



**FIRST PUBLICATION**

**NO. 2134.**

**CITY OF CAMBRIDGE**

**In the Year**

**One Thousand,**

**Nine Hundred**

**Eighty-One**

**AN ORDINANCE**

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

**Be it ordained by the City Council of the City of Cambridge as follows:** That Chapter Thirteen entitled "Offenses" is hereby amended as follows:

1. By inserting in section 13-4 entitled "Smoking Prohibited," as appearing in Ordinance Number 849 of September 15, 1975, after sub-section (e), the following subsection:

(e $\frac{1}{2}$ ) No person shall smoke in the areas of any restaurant used for food preparation, or in the areas open to the general public in any restaurant which has a seating capacity in excess of fifty (50) patrons, except that the management of any such restaurant may designate properly ventilated waiting lounge, and eating areas as smoking areas, provided that no more than 75 percent of the area available for each such purpose, and no more than 75 percent of the total seating capacity, may be so designated as smoking areas, and further provided that any area so designated be conspicuously labeled as such.

2. By inserting after said section 13-4 the following section:

**Section 13-4A. Free distribution of smoking of tobacco products prohibited.**

No person shall, except at full market price, in or upon any part of the streets, parks, public grounds, public buildings, or other public places within the City of Cambridge, distribute or allow to be distributed any smoking or tobacco product for any commercial purpose.

Any person who violates this section shall be punished by a fine of not less than twenty nor more than fifty dollars.

Passed to a second reading at the City Council meeting of December 7, 1981 and on or after December 21, 1981 the question comes on passing to be ordained.

ATTEST:-

Paul E. Healy,

City Clerk.

(C)Dec. 17



**FIRST PUBLICATION**

**NO. 2134.**

**CITY OF CAMBRIDGE**

**In the Year  
One Thousand,  
Nine Hundred  
Eighty-One**

**AN ORDINANCE**

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

**Be it ordained by the City Council of the City of Cambridge as follows:** That Chapter Thirteen entitled "Offenses" is hereby amended as follows:

1. By inserting in section 13-4 entitled "Smoking Prohibited," as appearing in Ordinance Number 849 of September 15, 1975, after sub-section (e), the following subsection:

(e $\frac{1}{2}$ ) No person shall smoke in the areas of any restaurant used for food preparation, or in the areas open to the general public in any restaurant which has a seating capacity in excess of fifty (50) patrons, except that the management of any such restaurant may designate properly ventilated waiting lounge, and eating areas as smoking areas, provided that no more than 75 percent of the area available for each such purpose, and no more than 75 percent of the total seating capacity, may be so designated as smoking areas, and further provided that any area so designated be conspicuously labeled as such.

2. By inserting after said section 13-4 the following section:

**Section 13-4A. Free distribution of smoking of tobacco products prohibited.**

No person shall, except at full market price, in or upon any part of the streets, parks, public grounds, public buildings, or other public places within the City of Cambridge, distribute or allow to be distributed any smoking or tobacco product for any commercial purpose.

Any person who violates this section shall be punished by a fine of not less than twenty nor more than fifty dollars.

Passed to a second reading at the City Council meeting of December 7, 1981 and on or after December 21, 1981 the question comes on passing to be ordained.

ATTEST:-

Paul E. Healy,  
City Clerk.

(C)Dec. 17



**FIRST PUBLICATION  
NO. 2134.  
CITY OF CAMBRIDGE  
In the Year  
One Thousand,  
Nine Hundred  
Eighty-One**

**AN ORDINANCE**

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

**Be it ordained by the City Council of the City of Cambridge as follows:** That Chapter Thirteen entitled "Offenses" is hereby amended as follows:

1. By inserting in section 13-4 entitled "Smoking Prohibited," as appearing in Ordinance Number 849 of September 15, 1975, after sub-section (e), the following subsection:

(e $\frac{1}{2}$ ) No person shall smoke in the areas of any restaurant used for food preparation, or in the areas open to the general public in any restaurant which has a seating capacity in excess of fifty (50) patrons, except that the management of any such restaurant may designate properly ventilated waiting lounge, and eating areas as smoking areas, provided that no more than 75 percent of the area available for each such purpose, and no more than 75 percent of the total seating capacity, may be so designated as smoking areas, and further provided that any area so designated be conspicuously labeled as such.

2. By inserting after said section 13-4 the following section:

**Section 13-4A. Free distribution of smoking of tobacco products prohibited.**

No person shall, except at full market price, in or upon any part of the streets, parks, public grounds, public buildings, or other public places within the City of Cambridge, distribute or allow to be distributed any smoking or tobacco product for any commercial purpose.

Any person who violates this section shall be punished by a fine of not less than twenty nor more than fifty dollars.

Passed to a second reading at the City Council meeting of December 7, 1981 and on or after December 21, 1981 the question comes on passing to be ordained.

ATTEST:- Paul E. Healy,  
City Clerk.

(C)Dec. 17

*Order #18*

# City of Cambridge

MASSACHUSETTS

In City Council

12/30

1981

①

*Councilman Franney Moved Reconsideration which carries*

	YEA	NAY	ABSENT	PRESENT
Mr. Kevin P. Crane		✓		
Mr. Thomas W. Danehy	✓			
Ms. Sandra Graham	✓			
Mr. Leonard J. Russell		✓		
Mr. David E. Sullivan	✓			
Mr. Walter J. Sullivan		✓		
Mr. Alfred Vellucci		✓		
Mr. David A. Wylie	✓			
Mayor Francis H. Duehay	✓			
	<i>5</i>	<i>4</i>	<i>0</i>	

*Reconsideration*

*Carried*

*Calendar #18*

# City of Cambridge

MASSACHUSETTS

In City Council

*12/28/*

1981

*2*

*R. Vellucci Motion to Refer to the New  
City Council - Carries*

	YEA	NAY	ABSENT	PRESENT
Mr. Kevin P. Crane	✓			
Mr. Thomas W. Danehy	✓	✓		
Ms. Sandra Graham		✓		
Mr. Leonard J. Russell	✓			
Mr. David E. Sullivan		✓		
Mr. Walter J. Sullivan	✓			
Mr. Alfred Vellucci	✓			
Mr. David A. Wylie		✓		
Mayor Francis H. Duehay		✓		

*5*

*4*

*0*



# City of Cambridge

In the Year One Thousand, Nine Hundred Seventy-Five

## AN ORDINANCE

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

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

Chapter 13 entitled: "Offenses," Article 11 entitled: "Offenses Against Public Health" is hereby amended by striking out the present Article 11 and inserting in place thereof a new Article 11 entitled: "Offenses Against Public Health", Section 13-4 entitled: "Smoking Prohibited" which reads as follows:-

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

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

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

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

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

(f) No person shall smoke in any area of any hospital, sanitorium, nursing home, convalescent home, or home for the aged for chronically ill patients which is accessible either to patients or to visitors, provided that the management may provide for patients to elect in writing upon admission to the facility to be placed in a smoking room, in which case the room in which the patient so electing is placed shall be so labelled, and no patient not so electing shall be placed in that room, and further that the management may provide waiting areas for visitors separate from areas used by patients in which the visitors may smoke, but such areas shall be conspicuously labelled as such and shall not constitute more than 50 percent of the total visitor waiting area in each section of the facility.

# City of Cambridge

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

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

(i) It shall be unlawful for any person having control of any premises or place in which smoking is prohibited by this ordinance to knowingly permit a violation of this ordinance. A person shall be held to have knowingly permitted a violation of this ordinance if a visitor to his or her premises observes one or more people smoking (other than in properly designated smoking areas) on three successive visits. Any licenses issued by this city to such person shall be subject to suspension for up to fifteen (15) days for a single violation of this subsection, and shall be subject to suspension for up to one year, or to revocation, for any successive violation.

(j) Any person who knowingly violates any provision of the ordinance, or who smokes in an area in which a "Smoking Prohibited by Law" notice is conspicuously posted as required by subsection (i) of this ordinance, shall be fined in an amount of not less than twenty-five (\$25.00) more more than one hundred (\$100.00) dollars.

(k) If any section, subsection, sentence, clause, phrase, or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinctly and independent provision and such holding shall not affect the validity of the remaining portions thereof.

In City Council September 15, 1975.

Passed to be ordained by a yea and nay vote: Yeas 9; Nays 0; Absent 0.

James L. Sullivan, City Manager.

ATTEST:- Paul E. Healy, City Clerk.



# City of Cambridge

In the Year One Thousand, Nine Hundred Eighty-One

## AN ORDINANCE

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

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

That Chapter Thirteen entitled "Offenses" is hereby amended as follows:

1. By inserting in section 13-4 entitled "Smoking Prohibited", as appearing in Ordinance Number 849 of September 15, 1975, after sub-section (e), the following subsection:

(e½) No person shall smoke in the areas of any restaurant used for food preparation, or in the areas open to the general public in any restaurant which has a seating capacity in excess of fifty (50) patrons, except that the management of any such restaurant may designate properly ventilated waiting lounge, and eating areas as smoking areas, provided that no more than 75 percent of the area available for each such purpose, and no more than 75 percent of the total seating capacity, may be so designated as smoking areas, and further provided that any area so designated be conspicuously labeled as such.

2. By inserting after said section 13-4 the following section:

Section 13-4A. Free distribution of smoking of tobacco products prohibited.

No person shall, except at full market price, in or upon any part of the streets, parks, public grounds, public buildings, or other public places within the City of Cambridge, distribute or allow to be distributed any smoking or tobacco product for any commercial purpose.

Any person who violates this section shall be punished by a fine of not less than twenty nor more than fifty dollars.

Passed to a second reading at the City Council meeting of December 7, 1981 and on or after December 21, 1981 the question comes on passing to be ordained.

ATTEST:- Paul E. Healy, City Clerk.

# Arts at a glance

Edited by Carol Buonomo

## Film

A Child's Christmas in Wales and The Nutcracker will be shown at the Modern Times Cafe, 134 Hampshire St., Cambridge, at 9 pm on December 19, \$2, call 354-8371.

Cambridge, on December 17, free, call 498-9065.

From Here to Eternity will be shown at the Modern Times Cafe, 134 Hampshire St., Cambridge, at 9 pm on December 19, \$2, call 354-8371.

West Side Story, with Natalie Wood, will be shown on December 22, 6:30, at the Central Square Branch Library, 45 Pearl St., Cambridge, free, call 498-9061.

Hell Night, Arthur, Time Bandits, Reds, Rollover, Cheech and Chong's Nice Dreams (with Up in Smoke), Excalibur and Buddy, Buddy are at the Sack Assembly Square Theater this week.

Life Goes to the Movies will be shown at the Somerville Public Library, 79 Highland Ave., on December 17, 5:30 pm, free. Off The Wall Cinema presents 75 Years of Animation-Nine from the Best Animation of the Seventies on December 17; That's Not All Folks begins on December 18 (with Martin the Cobbler/The Juggler of Notre Dame) on December 19 and 20, call 354-5678.

Montenegro, The Woman Next Door and The Dozens are featured at the Orson Welles Cinema through December 22, 1001 Massachusetts Ave., Cambridge, call 868-3603.

The Taming of the Shrew will be shown at the North Cambridge Branch Library, 70 Rindge Ave., Cambridge, on December 17 at 6 pm, free.

Bye Bye Birdie will be shown on December 17 at the Field Branch Library, 826 Cambridge St., Cambridge, at 7 pm, free.

