

CAMBRIDGE PUBLIC HEALTH DEPARTMENT



Cambridge Health Alliance

January 21, 2015

Honorable Members of the Cambridge City Council,

The 12 proposed amendments to the Tobacco Ordinance (Chapter 8.28, *Regulation on Youth Access and Sale of Tobacco Products and on Smoking in Workplaces and Public Places*) offered in this packet were presented to the City Council on December 15th, 2014 and were subsequently voted favorably to a second reading. In supporting the amendment package Councilors indicated their preference for "Option B", a version of the prohibition on smoking in parks that includes parks less than 15,000 square feet in area, along with fenced-in tot lots and all city-permitted events held on public open space. There was also a request to provide language that would extend prohibitions on smoking in the workplace to include electronic cigarettes, and to exempt establishments that serve food and offer hookahs or water pipes in outdoor seating areas from the proposed prohibition on smoking in those seating areas.

The specific scope and intent of the proposed amendments were presented at the first reading in December, but several aspects are worth repeating. The following detail should help avoid confusion about the intended impact of these changes.

- The amendments would **prohibit e-cigarettes sales to minors and e-cigarette smoking in the workplace**, but would not prohibit e-cigarette smoking in outdoor public places or public parks.
- Although the City of Cambridge does not control smoking policy on Cambridge Housing Authority properties, it is important to note that many CHA housing sites have designated outdoor areas where smoking is allowed and most are near parks that allow smoking.
- Smoking would continue to be permitted in larger public parks, on public sidewalks, urban plazas and other "hardscapes" under a partial parks ban (Option B).
- Flavored tobacco products would continue to be permitted for sale in establishments that primarily sell tobacco products and accessories (i.e. smokeshops).
- No-smoking buffers around tot lots (fenced and unfenced) would be encouraged with signage and outreach efforts promoting reasonable and commonsense smoking behaviors.

We present these amendments with enthusiasm and expect that members of the City Council will agree that they reflect a strong commitment to sensible and progressive tobacco control policy.

Best regards,

Sam Lipson



CAMBRIDGE PUBLIC HEALTH DEPARTMENT



Cambridge Health Alliance

Director of Environmental Health

cc: Claude-Alix Jacob, Chief Public Health Officer

Attachments:



OPTION B

CHAPTER 8.28

**Restrictions on Youth Access and Sale of Tobacco Products
and on Smoking in Workplaces and Public Places**

- 8.28.010 Declaration of Legislative Findings
- 8.28.020 Definitions for Youth Access and Sale of Tobacco Products
- 8.28.030 Youth Access and Sale of Tobacco Products
- 8:28.040 Enforcement and Violations
- 8:28.050 Definitions for Prohibition of Smoking in the Workplace
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- 8:28.100 Enforcement and Violations
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- 8:28.130 Enforcement and Violations
- 8:28.140 Invalidity of Provisions
- 8.28.150 Conflict with Other laws or Regulations
- 8.28.160 Implementation

8.28.010 Declaration of Legislative Findings

The City Council finds and declares that the purposes of this Chapter are to protect public health, safety and general welfare by:

- A. Preventing access to tobacco products by people under twenty-one (21) years of age;
- B. Creating a permitting process for tobacco sales to facilitate enforcement of this chapter;
- C. Prohibiting smoking in workplaces and most other public places.

I

8.28.020. Definitions for Youth Access and Sale of Tobacco Products:

For the purposes of this ordinance, the following words shall have the meanings respectively ascribed to them by this section:

Blunt wrap: Any tobacco product manufactured or packaged as a wrap or as a hollow tube made wholly or in part from tobacco that is designed or intended to be filled by the consumer with loose tobacco or other fillers.

Cambridge Public Health Department: the entity that provides public health services for the City of Cambridge, pursuant to Chapter 147 of the Acts of 1996.

Characterizing Flavor: A distinguishable taste or aroma, other than the taste or aroma of tobacco, menthol, mint or wintergreen, imparted either prior to or during consumption of a tobacco product or component part thereof, including but not limited to, tastes or aromas relating to any fruit, chocolate, vanilla, honey, candy, cocoa, dessert, alcoholic beverage, herb or spice; provided, however, that no tobacco product shall be determined to have a characterizing flavor solely because of the use of additives or flavorings that do not contribute to the distinguishable taste or aroma or because of the provision of ingredient information.

