Title 8

HEALTH AND SAFETY

Chapters:

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Chapter 8.04

HOUSING CODE ADOPTED

Sections:

8.04.010 Adopted by reference.

8.04.010 Adopted by reference.

The Housing Code Regulations of the City, dated May 1, 1962, are adopted and by this reference made a part of this code with the same force and effect as though set out in full in this code. At least three copies of the Housing Code Regulations are on file and open to public inspection in the office of the City Clerk. (Ord. 896 (part), 1978: prior code § 11-5)

Chapter 8.08

EXPLOSIVES AND FLAMMABLE LIQUIDS

Sections:

8.08.010 **Petroleum license—Approval authority.**

8.08.020 **Petroleum license—Annual fees.**

8.08.030 **Gunpowder and explosives—Enforcement of use regulations.**

8.08.010 Petroleum license—Approval authority.

Licenses shall be granted by the Board of License Commissioners pursuant to the regulations and restrictions contained in 4 A.L.M., c. 148, §§ 1, et seq. (Prior code § 6-31)

8.08.020 Petroleum license—Annual fees.

A. Garages and Keeping and Storage for Sale of Gases or Petroleum Products.

1. Fees for the licenses for garages and for the keeping and storage for sale of petroleum products or any other inflammable fluids or gases or petroleum products, required under Chapter 148 of the General Laws, Section 13, as amended, are established as follows:

Aggregate Car Storage Capacity for each Garage	Fee for Original License and Certificate of Registration
4 to 10 cars	$ 25.00
11 to 50 cars	50.00
51 to 100 cars	100.00
101 and over	150.00

2. No fee for certificates of registration shall be required for garages having a capacity of not more than three cars.

3. Fees for licenses for keeping and storage for sale of petroleum products or any other inflammable fluids or gases are established as follows, except where the license is issued for the keeping and storage for direct consumption on the premises licensed or direct consumption by motor vehicles owned by the licensee or his assignee.

Aggregate Storage Capacity for Entire Parcel of Land Licensed (in gallons)	Fee for Original License and Certificate of Registration
1 to 5,000	$ 50.00
5,001 to 15,000	100.00
15,001 to 30,000	150.00
30,001 to 50,000	200.00
50,001 to 100,000	250.00
100,001 to 200,000	500.00
200,001 to 300,000	600.00
300,001 to 400,000	700.00
400,001 to 500,000	800.00
500,001 to 1,000,000	900.00
1,000,000 and over	1,000.00

4. If a license is applied for solely for the purpose of keeping and storage, for direct consumption on the premises licensed or for direct consumption by motor vehicles owned by the licensee or his assignee, and not for the sale of petroleum products or any other inflammable fluids or gases or petroleum products, the fee shall be ten dollars; provided, that such petroleum products, inflammable fluids, or gases are not used in the manufacture of a product which is then sold at a profit.

5. Certificates of registration must be filed on or before April 30th of each year.

B. Special Garage. Special parking garages constructed without exterior walls shall for the purposes of this chapter be construed as open air parking and the fee for such parking shall be as follows: Ten dollars for each car.

C. Gases in Cylinders.

1. The keeping and storage of inflammable gases in cylinders aboveground by any individual shall require payment of the following fees:

Aggregate Storage (in cubic feet)	Fee for Original License and Certificate of Registration
10,000 to 20,000	$ 40.00
20,001 to 30,000	80.00
30,001 to 40,000	160.00
40,001 and over	300.00

2. No fee for certificate of registration shall be required for storage of inflammable gases under ten thousand cubic feet. A permit shall be issued

by the Fire Department for any storage of such gases less than ten thousand cubic feet. (Ord. 977, 1982: prior code § 6-32)

8.08.030 Gunpowder and explosives—Enforcement of use regulations.

The Chief of the Fire Department shall enforce the provisions of 4 A.L.M., c. 148 as to keeping, storage, use, manufacture, sale, etc., of gunpowder, dynamite, crude petroleum or any of its products or explosives or inflammable fluids or compounds, etc., and any and all other laws hereafter enacted relative to such substances. (Prior code § 10-28)

Chapter 8.12

GASOLINE SERVICE STATIONS

Sections:

8.12.010 Self-service station regulations.

8.12.010 Self-service station regulations.

The dispensing of motor fuel by means of self-service automated dispensing systems shall be permitted at any authorized gasoline station that has service bays and offers automotive repairs. All installations shall comply with the regulations promulgated by the Board of Fire Prevention Regulations in the Commonwealth. (Ord. 1026, 1985: prior code § 6-32A)

Chapter 8.16

NOISE

Sections:

8.16.010 Purpose.
8.16.020 Definitions.
8.16.030 Restrictions—Sources of noise.
8.16.040 Restrictions—Dwelling units.
8.16.050 Restrictions—Unlawful acts designated.
8.16.060 Restrictions—Zoning districts.
8.16.070 Restrictions—Construction sites.
8.16.080 Restrictions—New motor vehicles.
8.16.090 Restrictions—Interstate motor carriers.
8.16.100 Permit—Application—Revocation.
8.16.110 Exemptions from chapter provisions.
8.16.120 Variances.
8.16.130 Chapter provisions not exclusive.
8.16.140 Enforcement official designated.
8.16.150 Violation—Penalty.

8.16.010 Purpose.

This chapter provides standards for the control of noise pollution and prohibits those acts which most frequently create noise pollution. The general objectives of these standards are to secure the public health, comfort, convenience and safety of, and to promote the welfare, prosperity, peace and quiet of, the citizens of the City. (Ord. 877 (part), 1977: prior code § 13-10(I))

8.16.020 Definitions.

Terms used in this chapter shall be defined as follows:

1. "Acoustical terminology" means the regulations that are most recently approved as American standard acoustical terminology by the American National Standards Institute (ANSI), except as may be specified otherwise in this chapter.

2. Business Use. Business use shall be as set forth in the zoning ordinance of the City, Article IV, Section 2.

3. "Commercial service equipment" means all engine or motor-powered equipment intended for infrequent service work in inhabited areas, typically requiring commercial or skilled operators (such as chain saws, log chippers, paving rollers, etc.).

4. "Construction" means any and all physical activity necessary or incidental to the erection, placement, demolition, assembling, altering, cleaning, repairing, installing or equipping of buildings and other structures, public or private highways, roads, premises, parks, utility lines or other property, and includes land clearing, grading, excavating, filling and paving.

5. "Constructive device" means any powered device or equipment, designed and intended for use in construction. Examples of "construction devices" are air compressors, bulldozers, backhoes, trucks, shovels, derricks or cranes.

6. "Construction site" means that area within which a contractor confines a construction operation. This includes defined boundary lines of the project itself plus any contractor staging area outside those defined boundary lines and used expressly for the construction.

7. "Daytime" means the period between the hours of seven a.m. and six p.m. daily except Sunday according to the time system locally in effect.

8. dB. dB is the abbreviation for decibel.

9. "dB(A)" means the A-weighted sound level in decibels, as measured by a general purpose sound level meter complying with the provisions of Specifications for Sound Level Meters (S1. 4 1971), American National Standards Institute (ANSI), properly calibrated, and operated on the "A" weighting network.

10. "Emergency work" means work necessary to restore public or private property to a safe

condition following a public calamity or work required to protect persons or property from such an imminent exposure to danger. The necessity of such work shall be determined by the Building Superintendent or his deputy or by other authorized emergency or public utility personnel after consultation with the Superintendent of Buildings.

11. "Homeowner's light residential outdoor equipment" means all engine or motor-powered garden or maintenance tools intended for repetitive use in residential areas, typically capable of being used by a homeowner (such as lawn mowers, garden tools, riding tractors, snow blowers, snow plows, etc.).

12. Hz. Hz is the abbreviation for Hertz, which means cycles per second.

13. "Impact device" means a construction device in which or by which a hammer, meaning a moving mass of hard solid material, is mechanically by means of a working fluid or compressed air caused to repetitively impact upon and transmit kinetic energy to a tool. The tool may be included as part of the device, as in the case of a moil on a paving breaker or the drill steel or a jackhammer, or it may be a mass to which the impact device is temporarily connected as in the case of a pile and pile driver. Examples of impact devices are pile drivers, paving breakers and power impact hammers, impact wrenches, riverters and stud drivers.

14. Industrial Use. Industrial use shall be as set forth in the zoning ordinance of the City, Article IV, Section 2.

15. "L_{10} level" means the A-weighted sound level exceeded ten percent of the time.

16. "Noise pollution" means the presence of that amount of acoustic energy for that period of time necessary:

a. To cause temporary or permanent hearing loss in persons exposed;

b. To otherwise be injurious, or tend to be, on the basis of current information, injurious, to the public health or welfare;

c. To cause a nuisance;

d. To interfere with the comfortable enjoyment of life and property or the conduct of business; or

e. To exceed standards or restrictions established in this chapter or pursuant to the granting of any permit by the Superintendent of Buildings.

17. "Nonmeasured noise pollution acts" means uses and activities that create or cause to be created loud and unnecessary noises which, by virtue of the nature, duration or time of occurrence, are not readily subject to measurement by official testing devices.

18. "Paving breaker" means any hydraulically or pneumatically powered impact device intended to cut or trench pavement, subbase macadam, gravel, concrete or hard ground.

19. "Person" means an individual, partnership, association, firm, syndicate, company, trust, corporation, department, bureau or agency, or any other entity recognized by law as the subject of rights and duties.

20. "Pile driver" means an impact device designed or used for the driving of piles, columns and other supports into soils or other material by means of impact, vibrations, pressure or other means.

21. Residential Use. Residential use shall be as set forth in the zoning ordinance of the City, Article IV, Section 2.

22. "Sound pressure level (SPL)" shall be numerically equal to twenty times the logarithm (to the base ten) of the sound pressure to the reference sound pressure (the reference sound pressure shall equal twenty micropascals). Unless otherwise stated, the level is understood to be that of a root mean-square pressure.

