

ORDINANCE ANALYSIS AND REPORT
FOR
THE CITY OF CAMBRIDGE, MASSACHUSETTS
compiled by
Book Publishing Company

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Ordinance Analysis and Report
for
Cambridge, Massachusetts

SPECIAL NOTE: This Ordinance Analysis and Report has been prepared by the legal editorial staff of Book Publishing Company for use by the city attorney of Cambridge, Massachusetts. It should be thoroughly reviewed. It has been prepared as a research tool to assist the attorney and should not be relied upon by city officials as a substitute for the attorney's advice. Before the city takes any action with respect to any of the comments contained in this report, the attorney should be consulted.

All ordinances the city indicates for repeal, but that are not repealed by the cutoff date, will be left out of the code, and any provisions the city indicates it will amend that have not been amended by the cutoff date will be codified as is.

The Code of the City of Cambridge, 1970, is referred to throughout this report as the "prior code" and abbreviated "PC".

Title 1

GENERAL PROVISIONS

This title is intended for those provisions of the code which apply generally to the code as a whole. The code adoption ordinance would fit logically within this title.

Chapters:

1.01 Code Adoption (Ordinance to be adopted)

Note: Necessarily, the code cannot be adopted until the receipt of the completed new codes. Upon request by the city, we will provide sample code adoption language at the Ordinance Analysis Conference which may be reviewed and adapted to meet local needs. Once a code adoption ordinance is enacted and a copy forwarded to us, we shall print the first supplement to your code, adding the code adoption ordinance and any other ordinances you may wish included at that time.

Chapters:

- 1.04 General Provisions (PC §§1-1, 1-5--1-10, 1-13, 1-14;
Ord. 950)

Note: PC §1-1 applies specifically to the city's 1970 code. It should be repealed and replaced when the new code is adopted.

- 1.08 City Seal (PC §§1-15, 1-16)
- 1.12 Ordinances (PC §§1-2--1-4)
- 1.16 City Office Hours (PC §2-179)
- 1.20 Licenses and Permits Generally (PC §§12-1--12-6)
- 1.24 General Penalty (PC §§1-11--1-12)

Note: We note that the city may if it desires increase the general penalty imposed by PC §1-11, now set at \$50, to \$300. See GLM c40 §21.

Some city ordinances mentioned later in this report impose \$500 fines for violations. It is not clear to us where the city derives the authority to impose fines in excess of the \$300 maximum authorized by GLM c40 §21.

Title 2ADMINISTRATION AND PERSONNEL

This title is intended for those provisions of the code which relate to city officers, departments, boards and employees and to the administration of city affairs.

- 2.02 City Council (PC §§2-2--2-9; Ord. 942)

Note: The references in PC §2-7 and 2-8 to 1 A.L.M., c43 §98 should be to 1 A.L.M., c43 §99 instead. If directed, we will editorially correct the references.

- 2.04 City Manager (PC §§2-12--2-22)

Note: We assume that the city manager still appoints all of the officials listed in PC §2-16, including fence viewers and measures of wood and bark. If not, we suggest that PC §2-16 be updated by amendment.

Chapters:

2.06 Deputy City Manager (PC §§2-25--2-29; Ord. 939)

Note: The reference in PC §2-29 to PC §2-197 is incorrect. We suggest amendment of PC §2-29 to correct the reference.

2.08 Assistant City Manager for Community Development (Ord. 838)

2.10 Assistant City Manager for Fiscal Affairs (Ord. 839)

2.12 Assistant City Manager for Human Service Programs (Ord. 935 Art. 34)

2.14 Mayor (PC §2-1)

2.16 Commissioner of Health and Hospitals (Ord. 896 §§11-1, 11-2 and 11-3(a); Ord. 901)

2.18 Inspector of Animals (Ord. 998 §§4-13--4-15)

2.20 Constables (Ord. 946)

2.22 Departments Generally (PC §§2-23, 2-24)

Note: The list of departments, boards, commissions, etc., listed in PC §2-23 has not been updated since 1943. We suggest that the list be updated by amendment.

2.24 City Clerk Department (PC §§2-30--2-32, 2-34; Ords. 846, 958)

Note: Unless directed otherwise, we will assume that the last sentence of PC §2-30, which reads: "He shall appoint an Assistant City Clerk", was amended out of existence by Ordinance 846.