Cigar: Any roll of tobacco that is wrapped in leaf tobacco or in any substance containing tobacco with or without a tip or mouthpiece not otherwise defined as a cigarette under Massachusetts General Law, Chapter 64C, Section 1, Paragraph 1.

City: The City of Cambridge.

Commercial Roll-Your-Own (RYO) machine: A mechanical device, by whatever manufacturer made and by whatever name known, located in a business or used for sale or distribution of tobacco that is designed to roll and wrap tobacco into products. RYO machines located in a private home, used for personal consumption, are not Commercial Roll-Your-Own machines.

Component Part: Any element of a tobacco product, including, but not limited to, the tobacco, filter and paper, but not including any constituent.

Constituent: Any ingredient, substance, chemical or compound, other than tobacco, water or reconstituted tobacco sheet, that is added by the manufacturer to a tobacco product during the processing, manufacture or packing of the tobacco product. Such term shall include a smoke constituent.

Distinguishable: Perceivable by either the sense of smell or taste.

E-Cigarette: Any electronic nicotine delivery product composed of a mouthpiece, heating element, battery and/or electronic circuits that provides a vapor of liquid nicotine to the user, or relies on vaporization of solid nicotine or any liquid. This term shall include such devices whether they are manufactured as e-cigarettes, e-cigars, e-pipes or under any other product name.

Flavored Tobacco Product: Any tobacco product or component part thereof that contains a constituent that imparts a characterizing flavor. A public statement or claim made or disseminated by the manufacturer of a tobacco product, or by any person authorized or permitted by the manufacturer to make or disseminate public statements concerning such tobacco product, that such tobacco product has or produces a characterizing flavor shall constitute presumptive evidence that the tobacco product is flavored.

Health Care Institution: An individual, partnership, association, corporation or trust or any person or group of persons that provides health care services and employs health care providers licensed, or subject to licensing, by the Massachusetts Department of Public Health under M.G.L. c. 112. Health care institution includes hospitals, stand-alone clinics, in-store clinics, health centers, pharmacies, drug stores and doctors' and dentists' offices.

Inspectional Services Department: The City of Cambridge Department which is responsible for enforcement of state laws and related City ordinances which pertain to the State Building Code, local zoning laws and certain articles of the State Sanitary Code.

Nicotine Delivery Product: Any manufactured article or product made wholly or in part of a tobacco substitute or otherwise containing nicotine that is expected or intended for human consumption, but not including a tobacco substitute prescribed by a licensed medical provider or a product that has been approved by the U.S. Food and Drug Administration for sale as a tobacco use cessation or harm reduction product or for other medical purposes and which is being marketed and sold solely for that approved purpose. Nicotine delivery products include, but are not limited to, e-cigarettes.

Person: A person, employer, employee, retail store manager or owner, or the owner or operator of any establishment engaged in the sale of tobacco products.

Retail Tobacco Store: An establishment which is not required to possess a retail food permit whose primary purpose is to sell or offer for sale to consumers, but not for resale, tobacco products and tobacco paraphernalia, in which the sale of other products is merely incidental, and in which the entry of persons under the age of 18 is prohibited at all times, and maintains a valid permit for the retail sale of tobacco products as required to be issued by the Cambridge Public Health Department.

Self Service Display: Any display of tobacco products which is so located such that said products are accessible to customers without assistance from an employee or store personnel.

Vending Machine: Any automated, self-service device which, upon insertion of money, tokens or any other form of payment, dispenses cigarettes or any other tobacco product.

Tobacco Product: Cigarettes, cigars, chewing tobacco, pipe tobacco, nicotine delivery product, snuff or tobacco in any of its forms.

Youth: Any individual who is under the age of twenty-one (21) years.

8.28.030 Youth Access and Sale of Tobacco Products:

A. Prohibition Against Sale of Tobacco to Youths:

1. No person shall sell tobacco products or permit tobacco products to be sold to a youth or, not being the youth's parent or guardian, no person shall give tobacco products to a youth.
2. No person shall sell or permit the sale of tobacco products unless the location at which the tobacco products are available for purchase is posted with a notice which is clearly visible to anyone purchasing such products and which states: "The City of Cambridge, by Chapter 8.28 of the Cambridge Municipal Code, prohibits the sale of tobacco products to any person under the age of twenty-one (21) years." Said notice shall be available from the Cambridge Public Health Department.
3. Each retailer shall verify by means of photographic identification containing the bearer's date of birth that no person purchasing the product is younger than twenty-one

(21) years of age. No such verification is required for any person over the age of 26.

