



City of Cambridge

Wark Street

*Amendments inserted -
11/26/79*

In the Year One Thousand, Nine Hundred Seventy-nine

AN ORDINANCE

In amendment to an ordinance formerly entitled "The General Ordinances of the City of Cambridge" as revised in 1972 and now designated as "The Code of the City of Cambridge".

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

That a new Chapter Twenty-Three be added at the end thereof entitled "Chapter Twenty-Three. Regulations Pertaining to Controlled Rental Housing Units".

CHAPTER TWENTY-THREE. REGULATIONS PERTAINING TO CONTROLLED RENTAL HOUSING UNITS.

Section 1. Removal of Controlled Rental Units From Market.

(a) Declaration of emergency. A serious public emergency continues to exist in the City of Cambridge with respect to the housing of a substantial number of its citizens, as declared by Chapter 36 of the Acts of 1976, for the reasons stated in the Act. The emergency has worsened since 1976 because of the removal of a substantial number of rental housing units from the market, by condominium conversion, demolition, and other causes. As a result, more than 2,000 or over 10 percent of the controlled rental units in the city have been removed from the housing market since 1970, and the vacancy rate has fallen below one percent. In order to carry out the purposes of the Act, and to continue to provide a sufficient supply of decent, affordable rental housing accommodations especially for families of low and moderate income and for elderly people on fixed incomes, it is necessary for the Cambridge City Council, in the exercise of its powers under section 6 of the Home Rule Amendment and under section 5(c) of the Act, to regulate the removal of controlled rental housing units from the market.

(b) Definitions. As used in this section:

- (1) "Act" means Chapter 36 of the Acts of 1976, as amended from time to time.
- (2) "Board" means the Rent Control Board established by section 5 of the Act.
- (3) "Controlled rental unit" means any unit included in the definition under section 3(b) of the Act.

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(4) "Removal from the market" as applied to a controlled rental unit, includes but is not limited to:

- (i) occupy, as an owner of a unit which is a condominium unit, if the last previous occupant was a tenant; however, if the same person will occupy the controlled rental unit as a condominium unit owner, this ordinance will not apply.
- (ii) ~~demolish~~, or *DEMOLISH, BUT NO UNIT HAS BEEN REMOVED FROM THE MARKET BY DEMOLITION UNTIL ITS PHYSICAL DESTRUCTION HAS BEGUN*
- (iii) rehabilitate, repair or improve, other than as required by the laws of the Commonwealth or the city, in such a way as to prevent residential occupancy during the course of the rehabilitation, repair or improvement.

But, this term "removal from the market" does not include occupancy of a non-condominium unit by the owner of the building in which it is located or by any member of his/her immediate family; or a condominium unit which the unit owner occupied before the tenant occupied it; or a condominium unit as to which unit it can be shown with respect to its initial sale after the recording of the master deed that a purchase and sale agreement has been entered into prior to August 10, 1979, a cancelled check being conclusive proof of the transaction, or a unit deed recorded in Middlesex Registry of Deeds prior to August 10, 1979.

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(c) Removal regulated. No owner or other person shall remove from the market any controlled rental unit, unless the board after a hearing grants a permit. The board may issue orders and promulgate regulations to effectuate the purposes of this section, and to prescribe the procedure for applications, notice, hearings, and the granting and withdrawal of permits. A permit to remove from the market a unit in a building converted or proposed to be converted to a condominium may be granted to the owner of the building before the sale of the unit.

(d) Considerations. In deciding whether to grant a permit under this section, the board shall consider:

- (1) the benefits to the persons sought to be protected by the Act and by this section;
- (2) the hardships imposed on the tenants residing in the unit proposed to be removed, including any mitigating provisions made by the applicant; and
- (3) any aggravation of the shortage of decent rental housing accommodations, especially for families of low and moderate income and elderly people on fixed incomes, which may result from the removal.

which had not been → THIS SECTION SHALL APPLY TO ALL CONTROLLED RENTAL UNITS REMOVED FROM THE MARKET BEFORE AUGUST 13, 1979

(e) Effectiveness. This section shall take effect immediately, but shall cease to be effective if the board files its certificate with the city clerk that;

- (1) the vacancy rate in the total supply of controlled rental exceeds four percent, or
- (2) the total number of rental units in the city excluding public housing units, exceeds that number as of January 1, 1970.

If such a certificate ceases to be correct, the board shall withdraw it by filing a new certificate, and this section shall then again be effective until one of the above conditions again prevails.

(f) Penalty. Any person who violates this section shall be punished by a fine of not more than five hundred dollars. The removal of each unit shall constitute a separate violation.

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(g) Equitable relief. The board or any person aggrieved by a failure to comply with this section may enforce its provisions in a civil action for injunctive or declaratory relief.

(h) Severability. The provisions of this section are severable. If a court declares invalid any such provision, or its application to any person or circumstance, the invalidity shall not affect the validity of any other provision or application.

In City Council August 13, 1979.

Passed to be ordained as amended by a yea and nay vote:- Yeas 5; Nays 3;
Absent 1.

James L. Sullivan, City Manager.

ATTEST:- Paul E. Healy, City Clerk.



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COUNCILOR GRAHAM

9.
IN CITY COUNCIL
November 19, 1979

ORDERED:

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

SECTION 1. In recent decisions, the Cambridge Rent Control Board has interpreted Chapter 23, Section 1 of the City Code (the "Removal" Ordinance) as permitting a landlord to remove a controlled rental unit from the market by demolition without a removal permit, if the landlord has "intended" to demolish the unit before the Ordinance's effective date. This interpretation is contrary to the original legislative intention of this City Council that the Ordinance apply to all controlled rental units which had not actually been removed (in this situation, actually begun to be physically destroyed) before its effective date. The City Council exempted condominium units sold to unit purchasers before August 10, 1979 only to protect those purchasers' justified expectations of occupancy reflected in the purchase price they paid, an issue not present in any other situation. In order to overrule the contrary interpretation, the City Council now finds it necessary to amend the "Removal" Ordinance by adopting this clarifying Ordinance which shall therefore apply to all pending proceedings.

SECTION 2. Paragraph (4) of Subsection (b) of Section 1 of Chapter 23 of the Code of the City of Cambridge is amended by striking out subparagraph (ii), as appearing in Ordinance No. 926, and inserting in place thereof the following subparagraph:

(ii) demolish, but no unit has been removed from the market by demolition until its physical destruction has begun; or

SECTION 3. Subsection (e) of said Section 1 is amended by inserting after its title and before the first sentence, as so appearing, the following sentence:

This section shall apply to all controlled rental units which had not been removed from the market before August 13, 1979.

Vol 13

Order #9 (0-57)

C. Graham re: proposed amendment to the General Ordinances of the City of Cambridge in Chapter 23, Section 1 "Removal".

1/21/80 See Order #5
12/3/79

Filed on Motion
of COUNCILOR VELLOCCI
with request for REB
defn Hearing on BLANCHÉ
St. Hearing -
In City Council,
November 19, 1979

CHARTER RIGHT BY COUNCILOR SULLIVAN 11/19/79

Charter Right
by
Councilor Sullivan

12/10/79 REB NO
Hearing scheduled
through 12/22/79

12/10/79 Check order
by E. Vellocci - Hearing 12/17