

ORDINANCE #1203

Final Publication Number 2786. First Publication in the Chronicle on May 14, 1998.



# City of Cambridge

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

## AN ORDINANCE

In Amendment to the "Municipal Code" of the City of Cambridge.

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

Amend the Cambridge Municipal Code, §13.16.020 (C) by inserting at the end thereof the following:

Notwithstanding the foregoing, the City Manager may provide for connection of the building sewer or storm drain to the City's mains in the public way at the expense of the City when the need for a new connection stems from the City's commitments to sewer and storm drain separation and correction of improperly connected building sewer and storm drain lines as required by the United States Environmental Protection Agency, the Massachusetts Department of Environmental Protection, and the Massachusetts Water Resources Authority. The City Manager may limit the City's assumption of costs for correction of improperly connected building sewer or storm drain lines where the City Manager determines that the improper connection was made negligently, knowingly, or intentionally by the current or former owner of the property, their agents, or others acting on their behalf.

In City Council June 1, 1998.

Passed to be ordained by a yeas and nays vote:-  
Yeas 9; Nays 0; Absent 0.

ATTEST:-

D. Margaret Drury  
City Clerk

SK, HD, TT  
Steve White, Ralph Dunphy  
Nancy Glava KK

COMMITTEE MINUTES  
COVER SHEET

Commitment to sewer and storm drain separation and connection of improperly connected building and storm drains. The amendment further provides that the City Manager may limit the City's assumption of costs when the City's C-111 determines that the City's improper connection was made in negligence or intentionally.

The Ordinance

held a public meeting/hearing on April 14, 1998, beginning at 6:35 am

pm in the Sullivan Chamber/~~Ackermann~~ Room for the purpose of discussing a proposed amendment to the Municipal Code to enable ~~enable~~ the City Manager to authorize payment by the City for a new building sewer or storm drain connection to the City's mains when the need stems from the City's

Present at the hearing were Councillor Henrietta

Davis, Chair of the Committee, Mayor Francis H. Duchay, Vice Mayor Anthony D. Galluccio, Councillor Kathleen Leahy Born, Councillor Henrietta Davis, Councillor Kenneth E. Reeves, Councillor Sheila T. Russell, ~~Councillor Michael A. Sullivan~~, Councillor Timothy J. Toomey, Jr., Councillor ~~Katherine Triantafillou~~, and City Clerk D. Margaret Drury.

Also present were Deputy City Manager Richard Rossij, Commissioner of Public Works Ralph Dunphy, Deputy Commissioner of Public Works Steve White and ~~Deputy~~ First Assistant City Solicitor Nancy Glava.

Councillor Davis convened the hearing and explained the purpose.

She requested that the City stop explain the proposed Ordinance. Mr. Rossi discussed the ordinance

HD asked if the Ordinance provides for the ~~cost~~ <sup>to</sup> ~~have~~ <sup>about whether the City must pay for the new</sup> ~~any~~ <sup>sewer connection</sup> ~~discovery~~ KK stated that ~~the~~

would in situations where there was an illegal connection made with ~~knowingly~~ <sup>negligence or knowledge</sup> by the party doing the illegal connection, the City Manager could limit the City's assumption of costs.

Attorney General emphasized that ~~the~~ <sup>connection</sup> ~~is~~ where the ~~cost~~ <sup>connection</sup> was

made ~~whereby~~ <sup>whereby</sup> the City would be ~~not~~ <sup>able</sup> to charge for the new connection.

TT <sup>moved that to</sup> on the ~~understanding~~ <sup>understanding</sup> be forwarded to the full City Council w/ a positive recommendation and the motion ~~was~~ <sup>was</sup> passed w/o objection.

HD thanked those present for their attendance. The meeting <sup>was adjourned</sup> at 6:40 ~~pm~~ <sup>pm</sup>.

R M C  
C H D, Chan



# OFFICE OF THE CITY CLERK

CITY OF CAMBRIDGE

(617) 349-4260

FAX (617) 349-4307

tty/TDD (617) 492-0235

D. MARGARET DRURY  
CITY CLERK

DONNA P. LOPEZ  
DEPUTY CITY CLERK

**TO: THE HONORABLE, THE CITY COUNCIL**

**FROM: D. MARGARET DRURY, CITY CLERK**

**DATE: APRIL 9, 1998**

**RE: ORDINANCE COMMITTEE HEARINGS ON TUESDAY, APRIL 14, 1998**

\*\*\*\*\*

Councillor Davis, Chair of the Ordinance Committee, has requested that all members of the Ordinance Committee receive copies of the material which will be considered at the Ordinance Committee hearings on Tuesday, April 14, 1998. A copy of the hearing schedule is attached, along with draft ordinances prepared by the Law Department relating to the issues of regulating pay phones and authorizing the City to assume the expense of new connections to the sewer lines in certain circumstances.

