the violation has been remedied and no fine has been assessed shall be served on the same individuals who received notice of the initial administrative citation. This notice shall be served within five days of the re-inspection.

(E) If, upon re-inspection, it is determined that the owner has failed to remedy the violations cited, this shall be noted on the administrative citation and a fine shall be assessed against the owner in accordance with the terms of Section 6 of this ordinance.

(F) Copies of the administrative citation noting the assessment of a fine for failure to remedy the violations cited shall be served on the same individuals who received notice of the initial administrative citation within five days of the fine being assessed against the owner.

Section 5. Extensions

(A) An owner who has made a good faith effort to remedy any violations cited in an order to make repairs and an administrative citation may apply to the Inspectional Services Department for an extension of the time set for making repairs by requesting a hearing under the hearing provisions of the State Sanitary Code.

(B) A good faith effort shall be found to exist only if the owner provides evidence that the repairs cannot be completed within the required time frame. Such evidence shall be in the

form of at least two written estimates from outside professionals, one of which the owner has accepted in writing, stating when the repairs will be made.

(C) In any case where an extension has been granted for the remedying of any violation, a new date shall be set by the Inspectional Services Department by which the owner shall remedy the violation and a re-inspection shall take place in accordance with Sections 4(C) through 4(F) of this ordinance.

(D) No extensions shall be granted in any case where an owner has received a fine for the same or similar violations within the twelve month period immediately preceding issuance of the current administrative citation.

(E) In no event shall the time frame for repairs including any extensions be greater than sixty days from the date of the issuance of the order to make repairs.

Section 6. Fines for Failure to Repair

(A) If an owner fails to remedy a violation cited in an order to make repairs within the allotted time frame, or fails to remedy the violation within the time frame set out in any extension granted under Section 5 of this ordinance, or fails to file a timely appeal, a fine shall be assessed against the owner.

(B) Notice of the assessment of a fine shall be served on the owner in accordance with the notice provisions of the State Sanitary Code.

(C) Notice of the fine shall be served on the same individuals who received notice of the initial administrative citation.

(D) The amount of the fine shall be set according to the following schedule:

(1) \$500.00 per day for each violation referred to in 105 CMR 410.830(A) and required to be corrected within twenty-four hours; or

(2) \$250.00 per day for each violation referred to in 105 CMR 410.830(B) and required to be repaired in an amount of time determined by the Inspectional Services Department but, in any event, no more than thirty days.

Section 7. Appeals of Fines

(A) An owner or occupant who is aggrieved by the issuance of a fine or by the failure of the Inspectional Services Department to fine an owner pursuant to this ordinance may appeal to the Inspectional Services Department according to the following procedures:

(1) An appeal shall be filed within ten days of the date of the action appealed from;

(2) The appeal shall be in writing and shall state, in detail, the grounds for the appeal;

(B) The filing of a timely appeal shall stay the effect of the fine but shall not stay the owner's obligation to repair any violations cited.

(C) A hearing shall be held on the appeal following the same procedures available in an appeal of the issuance of an order to make repairs which are set out in 105 CMR §§ 400.850 and 400.860, except that any appeal to court shall be governed by the provisions of Massachusetts General Laws, Chapter 30A.

(D) Nothing in this section shall be construed to affect or impair the right to appeal the issuance of an order to make repairs.

Section 8. Failure To Pay Fine

(A) Notice of a fine which has been issued pursuant to Section 6 of this ordinance shall be served on the owner and on the occupants who received notice of the initial administrative citation.

(B) In addition, the owner shall be given notice that the fine shall automatically double if any violation cited in the administrative citation is not remedied within two weeks of service of the notice of the fine and shall automatically triple if any violation is not remedied within one month of service of the notice of the fine.

(C) A property tax lien shall be taken by the City of Cambridge against the owner if the tripled fine is not paid within six months of service of the notice of the fine or the issuance of the next property tax bill, whichever is later, and the owner shall be notified of this action prior to its being taken.

(D) Any person aggrieved by the failure of the City of Cambridge to take such enforcement action, may seek injunctive relief in the district or superior court pursuant to Massachusetts General Laws, Chapters 214 and 218, §19C to require action by the City of Cambridge in accordance with its enforcement obligations under this section.

Section 9. Effect of Fine In Subsequent Court Actions

(A) A copy of the administrative citation indicating that a fine has been issued as a result of the owner's failure to remedy a violation cited in the administrative citation shall be prima facie evidence of a violation of Massachusetts General Laws, Chapter 111, §127A et seq. and Chapter 239, §8A in any legal action by or against the owner.

Section 10. Revenues Generated

(A) Any revenues generated by the implementation of this ordinance in excess of the cost of administering it shall be deposited by the Inspectional Services Department in a special fund and shall be allocated as follows: fifty per cent dedicated to providing financial assistance to owners who, due to financial hardship, are unable to remedy violations cited in an administrative citation; and fifty per cent dedicated to repairing dwellings and dwelling units which have so deteriorated as to constitute a public nuisance and which have been removed,

as to constitute a public nuisance and which have been removed, by operation of law or a court order, from the control of the owner as a result of the deterioration.

Section 11. Regulations

The Department of Inspectional Services shall promulgate regulations consistent with the terms of this ordinance and any applicable state laws and regulations.

Section 12. Construction

Nothing in this ordinance shall be construed to conflict with the provisions of Massachusetts General Laws, Chapter 111, §127A, et seq. governing the authority and conduct of the Inspectional Services Department or with any other law or regulation governing the rights and obligations of owners and tenants in the Commonwealth of Massachusetts.

Section 13. Severability

The provisions of this ordinance are severable. If any section or sections are declared invalid by a court of competent jurisdiction, the invalidity shall not affect the validity of any remaining section or sections.

Section 14. Effective Date

The provisions of this ordinance shall take effect three months from the date of its enactment.

DRAFT - October 9, 1991

Administrative Citations For Violations of the State Sanitary Code

Section 1. Declaration of Emergency

A serious public emergency exists in the City of Cambridge with respect to residential premises which are in violation of the state sanitary code, causing many citizens to live in unsafe conditions. The legal remedies available to the Inspectional Services Department in enforcing this code, as well as other applicable state laws and regulations, are insufficient to encourage timely repair of rental properties. Owners often avoid repairing sub-standard properties, thereby endangering the lives, safety, and property of tenants and severely limiting the ability of many people to remain in their homes safely.

In order to provide the Inspectional Services Department with the remedies necessary to effectively carry out its mandate under state law, to guarantee tenants of the City of Cambridge housing which complies with the state sanitary code and other applicable laws and regulations, and to encourage owners to maintain the buildings they own in compliance with this code, laws and regulations, the Cambridge City Council, in the exercise of its powers under Section 6 of the Home Rule Amendment, hereby enacts this ordinance under which administrative citations are issued to owners who violate the state sanitary code.

Section 2. Definitions

(A) "Administrative Citation" means a notice issued to an owner by the Inspectional Services Department, pursuant to this ordinance, which provides a statement of the terms under which the owner may be fined for failure to remedy violations of the State Sanitary Code and a statement of the owner's right to appeal the issuance of the administrative citation and/or fine.

(B) "Dwelling" means every building or shelter including but not limited to rooming houses and temporary housing used or intended for human habitation and every other structure or condition located within the same lot line whose existence causes or is likely to effect noncompliance with the provisions of 105 CMR 410.000.

(C) "Dwelling Unit" means the room or group of rooms within a dwelling used or intended for use by one family or household for living, sleeping, cooking and eating. Dwelling unit shall also mean a condominium unit.

(D) "Inspectional Services Department" means the legally designated health authority for the City of Cambridge, authorized by Chapter 84 of the Acts and Resolves of 1983, to enforce the state sanitary code through the inspection of rental units for violations of the code and the implementation of mechanisms to ensure compliance with repair orders.

(E) "Occupant" means every person over one year of age living or sleeping in a dwelling or dwelling unit.

(F) "Owner" means every person who alone or severally with others (a) has legal title to any rental unit, or parcel of land, vacant or otherwise, including a mobile

home park; or (b) has care, charge or control of any dwelling, rental unit, mobile dwelling unit or parcel of land, vacant or otherwise, including a mobile home park, in any capacity including but not limited to agent, executor, executrix, administrator, administratrix, trustee or guardian of the estate of the holder of legal title; or (c) mortgagee in possession; or (d) agent, trustee or other person appointed by the courts; (e) any officer or trustee of the association of unit owners of a condominium; (f) a bank or other lending institution in possession as a result of foreclosure; or (g) any person who operates a rooming house. The term "owner" includes landlords and lessors.

(G) "State sanitary code" means the state sanitary code, Code of Massachusetts Regulations codified at 105 400.00 - 419.00, adopted under the authority of Massachusetts General Laws, Chapter 111, §3 and §127A as it may be amended from time to time.

Section 3. Administrative Citations: Issuance

(A) Whenever the Inspectional Services Department finds any violation of any provision of the state sanitary code it shall issue, in addition to its order to make repairs, an administrative citation against the owner according to the procedures set out in this ordinance.

(B) The administrative citation shall incorporate by reference the order to make repairs and shall contain the following information:

- (1) the date of the inspection;

(2) the amount of fine which shall be assessed against the owner if the violation or violations are not remedied within the time frame set out in order to make repairs as well as the rate at which the fine shall escalate pursuant to Section 8(B) and (C) of this ordinance;

(3) the manner in which the owner may pay any fine assessed in accordance with the provisions of this ordinance; and (4) a description of the owner's appeal rights with respect to the issuance of the administrative citation and of any fine.

(C) The administrative citation shall be served on the owner, along with any orders to make repairs, in accordance with the provisions of the state sanitary code.

(D) A copy of the administrative citation shall also be served on the occupants of the dwelling or dwelling unit in which violations have been found and shall be posted in the common areas of the dwelling. If violations of the state sanitary code are found in the common areas of any dwelling, a copy of the administrative citation shall be served on each and every tenant of the dwelling.

(E) A copy of the administrative citation shall be retained by the Inspectional Services Department and be available for public inspection and copying.

Section 4. Repairs

(A) An owner shall make any and all repairs necessary to remedy any violations found by the Inspectional Services Department within the time frame stated

on the order to make repairs, unless he or she requests a hearing pursuant to the hearing regulations of the State Sanitary Code.

(B) The Inspectional Services Department shall, within five days after the dates for compliance specified in an order to repair issued pursuant to 105 CMR 410.830, make an onsite inspection to determine whether there has been compliance with its order. This inspection shall be made within 24 hours of the dates for compliance specified in an order, however, if one or more of the violations or conditions cited in the order to repair are determined to be conditions which may endanger the health or safety, and well-being of the occupant(s) as defined in 105 CMR 410.750. An inspection under 105 CMR 410.830 shall comply with the requirements of 105 CMR 410.822.

(C) If, upon re-inspection, it is determined that the owner has remedied the violations cited in the order to make repairs, the administrative citation shall so note this finding and shall be filed with the Inspectional Services Department.

(D) Copies of the administrative citation indicating that the violation has been remedied and no fine has been assessed shall be served on the same individuals who received notice of the initial administrative citation. This notice shall be served within five days of the re-inspection.

(E) If, upon re-inspection, it is determined that the owner has failed to remedy the violations cited, this shall be noted on the administrative citation and a fine shall be assessed against the owner in accordance with the terms of Section 6 of this ordinance.

(F) Copies of the administrative citation noting the assessment of a fine for failure to remedy the violations cited shall be served on the same individuals who received notice of the initial administrative citation within five days of the fine being assessed against the owner.

Section 5. Extensions

(A) An owner who has made a good faith effort to remedy any violations cited in an order to make repairs and an administrative citation may apply to the Inspectional Services Department for an extension of the time set for making repairs by requesting a hearing under the hearing provisions of the State Sanitary Code.

(B) A good faith effort shall be found to exist only if the owner provides evidence that the repairs cannot be completed within the required time frame. Such evidence shall be in the form of at least two written estimates from outside professionals, one of which the owner has accepted in writing, stating when the repairs will be made.