2.26 Law Department (PC §§2-35--2-41)

2.28 Engineering Department (PC §§2-42--2-51)

2.30 Division of Finance Generally (PC §§2-52--2-58)

2.32 Auditing Department (PC §§2-59--2-68)

Note: The implication of PC §2-61 is that the city's fiscal year ends on December 31. The fiscal year for all cities ends June 30. See GLM c44 §56A. The city may wish to amend PC §2-61(b) accordingly.

Chapters:

- 2.34 Purchasing Department (PC §2-69--2-97; Ord. 944)

Note: PC §2-95, pertaining to annual inventories, appears to be based upon a fiscal year ending in December, rather than on the fiscal year ending June 30, which now applies to all cities. See GLM c44 §56A. We suggest that the city amend PC §2-95 to conform to the fiscal year ending June 30.

For the reasons discussed in the above paragraph, the city may wish to amend PC §2-97 to require the purchasing agent to make his annual report 10 days after the close of the fiscal year, rather than at the close of the year as it now reads.

- 2.36 Treasury Department (PC §2-98--2-117)

Note: PC §2-104 refers to the financial year beginning January 1. Cities now operate under a fiscal year beginning July 1. See GLM c44 §56A. The city may wish to amend PC §2-104 accordingly.

- 2.38 Budget and Personnel Department (PC §§2-118--2-125)

- 2.40 Division of Council Services (PC §§2-126--2-128;
Ord. 852)

Note: The salary listed in Ordinance 852 for the administrative assistant to the city council is out-of-date. We suggest amendment of Ordinance 852 to delete the salary provision.

- 2.42 Assessors Department (PC §2-133)

- 2.44 Veterans Service Department (PC §§2-134--2-139)

- 2.46 Bridge Department (PC §§2-140, 2-141, 2-144)

Note: The city may wish to amend PC §2-144 to require the commissioner of bridges to make his annual report in July rather than January to reflect the fact that the city's fiscal year ends on June 30.

- 2.48 Inspectional Services Department (Ord. 995 §§5-1--5-7)

Chapters:

- 2.50 Public Library Department (PC §§2-172--2-177)

Note: The city may wish to amend PC §2-177 to require the library trustees' annual report to be made in July rather than January to conform to the fiscal year ending June 30 applicable to all cities.

- 2.52 Fire Department (PC §§10-1--10-12)

- 2.54 Bureau of Fire Prevention (PC §§10-13--10-27)

- 2.56 Police Department (PC §§15-1--15-7, 15-15-14; Ords. 832, 834, 881)

Note: In accordance with Ordinance 881, we will plan on substituting "police commissioner" for "chief" when we codify PC §15-1 et seq.

We assume that the city still has a police commissioner even though the latest salary ordinance sent to us (Ordinance 1003) does not list the police commissioner.

The city may wish to consider amendment of PC §15-13 to require the police commissioner's annual report to be made in July rather than January to reflect the fiscal year ending June 30 applicable to all cities.

- 2.58 Department of Public Works (PC §§14-1, 14-2, 17-1--17-5, 17-44--17-46, 17-63--17-65, 17-70)

Note: Since the city's fiscal year ends on June 30, the city may wish to consider amendment of PC §§17-2, 17-5 and 17-70 to require the annual reports referred to therein to be made in July rather than January.

Ordinance 1007 purports to repeal PC §17-63. Since Ordinance 1007 pertains to sewers whereas PC §17-63 pertains to the Cemetery Division of the Department of Public Works, we assume that the repeal of PC §17-63 by Ordinance 1007 was a mistake. If so, we suggest amendment of Ordinance 1007 to correct the error. Unless directed otherwise, we will plan on codifying PC §17-63.

Chapters:

- 2.60 Electrical Department (PC §§9-1--9-3, 9-32, 9-33)

Note: The city may wish to amend PC §9-33 to require the city electrician's annual report to be made in July rather than January to conform to the fiscal year which ends June 30. GLM c44 §56A.

- 2.62 Officers and Employees Generally (PC §§2-180, 2-186, 2-188, 2-195, 2-196)

Note: Are the provisions regarding half holidays in PC §2-196 still followed? If not, the city may wish to update the ordinance by amendment or repeal it.