Patterson and Laura Perish at the First Congregational Church, 11 Garden St., Cambridge, \$4, call 868-9600, ext. 449.

## Galleries

Local Visions: The Urban Environments is on exhibit through January 3 at the Hayden Corridor Gallery, Hayden Memorial Library Building, MIT, 160 Memorial Dr., Cambridge, call 253-4680.

Holiday Show and Sale by the Cambridge Art Association, 25B Lowell St., Cambridge, through December 23; a multi-media show and sale with most items priced from \$2-\$200, call 876-0246.

A Christmas Crafts and Prints Sale will be held at the Project Arts Center through December 24; Photographs from the Holy Land by Keith Johnson are on display at the Project Arts Photography Center through December 24; both events are at 141 Huron Ave., Cambridge; gallery hours are 9:30 am-5 pm, call 491-0187.

Creatures, by Jill Entis, are on display at the Gallery at Frameworks, 1967 Massachusetts Ave., Cambridge, through December 31 with a continuing display of stained glass windows and etched panels created by Condon Studios of Cambridge; hours are 10 am-6 pm (Monday, Friday and Saturday) and 10 am-9 pm (Tuesdays, Wednesdays and Thursdays), call 868-6797.

Architecture as Synthesis by Helmut Jahn, will be on display through December 18 at the Harvard Graduate School of Design, 48 Quincy St., Cambridge; 9 am-5 pm, free, call 495-4122.

A Tufts Student Art Exhibit will be held at the Gallery Eleven, Cohen Arts Center, Talbot Avenue, Tufts University through December 18, Monday-Saturday, 10 am-4 pm.

Open House/Christmas Sale will be held by ten Cambridgeport artists in their studios at 263, 265, 269 Pearl St., 489 Putnam Ave., 202, 259 Sidney St., and 18 Tufts St., from 12 pm, December 19-20, call 492-3464.

Ten Arrow Gallery is holding a group exhibition of work in ceramics, metal and blown glass through December 31; at 10 Arrow St., Cambridge, call 876-1117.

A Life of Design: Images and Objects by Charles and Ray Eames is on exhibit through January 15 at Polaroid's corporate headquarters, 549 Technology Square, Cambridge, call 547-8300 for times and prices.

Favourite Things: Home-made toys and objects for children, past and present are on display at the Sacramento Street Gallery, 20 Sacramento St., Cambridge, through December 23, call 547-1062.

Christmas Show and Sale will be held at the Radcliffe Pottery Studio, 345 Concord Ave., Cambridge, December 17 (5-9 pm) and December 18-20 (10 am-6 pm).

A Group Show of works by L. A. Miesel, Zeldia Gordon and Martha Cain, at the Bel Canto Restaurant, 253A Washington St., Somerville, throughout December, 10 am-9 pm.

## Theater

Silent Night, a holiday mime show, will be presented December 17-19 at 8 pm with a matinee on December 19 at 2 pm, at the Arena Theater, Talbot Avenue, Tufts University, \$3, children under 12 are free, call 623-3800.

The VIP's, Squirrels and Working Her Way Down will be performed through December 20 at the Hasty Pudding Theater, 12 Holyoke St., Harvard Square, Cambridge, by the American Premiere Stage; call 491-3342 for performance times and prices.

Sganarelle and Orlando will be performed from December 17-20 at the American Repertory Theatre, Loeb Drama Center, 64 Brattle St., Cambridge, call 547-8300 for times and prices.

A Child's Christmas in Wales will be performed on December 20, 4 and 9:30 pm, in the Modern Times Cafe, 134 Hampshire St., Cambridge, by the Thumb Tack Puppets, \$2, call 354-8371.

Ruby Christmas will be performed at the Peoples' Theater, 1253 Cambridge St., Cambridge, December 21 and 22, 8 pm, donations requested, call 354-2915 (non-5 pm).

The Diary of Anne Frank will be performed at the Blacksmith House, 56 Brattle St., Cambridge, on December 18-20, 8 pm, \$3, call 547-6789.

## Music

Jonathan Brahms will perform in a free non-hour concert at the MIT chapel on December 17.

A Mediterranean Christmas will be performed on December 23, 8 pm, by the Boston Camera in the Sanders Theatre, Harvard University; a special children's Christmas concert will be performed on December 19 at 2 pm in the Paine Hall, Harvard University; tickets are \$9 and \$7, \$4 student/senior citizen discounts are available at the door, children's performance is \$5, call 262-2092.

James Johnson will perform at the Busch-Reisinger Museum, Harvard University, 29 Kirkland St., Cambridge, on December 19 at 4:30 pm, \$3.

The Inn-Square Men's Bar (Ladies Invited) presents the Rubies and the Saxes on December 17; Planet St. and the Jackals on December 18; Face to Face on December 19; the Paul Rishell Band on December 20; the Rocket 89's on December 21; the Maynard Silva Band on December 22; and the Duke Robillard Band on December 23, 8 pm, \$3, call 491-2067 or 492-9639.

The Modern Times Cafe presents Peter Hughes on December 17 and Jackson Gillman on December 18; both shows are at 134 Hampshire St., Cambridge, \$2, call 354-8371.

The Longy Wind Ensemble will perform on December 19 at 8 pm and the Young Performers of Longy will perform on December 20 at 2 and 5:15 pm at the Longy School of Music, One Pollen St., Cambridge, free for both events, call 876-6956.

The Idler's Back Room presents Cormac McCarthy on December 17; David Massengill and Bill Morrissey on December 18-19; the Boston Excelsior Mandolin Society on December 20; Hoot with Bob Halperin on December 21; Sharon Lunsford on December 22; and Mimi Jones on December 23; all shows are at 123 Mount Auburn St., Harvard Square, Cambridge, call 491-2067 or 492-9639.

**Health & Beauty Sale**  
**YOUR CHOICE 99¢**

**Crest** 99¢ each  
Reg. mint or new gel 4.6 oz.

**Chapstick, Asst. Flavors** 2/99  
**Vaseline Pet. Jelly** 3.7 oz. .99  
**Q-Tip Swabs** Box of 54 2/99  
**Bromo Seltzer** 2 5/8 oz. .99  
**Merit Cotton Balls** bag of 300 2/99  
**Faberge Shampoo** 15 oz. Reg., Dry or X-Body .99  
**Merit Alcohol** 16 oz. 2/99  
**Pepsodent Tooth Brush** Soft, Med., Hard 2/99  
**Robitussin Cough Syrup** Reg. 2 1/2 oz. .99

HARVARD COOPERATIVE SOCIETY  
Harvard Square • MIT Children's Med. Center  
**the Coop**

## Storytelling

The Birth of a New Light is the title of a group storytelling concert featuring Richard Ashford, Ellen Block, Ingrid Furlong, Elaine Mahoney, Christine

**On Sunday December 20**  
**Join us at the Coop, Harvard Square at 3 pm for a Christmas Performance**  
by the  
**Erevan Choral Society and Ensemble**  
of the Holy Trinity Armenian Apostolic Church, Cambridge  
2nd Floor Balcony Main Building

**Great Gifts under \$20**

Choose from a variety of gifts under \$20, including many fine glass gifts like handblown decanters, ale mugs, barware and serving sets. We also have a fine selection of brass giftware under \$20.

**Brass Wall Sconce**  
adjustable, solid brass, sold separately.  
Reg. 25.00 **SALE 19.95**

**Hurricane Lamp**  
with candle from Toscana, imported hand blown crystal.  
Comp. Value \$24 **SALE 15.00**

**Christmas Cheese Board**  
from Pomerantz - perfect for holiday entertaining or a hostess gift. Reg. \$15 & \$20 **SALE \$12 & \$16**

**Brass Nightsticks**  
sauceur base, heavy weight, pair  
Comp. Value \$18 **SALE 12.00**

HARVARD COOPERATIVE SOCIETY  
Harvard Square • MIT • Medical Center  
**the Coop**

**J. AUGUST Co.**

Men's and Ladies 100% cotton  
**TURTLENECKS**  
10 colors  
**\$5.99** COMPARE TO \$11.99

Men's  
**OXFORD SHIRTS**  
BUTTON DOWN COLLAR  
**\$16.00** COMPARE TO \$25.00

**BOSTON TRADERS**  
Rag Wool **\$24.99**  
**SWEATERS**  
SOLD ELSEWHERE FOR \$29.99

Men's CREWNECK  
**SHETLAND SWEATERS**  
COMPARE TO \$25.99  
**\$15.99**  
•BROWN  
•GREEN  
•BLUE

Men's AND LADIES  
"FRENCH CONNECTION"  
**FLANNEL SHIRTS \$15.99**  
COMPARE TO \$22.00

"PALMETTO"  
LADIES FASHION WIDEWALE  
**CORDUROYS**  
CHOOSE FROM  
•YELLOW  
•VIOLET  
•BURG  
•TAN  
**\$18.99**  
COMPARE AT \$29.00

**GREAT GIFTS!**  
"ALL WOOL"  
PRICED FROM  
**\$3.99**

**HATS GLOVES SCARVES**

**Levi's JEANSWEAR**  
LEVI CORDS **\$11.99**  
BOOT LEG OR STRAIGHT LEG

GREAT GIFT IDEAL  
**HARVARD PILLOWS**  
CRIMSON & WHITE FOOTBALL PILLOWS  
**\$21.99**

Mon.-Sat. 10:00-10:00  
Sunday 12:00-6:00  
**J. August @**  
Across from Harvard Yard

**ATLAS MEANS "DISCOUNT" IN FINE WINES, TOO.**  
We Carry What You Want!

Louis Jadot  
Mondavi  
Sterling  
BV  
Souverain  
Clus du Bois  
Mirassou  
Sutter Home

La Vieille Ferme  
Sonoma Vineyards  
Giunara  
Caton-Segur 1970  
Cler Blanc  
La Cour Pavillon  
B & G Wines  
Ch. Margaux 1976

Macon Lugny  
Les Charmes 1979  
Ch. Lascombes 1975  
Cos D'Estouneul 1974  
Louis Latour  
Durcu-Beaucailhou 1976  
Petrus 1969

**Nouveau Beaujolais "1981"** limited quantities 750 ml **\$3.99**  
**North Coast Cellars "Zinfandel" "Cabernet Sauvignon" 750 ml \$2.69**

**156 MYSTIC AVE., MEDFORD 395-4400**

**COMMONWEALTH OF MASSACHUSETTS**  
Middlesex, Ss. Probate Court, No. 492750

**NOTICE OF FIDUCIARY ACCOUNT**  
To all persons interested in the estate of Carl A. Linger late of Cambridge, in said County, deceased.

You are hereby notified pursuant to Mass. R. Civ. P. Rule 77 that the fourth account of David Garrison Binger, Claudia Garrison Binger, and Harold Reemold as Trustees (the fiduciaries) under Trust Article 6 of the will of said deceased for the benefit of Claudia B. Binger and others has been presented to said Court for allowance.

If you desire to preserve your right to file an objection to said account, you or your attorney must file a written appearance in said Court at Cambridge on or before the fifth day of January, 1982, the return day of this citation. You may upon written request by registered or certified mail to the fiduciaries; obtain without cost a copy of said account. If you desire to object to any item of said account, you must, in addition to filing a written appearance as aforesaid, file within thirty days after said return day or within such other time as the Court upon motion may order a written statement of each such item together with the grounds for each objection thereto, a copy to be served upon the fiduciaries pursuant to Mass. R. Civ. P. Rule 5.