(C) In any case where an extension has been granted for the remedying of any violation, a new date shall be set by the Inspectional Services Department by which the owner shall remedy the violation and a re-inspection shall take place in accordance with Sections 4(C) through 4(F) of this ordinance.

(D) No extensions shall be granted in any case where an owner has received a fine for the same or similar violations within the twelve month period immediately preceding issuance of the current administrative citation.

(E) In no event shall the time frame for repairs including any extensions be greater than sixty days from the date of the issuance of the order to make repairs.

Section 6. Fines for Failure to Repair

(A) If an owner fails to remedy a violation cited in an order to make repairs within the allotted time frame, or fails to remedy the violation within the time frame set out in any extension granted under Section 5 of this ordinance, or fails to file a timely appeal, a fine shall be assessed against the owner.

(B) Notice of the assessment of a fine shall be served on the owner in accordance with the notice provisions of the State Sanitary Code.

(C) Notice of the fine shall be served on the same individuals who received notice of the initial administrative citation.

(D) The amount of the fine shall be set according to the following schedule:

(1) ~~\$500.00~~ ~~\$100.00~~ per day for each violation referred to in 105 CMR 410.830(A) and required to be corrected within twenty-four hours; or

(2) ~~\$250.00~~ ~~\$50.00~~ per day for each violation referred to in 105 CMR 410.830(B) and required to be repaired in an amount of time determined by the Inspectional Services Department but, in any event, no more than thirty days.

Section 7. Appeals of Fines

(A) An owner or occupant who is aggrieved by the issuance of a fine or by the failure of the Inspectional Services Department to fine an owner pursuant to this

ordinance may appeal to the Inspectional Services Department according to the following procedures:

(1) An appeal shall be filed within ten days of the date of the action appealed from;

(2) The appeal shall be in writing and shall state, in detail, the grounds for the appeal;

(B) The filing of a timely appeal shall stay the effect of the fine but shall not stay the owner's obligation to repair any violations cited.

(C) A hearing shall be held on the appeal following the same procedures available in an appeal of the issuance of an order to make repairs which are set out in 105 CMR §§ 400.850 and 400.860, except that any appeal to court shall be governed by the provisions of Massachusetts General Laws, Chapter 30A.

(D) Nothing in this section shall be construed to affect or impair the right to appeal the issuance of an order to make repairs.

Section 8. Failure To Pay Fine

(A) Notice of a fine which has been issued pursuant to Section 6 of this ordinance shall be served on the owner and on the occupants who received notice of the initial administrative citation.

(B) In addition, the owner shall be given notice that the fine shall automatically double if any violation cited in the administrative citation is not remedied within two weeks of service of the notice of the fine and shall automatically

triple if any violation is not remedied within one month of service of the notice of the fine.

(C) A property tax lien shall be taken by the City of Cambridge against the owner if the tripled fine is not paid within six months of service of the notice of the fine or the issuance of the next property tax bill, whichever is later, and the owner shall be notified of this action prior to its being taken.

(D) Any person aggrieved by the failure of the City of Cambridge to take such enforcement action, may seek injunctive relief in the district or superior court pursuant to Massachusetts General Laws, Chapters 214 and 218, §19C to require action by the City of Cambridge in accordance with its enforcement obligations under this section.

Section 9. Effect of Fine In Subsequent Court Actions

(A) A copy of the administrative citation indicating that a fine has been issued as a result of the owner's failure to remedy a violation cited in the administrative citation shall be prima facie evidence of a violation of Massachusetts General Laws, Chapter 111, §127A et seq. and Chapter 239, §8A in any legal action by or against the owner.

Section 10. Revenues Generated

(A) Each fiscal year the City Manager shall determine an accounting of the revenues generated by the implementation of this ordinance in excess of the cost of

~~administration and shall make a recommendation in the budget presented to the City Council for an appropriation of said funds to the appropriate city department or agency so that said revenues will be directed toward the repair or rehabilitation of deteriorated dwellings or dwelling units in the city. Any revenues generated by the implementation of this ordinance in excess of the cost of administering it shall be deposited by the Inspectional Services Department in a special fund and shall be allocated as follows: fifty per cent dedicated to providing financial assistance to owners who, due to financial hardship, are unable to remedy violations cited in an administrative citation; and fifty per cent dedicated to repairing dwellings and dwelling units which have so deteriorated as to constitute a public nuisance and which have been removed, by operation of law or a court order, from the control of the owner as a result of the deterioration.~~

Section 11. Regulations

The Department of Inspectional Services shall promulgate regulations consistent with the terms of this ordinance and any applicable state laws and regulations.

Section 12. Construction

Nothing in this ordinance shall be construed to conflict with the provisions of Massachusetts General Laws, Chapter 111, §127A, et seq. governing the authority and conduct of the Inspectional Services Department or with any other law or regulation

governing the rights and obligations of owners and tenants in the Commonwealth of Massachusetts.

Section 13. Severability

The provisions of this ordinance are severable. If any section or sections are declared invalid by a court of competent jurisdiction, the invalidity shall not affect the validity of any remaining section or sections.

Section 14. Effective Date

The provisions of this ordinance shall take effect three months from the date of its enactment.



OFFICE OF THE CITY CLERK

CITY OF CAMBRIDGE

CITY HALL, CAMBRIDGE, MASSACHUSETTS 02139

JOSEPH E. CONNARTON
CITY CLERK

(617) 349-4260

JOHN E. FLYNN
DEPUTY CITY CLERK

October 23, 1991

Mr. Russell B. Higley
City Solicitor
City Hall
Cambridge, MA 02139

Dear Sir:

Enclosed you will find a copy of a proposed amendment to the Zoning Ordinances of the City of Cambridge which was passed to a second reading at the City Council meeting held on October 21, 1991 to rezone land in the Northern Massachusetts Avenue area.

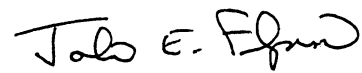
Enclosed also you will find three proposed amendments to the Municipal Code of the City of Cambridge which were also passed to a second reading at the City Council meeting held on October 21, 1991 as follows:

1. State Sanitary Code
2. Code of Conduct for City Officials and Employees
3. Statements of Financial Interests by Certain City Officials and Persons Conducting Business with the City.

Would you kindly review these amendments and indicate your approval or disapproval on the bottom and return to this office.

Thank you for your cooperation in this matter.

Very truly yours,



John E. Flynn
Deputy City Clerk

JEF/dl

Encs. First publication numbers 2556, 2557, 2558 and 2559

c.c. Councillor Duehay, Chairman, Committee on Ordinances
Joseph Cellucci, Inspectional Services Commissioner
Birge Albright, Law Dept.



City of Cambridge

In the Year One Thousand, Nine Hundred Ninety-one

AN ORDINANCE

In amendment to the ordinance entitled "Zoning Ordinances of the City of Cambridge."

Be it ordained by the City Council of the City of Cambridge as follows:

That the Zoning Ordinance of the City of Cambridge be amended to rezone an area currently zoned Business C-1 to Business A-2 in the area as defined as follows:

- 1.01 An area of land circumscribed by a line, said line beginning at a point, said point being the intersection of the Cambridge/Somerville boundary line and the southerly sideline of the Massachusetts Bay Transit Authority (MBTA) right of way; Assessor's Plat #183;
- 1.02 Thence proceeding in a northwesterly direction along the southerly sideline of the MBTA right of way for approximately 110 feet to its intersection with the southeasterly sideline of lot #124 on Assessor's Plat #183;
- 1.03 Thence turning and proceeding in a southwesterly direction for approximately 115 feet along the southeasterly sideline of lot #124 to its intersection with the northeasterly sideline of lot #124 on Assessor's Plat #183;

- 1.04 Thence turning and proceeding in a southeasterly direction along the northeasterly lot line of lot #124, Assessor's Plat #183 and the southwesterly sidelines of lots #88 and #90 to its intersection with the southeasterly sideline of lot #90, Assessor's Plat #183, a distance of 100 feet;
- 1.05 Thence turning and proceeding in a southwesterly direction along the southwesterly extension of the southeasterly lot line of lot #90, Assessor's Plat #183 and continuing along the northwesterly lot lines of lots #123, #101, and #102 to its intersection with the northeasterly sideline of lot #103, Assessor's Plat #183 a distance of approximately 200 feet;
- 1.06 Thence turning and proceeding in a southeasterly direction along the northeasterly sideline of lot #103, Assessor's Plat #183 for approximately 140 feet to its intersection with the centerline of Shea Road;
- 1.07 Thence turning and proceeding in a southwesterly direction along the centerline of Shea Road for approximately 150 feet to its intersection with the centerline of Massachusetts Avenue;
- 1.08 Thence turning and proceeding in a southeasterly direction for approximately 70 feet along the centerline of Massachusetts Avenue to its intersection with the projection of the centerline of Norris Street;
- 1.09 Thence turning and proceeding in a southwesterly direction along the centerline and its projection of Norris Street for approximately 150 feet to its intersection with a line 100 feet distant from and parallel to the southwesterly sideline of Massachusetts Avenue, Assessor's Plat #192;
- 1.10 Thence turning and proceeding in a northwesterly direction along a line 100 feet distant from and parallel to the southwesterly sideline of Massachusetts Avenue to its intersection with the centerline of Alberta Terrace, Assessor's Plat #191;
- 1.11 Thence turning and proceeding in a southwesterly direction along the centerline of Alberta Terrace for approximately 200 feet to its intersection with the centerline of Cedar Street;
- 1.12 Thence turning and proceeding in a northerly direction along the centerline of Cedar Street for approximately 400 feet to its intersection with the easterly projection of the southerly sideline of lot #4, Assessor's Plat #191;
- 1.13 Thence turning and proceeding in a northwesterly direction along the southerly sideline of lot #4, Assessor's Plat #191, for approximately 150 feet to its intersection with the rear lot line of lot #4, Assessor's Plat #191;
- 1.14 Thence turning and proceeding in a northeasterly direction along the rear lot line of lot #4 and its projection for approximately 130 feet to its intersection with a line 100 feet distant from and parallel to the southwesterly sideline of Massachusetts Avenue;
- 1.15 Thence turning and proceeding in a northwesterly direction along a line 100 feet distant from and parallel to the southwesterly sideline of

- Massachusetts Avenue to its intersection with a line 50 feet distant from and parallel to the northwesterly sideline of Tyler Court, Assessor's Plat #189;
- 1.16 Thence turning and proceeding along a line 50 feet distant from and parallel to the northwesterly sideline of Tyler Court, in a northeasterly direction for approximately 150 feet to its intersection with the centerline of Massachusetts Avenue, Assessor's Plat #189;
 - 1.17 Thence proceeding in a northeasterly direction along a line perpendicular to the northeasterly sideline of Massachusetts Avenue, intersecting the northeasterly sideline of Massachusetts Avenue at a point 120 feet distant from the northwesterly sideline of Gold Star Road, and continuing to its intersection with a line 100 feet distant from and parallel to the northeasterly sideline of Massachusetts Avenue, a distance of approximately 150 feet, Assessor's Plat #184;
 - 1.18 Thence turning and proceeding in a southeasterly direction along a line 100 feet distant from and parallel to the northeasterly sideline of Massachusetts Avenue for approximately 144 feet to its intersection with the centerline of Gold Star Road;
 - 1.19 Thence turning and proceeding in a southwesterly direction along the centerline of Gold Star Road to a point of intersection with the northwesterly extension of the southwesterly sideline of lot #110 on Assessor's Plat #184 for a distance of approximately 20 feet;
 - 1.20 Thence turning and proceeding in a southeasterly direction along the northwest extension of and the southwest side lot line of lot #110 on Assessor's Plat #184 for a distance of approximately 75 feet to its intersection with the northwesterly sideline of lot #172 on Assessor's Plat #184;
 - 1.21 Thence turning and proceeding in a northeasterly direction along the northeasterly sideline of lots #171 and #172 to its intersection with the northwesterly sideline of said lot #171, a distance of approximately 50 feet;
 - 1.22 Thence turning and proceeding in a southeasterly direction along the northeasterly sideline of lots #172 and #171 for approximately 110 feet to its intersection with the projection of the centerline of Camp Street;
 - 1.23 Thence turning and proceeding in a northeasterly direction along the centerline projection and centerline of Camp Street to its intersection with the centerline of Fair Oaks Street, a distance of 20 feet;
 - 1.24 Thence turning and proceeding in a southeasterly direction along the centerline of Fair Oaks Street for approximately 250 feet to its intersection with the centerline of Cameron Avenue, Assessor's Plat #183;
 - 1.25 Thence turning and proceeding in a northeasterly direction along the centerline of Cameron Avenue for approximately 360 feet to its intersection with the Cambridge/Somerville boundary line;

1.26 Thence turning and proceeding in a southerly direction along the Cambridge/Somerville boundary line for a distance of approximately 540 feet to the intersection with the southerly sideline of the MBTA right of way, the point of origin.

