

## City of Cambridge

The Ordinance Committee conducted a public hearing on Thursday, May 18, 1995 beginning at 5:55 p.m. in the Sullivan Chamber, City Hall.

Vice Mayor Sheila T. Russell, Chair of the above-referenced Committee, convened the hearing and stated that the purpose of this date's proceedings was to discuss a proposed amendment to the Municipal Code in Title 2, Chapter 2.120 entitled "**Residency Requirement**". Present at the hearing were: Councillors Kathleen L. Born, Francis H. Duchay, Anthony D. Galluccio, Michael A. Sullivan, timothy J. Toomey, Jr., City Manager Robert W. Healy, Personnel Director Michael P. Gardner, Director of the Environmental Program Elizabeth Epstein, Deputy City Solicitor Donald Drisdell and Deputy City Clerk John E. Flynn.

To begin the discussion, Vice Mayor Russell recognized Councillor Toomey for a presentation and remarks on the proposed amendment to the Municipal Code.

Councillor Toomey acknowledged his colleagues, Vice Mayor Russell, Councillor Galluccio and Councillor Sullivan for co-sponsoring his Council Order number fifteen dated February 6, 1995. The Councillor then offered the attached presentation to the Committee.

Upon completion of the presentation, Councillor Toomey inquired of Mr. Gardner if he had spoken to Kate Auspitz, Personnel Director of the City of Somerville, on the workings of the workings of the Somerville residency ordinance. (A statement is attached).

Mr. Gardner responded in the negative.

Councillor Toomey inquired of Mr. Drisdell if he had completed a constitutional review of the proposed amendment to the Municipal Code.

Mr. Drisdell responded in the negative but stated that technically the proposed amendment was not referred to the Law Department for a review.

Councillor Toomey then inquired of the City Manager for his comments on the proposed Ordinance.

City Manager Healy stated that the phasing in approach was a reasonable one, the presentation was excellent but collective bargaining agreements would be needed regarding working conditions with all unions. He noted that state law prohibits residency requirements for police, fire and teachers and that problems could exist with medical and para medicals positions at the Cambridge Hospital Community Health Network. The Manager stated that although he has the same concerns as in the past, he would be willing to negotiate with the various unions if it was the policy of the City Council.

Councillor Toomey inquired of Ms. Epstein if the proposed Ordinance would be environmentally positive.

Ms. Epstein, in response, stated that she would provide the Committee with the environmental estimate vis a vis the Vehicle Trip Reduction Ordinance.

Councillor Galluccio thanked Councillor Toomey for his presentation in dispelling the myths with regards to the City's affordability in housing costs. He noted that the proposal was a reasonable one given the grandperson provision. He also stated that residency offers a commitment to the tax base and level of service to the community. He also stated that the City Manager was underestimating his abilities to bringing the various unions to the table on the issue.

The City Manager, in response, stated that state law allows for a durational one year period with regards to civil service "residential preference" - police and fire; fifteen mile radius and the need to go to the table with all other collective bargaining units.

Councillor Galluccio stated that this Ordinance is just what the Boston Globe has called for a reasonable and workable one. An ordinance that calls for city employees to live in and work in the neighborhoods of Cambridge.

Councillor Duehay stated although he was impressed with Councillor Toomey's presentation, he did not agree with it. He stated that he was in favor of City employees living in the community but was not in favor of forcing it. He noted that the abolition of rent control could force an economic problem with regard to housing. He also stated that employment barriers could be erected if other communities ordained similar ordinances.

Councillor Toomey in response stated that the proposed ordinance offered latitude to the City Manager in recruiting and offering employment to qualified candidates for employment. He stated that this is an important issue and that he has had it with the Rent Control argument.

Councillor Sullivan commended Councillor Toomey for his presentation and stated that residency offers a vesting of the heart and soul in the community. He agreed with the grandperson provision and that it was a good idea to get employees back into the City. He further stated that it was time that we start preaching to ourselves about residency like we do about private concerns. Councillor Sullivan suggested some redefining of residency with regards to the business community sitting on boards or commissions.

Councillor Born stated that the proposed ordinance makes a lot of emotional sense but not logical sense. She stated that residency makes sense in larger cities but felt residency might affect the number of female candidates for "an advertised position." She also discounted residency vis a vis the Vehicle Trip Reduction Ordinance.

The City Manager stated that the last year hire statistics show that 61% were Cambridge residents - 75% if health care workers were excluded from the statistics.

At this time, the chair entertained public comment.

James P. Cassidy, President, Local 195, spoke in opposition to the proposed ordinance.

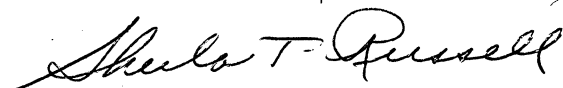
John Moot, 44 Coolidge Hill Road, spoke in opposition to the proposed ordinance.

William C. Jones, Norfolk Street, spoke in opposition to the proposed ordinance.

Councillor Toomey made the following motion: That the proposed ordinance be referred to the City Manager and City Solicitor for comment and be referred back to the Ordinance Committee within three weeks.

The hearing was adjourned at 7:55 p.m.

For the Committee,



Vice Mayor Sheila T. Russell  
Chair



# CAMBRIDGE CITY COUNCIL

CITY HALL, CAMBRIDGE, MASSACHUSETTS 02139

(617) 349-4280

FAX (617) 349-4287

Timothy J. Toomey, Jr.  
City Councillor

## Remarks By

**Cambridge City Councillor Timothy J. Toomey, Jr.  
on Cambridge Employee Residency Ordinance  
May 18, 1995**

As I travel through the City, I am asked more and more frequently why the City of Cambridge does not require that its employees live in the City. They see Boston enforcing their residency ordinance, they see Somerville enforcing its residency ordinance, and ask why not in Cambridge? With this in mind I have submitted to the City Council and will review today my proposed residency ordinance for city employees.