The first item scheduled for the Ordinance Committee, at 5:30 p.m. is an update by the staff on work that is being done to develop a plan to regulate the appearance and placement of newsboxes. No material is being distributed for review prior to the meeting, there will be maps and other visual aids at the presentation.

I trust this information will be helpful.



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DONNA P. LOPEZ  
DEPUTY CITY CLERK

**TO: THE HONORABLE, THE CITY COUNCIL**  
**FROM: D. MARGARET DRURY, CITY CLERK**  
**DATE: APRIL 9, 1998**  
**RE: ORDINANCE COMMITTEE MEETING**

\*\*\*\*\*

Please be advised that Councillor Henrietta Davis, Chair of the Ordinance Committee, has scheduled three public meetings for Tuesday, April 14, 1998 in the Sullivan Chamber as follows:

5:30 P.M.	Update on staff work on a proposal for regulating newsboxes.
6:00 P.M.	Proposed amendment to the Municipal Code on the enforcement provisions as they relate to the placement of public pay telephones.
6:30 P.M.	Proposed amendment to the Municipal Code providing for the expense of the connection of the building sewer or storm drain to the City's main.

Your kind attention in this matter will be greatly appreciated.

cc: Councillor Davis

Consent Agenda #11

Relative to a report on  
public pay telephones.

In City Council March 16, 1998

Referred to  
Ordinance Committee

3/17 sent to Councillor Davis



# CAMBRIDGE LICENSE COMMISSION CITY OF CAMBRIDGE

831 MASSACHUSETTS AVE., 1ST FLOOR, CAMBRIDGE, MASSACHUSETTS 02139 • TEL. 349-6140

BENJAMIN C. BARNES  
Chairman

CHIEF KEVIN J. FITZGERALD  
Fire Department  
Commission Member

CAPTAIN HENRY W. BREEN  
Police Department  
Commission Member

RICHARD V. SCALI  
Commission Executive Officer

Date: February 17, 1998

To: Robert W. Healy, City Manager

Fr: Richard V. Scali, Executive Officer <sup>(RVS)</sup>  
Ralph Dunphy, Public Works Commissioner

Re: Council Order #017, dated 2/9/98 Report on Public Pay  
Telephones.

Under the Pole and Conduit ordinance, any company, business or person shall come before the commission for permission to locate a public telephone which encroaches on the public way.

We have been instructing any company or person that they must make application and be heard before the Pole and Conduit Commission, which meets every third Thursday of the month. Any phone which does not have permission to encroach on the public way, shall be removed. Location and placement of any public telephone on public property and encroaching the public way, must receive approval from the Pole and Conduit Commission.

If you need further information, please do not hesitate to contact our office.

cc: Benjamin Barnes, Chairman; Robert Bersani, Director; Ralph Dunphy, Public Works Commissioner; George Fernandes, City Electrician; Steve White, Deputy Commissioner Public Works; Donald Drisdell, Deputy City Solicitor

RECEIVED  
99 FEB 19 AM 8:41  
OFFICE OF THE CITY MANAGER



*Russell B. Higley*  
City Solicitor

*Donald A. Drisdell*  
Deputy City Solicitor

*Nancy E. Glowa*  
First Assistant  
City Solicitor

*Arthur J. Goldberg*  
Supervising  
Legal Counsel

**CITY OF CAMBRIDGE**

Office of the City Solicitor  
795 Massachusetts Avenue  
Cambridge, Massachusetts 02139  
Telephone (617) 349-4121  
Facsimile (617) 349-4134  
TTY/TDD (617) 349-4242

Legal Counsel

*Birge Albright*  
*Gail S. Gabriel*  
*Linda A. Stamper*  
*Deborah R. Cautela*  
*Vali Buland*

---

*Michael C. Costello*  
Assistant City Solicitor

March 11, 1998

Robert W. Healy  
City Manager  
City Hall  
795 Massachusetts Avenue  
Cambridge, MA 02139