2.00 Said area includes all or parts of the following parcels of land:

2.01 Premises shown on Assessor's Plat #183:

Lots #1, #119, #14, #13, #12, #11, #10, #9, #8, #7, #115, #114, #120, #73, #75, #74, #19, #20, #94, #103; inclusive of 2353-2401 Massachusetts Avenue, 10-44 Cameron Avenue, 87-103 Elmwood Street, 88-102 Elmwood Street;

2.02 Premises shown on Assessor's Plat #192:

Lots #166, #137, #135, #38, #39; inclusive of 2344-2366 Massachusetts Avenue, 7-11 Norris Street, 4-8 Dudley Street;

2.03 Premises shown on Assessor's Plat #191:

Lots #65, #103, #102, #112, #86, #85, #4; inclusive of 2368-2480 Massachusetts Avenue, 1-7 Dudley Street, 6-12 Alberta Terrace, 6-12 Harvey Street, 1-7 Harvey Street, 2-14 Cedar Street;

2.04 Premises shown on Assessor's Plat #189

Lots #98, #92, #57, #75, #76, #77; inclusive of 2440-2474 Massachusetts Avenue, 18-26 Edmunds Street;

2.05 Premises shown on Assessor's Plat #184:

Lots #160, #189, #193, #109, #172, #171, #107, #106, #155, #188; inclusive of 2409-2467 Massachusetts Avenue, 1-3 Gold Star Road Place, 2-4 Fair Oaks Street, 5-7 Cameron Avenue.

B And further, rezone a portion of the area described above in Part A from its current or amended classification to the zone of Residence B, said portion defined as follows:

1.01 An area of land circumscribed by a line, said line beginning at a point, said point being the intersection of a line 100 feet distant from and parallel to the southwesterly sideline of Massachusetts Avenue, with the centerline of Alberta Terrace, Assessor's Plat #191;

1.02 Thence proceeding northwesterly along a line 100 feet distant from and parallel to the southwesterly sideline of Massachusetts Avenue for a distance of approximately 183 feet to its intersection with the centerline of Harvey Street, Assessor's Plat #191;

1.03 Thence turning and proceeding in a westerly direction along the centerline of Harvey Street for a distance of approximately 45 feet to its intersection with the centerline of Cedar Street, Assessor's Plat #191;

1.04 Thence turning and proceeding in a southerly direction along the centerline of Cedar Street for a distance of approximately 262 feet to its intersection with the centerline of Alberta Terrace;

1.05 Thence turning and proceeding in a northeasterly direction along the centerline of Alberta Terrace for a distance of approximately 202 feet to its intersection with a line 100 feet distant from and parallel to the southwesterly sideline of Massachusetts Avenue, said intersection being the point of origin.

2.00 Said area includes all or parts of the following parcels of land:

2.01 Premises shown on Assessor's Plat #191:

Lots #86 and #112; inclusive of 2392-2406 Massachusetts Avenue, and 6-12 Harvey Street.

C And further, rezone a portion of the area described above in Part A from its current or amended classification to the zone of Residence B, said portion defined as follows:

1.01 An area of land circumscribed by a line, said line beginning at a point, said point being the intersection of the Cambridge/Somerville boundary line and the centerline of Cameron Avenue, Assessor's Plat #183;

1.02 Thence proceeding in a southerly direction along the Cambridge/Somerville boundary line for a distance of approximately 138 feet to its intersection with the rear lot line of lot #119, Assessor's Plat #183;

1.03 Thence turning and proceeding in a southwesterly direction for a distance of approximately 295 feet along a straight line terminating at the intersection of the rear lot line of lot #115, Assessor's Plat #183, with the northerly sideline of the Massachusetts Bay Transit Authority right of way;

1.04 Thence turning and proceeding in a northwesterly direction along the northerly sideline of the Massachusetts Bay Transit Authority right of way for a distance of approximately 157 feet to its intersection with the centerline of Cameron Avenue, Assessor's Plat #183;

1.05 Thence turning and proceeding in a northeasterly direction along the centerline of Cameron Avenue for a distance of approximately 427 feet to its intersection with the Cambridge/Somerville boundary line, said intersection being the point of origin.

2.00 Said area includes all or parts of the following parcels of land:

2.01 Premises shown on Assessor's Plat #183:

Lots #1, #119, #14, #13, #12, #11, #10, #9, #8 and #7; inclusive of 10-44 Cameron Avenue.

Passed to a second reading at the City Council meeting held on October 21, 1991 and on or after November 4, 1991 the question comes on passing to be ordained.

ATTEST- John E. Flynn, Deputy City Clerk.

City of Cambridge



In the Year One Thousand, Nine Hundred Ninety-one

AN ORDINANCE

In amendment to an ordinance entitled the "Cambridge Municipal Code."

Be it ordained by the City Council of the City of Cambridge as follows:

That Title 8 (Health and Safety) of the Cambridge Municipal Code is hereby amended by adding thereto the following new Chapter 8.60 (Enforcement of State Sanitary Code):

Chapter 8.60

ENFORCEMENT OF STATE SANITARY CODE

NOTE: Pursuant to the provisions of General Laws, Chapter 40, Section 32A, Tercentenary Edition, the ordinance as aforesaid which exceeds in length eight octavo pages of ordinary book print may be summarized for publication in a newspaper of general circulation in the city with the further provision that said Zoning Ordinance may be examined and obtained at the City Clerk's Office during office hours and that any objection to its invalidity by reason of any defect in the procedure of adoption may only be made within ninety days after the posting or the second publication.

Passed to a second reading at the City Council meeting held on October 21, 1991 and on or after November 4, 1991 the question comes on passing to be ordained.

ATTEST:- John E. Flynn, Deputy City Clerk.



City of Cambridge

In the Year One Thousand, Nine Hundred and Ninety-One

AN ORDINANCE

In amendment to an ordinance entitled the "Cambridge Municipal Code."

That Title 8 (Health and Safety) of the Cambridge Municipal Code is hereby amended by adding thereto the following new Chapter 8.60 (Enforcement of State Sanitary Code):

Chapter 8.60

ENFORCEMENT OF STATE SANITARY CODE

Sections

8.60.010	Declaration of Emergency
8.60.020	Definitions
8.60.030	Administrative Citations; Issuance
8.60.040	Repairs
8.60.050	Extensions
8.60.060	Fines for Failure to Repair
8.60.070	Appeals of Fines
8.60.080	Failure to Pay Fine
8.60.090	Effect of Fines in Subsequent Actions
8.60.100	Revenues Generated
8.60.110	Regulations
8.60.120	Construction
8.60.130	Severability
8.60.140	Effective Date

8.60.010

Declaration of Emergency

A serious public emergency exists in the City of Cambridge with respect to residential premises which are in violation of the State Sanitary Code, causing many citizens to live in unsafe conditions. The legal remedies available to the Inspectional Services Department in enforcing this code, as well as other applicable state laws and regulations, are insufficient to encourage timely repair of rental properties. Owners often avoid repairing sub-standard properties, thereby endangering the lives, safety, and property of tenants and severely limiting the ability of many people to remain in their homes safely.

In order to provide the Inspectional Services Department with the remedies necessary to effectively carry out its mandate under state law, to guarantee tenants of the City of Cambridge housing which complies with the State Sanitary Code and other applicable laws and regulations, and to encourage owners to maintain the buildings they own in compliance with this code, laws and regulations, the Cambridge City Council, in the exercise of its powers under Section 6 of the Home Rule Amendment, hereby enacts this ordinance under which administrative citations are issued to owners who violate the State Sanitary Code.

Definitions

(A) "Administrative Citation" means a notice issued to an owner by the Inspectional Services Department, pursuant to this Chapter, which provides a statement of the terms under which the owner may be fined for failure to remedy violations of the State Sanitary Code and a statement of the owner's right to appeal the issuance of the administrative citation and/or fine.

(B) "Dwelling" means every building or shelter including but not limited to rooming houses and temporary housing used or intended for human habitation and every other structure or condition located within the same lot line whose existence causes or is likely to effect noncompliance with the provisions of 105 CMR 410.000.

(C) "Dwelling Unit" means the room or group of rooms within a dwelling used or intended for use by one family or household for living, sleeping, cooking and eating. Dwelling unit shall also mean a condominium unit.

(D) "Inspectional Services Department" means the legally designated health authority for the City of Cambridge, authorized by Chapter 84 of the Acts and Resolves of 1983, to enforce the State Sanitary Code through the inspection of rental units for violations of the code and the implementation of mechanisms to ensure compliance with repair orders.

(E) "Occupant" means every person over one year of age living or sleeping in a dwelling or dwelling unit.

(F) "Owner" means every person who alone or severally with others (a) has legal title to any rental unit, or parcel of land, vacant or otherwise, including a mobile home park; or (b) has care, charge or control of any dwelling, rental unit, mobile dwelling unit or parcel of land, vacant or otherwise, including a mobile home park, in any capacity including but not limited to agent, executor, executrix, administrator, administratrix, trustee or guardian of the estate of the holder of legal title; or (c) mortgagee in possession; or (d) agent, trustee or other person appointed by the courts; (e) any officer or trustee of the association of unit owners of a condominium; (f) a bank or other lending institution in possession as a result of foreclosure; or (g) any person who operates a rooming house. The term "owner" includes landlords and lessors.

(G) "State Sanitary Code" means the State Sanitary Code, Code of Massachusetts Regulations codified at 105 CMR 400.00 - 419.00, adopted under the authority of Massachusetts General Laws, Chapter 111, §3 and §127A as it may be amended from time to time.

8.60.030 Administrative Citations; Issuance

(A) Whenever the Inspectional Services Department finds any violation of any provision of the State Sanitary Code it shall issue, in addition to its order to make repairs, an administrative citation against the owner according to the procedures set out in this Chapter.

(B) The administrative citation shall incorporate by reference the order to make repairs and shall contain the following information:

(1) the date of the inspection;

(2) the amount of fine which shall be assessed against the owner if the violation or violations are not remedied within the time set out in the order to make repairs as well as the rate at which the fine shall escalate pursuant to Section 8.60.080 (B) of this Chapter;

(3) the manner in which the owner may pay any fine assessed in accordance with the provisions of this Chapter; and

(4) a description of the owner's appeal rights with respect to the issuance of the administrative citation and of any fine.

(C) The administrative citation shall be served on the owner, along with any orders to make repairs, in accordance with the provisions of the State Sanitary Code;

(D) A copy of the administrative citation shall also be served on the occupants of the dwelling or dwelling unit in which violations have been found and shall be posted in the common areas of the dwelling. If violations of the State Sanitary Code are found in the common areas of any dwelling, a copy of the administrative citation shall be served on each and every tenant of the dwelling.

(E) A copy of the administrative citation shall be retained by the Inspectional Services Department and be available for public inspection and copying.

8.60.040 Repairs

(A) An owner shall make any and all repairs necessary to remedy any violations found by the Inspectional Services Department within the time stated on the order to make repairs, unless he or she requests a hearing pursuant to the hearing regulations of the State Sanitary Code.