B. Prohibition Against the Sale of Tobacco Products by Health Care Institutions

No health care institution located in the City of Cambridge shall sell or cause to be sold tobacco products. Additionally, no retail establishment that operates or has a health care institution within it, such as a pharmacy or drug store, shall sell or cause to be sold tobacco products.

C. Tobacco sales permit:

1. No person shall sell tobacco products within the City of Cambridge without first obtaining a tobacco sales permit issued by the Inspectional Services Department.
2. As part of the application process, the applicant will be provided with instructions on compliance with G.L.c.270 section 6 (sales of tobacco to minors and penalties for violation thereof), a copy of this ordinance prohibiting the sale of tobacco products to youths and compliance with this chapter.
3. Each applicant is required to sign a statement declaring that the applicant has read said instructions and that the applicant is responsible for instructing any and all employees who will be responsible for tobacco sales regarding the laws.
4. The fee for a tobacco sales permit shall be determined by the Commissioner of Inspectional Services. All such permits shall be renewed annually on July 1.
5. A separate permit is needed for each location.
6. Each tobacco sales permit shall be displayed on the premises in a conspicuous place.

D. Free distribution. No person shall, in or upon any part of the streets, parks, public grounds, public buildings or other publicly owned places within the City of Cambridge, distribute free of charge any products containing tobacco or any coupons or vouchers for free tobacco products, to any person for any promotional or other commercial purposes.

E. Packaging. Sale or distribution of single cigarettes or any tobacco product in any form other than an original factory-wrapped package is prohibited. No manufacturer, distributor or retailer may sell or cause to be sold, or distribute or cause to be distributed, any cigarette package that contains fewer than twenty cigarettes.

F. Self Service Displays. All self-service displays of tobacco products are prohibited. The only exception is self service displays that are located in facilities where the retailer ensures that no person younger than twenty-one (21) years of age is present, or permitted to enter, at any time.

G. Tobacco Products Vending Machines: No person shall distribute or sell tobacco products by the use of a vending machine.

H: Cigar Sales Regulated:

1. No retailer, retail establishment, or other individual or entity shall sell or distribute or cause to be sold or distributed a cigar unless the cigar is contained in an original package of at least four (4) cigars.

This Section shall not apply to:

- a. The sale or distribution of any cigar having a retail price of more than two dollars and fifty cents (\$2.50).
- b. A person or entity engaged in the business of selling or distributing cigars for commercial purposes to another person or entity engaged in the business of selling or distributing cigars for commercial purposes with the intent to sell or distribute outside the boundaries of the City.
- c. retail tobacco stores.

I: Prohibition on the Sale of Blunt Wraps:

No person shall sell or distribute blunt wraps in the City.

J: Commercial Roll-Your-Own Machines

All commercial roll-your-own machines are prohibited.

K: Sale of Flavored Tobacco Prohibited:

No retailer, or other individual or entity shall sell or distribute or cause to be sold or distributed or offer for sale any flavored tobacco to a consumer. This provision shall not apply to a retail tobacco store.

8.28.040. Enforcement and penalties:

A. Noncriminal Disposition. The penalty for each violation of 8.28.030 paragraph A shall be a fine of one hundred dollars (\$100.00) for the first offense, two hundred dollars (\$200) for the second offense and three hundred dollars (\$300) for the third and each subsequent offense within a twenty-four month period. The permit holder is responsible for payment of the fine. Any fines imposed under the provisions of this chapter shall inure to the City of Cambridge. For the purposes of this chapter, the following shall be enforcing officers: Police Officers; and employees of the License Commission, the Cambridge Public Health Department and Inspectional Services Department or their designees.

B. The Commissioner of Inspectional Services shall suspend for seven (7) days a tobacco sales permit granted pursuant to this ordinance upon determination that a permit holder has committed two (2) violations within twenty-four months, calculated from the date of the first offense. The Commissioner of Inspectional Services shall suspend a tobacco sales permit for thirty (30) days for a third or subsequent offense within the same twenty-four month period. The Commissioner of Inspectional Services shall provide notice of the intent to suspend a tobacco sales permit, which notice shall contain the reasons therefor and establish a time and date for a hearing, which date shall be no earlier than seven (7) days after the date of said notice. The permit holder shall have an opportunity to be heard at such hearing and shall be notified of the Commissioner's decision, and the reasons therefor, in writing. All tobacco products

shall be removed from the premises upon suspension or revocation of the tobacco sales permit. Failure to remove all tobacco products shall constitute a separate violation of this chapter.