Witness, Sheila E. McGovern, Esquire, First Judge of said Court, this second day of December, 1981.

Paul J. Cavanaugh, Registrar

**COMMONWEALTH OF MASSACHUSETTS**  
Middlesex, Ss. Probate Court, No. 440474

**Summons by Publication**  
Estate of Tharal Nelson Plaintiff  
Tharal Nelson Defendant

To the above named defendant: A certain instrument purporting to be a will of said deceased, signed by Tharal Nelson, seeking a divorce from irretrievable breakdown (Section 19), was filed in said Court. You are required to serve upon John L. Fitch, plaintiff's attorney, who resides at 71 Duffley Street, Cambridge, Mass. 02140 your answer on or before January 25, 1982. If you fail to do so, the Court will proceed to the hearing and adjudication of this action. You are also required to file a copy of your answer in the office of the Registrar of this Court at Cambridge.

Witness Sheila E. McGovern, Esq., First Judge of said Court, December 30, 1981.

Paul J. Cavanaugh, Registrar

**OFFICE OF THE SCHOOL COMMITTEE**  
456 Broadway  
Cambridge, MA 02138

Sealed proposals will be received at the Office of the Manager of Procurement, 159 Thornecliffe Street, Cambridge, MA 02141, until 10:00 A.M. on Wednesday, December 30, 1981, at which time they will be publicly opened and read for proposals. The following are the items to be procured: Musical Instruments, Audio Visual and Photographic Equipment.

Specifications and forms of proposal will be available at the Office of the Manager of Procurement and after Friday, December 11, 1981.

William C. Lannon, Superintendent of Schools

**CITY OF CAMBRIDGE BOARD OF LICENSING COMMISSIONERS**

Notice is hereby given under General Laws, Chapter 128B, amended, that the Greck Gold, Inc., Sproly Lamson, Manager, holder of a license to sell all alcoholic beverages as provided at 2473 Massachusetts Avenue, has applied for a change of hours to sell all alcoholic beverages from 8 AM to 1 AM Monday, Tuesday and Wednesday, 8 AM to 2 AM Thursday, Friday and Saturday and 8 AM to 1 AM on Sunday. The hearing on this application will be held on Tuesday afternoon, December 29, 1981, at two o'clock, in the Walnut Room, Room 200, City Hall.

Mary E. Reagan, Daniel J. Cavanagh, License Commission

**CITY OF CAMBRIDGE BOARD OF LICENSING COMMISSIONERS**

Notice is hereby given under General Laws, Chapter 128B, amended, that Restaurant Blossa, Inc., d-b-a Arkadia, Sheila Bloom, Manager, has applied for a license to sell all alcoholic beverages as a restaurant at 58 Boylston Street, Restaurant Blossa, Inc., d-b-a Arkadia, 58 Boylston Street, President and Director: Argiris A. Karalis, Treasurer, and Hyman Bloom, Vice President, has applied for a hearing on this application will be held on Tuesday afternoon, December 29, 1981, at two o'clock, in the Walnut Room, Room 200, City Hall.

Mary E. Reagan, Daniel J. Cavanagh, License Commission

**COMMONWEALTH OF MASSACHUSETTS**  
Middlesex, Ss. Probate Court, No. 142310A

**Summons by Publication**  
Estate of William Morrison Young Plaintiff  
William Morrison Young Defendant

To the above named defendant: A complaint has been presented to this Court by your spouse, Claudia B. Young, seeking to dissolve the bonds of matrimony and for final adjudication of rights to alimony and division of property pursuant to M.G.L. c. 208, § 24. You are required to serve upon Edward W. McNulty, Plaintiff's attorney, who resides at 15 Mainway & Barnes, 60 State Street, Boston, MA 02109 your answer on or before January 19, 1982. If you fail to do so, the Court will proceed to the hearing and adjudication of this action. You are also required to file a copy of your answer in the office of the Registrar of this Court at Cambridge.

Witness, Sheila E. McGovern, Esq., First Judge of said Court, December 17, 1981.

Paul J. Cavanaugh, Registrar

**NOTICE OF PUBLIC HEARING**  
The Planning Board of the City of Cambridge will hold a public hearing on Tuesday, January 5, 1982 at 8:30 p.m. in the Community Development Office Conference Room, 57 Manly Street, Cambridge, MA.

The purpose of the hearing will be to receive comments on applications by the Wellington-Harrison Development Corporation for a Redevelopment Authority for a Special Permit to construct a 71 unit, housing development under Sections 4.25 and 11.10 of the Cambridge Zoning Ordinance on the above captioned property located at 290-376 Portland Street.

Copies of these applications are on file at the office of the City Clerk and the Cambridge Planning Department. For further information contact Elizabeth McCarthy at 498-3000.

Paul J. Cavanaugh, Registrar

**NOTICE OF PUBLIC HEARING**  
The Planning Board of the City of Cambridge will hold a public hearing on Tuesday, January 5, 1982 at 8:30 p.m. in the Community Development Office Conference Room, 57 Manly Street, Cambridge, MA.

The purpose of the hearing will be to receive comments on applications by the Wellington-Harrison Development Corporation for a Redevelopment Authority for a Special Permit to construct a 71 unit, housing development under Sections 4.25 and 11.10 of the Cambridge Zoning Ordinance on the above captioned property located at 290-376 Portland Street.

Copies of these applications are on file at the office of the City Clerk and the Cambridge Planning Department. For further information contact Elizabeth McCarthy at 498-3000.

Paul J. Cavanaugh, Registrar

**COMMONWEALTH OF MASSACHUSETTS**  
Middlesex, Ss. Probate Court, No. 539176

**NOTICE OF PROBATE WILL**  
Estate of Dominic Donato late of Cambridge, in said County, deceased.

A petition has been presented in said Court alleging that said Donato executed a certain instrument purporting to be a will of said deceased and that said instrument purporting to be a will of said deceased be admitted to probate.

Witness, Sheila E. McGovern, Esquire, First Judge of said Court, this twentieth day of November, 1981.

Paul J. Cavanaugh, Registrar

**NOTICE OF PUBLIC HEARING**  
The Planning Board of the City of Cambridge will hold a Public Hearing on Tuesday, January 5, 1982 at 7:30 P.M. in the Community Development Department Conference Room, City Hall Annex, 57 Manly Street, Cambridge, MA 02140.

A petition has been presented to said Court, praying that Jose Mojica of Cambridge, in said County, be appointed guardian with custody, without giving surety on his bond.

If you desire to object thereto you or your attorney should file a written appearance in said Court at Cambridge before the close of the hearing on the twentieth night of January, 1982, the return day of this citation.

Witness, Sheila E. McGovern, Esquire, First Judge of said Court, this seventeenth day of November, 1981.

Paul J. Cavanaugh, Registrar

**FIRST PUBLICATION NO. 2135**  
CITY OF CAMBRIDGE  
In the Year One Thousand, Nine Hundred Eighty-One

**AN ORDINANCE**  
In amendment to an ordinance entitled "The Zoning Ordinances of the City of Cambridge."

Be it ordained by the City Council of the City of Cambridge as follows: That the Mass Accompanying Ordinance No. 100, adopted on September 28, 1977 entitled "The Zoning Ordinances of the City of Cambridge" is hereby amended by changing the district designations for several of the Cambridge Zoning Districts in the area on the accompanying map, on the petition of Rosemarie Quinton.

Area	Existing Zoning	Proposed Zoning
1	Business B/Industry B	Business B
2	Industry A/Industry B	Industry B
3	Industry B/Business A/Business A-1	Residence C-1B
4	Industry B	Open Space
5	Industry A	Industry A-1
6	Business A/Business A-1	Residence C-1B
7	Industry A	Industry B
8	Industry B	Industry B-2
9	Industry A/Industry B	Open Space
10	Industry B	Fort Washington Open Space
11	Industry B	Industry B-2
12	Industry B	Industry B-2
13	Industry B	Industry B-2
14	Industry A/Office 3	Industry A-1
15	Residence C-1B and R-2	Open Space

**COMMONWEALTH OF MASSACHUSETTS**  
Middlesex, Ss. Probate Court, No. 303993

**NOTICE OF FIDUCIARY ACCOUNT**  
To all persons interested in the estate of Max H. Cleveland late of Cambridge, in said County, deceased.

You are hereby notified pursuant to Mass. R. Civ. P. Rule 77 that the third account of John W. Kierulff as trustee (the fiduciaries) under the will of said deceased for the benefit of Max H. Cleveland has been presented to said Court for allowance.

If you desire to preserve your right to file an objection to said accounts, you or your attorney must file a written appearance in said Court at Cambridge on or before the fifth day of January, 1982, the return day of this citation. You may upon written request by registered or certified mail to the fiduciaries; obtain without cost a copy of said account. If you desire to object to any item of said account, you must, in addition to filing a written appearance as aforesaid, file within thirty days after said return day or within such other time as the Court upon motion may order a written statement of each such item together with the grounds for each objection thereto, a copy to be served upon the fiduciaries pursuant to Mass. R. Civ. P. Rule 5.

Witness, Sheila E. McGovern, Esquire, First Judge of said Court, this second day of December, 1981.

Paul J. Cavanaugh, Registrar

**COMMONWEALTH OF MASSACHUSETTS**  
Middlesex, Ss. Probate Court, No. 539470

**NOTICE OF PROBATE WILL**  
Estate of Luberta M. McCabe late of Cambridge, in said County, deceased.

A petition has been presented in said Court alleging that said McCabe executed a certain instrument purporting to be a will of said deceased and that said instrument purporting to be a will of said deceased be admitted to probate.

Witness, Sheila E. McGovern, Esquire, First Judge of said Court, this twentieth day of November, 1981.

Paul J. Cavanaugh, Registrar

**COMMONWEALTH OF MASSACHUSETTS**  
Middlesex, Ss. Probate Court, No. 124940

**NOTICE OF FIDUCIARY ACCOUNT**  
To all persons interested in the estate of William B. Lambert late of Cambridge, in said County, deceased.

You are hereby notified pursuant to Mass. R. Civ. P. Rule 77 that the third account of John P. Teele and Edwin D. Brooks, Jr., as Trustees (the fiduciaries) under the will of said deceased for the benefit of Annie R. Lambert and others has been presented to said Court for allowance.

If you desire to preserve your right to file an objection to said accounts, you or your attorney must file a written appearance in said Court at Cambridge on or before the fifth day of January, 1982, the return day of this citation. You may upon written request by registered or certified mail to the fiduciaries; obtain without cost a copy of said account. If you desire to object to any item of said account, you must, in addition to filing a written appearance as aforesaid, file within thirty days after said return day or within such other time as the Court upon motion may order a written statement of each such item together with the grounds for each objection thereto, a copy to be served upon the fiduciaries pursuant to Mass. R. Civ. P. Rule 5.

Witness, Sheila E. McGovern, Esquire, First Judge of said Court, this twentieth day of November, 1981.

Paul J. Cavanaugh, Registrar

**COMMONWEALTH OF MASSACHUSETTS**  
Middlesex, Ss. Probate Court, No. 539222

**NOTICE OF PROBATE WILL**  
Estate of Albert E. Larson late of Cambridge, in said County, deceased.

A petition has been presented in said Court alleging that said Larson executed a certain instrument purporting to be a will of said deceased and that said instrument purporting to be a will of said deceased be admitted to probate.