23. "Zoning districts" means the zoning districts and land uses therein as established by the zoning ordinance of the City. (Ord. 877 (part), 1977: prior code § 13-10(II))

8.16.030 Restrictions—Sources of noise.

No person or persons owning, leasing or controlling the operation of any source or sources of

noise shall wilfully, negligently or through failure to provide necessary equipment or facilities or to take necessary precautions, permit the establishment or continuation of a condition of noise pollution. (Ord. 877 (part), 1977: prior code § 13-10(III))

8.16.040 Restrictions—Dwelling units.

It is unlawful for any person or persons owning, leasing or controlling the operation of any source or sources of noise to make, continue or cause to be made or continued any loud, unnecessary or unusual noise within a dwelling unit which either annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of others living in adjacent dwelling units or otherwise living in close proximity to the source of noise. (Ord. 877 (part), 1977: prior code § 13-10(IV))

8.16.050 Restrictions—Unlawful acts designated.

The following acts, among others, are declared to be loud, disturbing and unnecessary noises in violation of this chapter, but such enumeration shall not be deemed to be exclusive namely:

A. Horns, Signaling Devices, Etc. The sounding of any horn or signaling device on any automobile, motorcycle, street car or other vehicle on any street or public place of the City, except as a danger warning; the creation by means of any such signaling device of any unreasonably loud or harsh sound; and the sounding of any such device for an unnecessary and unreasonable period of time. The use of any signaling device except one operated by hand or electricity; the use of any horn, whistle or other device operated by engine exhaust; and the use of any such signaling device when traffic is for any reason held up.

B. Radios, Phonographs, Etc. The using, operating or permitting to be played, used or operated any radio receiving set, musical instrument, phonograph, loudspeaker or public address systems, unless used by the City or other machine or device for the producing or reproducing of sound in such manner as to disturb the peace, quiet and comfort of the neighboring inhabitants or at any time with louder volume than is necessary for convenient hearing for the person or persons who are in the room, vehicle or chamber in which such machine or device is operated and who are voluntary listeners thereto. The operation of any such set, instrument, phonograph, machine or device between the hours of eleven p.m. and seven a.m. on weeknights and twelve p.m. and seven a.m. on weekend nights in such a manner as to be plainly audible at a distance of fifty feet (approximately fifteen meters) from the building, structure, vehicle or dwelling unit in which it is located shall be prima facie evidence of a violation of this section.

C. Yelling, Shouting, Etc. Yelling, shouting, hooting, whistling or singing on the public streets, particularly between the hours of eleven p.m. and seven a.m. or at any time or place so as to annoy or disturb the quiet, comfort or repose of persons in any office, or in any dwelling, hotel or other type of residence, or of any persons in the vicinity.

D. Animals, Birds, Etc. The keeping of any animal or bird which by causing frequent or long continued noise shall disturb the comfort or repose of any person in the vicinity.

E. Steam Whistles. The blowing of any locomotive steam whistle or steam whistle attached to any stationary boiler except to give notice of the time to begin or stop work or as a warning of fire or danger, or upon request of proper City authorities.

F. Exhausts. The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine, motor boat or motor vehicle except through a muffler or other device which will effectively prevent loud or explosive noises therefrom.

G. Defect in Vehicle or Load. The use of any automobile, motorcycle or vehicle so out of

repair, so loaded or in such manner as to create loud and unnecessary grating, grinding, rattling or other noise.

H. Loading, Unloading, Opening Boxes. The creation of a loud and excessive noise in connection with loading or unloading any vehicle or the opening and destruction of bales, crates and containers.

I. Drums. The use of any drum or other instrument or device for the purpose of attracting attention by creation of noise to any performance, show, sale or exhibition.

J. Hawkers, Peddlers. The shouting and crying of peddlers, hawkers and vendors which disturbs the peace and quiet of the neighborhood.

K. Electronic Bug-killing Devices. The use of an electronic bug-killing device between the hours of eleven p.m. and eight a.m. if a written objection to such use by an abutter has been received by the City Clerk within one year. (Ord. 1038, 1986; Ord. 877 (part), 1977: prior code § 13-10(V))

8.16.060 Restrictions—Zoning districts.

A. Any Use or Occupancy. This section shall apply to the use or occupancy of any lot or structure thereon and to the noise produced thereby, but shall not apply to the following:

1. To the intermittent or occasional use, during the daytime, of light homeowner's residential outdoor equipment or commercial service equipment provided such equipment and its use complies with other provisions of this chapter;

2. To construction activities and the associated use of construction devices nor to the noise produced thereby, provided such activities, and such equipment and its use, comply with other provisions of this chapter;

3. To the operation of any motor vehicle on any public way, nor to the noise produced thereby.

B. Noise in Residential Zoning Districts or Affecting Residential Property. No person shall create or cause to be emitted from or by any source subject to Section 8.16.060 of this chapter any noise which causes or results in a noise level, measured at any lot line of any lot located in any residential zoning district or in residential use elsewhere in conformance with the zoning ordinance of the City, in excess of any level of the subsection E of this section, residential district noise standard; provided, that if such lot is located in any industrial district, the noise level measured at the lot line shall not exceed any level of subsection E of this section, residential-industrial noise standard. Noise emitted from construction sites shall be excepted from this section.

C. Noise in Business, Office Zoning Districts. No person shall create or cause to be emitted from or by any source subject to Section 8.16.050 of this chapter, any noise which causes or results in a noise level, measured at any lot line of any lot in any business zoning district other than a lot in residential use in conformance with the zoning ordinance of the City, in excess of any level of subsection E of this section, business district noise standard. Noise emitted from construction sites shall be excepted from this section.

D. Noise in Industrial Zoning Districts. No person shall create or cause to be emitted from or by any source subject to this section, any noise which causes or results in a noise level, measured at any lot line of any lot in recreational or business use in any industrial zoning district in conformance with the zoning ordinance of the City, in excess of any level of subsection E of this section, industrial district noise standard. Noise emitted from construction sites shall be excepted from this section.

E. Zoning District Noise Standards. Noise standards referred to in this chapter for the several zoning districts of the City, as defined in and established pursuant to the zoning ordinance of the City are established by Table 8.16.060E, set out at the end of this chapter. (Ord. 877 (part), 1977: prior code § 13-10(VI))

8.16.070 Restrictions—Construction sites.

A. 1. Except as provided for in subsections C and D of this section, it is unlawful for any person

Table 8.16.060E

TABLE OF ZONING DISTRICT NOISE STANDARDS

Maximum Allowable Octave Band Sound Pressure Levels

	Residential		Residential in Industrial		Office Business	Industry
	Daytime	All Other Times	Daytime	All Other Times	Anytime	Anytime
Octave band center frequency of measurement (Hz)						
31.5	76	68	79	72	79	83
63	75	67	78	71	78	82
125	69	61	73	65	73	77
250	62	52	68	57	68	73
500	56	46	62	51	62	67
1,000	50	40	56	45	56	61
2,000	45	33	51	39	51	57
4,000	40	28	47	34	47	53
8,000	38	26	44	32	44	50
Single number equivalent (db(A))	60	50	65	55	65	70

to operate any construction device or devices on any construction site if the operation of such device or devices emits noise, measured at the lot line of the affected property, in excess of the values shown below:

Lot Use of Affected Property	L_{10} Level (dB(A))	Maximum Noise Level (dB(A))
Residential	75	86
Business or office	80	—
Industrial	85	—

2. The same level shall apply to a public way as applies to an industrial use. Measurements should not be taken closer than fifty feet or approximately fifteen meters from the nearest active construction device on the construction site. The maximum noise level shall be measured on the sound level meter at slow response.

B. The L_{10} level shall be determined in the following manner:

1. Every ten seconds, on the mark, the A-weighted noise level on the sound level meter with slow response is recorded until one hundred observations have been made. If, during any of these observations, a measurement is substantially affected by any source outside the construction site (such as aircraft overflight), measurements made during these periods will not be considered. However the observation period shall be extended until one hundred valid measurements are obtained. The L_{10} level will be that level that is equal to the tenth highest level recorded.

2. If in the estimation of the person taking the measurements, outside noise sources contribute

Table 8.16.080

Date of Manufacture of Vehicle	Light Motor Vehicle	Heavy Motor Vehicle	Motorcycle
After date of ordination	80	84	84
After January 1, 1980	75	75	75

significantly to the noise level, the above procedure shall be repeated (with the same outside noise source contributions) when construction is inactive, in order to determine the existing background L_{10} level. The L_{10} level during construction must exceed the background L_{10} level by 5 db(A) to be considered a violation of subsection A of this section.

C. 1. Except as provided for in subsection D of this section, it is unlawful to operate a construction device at any street excavation, grading or repair, utility street work installation or repair, which produces a noise level exceeding 86 db(A) at a distance of fifty feet or approximately fifteen meters from the device.

2. The provisions of subsection A of this section shall not apply to any construction site covered by this subsection. The provisions of this subsection will not be applicable to any construction device used in emergency service work that is necessary to return utility service to an area; provided, that within twenty-four hours such device is brought into compliance with this subsection or is not reused within the City until it does comply

D. The provisions of subsections A and C of this section shall not be applicable to impact devices. (Ord. 877 (part), 1977: prior code § 13-10(VII))

8.16.080 Restrictions—New motor vehicles.

No person shall sell or lease a new motor vehicle that produces a maximum noise level, in db(A), exceeding the limits (measured at a distance of fifty feet, approximately fifteen meters, from the centerline of travel) set out in Table 8.16.080 codified at the end of this chapter. (Ord. 877 (part), 1977: prior code § 13-10(VIII))

8.16.090 Restrictions—Interstate motor carriers.

No motor carrier subject to this chapter shall operate any motor vehicle of a type to which this regulation is applicable which at any time or under any condition of highway grade, load, acceleration or deceleration generates a sound level in excess of 88 dB(A) measured on an open site with fast meter response at fifty feet from the centerline of lane of travel on highways with speed limits of thirty-three miles per hour or less; or 90 dB(A) measured on an open site with fast meter response at fifty feet from the centerline of lane of travel on highways with speed limits of more than thirty-five miles per hour. (Ord. 877 (part), 1977: prior code § 13-10(IX))

8.16.100 Permit—Application—Revocation.

A. A permit shall constitute permission to use or to allow the use of a device or to engage in an activity to which reference has been made in this chapter or in the ordinances of the City.