(B) The Inspectional Services Department shall, within five days after the dates for compliance specified in an order to repair issued pursuant to 105 CMR 410.830, make an on-site inspection to determine whether there has been compliance with its order. This inspection shall be made within 24 hours of the dates for compliance specified in an order, however, if one or more of the violations or conditions cited in the order to repair are determined to be conditions which may endanger the health or safety, and well being of the occupant(s) as defined in 105 CMR 410.750. An inspection under 105 CMR 410.830 shall comply with the requirements of 105 CMR 410.822.

(c) If, upon re-inspection, it is determined that the Owner has remedied the violations cited in the order to make repairs, the administrative citation shall note this finding and shall be filed with the Inspectional Services Department.

(D) Copies of the administrative citation indicating that the violation has been remedied and no fine has been assessed shall be served on the same individuals who received notice of the initial administrative citation. This notice shall be served within five days of the re-inspection.

(E) If, upon re-inspection, it is determined that the owner has failed to remedy the violations cited, this shall be noted on the administrative citation and a fine shall be assessed against the owner in accordance with the terms of Section 8.60.060. of this Chapter.

(F) Copies of the administrative citation noting the assessment of a fine for failure to remedy the violations cited shall be served on the same individuals who received notice of the initial administrative citation within five days of the fine being assessed against the owner.

8.60.050 Extensions

(A) An owner who has made a good faith effort to remedy any violations cited in an order to make repairs and an administrative citation may apply to the Inspectional Services Department for an extension of the time set for making repairs by requesting a hearing under the hearing provisions of the State Sanitary Code.

(B) A good faith effort shall be found to exist only if the owner provides evidence that the repairs cannot be completed within the required time. Such evidence shall be in the form of at least

two written estimates from outside professionals, one of which the owner has accepted in writing, stating when the repairs will be made.

(C) In any case where an extension has been granted for the remedying of any violation, a new date shall be set by the Inspectional Services Department by which the owner shall remedy the violation and a re-inspection shall take place in accordance with Section 8.60.040 (C) through (F) of this Chapter.

(D) No extensions shall be granted in any case where an owner has received a fine for the same or similar violations within the twelve month period immediately preceding issuance of the current administrative citation.

(E) In no event shall the time allowed for repairs including any extensions be greater than sixty days from the date of the issuance of the order to make repairs.

8.60.060 Fines for Failure to Repair

(A) If an owner fails to remedy a violation cited in an order to make repairs within the allotted time, or fails to remedy the violation within the time set out in any extension granted under Section 8.60.050 of this Chapter, or fails to file a timely appeal, a fine shall be assessed against the owner.

(B) Notice of the assessment of a fine shall be served on the owner in accordance with the notice provisions of the State Sanitary Code.

(C) Notice of the fine shall be served on the same individuals who received notice of the initial administrative citation.

(D) The amount of the fine shall be set according to the following schedule:

(1) \$100.00 per day for each violation referred to in 105 CMR 410.830 (A) and required to be corrected within twenty-four hours; or

(2) \$50.00 per day for each violation referred to in 105 CMR 401.830 (B) and required to be repaired in an amount of time determined by the Inspectional Service Department but, in any event, no more than thirty days.

8.60.070 Appeals of Fines

(A) An owner or occupant who is aggrieved by the issuance of a fine or by the failure of the Inspectional Services Department to fine an owner pursuant to this Chapter may appeal to the Inspectional Services Department according to the following procedures:

(1) An appeal shall be filed within ten days of the date of the action appealed from;

(2) The appeal shall be in writing and shall state, in detail, the grounds for the appeal;

(B) The filing of a timely appeal shall stay the effect of the fine but shall not stay the owner's obligation to repair any violations cited.

(C) A hearing shall be held on the appeal following the same procedures available in an appeal of the issuance of an order to make repairs which are set out in 105 CMR §§ 410.850 and 410.860, except that any appeal to court shall be governed by the provisions of Massachusetts General Laws, Chapter 30A.

(D) Nothing in this section shall be construed to affect or impair the right to appeal the issuance of an order to make repairs.

8.60.080 Failure to Pay Fines

(A) Notice of a fine which has been issued pursuant to Section 8.60.060 of this Chapter shall be served on the owner and on the occupants who receive notice of the initial administrative citation.

(B) In addition, the owner shall be given notice that the fine shall automatically double if any violation cited in the administrative citation is not remedied within two weeks of service of the notice of the fine and shall automatically triple if any violation is not remedied within one month of service of the notice of the fine.

(C) A property tax lien shall be taken by the City of Cambridge against the owner if the tripled fine is not paid within six months of service of the notice of the fine or the issuance of the next property tax bill, whichever is later, and the owner shall be notified of this action prior to its being taken.

(D) Any person aggrieved by the failure of the City of Cambridge to take such enforcement action, may seek injunctive relief in the district or superior court pursuant to Massachusetts General Laws, Chapter 214 and 218, §19C to require action by the City of Cambridge in accordance with its enforcement obligations under this section.

8.60.090 Effect of Fine In Subsequent Court Actions

(A) A copy of the administrative citation indicating that a fine has been issued as a result of the owner's failure to remedy a violation cited in the administrative citation shall be prima facie evidence of a violation of Massachusetts General Laws, Chapter 111, §127A et seq. and Chapter 239, §8A in any legal action by or against the owner.

8.60.100 Revenues Generated

(A) Each fiscal year the City Manager shall determine an accounting of the revenues generated by the implementation of this ordinance in excess of the cost of administration and shall make a recommendation in the budget presented to the City Council for an appropriation of said funds to the appropriate city department or agency so that said revenues will be directed toward the repair or rehabilitation of deteriorated dwellings or dwelling units in the city.

8.60.110 Regulations

The Commissioner of Inspectional Services shall promulgate regulations consistent with the terms of this Chapter and any applicable state laws and regulations.

8.60.120 Construction

Nothing in this Chapter shall be construed to conflict with the provisions of Massachusetts General Laws, Chapter 111, § 127A, et seq. governing the authority and conduct of the Inspectional Services Department or with any other law or regulation governing the rights and obligations of owners and tenants in the Commonwealth Of Massachusetts.

8.60.130 Severability

The provisions of this Chapter are severable. If any section or sections are declared invalid by a court of competent jurisdiction, the invalidity shall not affect the validity of any remaining section or sections.

8.60.140 Effective Date

The provisions of this Chapter shall take effect three months from the date of its enactment.

Ordinance #3\HealthPo.bd\Sanitar.cod

Draft - October 22, 1991



City of Cambridge

In the Year One Thousand, Nine Hundred Ninety-one

AN ORDINANCE

In amendment to an ordinance entitled the "Cambridge Municipal Code."

Be it ordained by the City Council of the City of Cambridge as follows:

That Title 2 entitled "Administration and Personnel" of the Cambridge Municipal Code is hereby amended by adding at the end thereof a new Chapter 2.117 entitled "Code of Conduct for City Officials and Employees."

Passed to a second reading as amended at the City Council meeting held on October 21, 1991 and on or after November 4, 1991 the question comes on passing to be ordained.

ATTEST:- John E. Flynn, Deputy City Clerk.

NOTE: Pursuant to the provisions of General Laws, Chapter 40, Section 32A, Tercentenary Edition, the ordinance as aforesaid which exceeds in length eight octavo pages of ordinary book print may be summarized for publication in a newspaper of general circulation in the city with the further provision that said Zoning Ordinance may be examined and obtained at the City Clerk's Office during office hours and that any objection to its invalidity by reason of any defect in the procedure of adoption may only be made within ninety days after the posting or the second publication.

ATTEST:- John E. Flynn, Deputy City Clerk.

The Ordinance Committee
Wednesday, May 29, 1991
Sullivan Chamber

5:45 p.m.

Councillor Francis H. Duchay, Chair

Present.

- 1) C. Cyr
- 2) C. Russell 5:59
- 3) C. Myers 6:01
- 4) C. Welch 6:30
- 5) C. Sullivan 6:44
- 6)
- 7)
- 8)
- 9)

C. Duchay

- Condensed hearing
- outlined Procedures.
- Presentation
- Councillor's question
- Proponents.
- Opponents.
- Introduction of Law Department.

Judy Leonard

James Plain - (CASIS)

Ellen Shatner

17 Marie Ase (CASUS)

- Goal + Purpose
- Current system - Allowed for continuous delays in enforcement issues.
- system - self executing plan & fines.

- Protect residents & tenants
- Incentives to landlords to make repairs.

Ordinance - ISD inspection - conditions that violate Sanitary Code - Administrative Citation - Schedule of Repairs - Reinspection - fine issued

Fines grow - doubling & tripling - ultimately lien placed on property. Fund established - two fold

Notion - Create incentive - cheaper to make repairs.

- Doesn't A any substantial process^{or} - law
- Parallel - Provision of this
- Enforcement mechanism
- Timetable - same as in Sanitary Code.
- No further requirements for landlords.
- Same Appeals Process
- Able to get extensions.
- Ordinance will detail 2 other initiatives

C. Cyr.

Doesn't eliminate our ability to go to court.

Judy Leonard

Correct.

C. Cyr

- will reduce caseload of IAD
- " " " " " Court System

C. Cyr

where - enforcement actions - City.

Judy Leonard.

Vision very little physical enforcement.

Don Driscoll

Several Concerns

① Method - involve civil fine - only authority (4021D) - Maximum fine of \$300.00 - Automatic doubling & tripling can't exceed \$300.00

Commissioner of Housing Inspection - enforce State Sanitary Code.

② After tripling - property tax lien - DO think it needs home rule legislation.

③ Section 2.60.100 - Doesn't comply w/ Charter - Rollover can't be done by a provision of an ordinance. - think it will need home rule

C. Cyr.

Recommend tightening of language to solve # 1.?

D. Drisdell

- Correct
- Amend Proposal - strike Lien aspect - and ask City Mgr. to recommend in Budget process.

Judy Leonard

- Wait research Lien aspect.
- Don't want whole Ordinance subject to home rule process.
- Important to us - Fines dedicated to rehab.

C. Myers

- Important piece of legislation
- " - enforcement arm of I&D
- Anchor to help the inspection process proceed.

Size of fines - Source by law.

Don Drisdell

Chapter 40 § 21 D

C. Duchay

Dedication of Revenue - Affordable Housing Trust - Can it be used ?

D. Drisdell

Yes.

C. Russell

Only Sanitary Code?

Ellen Shatner.

Yes

C. Russell

Why not both?

Ellen Shatner

+ Home rule legislation process.
- Parallel program to Sanitary Code.

Judy Leonard

Greater minds than ours. -
work out future.

No comments received from C.
Cellucci.

C. Cyr.

List of Endorsers - presented
by proponents.

Ellen Shatner

Read list of Endorsers into the
record.

Judy Leonard

Read into the record prepared
endorsers communication.

Michael Turk
24 Prescott St.

Spoke on behalf of CTU
heartily endorse Ordinance.

Stacy Beecham
CEOC

Camb. Eviction free zone
endorses Ordinance.

Richard Griffin
17 Holland St.

Gray Panthers of Greater Boston
support & endorse Ordinance.

Enriquez

Centro Presente endorse
Ordinance
(54 Essex St.)

Anita Shipman
COA

Council on Aging Supports
Ordinance.

Neil Rohr
279 Pearl St.
CEOC

CEOC endorses Ordinance

Ross
6 Washington

CCA endorses Ordinance

C. Duehay

Opposition

None came forward.

C. Walsh

- No contact by CASCS
- Proposal - Hidden Tax.
- Agree to C. Solicitor Re: Lien
- Fines - high

No studies have been done to
necessitate this

Don't Support.

C. Duchay

Law Dept - Suggested Changes.

Atty's - presenters meet @

Law Dept. to iron out language.

C. Russell

Leave in Committee.

until proponents meet @ City
Staff.

C. Myers.

Moved to Full Council

Hearing Concluded
6:45 PM.