My residency ordinance, unlike that in Boston, would not affect current employees. In fact, only employees hired after January 1, 1996 would be affected. It would not preclude hiring someone from outside of Cambridge, it would only require that that person reside in Cambridge within six months of employment. It would allow the City Manager, with the unanimous approval of the Council, to waive the provision of the ordinance for one year periods, if the City Manager and the Council agree that someone who does not want to live in our great City is crucial to its operation. I contemplate through collective bargaining the elimination of exemptions as may be provided by State Law.

We as a City Council have an obligation to make municipal jobs available for our residents. It is good for the City. People have a greater interest to excel in their jobs if what they do affects their own quality of life and that of their neighbor on a daily basis. City employees will be more apt to become involved in community service in Cambridge, sitting on Boards of local non profit organizations, serving as role models for our children as they coach sports teams. This can only enhance the image of City government in the eyes of our residents. It will benefit the economy as city employees return taxpayers' money to the local economy by shopping in local stores and using the services of local businesses. It will have an important and dramatic effect on the environment as we fulfill our commitment to clean air by reducing the number of cars required to bring the 3,000 non resident city employees into our city. And it does it the correct way, gradually, over a period of about ten years as jobs turn over, reducing the impact on housing. This is a good way to start and show the people of Cambridge we care about them.

Let me begin by describing the current situation. According to the City's Personnel Department, whom I thank for providing me the raw data for my research, the City, excluding the School Department, employs approximately 3,000 permanent, non casual employees. Of that number, approximately 1,100 are city residents. Thus, a full 63 %, almost 2/3, of our City employees do not live in Cambridge (Exhibit A). In some job categories such as City non-union/management, more than 70% of our employees are not city residents (Exhibit B). In the school department, more than 70% of our teachers do not live in Cambridge and almost 80% of our schools principals and headmasters are not residents of our City. I find these numbers to be staggering and unacceptable. I expect most city residents will be equally appalled and outraged by these facts.

Where do our non resident City employees live? Forty-two percent (42%) of full time non residents employees live in the toney suburbs between Cambridge and Rte 128. 25% live beyond Rte 128, 2% even live out of state; 17% live in Somerville and 14 % live in Boston (Exhibit C). I note, for the record, that almost 700 of our permanent employees live in Somerville and Boston, both of which now have enforced residency ordinances and where a resident of our city can not be employed. In a hearing held in 1993 on residency, Mayor Reeves said that Boston's residency ordinance was "a sham". Well, no longer. It is now a fact and the people of our city look to us for the same protection.

One of the red herring arguments used against residency is that housing costs in Cambridge are high and out of reach of city employees. First of all, our city employees are paid very well. To quote Deputy City Manager Richard Rossi at last week's budget hearing "And the City pays very well, that's correct." To assume that our employees can not live in the City first of all ignores the fact that 30% of our employees, a large number of whom are at the lower end of the pay scale, do live in Cambridge. So, lets look where our employees actually live and compare housing costs.

According to the Commonwealth's Executive Office of Communities and Development, 70% of our housing stock is rental units. Thus it is most appropriate to use rental costs in this analysis. Comparing the median rental housing cost as listed in the 1994-1995 edition of the Massachusetts Municipal Profiles with information provided by the City on where employees live, 99% of our employees could afford to rent in Cambridge (Exhibit D).

And even if you use the median single family sales prices as provided by the Greater Boston Real Estate Board (GBREB) for the last quarter of 1994, more than 2/3 of our employees could afford to buy in Cambridge. And that's using the GBREB median sales price for Cambridge of \$195,000. If you use the City's Assessing Office's median 1994 sales price for single family homes by assessing district, you would see the median sales price for East Cambridge to be \$162,000, for Area 4 to be \$153,000, Riverside to be \$177,000, and North Cambridge to be \$192,000. With these median sales prices, the number of employees who could afford to buy in Cambridge would increase dramatically.

And let's take a sampling of the communities where some of our employees live. Six employees live in Acton, 132 live in Arlington, 85 live in Belmont, 51 live in Brookline, 10 live in Concord, 31 live in Lexington, 31 live in Melrose, 15 live in Milton, 70 live in Newton, 17 live in Reading, 6 live in Sudbury, 6 live in Wayland, 10 live in Wellesley, three live in Weston - the most expensive place to live in Massachusetts - and 30 live in Winchester (Exhibit E). These City employees, more than 500 people, live in cities and towns where the median single family sales price is almost \$300,000 compared to Cambridge's \$195,000. Our city employees may not be able to afford to live on Brattle St or Coolidge Hill Road, but don't try to tell the residents of East Cambridge, Area 4, Riverside, North Cambridge and, in fact, most of the city, that these well paid employees can not afford to live in their neighborhoods. To say otherwise is ignoring the facts, and condescending to the people of this City. As I said earlier its a red herring, a myth that needs to be and has been laid to rest by the facts.

I've been asked whether a residency ordinance would have a negative effect on our affirmative action goals. First of all, I think we have done a disgraceful job in recruiting minorities from within our community. According to the Massachusetts Institute for Social & Economic Research, the unemployment rate in the minority community of Cambridge is close to 10%. When I see about half of our non permanent (casual and seasonal) employees coming from outside our city, I know we are failing in our obligation to recruit in our minority communities. For example, in 1989, School Committee Member Fran Cooper and I sponsored a program that would, in cooperation with Lesley College, prepare minority students from our high school for teaching positions within the Cambridge School system. The Superintendent failed to implement this program, and we are today seeing the results of that failure. With a residency ordinance implemented, this program would become a key component for employing local residents from the minority community

Secondly, I think residency by all our employees does not hurt affirmative action goals. Why would someone not want to live in Cambridge, after all we consider ourselves a world class city. And what are the benefits of having members of the minority community whom we hire live in our city? They will be role models for all residents of the minority community as Commissioner Anderson has been. They will particularly be role models for our children, working for and with them not only from 9:00 AM to 5:00 PM but throughout the entire day. By not having African American, Hispanic or Asian city employees living in our neighborhoods we are losing an important asset in bettering our community.

We on the City Council are also constantly urging businesses located in Cambridge to hire Cambridge residents. We demand that developers hire members of Local 40 for local construction jobs. How can we honestly ask Cambridge businesses to hire Cambridge residents when we do such a miserable job of doing the same. We need to be the leaders on this issue. For example, when the City Council hired Mr. Lindstrom as City Auditor we included in Section 9 of his contract "Employee agrees to maintain his place of residence within the City of Cambridge." If this provision is good enough for the City Auditor, it is good enough for all the City's employees.