C. Any permit holder who does not have an appeal pending and does not pay a fine within twenty-one days may be subject to the revocation of the tobacco sales permit granted pursuant to this chapter. The Commissioner of Inspectional Services shall provide notice of the intent to revoke a tobacco sales permit, which notice shall contain the reasons therefor and establish a time and date for a hearing, which date shall be no earlier than seven (7) days after the date of said notice. The permit holder shall have an opportunity to be heard at such hearing and shall be notified of the Commissioner's decision, and the reasons therefor, in writing. The Commissioner of Inspectional Services, after a hearing, may revoke the tobacco sales permit until the fine is paid. All tobacco products shall be removed from the premises upon suspension or revocation of the tobacco sales permit. Failure to remove all tobacco products shall constitute a separate violation of this ordinance.

D. A violation of any provision of this chapter other than 8.28.030 paragraph A shall be subject to a fine of twenty-five dollars (\$25) which may be enforced by Noncriminal Disposition as stated in 8.28.040.section A. Every day in which a person engages in conduct prohibited by this chapter shall constitute a single and separate violation. Any fines imposed under the provisions of this chapter shall inure to the City of Cambridge.

E. Any citizen who desires to register a complaint under this chapter may initiate enforcement with the Public Health Department.

II

8.28.050 Definitions for Prohibition of Smoking in Workplaces:

For the purposes of this ordinance, in addition to the definitions in 8.28.020 above, the following words shall have the meanings respectively ascribed to them by this paragraph:

Agent or Business Agent: An individual who has been designated by the owner or operator of any establishment to be the manager or otherwise in charge of said establishment.

Employee: Any individual person who performs services for an employer.

Employer: An individual person, partnership, association, corporation, trust, or other organized group of individuals, including the City of Cambridge or any agency thereof, which utilizes the services of one (1) or more individual employees, with or without compensation.

Enclosed Area: A space bounded by walls (with or without windows) from the floor to the ceiling and enclosed by doors. An enclosed area may include, but is not limited to, offices, rooms, and halls.

Person: Any individual, firm, partnership, association, corporation, company or

organization of any kind including, but not limited to an owner, operator, manager, proprietor or person in charge of any building, establishment, business, or restaurant or retail store, or the agents or designees of any of the foregoing.

Private Club: A not-for-profit establishment created and organized pursuant to M.G.L. Ch. 180 as a charitable corporation with a defined membership. A private club is not a place of public accommodation but rather distinctly private. Criteria used to determine whether a club is distinctly private include, but are not limited to, those factors identified in 204 CMR 10.02. If a private club holds an alcoholic beverage license, said license shall be a "club license" or a "war veterans club license" as defined by M.G.L. Ch. 138, Sec. 12 and by the Massachusetts Alcohol Beverage Control Commission. Said license is subject to the terms set forth by the local licensing authority.

Smoking: Inhaling, exhaling, burning or carrying any lighted cigarette, cigar, pipe tobacco, nicotine delivery product, snuff or tobacco in any manner or in any form, ~~not~~ including e-cigarettes.

Workplace: *Any enclosed area of a structure or portion thereof at which one (1) or more employees perform services for their employer.* Workplace includes hallways, stairwells, lobbies, elevators and restrooms.

8.28.060 Prohibition of Smoking in Workplaces.

A. Smoking is prohibited in all workplaces, including private clubs.

B. It shall be unlawful for any employer or other person having control of premises upon which smoking is prohibited by this chapter, or the agent or designee of such person, to permit a violation of this chapter.

C. The Cambridge Public Health Department may promulgate reasonable rules and regulations for the implementation of this chapter.

8.28.070. Prohibition of Smoking in Workplaces Enforcement and Penalties.

A. Any establishment who violates this chapter shall be subject to a fine in an amount of one hundred dollars (\$100) for a first offense, two hundred dollars (\$200) for a second offense and three hundred dollars (\$300) for a third or subsequent offense within a twenty-four month period from the first offense. Any private individual who violates this chapter shall be subject to a fine of one hundred dollars (\$100). Each day a violation occurs will be considered a separate offense.