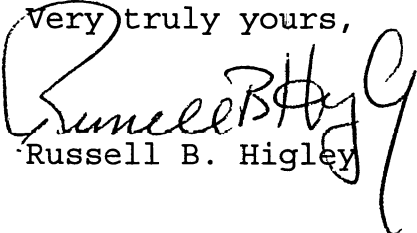
Re: Council Order No. 017 of 2/9/98  
re: Report on Public Pay Telephones

Dear Mr. Healy:

This office has reviewed Richard Scali's letter to you of February 17, 1998 relative to the above matter. We agree that the Pole and Conduit Commission has jurisdiction over public pay telephones that are placed on, over or under public ways, pursuant to M.G.L. c. 166, §22 and Sections 15.16.140 and 15.16.090 of the City Ordinance. Even in those circumstances where a public pay telephone is affixed to private property and does not overhang or encroach into the public way, the Pole and Conduit Commission would have jurisdiction over any such telephone if its wires or cables traverse or are placed under any portion of the public way.

The existing enforcement provisions for violations of those provisions of the Ordinance are limited. We have attached suggested enforcement provisions to be submitted to the City Council as proposed amendments to the City Ordinance, and referred to the Ordinance Committee for consideration.

Very truly yours,

  
Russell B. Higley

## PROPOSED AMENDMENT TO CITY ORDINANCE

That the City Ordinance be amended by adding the following to Chapter 15.16:

### 15.16.290 Enforcement

A. Enforcement Officials. The Pole and Conduit Commission and its designees shall be the authorized enforcement personnel charged with the enforcement of these provisions.

B. Violations. Authorized enforcement personnel may: order and specify reasonable remedial actions to be taken by a violator of this chapter to achieve compliance; or issue citations, pursuant to G.L. c. 40, §21D, for violations of these provisions assessing fines of three hundred dollars for each day such violation is committed or permitted to continue. Additionally, any person found in violation of any of the provisions of this chapter may be prosecuted for a misdemeanor and upon conviction thereof shall be fined three hundred dollars.

C. Removal of poles, wires, ducts, conduits, manholes, electrical structures, appliances and apparatus. Authorized enforcement personnel may order the removal of poles, wires, ducts, conduits, manholes, electrical structures, appliances and apparatus of any violators of this chapter. Whenever any poles, wires, ducts, conduits, manholes, electrical structures, appliances and apparatus are ordered to be removed, such removal shall be done by and at the expense of the owner, in conformity with the order, and if not so removed, within ten days after notice, authorized enforcement personnel may cause the removal to be done and the expense thereof to be repaid to the City by the owner.



CITY OF CAMBRIDGE  
CAMBRIDGE, MASSACHUSETTS 02139

TEL 349-4300  
FAX 349-4307



EXECUTIVE DEPARTMENT  
ROBERT W. HEALY  
City Manager

RICHARD C. ROSSI  
Deputy City Manager

March 16, 1998

To The Honorable, The City Council:

Please find attached a response to Awaiting Report Item No. 11, regarding a report on public pay telephones, received from Executive Officer of the License Commission Richard Scali and Public Works Commissioner.

In addition, attached is a response from City Solicitor Russell Higley suggesting proposed amendments to the City Ordinance.

Very truly yours,

Robert W. Healy  
City Manager

RWH/mec  
Attachments

**Consent Agenda #7**

**Relative to Awaiting Report Item Numbers  
Thirty, Thirty-five and Forty-one,  
regarding sewer issues.**

**In City Council December 22, 1997**

*Referred to the  
Ordinance Committee*



CITY OF CAMBRIDGE  
CAMBRIDGE, MASSACHUSETTS 02139



TEL 349-4300  
FAX 349-4307

EXECUTIVE DEPARTMENT  
ROBERT W. HEALY  
City Manager

RICHARD C. ROSSI  
Deputy City Manager

December 22, 1997

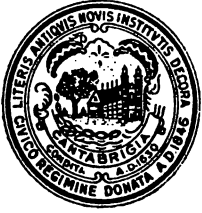
To The Honorable, The City Council:

In response to Awaiting Report Item Nos. 30, 35 & 41, regarding sewer issues, attached please find a proposed amendment to the sewer ordinance as discussed in the communication to the City Council on December 15, 1997 (copy enclosed.)