I'd now like to turn to another benefit of this ordinance - the positive benefits for our environment.

In 1992, we submitted to the State an amendment to the State Implementation Plan based on the Cambridge Trip Reduction Ordinance. In that document we proposed to promote air quality standards for the protection of human health by "reducing the number of vehicle trips currently traveled within the Commonwealth and reducing the number of associated emissions of air pollutants." Specifically, we promised measures to "reduce work related trips and associated emissions of air pollutants."

Let's take a look at two components of that ordinance. Section 10.17.180 calls for the expansion of local employment opportunities. In that section we demonstrate our commitment to "increase the number of Cambridge residents employed by Cambridge businesses and reduce vehicle miles associated with work commutes." (Exhibit F)

As seen on the enclosed chart, the City is the third largest employer in the City. (Exhibit G) By approving this residency ordinance, we can significantly improve our automobile efficiency rate by reducing and, in fact, eliminating the vehicle mile trips associated with 3,000 city employees driving into the city. By my estimation, we can reduce the city's total vehicle mile trips significantly by approving this residency ordinance. If we are not prepared to take the leadership role on this, how can we ask the business community to do the same.

The second section of this ordinance I would like to review is Section 10.17.170, Municipal Vehicle Trip Reduction Plans (Exhibit H). In this section we outline the city's plans to "reduce vehicle trips and vehicle miles traveled by municipal employees and thereby improve the City's automobile efficiency rate" Among the measures listed are incentives and assistance for bicycle commuting, transportation allowances for public transit, and shuttle services. While I'm surprised that the most obvious way to reduce the city's vehicle trips, employee residency, is not contemplated by this 500 page document at all, my ordinance, coupled with innovative programs such as city paid public transit passes, bicycle programs and a city employee shuttle, can reduce the city vehicle mile trips significantly in the next 10 years. If we are really serious about this vehicle trip reduction ordinance and improving the environment for our residents, we have the perfect opportunity to show our commitment by requiring that city employees live in the city.

In closing, I must say that I have been taken aback by the negativity and mean spiritness demonstrated by opponents of this ordinance. For example, the *Cambridge Chronicle* ran an editorial cartoon showing a job candidate and a dog both vying for a city job, but the candidate being told “Your qualifications are impressive, but I’m afraid Mr. Spot is a local resident” (Exhibit I). Frankly there is a line between editorial humor and insulting an entire community and I think the Chronicle crossed that line.

Even more disturbing is a letter to the editor by former CCA President John Moot who says “ *The proposed residency requirement for city employees is not in the best interest of the City. ...The city may be forced to choose from the dregs at the bottom of the barrel.* ” To consider any city resident the dregs at the bottom of the barrel is offensive to all city residents not to mention elitist and racist.

On a more positive note, though, are the remarks by two current city administrators. Last week Commissioner Perry Anderson said “I live here in Cambridge and I spend my money here in Cambridge. I get my clothes cleaned here in Cambridge. I shop at the Galleria Mall here in Cambridge.”

And, in a report to the Council on May 10, 1995, City Auditor James Lindstrom wrote “I believe strongly in living in the community in which I work... I have tried ... to become involved in the community. I am a member of the Harvest Coop, serving on its Finance Committee. I have done volunteer work for the AIDS Action Committee, and am exploring with the Cambridge YMCA ways in which I may serve on one of their committees.”

Both Commissioner Anderson and Mr Lindstrom understand the positive impact of residency by city employees and I applaud their efforts.

My proposed ordinance is the right approach to residency by city employees. Unlike Boston, it does not have a negative impact on our current employees and the effects of the ordinance will take about 10 years to be fully recognized, thereby eliminating pressure on our housing stock. It will foster a better relationship between city employees and all other city residents. It is good for the economy. It is good for the environment. This ordinance is the right thing to do, and will show the people of Cambridge we care about them.

I urge my colleagues to join me in approving this ordinance.

-30-

Attachments: Proposed Residency Ordinance  
Exhibits A-I



# City of Cambridge

15.

IN CITY COUNCIL

February 6, 1995

COUNCILLOR TOOMEY

ORDERED: That the attached amendment in Title 2, Chapter 2.120 entitled "Residency Requirement" of the Cambridge Municipal Code be referred to the Ordinance Committee for a hearing and a report within 45 days.