B. As an alternative to initiating criminal proceedings, violations of this Section II. of this chapter may be enforced in the manner provided in MGL c.40, s.21D. Any fines imposed under the provisions of this chapter shall inure to the City of Cambridge. For the purposes of this chapter, the following shall be enforcing officers: Police Officers; and employees of the License Commission, the Public Health Department and Inspectional Services Department or their designees.

C. Any citizen who desires to register a complaint under this chapter may request that the Cambridge Public Health Department initiate an investigation.

III

8.28.080 Definitions for Prohibition on Smoking in Public Places:

For the purposes of this ordinance, in addition to the definitions in 8.28.020 and 8.28.050, the following words shall have the meanings respectively ascribed to them by this paragraph:

Health Care Facility: Any office or institution providing individual care or treatment of diseases, whether physical, mental or emotional, or other medical, physiological or psychological conditions including but not limited to rehabilitation hospitals or other clinics, including weight control clinics, nursing homes, homes for the aging or chronically ill, laboratories, offices of any surgeon, chiropractor, physical therapist, physician, dentist and all specialists within these professions.

Mall: Any enclosed public walkway or hall area which serves to connect retail stores or offices.

Municipal Facility: Any building or facility owned, leased, operated or occupied by the municipality, including school buildings and grounds.

Municipal Vehicle: Any vehicle owned or leased by the municipality, and operated or occupied by employees, agents or contractors of the municipality.

Public park restricted area: Any public outdoor parks of less than 15,000 square feet, fenced-in tot lots, and all public open space including athletic fields in use during City-permitted events, to which the public is invited and permitted. See section 8.28.085 for a complete listing of public park restricted areas within the City.

Public place: An enclosed indoor area on public or private property where the public is invited or permitted, including but not limited to the following facilities: healthcare facilities, malls, municipal facilities, public transportation vehicles, retail food stores, retail stores, educational facilities, libraries, museums, theaters, banks, laundromats, indoor sports arenas, auditoriums, all enclosed areas of inns/hotels/motels, including all guest rooms, auditoriums and any rooms or halls used for a public meeting, public areas of banks and automatic banking lobbies, common areas of residential buildings, public restrooms, lobbies, staircases, waiting rooms, halls, exits, entrance ways, elevators accessible to the public and licensed child-care locations.

Public transportation vehicle: Buses, taxis, and other means of transportation available to the general public while such means of transportation is operating within the boundaries of the city including indoor platforms by which such means of transportation may be accessed.

Retail Food Store: Any establishment selling food to the public for off premise consumption. "Retail Food Store" shall not include restaurants as defined in 8.28.110.

Retail Store: Any establishment selling goods, articles or personal services to the public, including such places as barbershops, hair salons, nail salons and tanning

salons.

Smokeshop: Retail stores where the primary business is the sale of tobacco products;

8.28.085 List of Public Park Restricted Areas

Attached as Appendix A to this ordinance is a list of public park restricted areas.

8.28.090 Prohibition of Smoking in Public Places

A. Smoking Prohibited:

No person shall smoke nor shall any person be permitted to smoke in any public place, municipal vehicle, or public park restricted area, except that use of e-cigarettes shall be allowed in such places.

B. Election for coverage by private facilities:

The owner, manager, or other person in charge of a building or facility not prohibited from allowing smoking by this ordinance or other laws may elect to prohibit smoking.

C. Posting notice of prohibition:

Every person having control of premises upon which smoking is prohibited by and under the authority of this ordinance shall conspicuously display upon the premises "No Smoking" signs or the international "No Smoking" symbol (consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it).

D. Exceptions:

Notwithstanding the provisions of 8.28.090A of this chapter, smoking may be permitted in the following places and/or circumstances:

- (1) Private residences, except when used as a licensed child care facility or health care facility;
- (2) University Dormitory rooms occupied by one (1) or more students, all of whom are smokers, who have requested in writing to be placed in rooms where smoking is permitted by the University. ;
- (3) Private or semiprivate rooms of nursing homes and long term care facilities, *which is separately ventilated*, occupied by one (1) or more patients, all of whom have requested in writing to be placed in rooms where smoking is permitted;
- (4) Smokeshops provided such establishments prohibit entry to persons under the age of eighteen (18) at all times, and that such establishments conspicuously post signs at all entrances that warn patrons of the dangers of environmental tobacco smoke;
- (5) Performers upon the stage, provided that the smoking is part of a theatrical production;
- (6) Religious ceremonies where smoking is part of the ritual;
- (7) The Middlesex County Jail/House of Corrections or places of incarceration/detention.

