CHAPTER 8.24

REFUSE AND LITTER

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Section 8.24.010 Purpose.

It is the intent of the City Council that this chapter be liberally construed for the purpose of providing a sanitary and satisfactory method of handling, collecting and disposing of refuse and for the maintenance of public and private property free of litter in a clean, orderly and sanitary condition for the appearance, health and safety of the community. (Ord. 1152 (part), 1993: prior code § 17-71)

Section 8.24.020 Definitions.

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

A. "Aluminum" means aluminum cans, aluminum foil, and aluminum containers or trays used in packaging, preparation or cooking of food.

B. "Authorized litter receptacles" means receptacles for the use of the general public placed outdoors by the City or by private

persons on either public or private property. The receptacles shall be designed so as to prevent the escape of litter onto any public or private property. The receptacles may be identified by an appropriate sign, furnished either by the City or the owner, which includes the statement, "No Littering Under Penalty of Law. Fine $50.00."

C. "Authorized recycling receptacle" means "household recycling receptacle (otherwise known as household recycling bin)", "toter" or "paper leaf bag" as defined herein, or other containers defined in regulations written pursuant to Section 8.24.070.

D. "Authorized refuse receptacles" means authorized recycling receptacles and authorized rubbish receptacles, including ~~authorized~~ dumpsters licensed pursuant to Chapter 8.25.~~.~~

E. "Authorized rubbish receptacles" means receptacles that contain rubbish generated by owners or occupants of the private property where they are located that are awaiting collection and are kept outdoors on private property or set out for curbside collection including dumpsters licensed pursuant to Chapter 8.25. They shall be constructed preferably of heavy plastic (not plastic bags) or of metal, with tight-fitting covers, and shall be flytight, rodent resistant, nonflammable and waterproof~~, provided, however, that authorized dumpsters need only comply with these provisions to the extent practicable but shall, at a minimum, have attached lids which must remain closed at all times other than pick-up.~~provided, however, that dumpsters shall be kept in accordance with the requirements of Chapter 8.25 of this Code. On the day of pick-up only, heavy plastic bags of not less than three mil that are flytight, rodent resistant, non-flammable and waterproof, fastened tightly with wire, strings or tape, may be set out for curbside collection. Authorized rubbish receptacles for City rubbish collection, other than ~~authorized~~ dumpsters licensed pursuant to Chapter 8.25, shall not exceed fifty-gallon capacity, and shall not exceed fifty pounds per container, or one hundred fifty pounds per household per week. Limitation on size or weight does not apply to authorized rubbish receptacles for private collection.

F. "Cans" means all containers composed in whole of iron or steel (so-called tin cans) used as containers for the packaging or storage of various food and non-food items including empty aerosol cans, except containers that contain paint or petroleum-based solvents.

G. "Commercial establishment" means any nonresidential building, including, but not limited to, those used for retail, wholesale, industrial, manufacturing, dining, offices, professional services, automobile service, hotels and motels, restaurants, or shipping and receiving areas.

H. "Corrugated cardboard" means paper in which a portion has been made to have a wavy surface (alternating ridges and grooves) and is placed between two flat surfaces for the sake of strength, and which is commonly used to form cartons.

I. "Glass containers" means bottles and jars of any color, made of silica, sand, soda ash, and limestone, being transparent or translucent, and used for packaging or bottling various materials. This does not include plastics or glass products such as window glass, blue glass, flat glass, mirrors, plate glass, light bulbs, dishes or ceramics.

J. "Household recycling receptacle" means a container, up to 20 gallons in size, used to store recyclables before they are collected in the curbside recycling program.

K. "Leaves" means deciduous and coniferous seasonal deposition from trees.

L. "Litter" means all refuse, and includes any other waste material which, if thrown or deposited as prohibited in this

chapter, tends to create a danger or nuisance to public health, safety or welfare.

M. "Magazines" means publications printed on glossy, clay-coated paper.

N. "Multifamily dwelling" means any place of residence with seven or more dwelling units, including apartments, cooperatives, condominiums, group houses, roominghouses or boardinghouses.

O. "Newspaper" means newsprint-grade paper, the common, inexpensive machine-finished paper made chiefly from wood pulp, which is printed and distributed, and includes all newspaper advertisement, comics and enclosures. This does not include newspaper soiled by food, paint, petroleum products, oil or oil solvents, or other solid wastes that are not recyclable.

P. "Nonprofit establishment" means an established organization or foundation dedicated to public service or culture, including, but not limited to, religious, educational and health care functions.

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

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

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

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

S. "Paper leaf bag" shall be a sanitary Kraft Paper Sack or equal of thirty-gallon capacity, two-ply fifty-pound wet strength with decomposing glue and reinforced self-supporting square bottom closure.

T. "Recyclable Plastic" means clear and colored plastic bottles and jugs marked #1-#7 with the exception of Styrofoam and plastic film or bags.

U. "Recyclable materials" means any type of refuse designated by the Cambridge Commissioner of Public Works through rules and regulations issued under this chapter to be separated for recycling or composting.