**Chapter 2.120 Residency Requirement**

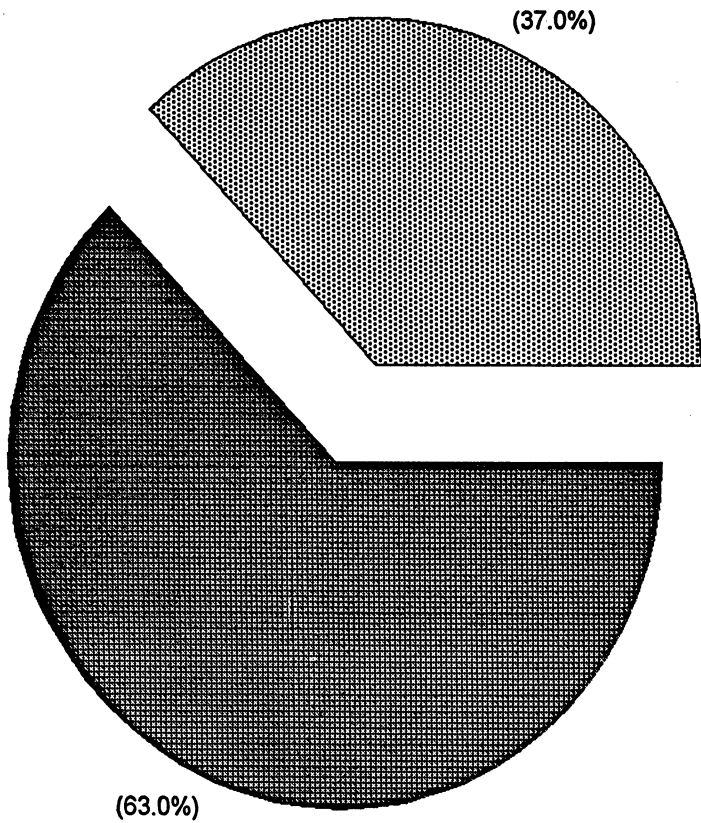
- a) Every person first employed by the City of Cambridge on or after January 1, 1996 shall, within six (6) months, become a resident of the city and shall not cease to be a resident of the city during his or her employment by the city.
- b) The term "employee" as used in this section shall mean any person performing services for or holding an office, position or employment in any city department or agency, whether by election or appointment, contract of hire or engagement, whether serving with or without compensation, on a full, regular, part-time, intermittent or consultant basis.
- c) Upon taking employment with the city, and annually by February first thereafter, every person subject to this section shall file with his or her department head, or like officer or officers, a certificate signed under the pains penalties of perjury, stating his or her name, and place of residence. Upon receipt of a certificate indicating a place of residence not within the city, or if no such certificate is filed, the department head or like officer(s) shall forthwith arrange a hearing to be held within thirty (30) days before the department head or officer(s) to show reason why said employee is no longer a legal resident. The department head or officer(s) shall notify the individual in writing one (1) week in advance of said hearing.
- d) If the finding of the hearing is that the individual is no longer a legal resident, that person shall cease to be employed by the city, and that person shall be terminated by the City Manager and notice of that action shall be forwarded to the City Clerk, who shall transmit the same to the City Council and City Auditor.
- e) No person so stricken from a payroll as a result of this section shall be reemployed by the city for a period of one (1) year following the cessation of his or her employment.
- f) To the extent permitted by Chapter 31 of the General Laws, every examination held to establish a civil service list for employment by the city shall be restricted to city residents.
- g) If this section shall be deemed to be in conflict with a provision of any general or special law, the provision of that general or special law shall govern, and shall not defeat the application of this section with respect to any position not governed by the law.
- h) If the City Manager, with unanimous approval of the City Council determines it to be in the best interest of the City to do so, the provisions of this section may be waived with the respect to a particular person or position, but said

waiver shall not be for more than the period of one (1) year, and such waiver shall not act to defeat the application of this section to every other person or position.

- i) The provisions hereof are severable, and the action of any court of competent jurisdiction in declaring any part or portion hereof invalid, shall not act to defeat any remaining part or portion thereof, and any such action invalid with respect to any person or position shall not be held to apply to any other person or position.
- j) In construing this section, residence shall be the actual principal residence of the individual, where he or she normally eats and sleeps and maintains his or her normal personal and household effects. This section shall be deemed to affect both civil service and noncivil service employees of the City, including the City Clerk, City Manager, and City Auditor.

**CURRENT CAMBRIDGE RESIDENCY**  
Permanent Employees

■ Cambridge  
■ NON CAMBRIDGE



Source: City of Cambridge Personnel Department

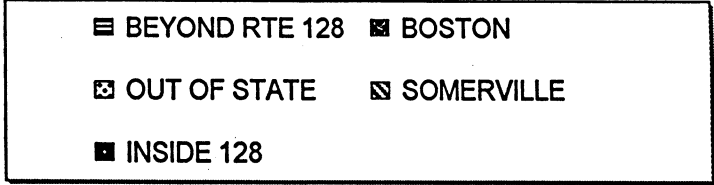
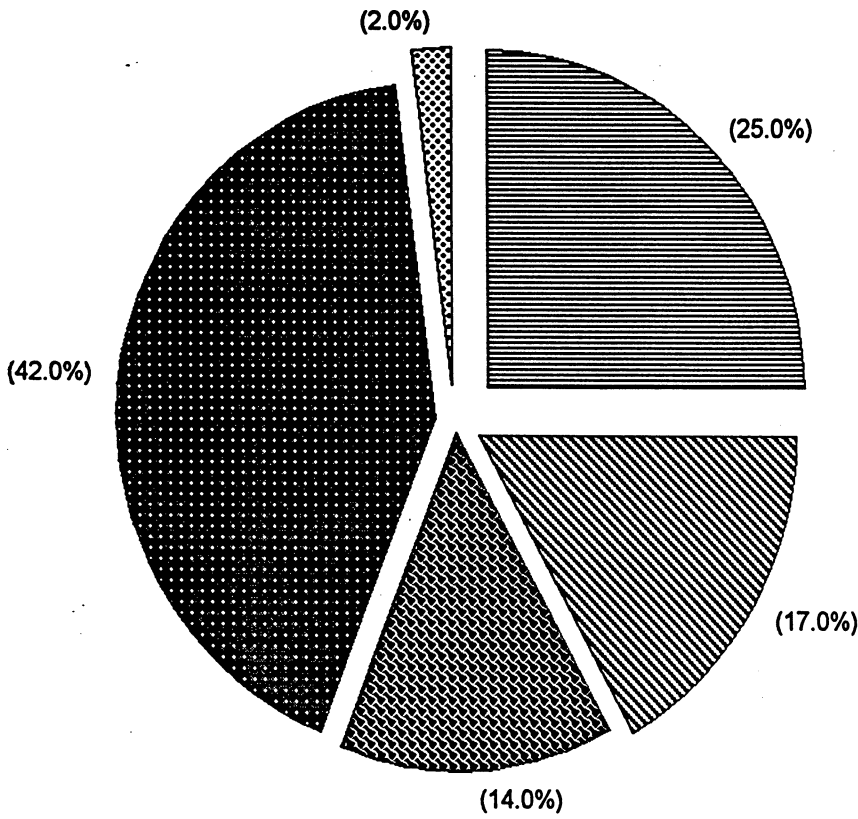
**PERSONNEL DEPARTMENT  
PAYROLL ANALYSIS BY MAILING ADDRESS (ZIP CODE)  
AS OF 050595**