PC §2-180 requires as a condition of city employment two years residence within the city. Although a residency requirement is probably valid, two years may be so unreasonably lengthy as to constitute a denial of the right to travel. See Shapiro v. Thompson, 394 U.S. 618 (1969) and Memorial Hospital v. Maricopa County, 415 U.S. 250 (1974). See also McQuillin, Municipal Corporations §12.59. The city may wish to consider shortening the residency requirement.

- 2.64 Official Bonds (PC §§2-197--2-199)

- 2.66 Salaries (PC §§2-191--2-194; Ords. 822, 833, 852, 948, 994, 997, 1003, 1012)

Note: PC §2-192, as amended by Ordinances 822 and 852, appears to be out-of-date. We suggest that PC §2-193 either be repealed or updated by amendment.

PC §2-193, as amended by Ordinance 833, is also out-of-date. We suggest that PC §2-193 either be repealed or updated by amendment.

- 2.68 Disability Pay (PC §§2-200--2-206)

- 2.70 Cambridge Employment Plan (Ords. 1005, 1015)

- 2.72 Planning Board (PC §§2-129--2-132)

Note: The reference in PC §2-129 to "c.41 §7- to 72" should be "c.41 §70 to 72" instead. We will editorially correct the error.

Chapters:

- 2.74 Water Board (PC §§19-1--19-4, 19-6, 19-8--19-10, 19-24)

Note: The city may wish to consider amendment of PC §§19-8 and 19-24, which require annual reports to be made in January, to require the annual reports to be made in July, since the city's fiscal year ends June 30.

- 2.76 Cambridge Health Policy Board (Ord. 896 §§11-3(b) and 11-4)

- 2.78 Police Review and Advisory Board (Ord. 1018)

- 2.80 City Demonstration Agency (PC §§7-1--7-33)

Note: The authority of the federal government to make grants and loans under Title I of the Demonstration Cities and Metropolitan Development Act of 1966 was terminated in 1975. See 42 U.S.C.A. §5316. Accordingly, if the City Demonstration Agency no longer serves any purpose, we suggest that PC §§7-1 through 7-33 be repealed.

- 2.82 Human Rights Commission (Ord. 1016)

- 2.84 Cambridge Historical Commission (PC §§2-145--2-150; Ords. 869, 909, 953, 965, 975, 1002, 1009A)

Note: The reference in PC §2-150 to the second paragraph of Section 7 of the Historic Districts Act no longer appears to be correct. The correct reference now appears to be the fourth paragraph of Section 11. If directed, we will editorially correct the reference.

- 2.86 Cambridge Industrial Commission (PC §§2-151--2-154)

- 2.88 Cambridge Animal Commission (Ord. 998 §§4-16--4-19)

- 2.90 Cambridge Youth Commission (PC §§2-155--2-157)

- 2.92 Community Schools Commission (PC §§2-158--2-168; Ord. 823)

Note: Ordinance 823 appears to supersede PC §§2-158 through 2-168. We suggest repeal of the superseded sections.

Chapters:

- 2.94 Cambridge Commission on the Status of Women
(Ord. 885)
- 2.96 Cambridge Commission on Nuclear Disarmament and
Peace Education (Ord. 987)
- 2.98 Cambridge Consumer Advisory Commission (Ords. 928,
961)

Note: Ordinance 961 appears to supersede Ordinance 928.
We suggest repeal of Ordinance 928.

- 2.100 Energy Commission (Ords. 931, 954)

Note: Ordinance 954 appears to supersede Ordinance 931.
We suggest repeal of Ordinance 931.

- 2.102 Recreation Commission (PC §§14-3--14-8, 14-10, 14-11)

Note: The city may wish to amend PC §14-11 to require
the commissions annual report to be made in July rather
than January to conform to the fiscal year ending June 30.