V. "Refuse" means all solid waste generated by occupiers of land in Cambridge, excluding construction demolition debris.

W. "Residential dwelling" means any residential building, including single-family homes, apartment buildings, buildings containing cooperatives and condominiums, group houses, rooming houses or boardinghouses.

X. "Rubbish" means all refuse excluding recyclable materials.

Y. "Sorted office paper" means printed or unprinted sheets, shavings and cuttings of colored or white sulphite or sulphite ledger, bond, writing and other paper which have a similar fiber and filler content, and which are free of treated, coated, padded and heavily printed paper, carbon paper and nonpaper materials.

Z. "Toter" means a central collection container used for storage of recyclable materials between pickups from numerous households in a multifamily dwelling and compatible with collection equipment used by the City's recyclables collection contractor.

AA. "White goods" means major kitchen and laundry appliances including, but not limited to, stoves, washers, refrigerators and dryers. Nothing in this definition shall waive compliance with the rules and regulations for the generation, transportation, storage, and disposal of hazardous waste.

BB. "Yard waste" means grass clippings, weeds, hedge clippings, garden waste, and twigs and brush not longer than two feet in

length and one-half inch in diameter. (Ord. 1152 (part), 1993: prior code §17-72)

Section 8.24.030 Private property owners and occupants--Duties.

A. Residential Property.

1. Every owner (or occupant or owner's agent if designated in a written agreement), shall supply authorized refuse receptacles sufficient to contain all refuse accumulated between collection days.

2. Every owner (or occupant or owner's agent if designated in a written agreement) of a dwelling unit shall cause the shared or common areas of the dwelling, its premises and yard area, and the adjoining sidewalk and gutter to be maintained in compliance with Sections 8.24.040 and 8.24.140 of this chapter.

3. Every occupant (or owner's agent if designated in a written agreement) shall store and dispose of all refuse in a clean and sanitary manner in compliance with Sections 8.24.070, 8.24.090, 8.24.110, and 8.24.130 through 8.24.170 of this chapter.

4. Every owner (and owner's agent if such agent is legally required and is designated in a written agreement) of a dwelling in which he does not reside, shall be severally and jointly responsible for maintaining the entire premises including the yard area and the adjoining sidewalk and gutter in compliance with this chapter.

5. Every owner of any residential dwelling with 3 or more units in which the owner does not reside shall have posted contact information for the owner (or owner's agent who is responsible for the maintenance of the premises if designated in a written agreement) in a location visible from the outside entrance, which posting shall be on a durable material no smaller than 20 square inches.

B. Private Property Occupied by Multifamily Dwellings, Commercial or Nonprofit Establishments. Every owner (or occupant, if designated in a written agreement) shall supply a sufficient quantity of authorized refuse receptacles in compliance with Sections 8.24.070, 8.24.090, 8.24.110 and 8.24.120 through 8.24.160, of this chapter. If refuse is not collected by the City, arrangements shall be made for adequate and regular private collection of refuse in compliance with Sections 8.24.070 through 8.24.160 of this chapter. (Ord. 1152 (part), 1993: prior code §17-74)

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

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

B. Maintenance of Sidewalks.

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

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

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

C. Litter From Residential, Commercial or Nonprofit Establishments.

1. Litter from residential, commercial or nonprofit establishments shall not be thrown or deposited in any public litter receptacles by the owners, occupants, employees or agents of the residential, commercial or non-profit establishments.

2. Commercial or nonprofit establishments may maintain authorized litter receptacles for the use of the general public outdoors on private property or on the adjoining sidewalk in a manner not to inconvenience the use of the sidewalk by pedestrians. The establishments are encouraged to identify such authorized litter receptacles as described in Section 8.24.020 of this chapter and the establishment shall cause the receptacles to be emptied regularly. (Ord. 1152 (part), 1993: prior code § 17-75)

Section 8.24.050 City's duties and responsibilities.

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

B. The City shall maintain regular schedules of refuse collection subject to the provisions of Sections 8.24.070, 8.24.090, 8.24.130 and 8.24.140 of this chapter, and shall publicize the schedules by all appropriate means.

C. The City shall maintain and service authorized litter receptacles in the City.

D. The City shall require all federal, state and local government organizations to comply with the regulations in Sections 8.24.040, 8.24.070 through 8.24.160 and 8.24.240 of this chapter, for owners of private property and for commercial or nonprofit establishments. (Ord. 1152 (part), 1993: prior code § 17-81)

Section 8.24.070 Mandatory recycling.

A. Purpose and Declaration of Policy. This section has been created because of the great interest of the people of Cambridge in preserving the environment by reducing the amount of refuse sent to landfills and incinerators. It shall be the policy of the City to reduce the amount of solid waste generated and to require the recycling of recyclable materials to the fullest extent possible.

B. Establishment of Program. There is established a program for the mandatory separation of certain recyclable materials from refuse which shall apply to all buildings in Cambridge, and shall be carried out under the supervision of the Commissioner of the Cambridge Department of Public Works (DPW).