Witness, Sheila E. McGovern, Esquire, First Judge of said Court, this twentieth day of November, 1981.

Paul J. Cavanaugh, Registrar

**COMMONWEALTH OF MASSACHUSETTS**  
Middlesex, Ss. Probate Court, No. 539470

**NOTICE OF PROBATE WILL**  
Estate of Luberta M. McCabe late of Cambridge, in said County, deceased.

A petition has been presented in said Court alleging that said McCabe executed a certain instrument purporting to be a will of said deceased and that said instrument purporting to be a will of said deceased be admitted to probate.

Witness, Sheila E. McGovern, Esquire, First Judge of said Court, this twentieth day of November, 1981.

Paul J. Cavanaugh, Registrar

**COMMONWEALTH OF MASSACHUSETTS**  
Middlesex, Ss. Probate Court, No. 539470

**NOTICE OF PROBATE WILL**  
Estate of Luberta M. McCabe late of Cambridge, in said County, deceased.

A petition has been presented in said Court alleging that said McCabe executed a certain instrument purporting to be a will of said deceased and that said instrument purporting to be a will of said deceased be admitted to probate.

Witness, Sheila E. McGovern, Esquire, First Judge of said Court, this twentieth day of November, 1981.

Paul J. Cavanaugh, Registrar

**COMMONWEALTH OF MASSACHUSETTS**  
Middlesex, Ss. Probate Court, No. 539470

**NOTICE OF PROBATE WILL**  
Estate of Luberta M. McCabe late of Cambridge, in said County, deceased.

A petition has been presented in said Court alleging that said McCabe executed a certain instrument purporting to be a will of said deceased and that said instrument purporting to be a will of said deceased be admitted to probate.

Witness, Sheila E. McGovern, Esquire, First Judge of said Court, this twentieth day of November, 1981.

Paul J. Cavanaugh, Registrar

**COMMONWEALTH OF MASSACHUSETTS**  
Middlesex, Ss. Probate Court, No. 539470

**NOTICE OF PROBATE WILL**  
Estate of Luberta M. McCabe late of Cambridge, in said County, deceased.

A petition has been presented in said Court alleging that said McCabe executed a certain instrument purporting to be a will of said deceased and that said instrument purporting to be a will of said deceased be admitted to probate.

Witness, Sheila E. McGovern, Esquire, First Judge of said Court, this twentieth day of November, 1981.

Paul J. Cavanaugh, Registrar

**COMMONWEALTH OF MASSACHUSETTS**  
Middlesex, Ss. Probate Court, No. 539470

**NOTICE OF PROBATE WILL**  
Estate of Luberta M. McCabe late of Cambridge, in said County, deceased.

A petition has been presented in said Court alleging that said McCabe executed a certain instrument purporting to be a will of said deceased and that said instrument purporting to be a will of said deceased be admitted to probate.

Witness, Sheila E. McGovern, Esquire, First Judge of said Court, this twentieth day of November, 1981.

Paul J. Cavanaugh, Registrar

**CAMBRIDGE HOUSING AUTHORITY OFFICE OF PLANNING AND DEVELOPMENT**

**REQUESTS FOR PROPOSAL**  
The Cambridge Housing Authority will accept proposals for Substantially Rehabilitated housing units under the Public Housing Program to be located in Cambridge, Massachusetts to be known as 3-21.

Interested persons may obtain forms for not more than 175 units to be provided in an elevator structure and townhouse/low and/or walk-up structures. The following is the maximum number of units for each size category and the total number of units to be provided in each category as described in Part 1, Section 4 of the Developer's Packet.

No. of Bedrooms	Elderly	Family
0	0	0
1	0	21
2	0	25
3	0	99
4	0	20
5	0	20
6	0	20
7	0	20
8	0	20
9	0	20
10	0	20
11	0	20
12	0	20
13	0	20
14	0	20
15	0	20
16	0	20
17	0	20
18	0	20
19	0	20
20	0	20
21	0	20
22	0	20
23	0	20
24	0	20
25	0	20
26	0	20
27	0	20
28	0	20
29	0	20
30	0	20
31	0	20
32	0	20
33	0	20
34	0	20
35	0	20
36	0	20
37	0	20
38	0	20
39	0	20
40	0	20
41	0	20
42	0	20
43	0	20
44	0	20
45	0	20
46	0	20
47	0	20
48	0	20
49	0	20
50	0	20
51	0	20
52	0	20
53	0	20
54	0	20
55	0	20
56	0	20
57	0	20
58	0	20
59	0	20
60	0	20
61	0	20
62	0	20
63	0	20
64	0	20
65	0	20
66	0	20
67	0	20
68	0	20
69	0	20
70	0	20
71	0	20
72	0	20
73	0	20
74	0	20
75	0	20
76	0	20
77	0	20
78	0	20
79	0	20
80	0	20
81	0	20
82	0	20
83	0	20
84	0	20
85	0	20
86	0	20
87	0	20
88	0	20
89	0	20
90	0	20
91	0	20
92	0	20
93	0	20
94	0	20
95	0	20
96	0	20
97	0	20
98	0	20
99	0	20
100	0	20

Developers proposals will also have to provide for non-swimming space as part of the project and provide for swimming pool for not more than 175 units to be provided in an elevator structure and townhouse/low and/or walk-up structures. The following is the maximum number of units for each size category and the total number of units to be provided in each category as described in this Packet. The maximum amounts of non-swimming space are as follows:

Management Space	Total
2,000	2,000
Maintenance Space	3,000
Health Care	3,250
Child Care	3,000
Total	11,250

The actual construction of non-swimming space to be performed by the Developer may be for an area significantly less than described above. If proposals are written for more than 175 units, the actual construction of non-swimming space will be subject to limitations stated in the Developer's Packet.

Interested persons should obtain a Developer's Packet at a cost of \$25.00 per packet. The packet is available for pickup or delivery by the designated developer, which provides detailed project information and submission requirements from the Cambridge Housing Authority, 678 Massachusetts Avenue, Cambridge, MA 02139, (617) 864-3020. Turnkey Developer's Packet will be available beginning on Wednesday, December 16, 1981 at 11:00 A.M. Packets may be obtained Monday through Friday, 9 a.m. to 12:00 p.m. at the Planning and Development Office, 278 North Street, Cambridge, MA 02139.

Any written communication will use the Green Street address. Equally important Opportunity Guidelines shall be strictly enforced on this project.

(C)Dec 17, 24, 31

**COMMONWEALTH OF MASSACHUSETTS**  
Middlesex, Ss. Probate Court, No. 539470

**NOTICE OF PROBATE WILL**  
Estate of Luberta M. McCabe late of Cambridge, in said County, deceased.

A petition has been presented in said Court alleging that said McCabe executed a certain instrument purporting to be a will of said deceased and that said instrument purporting to be a will of said deceased be admitted to probate.

Witness, Sheila E. McGovern, Esquire, First Judge of said Court, this twentieth day of November, 1981.

Paul J. Cavanaugh, Registrar

**COMMONWEALTH OF MASSACHUSETTS**  
Middlesex, Ss. Probate Court, No. 539470

**NOTICE OF PROBATE WILL**  
Estate of Luberta M. McCabe late of Cambridge, in said County, deceased.

A petition has been presented in said Court alleging that said McCabe executed a certain instrument purporting to be a will of said deceased and that said instrument purporting to be a will of said deceased be admitted to probate.

Witness, Sheila E. McGovern, Esquire, First Judge of said Court, this twentieth day of November, 1981.

Paul J. Cavanaugh, Registrar

**COMMONWEALTH OF MASSACHUSETTS**  
Middlesex, Ss. Probate Court, No. 539470

**NOTICE OF PROBATE WILL**  
Estate of Luberta M. McCabe late of Cambridge, in said County, deceased.

A petition has been presented in said Court alleging that said McCabe executed a certain instrument purporting to be a will of said deceased and that said instrument purporting to be a will of said deceased be admitted to probate.

Witness, Sheila E. McGovern, Esquire, First Judge of said Court, this twentieth day of November, 1981.

Paul J. Cavanaugh, Registrar

**COMMONWEALTH OF MASSACHUSETTS**  
Middlesex, Ss. Probate Court, No. 539470

**NOTICE OF PROBATE WILL**  
Estate of Luberta M. McCabe late of Cambridge, in said County, deceased.

A petition has been presented in said Court alleging that said McCabe executed a certain instrument purporting to be a will of said deceased and that said instrument purporting to be a will of said deceased be admitted to probate.

Witness, Sheila E. McGovern, Esquire, First Judge of said Court, this twentieth day of November, 1981.

Paul J. Cavanaugh, Registrar

**COMMONWEALTH OF MASSACHUSETTS**  
Middlesex, Ss. Probate Court, No. 539470

**NOTICE OF PROBATE WILL**  
Estate of Luberta M. McCabe late of Cambridge, in said County, deceased.

A petition has been presented in said Court alleging that said McCabe executed a certain instrument purporting to be a will of said deceased and that said instrument purporting to be a will of said deceased be admitted to probate.

Witness, Sheila E. McGovern, Esquire, First Judge of said Court, this twentieth day of November, 1981.

Paul J. Cavanaugh, Registrar

**COMMONWEALTH OF MASSACHUSETTS**  
Middlesex, Ss. Probate Court, No. 539470

**NOTICE OF PROBATE WILL**  
Estate of Luberta M. McCabe late of Cambridge, in said County, deceased.

A petition has been presented in said Court alleging that said McCabe executed a certain instrument purporting to be a will of said deceased and that said instrument purporting to be a will of said deceased be admitted to probate.

Witness, Sheila E. McGovern, Esquire, First Judge of said Court, this twentieth day of November, 1981.

Paul J. Cavanaugh, Registrar

**COMMONWEALTH OF MASSACHUSETTS**  
Middlesex, Ss. Probate Court, No. 539470

**NOTICE OF PROBATE WILL**  
Estate of Luberta M. McCabe late of Cambridge, in said County, deceased.

A petition has been presented in said Court alleging that said McCabe executed a certain instrument purporting to be a will of said deceased and that said instrument purporting to be a will of said deceased be admitted to probate.

Witness, Sheila E. McGovern, Esquire, First Judge of said Court, this twentieth day of November, 1981.

Paul J. Cavanaugh, Registrar

**COMMONWEALTH OF MASSACHUSETTS**  
Middlesex, Ss. Probate Court, No. 539470

**NOTICE OF PROBATE WILL**  
Estate of Luberta M. McCabe late of Cambridge, in said County, deceased.

A petition has been presented in said Court alleging that said McCabe executed a certain instrument purporting to be a will of said deceased and that said instrument purporting to be a will of said deceased be admitted to probate.

Witness, Sheila E. McGovern, Esquire, First Judge of said Court, this twentieth day of November, 1981.

Paul J. Cavanaugh, Registrar

**COMMONWEALTH OF MASSACHUSETTS**  
Middlesex, Ss. Probate Court, No. 539470

**NOTICE OF PROBATE WILL**  
Estate of Luberta M. McCabe late of Cambridge, in said County, deceased.

A petition has been presented in said Court alleging that said McCabe executed a certain instrument purporting to be a will of said deceased and that said instrument purporting to be a will of said deceased be admitted to probate.

Witness, Sheila E. McGovern, Esquire, First Judge of said Court, this twentieth day of November, 1981.