City of Cambridge

MASSACHUSETTS

In City Council _____ 199

C. Russell

	YEA	NAY	ABSENT	PRESENT	
Mr. Ed Cyr		✓			
Mr. Francis H. Duehay		✓			
Mr. Jonathan S. Myers		✓			
Mr. Kenneth E. Reeves			✓		
Mrs. Sheila T. Russell	✓				
Mr. Walter J. Sullivan	✓				
Mr. Timothy J. Toomey, Jr.			✓		
Mr. William H. Walsh	✓				
Mayor Alice K. Wolf			✓		

3

3

3

Not A Vote

City of Cambridge

MASSACHUSETTS

In City Council _____ 199

C. Myers.

	YEA	NAY	ABSENT	PRESENT
Mr. Ed Cyr	✓			
Mr. Francis H. Duehay	✓			
Mr. Jonathan S. Myers	✓			
Mr. Kenneth E. Reeves			✓	
Mrs. Sheila T. Russell		✓		
Mr. Walter J. Sullivan		✓		
Mr. Timothy J. Toomey, Jr.			✓	
Mr. William H. Walsh		✓		
Mayor Alice K. Wolf			✓	

3

3

3

Not A Vote



LYNN E CHASE
EXECUTIVE VICE PRESIDENT
AND TREASURER

March 27, 1991

Ms. Annabelle Hebert
Executive Director
Cambridge Arts Council
57 Inman Street
Cambridge, MA 02139

Dear Ms. Hebert:

Back in 1977 when Ronald Lee Fleming and Pamela Worden were working very hard to get the Cambridge Arts Council off the ground, Cambridge Savings Bank was very supportive. We held meetings here at the Bank for all of the Cambridge banks in order for the Council to make a presentation to them and for us to show our support to encourage other bank members to contribute as well. It was the first year of the River Festival and the budget that year for the festival was \$46,150, an overall annual budget of \$372,610. We at the Bank, and myself in particular, were very enthusiastic about the program and had every hope that it would succeed.

Our contributions since that time have not been as great but we have been a steady contributor over the years. This Bank is extremely active with smaller groups in Cambridge and particularly relative to the arts. We have been happy in this relationship and I believe the various organizations have been as well. The Bank prides itself on trying to be an active member of the Cambridge community.

With this said, I have to tell you that I was not as moved as I should have been by your "emergency alert" memo of February 27, 1991. Please don't misunderstand that remark. I believe the Arts Council has served a very useful purpose in Cambridge but for many of us here at the Bank, and myself in particular, I feel that the Arts Council has been called upon to do services for which we do not wish to contribute.

This is my case. You may have heard about it from some of your colleagues. Roy-Alan Hansen has tried his best to be helpful but apparently the Arts Council hasn't the power to deal with our problem. For just about one year now, daily, except in rain and severe weather, Soul Matrix sets up next to the handicap elevator adjacent to the Bank window. In warmer weather they start late morning and colder weather they start around Noon to 2:00 p.m. and play continuously until 5:30-6:00 p.m.. For those of us who are trying to work and earn an honest living, it is extremely difficult and extremely distracting. Last summer, I asked them if they could lower the volume. I asked nicely and was greeted with a barrage of extremely rude comments from the woman and even more vocal comments from the man in almost screaming voices saying "they had a right", "they were sanctioned", and that the Cambridge Arts Council has allowed them permission. I called the Arts Council and Mr. Hansen was kind enough to come up with two other persons to measure the decibels. Apparently they did not exceed the limit which the City Council feels is appropriate. I have to tell you that the volume of this music is not always the same. Often times it is louder than others. Mr. Hansen suggested we write to Councillor Duehay and voice our complaint. Several of us, whose offices are in the front of the building, have done so with no reply or response.

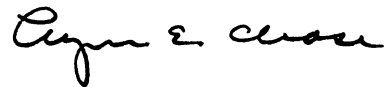
The Bank does not object, and I certainly do not object to any of the street musicians which I think is probably appropriate to Harvard Square, however, this pair is here every day, selling tapes and occupying a spot and no one else is allowed. If anyone else is there, Soul Matrix makes such a scene, they leave -- or if anyone is making any kind of music or anything else in the so called "pit" out here, she chases them away or gets into an argument about it with them.

If the Arts Council has no jurisdiction over what kind of music can be played where, then certainly the Arts Council should have jurisdiction over how many days a particular group can play in a particular spot.

Since we are powerless, and apparently you are powerless to effect any change, my only way of showing our disappointment is to not recommend contributions to the Cambridge Arts Council.

I want you to know that I personally detest writing this letter and I have held it for a day when they got on my nerves enough to make me realize how necessary this letter is. Today is the day! I am sorry.

Sincerely,



LEC:lmh

P.S. You might ask Soul Matrix for a contribution. It appears do very well with their collections.

3 Concord Avenue
Cambridge, Massachusetts
May 11, 1991

Dear Mr Duehay,

Thank you for your letter of April 16. I had understood from your statement at the meeting on April 3 that the playing of bongo drums in the Common was not to be permitted. Your letter, however, seemed to take it all back by referring to a separate Ordinance and Arts Council permission for "street musicians." I therefore delayed replying until it became clear what would happen in practice. And what has happened is that the playing of bongo drums has continued for hours on end--on May 5 from 1 o'clock until 9 o'clock. On May 8 someone was out pounding away from about 8:30 in the evening until about 9:30. It is now 10:30 a.m. and it has already started and will presumably go on throughout the weekend.

I do not understand why in your letter you invite me to get back in touch with you. The problem has been explained. Either you and the other appropriate authorities will ban drums in the Common or you will not. If you or the other members of the City Council or of the Arts Council ever experienced what it is like to be subjected to the pounding of bongo drums for hours on end, I doubt if you and they would be appeased by being referred to separate Ordinances and Arts Council permissions.

Yours sincerely,



Frederic Spotts

LAWRENCE HARTMANN, M.D.
147 BRATTLE STREET
CAMBRIDGE, MASSACHUSETTS 02138
(617) 876-8488

6/5/90

Councillor Francis Duehay
26 Lowell St.
Cambridge, Mass. 02138



Dear Councillor Duehay :

I note that you are chairing the Environment Committee for the Cambridge City Council. I hope you will be vigorous .

May I ask if noise comes under the purview of that committee ? I think noise has been getting worse and worse in Cambridge in the past few years. I think we need rules limiting noise, and some not-too-reluctant enforcement of the rules.

A few days ago, I spoke to two policemen in front of the Wursthau : a record store a few doors down JFK St. had placed an amplifier in an open second floor window, and the music playing in the shop was blaring out onto the street, very loudly , impossible for several hundred people at any one moment not to hear . The window amplifier's booming had been going on for two hours. The policeman were polite, as I was, but they said there was nothing they could do . They said the City Council is considering changing noise rules, no one is clear where things stand, and so they have nothing to enforce. I doubted that that was strictly true , but it is my impression that Cambridge policemen are not quick or eager to enforce complaints about noise --even about noise which is, with terrific modern technology, easily made extremely loud : amplified overrapping cacophony at Harvard and Brattle Squares.

Could there be clear rules, clearly posted, and more readily enforced by the police (that is, without putting burdens on those who complain) ?

I am quite aware that some teenagers like loudly amplified music, but in a public space that is crowded , some restraints are needed, or the rudest will prevail. Noise is intrusive and aggressive in a way that silence is not. If amplification of outdoor music at Harvard and Brattle Squares, and most other crowded places, could be banned, lots more musicians could simultaneously sing and play with less offense, and without sound wars and cacophony. Posting such a rule at several points around the traditionally noisiest points would help take some burden off the complainer and even the timid passer-by who doesn't want to make a fuss but who doesn't like all the noise. If decibels are hard to measure (though several European countries and several other American cities give police decibel meters), a rule of thumb could be something like 'audible at 50 feet away at a level louder than ordinary conversation'.

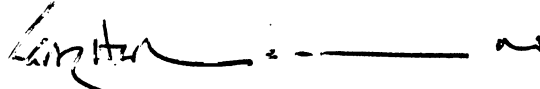
This letter was prompted mostly by amplified music from record stores and street musicians, but there are also other growing noises :

over

- a) unmuffled cars ; unmuffled or undermuffled trucks (?sacred to the police ?) ; and unmuffled or undermuffled motorcycles (motorcycles, even huge ones, can be quiet, and are usually sold that way when new ; owners choose to unmuffle them, in order to roar.)
- b) more and more garden equipment . I'd be glad to stop using the noisest garden machines if the whole community would stop. It was mowers, but now it's also trimmers, blowers (particularly loud), chain saws, and tree-branch-grinder-uppers .
- c) radios in cars , and PA systems in cars and trucks
- d) even the sirens of police cars, fire trucks, and ambulances have grown steadily louder, as if there were no countervailing community interest opposing bigger and bigger sirens.

I hope you can help make Cambridge quieter and more civilized.

Thank you --


Lawrence Hartmann , M.D.

4 April 91

Dear Mr. Duehay,

I failed to attend the meeting scheduled for last evening on what was represented as a discussion of the noise problem and wanted to deliver the message I was commissioned to pass on.

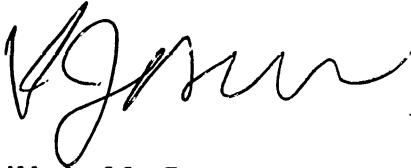
As head of the Tenants Association at One Waterhouse St., I was asked to say that the drumming which has become a Sunday afternoon institution in decent weather on the Common is a not insignificant nuisance to tenants who front on the Common. About a dozen people mentioned it to me unasked, and I, too, have been increasingly disturbed by the three- or four-hour throbbing on this day of rest.

We are about as far away from this phenomenon as possible and still face it, so it must penetrate a fair number of residences.

If this is a police matter and not your bailiwick, would you be so kind as to pass this on? It would be much appreciated.

Thank you for your attention.

Sincerely,



Kimball Jones
1 Waterhouse St
Cambridge, MA 02138

LAWRENCE HARTMANN, M.D.
147 BRATTLE STREET
CAMBRIDGE, MASSACHUSETTS 02138
(617) 876-8488

4/4/91

City Councillor Francis Duehay
26 Lowell St. , Cambridge, Mass.

Dear Mr. Duehay :

Thanks very much for remembering that I think Cambridge needs better rules agaist noise, and for sending me the proposed ordinance . It arrived today ; I note that your hearing on the matter was yesterday . Perhaps that will make the following comments too late.

I am concerened about amplified noise at Harvard Square and Brattle Square. Today, at lunchtime, one singer , with a microphone, was inescapably loudly audible to all of Brattle Square and approaches --i.e. to about 500 or more people at that busy time of a sunny day. That is unpleasant. It is even more unpleasant when there are, as often, several competing poeple or groups with amplification.

I cannot tell if your proposed ordinance would fix that. Decible levels IF ENFORCED would help , but probably only if the noise regulations are posted in several easily visible places on Brattle Square , so that people (and policemen) would not assume, as they now do, that there are no rules and that it is hopeless . An additional rule that would seem to me anti-chaos but pro-music would be to allow no amplification : singers would be reasonably limited by their vocal power, and most musical instruments by their natural limits ; a few instruments, such as trumpets or big drums, might still be limited by decibel levels.

I hope you design some workable limits ; the exhuberance of Brattle and Harvard Squares has become cacophonous, aggressive, and unpleasant.

Yours,



Lawrence Hartmann , M.D.

P.S. I do not want to add too many difficulties to your noise work, but I am also unclear whether the proposed ordinace would help limit the now ubiquitous environmentally silly and roaringly loud leafblowing machines .

Ron Kalman
1200 Mass. Ave., Apt. 31E
Cambridge, MA 02138

May 15, 1991

491-3326

Francis H. Duehay
26 Lowell Street
Cambridge, MA 02138

Dear Francis H. Duehay,

I am writing to you because of a problem I'm experiencing with the noise from street musicians. The back window of my apartment faces onto Arrow Street in Harvard Square. On this street, several doors down from my apartment, there is a store called Talking Drum. The woman who owns the store hires African drummers (street musicians) to play in front of the store as a form of advertisement. Last year, the drummers were out there on a regular basis on the weekends for up to eight hours at a time. This year, they have continued to play there variously on Friday nights, and on Saturday and Sunday afternoons.