Very truly yours,

Robert W. Healy  
City Manager

RWH/mec  
attachments



# City of Cambridge

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In the Year One Thousand, Nine Hundred

and Ninety-Seven

## AN ORDINANCE

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

Amend the Cambridge Municipal Code, §13.16.020 (C) by inserting at the end thereof the following:

Notwithstanding the foregoing, the City Manager may provide for connection of the building sewer or storm drain to the City's mains in the public way at the expense of the City when the need for a new connection stems from the City's commitments to sewer and storm drain separation and correction of improperly connected building sewer and storm drain lines as required by the United States Environmental Protection Agency, the Massachusetts Department of Environmental Protection, and the Massachusetts Water Resources Authority. The City Manager may limit the City's assumption of costs for correction of improperly connected building sewer or storm drain lines where the City Manager determines that the improper connection was made negligently, knowingly, or intentionally by the current or former owner of the property, their agents, or others acting on their behalf.



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EXECUTIVE DEPARTMENT  
ROBERT W. HEALY  
City Manager

RICHARD C. ROSSI  
Deputy City Manager

December 15, 1997

To the Honorable, the City Council:

I have reviewed the concerns raised by the City Council and the impacted property owners regarding notification of responsibility for correction of illicit sewer connections that would result in contamination of the Charles River.

We anticipated many of the concerns raised by affected property owners. Given the current provisions of the City's Ordinance, however, and the need to demonstrate progress toward correcting the improper connections, it was necessary to provide the notices that were sent to the property owners.

Given the shared concerns of the City, the Massachusetts Department of Environmental Protection, and the United States Environmental Protection Agency for the potential impact on the Charles River, and given the complexity of determining the responsible party for these illicit connections, I am recommending a change in the policy required by the existing City Ordinance as follows:

1. Amend the Cambridge Municipal code, §13.16.020(C) to allow the costs of these sewer connections to be funded from the sewer Fund;
2. Anticipate future additional appropriations to cover the cost of this policy decision;

If the Council approves of this recommendation, I will ask the Law Department to draft the necessary ordinance amendment for prompt submission to the Council.

Very truly yours,

Robert W. Healy  
City Manager



**CITY OF CAMBRIDGE**

Office of the City Solicitor  
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City Solicitor

*Donald A. Drisdell*  
Deputy City Solicitor

*Michael C. Costello*  
Assistant City Solicitor

Legal Counsel

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*Gail S. Gabriel*  
*Arthur J. Goldberg*  
*Linda A. Stamper*  
*Deborah R. Cautela*  
*Nancy E. Glowa*

December 16, 1997

Robert W. Healy  
City Manager  
City Hall  
Cambridge, MA 02139

Re: ***Building Sewer Connections***

Dear Mr. Healy:

At the City Council meeting of December 15, 1997 you advised the Council that you would ask this department to prepare a draft ordinance amendment to authorize the City to assume the expense of new connections from buildings to the City's sewer mains in certain circumstances. I am providing the attached proposed ordinance amendment in response to your request.

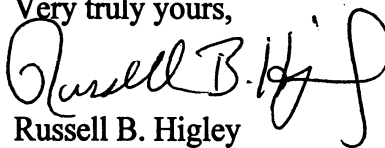
As you know, §13.16.020 (C) currently provides as follows:

- C. All costs and expense incident to the installation and connections of the building sewer shall be borne by the owner. The owner shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

The attached proposed amendment would add two sentences to that section authorizing you to provide for connections in the public way from buildings to the City's main at the City's expense in conjunction with sewer separation or the correction of improperly connected building sewer lines in order to conform to United States Environmental Agency, Massachusetts Department of Environmental Protection, or Massachusetts Water Resources Authority policies or directives.

Please let me know if I can be of further assistance in this matter.

Very truly yours,

A handwritten signature in cursive script that reads "Russell B. Higley". The signature is written in black ink and is positioned to the right of the typed name.

Russell B. Higley



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December 16, 1997

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City Manager  
City Hall  
Cambridge, MA 02139

**Re: *Building Sewer Connections***

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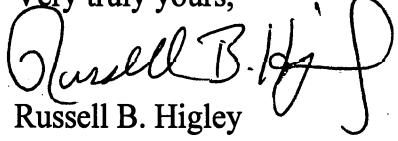
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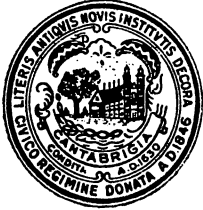
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Russell B. Higley



# City of Cambridge

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In the Year One Thousand, Nine Hundred

and Ninety-Seven

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EXECUTIVE DEPARTMENT  
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City Manager

RICHARD C. ROSSI  
Deputy City Manager

December 15, 1997

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I have reviewed the concerns raised by the City Council and the impacted property owners regarding notification of responsibility for correction of illicit sewer connections that would result in contamination of the Charles River.