- 2.104 Cambridge Commission on the Handicapped (Ord. 927)

- 2.106 Commission for Human Service Programs (Ord. 935
Art. 35)

- 2.108 Council on Aging (PC §§2-169--2-171; Ord. 850)

- 2.110 Neighborhood Councils (Ord. 935 Art. 36)

- 2.112 School Committee (Ord. 991)

- 2.114 Committee on Public Planting (Ord. 925)

- 2.116 Emergency Management (PC §§8-1--8-13; Ord. 1010)

- 2.118 City-Owned Land and Buildings (PC §2-10)

- 2.120 City Contracts (PC §§2-181--2-185; Ord. 920)

- 2.122 Public Development Art Projects (Ord. 923)

Note: Ordinance 923 §2(E) refers to the Cambridge
Arts Council established in 1974. Neither the city
code nor any of the ordinances sent to us creates an
arts council. However, we will assume that the arts
council does exist and that Ordinance 923 is to be
codified as is.

Chapters:

2.124 Weights and Measures (PC §§20-1--20-6; Ord. 978)

Title 3REVENUE AND FINANCE

This title is intended for those provisions of the code which relate to contracts, purchasing and receipt and disbursement of city funds.

Note: We will assume unless directed otherwise that the various special funds codified in this title are still in use and are to be codified in the new code.

3.04 Appropriations, Expenditures and Accounts
(PC §§2-178, 2-187, 2-189, 2-190)

Note: The city may wish to consider amendment of PC §§2-189 and 2-190 to require department estimates and reports to be made at times relevant to the fiscal year ending June 30, which is applicable to all cities.
GLM c44 §56A.

3.08 Bridge Charitable Fund (PC §§2-207--2-210)

3.12 Sanders Temperance Fund (PC §§2-211--2-214)

3.16 Bullock Fund (PC §§2-215--2-221)

3.20 Parking Fund (PC §22-1)

Title 4RESERVED

This title is reserved, as are others throughout the code, to accommodate new enactments which do not fit logically within an existing title.

Title 5BUSINESS LICENSES AND REGULATIONS

This title is intended for those provisions of the code which relate to the licensing and regulation of business operations within the city.

Chapters:

- 5.04 Automatic Amusement Devices (PC §12-12; Ords. 914, 984)

Note: The reference in Ordinance 914 §12-12(d)(8) to Section 1-16 of the Code should be to Section 1-6 instead. If directed, we will editorially correct the error.

- 5.08 Automatic Music Machines (PC §12-11; Ord. 879)

- 5.12 Bowling Alleys (PC §12-13)

- 5.16 Employment Agencies (PC §§6-1--6-7)

Note: Employment agencies appear to be comprehensively licensed and regulated by the state. See GLM c140 §§46A--46Q. PC §6-6 on agency fees is clearly inconsistent with GLM c140 §46L. We suggest that PC §§6-1 through 6-7 either be repealed or amended to conform to the requirements of GLM c140 §§46A--46Q.

- 5.20 Hackney Carriages (PC §§16-1--16-34; Ords. 813, 836, 848, 874A, 876, 924, 951)

Note: Ordinance 924 purports to add a new Section 16-35 to the city code. There is already a Section 16-35, pertaining to vehicles operating on fixed routes. Unless directed otherwise, we will assume that the Section 16-35 added by Ordinance 924 should be codified here with the provisions on hackney carriages and that it does not replace the existing Section 16-35.

Similarly, Ordinance 876 purports to add Sections 16-37 and 16-38 to the city code, sections which already exist. We will assume that the sections added by 876 should be codified in this chapter, and that they do not supersede existing Sections 16-37 and 16-38.

Ordinance 837 supersedes Ordinance 836. We suggest repeal of Ordinance 836.

Chapters:

5.24 Fixed-Route For-Hire Vehicles (PC §§16-35--16-44)

Note: There is some indication from the way Ordinances 876 and 924 on hackney carriages were enacted (see Ch. 5.20 of this report) that PC §§16-35 through 16-44 may have been repealed. Nevertheless, since we have no record that PC §§16-35 through 16-44 have been repealed, we will, unless otherwise directed, plan on codifying them.

5.28 Garbage and Salvage Companies (PC §§6-33--6-36)

5.32 Junk and Secondhand Dealers (PC §§6-8--6-18)

5.36 Pawnbrokers (PC §§6-19--6-20)

5.40 Peddlers (PC §§6-21--6-29)

Note: PC §6-22 was declared unconstitutional 14 years ago. See Wulp v. Corcoran, 454 F.2d 826 (1972). Accordingly, we suggest repeal of PC §6-22.