C. Mandatory Separation of Recyclable Materials. It shall be mandatory for each owner or occupant in Cambridge to separate all designated recyclable materials from other refuse in accordance with the provisions of this section. These mandatory recycling requirements shall apply to all buildings without regard to whether the building's solid waste is collected by the City.

1. Buildings Which Receive City Solid Waste Collection Services. It shall be mandatory for each owner or occupant of a building which receives City solid waste collection services to separate from other refuse all recyclable materials designated by the Commissioner in rules and regulations issued under this section. Owners of multifamily dwellings shall submit a recycling plan to the Commissioner or his or her designee in accordance with subsection E of this section. This requirement shall also apply to all City-owned buildings, including schools.

2. Buildings Which Do Not Receive City Solid Waste Collection Services. It shall be mandatory for each owner or occupant of a building which does not receive City solid waste collection to separate all designated recyclable materials from other refuse in accordance with a recycling plan to be submitted to the Commissioner or his or her designee, in accordance with subsection E of this section.

D. Collection of Recyclable Materials.

1. Residential Dwellings.

a. As long as funds are available, the City will provide one household recycling receptacle to each dwelling unit in residential dwellings with six or fewer units that are not primarily used to house students and/or staff of nonprofit establishments. The City shall retain ownership of all its household recycling receptacles and the resident of each dwelling unit shall take proper care to protect such receptacle from loss or damage. Receptacles that are lost or stolen will be replaced by the City as long as the City's supplies last. After City supplies are depleted, it shall be the responsibility of the resident of each dwelling unit to obtain a suitable replacement within forty-five days. In such buildings, the materials designated for recycling in rules and regulations promulgated by the Commissioner shall be placed in the household recycling receptacles.

b. As long as funds are available, the City will provide a suitable number of household recycling receptacles and/or toters to buildings with seven or more units that are not primarily used to house students and/or staff of nonprofit establishments. The number of household recycling receptacles and/or toters to be provided shall be determined by the City for each individual building. The City shall retain

ownership of all its household recycling receptacles and toters and the owner or owners of the building shall take proper care to protect such containers from loss or damage. If the containers are lost or stolen, it is the responsibility of the owner or owners of the building to obtain a suitable replacement within forty-five days in accordance with rules and regulations to be issued by the Commissioner under this section. In such buildings, the materials designated for recycling in rules and regulations promulgated by the Commissioner shall be placed in the household recycling receptacles and/or toters. If owners or occupants desire recyclables collection from a location on private property, collection more than once a week, or larger containers than the City provides, they must arrange for private collection of recyclables and are responsible for the costs of collection.

c. During the leaf and yard waste collection season, owners or occupants shall place their leaves and yard waste in paper leaf bags (as defined in subsection C of this section) or open barrels to be provided by the owner or occupant. Barrels must be marked with City-approved yard waste labels. However, if the owner or occupant employs a commercial landscaping company, the landscaping company is responsible for hauling away the leaves and yard waste from the owner's property.

d. The preparation and placement of recyclables shall be accomplished in accordance with rules and regulations to be issued by the Commissioner under this section.

e. All recycling containers and receptacles shall be placed for collection on the outer edge of the sidewalk, so as not to obstruct the free passage of pedestrians, or in such other place and on days specified by the Commissioner in rules and regulations to be issued under this section.

f. Recyclables shall not be placed in plastic garbage bags for collection, removal or disposal. Recyclables shall not be placed in the same refuse containers as rubbish or mixed with rubbish or litter for collection, removal or disposal. If separation of recyclable materials from rubbish does not take place, the City may decide not to collect said rubbish.

g. Upon placement of recyclables for the City or its contractor at the curbside, pursuant to this subsection, such recyclables shall become the property of the City. It shall be a violation of this section if any person, other than authorized agents of the City acting in the course of their employment or contract, collects or causes to be collected any recyclables so placed. Each and every such collection in violation of this subdivision from one or more locations shall constitute a separate and distinct offense. In addition to the penalty provided in subsection I of this section, any violator of this subsection shall make restitution to the City for the value of recyclables illegally removed.

2. Commercial and Nonprofit Establishments. In commercial nonprofit establishments, the materials designated for recycling in rules and regulations promulgated by the Commissioner shall be placed in recycling receptacles provided by the owner or owners of such buildings. The owner or owners of such buildings shall be responsible for the costs of recyclables separation and collection. Any savings in solid waste disposal realized due to recycling shall accrue to the owner or owners of such buildings. The owner or owners of such buildings shall submit recycling plans to the Commissioner in accordance with subsection E of this section. The Commissioner shall have the authority to require documentation from the City's recyclables collection contractors and from any owner, lessee or tenant of a building which does not receive City recyclables collection services, that recyclables are being delivered to a broker or end market that causes the material to be recycled or composted rather than landfilled or incinerated.