Paul J. Cavanaugh, Registrar

Copyright 1980, David W. Stone

Veterans Post

1 Cedar St

existing zoning - BB

proposed zoning - Res B

as indicated on Assessors Plat #191  
lot # 4

*Smoking ordinance*

MOTION FOR RECONSIDERATION SUBMITTED BY COUNCILLOR

GRAHAM

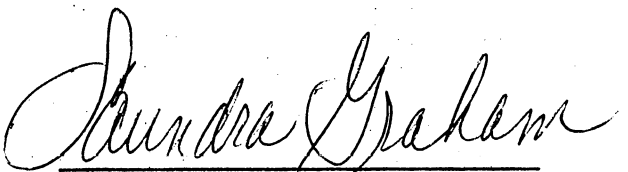
---

December 22, 1981

---

Date

Councillor Graham has notified the City Clerk of her intention to move Reconsideration of the vote of the City Council on December 21, 1981 failing to pass to be ordained a proposed amendment to the General Ordinances of the City of Cambridge in Chapter Thirteen entitled "Offenses" by adding a new subsection (e $\frac{1}{2}$ ) relative to smoking in restaurants with a seating capacity in excess of 50 patrons and also by adding a new subsection 13-4A entitled "Free distribution of smoking of tobacco products prohibited".



Signature

# City of Cambridge

MASSACHUSETTS

In City Council

12/21

1981

*CWTS MOTION TO BR  
TO MOVE RECONSIDERATION  
FAILED -*

	YEA	NAY	ABSENT	PRESENT
Mr. Kevin P. Crane	✓			
Mr. Thomas W. Danehy	✓	✓		
Ms. Sandra Graham		✓		
Mr. Leonard J. Russell	✓			
Mr. David E. Sullivan		✓		
Mr. Walter J. Sullivan	✓			
Mr. Alfred Vellucci	✓			
Mr. David A. Wylie		✓		
Mayor Francis H. Duehay		✓		

*4 5 0*

*Motion to Suspend Rules failed*

*C. W. Sullivan - Motion to Reject -*

# City of Cambridge

MASSACHUSETTS

In City Council December 21 1981

*IV*

## VOTE OF CITY COUNCIL ON PROPOSED SMOKING RESTRICTION RESTAURANT ORDINANCE -

	YEA	NAY	ABSENT	PRESENT
Mr. Kevin P. Crane	✓			
Mr. Thomas W. Danehy	✓			
Ms. Sandra Graham		✓		
Mr. Leonard J. Russell	✓			
Mr. David E. Sullivan		✓		
Mr. Walter J. Sullivan	✓			
Mr. Alfred Vellucci	✓			
Mr. David A. Wylie		✓		
Mayor Francis H. Duehay		✓		

*5 4 0*

*C. W. Sullivan  
for  
Failed  
See Roll Call*

*Motion to Reject*

*Carried 5-4-0*

# City of Cambridge

MASSACHUSETTS

In City Council

12/21

1981

*III*  
*Public*  
*Amendment*

	YEA	NAY	ABSENT	PRESENT
Mr. Kevin P. Crane		✓		
Mr. Thomas W. Danehy		✓		
Ms. Sandra Graham			✓	
Mr. Leonard J. Russell		✓		
Mr. David E. Sullivan	✓			
Mr. Walter J. Sullivan		✓		
Mr. Alfred Vellucci		✓		
Mr. David A. Wylie	✓			
Mayor Francis H. Duehay	✓			

2 5 1

*Amendment*  
*failed*

# City of Cambridge

MASSACHUSETTS

In City Council

12/21

1981

*II*

Councilor David Sullivan Amendment

	YEA	NAY	ABSENT	PRESENT
Mr. Kevin P. Crane		✓		
Mr. Thomas W. Danehy			✓	
Ms. Sandra Graham	✓			
Mr. Leonard J. Russell		✓		
Mr. David E. Sullivan	✓			
Mr. Walter J. Sullivan		✓		
Mr. Alfred Vellucci		✓		
Mr. David A. Wylie	✓			
Mayor Francis H. Duehay	✓			

4 4 1

City Solicitor has problems with this amendment  
Chair rules the amendment fails

12/14/81

*Wylie*

AN AMENDMENT TO CAMBRIDGE ORDINANCE NO.

The requirement to establish a no-smoking section shall not apply to any restaurant which

- a) has mechanical ventilation equipment that produces a ventilation rate of at least 140 cubic feet per minute (c.f.m.) per person in the smoking area of the restaurant, and
- b) has mechanical ventilation equipment that produces a ventilation rate of at least 28 c.f.m. per person in the no-smoking area of the restaurant.

If the restaurant's mechanical ventilation equipment is not functioning at full capacity, the restaurant shall abide by the no-smoking section requirements of this ordinance until its mechanical ventilation equipment is again functioning at full capacity.

A sign indicating either the availability or unavailability of a no-smoking section shall be conspicuously posted at the entrance of every restaurant.

An employee of any restaurant which has a no-smoking section shall ask patrons upon entering the restaurant in which section they prefer to be seated.

*- Wylie Amendment Passed -*

3-5-1

D. Sullivan

12/21/81

Amend the proposed smoking ordinance by striking out section 2 and inserting in its place the following section:

2. That Chapter Seventeen entitled "Public Works" is hereby amended by inserting after section 17-41 the following section:  
Section 17-41A. Free distribution of smoking or tobacco products prohibited.

In order to avoid obstruction and congestion of public ways and places, to control litter, and to protect pedestrians from annoyance and invasion of privacy, no person shall, except at full market price, in or upon any part of the streets, parks, public grounds, public buildings, or other public places within the city of Cambridge, distribute or allow to be distributed any smoking or tobacco product for any commercial purpose.

Any person who violates this section shall be punished by a fine of not less than twenty nor more than fifty dollars.

*D. Sullivan Amendment*

*Filed*

*on*

*Nov. Conc.*

*4-4-1*

*12/21/81*

# City of Cambridge

MASSACHUSETTS

In City Council

12/21

1981

*I*

*L. W. J. Sullivan Amendment Granted  
Striking out 2nd Paragraph  
of Proposed Ordinance*

	YEA	NAY	ABSENT	PRESENT
Mr. Kevin P. Crane	✓			
Mr. Thomas W. Danehy	✓			
Ms. Sandra Graham		✓		
Mr. Leonard J. Russell	✓			
Mr. David E. Sullivan		✓		
Mr. Walter J. Sullivan	✓			
Mr. Alfred Vellucci	✓			
Mr. David A. Wylie		✓		
Mayor Francis H. Duehay		✓		

*5 4 0*

# City of Cambridge

MASSACHUSETTS

In City Council

12/7/

1981

*EPS*  
*III*

*Passed to Final Reading*

	YEA	NAY	ABSENT	PRESENT
Mr. Kevin P. Crane		✓		
Mr. Thomas W. Danehy		✓		
Ms. Sandra Graham	✓			
Mr. Leonard J. Russell		✓		
Mr. David E. Sullivan	✓			
Mr. Walter J. Sullivan		✓		
Mr. Alfred Vellucci	✓			
Mr. David A. Wylie	✓			
Mayor Francis H. Duehay	✓			

5 4 0

*Passed to Final Reading*  
*Ready for ordination 12/21/81*

*E. W. T. S.  
Mayor  
Report*

# City of Cambridge

MASSACHUSETTS

In City Council

12/7 1981

*IV  
E. W. T. S.*

*Rejection failed*

	YEA	NAY	ABSENT	PRESENT
Mr. Kevin P. Crane	✓			
Mr. Thomas W. Danehy	✓			
Ms. Sandra Graham		✓		
Mr. Leonard J. Russell	✓			
Mr. David E. Sullivan		✓		
Mr. Walter J. Sullivan	✓			
Mr. Alfred Vellucci		✓		
Mr. David A. Wylie		✓		
Mayor Francis H. Duehay		✓		

*4 5 0*

# City of Cambridge

MASSACHUSETTS

In City Council

12/7

198 1

*Reconsideration*

*Ordinance # 19*

*L.W.S. Reconsideration Granted*

	YEA	NAY	ABSENT	PRESENT
Mr. Kevin P. Crane	✓			
Mr. Thomas W. Danehy	✓			
Ms. Sandra Graham		✓		
Mr. Leonard J. Russell	✓			
Mr. David E. Sullivan		✓		
Mr. Walter J. Sullivan	✓			
Mr. Alfred Vellucci	✓			
Mr. David A. Wylie		✓		
Mayor Francis H. Duehay		✓		

*5 4 0 0*

*Spinning Restrictions Amendment  
Chapter 23*

*back one as 19*

MOTION FOR RECONSIDERATION SUBMITTED BY COUNCILLOR

RECEIVED BY  
OFFICE OF CITY CLERK

Russell

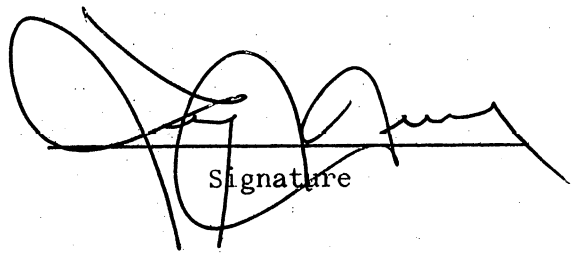
NOV 24 9 43 AM '81

CAMBRIDGE, MASS.

*11/24/81*

Date

Councillor Russell has notified the City Clerk of his intention to move reconsideration of the vote of the City Council on November 23, 1981 passing to a second reading a proposed amendment to Chapter Thirteen relative to smoking in public places.

  
Signature

*Councilman Wylie -*

# City of Cambridge

MASSACHUSETTS

In City Council

*11/22/*

1981

*#10  
Lumber*

*Motion To Pass To End Reading*

	YEA	NAY	ABSENT	PRESENT
Mr. Kevin P. Crane		✓		
Mr. Thomas W. Danehy		✓		
Ms. Sandra Graham	✓			
Mr. Leonard J. Russell		✓		
Mr. David E. Sullivan	✓			
Mr. Walter J. Sullivan			✓	
Mr. Alfred Vellucci	✓			
Mr. David A. Wylie	✓			
Mayor Francis H. Duehay	✓			

*5 3 1*

*Passed To End Reading -*

*Reconsideration moved by Councilman Russell*

*COUNCILOR WYLIE MOTION TO SECOND READING*

# City of Cambridge

MASSACHUSETTS

In City Council

*11/23*

1981

*#10 COMMUNICATIONS LIST -  
RESTRICTIONS ON SMOKING IN RESTAURANTS*

	YEA	NAY	ABSENT	PRESENT
Mr. Kevin P. Crane		✓		
Mr. Thomas W. Danehy		✓		
Ms. Sandra Graham	✓			
Mr. Leonard J. Russell		✓		
Mr. David E. Sullivan	✓			
Mr. Walter J. Sullivan			✓	
Mr. Alfred Vellucci	✓			
Mr. David A. Wylie	✓			
Mayor Francis H. Duehay	✓			

*5 3 1*

*Passed to 2nd Reading*

*- COUNCILOR ROSSON MOVED RECONSIDERATION*



# CITY OF CAMBRIDGE

CITY HALL, CAMBRIDGE, MASSACHUSETTS 02139 • (617) 498-9020

## LAW DEPARTMENT

RUSSELL B. HIGLEY  
CITY SOLICITOR

December 3, 1981

MICHAEL C. COSTELLO  
ASSISTANT CITY SOLICITOR

EDWARD A. CUNNINGHAM  
SEVERLIN B. SINGLETON  
DAVID B. O'CONNOR  
BIRGE ALBRIGHT  
LEGAL COUNSEL

Mr. Robert W. Healy  
City Manager  
City Hall  
Cambridge, Massachusetts

Dear Mr. Healy:

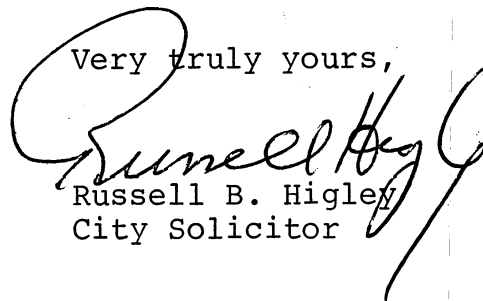
You have asked my opinion as to the legality and constitutionality of a proposed amendment to the "smoking ordinance" which, if passed would, among other things, prohibit the distribution of free tobacco products.