PC §6-23 requires an applicant for a peddler's license to be or declare his intention to become a citizen of the United States. Laws which discriminate against aliens are inherently suspect and are valid only if there is a compelling governmental interest requiring such discrimination. See Graham v. Richardson, 403 U.S. 365 (1971). We doubt that there is a compelling governmental interest in preventing aliens from peddling. For cases striking down similar laws, see Takahashi v. Fish and Game Comm., 334 U.S. 410 (1948); In re Griffiths, 413 U.S. 717 (1973); and Sugarman v. Dougall, 413 U.S. 634 (1973). We suggest that PC §6-23 be amended to delete the citizenship requirement.

5.44 Massage Establishments (Ord. 918)

Note: It is unclear to us where the city derives the authority to impose a \$500 penalty for violating Ordinance 918. GLM c40 §21 appears to limit municipal penalties for ordinance violations to \$300. Accordingly, the city may wish consider amending Ordinance 918 §11-28 to impose a \$300 fine rather than a \$500 fine.

Chapters:

- 5.48 Miscellaneous Business License Fees and Regulations
(PC §§6-30, 12-7, 12-8, 12-14)

Note: The city may if desired increase the license fee of \$2 imposed by PC §12-7 to as much as \$50. See GLM c140 §23.

Title 6ANIMALS

This title is intended for those provisions of the code which apply generally to the regulation, control and care of animal and fowl.

- 6.04 Animal Control Regulations (Ord. 998 §§4-1--4-12; Ord. 1004)

Title 7RESERVEDTitle 8HEALTH AND SAFETY

This title is intended for those provisions of the code which relate to the regulations and control of sanitation and disease, and other measures to protect the health and safety of the community.

- 8.04 Housing Code Adopted (Ord. 896 §11-5)
- 8.08 Explosives and Flammable Liquids (PC §§6-31, 6-32, 10-28; Ords. 844, 977)
- 8.12 Noise (Ord. 877)
- 8.16 Recombinant DNA Technology (Ord. 955)
- 8.20 Rubbish, Garbage and Litter (PC §§17-71, 17-72, 17-73(a)--(d), 17-74--17-78, 17-80(b), 17-81, 17-82; Ord. 824)

Note: We will assume unless otherwise directed that the fees and charges imposed by PC §17-77 and 17-78 are still correct. If not, we suggest that the sections be updated by amendment.

Chapters:

8.24 Smoking (Ords. 849, 1006)

Note: Ordinance 849 purports to entirely replace PC Chapter 13 Art. II. Accordingly, unless directed otherwise, we will assume that PC §13-4 on drinking fountains (the only section contained in PC Chapter 13 Art. II) has been eliminated.

8.28 Security Alarm Systems (Ords. 949, 962)

Note: Ordinance 962 appears to supersede Ordinance 949. We suggest repeal of Ordinance 949.

We will assume that the references in Ordinance 962 to "Section VI" are intended as references to Section 15-19 of Ordinance 962.

8.32 Private Fire Alarm Systems (Ord. 1000)

8.36 Junk Motor Vehicle Storage (PC §12-15)

Note: The reference in PC §12-15(a) to Chapter 140, Section 50 of the General Laws should be to Chapter 140, Section 59 instead. If directed, we will editorially correct the reference.

The city may if desired increase the license fee of \$50 imposed by PC §12-15(d) to \$100. See GLM c140 §59.

8.40 Rental Housing (Ords. 926, 929, 932, 941, 945, 966, 980, 993, 1001, 1014)

Note: Ordinances 926, 929, 932, 941, and 945 appear to have been superseded by Ordinance 966. To clear the record, we suggest repeal of the superseded ordinances.

Title 9PUBLIC PEACE, MORALS AND WELFARE

This title is intended for those provisions of the code which relate to the prohibition and regulation of certain conduct for the preservation of the public peace, morals and welfare.

Chapters:

- 9.04 Offenses Against Property (PC §§13-1--13-4, 13-16;
Ords. 964, 1009, 1017 (part))

Note: Unless directed otherwise, we will assume that PC Ch. 13, Art. II, §13-4 on drinking fountains was amended out of existence by Ordinance 849, which repealed and replaced Article II of Chapter 13.