8.28.100. Violations and Penalties:

A. Any establishment who violates this chapter shall be subject to a fine in an amount of one hundred dollars (\$100) for a first offense, \$200 dollars (\$200) for a second offense and three hundred dollars (\$300) for a third or subsequent offense within a twenty-four month period from the first offense. Any private individual who violates this chapter shall be subject to a fine of one hundred dollars (\$100). Each day a violation occurs will be considered a separate offense.

B. As an alternative to initiating criminal proceedings, violations of this Section III of this ordinance may be enforced in the manner provided in MGL c.40, s. 21D. Any fines imposed under the provisions of this chapter shall inure to the city of Cambridge. For the purposes of this chapter, the following shall be enforcing officers: Police Officers; and employees of the License Commission, the Public Health Department and Inspectional Services Department or their designees.

C. Any citizen who desires to register a complaint under this section may request that the Cambridge Public Health Department initiate an investigation.

IV

8.28.110 Definitions for Prohibition on Smoking in Restaurants

For purposes of this ordinance, in addition to the definitions in 8.28.020, 8.28.050 and 8.28.080 above, the following words shall have the meanings respectively ascribed to them by this paragraph:

License Commission: Composed of three commissioners under Chapter 95 of the Special Act of 1922; said commission regulates and issues licenses for restaurants, entertainment facilities and clubs within the City of Cambridge.

Restaurant: Any eating or entertainment establishment which possesses a Common Victualer License under the provisions of M.G.L. c. 140 including but not limited to any coffee shop, cafeteria, sandwich shop, private and public school cafeteria, which gives or offer food for sale to the public, guests, or employees for on-premises consumption. Restaurant premises shall include all outdoor and sidewalk seating areas. This includes those establishments that possess a common victualer license and/or an alcohol license as approved by the License Commission prior to 1986 and which is also approved by the License Commission pursuant to any other law.

8.28.120 Prohibition of Smoking in Restaurants

A. Smoking Prohibited:

No person shall smoke nor shall any person be permitted to smoke in any restaurant, except that use of e-cigarettes shall be allowed in any restaurant, and hookah and water pipe use shall be permitted in any restaurant outdoor seating area other than on public sidewalk seating areas.

B. Posting notice of prohibition:

Every person having control of premises upon which smoking is prohibited by and under the authority of this ordinance shall conspicuously display at the entry(s) of the premises and upon the premises "No Smoking" signs or the international "No Smoking" symbol (consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it).

8.28.130. Violations and Penalties:

A. Any person who violates this chapter by (1) allowing smoking in a nonsmoking area or(2) allowing a youth into an area restricted to twenty-one and older shall be subject to a fine in an amount of one hundred dollars (\$100) for a first offense, two hundred dollars (\$200) for a second offense, three hundred dollars (\$300) for a third offense or subsequent offense within a twenty-four month period from the first offense. Each day a violation occurs will be considered a separate offense.

B. As an alternative to initiating criminal proceedings, violations of section 8.28.120 may be enforced in the manner provided in MGL c.40, s.21D. Any fines imposed under the provisions of this chapter shall inure to the City of Cambridge. For the purposes of this chapter, the following shall be enforcing officers: Police Officers; and employees of the License Commission, the Public Health Department and Inspectional Services Department or their designees.

C. Any citizen who desires to register a complaint under this section may request that the Cambridge Public Health Department initiate an investigation.

8.28.140 Invalidity of Provisions

In the event that any one or more of the phrases, sentences, clauses, or paragraphs contained in this Ordinance shall be declared invalid by the final and unappealable order, decree or judgement of a court of competent jurisdiction, this Ordinance shall be construed as if it did not contain such phrases, sentences, clauses, or paragraphs.

8.28.150 Conflict with Other Laws and Regulations:

Notwithstanding the provisions of the foregoing ordinance, nothing in this ordinance shall be deemed to amend or repeal applicable fire, health or other regulations so as to

permit smoking in areas where it is prohibited by such fire, health or regulations.