Please be advised that I am in receipt of two detailed legal briefs which relate to this amendment, and I am currently reviewing these with members of my staff.

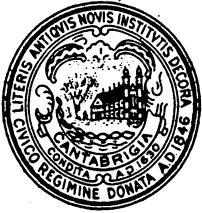
Although I am not able to provide you with an opinion for the Council Meeting of December 7, 1981 I hope to provide a response by December 14, 1981.

I would however, state that although my review is incomplete I do feel the concern of the Council is valid at this time since it would appear the U.S. Code 1331-1339 would prohibit such an amendment.

Very truly yours,

  
Russell B. Higley  
City Solicitor

RBH:cp



# CITY OF CAMBRIDGE

CAMBRIDGE, MASSACHUSETTS 02139  
Tel. 498-9011

EXECUTIVE DEPARTMENT  
ROBERT W. HEALY  
City Manager

December 7, 1981

To the Honorable, the City Council:

Enclosed please find copy of a report from Russell B. Higley, City Solicitor, relative to the legality and constitutionality of a proposed amendment to the "smoking ordinance".

Very truly yours,

Robert W. Healy  
City Manager

RWH/mbf  
Enc.

Agenda Item Number Sixteen

Re: the legality and constitutionality of a  
proposed amendment to the "smoking ordinance".

In City Council,

December 7, 1981

12/7/81

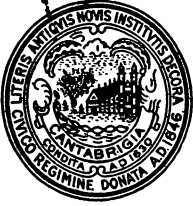
Note Calendar #19

Which was passed

to a second reading

from Phoenix File

copy with Dad papers-



# CITY OF CAMBRIDGE

CITY HALL, CAMBRIDGE, MASSACHUSETTS 02139 • (617) 498-9020

## LAW DEPARTMENT

RUSSELL B. HIGLEY  
CITY SOLICITOR

MICHAEL C. COSTELLO  
ASSISTANT CITY SOLICITOR

EDWARD A. CUNNINGHAM  
SEVERLIN B. SINGLETON  
DAVID B. O'CONNOR  
BIRGE ALBRIGHT  
LEGAL COUNSEL

December 9, 1981

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

Re: Proposed Ordinance Regulating Smoking in  
Restaurants and Prohibiting Distribution  
of Free Tobacco Products in Public Places

Dear Mr. Healy:

By letter of November 23, 1981, Paul E. Healy, City Clerk, informed me that the City Council has requested my opinion regarding the constitutionality of the attached proposed Ordinance and also regarding the question of whether section one thereof would apply to beano games or to dining halls in local universities.

Before preparing this opinion, I received a Memorandum of Law prepared by Professor Richard A. Daynard on behalf of the Ordinance's proponents and a brief submitted by the Tobacco Institute.

My conclusions are as follows:

### CONCLUSION

Section 1 of the Ordinance requiring no-smoking areas in restaurants is constitutional. The term "restaurant" does not include beano games or university dining halls.

Section 2 of the Ordinance is constitutional, but it may be barred by §5(b) of the Public Health Cigarette Smoking Act of 1969 (15 U.S.C., §1334(b)).

I. Proposal to Ban Smoking in Restaurants Seating more than 50, except that Restaurant may Establish Smoking Areas Consisting of not more than 75% of Seating Capacity.

A. Beano Games and Dining Halls in Local Universities

Section one of the proposed Ordinance applies only to "restaurants," which are defined as follows in G.L. c. 138, §1:

"Restaurant," space, in a suitable building, leased or rented or owned by a person holding a...license as a common victualler under (G.L. c. 140)...

I am informed by the Cambridge License Commission that neither beano games nor university dining halls are required to obtain common victualler's licenses, and, therefore, I conclude that they are not "restaurants."

B. Equal Protection

The Tobacco Institute correctly points out that a "classification must be reasonable, not arbitrary, and must rest upon some ground of difference having a fair and substantial relation to the object of the legislation, so that all persons similarly circumstanced shall be treated alike." Reed v. Reed, 404 U.S. 71, 76 (1971); Brief, 3.

The apparent purpose of section 1 is to protect the health and rights of nonsmokers. The Tobacco Institute argues that no reliable, scientific evidence exists to support the assumption that exposure to tobacco smoke is harmful to the health of nonsmokers and that the vast majority of nonsmokers do not find smoking to be a matter of concern. Brief, 4. The Council must, of course, address these questions.

If the Council disagrees with the Tobacco Institute and concludes that smoking does pose a health hazard and that a significant number of nonsmokers are concerned about it, the Institute still argues that "there is simply no rational basis for concluding that achievement of the ordinance's purpose depends upon the nature and size of the establishment involved," Brief, 4, and that the classifications established by the Ordinance - "restaurants" and "restaurants seating more than 50 people" are "wholly arbitrary." Brief 4, 5.

In my opinion, the classifications established by the Ordinance are not wholly arbitrary. The Council might decide that people who go to a restaurant for a meal are less likely to want to smoke than people who go to a bar for a drink. Similarly, it might decide that it makes sense to have a no-smoking area in larger restaurants but not in smaller restaurants. If smoking causes a health problem, the Council is not obliged to solve the entire problem at once. As the Supreme Court stated in Williamson v. Lee Optical Co., 348 U.S. 483, 489 (1955):

... The problem of legislative classification is a perennial one, admitting of no doctrinaire definition. Evils in the same field may be of different dimensions and proportions, requiring different remedies. Or so the legislature may think.... Or the reform may take one step at a time, addressing itself to the phase of the problem which seems most acute to the legislative mind.... The legislature may select one phase of one field and apply a remedy there, neglecting the others....

The Institute cites Alford v. City of Newport News, 220 Va. 584, 260 SE 2d 241 (1979), Brief, 5, but that case is not in point. The facts there were as follows: Defendant Alford, who operated a restaurant was convicted of failing to comply with a no-smoking ordinance. The ordinance prohibited smoking in any restaurant seating 50 or more, except in designated smoking areas, and required the posting of "No Smoking" signs. The city attorney testified that "the way we are attempting to enforce the ordinance (is) by allowing one table" to be designated as a nonsmoking area. 260 SE 2d at 242. The Court struck down the Ordinance, as applied, because the means employed, a no-smoking area of only one table, was not reasonably suited to the achievement of the goal, protecting the nonsmoking public. The proposed Cambridge Ordinance requires that the no-smoking area be at least 25% of the seating capacity.

### C. Due Process

The Tobacco Institute next argues that the Ordinance is also defective, "because it does not adequately define the conduct being prohibited." Brief, 5-6. The test is that "...a statute which either forbids or requires the doing of an act in terms so vague that men of common intelligence must necessarily guess at its meaning and differ as to its application, violates the first essential of due process of law." Cramp v. Bd. of Public Instruction, 368 U.S. 278, 287 (1961).

On the other hand, "it has been held that a statute is not unconstitutionally vague where it is set out in terms that the ordinary person exercising ordinary common sense can sufficiently understand and comply with.... If the meaning of terms employed in the statute has long been recognized in law and life, they will be considered sufficiently definite." 16A Am. Jur. 2d, Constitutional Law, §818, p. 988, 989 (1979).

Furthermore, "...in view of the strong presumptive validity of a legislative act, statutes are not automatically invalidated as vague simply because difficulty is found in determining whether certain marginal offenses fall within their language. The 'void for vagueness' doctrine does not require straining to inject doubt as to the meaning of words in a statute where no doubt would be felt by the normal reader, and the United States Supreme Court will not indulge in such straining. United States v. Powell, 423 U.S. 87, 93 (1975).... all that is necessary is that the language convey sufficiently definite warning as to the proscribed conduct when measured by common understanding and practices; that there may be marginal cases in which it is difficult to determine the side of the line on which a particular fact situation falls is no sufficient reason to hold the language too ambiguous to define a criminal offense...." 16A Am. Jur. 2d, Constitutional Law, §818, pp. 991, 992 (1979).

In light of the foregoing principles, I am of the opinion that section 1 is not impermissibly vague in violation of the Due Process Clause.

D. Right of Privacy and Rights Associated with Ownership of Real Property

Although it may be true that "courts have long recognized that governmental intrusion into private, personal activities can be justified only by substantial and compelling state interests" (Institute Brief, 8); see, e.g., Griswold v. Connecticut, 381 U.S. 479 (1965) (right of marital privacy), I doubt that smoking in a restaurant is such an activity.

The two smoking cases cited by the Institute, (Brief, 9) are not in point. City of Zion v. Behrens, 262 Ill. 510, 104 N.E. 836 (1914), held that an ordinance making it an offense to use or carry tobacco on any of the streets or in the parks or public buildings of a municipality could not be sustained as a valid police regulation, because the streets were so wide and the parks so large that smoking therein could not offend others. The smoking in question occurred on a street. The Court said:

...we have no doubt that power exists to prohibit smoking in certain public places, such as street cars, theaters,

and like places where large numbers of persons are crowded together in a small place.

104 N.E. at 837.

Hershberg v. City of Barboursville, 142 Ky. 60, 133 S.W. 985 (1911) is another example of an over-inclusive ordinance. There, the ordinance prohibited smoking cigarettes "within the corporate limits of the city...." In holding the ordinance void, the Court stated:

The ordinance is so broad as to prohibit one from smoking a cigarette in his own home or on any private premises in the city.

133 S.W. at 986

The proposed Cambridge Ordinance is, of course, readily distinguishable from those considered in City of Zion and Hershberg. It is more like the ordinance upheld in State v. Heidenhain, 42 La. Ann. 483, 7 So. 621 (1890), which prohibited smoking in street cars.

It is true that recent cases have held that anti-smoking groups cannot force the government to restrict smoking in public places. See cases cited in Institute Brief, 10. But these holdings do not, of course, mean that the government cannot act if it chooses. See, e.g., Gasper v. Louisiana Stadium & Exposition District, 577 F2d 897, 898 (CA5, 1978):

We assume that the Superdome authorities, if they saw fit, could prohibit smoking in the facility, or the City of New Orleans in the exercise of its police power could prohibit smoking in public stadiums...

See 7 McQuillin, Municipal Corporations, §24.239 (3rd ed. rev., 1981); 62 C.J.S., Municipal Corporations, §302 (1949); Annot., "Constitutionality of anti-cigarette legislation," 20 ALR 926 (1922).