B. All applications for permits shall be made to the Superintendent of Buildings in such form and detail as he shall prescribe. Such application shall not relieve any person from otherwise complying with the provisions of this chapter or any other law or ordinance.

C. Such permit shall include such provisions and conditions as the Commissioner may deem necessary to protect the public health, welfare and comfort.

D. Any permit required by this chapter shall be displayed to any police officer or employee of the Building Department upon request.

E. Any permit issued by the Superintendent of Buildings under the provisions of this chapter may be revoked for violation of any of the terms and conditions of such permit. (Ord. 877 (part), 1977: prior code § 13-10(X))

8.16.110 Exemptions from chapter provisions.

The following uses and activities shall be exempt from noise level regulations:

A. Noises of safety signals, warning devices and emergency pressure relief valves;

B. Noises resulting from any authorized emergency vehicle, when responding to an emergency call or acting in time of emergency;

C. Any other noise resulting from activities of a temporary duration permitted by law and for which a license or permit therefor has been granted by the City in accordance with Section 8.16.100 of this chapter;

D. Any aircraft operated in conformity with, or pursuant to, federal law, federal air regulations and air traffic control instruction used pursuant to and within the duly adopted federal air regulations shall be exempt from the regulations of this chapter. Any aircraft operating under technical difficulties, in any kind of distress, under emergency orders of air traffic control or being operated pursuant to and subsequent to the declaration of an emergency under federal air regulations shall also be exempt from the provisions of this chapter;

E. Noises resulting from emergency work as defined in Section 8.16.020 of this chapter. (Ord. 877 (part), 1977: prior code § 13-10(XI))

8.16.120 Variances.

The Superintendent of Buildings may grant variances after public hearing or may reject applications on review without a hearing. Variances thus granted may be effective for no longer than one year. (Ord. 877 (part), 1977: prior code § 13-10(XV))

8.16.130 Chapter provisions not exclusive.

The noise regulations shall not relieve any person from complying with other laws, statutes, codes, regulations or ordinances of the Commonwealth or the City. (Ord. 877 (part), 1977: prior code § 13-10(XIV))

8.16.140 Enforcement official designated.

The Chief of Police of the City shall be the officer charged with the enforcement of this chapter. He shall, at any time necessary, call on the Superintendent of Buildings or his deputy to provide personnel to perform such tests as the Chief of Police deems necessary to determine violations of this chapter. (Ord. 877 (part), 1977: prior code § 13-10(XIII))

8.16.150 Violation—Penalty.

A. Any person who violates any provision of this chapter shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined an amount not exceeding one hundred dollars, or by imprisonment for not more than five days, or by both such fine and imprisonment.

B. Every day that the offense continues shall be considered a separate violation. (Ord. 877 (part), 1977: prior code § 13-10(XII))

Chapter 8.20

RECOMBINANT DNA TECHNOLOGY

Sections:

8.20.010 Purpose.
8.20.020 Guidelines.
8.20.030 Cambridge Biohazards Committee—Established—Membership.
8.20.040 Cambridge Biohazards Committee—Duties and responsibilities.
8.20.050 Permit—Required.
8.20.060 Institutional Biosafety Committee—Membership.
8.20.070 Institutional Biosafety Committee—Meetings—Report filing.
8.20.080 Screening and testing for purity.
8.20.090 Medical surveillance program.
8.20.100 Violation of guidelines—Notification.
8.20.110 Protection against rodents and insects.
8.20.120 Large-scale operations—Special permit required.
8.20.130 Restrictions.
8.20.140 Violation—Penalty.

8.20.010 Purpose.

All use of RDNA by institutions in the City shall be undertaken only in strict conformity with the guidelines set out in Section 8.20.020 of this chapter. and in conformity also with such other health regulations as the Commissioner of Health and Hospitals may from time to time promulgate. (Ord. 955 (part), 1981: prior code § 11-7(II))

8.20.020 Guidelines.

In the context of this chapter the following definitions are adopted:

A. Recombinant DNA molecules (RDNA) and organisms and viruses containing RDNA are those defined in the National Institutes of Health Guidelines promulgated in the Federal Register on November 21, 1980, and such amendments thereto as may be approved by the Cambridge Biohazards Committee.

B. An institution is any single individual, group of individuals or organization.

C. "Guidelines" are defined as:

1. National Institutes of Health Guidelines for Research Involving Recombinant DNA Molecules published in the Federal Register of November 21, 1980;

2. National Institutes of Health Physical Containment Recommendations for large-scale use of organisms containing recombinant DNA molecules as published in the Federal Register of April 11, 1980;

3. Administrative Practices Supplement to the National Institutes of Health Guidelines for Research Involving Recombinant DNA Molecules as issued by the Office of Recombinant DNA Activities, November, 1980;

4. Such amendments to subsections C1, C2 and C3 of this section adopted by the National Institutes of Health as may be approved by the Cambridge Biohazards Committee. In the event that the National Institutes of Health shall discontinue or abolish their guidelines, those guidelines in effect at the time of such discontinuance shall remain in effect in the City. (Ord. 955 (part), 1981: prior code § 11-7(I))

8.20.030 Cambridge Biohazards Committee—Established—Membership.

A. A Cambridge Biohazards Committee ("CBC") shall be established for the purpose of overseeing all use of RDNA in the City and of advising the Commissioner of Health and Hospitals and the Health Policy Board.

B. The CBC shall be composed of the Commissioner of Health and Hospitals or his/her designee, the Chairperson of the Health Policy Board or a board member designated by the Chairperson and a minimum of three other

members to be appointed by the City Manager. The City Manager is authorized to provide for the adequate staffing of the CBC.

C. The CBC and the Commissioner of Health and Hospitals are empowered to retain competent professional assistance in carrying out their duties under this chapter.

D. The salaries and expenses of the staff and consultants of the CBC under this chapter shall be apportioned to the institutions holding permits under this chapter. (Ord. 955 (part), 1981: prior code § 11-7(III))

8.20.040 Cambridge Biohazards Committee—Duties and responsibilities.

Specific responsibilities of the CBC shall include:

A. Establishing policies, procedures and criteria to aid in the implementation of the ordinance codified in this chapter;

B. Approving all amendment to the guidelines before their implementation in the City. In the event that the National Institutes of Health discontinues or abolishes their guidelines, those guidelines in effect at the time of such discontinuance shall remain in effect in the City;

C. Reviewing all proposals for RDNA use in the City for compliance with the guidelines and conformity with such other regulations as the Commissioner of Health and Hospitals may from time to time promulgate;

D. Reviewing manuals and worker training programs and approving health-safety programs and monitoring procedures required by Sections 8.20.010, 8.20.010, 8.20.030 and 8.20.050 through 8.20.110 of this chapter;

E. Determining the manner in which institutions make reports or applications to the CBC, and the type of information required in such reports or applications. Reviewing reports, applications and recommendations by IBC and approving where appropriate. Carrying out site visits to institutional facilities;

F. Developing a procedure for members of institutions where RDNA is used to report to the CBC violations of this chapter, the guidelines or any other health regulations as the Commissioner of Health and Hospitals may promulgate. (Ord. 955 (part), 1981: prior code § 11-9))

8.20.050 Permit—Required.

All institutions proposing to use RDNA must obtain a permit from the Commissioner of Health and Hospitals with the approval of the CBC. Permit requirements include written agreement to:

A. Follow the guidelines;

B. Follow other conditions set forth in this chapter;

C. Allow inspection of facilities and pertinent records by the Cambridge Biohazards Committee;

D. Prepare a health and safety manual which contains all procedures relevant to the use of RDNA at all levels of containment in use at the institution. The manual shall be submitted to the Cambridge Biohazards Committee for review;

E. Establish a training program of safeguards and procedures for personnel using RDNA. (Ord. 955 (part), 1981: prior code § 11-7(IV))

8.20.060 Institutional Biosafety Committee—Membership.

The Institutional Biosafety Committee ("IBC") required by the National Institutes of Health Guidelines shall have at least one member who is a nondoctoral person from a laboratory technical staff and one representative approved by the Health Policy Board. The IBC shall be the final arbiter within an institution, with regard to the implementation of this chapter and the guidelines. (Ord. 955 (part), 1981: prior code § 11-7(V))

8.20.070 Institutional Biosafety Committee—Meetings—Report filing.

All minutes of the IBC meetings must be forwarded to the Commissioner of Health and

Hospitals and the CBC. It shall also be the responsibility of the institution to file regular reports with the Cambridge Biohazards Committee, in a manner to be determined by the CBC. (Ord 955 (part), 1981: prior code § 11-7(VI))

8.20.080 Screening and testing for purity.

Institutions using RDNA shall perform adequate screening to insure the purity of the strain of host organisms used in the experiments and shall test organisms resulting from such experiments for their resistance to commonly used therapeutic antibiotics. (Ord. 955 (part), 1981: prior code § 11-7(VII))

8.20.090 Medical surveillance program.

All institutions are to provide an appropriate medical surveillance program as determined by the Institutional Biosafety Committee for all persons engaged in the use of RDNA. Such programs must be approved by the CBC. (Ord. 955 (part), 1981: prior code § 11-7(VIII))

8.20.100 Violation of guidelines—Notification.

The institution shall report within thirty days to the CBC and the Commissioner of Health and Hospitals any significant problems with or violations of the guidelines and any significant RDNA related accidents or illnesses. (Ord. 955 (part), 1981: prior code § 11-7(IX))

8.20.110 Protection against rodents and insects.

The premises in which RDNA is used must be totally and completely free of rodent and insect infestation. (Ord. 955 (part), 1981: prior code § 11-7(X))

8.20.120 Large-scale operations—Special permit required.

A. All institutions using RDNA on a "large-scale," as defined in the guidelines, must adhere to the requirements of this section in addition to those stated in Sections 8.20.010, 8.20.020, 8.20.030 and 8.20.050 through 8.20.110 of this chapter.