We anticipated many of the concerns raised by affected property owners. Given the current provisions of the City's Ordinance, however, and the need to demonstrate progress toward correcting the improper connections, it was necessary to provide the notices that were sent to the property owners.

Given the shared concerns of the City, the Massachusetts Department of Environmental Protection, and the United States Environmental Protection Agency for the potential impact on the Charles River, and given the complexity of determining the responsible party for these illicit connections, I am recommending a change in the policy required by the existing City Ordinance as follows:

1. Amend the Cambridge Municipal code, §13.16.020(C) to allow the costs of these sewer connections to be funded from the sewer Fund;
2. Anticipate future additional appropriations to cover the cost of this policy decision;

If the Council approves of this recommendation, I will ask the Law Department to draft the necessary ordinance amendment for prompt submission to the Council.

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RWH/mec  
attachments

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Thirty, Thirty-five and Forty-one,  
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**In City Council December 22, 1997**

*Referred to the  
Ordinance Committee*

*Copy sent  
12-24-97  
mc*

## City of Cambridge

The Ordinance Committee held a public hearing on April 14, 1998, beginning at 6:35 p.m. in the Sullivan Chamber for the purpose of discussing a proposed amendment to the Municipal Code to enable the City Manager to authorize payment by the City for a new building sewer or storm drain connection to the City's mains when the need stems from the City's commitment to sewer and storm drain separation and connection of improperly connected building and sewer storm drains. The amendment further provides that the City Manager may limit the City's assumption of costs where the City Manager determines that the improper connection was made negligently or intentionally.

Present at the hearing were Councillor Henrietta Davis, Chair of the Committee, Councillor Sheila T. Russell, Councillor Timothy J. Toomey, Jr., and City Clerk D. Margaret Drury. Also present were Deputy City Manager Richard Rossi, Commissioner of Public Works Ralph Dunphy, Deputy Commissioner of Public Works Steve White and First Assistant City Solicitor Nancy Glowa.

Councillor Davis convened the hearing and explained the purpose. She requested that the city staff explain the proposed ordinance. Mr. Rossi described the ordinance.

Councillor Davis asked if the ordinance provides for the City Manager to have any discretion about whether the City must pay for the new sewer connection. Mr. Rossi stated that in situations where there was an illegal connection made with negligence or knowledge by the party doing the illegal connection, the City Manager could limit the City's assumption of costs.


Attorney Glowa emphasized that where the connection was made intentionally, the City would be able to charge for the new connection.

Councillor Toomey moved that the amendment be forwarded to the full City Council with a positive recommendation, and the motion passed without objection.

Councillor Duehay thanked those present for their attendance.

The meeting was adjourned at 6:40 p.m.

For the Committee



Councillor Henrietta Davis  
Chair



# City of Cambridge

In the Year One Thousand, Nine Hundred

and Ninety-Eight

## AN ORDINANCE

In Amendment to the "Municipal Code" of the City of Cambridge.

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

### PROPOSED AMENDMENT TO CITY ORDINANCE

That the City Ordinance be amended by adding the following to Chapter 15.16:

#### 15.16.290 Enforcement

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B. Violations. Authorized enforcement personnel may: order and specify reasonable remedial actions to be taken by a violator of this chapter to achieve compliance; or issue citations, pursuant to G.L. c. 40, §21D, for violations of these provisions assessing fines of three hundred dollars for each day such violation is committed or permitted to continue. Additionally, any person found in violation of any of the provisions of this chapter may be prosecuted for a misdemeanor and upon conviction thereof shall be fined three hundred dollars.

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Passed to a second reading at the City Council meeting held on May 11, 1998 and on or after May 25, 1998 the question comes on passing to be ordained.

ATTEST:-

D. Margaret Drury  
City Council

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Attorney Glowa stated that the Pole and Conduit Commission already has jurisdiction over telephones encroaching over or under the public way. Ms. Glowa said that it has come to the City Council's attention that there are phones unlawfully encroaching on the public way. This amendment provides somewhat stronger enforcement mechanisms. It provides for fines and removal by the City after notice to the property owner.