E. Recycling Plans.

1. All property owners of property whose recycling is not collected by the City are required to submit recycling plans to the Commissioner upon request.

2. Contents of Plan. Each recycling plan will cover the following items:

a. Which recyclables will be put out for collection;

b. Frequency of collection;

c. Methods to be used for collection, including types of containers;

d. Any other items which may be specified in rules and regulations promulgated by the Commissioner under this section.

3. Format of Plan. Plans shall be submitted in a format to be specified in rules and regulations promulgated by the Commissioner under this section.

F. Recyclable Materials. The recyclable materials to be separated shall be designated by the Commissioner in rules and regulations to be issued under this section. If the Commissioner designates a material as recyclable, such designation shall govern the treatment of such material notwithstanding the provisions of any ordinance to the contrary.

G. Recycling Advisory Committee. There is established a Recycling Advisory Committee. The Committee, as requested, shall provide advice, assistance and recommendations to the Commissioner regarding the recycling program. The Committee shall be appointed by the City Manager, and shall consist of at least nine persons with a demonstrated interest in recycling, at least six of whom are residents of Cambridge. At least one member chosen shall be a user of or familiar with the City's Recycling Dropoff Center, one member shall represent the private real estate industry (apartment management), and one member shall be a designee of the Cambridge Housing Authority. One member shall represent the business community, and one member shall represent nonprofit institutions. The term shall be three years. The Commissioner, or his or her designee, shall be an ex officio member of the Committee.

(Ord. 1152 (part), 1993: Ord. 1137, 1992: Ord. 1117 (part), 1991)

Section 8.24.090 Receptacles--Sidewalk placement time restrictions.

Whoever desires the removal of refuse from private property shall cause the refuse to be placed in authorized refuse receptacles and to be set in an easily accessible place upon the sidewalk. The authorized refuse receptacles shall be placed on the sidewalk no earlier than six p.m. of the day immediately prior to the day of collection as designated by the Commissioner of Public Works for collection for the area where the premises are located and shall be removed from the sidewalk no later than six p.m. of the day of collection. The authorized refuse receptacles shall not be placed upon the sidewalks in a manner to inconvenience the use of the sidewalks by pedestrians. (Ord. 1152 (part), 1993: prior code §17-76(d))

(Ord. 1293, Amended, 12/19/2005, Prior Text)

Section 8.24.100 Receptacles--Screening from public view.

Every owner or occupant of private property may maintain authorized rubbish receptacles outdoors on such private property provided the receptacles are screened from the view of public streets and sidewalks. (Ord. 1152 (part), 1993: prior code § 17-76(a))

Section 8.24.110 Private collectors--Methods of storage, collection and disposal.

The Commissioner of Public Works shall have the right to specify the times and methods of storage, collection and disposal of refuse by any private collector. (Ord. 1152 (part), 1993: prior code § 17-76(k))

Section 8.24.120 Commercial or nonprofit establishments or multifamily dwellings--Frequency--Receptacle specifications.

A. The Commissioner of Public Works may, at his or her discretion, and if the public convenience and necessity so require, determine that the volume of refuse from ~~the commercial or nonprofit establishments~~ a commercial or nonprofit establishment or multifamily dwelling is beyond the capacity of the Department of Public Works to collect or dump, and upon making such a determination, the Commissioner

shall so notify the owner, manager, tenant or occupant of the commercial or nonprofit establishment or multifamily dwelling ~~the commercial or nonprofit establishments~~ that the City will not collect refuse from the commercial or nonprofit establishment or multifamily dwelling ~~establishments~~ and that the owner, manager, tenant or occupant of the commercial or nonprofit establishment or multifamily dwelling ~~establishments~~ shall apply for a dumpster license if applicable, and shall arrange for private collection in accordance with Chapter 8.25.

B. All refuse awaiting private collection shall be in refuse receptacles which shall contain only refuse generated by owners or occupants of the private property where they are located and shall be flytight, rodent resistant, nonflammable and waterproof, and shall be so constructed as to prevent the escape of litter onto public or private property, provided, however, that dumpsters ~~, provided, however, that dumpsters need only~~shall comply with these provisions of Chapter 8.25 ~~to the extent practicable but shall, at a minimum, have attached lids which must remain closed at all times other than pick up~~. All such refuse receptacles shall be kept on private property at all times and not on public streets or sidewalks. All such refuse receptacles in residentially zoned areas or within thirty feet of such an area shall be screened from view by being completely enclosed by a fence at least six feet in height. (Ord. 1152 (part), 1993: Ord. 1126, 1991; prior code § 17-76(l))

(Ord. 1293, Amended, 12/19/2005, Prior Text)

Section 8.24.130 Oversize items--Collection procedures.

Large bulky items of refuse such as refrigerators, air conditioners, stoves and other bulky appliances will be collected by the City only by special arrangement with the Department of Public Works. Persons desiring such collection should notify the Commissioner. The City Manager may at his discretion direct the Commissioner to charge a fee for the collection of certain items, or the Commissioner may, at his or her discretion, determine that certain items are unsuitable for collection by the City, and may direct the owner to arrange for private collection or may charge a reasonable fee for collection by the City. The determination of the Commissioner shall be final. (Ord. 1152 (part), 1993: prior code §17-76(g))

Section 8.24.140 Bulk refuse--Preparation and placement.

