

**ORDINANCE NUMBER 1329**

**Final Publication Number 3203. First Publication in the Chronicle on July 30, 2009.**

**City of Cambridge**

**In the Year Two Thousand and Nine**

**AN ORDINANCE**

**In amendment to the Ordinance entitled “Municipal Code of the City of Cambridge”**

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

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

**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 is 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 using the Dumpster with an interest in any part or parts of the Lot upon which the Dumpster is used, 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(s) of the establishment(s) located on the Lot which will use the Dumpster;
4. The type of establishment(s) located on the Lot which will use the Dumpster and nature of its (or their) 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 on the Lot, 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 that any liquid or runoff from the Dumpster shall not enter any catch basins or storm drains. 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 approvals, licenses and permits required by the City of Cambridge and Commonwealth of Massachusetts have been obtained, including but not limited to the mandatory recycling provisions of Chapter 8.24 of the Cambridge Municipal Code. The Dumpster License shall be

applicable only to the owner or tenants or establishments licensed to use the Dumpster and only to the Lot to which the Dumpster serves, and no trash or other items from any other Lots, properties, buildings or other sources may be placed in or transferred to the Dumpster in question. 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 apprise 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.

**Section 8.25.190 Effective Date.**

This chapter shall take effect January 1, 2010.

In City Council September 14, 2009.

Passed to be ordained as amended by a yeas and nays vote:-

Yeas 9; Nays 0; Absent 0.

Attest:- D. Margaret Drury, City Clerk.

A true copy;

ATTEST:-

D. Margaret Drury  
City Clerk