Although it is true that the Supreme Court has recently extended certain constitutional protections to private commercial establishments (Institute Brief, 9), I doubt that these protections would allow a restaurant to resist the enforcement of a reasonable ordinance designed to protect the health of its patrons.

### E. Federal Preemption

The institute finally argues that this area has been preempted by the Occupational Safety and Health Act of 1970 (OSHA), 29 U.S.C., §§651 et seq. I am not convinced by this argument, especially in view of the fact that the proposed Ordinance is apparently designed to protect the health of a restaurant's patrons, not its employees. See 61 Am. Jur. 2d, Plant and Job Safety - OSHA and State Laws, §§3, 25, 128 (1981).

As a matter of fact, 29 U.S.C., §653(b)(4) recognizes concurrent state power to act either legislatively or judicially under the common law with regard to occupational safety. See Shimp v. N. J. Bell Tel. Co., 145 N.J. Super. 516, 368 A2d 408, 411 (1976) (employee entitled to injunction requiring employer to establish no-smoking area).

### II. Proposal to Prohibit Distribution of Free Tobacco Products in Public Places.

Section 5(b) of the Public Health Cigarette Smoking Act of 1969, 15 U.S.C., §1334(b), states:

No requirement or prohibition based on smoking and health shall be imposed under State law with respect to the advertising or promotion of any cigarettes the packages of which are labeled in conformity with the provisions of this Act.

Does this provision prevent Cambridge from adopting section 2 of the proposed Ordinance?

The question of whether Congress intends to occupy a given field in such a way as to exclude the operation of state and local laws depends on the facts in the particular case. 81A C.J.S., States, §24(b) (1977). But "...the intention of Congress to exclude the states from exercising their reserved powers must be clearly manifested, and the courts will not lightly infer that Congress by mere passage of a federal act has impaired the traditional sovereignty of the states...." Id. at 330. The burden is on the proponent of federal preemption to state a strong case. Druker v. Sullivan, 334 F. Supp. 861, 862 (D. Mass., 1971), aff'd 458 F2d 1272.

I do not know if section 2 is "based on smoking and health." As the Daynard brief points out on p. 2, it could

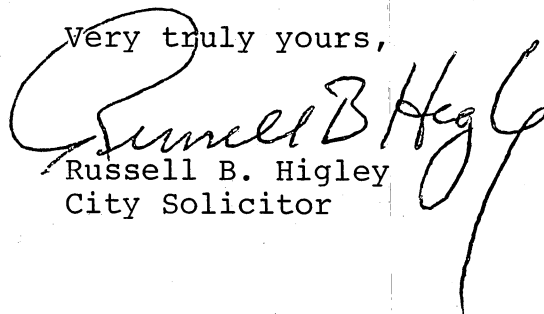
Mr. Robert W. Healy

-7-

December 9, 1981

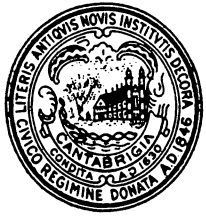
be based on the avoidance of litter or a number of other reasons. If it is in fact "based on smoking and health," there is a good chance that it is forbidden by §1334(b), because it certainly deals with the "promotion" of cigarettes.

Very truly yours,

A handwritten signature in cursive script that reads "Russell B. Higley". The signature is written in dark ink and is positioned above the typed name and title.

Russell B. Higley  
City Solicitor

RBH:jl



CITY OF CAMBRIDGE

CAMBRIDGE, MASSACHUSETTS 02139  
Tel. 498-9011

EXECUTIVE DEPARTMENT  
ROBERT W. HEALY  
City Manager

December 14, 1981

To the Honorable, the City Council:

Enclosed please find copy of the opinion of the City Solicitor relative to a proposed ordinance regulating smoking in restaurants and prohibiting distribution of free tobacco products in public places.

Very truly yours,  
*Robert W. Healy*  
Robert W. Healy  
City Manager

RWH/mbf  
Enc.

Agenda Item Number Eleven

Re: Opinion of the City Solicitor regarding  
a proposed ordinance regulating smoking in  
restaurants & prohibiting distribution of free  
tobacco products in public places.

In City Council,

December 14, 1981

12/14/81

Referred to  
the Proposed  
Ordinance Amendment  
HDSR

Referred  
Referred -

PROPOSED ORDINANCE

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

That Chapter Thirteen entitled "Offenses" is hereby amended as follows:

1. By inserting in section 13-4 entitled "Smoking Prohibited", as appearing in Ordinance No. 849 of September 15, 1975, after subsection (e), the following subsection:

(e<sup>1</sup>/<sub>2</sub>) No person shall smoke in the areas of any restaurant used for food preparation, or in the areas open to the general public in any restaurant which has a seating capacity in excess of fifty (50) patrons, except that the management of any such restaurant may designate properly ventilated waiting, lounge, and eating areas as smoking areas, provided that no more than 75 percent of the area available for each such purpose, and no more than 75 percent of the total seating capacity, may be so designated as smoking areas, and further provided that any area so designated be conspicuously labeled as such.

2. By inserting after said section 13-4 the following section:

Section 13-4A. Free distribution of smoking or tobacco products prohibited.

No person shall, except at full market price, in or upon any part of the streets, parks, public grounds, public buildings, or other public places within the city of Cambridge, distribute or allow to be distributed any smoking or tobacco product for any commercial purpose.

Any person who violates this section shall be punished by a fine of not less than twenty nor more than fifty dollars.

PROPOSED ORDINANCE

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

That Chapter Thirteen entitled "Offenses" is hereby amended as follows:

1. By inserting in section 13-4 entitled "Smoking Prohibited", as appearing in Ordinance No. 849 of September 15, 1975, after subsection (e), the following subsection:

(e<sup>1</sup>/<sub>2</sub>) No person shall smoke in the areas of any restaurant used for food preparation, or in the areas open to the general public in any restaurant which has a seating capacity in excess of fifty (50) patrons, except that the management of any such restaurant may designate properly ventilated waiting, lounge, and eating areas as smoking areas, provided that no more than 75<sup>50</sup> percent of the area available for each such purpose, and no more than 75 percent of the total seating capacity, may be so designated as smoking areas, and further provided that any area so designated be conspicuously labeled as such.

2. By inserting after said section 13-4 the following section:

Section 13-4A. Free distribution of smoking or tobacco products prohibited.

No person shall, except at full market price, in or upon any part of the streets, parks, public grounds, public buildings, or other public places within the city of Cambridge, distribute or allow to be distributed any smoking or tobacco product for any commercial purpose.

Any person who violates this section shall be punished by a fine of not less than twenty nor more than fifty dollars.

PROPOSED ORDINANCE

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

That Chapter Thirteen entitled "Offenses" is hereby amended as follows:

1. By inserting in section 13-4 entitled "Smoking Prohibited", as appearing in Ordinance No. 849 of September 15, 1975, after subsection (e), the following subsection:

(e<sup>1</sup>/<sub>2</sub>) No person shall smoke in the areas of any restaurant used for food preparation, or in the areas open to the general public in any restaurant which has a seating capacity in excess of fifty (50) patrons, except that the management of any such restaurant may designate properly ventilated waiting, lounge, and eating areas as smoking areas, provided that no more than 75 percent of the area available for each such purpose, and no more than 75 percent of the total seating capacity, may be so designated as smoking areas, and further provided that any area so designated be conspicuously labeled as such.

2. By inserting after said section 13-4 the following section:

Section 13-4A. Free distribution of smoking or tobacco products prohibited.

No person shall, except at full market price, in or upon any part of the streets, parks, public grounds, public buildings, or other public places within the city of Cambridge, distribute or allow to be distributed any smoking or tobacco product for any commercial purpose.

Any person who violates this section shall be punished by a fine of not less than twenty nor more than fifty dollars.



Agenda Item Number Sixteen

Re: the legality and constitutionality of a  
proposed amendment to the "smoking ordinance".

In City Council,

December 7, 1981

12/7/81  
Note Calendar #19  
which was passed  
to a second reading  
Lynn Pleuston File  
copy with Dad papers -

# City of Cambridge

In City Council November 23, 1981

The Ordinance Committee

to which was referred a proposed amendment to Chapter Thirteen of the General Ordinances of the City of Cambridge which would further amend Ordinance Number 849 adopted by the City Council on September 15, 1975 and provide for restricting smoking in restaurants having a capacity of in excess of fifty patrons, by designating only 75% of the total seating capacity for the purpose of smoking and prohibiting the free distribution on any smoking or tobacco products for any commercial purpose in public places of the City of Cambridge met on Tuesday, November 17, 1981 in the City Council Chamber.

Councillor David A. Wylie presided.

The Chair called for the proponents to be heard.

In answer to the call of the Chair the Committee heard from David Wilson of 15 Kennedy Road, Cambridge, Chairman of the Group Against Smoking Pollution (GASP) who read from a prepared statement to which was attached a letter from Edward L. Richmond of the Board of Alderman of the City of Newton outlining the success of that City with a No Smoking in Restaurants Ordinance, a second letter from Edward A. Lane, Minister of the First Parish Church in Cambridge favoring the passage of the proposed ordinance, a letter from Dr. Richard Iacobucci also in favor, the Report of Findings by the Dept. of Public Health which included a Study of Public Opinion With Regard to Restrictions of Public Smoking by the Division of Preventive Medicine under the Director, Sheldon H. Barr. This statement with attachments is appended to this report and bears the designation A and attached hereto. Mr. Wilson outlined the list of proponents who would appear and called for Dr. Dwight Emary Harken who read a prepared statement outlining the hazards of cigarette smoking and declared it the greatest preventable health hazard in the country today and stressed the need to reverse the image of smoking from the glamorous and macho to the repulsive and the fact that the majority wants isolation from smokers. Dr. Harken stated that once areas are designated as Non-Smoking the public will respond and seek the restricted areas.

At the conclusion of his testimony the Chair requested that his statement be incorporated by reference into the record of the meeting and copies be furnished to the entire City Council for their consideration. His statement is designated as B and attached thereto.

Councillor Russell inquired as to who would enforce the smoking restrictions and suggested that the Council would be overreaching itself in this field and indicated that he would not vote for the proposed restrictions.

The Committee heard from Attorney Edward Sweda of Dorchester, MA who stated that free handouts of cigarettes had increased 446% and that no challenge had been made by the industry to several states which had instituted restrictions. He further stated that business had improved where no smoking restricted areas were instituted; that the proposal before the City Council was a modest approach to the problem restricting only 25%. He stated that 70% of Cambridge voters supported by referendum in 1978 a law providing for restricted areas. He concluded by stating that the tobacco industry after the expenditure of large sums for research were unable to prove that second hand smoke did not harm people.

The Chair suggested that the Committee follow a procedure which would permit three speakers to be heard in opposition to be followed by three proponents in order to insure that all view points would be presented to the Committee.

There being no objection - the Chair called for three speakers from the opposition.

In response to the Call of the Chair the Committee heard from John Albert proprietor of the A & S Restaurant who stated that the CLLA was opposed on the ground that the restriction were unenforceable, unnecessary, costly and all unwarranted intrusion by the government in the restaurant business. He further stated that the industry had received no request for the proposed restrictions.

Councillor David Sullivan stated that restaurant owners who tried the restricted areas found that it helped their business.

The Committee heard from Miles Cares, owner of T.T. the Bears Place, who stated that isolation was detrimental and it was ludicrous for a person to sit alone; that restricted areas were not an important consideration to his patrons, that he objected to have restrictions on where his patrons would be seated.