B. All institutions must obtain a special large-scale permit ("LS permit") from the Commissioner of Health and Hospitals with the approval of the CBC, after the Commissioner and the CBC have conducted an appropriate public hearing. LS permit requirements include written agreement to:

1. Identify clearly all large-scale RDNA use in the IBC minutes;

2. Develop procedures through the IBC for monitoring of large-scale operations, for compliance with this chapter and the guidelines. These procedures shall be approved by the CBC and the Commissioner of Health and Hospitals.

3. a. Allow an annual inspection and review of the procedures and practices of large-scale RDNA use for compliance with this chapter. The scope of this inspection and review shall be mutually agreed upon by the institution and the CBC.

b. The CBC shall retain a professionally competent person, persons, agency or institution to perform this inspection and review. The results shall be reported to the CBC, the Commissioner of Health and Hospitals and the institution involved.

c. The institution shall reimburse the City for the expense of this inspection and review including an apportionment of the salaries of the staff of the CBC under subsections B and C of Section 8.20.030 of this chapter.

4. Establish a health-safety program for appropriate employees. Such a program is to include safety training, periodic retraining and periodic health surveillance. Details and procedures are to be established by each institution and approved by the CBC and the Commissioner of Health and Hospitals.

5. Advance approval must be given by the CBC for large-scale uses of RDNA requiring P2 or P3 physical containment. (Ord. 955 (part), 1981: prior code § 11-8))

8.20.130 Restrictions.

A. RDNA use classified by the guidelines as requiring P3 physical containment and biological containment greater than HV2 shall not be permitted without prior approval of the CBC. RDNA use requiring P4 containment shall not be permitted in the City.

B. There shall be no deliberate release into the environment, that is, the sewers, drains or the air, of any organism containing recombinant DNA and further that any accidental release shall be reported to the Commissioner of Health and Hospitals within five days. (Ord. 955 (part), 1981: prior code § 11-10))

8.20.140 Violation—Penalty.

A. Violation of the conditions of this chapter shall subject the violator to a fine of two hundred dollars per day and in addition the facility in which the violation occurs may be closed by the Commissioner of Health and Hospitals. Each day of violation shall constitute a separate and distinct offense.

B. Once a permit has been issued it may be revoked by the Commissioner of Health and Hospitals only upon a determination (subject to judicial review) by the CBC and the Commissioner of Health and Hospitals after due notice and hearing, that the institution involved has materially failed to comply with the City ordinance, the permit agreements or the guidelines (not withstanding reasonable notice and an opportunity to correct such failures to comply with the provisions of this chapter). (Ord. 955 (part), 1981: prior code § 11-11))

Chapter 8.24

RUBBISH, GARBAGE AND LITTER

Sections:

8.24.010 Purpose.
8.24.020 Definitions.
8.24.030 Private property owners and occupants—Duties.
8.24.040 Private property owners and occupants—Keeping premises and adjacent areas free of litter.
8.24.050 City's duties and responsibilities.
8.24.060 Garbage and rubbish separation required.
8.24.070 Collection—Recycled newspapers.
8.24.080 Receptacles—Accessibility.
8.24.090 Receptacles—Sidewalk placement time restrictions.
8.24.100 Receptacles—Screening from public view.
8.24.110 Private collectors—Methods of storage, collection and disposal.
8.24.120 Commercial or nonprofit establishments—Frequency—Receptacle specifications.
8.24.130 Oversize items—Collection procedures.
8.24.140 Bulk rubbish—Preparation and placement.
8.24.150 Grass clippings and yard refuse—Preparation and placement.
8.24.160 Temporary container placement in parking spaces.
8.24.170 Litter—Pedestrians on public property.
8.24.180 Litter—Pedestrians on private property.
8.24.190 Litter—Throwing from vehicles.
8.24.200 Litter—Load-carrying vehicles.
8.24.210 Periodic free collection—Rubbish—Notification.
8.24.220 Periodic free collection—Large shrubs and tree trimmings.
8.24.230 Publicity—Citizen information service.
8.24.240 Fees—Collection of ashes and rubbish—Exceptions.
8.24.250 Fees—City dumps and incinerator—Permit issuance.
8.24.260 Violation—Penalty.

8.24.010 Purpose.

It is the intent of the City Council that this chapter be liberally construed for the purpose of providing a sanitary and satisfactory method of handling, collecting and disposing of rubbish and garbage and for the maintenance of public and private property free of litter in a clean, orderly and sanitary condition for the appearance, health and safety of the community. (Prior code § 17-71)

8.24.020 Definitions.

For the purposes of this chapter, unless otherwise apparent from the context, certain words and phrases used in this chapter are defined as follows:

A. "Authorized garbage receptacles" means receptacles for private residences which shall be made of metal with tight-fitting covers, with a capacity of not less than ten nor more than fifteen gallons. Every garbage storage receptacle shall be cleaned by the user at least once weekly and shall be so maintained and located on the premises that no objectionable odors shall permeate any building. Limitations on size do not apply to authorized garbage receptacles for private collections.

B. "Authorized litter receptacles" means receptacles for the use of the general public placed outdoors by the City or by private persons on either public or private property. The receptacles shall be so as to prevent the escape of litter onto any public or private property. The receptacles may be identified by an appropriate sign,

furnished either by the City or the owner, which includes the statement "No Littering Under Penalty of Law. Fine $50.00."

C. "Authorized rubbish receptacles" means receptacles that contain rubbish awaiting collection and are kept outdoors and shall be constructed preferably of heavy plastic or of metal, with tight-fitting covers, and shall be flytight, rodent-proof, nonflammable and waterproof. Heavy plastic bags of not less than one and one-half mil may be used to line a receptacle with a tight-fitting cover or fastened tightly with wire, string, ties or tape. Specially treated, water-resistance paper or cardboard containers may also be used as temporary rubbish containers; provided, that they are tightly fastened with wire, string, ties or tape. Ordinary cardboard containers without special water-resistant treatment are not authorized rubbish receptacles. Authorized rubbish receptacles for City rubbish collection shall not exceed two feet, thirty-two gallon capacity, and shall not exceed one hundred thirty pounds gross weight. Limitation on size or weight do not apply to authorized rubbish receptacles for private collection.

D. "Collection establishment" means any person or owner as defined in subsection I of this section doing business for profit and occupying private property.

E. "Garbage" means the animal and vegetable waste from the handling, preparing, cooking and consumption of food.

F. "Litter" means all garbage and rubbish, and includes any other waste material which, if thrown or deposited as prohibited in this chapter tends to create a danger or nuisance to public health, safety or welfare.

G. "Nonprofit establishment" means not-for-profit corporation or association established for religious, educational, charitable or benevolent purposes and occupying private property.

H. "Occupant" means any person living, sleeping or cooking in, or conducting any commercial or nonprofit activity, or having actual possession of any building or part thereof.

I. "Owner" means any person or entity which alone or jointly or severally with others:

1. Shall have legal or equitable title to any private property with or without accompanying actual possession thereof; or

2. Shall have charge, care or control of any private property as owner or agent or as executor, administrator, trustee or guardian of the estate of the owner or any other person in a representative capacity.

J. "Rubbish" means combustible and noncombustible waste materials except garbage, and includes the residue from the burning of wood, coal, coke and other combustible material, paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass, crockery, dust and other similar substances. (Prior code § 17-72)

8.24.030 Private property owners and occupants—Duties.

A. Residential Property.

1. Every owner or occupant, in the event of a written agreement, shall supply garbage disposal facilities or authorized garbage receptacles on the basis of at least one ten-gallon container per family, and authorized rubbish receptacles sufficient to contain all rubbish accumulated between collection days.

2. Every owner or occupant, in the event of a written agreement, or the occupant of a single-family dwelling shall cause the shared or common areas of the dwelling, its premises and yard area, and the adjoining sidewalk and gutter to be maintained in compliance with Sections 8.24.040 and 8.24.240 of this chapter.

3. Every occupant shall dispose of all garbage and rubbish in a clean and sanitary manner in compliance with Sections 8.24.060, 8.24.080, 8.24.090, 8.24.110, 8.24.130 through 8.24.170, 8.24.210 and 8.24.220 of this chapter.

4. Every owner of a multiple dwelling in which he does not reside, he shall designate a responsible person as his agent. This person and

the owner shall be severally and jointly responsible for maintaining the entire premises including the yard area and the adjoining sidewalk and gutter in compliance with Section 8.24.040 and 8.24.240 of this chapter.

B. Private Property Occupied by Commercial or Nonprofit Establishments. Every owner or occupant, in the event of a written agreement shall supply a sufficient quantity of authorized garbage and rubbish receptacles in compliance with Sections 8.24.060, 8.24.080, 8.24.090, 8.24.110, 8.24.130 through 8.24.170, 8.24.210 and 8.24.220 of this chapter. If garbage and rubbish is not collected by the City, arrangements shall be made for adequate and regular private collection of garbage and rubbish in compliance with Sections 8.24.060 through 8.24.160, 8.24.210 and 8.24.220 of this chapter. (Prior code § 17-74)

8.24.040 Private property owners and occupants—Keeping premises and adjacent areas free of litter.

A. Maintenance of Private Property. Every owner or occupant of private property shall maintain his property free of any accumulation of litter, and shall prevent any litter from escaping to any other public or private property.

B. Maintenance of Sidewalks.

1. Every owner or occupant of private property bordering on a street where there is a public or private sidewalk or footway shall maintain such sidewalk or footway and the adjoining gutter to the center of the street free of litter.

2. Every owner or occupant of private property shall cut and dispose of weed in any yard area or vacant lot, or around any public or private property.

3. No person shall sweep into or deposit in any gutter, street, square or other public place the accumulation of litter from any building or lot, or from any public or private sidewalk, footway or driveway.

C. Litter From Commercial or Nonprofit Establishments.

1. Litter from commercial or nonprofit establishments shall not be thrown or deposited in any public litter receptacles.

2. Commercial or nonprofit establishments may maintain authorized litter receptacles for the use of the general public outdoors on private property or on the adjoining sidewalk in a manner not to inconvenience the use of the sidewalk by pedestrians. The establishments are encouraged to identify such authorized litter receptacles as described in Section 8.24.030 of this chapter and the establishment shall cause the receptacles to be emptied regularly. (Prior code § 17-75)

8.24.050 City's duties and responsibilities.

A. The City shall maintain regular schedules of street cleaning, and shall post signs city-wide and otherwise publicize by all appropriate means the schedules of regular street cleaning times.

