

PRELIMINARY DRAFT

CHAPTER 14

OFFENSES

- Art. I. Offenses Against Property
 - Injuring Public Property, sec. 14.101
 - Walking On Grass Prohibited, sec. 14.102
 - Police And Fire Alarm Signal Boxes, sec. 14.103
 - Vandalism, sec. 14.104
- Art. II. Offenses Against Public Health
 - Smoking Prohibited, sec. 14.201
- Art. III. Offenses Against Public Morals
 - Disorderly Conduct, Profanity, And Insulting Language, sec. 14.301
 - Gaming, sec. 14.302
 - Peeping And Spying, sec. 14.303
 - Nude Bathing, sec. 14.304
 - Loitering In Street, sec. 14.305
- Art. IV. Offenses Against Public Peace
 - Unreasonably Loud Noises, sec. 14.401
 - Radios, Phonographs, Amplification Devices, sec. 14.402
- Art. V. Offenses Against Public Safety
 - Possession Of Missiles, Clubs, Etc., sec. 14.501
 - Firearms, sec. 14.502
 - Consumption Of Alcoholic Beverages On Certain Public Places, sec. 14.503

ARTICLE I. OFFENSES AGAINST PROPERTY

SECTION 14.101. INJURING PUBLIC PROPERTY. (a) No person shall pull up, break, cut, or deface any of the walks, seats, fences, or railing upon or around any common or other property of the City, nor deface any monument or statute on any common, nor interfere with any of the hydrants upon any common or other property of the City, nor upset or otherwise injure any tree, plant, or shrub.

(b) No person, except by permission of the Commissioner of Public Works and for some public use, shall dig or carry away any loam, sod, shrub, or other plant, or earth from any common or other property of the City; no person shall carry or cause to be carried upon any common or other property of the City, any carcass, ordure, filth, dirt, stones, or any offensive matter whatever, or throw or place thereon any sand, gravel, brush, earth, rubbish, or other like substance. (G.O. 1943, c. 20, Art. II, secs. 18, 24)

SECTION 14.102. WALKING ON GRASS PROHIBITED. No person shall

OFFENSES

walk, stand, or lie upon the grass upon any common or other property of the City where such walking, standing, or lying has been prohibited, and notice of such prohibition given to the public by legible notices placed on such common or property. (G.O. 1943, c. 20, Art. II, sec. 26)

SECTION 14.103. POLICE AND FIRE ALARM SIGNAL BOXES. No person except a Police Officer, Fireman, or employee of the Electrical Department in the discharge of his duties shall open, or cause to be opened any of the police or fire alarm signal boxes, except in case of fire. No person shall interfere, tamper, or meddle with, break, cut, injure, or deface any such boxes, any part thereof, or anything connected therewith and no person shall put any bill or placard upon such signal box, pole, or structure. (G.O. 1943, c. 10, sec. 14)

SECTION 14.104. VANDALISM, DESTRUCTION OF PROPERTY AND OTHER RELATED OFFENSES. No person shall willfully, and maliciously, intentionally and without right: (a) Breakdown, injure, remove or destroy a monument erected for, or tree marked for, the purpose of designating the boundaries of a town or of a tract or lot of land, or a milestone, mileboard, or guideboard erected upon a public way or railroad, or deface or alter the inscription on any such stone or board.

(b) Mar or deface a building or signboard, or extinguish a light, or break, destroy or remove a lamp, lamp post, railing or post erected on a bridge, sidewalk, public way, court, or passage.

(c) Deface or otherwise injure, remove, interfere with or destroy any traffic regulating sign, light, signal, marking or device lawfully erected or placed under public authority on any public way.

(d) Or wantonly and without cause, destroy, deface, mar, or injure a schoolhouse, church, or other building, erected or used for purposes of education or religious instruction, or for the general diffusion of knowledge, or an outbuilding, fence, well or appurtenance of such schoolhouse, church or other building, or furniture, apparatus or other property belonging thereto or connected therewith.

(e) Or wantonly and without cause, destroy, deface, mar, or injure any playground apparatus or equipment located in a public park or playground.

(f) Destroy, injure, deface, or mar a dwelling house or other building, whether upon the inside or outside, including the grounds appurtenant thereto.

(g) Mar or injure the walls, wainscoting, or any other part of a courthouse, or any other building or room used for county business or any building belonging to the Commonwealth or any building belonging to the City of Cambridge or the appurtenances thereof, by cutting, writing, or otherwise.

OFFENSES

(h) Maliciously remove, displace, destroy, mar, or injure any monument, tablet or other device erected to mark an historic place or to commemorate an historic event.