I work Monday through Friday, eight hours a day. The weekends are essentially the only time I can expect to relax and hope to enjoy the comfort of my apartment. However, the incessant drumming has made this impossible. I can no longer read, sleep, watch t.v. or use my apartment for any manner of relaxation. I am continually forced to flee my apartment and wander the streets aimlessly just to escape the "music."

I am in favor of people expressing themselves musically or otherwise. However, I also believe that it is necessary for people to be able to enjoy the privacy of their homes or apartments. The drumming is as serious an intrusion into my life as if someone physically came into my apartment and proceeded to take the place over.

I do not believe the drumming should be allowed to continue on Arrow Street. Any help you can offer in this matter would be greatly appreciated.

Sincerely,



Ron Kalman

cc: Members of the Cambridge City Council; Cambridge Arts Council.

Enforcement - Street Performers Ordinance

6:50 PM

C. Duehay

- Committee on Ordinances
- History of Ordinance.
- Liberal Approach - Open up the City.
- City Council can review enforcement
- No proposals on the table at this time.
- Some changes may be forthcoming.
- Have asked City Mgr to review - no comprehensive report at this time.

- Intro of City Officials.
- I enjoy music of the street performers.
- Have received complaints.

Spoke about Flyers.

C. Myers.

- Street performers - Cultural asset of this City.
- outlined Agenda of Ad Hoc Committee of the Association for Street performers.
- want this Ordinance to work.
- Must address concerns of all

- wait charge Ordinance to restrict
1st Amendment rights.

C. Cyr.

- Ordinance an attempt to find the middle ground.
- suggest we address
Not alot of clarity on - Rules
" " " " " - Who makes it work.

Ryer - I was appalled. - An attempt to frighten.

No discussion - No proposal.

- most complaints that I have received is from the performers.
- Need to start a Dialogue.
- Alot of this is how you make it work.

C. Dunham

- Agree w C. Myers & C. Cyr - statements.
- Spoke of the Financial Times.
- Most of what we do is based on Common Sense.
- site specific problems - Cambridge Savings Bank; Discovery Site; Waltham Park - Grendel's Den.

Bongo Drum - Camb.-Dje Cannon -
Mid afternoon / Late evening.

C. Myers.

- Anxious to hear from public.
- Working Committee - might be good to do.

Russell Cohen
101 Aber-Deen Ave

Performer - Sing on Wednesday. nites.
Enforce current Ordinance. - Good one.
Enforcement - Self policing.

C. Duchay

City - all day / all night?

R. Cohen.

Spot checks.

Charlotte Moore
9 Rutland St.

- Camb.-Dje Discovery support Street Performers.
- Fine working relationship $\bar{=}$ Street Performers Guild
- Gait perform our duties as now enforced.
- Limit access to the booth.
- Deal $\bar{=}$ Crowds.

Gretchen
1661 Mass Ave

Taxi Driver - we need
Street performers.

Georgia Potter
87 Hammond St.

Work at Info Booth - Fridays.

- I am a Swamp Yankee - Electronic music bothers me.
- Like Indian Music.
- Spoke of Agenda
- Outlined it.

Nan Donnell
60 Pleasant St.
Kinston

Jules Chisholm
21 Rice St.

- Volunteering for last 5 yrs.
- Outlined experience w/ Crowd Control.
- Like Music.

Marilyn Sandown
Street Performer

Questioned Decibel level readers.

Lavone Davidson
287 Harvard St.

- Volunteer at Discovery.
- letter to Arts Council.
- Don't need musicians playing all day.
- Resigned as a volunteer.
- 80 dbi looked at
- noise
- no aaphs.

Sharon Williamson
237 Franklin St.

- One of the Quietest Group in Sq.
- won't be lynched.
- Enforce the Ordinance
- Appalled by discrimination.

Bara Moulding
10 Forrest St.

Erna Stranton
20 A Bowdoin St

- Work on Brattle St. - ^{17 & 19} NDF / Moto.
- Entertainers out of Scale & Harvard Sq.
- Want Free Access to our Doors + Windows.
- Need to create a medium between Musicians & Business
- A different spirit in the square in the Day.

C. Myers.

Disagree with previous speaker.
Re: Entertainers out of Scale,
Harvard Sq. out of Scale & Harv. Sq.

John Bosty
Chauncy St.
Volunteer - Discovery.

- Problem - Music imposed near at hand & louder than allowed for.
- Distance - Decibel be enfo.

Martin Sexton
10 Thatcher St Boston.

Last fall & Summer - Performed on Fri in Sq. - Never seen Decibel enforcement mechanism in place.

Malcolm Hamilton
3 Concord Ave.

No problem & Performers in Harvard Square.

Can't deal w Bongo Drums on St.
Totally unnecessary.

Ayra
Street Performers.

- We should be treated politely
- Something is not working here - try to enforce ordinance.

Martin Applebaum
Rep. Harvard Sq.
Business Assoc.
18 Brattle St.

Our - Square Deal

- Need some moderation.
- Common Decency & Respect needed on both s. De.

Derrick Bell III
9 Walden News.

- Support Street Performers.
- A 11 p.m. curfew.

Eric Weinberger
Bread & Jam Program

- Sponsor food & music concerts on Sunday on the Common.
- Events contributes to peace & harmony in city.

C. Duchay
E. Weinberger

Responsible for Bongo Drums?
Bread & Jam Program - encourages both - Not sure about bongo drums.

Attempting to be responsible.

Gabriel Britain
92 Mass Ave.

- Maybe more information booth
- Kunga drums - sacred instrument.

Dave Levin
Player Piano Man

- Enforce the new ordinance.
- Fund Arts Council to enforce it.
- Curfew is imposed

Huke Huntsberger
13 Ware St.

- Situation is better
- Rules are known now.
- Support a midnight curfew.
- Supports enforcement.

Phoebe Wells

- Travel specifically to Harvard Sq. to see street performers.
- Family-oriented atmosphere.

Lorraine Salter
9 Weed St Bost.

- Former Officer of Guild
- Celebrate the Anniversary of this Ordinance.
- Cultivate another forum - working committee.
- Need consistent enforcement.

Gregory Van Etten
Essex St Salem

- Move info. booth
- Extend curfew to 12:00 on Fri & Sat.

Vincent Dixon
287 Harvard St.

- Volunteer in Booth - since '88
- No better place for booth.
- Mediation / Negotiation helpful
- Ad hoc committee necessary

- Funding
- Rotate Space
- Consider off-street sites.
- Could take a break

Karen Caplan
60 Oak St.

Supports Musicians

Muriel

- Need amps. on the street
- Curious about - Permit fee - ?
- " " Innocent Music - ?
- Move Info Booth.

Peter Rattigan
Eustia St Brookline

- work for Cambridge Savings Bank
- Like Street Musicians
- Against Amplification
- Needs some Negotiations,

Stephen Beard
42 St Cross St

- Need consistent enforcement.
- Influence of some 200 new artists.
- Need on-going re-education.
- Need for on-going discussions.
- Prefer Working Committee.

John Frisone
Camb. Savings Bank

- Trying to determine the correct forum.
- Support street performers
- Not trying to legislate music type

C. Myers.

- funds cut-off to the Arts Council by your back. - Sorry to hear about that.
- Need better Communication.

Maria Maritoni
10 Magazine St.

- Support Performers
- Reinforce Present Ordinances.
- Soul Matrix not a loud group.
- Support Bongo Drums on Common.

Robert McCormack
Bread & Jam

Supports Performers.

Ned Landin
67 Prescott St. Med.

- Look forward to continuing communications.
- Spot checks would go along way to bring into balance.

Roy Alan Hanson
Dep. Dir Arts Council.

- People expect more from the readings.
- Demonstration of Decibel reader
- Different "Sound" Days.
- Drums a persistent sound.
- Do spot checks.
- We are out there.

C. Duchay

- Not general problems -
specific problems -

City of Cambridge

HEARING SCHEDULE

MAY 17 PM 3:50

CAMBRIDGE MA.

Monday, May 20, 1991

3:30 p. m. Special City Council meeting will be held to continue discussions relative to SCHEME Z alternatives. (Sullivan Chamber)

5:30 p. m. Regular City Council meeting. (Sullivan Chamber)

7:00 p. m. The City Council will conduct a public hearing regarding childhood hunger, nutrition, education and federal programs aimed at inadequate nutrition for children. (Sullivan Chamber)

8:00 p.m. The City Council will conduct a public hearing to review the Affirmative Action Plan. (Sullivan Chamber)

Wednesday, May 22, 1991

5:30 p. m. The Committee on Ordinances will conduct a public hearing on the proposed amendment to the Zoning Ordinances relative to regulation of fast foods. (Sullivan Chamber)

Wednesday, May 29, 1991

5:30 p. m. The Committee on Ordinances will conduct a public hearing on a proposed amendment to the Municipal Code entitled "Administrative Review for Violations of the State Sanitary Code." (Sullivan Chamber)

6:30 p. m. The Committee on Ordinances will conduct a public hearing to discuss the enforcement of the Street Performance Ordinance. (Sullivan Chamber)

Monday, June 3, 1991

5:30 p. m. Regular City Council meeting. (Sullivan Chamber)

Tuesday, June 4, 1991

7:30 p. m. The Committee on Environment and the Committee on Economic Development, Training and Employment to recommend a revised growth management policy to the full City Council. (Sullivan Chamber)

- ✓ Charlotte Moore
- ✓ George Potter
- ✓ Jules Christolm
- ✓ Latonne Davidson
- ✓ Sara Modding
- ✓ John Bovey
- ✓ Malcolm Hamilton
- ✓ MARTIN APPLEBAUM, *pres. Harvard Square Business Assoc.*
- ✓ ERIC WEINBERGER
- ✓ Dave Levin
- ✓ Phoebe Wells
- ✓ GREGORY VAN ETTEN
- ✓ Karen Lipidas
- ✓ PETER RATTIGAN
- ✓ JOHN A. FRISONÉ
- ✓ Robert B. McCormack
- ✓ Ned Landin

- ✓ Russell Cohen
- ✓ Guitna Bohm Hayden
- ✓ Nancy Donald
- ✓ Maudy Soudan
- ✓ Sharrhan Williamson
- ✓ Irma Staten
- ✓ Martin Sefton
- ✓ Ara Sarkissian
- ✓ Derrick Bell III
- ✓ ~~Lafayette Davidson~~
- ✓ Gabrielle Britton
- ✓ Luke Hunsberger
- ✓ Horraine Saltre
- ✓ VINCENT DIXON
- ✓ Miriam
- ✓ Stephen Baird
- ✓ MAREA MARITOU
- ✓ NARUEY

5/29/91

Agenda of Ad Hoc Committee of The Association for Street Performance.

Our objectives include:

1. Need for a more positive working relationship with the City Council, Arts Council and Police Department.
2. Consistent enforcement of the current Cambridge city ordinance (ord. # 1104.)
3. Better Communications:
 - Better notice of agenda of meetings pertaining to street performers, including public notice and notice to group's Cambridge liaison, currently Nan Donald 868-8335
60 Pleasant St. #3
Camb. Ma. 02139
 - Designated contact persons at the Arts Council and/or Police Dept.
4. Extend performance hours to 12:00 a.m. (midnight)
5. Dealing with specific problem situations. There should be a forum other than City Council meetings for negotiation and full cooperation and communication among the parties.

Respectfully submitted by: Nan Donald, Cambridge liaison
Harvey Smith, bursar
Kevin McNamara, MBTA liaison
Ara Sarkissian, special events coordinator
Jason Threlfall, performer
Ned Landin, performer

Nan Donald
Harvey Smith
Kevin McNamara
Ned Landin
Ara Sarkissian
100 11/1/00

5/29/91

Agenda of Ad Hoc Committee of The Association for Street Performance.