**CITY OF CAMBRIDGE EMPLOYEES LIVING IN CAMBRIDGE**

<b>GROUP</b>	<b>TOTAL</b>	<b>CAMBRIDGE</b>	<b>%</b>
Non-Union/Management	886	264	29.80%
Local 195 IPEA	931	423	45.44%
DayCAre District 65	37	21	56.76%
Engineers/Steam Fire 87	12	3	25.00%
FireFighters Local 30	275	106	38.55%
House Officers CHOA	84	31	36.90%
AFSCME/Council 93	5	1	20.00%
CPLSA Library Staff	60	28	46.67%
MNA Nurses	323	47	14.55%
Police Officers	217	91	41.94%
Rent Control/ UAW 65	17	7	41.18%
Police Superiors	48	15	31.25%
Council 93 Traffic Super	53	45	84.91%
Local 254 Water	43	29	67.44%
<b>GRAND TOTAL</b>	<b>2991</b>	<b>1111</b>	<b>37.14%</b>

# CURRENT NON CAMBRIDGE RESIDENCY

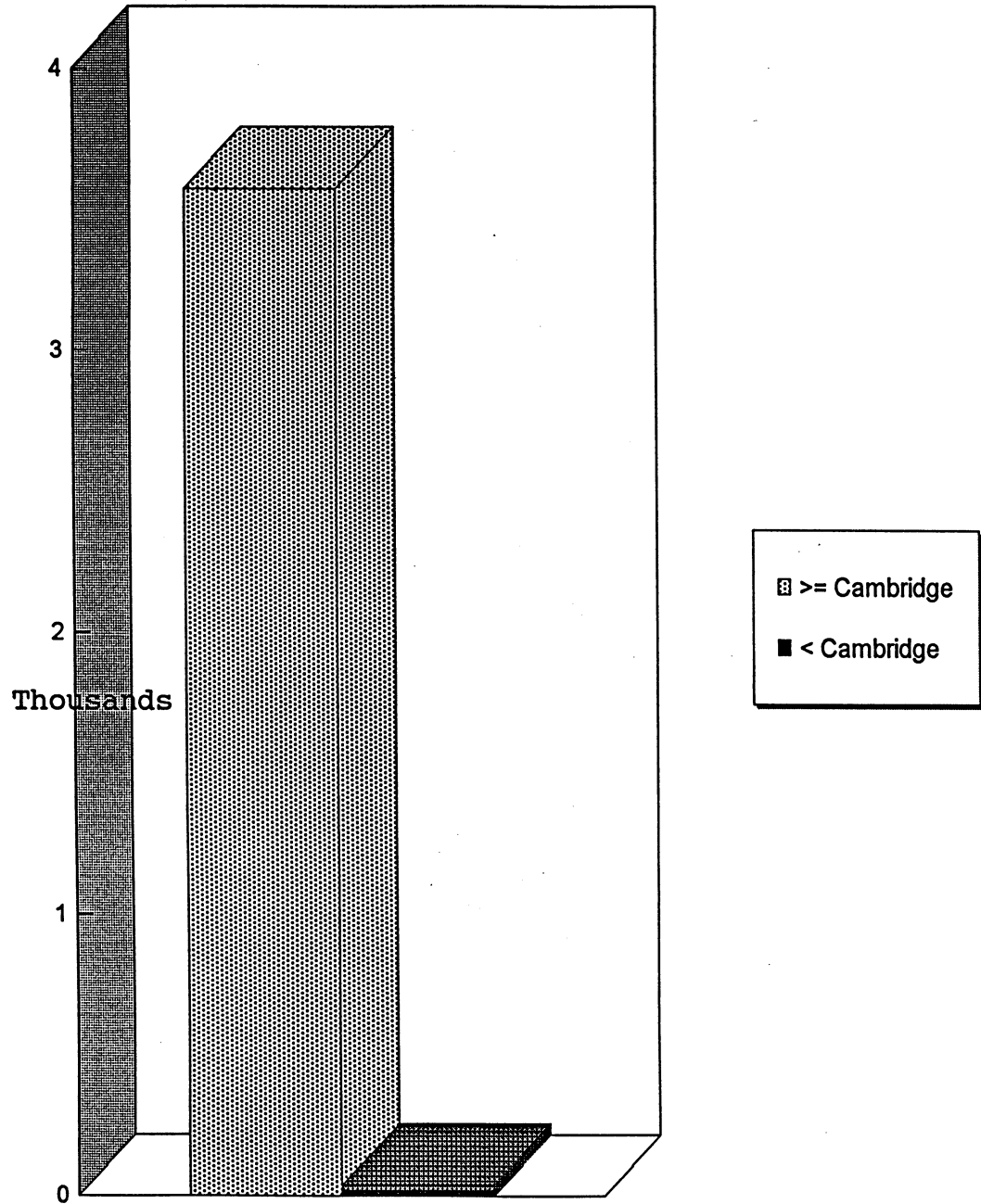
Full Time Employees



Source: City of Cambridge Personnel Department

# CURRENT EMPLOYEE HOUSING COSTS

All City Employees



Source: City of Cambridge Personnel Department  
Massachusetts Municipal Profiles 1994-1995

**CURRENT RESIDENCY OF CITY EMPLOYEES  
SELECTED CITIES AND TOWNS**

<b>ACTON</b>	<b>6</b>
<b>ARLINGTON</b>	<b>132</b>
<b>BELMONT</b>	<b>85</b>
<b>BROOKLINE</b>	<b>51</b>
<b>CONCORD</b>	<b>10</b>
<b>LEXINGTON</b>	<b>31</b>
<b>MELROSE</b>	<b>31</b>
<b>MILTON</b>	<b>15</b>
<b>NEWTON</b>	<b>70</b>
<b>READING</b>	<b>17</b>
<b>SUDBURY</b>	<b>6</b>
<b>WAYLAND</b>	<b>6</b>
<b>WELLESLEY</b>	<b>10</b>
<b>WESTON</b>	<b>3</b>
<b>WINCHESTER</b>	<b>30</b>