(i) Whoever violates any provision of this Article in the presence of a police officer authorized to serve criminal process and the identity of such person is unknown to the officer, such person may be arrested by such officer and detained in a safe place without a warrant until his identity is ascertained. Reasonable diligence shall be exercised by the arresting officer in ascertaining the identity of the offender and when identified he shall be released from arrest unless a warrant was issued against him. If the offender is known to the police officer he shall seek a complaint in court against such offender. If upon conviction under the above City Ordinance, it is shown that the act committed was a first offense, and if the person makes restitution to the party injured, the justice of the District Court may continue the case without finding. (Ord. No. 853, Sept. 29, 1975)

ARTICLE II. OFFENSES AGAINST PUBLIC HEALTH

SECTION 14.201. SMOKING PROHIBITED. (a) It is hereby declared that smoking in public places is a public nuisance, dangerous and hazardous to the public health, and violative of the right of non-smokers to breathe air which is free of smoke contamination.

(b) As used herein, "smoking" shall include carrying a lighted cigarette, cigar, pipe, or other tobacco product.

(c) No person, whether an owner, proprietor, manager, employee, patron, visitor, or customer shall be permitted to smoke in any supermarket, grocery store, or other retail food store which is designed and arranged to display and sell food products for consumption off the premises by the general public; provided, however, that nothing herein shall prevent smoking in specially designated and properly ventilated areas within the aforementioned premises segregated from both the areas in which food is handled and the areas necessarily used by general shoppers.

(d) No person shall smoke in any elevator accessible to the public.

(e) No person shall smoke in any classroom, lecture hall, theater, motion picture theater, opera house, concert hall, or library, except in properly ventilated areas which may be designated by the management or other person in charge, which areas shall be specially labelled and shall not consist of more than 20% of the total seats in the place in question.

(f) No person shall smoke in any area of any hospital, sanatorium, nursing home, convalescent home, or home for the aged for chronically ill patients

OFFENSES

which is accessible either to patients or to visitors, provided that the management may provide for patients to elect in writing upon admission to the facility to be placed in a smoking room, in which case the room in which the patient so electing is placed shall be so labelled, and no patient not so electing shall be placed in that room, and further that the management may provide waiting areas for visitors separate from areas used by patients in which the visitors may smoke, but such areas shall be conspicuously labelled as such and shall not constitute more than 50% of the total visitor waiting area in each section of the facility.

(g) No person shall smoke in any waiting room used by patients in the office of any physician, dentist, psychologist, physiotherapist, podiatrist, chiropractor, optometrist, or optician, unless a separate waiting room is provided for patients who wish to avoid smoke and unless conspicuous notice of this fact is provided to all patients.

(h) Every person having control of premises upon which smoking is prohibited by this ordinance, or his or her agent or designee, shall conspicuously display upon the premises a sign reading "Smoking Prohibited by Law".

(i) It shall be unlawful for any person having control of any premises or place in which smoking is prohibited by this ordinance to knowingly permit a violation of this ordinance. A person shall be held to have knowingly permitted a violation of this ordinance if a visitor to his or her premises observes one or more people smoking (other than in properly designated smoking areas) on three successive visits. Any licenses issued by this City to such person shall be subject to suspension for up to fifteen days for a single violation of this subsection, and shall be subject to suspension for up to one year, or to revocation, for any successive violation.

(j) Any person who knowingly violates any provision of this ordinance, or who smokes in an area in which a "Smoking Prohibited by Law" notice is conspicuously posted as required by subsection (h) of this Ordinance, shall be fined in an amount of not less than Twenty-Five (\$25.00) nor more than Fifty (\$50.00) Dollars. (Ord. No. 849, Sept. 18, 1975)

ARTICLE III. OFFENSES AGAINST PUBLIC MORALS

SECTION 14.301. DISORDERLY CONDUCT, PROFANITY AND INSULTING LANGUAGE. No person shall behave himself in a rude or disorderly manner, or use any indecent, profane, or insulting language in any street or public place. (G.O. No. 1943, c. 19, sec. 6)

SECTION 14.302. GAMING. No person shall expose, in or upon any street, public ground or common, any table or device of any kind, by or upon which any game of hazard or chance can be played; nor shall any person play any such

OFFENSES

game at such table or device, in or upon any street, public ground or common. (G.O. 1943, c. 19, sec. 9)

SECTION 14.303. PEEPING AND SPYING. No person other than an officer of the law acting in the performance of his legal duty shall enter upon the premises of any person with the intention of peeping into a dwelling or spying upon any person therein. (G.O. 1943, c. 19, sec. 14)