- 9.08 Offenses Against Public Peace and Decency
(PC §§13-5--13-9; Ords. 825, 933)

Note: Ordinance 933 appears to supersede Ordinance 825. We suggest repeal of Ordinance 825.

The first sentence of PC §13-5, which prohibits indecent or profane language in public places, is probably unconstitutional. Generally, speech cannot be prohibited unless it is obscene or constitutes "fighting words." Cohen v. California, 403 U.S. 15 (1971). We suggest that the first sentence of PC §13-5 either be repealed or amended to prohibit only speech which is obscene or which constitutes "fighting words" as defined in the Cohen case.

The second sentence of PC §13-5, pertaining to noise, appears unnecessary in light of Ordinance 877. Accordingly, we suggest repeal of the second sentence of PC §13-5.

PC §13-9 on loitering is identical to a Boston ordinance struck down as unconstitutionally vague by the Supreme Judicial Council of Massachusetts. Commonwealth v. Williams, 395 Mass. 302, 479 N.W.2d 687 (1985). Accordingly, we suggest repeal of PC §13-9.

- 9.12 Offenses By or Against Minors (PC §13-14)
- 9.16 Weapons (PC §§13-12, 13-13, 13-15, 13-17)
- 9.20 Penalty (PC §13-18; Ord. 1017 (part))

Note: Since the general penalty imposed by PC §1-11 is exactly the same as the penalty imposed by PC §13-18, PC §13-18 appears to be unnecessary. Furthermore, due to our planned reorganization of your new code, PC §13-18, which applies only to PC Chapter 13, will be awkward to codify. Accordingly, we suggest repeal of PC §13-18.

Title 10VEHICLES AND TRAFFIC

This title is intended for those provisions of the code which relate to the regulation of the operation of vehicles on the streets of the city.

Chapters:

- 10.04 Traffic Regulations Adopted (PC §18-1)
- 10.08 Abandoned Vehicles (PC §§17-73(e), 17-80(a), 18-2, 18-3)

Note: The first sentence of PC §18-3 is grammatically awkward. Please indicate whether you wish to codify it as is or, if not, how it should be worded.

Title 11RESERVEDTITLE 12STREETS, SIDEWALKS AND PUBLIC PLACES

This title is intended for those provisions of the code which relate to the use, maintenance, and construction of streets, sidewalks and other public places.

- 12.04 Street Names and Numbers (PC §§17-6, 17-7)
- 12.08 Advertising Signs and Displays (PC §§3-1--3-7)

Note: We suggest amendment of PC §3-1 to make it applicable to projections of 12 inches or more rather than 6 inches. See GLM 85 §9.

There is now no statutory ceiling on fees for permits issued under PC §3-1. See GLM c85 §8. The city may therefore wish to consider amendment of PC §3-1 to increase the one dollar fee currently required.

Chapters:

- 12.12 Street Excavations and Obstructions (PC §§17-9--17-26, 17-29, 17-31--17-34)

Note: We suggest amendment of PC §17-21 to refer to PC §§17-10 and 17-20 rather than PC §§17-10 to 17-16, since only the former sections pertain to lights.

PC §17-31(b) refers to PC §18-7. There is no such section. We suggest amendment of PC §17-31(b) to either correct or delete the erroneous reference.

PC §17-31(a) refers to licenses issued pursuant to PC §§17-7 through 17-13. Only some, not all, of those sections pertain to the issuance of licenses. We suggest amendment of PC §17-31(a) to refer only to the relevant sections.

- 12.16 Street and Sidewalk Use Regulations (PC §§17-8, 17-27, 17-28, 17-30, 17-35--17-43, 17-79; Ord. 981)

Note: PC §17-41, pertaining to loitering and obstructing, is void for vagueness. See Commonwealth v. Williams, 395 Mass. 302, 479 N.E.2d 687 (1985). We suggest repeal of PC §17-41.

- 12.20 Commons and Public Grounds (PC §§14-9, 14-12--14-23; Ord. 1021)

- 12.24 Bridges (PC §§2-142, 2-143)

Title 13PUBLIC SERVICES

This title is intended for those provisions of the code which relate to the regulation of the use of water and sewage facilities and other public services.