Refuse that is larger than can be contained in authorized refuse receptacles shall be securely tied in compact bundles, not to exceed fifty pounds in weight and two feet in length. Large cardboard cartons shall be flattened down no larger than three feet by three feet, may be collected for recycling only, and may not be used as refuse receptacles. Such bulk refuse shall be set out in the same place and under the same restrictions as those for authorized refuse receptacles in Section 8.24.090 of this chapter. (Ord. 1152 (part), 1993: prior code § 17-76(e))

Section 8.24.150 Burning of refuse prohibited.

The burning of leaves and other refuse is strictly prohibited. (Ord. 1152 (part), 1993: prior code § 17-76(f))

Section 8.24.160 Temporary container placement in parking spaces.

The Commissioner of Public Works may preempt parking spaces for limited periods of time at any area for the purpose of installing temporary containers for the collection of large items of rubbish or of shrub and tree trimmings. (Ord. 1152 (part), 1993: prior code § 17-76(j))

Section 8.24.170 Litter--Pedestrians on public property.

No person shall throw or deposit litter in or upon any street, sidewalk, square, playground, park or other public place except in authorized public or private litter

receptacles. (Ord. 1152 (part), 1993: prior code § 17-73(a))

Section 8.24.180 Litter--Pedestrians on private property.

No person shall throw or deposit litter on any occupied, open or vacant private property, whether or not occupied by such person, except in authorized private litter receptacles or authorized private rubbish receptacles. (Ord. 1152 (part), 1993: prior code § 17-73(c))

Section 8.24.190 Litter--Throwing from vehicles.

No person, while a driver or passenger in a vehicle, shall throw or deposit litter upon any street, sidewalk, square, playground, park or other public place. (Ord. 1152 (part), 1993: prior code § 17-73(c))

Section 8.24.200 Litter--Load-carrying vehicles.

No person shall drive or move any truck or other vehicle unless such vehicle is so constructed and loaded as to prevent any load, contents or litter from being blown off or deposited upon any street, sidewalk, square, playground, park or other public place. (Ord. 1152 (part), 1993: prior code § 17-73(d))

Section 8.24.230 Publicity--Citizen information service.

A. The City shall publicize the provisions of this chapter through the media of signs, advertisements, flyers, leaflets, announcements on radios and television, newspaper articles and through any other appropriate means, so that all citizens will have the opportunity to become informed about the legal duties of property owners and occupants, pedestrians and motorists, and about the City recycling, refuse and anti-litter services.

B. The City shall maintain a citizen information service information and complaints about litter, recycling, refuse and snow removal problems. (Ord. 1152 (part), 1993: prior code § 17-82)=

Section 8.24.240 Fees--Collection of refuse.

The Commissioner of Public Works shall collect amounts due for refuse collections for which charges are imposed, and shall keep suitable records thereof. (Ord. 1152 (part), 1993: prior code § 17-77)

Section 8.24.260 Violation--Penalty.

A. Criminal Penalty. Any person who violates any section of this chapter shall be subject to a fine not exceeding three hundred dollars. Each day's violation shall constitute a separate offense.

B. Noncriminal Disposition. Whoever violates any provision of this chapter may be penalized by a noncriminal disposition as provided in G.L. c. 40, § 21D. For purposes of this section, the Commissioner of Public Works shall be the enforcing officer, except that the Commissioner may delegate his enforcing authority to designated Public Works Enforcement Officers and the Commissioner of Inspectional Services and his designees. The penalty for each violation shall not exceed three hundred dollars. Each day's violation shall constitute a separate violation. (Ord. 1152 (part), 1993: Ord. 1084 § 3, 1989)

Section 8.24.270 Rules and regulations.

The Commissioner, with the approval of the City Manager, may promulgate rules and regulations for the implementation of this chapter. (Ord. 1152 (part), 1993)

AUTHORIZING THE COMMISSIONER OF INSPECTIONAL SERVICES TO ISSUE DUMPSTER LICENSES

WHEREAS; the unregulated maintenance and operation of dumpsters, including construction site dumpsters presents a threat to the public health, safety, environment, and general welfare;

Therefore, be it ordained by the City Council of Cambridge, as follows:

Cambridge Municipal Code is hereby amended by adding a new chapter 8.25:

CHAPTER 8.25

DUMPSTER LICENSES

Sections:

Section 8.25.010 Purpose.

Because the unregulated maintenance and operation of dumpsters, including construction site dumpsters presents a threat to the public health, safety, environment, and general welfare, no person, business, or any other entity shall operate, keep, store, or maintain a Dumpster or Temporary Dumpster (defined below) without first obtaining the Dumpster License required by this chapter, and shall maintain said Dumpster in accordance with said License, this chapter, and any regulation promulgated hereunder.