Appendix A to 8.28.085-- Lists of Parks and Plazas, with Smoking Status

| Park Name | Smoking Status |
|---|------------------------|
| 1 Ahern Field | Not allowed at tot lot |
| 2 Alberico Park | Allowed |
| 3 Alden Park | Allowed |
| 4 Anderson Courts | Allowed |
| 5 Bergin Park | Allowed |
| 6 Cambridge Common | Not allowed at tot lot |
| 7 Centanni Way | Allowed |
| 8 Charles Park | Not allowed at tot lot |
| 9 Clarendon Avenue Playground | Not allowed at tot lot |
| 10 Clement G. Morgan Park | Allowed |
| 11 Cooper Park | Not allowed |
| 12 Corporal Burns Park | Not allowed at tot lot |
| 13 Costa Lopez Taylor Park | Allowed |
| 14 Dana Park | Not allowed at tot lot |
| 15 Danehy Park | Not allowed at tot lot |
| 16 David Nunes Park | Allowed |
| 17 Donnelly Field | Not allowed at tot lot |
| 18 Elm/Hampshire Plaza | Not allowed |
| 19 Father Callanan Playground | Allowed |
| 20 Flagstaff Park | Allowed |
| 21 Fort Washington Park | Allowed |
| 22 Franklin Street Park | Not allowed |
| 23 Fresh Pond Reservation | Allowed |
| 24 Front Park | Allowed |
| 25 Fulmore Park | Allowed |
| 26 Gannett/Warren Pals Park | Not allowed |
| 27 Garden Street Glen/Roethlisberger Memorial Park | Allowed |
| 28 Gibbons Park | Allowed |
| 29 Glacken Field | Not allowed at tot lot |
| 30 Gold Star Mothers Park | Not allowed at tot lot |
| 31 Greene • Rose Heritage Park | Not allowed at tot lot |
| 32 Hastings Square | Allowed |
| 33 Hoyt Field | Not allowed at tot lot |
| 34 Hurley Park | Not allowed |
| 35 Joan Lorentz Park | Not allowed at tot lot |
| 36 Kingsley Park | Allowed |
| 37 Larch Road Park | Not allowed at tot lot |
| 38 Lechmere Canal Park | Not allowed at tot lot |
| 39 Lindstrom Field | Not allowed at tot lot |
| 40 Linear Park | Allowed |
| 41 Longfellow Park | Allowed |
| 42 Lopez Street Park | Not allowed |
| 43 Lowell School Park | Not allowed at tot lot |
| 44 Maple Avenue Park | Not allowed |

| | | |
|----|---|------------------------|
| 45 | Market Street Park | Not allowed |
| 46 | McMath Park | Allowed |
| 47 | New Riverside Neighborhood Park | Allowed |
| 48 | Pacific Street Open Space | Allowed |
| 49 | Paine Park | Not allowed |
| 50 | Pine Street Park | Not allowed |
| 51 | Rafferty Park | Allowed |
| 52 | Raymond Park/Corcoran Field | Allowed |
| 53 | Reverend Williams Park | Not allowed at tot lot |
| 54 | Rindge Field | Allowed |
| 55 | Riverside Press Park | Not allowed at tot lot |
| 56 | Russell/Samp Field/Comeau Field | Not allowed at tot lot |
| 57 | Sacramento Field | Not allowed at tot lot |
| 58 | Sennott Park | Not allowed at tot lot |
| 59 | Silva Park | Not allowed |
| 60 | Squirrel Brand Park | Not allowed |
| 61 | St. Peter's Field | Not allowed at tot lot |
| 62 | Thomas P. O'Neill, Jr. Municipal Golf Course | Allowed |
| 63 | Tobin Field | Allowed |
| 64 | Wilder-Lee Park | Not allowed |
| 65 | William G. Maher Park | Allowed |
| 66 | Winthrop Square | Allowed |

| | Plaza Name | Smoking Status |
|----|------------------------------------|-----------------------|
| 67 | Bishop Allen Plaza | Allowed |
| 68 | Brattle Square | Allowed |
| 69 | Carl Barron Plaza | Allowed |
| 70 | Dawes Park | Allowed |
| 71 | Dolan Square | Allowed |
| 72 | Eliot Street Plaza | Allowed |
| 73 | Harvard Square | Allowed |
| 74 | Lafayette Square | Allowed |
| 75 | Mt. Auburn Veterans Memorial Plaza | Allowed |
| 76 | Point Park | Allowed |
| 77 | Porter Square | Allowed |
| 78 | Quincy Square | Allowed |
| 79 | Sullivan Square | Allowed |
| 80 | Vellucci Plaza | Allowed |
| 81 | Western Ave. and River St. | Allowed |
| 82 | Zimmerman Square | Allowed |