Mr. Spellman stated that phone companies are strictly regulated. His company has several pay phones in Cambridge, mostly inside. It is more lucrative to have telephones outside and his company does have some.

Councillor Toomey moved that the amendment be referred to the full City Council with a favorable recommendation. The motion passed without objection.

Councillor Toomey requested that the City Electrician investigate the new pay phones at Sciarappa and Spring Streets.

Councillor Davis asked Mr. Barber to comment on the signs above the pay phones. Mr. Barber said that he has not seen these signs. Mr. Fernandes said there are two types. He believes that they can be regulated by the Pole and Conduit Commission. Mr. Barber stated that a sign on the building is subject to the Sign Ordinance. If the signs just say "Phone" and are smaller than six square feet, they may be exempt. As soon as it says "Bell Atlantic" it would lose its exemption and would be subject to the Sign Ordinance.

Councillor Davis moved that the City Manager be and hereby is requested to investigate whether the signs for telephones and structures that support the signs can be regulated as to size and height of the structure under existing ordinances or whether additional ordinances are needed, and to report back to the City council. The motion passed unanimously. It was noted that there are new pay phones at the following locations:

- Indian Restaurant;
- Sciarappa Street;
- At the corner of Third and Cambridge Streets; and
- Opposite the King School.
- Central Square Post Office

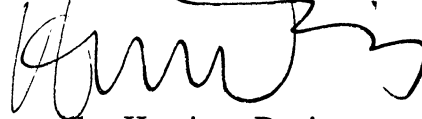
Mr. Schlaver stated that the phone at the Jessie Chen Chinese restaurant on Pearl Street got moved just inside the door so it is now on private property.

Councillor Davis stated that outdoor telephones are a nuisance in many situations and she would like to see the City have some ability to deal with this problem.

Councillor Davis thanked those present for their attendance.

The meeting was adjourned at 6:35 p.m.

For the Committee,

A handwritten signature in black ink, appearing to read 'Henrietta Davis', written in a cursive style.

Councillor Henrietta Davis  
Chair

## City of Cambridge

The Ordinance Committee held a public hearing on April 14, 1998, beginning at 6:08 p.m. in the Sullivan Chamber for the purpose of discussing a proposed amendment to the Municipal Code to provide for additional enforcement by the Pole and Conduit Commission for telephones installed without approval of the Pole and Conduit Commission as required by ordinance.

Present at the hearing were Councillor Henrietta Davis, Chair of the Committee, Councillor Sheila Doyle Russell, Councillor Timothy J. Toomey, Jr., and City Clerk D. Margaret Drury. Also present were Richard Rossi, Deputy City Manager, George Fernandes, City Electrician, Lester Barber, Director of Land Use and Planning for the Community Development Department, Nancy Glowa, First Assistant City Solicitor, Steve White, Deputy Commissioner of Public Works, and Paul Schlaver, Executive Director of the Cambridge Consumer Council.

Councillor Davis convened the hearing and explained the purpose. She requested a description of the issue.

Mr. George Fernandes, City Electrician, described the problem with pay phones that are being randomly put up around the city in the public way, without any application to or permission from the Pole and Conduit Commission.

Councillor Davis stated that some of them also have very obtrusive signs.

Mr. Rossi asked about the issue of them protruding over the public way. Mr. Fernandes stated that they are required to seek permission from the Pole and Conduit Commission and to demonstrate public need.

Mr. Fernandes stated that these new phones are not owned by Bell Atlantic; they are mostly owned by Altech, a Providence, Rhode Island business. The proposed ordinance would allow the City to remove them after notice.

Mr. Fernandes described the Pole and Conduit process which requires that abutters be notified, and that the petitioners demonstrate a public need for the pay phone in the particular location.

Councillor Davis then invited public testimony.

Mr. Jack Spellman, stated that he was representing Melatone Vending, 135 Broadway in Somerville and stated that he represents private telephone companies. He asked what the proposed amendment would do.

Committee Report #3

Cal. 11

0-16

A report from Councillor Davis for a meeting held on April 14, 1908 for the purpose of discussing a proposed amendment to the Municipal Code to enable the City Manager to authorize payment by the City for a new building sewer or storm drain connection to the City's mains.

6/1/98

Passed to be ordained.

9-0-0.

In City Council May 11, 1908

Report Accepted

**PLACED ON FILE**

Passed to a Second  
Reading