B. The City shall maintain regular schedules of garbage and rubbish collection subject to the provisions of Sections 8.24.060, 8.24.080, 8.24.090, 8.24.100, 8.24.140 and 8.24.150 of this chapter, and shall publicize the schedules by all appropriate means.

C. The City shall publicize dates for the collection of large items of rubbish and of shrub and tree trimmings subject to the provisions of Sections 8.24.130, 8.24.160, 8.24.210 and 8.24.220 of this chapter, and shall publicize the schedules by all appropriate means.

D. The City shall maintain and service authorized litter receptacles in all parts of the City.

E. The City shall plow snow from the streets in all parts of the City.

F. The City shall require all federal, state and local government organizations to comply with the regulations in Sections 8.24.040, 8.24.060 through 8.24.160, 8.24.210, 8.24.220 and 8.24.240 of this chapter, for owners of private property and for commercial or nonprofit establishments. (Prior code § 17-81)

8.24.060 Garbage and rubbish separation required.

Garbage and rubbish that is to be collected by the City shall be separated in their respective receptacles at all times and mixing of rubbish in authorized garbage receptacles is prohibited. Any person wishing to dispose of garbage who does not have access to an authorized garbage receptacle may deposit the garbage in an authorized rubbish receptacle provided that the garbage shall be drained of all liquid and shall be wrapped in paper of such thickness as to prevent leakage. (Prior code § 17-76(b))

8.24.070 Collection—Recycled newspapers.

A. Whoever desires to have his discarded newspapers collected by the City for recycling may follow the following procedure:

1. Newspapers (but not magazines, paper bags or other forms of paper) should be kept in a separate place between rubbish collection days;

2. Newspapers should be tied with string in bundles approximately six to eight inches in thickness; and

3. Bundles should be placed at the curb or near rubbish receptacles on the day designated for collection of rubbish in the location.

B. Newspaper placed on the curb or near rubbish receptacles on rubbish collection days shall become the property of the City; no one other than the City or persons duly authorized by the City Manager shall remove such newspapers.

C. The City Manager is authorized to issue written permits to nonprofit charitable organizations which are exempt from federal income taxation to collect bundled newspapers within the City in a particular area of the City but only on days of the week other than the regular rubbish collection days for such area or the date immediately preceding such day. (Ord. 824, 1973: prior code § 17-76(m))

8.24.080 Receptacles—Accessibility.

Whoever desires the removal of garbage from private property shall cause the garbage to be placed in authorized garbage receptacles. The receptacles shall be kept in some convenient and accessible place on the premises of the owner or occupant of private property, where the receptacles can be easily reached by the garbage collectors. (Prior code § 17-76(c))

8.24.090 Receptacles—Sidewalk placement time restrictions.

Whoever desires the removal of rubbish from private property shall cause the rubbish to be placed in authorized rubbish receptacles and to be set in an easily accessible place in the yard adjoining the premises or upon the sidewalk, but if placed upon the sidewalk, the authorized rubbish receptacles shall be placed on the sidewalk no earlier than six p.m. of the day immediately prior to the day of collection as designated by the Commissioner of Public Works for collection the area where the premises are located and shall be removed from the sidewalk no later than six p.m. of the day of collection. The rubbish receptacles shall not be placed upon the sidewalks in a manner to inconvenience the use of the sidewalks by pedestrians. (Prior code § 17-76(d))

8.24.100 Receptacles—Screening from public view.

Every owner or occupant of private property may maintain authorized garbage and rubbish receptacles outdoors on such private property provided the receptacles are screened from the view of public streets and sidewalks. (Prior code § 17-76(a))

8.24.110 Private collectors—Methods of storage, collection and disposal.

The Commissioner of Public Works shall have the right to specify the times and methods of storage, collection and disposal of garbage and rubbish by any private collector. (Prior code § 17-76(k))

8.24.120 Commercial or nonprofit establishments—Frequency—Receptacle specifications.

A. The Commissioner of Public Works may, at his discretion, and if the public convenience and necessity so require, determine that the volume of garbage or rubbish from commercial or nonprofit establishments is beyond the capacity of the Department of Public Works to collect or dump, and upon making such a determination, the Commissioner shall so notify the commercial or nonprofit establishments that the City will not collect garbage or rubbish from the establishments and that the establishments shall arrange for private collection.

B. All garbage receptacles for garbage awaiting private collection shall be made of metal with tight-fitting covers, shall be cleaned by the user at least once weekly, and shall be so maintained and located on the premises that no objectionable odors shall permeate any building. All rubbish receptacles for rubbish awaiting private collection shall be flytight, rodentproof, nonflammable and waterproof, and shall be so constructed as to prevent the escape of litter onto public or private property. All such garbage and rubbish receptacles shall be kept on private property at all times and not on public streets or sidewalks and shall be screened from view of public streets or sidewalks. (Prior code § 17-76(l))

8.24.130 Oversize items—Collection procedures.

Large bulky items of rubbish such as refrigerators, stoves, beds, crates, tree stumps, dead trees, etc., will be collected by the City only by special arrangement with the Commissioner of Public Works. Persons desiring such collection should notify the Commissioner. The City Manager may at his discretion direct the Commissioner to charge a fee for the collection of certain items, or the Commissioner may, at his discretion, determine that certain items are unsuitable for collection by the City, and may direct the owner to arrange for private collection. (Prior code § 17-76(g))

8.24.140 Bulk rubbish—Preparation and placement.

Rubbish that is larger than can be contained in authorized rubbish receptacles shall be securely tied in compact bundles, not to exceed one hundred pounds in weight. Newspapers, magazines and other papers shall be securely tied in bundles unless they are placed in authorized rubbish containers. Large cardboard cartons shall be flattened and securely tied in bundles. Such bulk rubbish shall be set out in the same place and under the same restrictions as those for authorized rubbish receptacles in Section 8.24.090 of this chapter. (Prior code § 17-76(e))

8.24.150 Grass clippings and yard refuse—Preparation and placement.

All grass clippings and fallen leaves to be collected by the City shall be stored in authorized rubbish containers. The use of heavy plastic bags tied securely at the top is encouraged for this type of rubbish. Small shrub and tree trimmings shall be stored in authorized rubbish containers or shall be tied securely in bundles not exceeding three feet in length, ten inches in diameter or a total of one hundred pounds in weight. Such bundles of small shrub and tree trimings shall be set out in the same places and under the same restrictions as those for authorized receptacles in Section 8.24.090 of this chapter. The burning of leaves or other material outdoors is strictly prohibited. (Prior code § 17-76(f))

8.24.160 Temporary container placement in parking spaces.

The Commissioner of Public Works may preempt parking spaces for limited periods of time at any area for the purpose of installing temporary containers for the collection of large items of rubbish or of shrub and tree trimmings. (Prior code § 17-76(j))

8.24.170 Litter—Pedestrians on public property.

No person shall throw or deposit litter in or upon any street, sidewalk, square, playground, plak or other public place except in authorized public or private litter receptacles. (Prior code § 17-73(a))

8.24.180 Litter—Pedestrians on private property.

No person shall throw or deposit litter on any occupied, open or vacant private property, whether or not occupied by such person, except in authorized private litter receptacles or authorized private rubbish receptacles. (Prior code § 17-73(b))

8.24.190 Litter—Throwing from vehicles.

No person, while a driver or passenger in a vehicle, shall throw or deposit litter upon any street, sidewalk, square, playground, park or other public place. (Prior code § 17-73(c))

8.24.200 Litter—Load-carrying vehicles.

No person shall drive or move any truck or other vehicle unless such vehicle is so constructed and loaded as to prevent any load, contents or litter from being blown off or deposited upon any street, sidewalk, square, playground, park or other public place. (Prior code § 17-73(d))

8.24.210 Periodic free collection—Rubbish—Notification.

At least once each year, the Commissioner of Public Works shall set dates for the collection of large bulky items of rubbish, as described in Section 8.24.130 of this chapter. The dates shall be publicized by the City. No fee shall be charged and no notice shall be required from the owner or occupant of private property. The Commissioner may, at his discretion, set a single collection period for the whole City or divide the City into suitable collection areas and set a different collection period for each area. Such large items of rubbish awaiting collection shall be stored in the same place as specified in Section 8.24.090 of this chapter for authorized rubbish containers. However, the Commissioner may from time to time issue regulations directing other methods and places for storing such large items of rubbish awaiting collection, and all such regulations shall be publicized by the City. The Commissioner may, at his discretion, determine that certain items are unsuitable for collection by the City, and may direct the owner to arrange for private collection. (Prior code § 17-76(h))

8.24.220 Periodic free collection—Large shrubs and tree trimmings.

At least once a year the Commissioner shall set dates for the collection of dead shrubs or trees or the large trimings of shrubs or trees. The dates shall be publicized by the City. No fee shall be charged and no notice shall be required from the owner or occupant of private property. The Commissioner may, at his discretion, set a single collection period for the whole City or divide the City into suitable collection areas and set a different collection period for each area. Such material awaiting collection shall be stored in the same places as specified in Section 8.24.090 of this chapter for authorized rubbish containers, or if the bulk is very large, in the street against the adjoining sidewalk. However, the Commissioner may, from time to time issue regulations directing other methods and places for storing such material awaiting collection. Grass clippings, fallen leaves and small shrubs and tree trimings must be stored in containers or bundles as specified in Section 8.24.150 of this chapter. (Prior code § 17-76(i))

8.24.230 Publicity—Citizen information service.

A. The City shall publicize the provisions of this chapter through the media of signs, advertisements, flyers, leaflets, announcements on radios and television, newspaper articles and through any other appropriate means, so that all citizens will have the opportunity to become

informed about the legal duties of property owners and occupants, pedestrians and motorists, and about the City garbage, rubbish and anti-litter services.