The Committee heard from John I. Courtney of R. & R. Corporation of 823 Market Street who raised the issue of the legality of the ordinance and submitted a lengthy brief with legal citations which he requested to be submitted to the City Solicitor for his opinion. This brief is appended to this report and designated C.

Councillor Graham stressed the need of adequate ventilation and the need for the expression of opinions by people who frequent the restaurants.

Mr. Cares stated that the 25% restriction equalled a decrease in seating capacity that he had not received any requests for restricted areas. He further stated that this proposal constituted an attack on his business.

Councillor Graham stated that he did not have the figures to prove his statement which figures were necessary for the Committee to make a judgment.

At 9:15 p. m. the Chair called for three proponents to appear and heard from:

Sue Kuelzer, Grendels Den, who outlined her experience in setting up a restricted area and stated that she had no trouble or difficulty in setting up a restricted area and 9 out of 10 of her patrons preferred no smoking areas they did this voluntarily; that seldom if ever did she have empty seats in the non smoking areas and she further indicated that she would have trouble with large parties in the event the 25% restriction was imposed.

Councillor Graham inquired as to whether or not a pilot program could be set up for 6 months to obtain the necessary data and find out the public response to the restriction and suggested that the ordinance be tabled until the public reaction was known on this matter.

The City Council heard from Peter R. Maggs, M. D., Cardiovascular and Thoracic Surgeon, 995 Memorial Drive, who outlined his work with patients and diseases resulting from smoking and stated that 350 deaths per year in the United States due to lung cancer and heart disease occurred and he indicated that he was in favor of no smoking areas in restaurants even though it was obviously an inconvenience to some restaurant businesses. He stressed the fact that the free market will do the job when the situation is corrected for non smokers and urged the City Council to pass the ordinance as submitted.

The City Council heard from Carlton Merrill, Administrative Director of the Board of License Commissioners, Newton, MA, who stated that a non binding resolution did not work for the alderman followed the ordinance method which was implemented and enforced by the Health Inspectors and many of the restaurants which had originally opposed the ordinance in Newton were now in favor; out of 103 licenses issued in Newton not one business going out of business and he urged the City Council to adopt the ordinance in some degree without compliance on a voluntary basis.

The City Council heard from Joseph Fantasia, doing business as Fantasia Restaurant, Concord Avenue, who stated that he favored voluntary compliance and that no problem was created by smoking in his establishment which was well ventilated; that a 25% restriction would cause problem with compliance and he also indicated that there was not too many people smoking now adays.

The City Council hearing from Frank Cardullo, doing business as Wursthhaus, who stated that he was against the percentage part of the ordinance and had no objection to the restrictive area being set aside for non smokers. He sited the example of trying to seat people and stated that a problem would arise from the imposition of the 25% restriction with people waiting to be served.

The City Council heard from Raymond Murgia who stated that he was against the mandatory restrictive provisions in the proposed ordinance.

The City Council heard from Betty David of 13 Ware Street who asked for non smoking areas in restaurants and outlined the need to separate the areas and urged passage of the ordinance.

In opposition at 10:01 p. m. the City Council heard from Anne Browder, Assistant to the President of the Tobacco Institute, who outlined the legal problems of enforcing the restrictive seating arrangement in restaurants and sited the cases which had been decided in New Orleans and Chicago; that the proposed legislation was a bad use of police officers and difficult to enforce an ordinance which was unpopular and that there was no will on the part of the police officers to enforce the law.

The City Council heard from Luther Terry who quoted a 18 page document authored by him by stating there was no evidence that smoke in higher amounts caused cancer and further no physical damage to non smokers; no one had the answers in this field of research relating to the effects of smoke to cancer and cancer being caused by second hand smoking; and further stated that it is another way in which government intrudes in our personal choice.

The City Council heard from John J. McGlynn, Jr., of the Tobacco Institute who submitted a 23 page brief to the City Council in opposition to the entire ordinance as submitted and sited many cases dealing with the problem of enforcement of smoking restrictions. Mr. McGlynn brief is appended to this report and designated D.

The City Council heard from Larry Diskin, Vice-President of Field Marketing Services for Multi-Marketing, Incorporated in Chicago, Illinois, who stated that Multi-Marketing is a marketing services agency engaged in the distribution of tobacco product samples for advertising and promotional purposes. He stated that the intent of sample distribution program is not to encourage non smokers to smoke; but rather to have current smokers of competitive products sample our products and that the program is executed under extreme precautionary measures whereby no one under the age of twenty-one receives a sample, only smokers receive a sample; one sample per smoker and no samples may be distributed to any one in a vehicle and further the person distributing the samples must avoid blocking or otherwise impairing the flow of pedestrian traffic. Mr. Diskin statement is appended to this report and designated E.

A discussion arose about the legality and constitutionality of the proposed ordinance and the request was made by the opposition to refer this matter to the City Solicitor.

Councillor Wylie requested the opposition to present any facts or evidence they have on the legal issue to the committee and request the City Solicitor to determine whether or not the restriction shall apply to beano parties, dining halls, etc.

The statements submitted by the opposition cited legal opinions on the restriction of areas for smoking was forwarded to the City Solicitor.

At the conclusion of the hearing Councillor David Sullivan moved that the matter be referred to the full City Council without any recommendation for their consideration at the next meeting of the City Council.

Their being no objections - the motion -  
Carried.

Councillor Crane was recorded in the negative on this matter.

For the Committee,

---

Councillor David A. Wylie,  
Chairman.

# City of Cambridge

## LIST OF OTHER STATEMENTS RECEIVED

1. Statement from the Massachusetts Restaurant Association.
2. Statement from Louis F. DiGiovanni.

# City of Cambridge

## HEARING NOTICE

The Cambridge City Council Committee on Ordinances will conduct a public hearing on Tuesday, November 17, 1981 beginning at 7:30 p. m. in the City Council Chamber, City Hall.

The purpose of this hearing is to discuss the following:

1. A proposed amendment to the General Ordinances relative to "Smoking in Public Places" as it relates to smoking in restaurants with a seating capacity over fifty (50) persons and further to regulate the distribution of smoking or tobacco products in or upon any street, public way or public grounds; and
2. Beginning at 8:00 p. m., the final report of the Historical Commission relative to a proposed Fort Washington Historical District.

All interested individuals are invited to attend and be heard at this time.

For the Committee,

Councillor David A. Wylie,  
Chairman.



# CITY OF CAMBRIDGE

CITY HALL, CAMBRIDGE, MASSACHUSETTS 02139 • (617) 498-9017

OFFICE OF  
THE CITY CLERK

November 24, 1981

RE: Smoking in public places

Mr. Russell B. Higley, Esq.  
City Solicitor  
City Hall  
Cambridge, MA 02139

Dear Sir:

In reference to my letter of November 23, 1981 I want to once again stress the importance of determining the legality and constitutionality of the proposed ordinance, in addition to the possibility that such ordinance might be applicable to beano games and dining halls in the local universities.

A question has arisen as to whether or not the local government can preempt the federal rules and regulations on the subject of smoking restrictions. Apparently this has become a key issue in the opinion requested by the City Council prior to their action of December 7, 1981.

The representative of the Tobacco Industry submitted to me a copy of Chapter 36 entitled Cigarette Labeling and Advertising, which I have enclosed, and suggested that Section 1338 should be considered in any action taken by the City Council.

I have enclosed other copies of related information on this matter for your guidance.

I hope these suggestions will be helpful to you and if you need any more information on this or related matters please contact me.

Very truly yours,

Paul E. Healy, City Clerk

PEH/dl

Encs. Chapter 36 entitled Cigarette Labeling and Advertising

Enclosures A, B, C, D, & E - of Committee Report dated November 23, 1981



GASP of Massachusetts  
A chapter of Group Against Smoking Pollution

P.O. Box 242, Brookline, Ma. 02146

(617) 734-0841

December 21, 1981

OFFICERS

Rita Addison  
President  
Alan Goldstein  
Treasurer  
Edward Sweda  
Legislative Secretary

Councillor David Sullivan  
Cambridge City Council  
Cambridge City Hall  
Cambridge, MA

BOARD OF DIRECTORS

David Gordon Wilson  
Chairperson  
Alvan Brody, Esq.  
Betty Brody, Esq.  
Mary Ann Cromer, M.D.  
Lou Gross  
Arnold Reif, D.Sc.  
Joseph Ress, Esq.  
Edward Sweda, Esq.  
Richard Wilson, Ph.D.

Dear Councillor Sullivan,

I, Edward L. Sweda, Esq.; am authorized to and hereby do guarantee that Group Against Smoking Pollution (GASP) of Massachusetts shall provide to the City of Cambridge and/or to Cambridge City Councillors individually, free of charge, legal services for the purposes of defending in court Section 13-4 and/or Section 13-4A of Chapter Thirteen of the Code of the City of Cambridge and for the purposes of defending in court individually any Cambridge City Councillor who votes for this ordinance for having voted for this ordinance.

GASP, an organization with four lawyers (including Alvan Brody, a Suffolk University Law School professor and author of The Legal Rights of Nonsmokers) on the Board of Directors, is willing to provide legal services to defend this ordinance because we are confident that the ordinance is constitutional in its entirety. Indeed, a Utah law (76-10-102) which bans tobacco ads on billboards and bus placards and ordinances in Minneapolis and St. Paul (passed in 1979) which ban the public distribution of free cigarette samples have never been invalidated by any Federal law or court decision. In fact, the Minneapolis City Council passed its ordinance by a 12 to 0 vote while the vote in the St. Paul City Council was 7 to 0. In the intervening 33 months, no court challenge against either ordinance has been filed.

The clearest indication that the Cambridge proposal is constitutional is the tobacco industry's vigorous efforts to lobby against passage of the ordinance. If it were unconstitutional, they could simply sit back, let it pass and then, just as it was about to be enforced, challenge it in court and have the ordinance stricken down. Instead, the industry, being fully aware of the validity of the ordinance, tries to prevent its passage.

For the foregoing reasons, GASP is confident of the validity of the ordinance and thus offers legal services to uphold it.

Sincerely,

*Edward L. Sweda, Esq.*  
Edward L. Sweda, Esq.  
Legislative Secretary



# City of Cambridge

2.

IN CITY COUNCIL  
September 21, 1981

COUNCILLOR D. SULLIVAN

ORDERED: That the attached proposed ordinance be referred to the Committee on Ordinances for hearing and report.

REFERRED TO THE COMMITTEE ON ORDINANCES

Order # 2

0-50  
calendar item  
#19

C.D. Sullivan order re: Attached proposed ordinance be referred to Comm. on Ordinances for hearing and report.

RESTRICTIONS - Smoking in  
RESTAURANTS  
Hearing Held

Tuesday Nov 17, 1980

Reported to City Council

Passed to 2nd Reading

Nov. 23, 1981

Recommendation by L. Rosillo

In City Council

To Calendar 12/7/81

September 21, 1981

12/7/81 L. Vellocci

SUBSTITUTE AMENDMENT

Carried in Roll Call and

EPS then Tabled -

To Ordinance

Committee

Copy sent to Committee on  
Ordinances 9/23/81

mh. 12/28/80 Referred to  
new C. Council

See

Ordinance

1982

where it  
was passed

to be ordained

FILED  
NOV 17 1980  
CITY CLERK

RECORDED  
INDEXED