Our objectives include:

1. Need for a more positive working relationship with the City Council, Arts Council and Police Department.
2. Consistent enforcement of the current Cambridge city ordinance (ord. # 1104.)
3. Better Communications:
 - Better notice of agenda of meetings pertaining to street performers, including public notice and notice to group's Cambridge liaison, currently Nan Donald 868-8335
60 Pleasant St. #3
Camb. Ma. 02139
 - Designated contact persons at the Arts Council and/or Police Dept.
4. Extend performance hours to 12:00 a.m. (midnight)
5. Dealing with specific problem situations. There should be a forum other than City Council meetings for negotiation and full cooperation and communication among the parties.

Respectfully submitted by: Nan Donald, Cambridge liaison
Harvey Smith, bursar
Kevin McNamara, MBTA liaison
Ara Sarkissian, special events coordinator
Jason Threlfall, performer
Ned Landin, performer

Nan Donald
Harvey Smith
Kevin McNamara
Ned Landin
Ara Sarkissian
120 11/00

Agenda of Ad Hoc Committee of The Association for Street Performance.

Our objectives include:

1. Need for a more positive working relationship with the City Council, Arts Council and Police Department.
2. Consistent enforcement of the current Cambridge city ordinance (ord. # 1104.)
3. Better Communications:
 - Better notice of agenda of meetings pertaining to street performers, including public notice and notice to group's Cambridge liaison.
currently Nan Donald 868-8335
60 Pleasant St. #3
Camb. Ma. 02139
 - Designated contact persons at the Arts Council and/or Police Dept.
4. Extend performance hours to 12:00 a.m. (midnight)
5. Dealing with specific problem situations. There should be a forum other than City Council meetings for negotiation and full cooperation and communication among the parties.

Respectfully submitted by: Nan Donald, Cambridge liaison
Harvey Smith, bursar
Kevin McNamara, MBTA liaison
Ara Sarkissian, special events coordinator
Jason Threlfall, performer
Ned Landin, performer

Nan Donald
Harvey Smith
Kevin McNamara
Ned Landin
Ara Sarkissian
Jason Threlfall

ATTACK ON FREE SPEECH

On Wednesday, May 29th at 6:30 PM, THE CAMBRIDGE CITY COUNCIL is holding a public hearing at Cambridge City Hall to attempt to amend the ordinance on street performing.

The CITY COUNCIL MAY BAN AMPLIFICATION, LOWER THE DB LEVEL, AND/OR FURTHER RESTRICT AREAS IN WHICH MUSIC MAY BE PLAYED!!!

This is nothing more than a direct attack on the civil and constitutional rights of all street performers to make a livable income. The Association for Street Performance urges all performers to attend the City Council hearing on Wednesday and LET THEIR VOICES BE HEARD in opposition to any amendments to an ordinance the CITY OF CAMBRIDGE HAS AS YET NOT EVEN ATTEMPTED TO ENFORCE!!

In addition, the Cambridge City Council has violated its own ordinance by not informing the Association and the public of this hearing in advance, as required by the ordinance.

On SUNDAY, MAY 26th at 7:30 PM, the Association for Street Performance will hold a planning meeting at 237 Franklin St., Apt. 18-C, in Central Square, Cambridge, to discuss tactics to be used in opposition to this attack on our rights! All performers are invited to attend. For more information,

Contact:

Sharrhan Williamson at 576-2057
Jonathan Backstrom

PLEASE COME TO BOTH MEETINGS!
WE MUST ALL STAND TOGETHER!

ATTACK ON FREE SPEECH

ATTACK ON FREE SPEECH.

On Wednesday, May 29th at 6:30 PM, THE CAMBRIDGE CITY COUNCIL is holding a public hearing at Cambridge City Hall to attempt to amend the ordinance on street performing.

The CITY COUNCIL MAY BAN AMPLIFICATION, LOWER THE DB LEVEL, AND/OR FURTHER RESTRICT AREAS IN WHICH MUSIC MAY BE PLAYED!!!

This is nothing more than a direct attack on the civil and constitutional rights of all street performers to make a livable income. The Association for Street Performance urges all performers to attend the City Council hearing on Wednesday and LET THEIR VOICES BE HEARD in opposition to any amendments to an ordinance the CITY OF CAMBRIDGE HAS AS YET NOT EVEN ATTEMPTED TO ENFORCE!!

In addition, the Cambridge City Council has violated its own ordinance by not informing the Association and the public of this hearing in advance, as required by the ordinance.

On SUNDAY, MAY 26th at 7:30 PM, the Association for Street Performance will hold a planning meeting at 237 Franklin St., Apt. 18-C, in Central Square, Cambridge, to discuss tactics to be used in opposition to this attack on our rights! All performers are invited to attend. For more information,

Contact:

Sharrhan Williamson at 576-2057
Jonathan Backstrom

PLEASE COME TO BOTH MEETINGS!
WE MUST ALL STAND TOGETHER!

ATTACK ON FREE SPEECH

ATTACK ON FREE SPEECH

On Wednesday, May 29th at 6:30 PM, THE CAMBRIDGE CITY COUNCIL is holding a public hearing at Cambridge City Hall to attempt to amend the ordinance on street performing.

The CITY COUNCIL MAY BAN AMPLIFICATION, LOWER THE DB LEVEL, AND/OR FURTHER RESTRICT AREAS IN WHICH MUSIC MAY BE PLAYED!!!

This is nothing more than a direct attack on the civil and constitutional rights of all street performers to make a livable income. The Association for Street Performance urges all performers to attend the City Council hearing on Wednesday and LET THEIR VOICES BE HEARD in opposition to any amendments to an ordinance the CITY OF CAMBRIDGE HAS AS YET NOT EVEN ATTEMPTED TO ENFORCE!!

In addition, the Cambridge City Council has violated its own ordinance by not informing the Association and the public of this hearing in advance, as required by the ordinance.

On SUNDAY, MAY 26th at 7:30 PM, the Association for Street Performance will hold a planning meeting at 237 Franklin St., Apt. 18-C, in Central Square Cambridge, to discuss tactics to be used in opposition to this attack on our rights! All performers are invited to attend. For more information,

Contact:

Sharrhan Williamson at 576-2057
Jonathan Backstrom

PLEASE COME TO BOTH MEETINGS!
WE MUST ALL STAND TOGETHER!

ATTACK ON FREE SPEECH

ATTACK ON FREE SPEECH

On Wednesday, May 29th at 6:30 PM, THE CAMBRIDGE CITY COUNCIL is holding a public hearing at Cambridge City Hall to attempt to amend the ordinance on street performing.

The CITY COUNCIL MAY BAN AMPLIFICATION, LOWER THE DB LEVEL, AND/OR FURTHER RESTRICT AREAS IN WHICH MUSIC MAY BE PLAYED!!!

This is nothing more than a direct attack on the civil and constitutional rights of all street performers to make a livable income. The Association for Street Performance urges all performers to attend the City Council hearing on Wednesday and LET THEIR VOICES BE HEARD in opposition to any amendments to an ordinance the CITY OF CAMBRIDGE HAS AS YET NOT EVEN ATTEMPTED TO ENFORCE!!

In addition, the Cambridge City Council has violated its own ordinance by not informing the Association and the public of this hearing in advance, as required by the ordinance.

On SUNDAY, MAY 26th at 7:30 PM, the Association for Street Performance will hold a planning meeting at 237 Franklin St., Apt. 18-C, in Central Square Cambridge, to discuss tactics to be used in opposition to this attack on our rights! All performers are invited to attend. For more information,

Contact:

Sherrhan Williamson
Jonathan Backstrom at 576-2057

PLEASE COME TO BOTH MEETINGS!
WE MUST ALL STAND TOGETHER!

ATTACK ON FREE SPEECH

ATTACK ON FREE SPEECH

On Wednesday, May 29th at 6:30 PM, THE CAMBRIDGE CITY COUNCIL is holding a public hearing at Cambridge City Hall to attempt to amend the ordinance on street performing.

The CITY COUNCIL MAY BAN AMPLIFICATION, LOWER THE DB LEVEL, AND/OR FURTHER RESTRICT AREAS IN WHICH MUSIC MAY BE PLAYED!!!

This is nothing more than a direct attack on the civil and constitutional rights of all street performers to make a livable income. The Association for Street Performance urges all performers to attend the City Council hearing on Wednesday and LET THEIR VOICES BE HEARD in opposition to any amendments to an ordinance the CITY OF CAMBRIDGE HAS AS YET NOT EVEN ATTEMPTED TO ENFORCE!!

In addition, the Cambridge City Council has violated its own ordinance by not informing the Association and the public of this hearing in advance, as required by the ordinance.

On SUNDAY, MAY 26th at 7:30 PM, the Association for Street Performance will hold a planning meeting at 237 Franklin St., Apt. 18-C, in Central Square Cambridge, to discuss tactics to be used in opposition to this attack on our rights! All performers are invited to attend. For more information,

Contact:

Sharrhan Williamson
Jonathan Backstrom at 576-2057

PLEASE COME TO BOTH MEETINGS!
WE MUST ALL STAND TOGETHER!

ATTACK ON FREE SPEECH

ATTACK ON FREE SPEECH

On Wednesday, May 29th at 6:30 PM, THE CAMBRIDGE CITY COUNCIL is holding a public hearing at Cambridge City Hall to attempt to amend the ordinance on street performing.

The CITY COUNCIL MAY BAN AMPLIFICATION, LOWER THE DB LEVEL, AND/OR FURTHER RESTRICT AREAS IN WHICH MUSIC MAY BE PLAYED!!!

This is nothing more than a direct attack on the civil and constitutional rights of all street performers to make a livable income. The Association for Street Performance urges all performers to attend the City Council hearing on Wednesday and LET THEIR VOICES BE HEARD in opposition to any amendments to an ordinance the CITY OF CAMBRIDGE HAS AS YET NOT EVEN ATTEMPTED TO ENFORCE!!

In addition the Cambridge City Council has violated its own ordinance by not informing the Association and the public of this hearing in advance, as required by the ordinance.

On SUNDAY, MAY 26th at 7:30 PM, the Association for Street Performance will hold a planning meeting at 237 Franklin St., Apt. 18-C, in Central Square (Cambridge), to discuss tactics to be used in opposition to this attack on our rights! All performers are invited to attend. For more information,

Contact:

Sharrhan Williamson at 576-2057
Jonathan Backstrom

PLEASE COME TO BOTH MEETINGS!
WE MUST ALL STAND TOGETHER!

ATTACK ON FREE SPEECH

ATTACK ON FREE SPEECH

On Wednesday, May 29th at 6:30 PM, THE CAMBRIDGE CITY COUNCIL is holding a public hearing at Cambridge City Hall to attempt to amend the ordinance on street performing.

The CITY COUNCIL MAY BAN AMPLIFICATION, LOWER THE DB LEVEL, AND/OR FURTHER RESTRICT AREAS IN WHICH MUSIC MAY BE PLAYED!!!

This is nothing more than a direct attack on the civil and constitutional rights of all street performers to make a livable income. The Association for Street Performance urges all performers to attend the City Council hearing on Wednesday and LET THEIR VOICES BE HEARD in opposition to any amendments to an ordinance the CITY OF CAMBRIDGE HAS AS YET NOT EVEN ATTEMPTED TO ENFORCE!!

In addition, the Cambridge City Council has violated its own ordinance by not informing the Association and the public of this hearing in advance, as required by the ordinance.

On SUNDAY, MAY 26th at 7:30 PM, the Association for Street Performance will hold a planning meeting at 237 Franklin St., Apt. 18-C, in Central Square Cambridge, to discuss tactics to be used in opposition to this attack on our rights! All performers are invited to attend. For more information,

Contact:

Sharrhan Williamson at 576-2057
Jonathan Backstrom

PLEASE COME TO BOTH MEETINGS!
WE MUST ALL STAND TOGETHER!

ATTACK ON FREE SPEECH

City officials present - Call Van
Donald + Harvard Sq. Business Assoc -
and Steven Baird - set up a
mechanism to meet.

Rpt back by 6-15-91.

C. Myers.

Needs to be an understanding
on all parts.

C. Duchay.

Compile a list of problems area.

Adjourned at 9:00 pm.