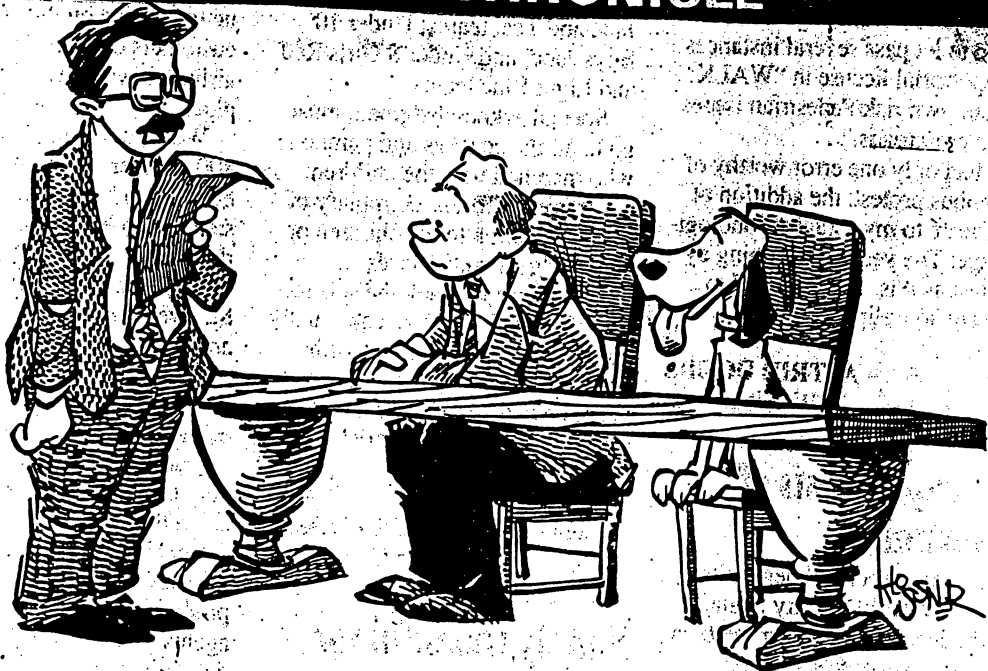
**TEN LARGEST EMPLOYERS  
IN CAMBRIDGE**

EMPLOYER	TYPE OF BUSINESS	EMPLOYEES (1992)
Harvard University	Education	9,000
Massachusetts Institute of Technology	Education	8,380
<b>CITY OF CAMBRIDGE</b>	<b>GOVERNMENT</b>	<b>4,907</b>
Lotus Development Corporation	Computer Software	2,282
Polaroid	Photo & Optical Equipment	2,376
Mt. Auburn Hospital	Medical	1,944
Draper Labs	Research & Development	1,659
Bolt, Beranek & Newman	Research & Development	1,599
Arthur D. Little	Research & Development	1,228
Badger Engineering	Construction	977

Source: Cambridge Community Development Department

EXHIBIT F

# CAMBRIDGE CHRONICLE



"YOUR QUALIFICATIONS ARE VERY IMPRESSIVE,  
MR. WILLIAMS, BUT I'M AFRAID MR. SPOT  
IS A LOCAL RESIDENT."

“The proposed residency requirement for city employees is not in the best interest of the residents of the City. ... The city may be forced to choose from the dregs at the bottom of the barrel.”

John Moot  
Coolidge Hill Road, 02138  
Cambridge Chronicle 2/21/95

"I live here in Cambridge and I spend my money here in Cambridge. I get my clothes cleaned here in Cambridge. I shop at the Galleria Mall here in Cambridge."

Perry Anderson  
Police Commissioner  
May 11, 1995

~

**"I believe strongly in living in the community in which I work.... I have tried ... to become involved in the community. I am a member of the Harvest Coop, serving on its Finance Committee. I have done volunteer work for the AIDS Action Committee, and am exploring with the Cambridge YMCA ways in which I may serve on one of their committees."**

James A. Lindstrom  
City Auditor  
May 10, 1995



CITY OF SOMERVILLE, MASSACHUSETTS  
PERSONNEL DEPARTMENT

MICHAEL E. CAPUANO  
MAYOR

KATHERINE AUSPITZ  
DIRECTOR

ROBERT A. JOY  
ASSISTANT DIRECTOR

To: The Honorable, Timothy Toomey  
From: Kate Auspitz *KA*  
Date: May 16, 1995  
Re: Somerville residency ordinance.

Somerville has had a residency ordinance on the books since 1978 -- supported by Mayor Capuano when he was himself an alderman. All non-school employees are subject to the residency requirement; and waivers may be granted at the recommendation of the Mayor, with the approval of a majority of the Board of Aldermen. State law prevents application of such a law to school teachers.

Before 1990, waivers had been granted somewhat haphazardly. Conscientious employees petitioned for waivers. Others were less careful to comply; and, apparently, the **criteria** for granting waivers were never made explicit. When Mike Capuano became mayor, he wanted to enforce the ordinance in a just and even-handed manner. He did not want to penalize current employees who had taken jobs with the City assuming, not implausibly, that a waiver could always be obtained.

Therefor, the Mayor asked me to notify all the municipal unions that the City was contemplating a two step approach to enforcing the ordinance: 1) waivers would be granted unconditionally to all current employees, and 2) new hires would be informed unequivocally that the City took its residency requirement seriously and that waivers would be granted only in cases of well-documented necessity. (For example, an employee with a disability who needed a wheel-chair accessible one story house, not readily available in Somerville). The unions, naturally, could not and did not object to the **prospective** enforcement of a municipal ordinance.

We then notified every individual employee with a five page memo which I attach, that "**After this amnesty period, the Ordinance will be enforced as written.**" We gave formal notice to police and fire fighters that the City had no authority to waive the state law, Chapter 41, section 99A, that requires public safety employees to live within fifteen miles of the community in which they work.

I think the residency ordinance works well. We do give preference in hiring to **qualified** City residents; we also recruit talented people who are not yet Somervillians, with the understanding that they have six months to move in. And we are not rigid: we don't require short-term or part-time professional employees to become city residents. Above all, we emphasize that Somerville is a good place to work and to live.



page 1 of 5

TO: All Non-School Employees of the City of Somerville  
and to be POSTED by Department Heads throughout the City  
FR: Personnel Department  
DT: December 2, 1992  
RE: RESIDENCY LAWS RELATING TO SOMERVILLE MUNICIPAL EMPLOYEES

In 1978, the City of Somerville adopted an Ordinance requiring that municipal employees hired on or after July 1, 1978, become residents of the City. Since that time, the Ordinance has not been uniformly enforced because times were good all over; Somerville residents were able to find jobs without the advantage a strict enforcement of the Ordinance would have given them. Now, times are tougher for everyone and the City owes its residents every advantage whenever jobs are available.