- 13.04 Cemetery Use Regulations (PC §§17-66--69)
- 13.08 Water System Regulations (PC §§19-5, 19-7, 19-11--19-23; Ords. 881, 902)

Note: PC §19-12 authorizes the superintendent to shut off water service for failure to pay water charges when due. We note in this regard that public utilities cannot shut off service to delinquent customers until notice of intended termination of service has been sent to the customer along with information on procedures for contesting the termination. Memphis Light, Gas and Water Division v. Craft, 436 U.S. 1 (1978).

Chapters:

- 13.12 Water Réservoirs (PC §§19-25--19-34)
- 13.16 Sewer System Regulations (PC §§17-47--17-51;
Ord. 1007)

Note: We will assume that the standard rate for sewer assessments set out in PC §17-51 is still correct even though it apparently has not changed since 1943. If this is not the case, we suggest that PC §17-51 be updated by amendment.

Title 14RESERVEDTitle 15BUILDING AND CONSTRUCTION

This title is intended for those provisions of the code which relate to the regulation of the construction, maintenance and repair of buildings and their appurtenances.

Special Note: Ordinance 837 amends an ordinance not sent to us entitled "BOCA Basic Building Code, 1970 Edition, and STD-10 Department of Public Safety". If the missing ordinance is still in force, please send it to us. If it is not in force, we suggest it be repealed along with Ordinance 837.

In this regard, it appears to us that the state building code, promulgated pursuant to GLM c23B §§16, 17 and 18, has preempted local building codes. Accordingly, Ordinance 837 and the ordinance which it amends are probably unnecessary, if not invalid.

- 15.04 Building Permit Fees (Ord. 957 §5-2; Ord. 979 §5-2;
Ord. 995 §5-8)
- 15.08 Electrical Fees (Ord. 957 §5-3; Ord. 979 §5-3;
Ord. 995 §5-9)

Chapters:

15.12 Plumbing and Gas Fitting Fees (Ord. 957 §5-4; Ord. 979 §5-4; Ord. 995 §5-10)

15.16 Electrical Poles and Wires (PC §§9-4--9-31)

Note: PC §§9-3 through 9-31, pertaining to electrical poles and wires, have remained unchanged since 1943. To the extent that any of these regulations are inconsistent with the State Board of Fire Prevention regulations on electrical wiring and fixtures, promulgated pursuant to GLM c143 §3L, they are invalid. 1961-62 Op. AG 165. If PC §§9-3 through 9-31 are no longer enforced, we suggest they be repealed. If enforced, we suggest that they be reviewed for consistency with the state regulations.

Because the city's fiscal year now ends on June 30, the city may wish to amend PC §9-33 to require the city electrician's annual report to be made in July rather than January.

15.20 Miscellaneous Building and Construction Regulations (PC §§12-9, 12-10)

Title 16ZONING

This title is intended for those provisions of the code which relate to the regulation of land use.

17.04 Zoning Code Adopted (PC §21-1)

Note: PC §21-1 adopts by reference the city zoning ordinance. If the city wishes to have the zoning ordinance set out in full in the new city code, please send us a copy.

CHARTER

If the municipality has a charter and so desires, the charter can be included in the new code. It will be decided at the conference whether or not our editors may change inconsistencies of style within the charter, if any occur. Note, however, that it is the policy of Book Publishing Company to codify charters exactly as written unless instructed otherwise by the municipality.

Charter Index: We can include a charter index, if the municipality so requests. If an Index is desired, it should be decided at the conference if the index is to be included as a separate index following the charter, or if it is to be incorporated into the main index of the code.

MISCELLANEOUS

If the municipality has diagrams, maps and/or charts, it will be decided at the conference whether or not the municipality wants these included in the code. If so, the municipality should make available to the Book Publishing Company camera-ready copies of any maps or diagrams to be included.

CUTOFF DATE

A cutoff date for material to be included in the code should be set before the conference is concluded. This date should be agreeable to both the municipality and Book Publishing Company. All material submitted after that date will be published in the first supplement to the code along with the code adoption ordinance.

EDITORIAL PROCEDURES

Please review carefully the editorial procedures listed in Section 5 of our Report. We will discuss this procedure at the meeting.

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