Administrative Citations For Violations of the
State Sanitary Code

Section 1. Declaration of Emergency

A serious public emergency exists in the City of Cambridge with respect to residential premises which are in violation of the state sanitary code, causing many citizens to live in unsafe conditions. The legal remedies available to the Inspectional Services Department in enforcing this code, as well as other applicable state laws and regulations, are insufficient to encourage timely repair of rental properties. Owners often avoid repairing sub-standard properties, thereby endangering the lives, safety, and property of tenants and severely limiting the ability of many people to remain in their homes safely.

In order to provide the Inspectional Services Department with the remedies necessary to effectively carry out its mandate under state law, to guarantee tenants of the City of Cambridge housing which complies with the state sanitary code and other applicable laws and regulations, and to encourage owners to maintain the buildings they own in compliance with this code, laws and regulations, the Cambridge City Council, in the exercise of its powers under Section 6 of the Home Rule Amendment, hereby enacts this ordinance under which administrative citations are issued to owners who violate the state sanitary code.

Section 2. Definitions

(A) "Administrative Citation" means a notice issued to an owner by the Inspectional Services Department, pursuant to this ordinance, which provides a statement of the terms under which the owner may be fined for failure to remedy violations of the State Sanitary Code and a statement of the owner's right to appeal the issuance of the administrative citation and/or fine.

(B) "Dwelling" means every building or shelter including but not limited to rooming houses and temporary housing used or intended for human habitation and every other structure or condition located within the same lot line whose existence causes or is likely to effect noncompliance with the provisions of 105 CMR 410.000.

(C) "Dwelling Unit" means the room or group of rooms within a dwelling used or intended for use by one family or household for living, sleeping, cooking and eating. Dwelling unit shall also mean a condominium unit.

(D) "Inspectional Services Department" means the legally designated health authority for the City of Cambridge, authorized by Chapter 84 of the Acts and Resolves of 1983, to enforce the state sanitary code through the inspection of rental units for violations of the code and the implementation of mechanisms to ensure compliance with repair orders.

(E) "Occupant" means every person over one year of age living or sleeping in a dwelling or dwelling unit.

(F) "Owner" means every person who alone or severally with others (a) has legal title to any rental unit, or parcel of land, vacant or otherwise, including a mobile home park; or (b) has care, charge or control of any dwelling, rental unit, mobile dwelling unit or parcel of land, vacant or otherwise, including a mobile home park, in any capacity including but not limited to agent, executor, executrix, administrator, administratrix, trustee or guardian of the estate of the holder of legal title; or (c) mortgagee in possession; or (d) agent, trustee or other person appointed by the courts; (e) any officer or trustee of the association of unit owners of a condominium; (f) a bank or other lending institution in possession as a result of foreclosure; or (g) any person who operates a rooming house. The term "owner" includes landlords and lessors.

(G) "State sanitary code" means the state sanitary code, Code of Massachusetts Regulations codified at 105 400.00 - 419.00, adopted under the authority of Massachusetts General Laws, Chapter 111, §3 and §127A as it may be amended from time to time.

Section 3. Administrative Citations: Issuance

(A) Whenever the Inspectional Services Department finds any violation of any provision of the state sanitary code it shall issue, in addition to its order to make repairs, an administrative citation against the owner according to the procedures set out in this ordinance.

(B) The administrative citation shall incorporate by reference the order to make repairs and shall contain the following information:

(1) the date of the inspection;

(2) the amount of fine which shall be assessed against the owner if the violation or violations are not remedied within the time frame set out in order to make repairs as well as the rate at which the fine shall escalate pursuant to Section 8(B) and (C) of this ordinance;

(3) the manner in which the owner may pay any fine assessed in accordance with the provisions of this ordinance; and

(4) a description of the owner's appeal rights with respect to the issuance of the administrative citation and of any fine.

(C) The administrative citation shall be served on the owner, along with any orders to make repairs, in accordance with the provisions of the state sanitary code.

(D) A copy of the administrative citation shall also be served on the occupants of the dwelling or dwelling unit in which violations have been found and shall be posted in the common areas of the dwelling. If violations of the state sanitary code are found in the common areas of any dwelling, a copy of the administrative citation shall be served on each and every tenant of the dwelling.

(E) A copy of the administrative citation shall be retained by the Inspectional Services Department and be available for public inspection and copying.

Section 4. Repairs

(A) An owner shall make any and all repairs necessary to remedy any violations found by the Inspectional Services Department within the time frame stated on the order to make repairs, unless he or she requests a hearing pursuant to the hearing regulations of the State Sanitary Code.

(B) The Inspectional Services Department shall, within five days after the dates for compliance specified in an order to repair issued pursuant to 105 CMR 410.830, make an onsite inspection to determine whether there has been compliance with its order. This inspection shall be made within 24 hours of the dates for compliance specified in an order, however, if one or more of the violations or conditions cited in the order to repair are determined to be conditions which may endanger the health or safety, and well-being of the occupant(s) as defined in 105 CMR 410.750. An inspection under 105 CMR 410.830 shall comply with the requirements of 105 CMR 410.822.

(C) If, upon re-inspection, it is determined that the owner has remedied the violations cited in the order to make repairs, the administrative citation shall so note this finding and shall be filed with the Inspectional Services Department.

(D) Copies of the administrative citation indicating that the violation has been remedied and no fine has been assessed shall be served on the same individuals who received notice of the initial administrative citation. This notice shall be served within five days of the re-inspection.

(E) If, upon re-inspection, it is determined that the owner has failed to remedy the violations cited, this shall be noted on the administrative citation and a fine shall be assessed against the owner in accordance with the terms of Section 6 of this ordinance.

(F) Copies of the administrative citation noting the assessment of a fine for failure to remedy the violations cited shall be served on the same individuals who received notice of the initial administrative citation within five days of the fine being assessed against the owner.

Section 5. Extensions

(A) An owner who has made a good faith effort to remedy any violations cited in an order to make repairs and an administrative citation may apply to the Inspectional Services Department for an extension of the time set for making repairs by requesting a hearing under the hearing provisions of the State Sanitary Code.

(B) A good faith effort shall be found to exist only if the owner provides evidence that the repairs cannot be completed within the required time frame. Such evidence shall be in the

form of at least two written estimates from outside professionals, one of which the owner has accepted in writing, stating when the repairs will be made.

(C) In any case where an extension has been granted for the remedying of any violation, a new date shall be set by the Inspectional Services Department by which the owner shall remedy the violation and a re-inspection shall take place in accordance with Sections 4(C) through 4(F) of this ordinance.

(D) No extensions shall be granted in any case where an owner has received a fine for the same or similar violations within the twelve month period immediately preceding issuance of the current administrative citation.

(E) In no event shall the time frame for repairs including any extensions be greater than sixty days from the date of the issuance of the order to make repairs.

Section 6. Fines for Failure to Repair

(A) If an owner fails to remedy a violation cited in an order to make repairs within the allotted time frame, or fails to remedy the violation within the time frame set out in any extension granted under Section 5 of this ordinance, or fails to file a timely appeal, a fine shall be assessed against the owner.

(B) Notice of the assessment of a fine shall be served on the owner in accordance with the notice provisions of the State Sanitary Code.

(C) Notice of the fine shall be served on the same individuals who received notice of the initial administrative citation.

(D) The amount of the fine shall be set according to the following schedule:

(1) \$500.00 per day for each violation referred to in 105 CMR 410.830(A) and required to be corrected within twenty-four hours; or

(2) \$250.00 per day for each violation referred to in 105 CMR 410.830(B) and required to be repaired in an amount of time determined by the Inspectional Services Department but, in any event, no more than thirty days.

Section 7. Appeals of Fines

(A) An owner or occupant who is aggrieved by the issuance of a fine or by the failure of the Inspectional Services Department to fine an owner pursuant to this ordinance may appeal to the Inspectional Services Department according to the following procedures:

(1) An appeal shall be filed within ten days of the date of the action appealed from;

(2) The appeal shall be in writing and shall state, in detail, the grounds for the appeal;

(B) The filing of a timely appeal shall stay the effect of the fine but shall not stay the owner's obligation to repair any violations cited.

(C) A hearing shall be held on the appeal following the same procedures available in an appeal of the issuance of an order to make repairs which are set out in 105 CMR §§ 400.850 and 400.860, except that any appeal to court shall be governed by the provisions of Massachusetts General Laws, Chapter 30A.

(D) Nothing in this section shall be construed to affect or impair the right to appeal the issuance of an order to make repairs.

Section 8. Failure To Pay Fine

(A) Notice of a fine which has been issued pursuant to Section 6 of this ordinance shall be served on the owner and on the occupants who received notice of the initial administrative citation.

(B) In addition, the owner shall be given notice that the fine shall automatically double if any violation cited in the administrative citation is not remedied within two weeks of service of the notice of the fine and shall automatically triple if any violation is not remedied within one month of service of the notice of the fine.

(C) A property tax lien shall be taken by the City of Cambridge against the owner if the tripled fine is not paid within six months of service of the notice of the fine or the issuance of the next property tax bill, whichever is later, and the owner shall be notified of this action prior to its being taken.

(D) Any person aggrieved by the failure of the City of Cambridge to take such enforcement action, may seek injunctive relief in the district or superior court pursuant to Massachusetts General Laws, Chapters 214 and 218, §19C to require action by the City of Cambridge in accordance with its enforcement obligations under this section.

Section 9. Effect of Fine In Subsequent Court Actions

(A) A copy of the administrative citation indicating that a fine has been issued as a result of the owner's failure to remedy a violation cited in the administrative citation shall be prima facie evidence of a violation of Massachusetts General Laws, Chapter 111, §127A et seq. and Chapter 239, §8A in any legal action by or against the owner.

Section 10. Revenues Generated

(A) Any revenues generated by the implementation of this ordinance in excess of the cost of administering it shall be deposited by the Inspectional Services Department in a special fund and shall be allocated as follows: fifty per cent dedicated to providing financial assistance to owners who, due to financial hardship, are unable to remedy violations cited in an administrative citation; and fifty per cent dedicated to repairing dwellings and dwelling units which have so deteriorated as to constitute a public nuisance and which have been removed,

as to constitute a public nuisance and which have been removed, by operation of law or a court order, from the control of the owner as a result of the deterioration.

Section 11. Regulations

The Department of Inspectional Services shall promulgate regulations consistent with the terms of this ordinance and any applicable state laws and regulations.

Section 12. Construction

Nothing in this ordinance shall be construed to conflict with the provisions of Massachusetts General Laws, Chapter 111, §127A, et seq. governing the authority and conduct of the Inspectional Services Department or with any other law or regulation governing the rights and obligations of owners and tenants in the Commonwealth of Massachusetts.

Section 13. Severability

The provisions of this ordinance are severable. If any section or sections are declared invalid by a court of competent jurisdiction, the invalidity shall not affect the validity of any remaining section or sections.

Section 14. Effective Date

The provisions of this ordinance shall take effect three months from the date of its enactment.

47.

Councillor Cyr

Ordered: That the attached Amendment to the Municipal Ordinances entitled "Administrative Review for Violations of the State Sanitary Code" be referred to the Ordinance Committee.

V/V
9



City of Cambridge

47.

IN CITY COUNCIL

April 8, 1991

COUNCILLOR CYR

ORDERED: That the attached amendment to the Municipal Code entitled "Administrative Review for Violations of the State Sanitary Code" be referred to the Ordinance Committee.

In City Council April 8, 1991.

Adopted by the affirmative vote of nine members.

Attest:- Joseph E. Connarton, City Clerk.

A true copy;

ATTEST:-

A handwritten signature in black ink that reads "Joseph E. Connarton".

Joseph E. Connarton, City Clerk

022-A

Order # 47

NON-CONSENT

Councillor Cyr re: proposed amendment
to the State Sanitary Code.

*8/8/92 - Passed to be
ordained as amended.*

5-3-0-1

8/13/92 - Published - Chronicle

In City Council,

April 8, 1991

Referred to the

Ordinance Committee

Copy sent to Ord Comm.

4/12/91 @