B. The City shall maintain citizen information service for citizen information and complaints about litter, garbage, rubbish and snow removal problems, and City services similar to, or in combination with, the Housing Code Enforcement telephone number. (Prior code § 17-82)

8.24.240 Fees—Collection of ashes and rubbish—Exceptions.

A. There shall be charged by the City for the collection of ashes, dust, sweepings, shrubbery clippings, tree branches and any other refuse other than offal, the sum of twenty-five cents for each barrel, parcel, box or other container in excess of two containers, but after four barrels or containers the sum of forty cents per barrel or container, except that no charge shall be made for the collection of such refuse from schools, churches, charitable or benevolent organizations, buildings used solely for private dwellings and portions used for private dwellings in buildings other than hotels and other than buildings used solely for private dwellings.

B. The Commissioner of Public Works shall keep suitable records of all collections for which charges are to be made, as required by this section and shall be charged with the collection of amounts due for such services at the time collections are made. The Commissioner is authorized to cause to be sold to occupants of real estate stubs or other tickets for the purpose of making payment and collection of amounts due for such services. (Prior code § 17-77)

8.24.250 Fees—City dumps and incinerator—Permit issuance.

The Commissioner of Public Works is empowered to issue permits for dumping in any dump owned or controlled by the City or at the incinerator now owned by the City or at any other incinerator hereafter operated by the City. The Commissioner shall establish rules and regulations for the conduct of such dumping, such rules and regulations to be approved by the City Manager. The charge for such permit shall be a minimum of two dollars per load and fifty cents per load over six loads, except for building materials. Building materials such as laths, doors, timbers, boards, etc., shall have a minimum of five dollars per load, the charges to be determined within such limits by the Commissioner, according to the size of each load. All persons, except employees of the City in the course of their employment, who pick up refuse within the City shall pay a fee of two dollars per vehicle per year. The Commissioner of Public Works shall issue all permits for the use of such street for transportation of refuse. No person shall dump any refuse or rubbish in any dump owned or controlled by the City or in any incinerator owned or operated by the City without previously having obtained a permit therefor from the Commissioner of Public Works. (Prior code § 17-78)

8.24.260 Violation—Penalty.

Any person who violates any section of this chapter shall be subject to a fine not exceeding fifty dollars. Each day's violation shall constitute a separate offense. (Prior code § 17-80(b))

Chapter 8.28

SMOKING

Sections:

8.28.010 Declaration of public nuisance.
8.28.020 Smoking defined.
8.28.030 Elevator smoking prohibited.
8.28.040 Smoking in public places prohibited.
8.28.050 Restaurant regulations—Exemptions.
8.28.060 Smoking in the workplace.
8.28.070 Signposting.
8.28.080 Violation—Suspension of licenses.
8.28.090 Violation—Penalty.

8.28.010 Declaration of public nuisance.

It is declared that smoking in public places is a public nuisance, dangerous and hazardous to the public health, and violative of the right of nonsmokers to breathe air which is free to smoke contaminiation. (Ord. 1046 (part), 1986: prior code § 13-4(a))

8.28.020 Smoking defined.

As used in this chapter, "smoking" means and includes carrying a lighted cigarette, cigar, pipe or other tobacco product. (Ord. 1046 (part), 1986: prior code § 13-4(b))

8.28.030 Elevator smoking prohibited.

No person shall smoke in any elevator accessible to the public. (Ord. 1046 (part), 1986: prior code § 13-4(c))

8.28.040 Smoking in public places prohibited.

No person shall smoke in any room to which the public is invited or in which the public is permitted, including but not limited to, any health care facility, classroom, lecture hall, theater, motion picture theater, opera house, concert hall, library, auditorium, school, retail store, reception area, restroom or lavatory, waiting room or public area of a bank, but not including any private residence, nor any restaurant or other place mentioned in Section 8.28.050 of this chapter, nor any party, beano game, social reception or fraternal or veteran's organizations. (Ord. 1046 (part), 1986: prior code § 13-4(d))

8.28.050 Restaurant regulations—Exemptions.

A. This section shall not apply to any restaurant with a seating capacity of fewer than twenty-five persons. Nor shall this section apply to any area with a seating capacity of fewer than seventy-five persons, which is used primarily for selling alcoholic beverages for consumption on the premises and in which any sale of food or presentation of entertainment is incidental to the sale of such beverages.

B. No person shall smoke in any restaurant except in specifically designated smoking areas. This prohibition does not apply in cases in which an entire room or hall is used for a private social function and not by the proprietor or person in charge of the restaurant.

C. Smoking areas may be designated by the proprietor or other person in charge of a restaurant, except in places in which smoking is prohibited by the Fire Marshal or by other law or regulation. Smoking areas designated so shall comprise no more than seventy-five percent of the seating capacity of the restaurant. Where smoking areas are designated, existing physical barriers and ventilation systems shall be used to minimize the toxic effect of smoke on persons in adjacent no smoking areas. In the case of restaurants consisting of a single room, the provisions of this section shall be considered met if one side of the room is reserved and posted as a no smoking area; provided, that the no smoking area comprises no less than twenty-five percent of the seating capacity of the restaurant.

D. However, to the extent that the shape of the room allows maximum separation, the proprietor will be required to utilize those natural

barriers to satisfy the provisions of this chapter. Furthermore, if such natural barriers do not exist, the proprietor will make every effort to set up the space to inhibit the transfer of smoke to nonsmoking areas.

E. The proprietor or other person in charge of a restaurant shall make reasonable efforts to prevent smoking in the no smoking areas of the restaurant by:

1. Posting appropriate signs;

2. Arranging seating to provide a smoke free area;

3. Asking smokers to refrain from smoking upon request of a client, patron or employee suffering discomfort from the smoke; or

4. Any other means which may be appropriate.

F. In addition to the remedies provided by Sections 8.28.080 and 8.28.090 of this chapter, the Inspectional Services Department or any person aggrieved by the wilful failure of the proprietor or other person in charge of a restaurant to comply with any provision of this section may apply for injunctive relief to enforce the provisions of this section in any court of competent jurisdiction.

G. Nothing in this section shall make lawful smoking in any area in which smoking is or may hereafter be prohibited by law. (Ord. 1046 (part), 1986: prior code § 13-4(e))

8.28.060 Smoking in the workplace.

A. Except as provided in subsection B of this section, no person shall smoke in any room under the control of a public or private employer which employees normally frequent during the course of employment, including, but not limited to, work areas, employee lounges and restrooms, conference rooms and hallways, but not including any private residence unless it is used as a child care or health care facility, nor any dining area of a restaurant or other place mentioned in Section 8.28.050 of this chapter.

B. At the written request of one or more employees, an employer may (but is not required to) designate the area in the immediate vicinity of the employee's usual work station as a smoking area, if the employer finds that such a smoking area will not allow nonsmoking employees or the public to breathe any significant amount of smoke. Upon the same request and finding, an employer may also make other reasonable accommodation to smoking employees, including provision of a separate employee lounge for smoking, no larger in floor area or seating capacity than the employee lounge for nonsmokers. Upon request in writing, an employer shall provide a copy in writing of its smoking policy under this subsection, including any designated smoking areas or other accommodation for smoking employees, to any employee, prospective employee, and the Commissioner of Health and Hospitals. Any employee aggrieved by an employer's smoking policy or any portion thereof may appeal in writing to the Commissioner, who may modify it in any manner to carry out the purposes of this section. In any dispute arising from such a smoking policy, the health concerns of nonsmokers shall be given precedence.

C. The Commissioner of Health and Hospitals shall enforce this section and Section 8.28.040 of this chapter, and for this purpose shall have the assistance of the City Manager and the Police, Law and Inspectional Services Departments. In addition to the remedies provided by Sections 8.28.080 and 8.28.090 of this chapter, the Commissioner or any person aggrieved by any violation of this section or Section 8.28.040 of this chapter, may apply for injunctive relief to enforce such provisions in any court with jurisdiction. This does not apply to small businesses which occupy only one thousand five hundred square feet of office space and where one hundred percent of the employees have no objection. (Ord. 1046 (part), 1986: prior code § 13-4(f))

8.28.070 Signposting.

Every person having control of premises upon which smoking is prohibited by this chapter, or his or her agent or designee, shall conspicuously display upon the premises a sign reading "Smoking Prohibited by Law." (Ord. 1046 (part), 1986: prior code § 13-4(g))

8.28.080 Violation—Suspension of licenses.

It is unlawful for any person having control of any premises or place in which smoking is prohibited by this chapter to knowingly permit a violation of this chapter. A person shall be held to have knowingly permitted a violation of this chapter 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 the City to such person shall be subject to suspension for up to fifteen days for a single violation of this section, and shall be subject to suspension for up to one year, or to revocation, for any successive violation. (Ord. 1046 (part), 1986: prior code § 13-4(h))

8.28.090 Violation—Penalty.

Any person who knowingly violates any provision of this chapter, or who smokes in an area in which a "Smoking Prohibited by Law" notice is conspicuously posted as required by Section 8.28.080 of this chapter, shall be fined in an amount of not less than twenty-five dollars nor more than one hundred dollars. (Ord. 1046 (part), 1986: prior code § 13-4(i))

Chapter 8.32

SECURITY ALARM SYSTEMS

Sections:

8.32.010 **Intent—Applicability.**
8.32.020 **Chief of Police—Authority to establish administrative rules.**
8.32.030 **Connection with Police Department—Approval required—Fee.**
8.32.040 **Alarm user's responsibilities.**
8.32.050 **False alarms—Assessment schedule.**
8.32.060 **Appeal procedures.**
8.32.070 **Violation—Penalty.**

8.32.010 Intent—Applicability.

This chapter is intended to regulate the activities and responsibilities of those persons who purchase, lease or rent alarm systems, devices or services. It is further intended to encourage the improvement in reliability of these alarm systems, devices or services and to insure that police department personnel will not be unduly diverted from responding to actual criminal activity as a result of responding to false alarms. The provisions of this chapter shall not apply to alarm systems owned and/or operated by agencies within the City government. (Ord. 962 (part), 1981: prior code § 15-15)

8.32.020 Chief of Police—Authority to establish administrative rules.

The Chief of Police may promulgate such rules as may be necessary for the implementation of this chapter. (Ord. 962 (part), 1981: prior code § 15-16)

8.32.030 Connection with Police Department—Approval required—Fee.

A. Alarm systems shall be connected to the communications console in the Police Department by obtaining prior written approval from the Chief which shall be granted upon receipt of a fifty-dollar fee for the benefit of direct communication to the police console number which shall be a separate number from the emergency 911 line.