Section 8.25.020 Definitions.

As used in this chapter, the following words and phrases shall have the meanings given in the following clauses. Where words and phrases are not defined in the following clauses, such words and phrases shall have their ordinarily accepted meanings such as the context implies.

A. "Dumpster" shall mean any container, receptacle, compactor unit, trailer, roll-off, or similar unit with or without wheels that is used for temporary storage, containment, or transport of refuse, debris, trash, garbage, food waste, solid waste, recyclable material, incidental demolition debris, or other discarded or like materials. It shall not apply to ordinary household trash cans of a volume of 50 gallons or less, recycling receptacles of 96 gallons or less, to plastic bags storing these materials in compliance with the regulations of the City of Cambridge, or to solid waste disposal trucks operated by a company duly licensed by the City of Cambridge License Commission or used or operated by the City of Cambridge.

B. "Temporary Dumpster" shall mean a Dumpster that is used in connection with construction, demolition, fairs or for similar temporary needs, the Dumpster License

for which shall be issued for a period not to exceed 30 days, renewable for additional 30 day periods upon application, not to exceed a total period of twelve months.

C. "Lot" shall mean a parcel of land in identical ownership throughout, bounded by other lots or by streets which are designated by its owner to be used, developed or built upon as a unit, to which a Dumpster serves for waste disposal.

D. "Dumpster License" (also referred to hereafter as "License") shall mean the License required by this chapter and issued by the Inspectional Services Department upon satisfactory review of the Dumpster License Application and Dumpster Plan.

E. "Dumpster Plan" shall mean an operational and maintenance plan for each Dumpster governed by this chapter. The Dumpster Plan shall also include all information included in the Dumpster License Application (defined in 8.25.040 below).

F. "Responsible Party" shall mean the owner or other person with an interest in any part or parts of the Lot upon which the Dumpster is maintained or stored, any tenant upon the Lot, the property manager for the Lot, and/or any other users of a Dumpster on the Lot.

Section 8.25.030 Applicability.

The Dumpster Ordinance shall apply to all existing and future Dumpsters located within the City.

Section 8.25.040 Dumpster License.

A. License Required. No Dumpster, including a Temporary Dumpster, shall be used, without first obtaining a License from the Commissioner of Inspectional Services, but not including a Dumpster used for one day special events permitted by the City of Cambridge. If a Dumpster is to be located upon a public way, then a permit from the City of Cambridge Traffic, Parking and Transportation Department must also be obtained. If the Commissioner of Inspectional Services determines that a submitted Dumpster License Application is accurate and adequate to keep the site free from debris, refuse, trash, solid waste or like material that is injurious to the public health, safety, and environment, the Commissioner may issue a License for the establishment or Dumpster. Performance of the activities scheduled in the Dumpster Plan shall be a condition of the License and nonperformance of the activities scheduled in the Dumpster Plan shall be a violation of the License and conditions of this chapter.

B. Contents of License Application. A complete Application (also referred to hereafter as "Application") consists of a completed Application form and a Dumpster Plan attached thereto. The Dumpster License Application form shall be in a form approved by the Commissioner of Inspectional Services. It shall be the responsibility of all Responsible Parties to submit and sign the Application and to take possession of and be jointly responsible for the License. In the event that a Responsible Party terminates use of the Dumpster, then the owner of the Lot shall be required to obtain a new License with any new Responsible Party. All Responsible Parties shall agree to follow the Dumpster Plan, and be jointly and severally liable with the owner of the Lot, and indemnify the City of Cambridge for any damages caused by non-compliance with the duties contained in this ordinance.

C. Dumpster Plan. A Dumpster Plan shall, at a minimum, include the following information, or other information as required by the Inspectional Services Department:

1. The address of the Lot on which the Dumpster is located;
2. The name, address, and telephone number of the owner of the Lot;
3. The name, address, and telephone number of the tenant operator of the establishment(s) located on the Lot;
4. The type of establishment(s) located on the Lot and nature of its business;
5. A description of how employees or residents are notified about the proper use of a Dumpster and copy of all written materials given to employees or residents;
6. A plot plan accurately depicting the Lot;
7. The location of any Dumpster and associated fencing or screening, and the location of the Dumpster in relation to all abutting property;
8. A weekly schedule detailing the times and days of the week for cleaning the Dumpster and Lot, and maintaining the Lot free of windblown litter and refuse;
9. The name of the owner of the Lot or Responsible Party or designee responsible for overseeing the cleaning and maintenance of the Lot;
10. The name, address, contact name, and telephone number of the waste hauling company responsible for servicing the establishment or Dumpster; and the name, address, contact name, and telephone number of the person or entity signing the contract with the waste hauling company;
11. The date, time, and frequency of service by the waste hauling company including proof of recycling and anticipated volume of refuse and recycling based on the previous year's invoices, if applicable;
12. Any and all permits and/or Licenses issued by the Massachusetts Department of Environmental Protection relating to the management, storage, and disposal of solid wastes and hazardous materials and hazardous wastes generated, stored, or disposed on the Lot;
13. Any and all permits and/or Licenses issued by the Cambridge Fire Department, the Inspectional Services Department, the Department of Public Works or other relevant City or governmental agencies;
14. The name, address, and phone number of the pest control company servicing the establishment or Dumpster;
15. Any other information required by the Inspectional Services Department to ensure that the Lot is maintained in a sanitary condition free of debris, refuse, trash, solid waste or like material that is injurious to the public health, safety, and environment; and
16. A copy of the contract with the waste hauling company responsible for servicing the Dumpster.