Since the Ordinance has been enforced haphazardly over the years, it would be unfair to simply enforce the Ordinance as it stands. Therefore, a more equitable approach has been adopted as outlined below.

Attached to this memo is a Residency Compliance Form which asks for the information needed to fairly enforce the Ordinance.

If requested, this Administration will grant an unconditional **AMNESTY** and a Waiver will be submitted to the Board of Aldermen for anyone\* who completes the form honestly and returns it ...

... NO LATER THAN 5:00 pm THURSDAY, DECEMBER 17, 1992.

If the form is not returned on time or contains false information, the Ordinance will be fully enforced.

\* - Due to State law limitations, neither Amnesty nor a Waiver may be granted to a Police Officer, Fire Fighter or Fire Alarm Operator who lives further than 15 miles from Somerville. See attached map. In addition, State law prohibits application of residency requirements to most, if not all employees of the School Department.

For your convenience, a copy of the Ordinance and a brief outline of both the Ordinance and other relevant laws are also attached to this memo.

After this Amnesty period, the Ordinance will be enforced as written. In general, after the Amnesty period, Waivers will be submitted to the Board of Aldermen only upon proof of special circumstances that necessitate non-residency or proof that the non-Somerville residence is less expensive than an average two-family home in Somerville.

Any questions relating to this matter should be addressed to either the Personnel Department (ext 3300) or to your union representative.



**RESIDENCY COMPLIANCE FORM**

NAME: \_\_\_\_\_  
HOME ADDRESS:-  
STREET & #: \_\_\_\_\_  
CITY: \_\_\_\_\_ STATE: \_\_\_\_\_  
HOME PHONE: \_\_\_\_\_ - \_\_\_\_\_ - \_\_\_\_\_  
Current Department: \_\_\_\_\_  
Current Job Title: \_\_\_\_\_

DATE OF ORIGINAL  
EMPLOYMENT BY THE  
CITY OF SOMERVILLE  
(if not certain,  
leave lines blank):  
Year: \_\_\_\_\_  
Month: \_\_\_\_\_  
Date: \_\_\_\_\_

I hereby state that the information above is accurate and that I am familiar with the residency laws applicable to employees of the City of Somerville. I acknowledge that this form is SIGNED UNDER THE PAINS AND PENALTIES OF PERJURY.

\_\_\_\_\_  
signature \_\_\_\_\_  
date

\*\*\*\*\*  
Please note that these records are Public Documents and, therefore, will be shared with other municipal departments, including but not limited to the Assessing and Elections Departments.  
\*\*\*\*\*

- Check appropriate line:-
- \_\_\_\_\_ I maintain my residence within the City of Somerville, Massachusetts.
  - \_\_\_\_\_ I wish to apply for a waiver from the residency laws during the Amnesty period.
  - \_\_\_\_\_ I am exempt from the residency laws because I was employed by the City of Somerville prior to July 1, 1978.
  - \_\_\_\_\_ I am exempt from the residency laws because I am a Fire Fighter and was employed by the City of Somerville before August 1, 1978.
  - \_\_\_\_\_ I have already been granted a waiver from the residency laws by the City of Somerville (please attach a copy of the approved waiver).



OUTLINE OF RESIDENCY LAWS RELATIVE TO SOMERVILLE MUNICIPAL EMPLOYEES

ORDINANCE s.2-296:-

- Applies to all non-school employees. Both civil service and non-civil service employees are covered. State law ch.71 sect.99A prohibits the imposition of residency requirements on school employees, except the Superintendent, Associate Superintendents and Assistant Superintendents.
- Requires that all employees hired on or after July 1, 1978, become a resident of Somerville within 6 months of employment.
- Does NOT require residency before hired.
- Requires that information relative to this section be given under the "pains and penalties of perjury".
- Assures due process for all employees. At the conclusion of the process, if a violation is proven, the employee may be terminated.
- Allows for Waivers from the provisions of the law.
- Defines "residence" as "the actual principal residence of the individual, where he or she normally eats and sleeps and maintains his or her normal personal and household effects."

ORDINANCE s.5-48:-

- Specifies that members of the Fire Department shall be subject to residency requirements set forth in their collective bargaining agreement.

FIRE FIGHTERS COLLECTIVE BARGAINING CONTRACT ARTICLE XXII para.3:-

- Specifies that members of the Fire Department appointed on or after August 1, 1978, shall be subject to the City's residency laws.
- Therefore, the key date for Fire Fighters is August 1, 1978, rather than July 1, 1978.

MASSACHUSETTS GENERAL LAWS c.41 s. 99A:-

- Requires that any POLICE OFFICER, FIRE FIGHTER or FIRE ALARM OPERATOR appointed after August 1, 1978, live within 15 miles of the municipal border where they are employed.
- Specifies that a local Ordinance may supersede this law.
- The result is that Somerville's Ordinance applies as set forth above AND that any Amnesty or Waiver granted may not be for residency in a city or town beyond the 15 mile limit. A map of those communities within the 15 mile radius is attached.

McCARTHY v. PHILADELPHIA CIVIL SERVICE COMM, 424 US 645 (1976):-

- This United States Supreme Court decision clearly stated that residency laws such as Somerville's are enforceable and that a termination resulting from such enforcement will be upheld.

**Sec. 2-296. Residency requirement.**

(a) Every person first employed by the city on or after July 1, 1978 shall, within six (6) months, become a resident of the city and shall not cease to be a resident of the city during his employment by the city.

(b) The term "employee" as used in this section shall mean any person performing services for or holding an office, position or employment in any city department or agency, whether by election or appointment, contract of hire or engagement, whether serving with or without compensation, on a full, regular, part-time, intermittent or consultant basis.