B. In accordance with the normal bidding practices in effect in the City, the Purchasing Agent shall have the authority to request bids from alarm companies to furnish, at no cost to the City, a communications console and the necessary telephone lines which are compatible to the receipt of alarm signals from alarm systems whose lines are connected to the police department. Each bid shall set forth the annual fee each alarm user will be required to pay the alarm company for services rendered with respect to the communications console. Services shall be set forth in the form of a written contract between the alarm company and the alarm user.

C. Any alarm user may contract with any alarm company of his choice for the sale, installation and or servicing of the alarm system to be installed on his premises. (Ord. 962 (part), 1981: prior code § 15-17)

8.32.040 Alarm user's responsibilities.

A. Every alarm user shall submit to the Chief of Police the name and telephone number of at least two other persons who can be reached at any time, day or night, and who are authorized to respond to an emergency signal transmitted by an alarm system, and who can open the premises in which the alarm system is located.

B. All alarm users must notify the police department, in advance of any testing of equipment. Failure to notify the Police Department in advance of a testing of equipment shall constitute a false alarm and be subject to the assessment schedule contained in this chapter.

C. All alarm systems which use an audible bell or horn shall be equipped with an automatic shut off device which will deactivate the alarm system within ten minutes. All alarm users with an audible bell or horn must comply with this

section within ninety days of the effective date of the ordinance codified in this chapter. (Ord. 962 (part), 1981: prior code § 15-18)

8.32.050 False alarms—Assessment schedule.

Any alarm system which has two or more false alarms within a calendar year shall be subject to assessment as provided in this chapter:

A. After the Police Department has recorded two separate false alarms from an alarm user within a calendar year, the police chief shall notify the alarm user, in writing and by certified mail, of such facts, and require the user to submit within ten working days of receipt of such notice a report describing the users efforts to discover and eliminate the cause or causes of the false alarms. This notice, by certified mail from the Chief of Police or his designee, shall contain the dates and times of each alleged false alarm.

B. In the event that the Chief of Police or his designee determine that a report submitted in accordance with subsection A of this section is unsatisfactory, or that the alarm user has failed to show by the report that he has taken or will take reasonable steps to eliminate or reduce false alarms, then the police chief or his designee shall order that the use of the alarm system be discontinued for a period of thirty days.

C. 1. Any user of an alarm system which transmits a third false alarm signal shall be assessed a fine of:

a. Twenty dollars for the third false alarm in a calendar year;

b. Fifty dollars for the fourth false alarm in a calendar year;

c. One hundred dollars each for all subsequent false alarms.

2. All fines assessed under this chapter shall be made payable to the City Treasurer for deposit in the general fund.

D. If the alarm user submits a report as required by subsection A of this section, the Chief of Police or his designee shall determine if the action taken or to be taken will substantially reduce the likelihood of false alarms. If it is determined that the action taken or to be taken will substantially reduce the likelihood of false alarms, then the Chief of Police shall notify the alarm user, in writing, that no assessment will be made at that time. If no assessment is made at that time, the alarm user will be subject to assessment procedures on the next false alarm signal transmitted.

E. Upon failure of the user of an alarm system to pay two consecutive fines assessed under this chapter, within sixty days of the assessment, the Police Chief shall order that the user discontinue the use of the alarm system for not more than six months.

F. Proof that a false alarm was caused by an act of God or by the actions of the telephone company shall constitute affirmative defense to assessment of the particular false alarm.

G. The provisions of this section concerning false alarms pertains to all alarm users except municipal, county and state agencies. (Ord. 962 (part), 1981: prior code § 15-19)

8.32.060 Appeal procedures.

A. Any alarm user who is aggrieved by a decision of the Chief of Police pursuant to Section 8.32.050 of this chapter may within five working days of notice of the Chief's decision, appeal his case, in writing, to the Chief for further consideration.

B. All decisions made by the Chief of Police after the appeals procedure, are final.

C. The only grounds for appealing a decision of the Chief are:

1. Proof of a false alarm assessment under subsection C of Section 8.32.050 of this chapter; and

2. Written verification from the alarm user and the alarm company, that all necessary steps have been taken to upgrade, improve and insure the accuracy of the alarm system. (Ord. 962 (part), 1981: prior code § 15-20)

8.32.070 Violation—Penalty.

The following acts and omissions shall constitute violation of this chapter punishable by fine up to fifty dollars:

A. Failure to obey an order of the Police Chief to discontinue use of an alarm system, after exhaustion of the right of appeal;

B. Failure to disconnect an automatic dialing device from any Police Department telephone lines within ninety days of the effective date of the ordinance codified in this chapter;

C. Interconnection of an automatic dialing device to any police department telephone lines after the effective date of the ordinance codified in this chapter;

D. Failure to pay two or more consecutive fines assessed under subsection C of Section 8.32.050 of this chapter within sixty days from the date of assessment;

E. Failure to comply with the requirements set forth in subsections A, B and C of Section 8.32.040 of this chapter. (Ord. 962 (part), 1981: prior code § 15-21)

Chapter 8.36

PRIVATE FIRE ALARM SYSTEMS

Sections:

8.36.010 Connection to municipal system—Fee.
8.36.020 Owner's responsibility.
8.36.030 Testing and maintenance.
8.36.040 Private fire alarm companies—Connection to municipal system—Fee.
8.36.050 Administrative rulemaking authority.
8.36.060 Exemptions from chapter provisions.

8.36.010 Connection to municipal system—Fee.

Private fire alarm systems may be connected to the City fire alarm system by obtaining prior written approval from the City Electrician. Detailed plans of the interior fire alarm system must be submitted to the City Electrician and the Bureau of Fire Prevention, and must be approved by them. The fee for direct connection to the municipal system shall be three hundred dollars per installation and three hundred dollars per year (or part thereof) thereafter, payable on August 1st of each year. (Ord. 1000 (part), 1983: prior code § 9-34(a))

8.36.020 Owner's responsibility.

A. All wires and other material necessary for connection to the property shall be supplied by the owner to the City Electrician for connection to the nearest utility pole or manhole, as designated by the City Electrician. The owner is responsible for making the connection from that point to his building.

B. The owner shall maintain all wires and other equipment on his property. If faults develop in any part of the interior system, the City Electrician, after notifying the owner, may disconnect any or all of the interior system from the municipal system, until necessary repairs are made. Wiring from the utility pole or manhole to the building shall be maintained by the serwer. (Ord. 1000 (part), 1983: prior code § 9-34(b))

8.36.030 Testing and maintenance.

A. If any person requests that his private fire alarm system be disconnected for the purpose of testing or maintenance of the alarm system, the charge will be as follows:

1. Between eight a.m. and four p.m., Monday through Friday, no charge;
2. Between four p.m. and midnight, Monday through Friday, one and one-half times the salary for a four-hour period of the employee performing the work;
3. Between midnight and eight a.m., Monday through Friday, twice the salary for a four-hour period of the employee performing the work;
4. Any time Saturday or Sunday, twice the salary for a four-hour period of the employee performing the work.

B. All requests for disconnecting the alarm system for the purpose of testing or maintenance must be made at least twenty-four hours in advance. Failure to do so will result in a charge of twenty-five dollars, except that up to two disconnections within a five-day period, required by emergency repairs, shall be exempt from such charge. (Ord. 1000 (part), 1983: prior code § 9-34(c))

8.36.040 Private fire alarm companies—Connection to municipal system—Fee.

Private fire alarm companies which are connected to the municipal system by leased telephone lines shall be charged twenty-five dollars per year per assigned box alarm number. The alarm company will be solely responsible for maintenance of these lines and all related equipment, including equipment which is located in the City fire alarm headquarters. (Ord. 1000 (part), 1983: prior code § 9-34(d))

8.36.050 Administrative rulemaking authority.

The City Electrician may promulgate such rules as may be necessary for implementation of this section. (Ord. 1000 (part), 1983: prior code § 9-34(e))

8.36.060 Exemptions from chapter provisions.

All churches within the City shall be exempt from the requirements of this chapter. (Ord. 1000 (part), 1983: prior code § 9-34(f))

Chapter 8.40

JUNK MOTOR VEHICLE STORAGE

Sections:

8.40.010 Junk motor vehicle defined.
8.40.020 Storage—License required.
8.40.030 Application—Issuance standards.
8.40.040 Application—Hearing—Notification procedures—Renewal.
8.40.050 Violation—Penalty.