Section 8.25.050 Dumpster License Fee.

The fee for the License shall be one hundred ($100.00) dollars. The License shall be applied for annually.

Section 8.25.060 Term of License.

The term of each License shall be one (1) year, except that a License for a Temporary Dumpster shall be for a period not to exceed 30 days, renewable for additional 30 day periods, not to exceed a total period of twelve months. Annually on a date set by the Commissioner of Inspectional Services or designee, all persons who operate or maintain Dumpsters shall file, renew, or amend a Dumpster Plan and obtain a new License.

Section 8.25.070 Location Requirements.

All Dumpsters shall be located at a distance from the Lot line, as approved by the Inspectional Services Department, so as not to interfere with the safety, convenience, or health of abutters, residents, and the public. All Dumpsters shall be placed so as not to interfere with the physical integrity of the curb, sidewalk, and public parking. The location of all Dumpsters shall also be subject to approval by the Cambridge Fire Department and a City of Cambridge Traffic, Parking and Transportation Permit is required for any dumpster to be placed upon a public way.

Section 8.25.080 Container Requirements.

All Dumpsters shall be in new or good condition free of damage caused by wear or misuse that would allow leaks or access by rodents. All Dumpsters shall be covered and secured at all times except when being filled or emptied. Temporary Dumpsters shall be covered when not in use (including overnight) at a minimum with a tight-fitting tarp. All Dumpsters shall be deodorized and washed on a regular schedule. The Commissioner of Inspectional Services, or designee, may require more frequent cleaning, if necessary. If rodent activity or other site hygiene issues are prevalent, the Commissioner of Inspectional Services may require additional design/containment requirements utilizing best available technology.

Section 8.25.090 Screening/Fencing Requirements.

All Dumpsters governed by this ordinance shall be screened or fenced off from view from public ways, sidewalks, and adjoining properties at all sites other than construction sites, unless requirements are waived by the Commissioner of Inspectional Services.

Section 8.25.100 Posting Requirements.

The Dumpster Plan and License shall be posted in a visible location on the Lot or establishment thereon, accessible to an inspector on the premises. All Dumpsters shall display a clearly visible decal or stencil showing the name and telephone numbers of the company/contractor servicing the Dumpster.

Section 8.25.110 Other Requirements.

It is the responsibility of the owner of the Lot and/or Responsible Party to ensure that all other licenses and permits required by the City of Cambridge and Commonwealth of Massachusetts have been obtained. The issuance of this License shall under no circumstances be construed as a waiver from any other license or permit required. It is the responsibility of the owner of the Lot and/or Responsible Party to take appropriate action to immediately cause the Dumpster to be emptied of its contents when full. It is the responsibility of the owner of the Lot and/or Responsible Party to maintain the area free of odors, debris, litter, overflow, and all other nuisances including pests.

Section 8.25.120 Inspections.

A. Authority. In order to properly carry out their respective responsibilities under this Ordinance, and to ensure that the public health, safety and environment are protected from the hazards posed by unsanitary and unhealthy conditions, the Inspectional Services Department is authorized to examine and/or survey at any reasonable time all establishments and Dumpsters licensed hereunder.

B. Systematic Area Inspections. The Inspectional Services Department is authorized to develop and adopt plans and regulations for systematic, periodic area-wide inspections of Dumpsters and establishments required to obtain a License.

C. Interference with Inspection. If any owner, occupant, or other person refuses, impedes, inhibits, interferes with, restricts, or obstructs entry and free access to the Lot, operation, or premises where inspection is authorized by this chapter, the Inspectional Services Department may seek in a court of competent jurisdiction an inspection warrant that allows for the inspection of the Lot and apprises the owner of the Lot and/or Responsible Party concerning the nature of the inspection, the scope of the inspection, and justification for it and may seek the assistance of the Police Department in presenting said warrant.

Section 8.25.130 Violation.

A. The operation or maintenance of any Dumpster governed by this chapter without a License; the failure to operate or maintain the same in accordance with a validly issued License; the interference with an inspection, including inspections conducted pursuant to a validly issued inspection warrant; and/or any other violations of the terms of this ordinance, shall constitute a violation and a citation shall be issued by the Commissioner of Inspectional Services or designee. Each day during which a violation exists shall constitute a separate offense, including but not limited to any days in which the Commissioner of Inspectional Services or designee is forced to obtain and/or exercise an inspection warrant.