(c) Upon taking employment with the city, and annually on February first thereafter, every person subject to this section shall file with his or her department head, or like officer, a certificate signed under the pains and penalties of perjury, stating his or her name, and place of residence. Upon receipt of a certificate indicating a place of residence not within the city or if no such certificate is filed, the department head or like officer shall forthwith arrange a hearing to be held within thirty (30) days before the department head to show reason why said employee is no longer a legal resident. The department head shall notify the individual in writing two (2) weeks in advance of said hearing.

(d) If the finding of the hearing is that the individual is no longer a legal resident, that person shall cease to be employed by the city, and the department head or like officer shall give notice of his action to the city clerk, who shall transmit the same to the board of aldermen, the mayor, and the city auditor.

(e) No person so stricken from a payroll shall be reemployed by the city for a period of one (1) year following the cessation of his or her employment.

(f) To the extent permitted by Chapter 31 of the General Laws, every examination held to establish a civil service list for employment by the city shall be restricted to city residents.

(g) If this section shall be deemed to be in conflict with a provision of any general or special law, the provision of that general or special law shall govern, and shall not defeat the application of this section with respect to any position not governed by that law.

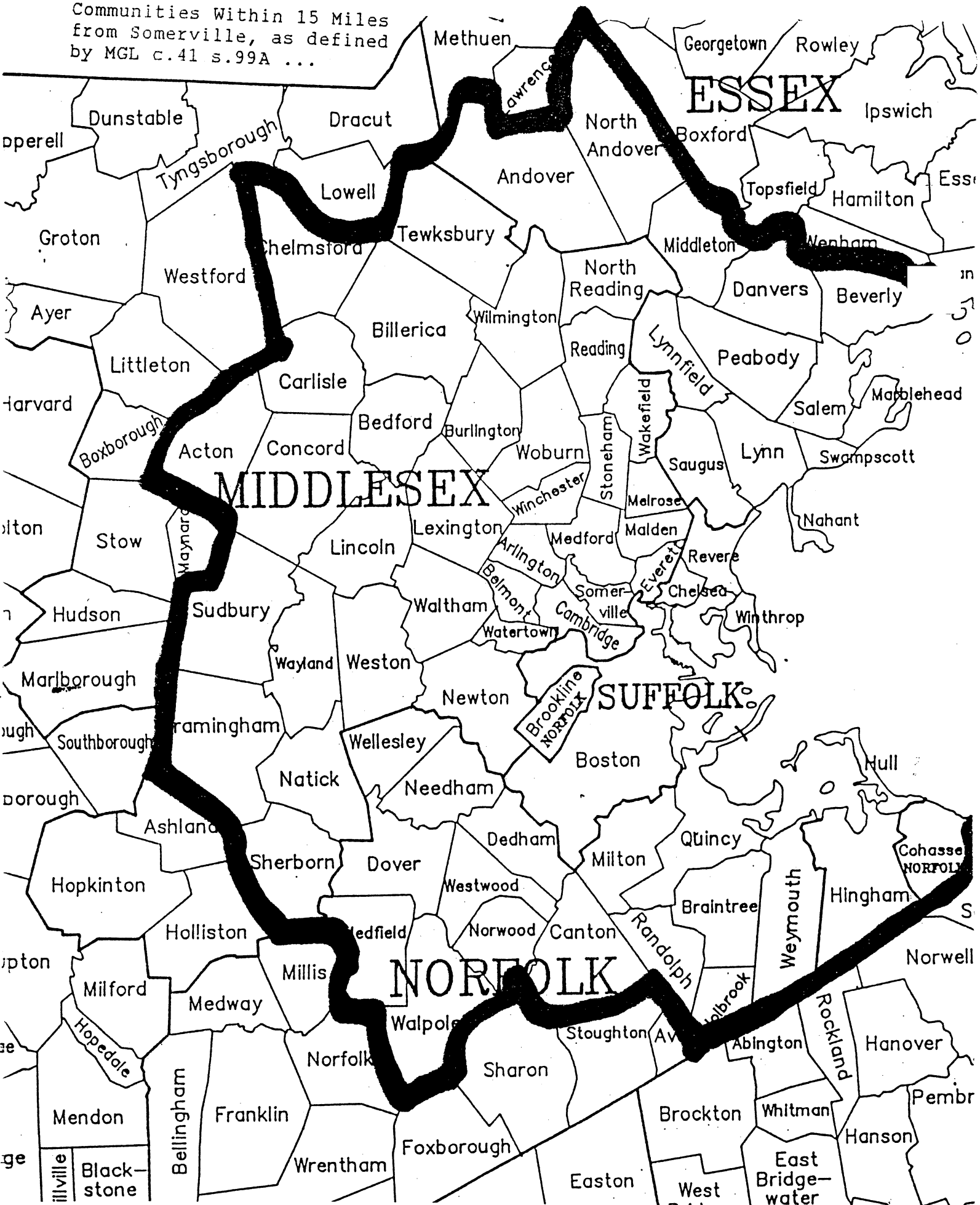
(h) If the mayor, with the approval of the board of aldermen determines it to be in the best interest of the city to do so, the provisions of this section may be waived with respect to a particular person or position, and such waiver shall not act to defeat the application of this section to every other person or position.

(i) The provisions hereof are severable, and the action of any court of competent jurisdiction in declaring any part or portion hereof invalid, shall not act to defeat any remaining part or portion hereof, and any such action declaring this section invalid with respect to any position or person shall not be held to apply to any other person or position.

(j) In construing this section, residence shall be the actual principal residence of the individual, where he or she normally eats and sleeps and maintains his or her normal personal and household effects. This section shall be deemed to affect both civil service and noncivil service employees of the city.

(Code 1963, § 3-33)

Communities Within 15 Miles  
from Somerville, as defined  
by MGL c.41 s.99A ...



5-207

**Committee Report #2**

Comm. received from John E. Flynn transmitting a report from Vice Mayor Russell for a hearing held on May 18, 1995 for the purpose of discussing a proposed amendment to the Municipal Code in Title 2, Chapter 2.120 entitled "Residency Requirement."

**(ORDINANCE COMMITTEE)**

**In City Council June 5, 1995**

*Report accepted.  
Placed on file.*