8.40.010 Junk motor vehicle defined.

For the purpose of this chapter, a "junk motor vehicle" means any automobile or truck, which is worn out, discarded, inoperative or unregistered and which is ready for dismantling or destruction, or which has been stored for salvage or for stripping in order to use parts thereof. Any part of such a vehicle shall be considered a junk motor vehicle under this chapter. (Prior code § 12-15(b))

8.40.020 Storage—License required.

No person as owner or as one in control of any premises in the City shall keep ungaraged upon such premises any junk motor vehicle as defined in Section 8.40.010 of this chapter without being licensed to do so under this chapter or under the provisions of Chapter 140, Section 59 of the General Laws. (Prior code § 12-15(a))

8.40.030 Application—Issuance standards.

A license to keep a junk motor vehicle or vehicles ungaraged in any area of the City shall be requested by filing an application in writing to the Board of License Comissioners, which Board may issue the license in accordance with those standards and upon such conditions as are set forth in Section 8.40.040 of this chapter. (Prior code § 12-15(c))

8.40.040 Application—Hearing—Notification procedures—Renewal.

The Board of License Commissioners shall hold a public hearing upon the request for a license, notice of which shall be published in a local newspaper at least seven days before the date of the hearing. Seven days notice shall be given to abutting property owners by certified mail, return receipt requested. The applicant for the license shall pay the cost of mailing and publication of such notice. If after the public hearing the Board of License Commissioners determines that the keeping of the vehicle or vehicles will not create a threat to public health and safety, will not constitute a public nuisance, or will not depreciate property values in the surrounding area, the Board may grant a one year license upon such conditions as the Board deems conducive to the health, safety and general well-being of the citizens of Cambridge. Renewal of such license shall be granted pursuant to the procedure set forth in Sections 8.40.030 and 8.40.040 of this chapter. A fee of fifty dollars shall be charged for the issuance of such license. (Prior code § 12-15(d))

8.40.050 Violation—Penalty.

Any person who violates this chapter shall be liable to a fine not exceeding fifty dollars. Each day of violation constitutes a separate and distinct offense. No prosecution shall be initiated to recover such fine until an alleged violator has been given notice of this chapter and a reasonable opportunity to apply for a license. (Prior code § 12-15(e))

Chapter 8.44

RENT CONTROL*

Sections:

8.44.010 Findings of fact.
8.44.020 Definitions.
8.44.030 Applicability of chapter provisions.
8.44.040 Removal of controlled rental unit—Permit required—Hearing.
8.44.050 Permit—Criteria considerations.
8.44.060 Limited equity cooperative ownership.
8.44.070 Unlawful acts by developers.
8.44.080 Equitable relief.
8.44.090 Violation—Penalty.

*Prior ordinance history: Ords. 926, 929, 932, 941 and 945.

8.44.010 Findings of fact.

A serious public emergency continues to exist in the City with respect to the housing of a substantial number of 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 two thousand or over ten 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 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. (Ord. 966 (part), 1981: prior code Ch. 23 § 1(a))

8.44.020 Definitions.

As used in this chapter:

A. "Act" means Chapter 36 of the Acts of 1976, as amended from time to time.

B. "Board" means the Rent Control Board established by Section 5 of the Act.

C. "Controlled rental unit" means any unit included in the definition under Section 3(b) of the Act.

D. "Removal from the market," as applied to a controlled rental unit, means and includes but is not limited to:

1. Occupy as an owner of a unit which is a condominium unit, if the most recent occupant was a tenant, even if the prospective owner-occupant is the tenant, unless the prospective owner-occupant is the current tenant of the unit who has continuously occupied it as a tenant since before August 10, 1979, and intends in good faith to occupy it indefinitely as its owner; or

2. Demolish, but no unit has been removed from the market by demolition until its physical destruction has begun; or

3. 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. This provision shall not apply to rehabilitation, financed at least in part by community development block grant funds, of a building owned by a nonprofit corproation and intended for owner-occupancy by low and moderate income persons; or

4. a. Convert to a cooperative as the term is used in Section 3(b)(4) of the Act, all or part of any building which contains any controlled rental unit.

b. "Removal from the market" does not include occupancy of a noncondominium 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 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 the Middlesex Registry of Deeds prior to August 10, 1979, whether or not the unit was being used for rental housing on August 13, 1979. No condominium unit once legally occupied by the unit owner shall ever again be subject to this chapter for any reason.

5. Cause a unit, not the primary residence of a legal unit owner, to be vacant for one hundred twenty days or more by refusing to rent or to offer for rent such unit in good faith or, when a unit is cited as unfit for human habitation, by failure to perform repairs required to restore such unit to habitable condition. The existence of a vacancy for one hundred twenty days or more, without a showing of good cause, shall constitute removal from the market. (Ord. 1014 § 1, 1984; Ord. 980 § 2, 1982; Ord. 966 (part), 1981: prior code Ch. 23 § 1(b))

8.44.030 Applicability of chapter provisions.

A. This chapter shall apply to all controlled rental units which have not been removed from the market before August 13, 1979. This section shall take effect immediately, but 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 units 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.

B. If such a certificate ceases to be correct, the Board shall withdraw it by filing a certificate, and this section shall then again be effective until one of the above conditions again prevails. (Ord. 966 (part), 1981: prior code Ch. 23 § 1(e))

8.44.040 Removal of controlled rental unit—Permit required—Hearing.

A. 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 chapter, 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 a unit.

B. One year after the date of a notice of ruling, the Board shall review and confirm that the circumstances and conditions which led the Board to grant any removal permit under this chapter, except for a condominium unit legally occupied by the unit owner, continue to warrant such permit. If, after a hearing, the Board finds that the circumstances and conditions no longer warrant the permit, the Board shall immediately treat the unit as a controlled rental unit and shall initiate whatever action is permitted and appropriate under this chapter. (Ord. 1014 § 2, 1984; Ord. 966 (part), 1981: prior code Ch. 23 § 1(c))

8.44.050 Permit—Criteria considerations.

In deciding whether to grant a permit under this chapter, the Board shall consider:

A. The benefits to the persons sought to be protected by the Act and by this section;

B. The hardships imposed on the tenants residing in the unit proposed to be removed, including any mitigating provisions made by the applicant; and

C. 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. (Ord. 966 (part), 1981: prior code Ch. 23 § 1(d))

8.44.060 Limited equity cooperative ownership.

A. As used in this section, "Administrator" means the Assistant City Manager for Community Development or his or her designee. Notwithstanding the considerations of Section 8.44.050 of this chapter, the Board may grant a permit for conversions to limited equity cooperatives only if the Administrator files with the Board an agreement executed by the Administrator and the cooperative housing corporation which shall contain the following provisions:

1. All cooperative documents and all amendments or modifications of the cooperative documents shall be valid only if executed by the Administrator and the articles of incorporation shall so provide. The cooperative documents include the articles of incorporation, the bylaws, occupancy agreements, transfer agreements and management plan. Each transfer shall be reported to the Administrator and all documents effecting the transfer shall be executed by the Administrator. The Administrator shall execute documents only if each of the provisions of this section are met.

2. a. The resale price of the cooperator's membership which includes the right to occupy the unit shall not exceed the transfer value plus the amount of principal amortized by the corporation on its blanket mortgage attributed to the unit and paid by the member involved, less any amounts due to the corporation under the occupancy agreement and less the cost of all deferred maintenance and repairs deemed necessary by the corporation to put the dwelling in a suitable condition for another occupant.

b. The transfer value is the sum of:

i. The share value paid by the former occupant of the unit (not including the amount of any subsidies) adjusted from the date of the stock payment to the Consumer Price Index for Housing for the Boston Standard Metropolitan Statistical Area.

ii. The value of improvements approved by the corporation and installed by the member in his unit, including a fair value of labor denoted by a member or others as conclusively established by the Administrator at the time the labor is donated.

3. Residents of at least eighty percent of the units in the building as of the date of the articles of incorporation shall sign commitments to become resident shareholders of the limited equity housing corporation.

4. A majority of the current residents must be low and moderate income persons as defined by the current income limits set forth in regulations of the Department of Housing and Urban Development, under Section 235 of the National Housing Act or its successor or comparable index as determined by the Administrator.

5. Current residents who do not become shareholders shall have the right to remain in their units as tenants of the cooperative corporation. Controlled rental units shall remain subject to the Act and to this section and no permits shall issue for controlled rental units while occupied by non-shareholding tenants. If a controlled rental unit is vacated, that unit may be converted to a cooperative subject to the provisions of this subsection and to the cooperative documents.

6. Residents of the City who are low and moderate income persons, as defined in subsection D of this section, shall be given priority when turnover or vacant units occur.

7. There shall be no discrimination on the basis of race, religion, color, national origin, sex, age, ancestory or marital status with respect to any aspect of the operation of the cooperative.

8. Family size per unit shall conform to Chapter II of the State Sanitary Code or other comparable index as determined by the Administrator.

9. Buildings shall have at least six units.

10. In addition to other remedies, the City may recover in damages twice the amount of any net gain on resale which exceeds the amount allowed by subsection B of this section, and this provision may not be waived in any manner.

B. The total number of units for which such permits may be granted shall not exceed one hundred.

C. The Board shall revoke any permit granted pursuant to this section whenever it or the Administrator determines that any of the provisions of Subsections A1, A2, A5, A6, A7 or A9 of this section have been materially violated or invalidated and the unit shall then again be subject to the Act and to this chapter, notwithstanding the last sentence of subsection D4b of Section 8.44.020 of this chapter, or any other provisions. (Ord. 1001, 1983: Ord. 966 (part), 1981: prior code Ch. 23 § 1(d½))

8.44.070 Unlawful acts by developers.

After August 1, 1981, no owner of a building for which a condominium master deed has been recorded shall directly or indirectly sell, offer for sale, or agree to sell any controlled rental unit therein, unless the board has granted a removal permit for that unit, or unless the sale or offer is to, or the agreement is with, a current tenant of the unit who holds an exemption certificate. The board shall issue an exemption certificate to any person who files with it an affidavit in a form prescribed by the board, stating that he is a current tenant of the unit, that he occupied it as a tenant before August 10, 1979, and that he intends in good faith to occupy it indefinitely as its owner. No person shall file a false affidavit under this subsection. Nothing in this subsection shall prevent an owner of a building or any portion thereof from conveying his entire interest in the building in good faith to one purchaser, who shall then be subject to the provisions of this subsection to the same extent as the original owner. (Ord. 966 (part), 1981: prior code Ch. 23 § 1(c½))

8.44.080 Equitable relief.

The Board or any person aggrieved by a failure to comply with this chapter may enforce its provisions in a civil action for injunctive or declaratory relief. (Ord. 966 (part), 1981: prior code Ch. 23 § 1(g))

8.44.090 Violation—Penalty.

A. Any person who violates this chapter shall be punished by a fine of not more than five hundred dollars. The removal of each unit shall constitute a separate violation.

B. Where, after a hearing, the Board finds there are repeated and/or flagrant violations of this chapter, the Board shall recommend to the City Council or to the Cambridge Housing Authority that the public interest can best be served by taking the unit(s) by power of eminent domain in order to restore the unit(s) to serve as housing for people with low and moderate incomes. (Ord. 1014 § 3, 1984; Ord. 966 (part), 1981: prior code Ch. 23 § 1(f))