B. Notice of violation shall be sent or hand delivered to the offender, the owner of the Lot or Responsible Party at the Lot or establishment thereon, to their last known address, or to addresses listed on the Dumpster Plan. Any violation herein shall be considered a municipal charge as described in G.L. c. 40, §57.

Section 8.25.140 Administrative Hearings.

A. Right to Hearing. Any person upon whom a notice of violation has been served may request a hearing from the Inspectional Services Department by filing a written petition requesting a hearing on the matter with the Inspectional Services Department within seven days after the day the notice of violation was sent or hand delivered.

B. Hearing Notice. Upon receipt of a petition, the Inspectional Services Department shall inform the petitioner of the date, time, and place of the hearing in writing.

C. Time for Hearing. The hearing shall commence within thirty days after the day on which the notice of violation was served. The time period in which the cited violations must be remedied shall be stayed upon receipt of the petition for a hearing until such time as the hearing is held.

D. Hearing of Petitioner. At the hearing, the petitioner shall be given an opportunity to be heard, to present witnesses or documentary evidence, and to show why the notice of violation should be modified or withdrawn. Failure to hold a hearing within the time period specified herein shall not affect the validity of any notice of violation.

E. Final Decision after Hearing; Failure to Comply with Final Order.

1. Within seven (7) days after the conclusion of the hearing, the Inspectional Services Department shall sustain, modify, or withdraw the notice of violation and shall inform the petitioner in writing of its decision and the reasons therefor. If the Department sustains or modifies the notice of violation, said violation shall be remedied within the time period allotted in the original notice of violation or in the modification.

2. If a written petition for a hearing is not filed with the Inspectional Services Department within seven (7) days after the notice of violation has been served, or if after a hearing the notice of violation has been sustained in full or in any part, each day's failure to comply with the notice of violation within the time allotted as issued or modified shall constitute an additional offense, including any days prior to the filing of a written petition, and any days subsequent to the issuance of the written decision by the Commissioner of Inspectional Services, or a designee.

Section 8.25.150 Penalties.

A. Failure to Obtain License. If an owner of a Lot or Responsible Party stores or maintains a Dumpster without first obtaining a License, the Commissioner of Inspectional Services may issue a violation pursuant to the process described in Section 8.25.130, not to exceed three hundred dollars. Each day during which a violation exists shall constitute a separate offense. The Commissioner of Inspectional Services may also seek an injunction from a court of competent jurisdiction prohibiting the operation of the establishment or Dumpster until a License is secured.

B. Failure to Comply With Terms of License. If a Licensee fails to comply with the terms of a License, the Commissioner of Inspectional Services may issue a violation pursuant to the process described in Section 8.25.030, not to exceed three hundred dollars. Each day during which a violation exists shall constitute a separate offense. The Commissioner of Inspectional Services may also suspend the License, after

an administrative hearing, and seek an injunction from a court of competent jurisdiction prohibiting the operation of the establishment or Dumpster until the Licensee proves to the court its compliance with the License. If a Licensee fails to comply with the terms of the License three (3) times in the preceding twelve (12) month period, the Commissioner of Inspectional Services or a designee may suspend, cancel, or revoke the License after an administrative hearing. In the event of suspension or cancellation of the License, other municipal agencies issuing licenses and permits will be so notified.

C. Failure to Comply with Notice of Violation. Any person who fails to comply with any notice of violation or other order issued pursuant to this chapter by the Inspectional Services Department, or duly appointed agents or representatives, shall be issued a violation pursuant to the process described in Section 8.25.130, not to exceed three hundred dollars. Each day during which a violation exists shall constitute a separate offense.

D. Interference After Inspection Warrant Presented. Any owner of a Lot or Responsible Party who refuses, impedes, inhibits, interferes with, restricts or obstructs entry and free access to every part of the structure, site, operation or premises where inspection is sought under this chapter after an inspection warrant has been obtained and presented in accordance with Section 8.25.120, shall be issued a violation pursuant to the process described in Section 8.25.130, not to exceed three hundred dollars. Each day during which a violation exists shall constitute a separate offense.

E. Fines. All fines and penalties assessed and collected under this chapter may be enforced pursuant to G.L. c. 40, Section 21D.

Section 8.25.160 Severability.

If any section provided for under this chapter shall be declared invalid for any reason whatsoever, that decision shall not affect any other portion of this chapter, which shall remain in full force and effect; and to this end the provisions of this chapter are hereby declared severable.

Section 8.25.170 Regulatory Authority.

The Commissioner of Inspectional Services shall have the authority to promulgate rules and regulations necessary to enforce this chapter.

Section 8.25.180 Delegation of Authority.

The Commissioner of Inspectional Services may delegate enforcement of this Chapter to any City department authorized to enforce public safety, health, or environmental laws and regulations, including but not limited to any enforcement officer with the Department of Public Works, the Traffic, Parking, and Transportation Department, the License Commission, or the Police Department.