SECTION 14.304. NUDE BATHING. No person in a nude state shall swim or bathe in any waters within the City, so as to be exposed to the view of passengers or other persons in any street or house within the City. (G.O. 1943, c. 19, sec. 16)

SECTION 14.305. LOITERING IN STREET. No person shall saunter or loiter in a street in such a manner as to obstruct or endanger travellers or in a manner likely to cause a breach of the peace or incite to riot; but nothing in this Section shall be construed to curtail, abridge, or limit the right of any person to exercise the right of peaceful persuasion guaranteed by Section 24 of Chapter 149 of the General Laws or to curtail, abridge, or limit the intentment of any statute of the Commonwealth. (Ord. No. 741, May 24, 1965)

ARTICLE IV. OFFENSES AGAINST PUBLIC PEACE

SECTION 14.401. UNREASONABLY LOUD NOISES. (a) It shall be unlawful for any person to willfully make or continue, or cause to allow to be made or continued, any loud, unnecessary, or unusual noise which disturbs the peace or quiet of any neighborhood or which causes discomfort or annoyance to any reasonable person of normal sensitiveness residing in the area.

The standards which shall be considered in determining whether a violation of the provisions of this section exists shall include, but not be limited to, the following: The volume of the noise; the intensity of the noise; whether the nature of the noise is usual or unusual; whether the origin of the noise is natural or unnatural; the volume and intensity of the background noise, if any; the proximity of the noise to residential sleeping facilities; the nature and zoning of the area within which the noise emanates; the density of the inhabitation of the area within which the noise emanates; the time of the day or night the noise occurs; the duration of the noise; whether the noise is recurrent, intermittent, or constant; and whether the noise is produced by a commercial or noncommercial activity.

(b) No person in any public street shall sound any horn or signal device on any automobile, motorcycle, bus, streetcar, or other vehicle while not in motion, except as a danger signal; no person shall sound any horn or signal on any such

OFFENSES

vehicle while in motion except as a danger signal after or as brakes are being applied and deceleration of the vehicle is intended for an unnecessary and unreasonable period of time; provided that any such noise shall be plainly audible at a distance of one hundred feet. (Ord. No. 277, June 12, 1950)

(c) No person in a public street shall sound an alarm, bell, or automobile horn between the hours of 10:00 P.M. and 7:00 A.M., except as a warning of danger. (Ord. No. 277, June 12, 1950)

(d) No person shall use any automobile, motorcycle, street car or other vehicle so out of repair or so loaded or in such manner as to create loud and unnecessary grating, grinding, rattling or other noise; provided that any such noise shall be plainly audible at a distance of one hundred feet. (Ord. No. 277, June 12, 1950)

SECTION 14.402. RADIOS, PHONOGRAPHS AND AMPLIFICATION DEVICES. No person shall operate a radio, phonograph, or amplification device which disturbs the peace or quiet of the inhabitants of any neighborhood or which causes annoyance or discomfort to any reasonable person of normal sensitiveness residing in the City.

ARTICLE V. OFFENSES AGAINST PUBLIC SAFETY¹

SECTION 14.501. POSSESSION OF MISSILES, CLUBS, ETC. (a) It shall be unlawful for any person while upon any public way to have in his possession any club, toy pistol, rubber sling, or other device for throwing or projecting missiles, with the intent to use said items to the injury of persons or property, or to the annoyance or discomfort of any person.

(b) No person shall play ball, throw, or otherwise project any missile in or upon any public way within the City. (G.O. 1943, c. 19, secs. 2, 3, 17, 18, as amended)

SECTION 14.502. FIREARMS. No person shall, except in the performance of some legal duty, discharge any gun, pistol or other firearm, within the City limits. (G.O. 1943, sec. 8)

SECTION 14.503. CONSUMPTION OF ALCOHOLIC BEVERAGES ON CERTAIN PUBLIC PLACES. No person shall drink any alcoholic beverage as defined in Chapter 138, Section 1, of the General Laws while on, in, or upon any public way, or upon any way to which the public has a right of access, or any place to which the public has access as invitees or licensees, park or playground, or private place without the consent of the owner or person in control thereof. Whoever violates this Ordinance may be arrested without a warrant by an officer authorized to serve criminal process if he is unknown to

¹As to obstructions on sidewalks and other public ways, see sec. 18.230, 18.231 of this code. As to riding or driving certain vehicles on sidewalks, see sec. 18.229 of this code.

OFFENSES

the officer. All alcoholic beverages being used in violation of this Ordinance shall be seized and safely held until final adjudication of the charge against the person or persons arrested or summoned into court, at which time they shall be returned to the person or persons entitled to lawful possession. (Ord. No. 825, Dec. 17, 1973)

