

**CHAPTER 9  
PUBLIC HEALTH**

**BOARD OF HEALTH**

**SECTION 9.1                    POWERS AND DUTIES**

The Board of Health shall have and exercise all the powers and duties conferred upon Boards of Health in cities by Chapter III of the Massachusetts General Laws.

**SECTION 9.2                    ORGANIZATION; INTERNAL ORGANIZATION;  
QUORUM**

The Board of Health shall annually, as soon after the first Monday in March as practicable, meet and organize by the choice of a chairman and clerk. The clerk shall not be a member of the Board. The Board may make such rules and regulations for its government, and the government of all subordinate officers in its department, as it may deem expedient. A majority of the Board shall constitute a quorum for the transaction of business.

**SECTION 9.3                    SUBORDINATE OFFICERS, AGENTS, ETC.;;  
COMPENSATION**

The Board of Health may appoint such subordinate officers, agents or assistants as it may deem necessary, and fix their compensation, subject to funding by the Mayor and City Council.

**SECTION 9.4                    AUTHORITY TO PROMULGATE RULES AND  
REGULATIONS**

The Board of Health shall make and publish such rules and regulations as are necessary for the public health, safety and welfare.

**SECTION 9.5                    CONTROL OF MC FADDEN MANOR BY BOARD OF  
HEALTH**

The City long term care facility known as McFadden Memorial Manor shall be under the control and supervision of the Board of Health.

The Board of Health shall have the authority to appoint a Director of said facility, subject to confirmation by the City Council. The Director shall carry out all orders, directives, rules and regulations of the Board of Health.

The term for the Director of McFadden Manor shall be for a period of two years. The appointment shall be made and the term commence in even years.

## **IN GENERAL**

### **SECTION 9.6 BUREAU OF MILK INSPECTION**

The Bureau of Milk Inspection shall be under the charge of the Inspector of Milk, who shall have and exercise all powers and authority, and be subject to all the duties and limitations which statutes impose upon, or require of Inspectors of Milk.

### **SECTION 9.7 DECAYED FRUIT, VEGETABLES OR MEAT NOT TO BE BROUGHT INTO CITY FOR SALE; EXCEPTIONS**

No person shall bring into the City with intent to sell, any decayed or damaged fruit, vegetable or animal substance, except in accordance with a permit from the Board of Health.

### **SECTION 9.8 DUMPING DECAYED FRUIT, VEGETABLE AND ANIMAL SUBSTANCES PROHIBITED**

No person shall deposit upon any open dump any decayed fruit, vegetable or animal substances.

### **SECTION 9.9 HOUSE OFFAL TO BE KEPT IN SUITABLE VESSELS**

No person shall keep in or upon a house or land any house offal, unless the same is placed in a suitable watertight, covered vessel, which shall be kept free from ashes and other refuse matter, and so placed as to be easily removed.

### **SECTION 9.10 WATER CLOSETS TO BE MAINTAINED IN SANITARY CONDITION, ETC.**

Residential properties shall be equipped with sufficient and suitable water closets or privies for the persons ordinarily residing therein.

Every person owning or occupying premises on which there is a water closet, privy or cesspool, shall keep the same in a sanitary manner. Upon refusal or neglect to do so, the City may put the same in a sanitary condition in accordance with the provisions of Chapter 1.12.

**SECTION 9.11                    NUISANCES AFFECTING PUBLIC HEALTH**

No owner, occupant or person in control of any property in the City shall cause or permit to remain on said property any stagnant water, overgrowth of vegetation or accumulation of debris in a manner deemed by a public health agent to provide a harborage for pests or the creation of a nuisance; provided that the provisions of this section shall not apply to any area determined by the Conservation Commission to be protected wetland.

The Board of Health or its agents may order, in writing, the removal or abatement of any said condition within a reasonable time.

This ordinance may also be enforced, after failure to comply with an order by the Board of Health, in the manner provided under Massachusetts General Laws Chapter 40, Section 21D and shall be punishable as follow:

First offense	\$ 50.00
Second offense	\$100.00
Third/subsequent offense	\$200.00

Each twenty-four period during which a violation exists shall constitute a separate offense and a separate and additional fine shall be imposed for each twenty-four hour period during which a violation exists.

**SECTION 9.12                    PRIVATE PASSAGEWAYS TO BE KEPT CLEAN**

No owner or occupant of land abutting on or having the right to use a private passageway, shall cause, allow or permit any filth, waste or stagnant water to remain on that part of the passageway adjoining such land.

**SECTION 9.13                    UNUSED WELLS, CESSPOOLS, ETC., TO BE FILLED**

Every abandoned or unused cesspool or well shall be filled by the owner of the land on which it is located.

**SECTION 9.14                    RETAIL SALES OF GASOLINE; FOOD TO BE SEPARATED; COMPUTATION OF DISTANCE; EXCEPTION**

DELETED BY PAPER #496 OF 1992

**TOBACCO CONTROL**

## SECTION 9.15

## TOBACCO CONTROL

### *.1 PERMIT REQUIRED FOR RETAIL SALE OF TOBACCO PRODUCTS:*

No retail establishment shall sell tobacco or tobacco related products without a permit therefor from the Board of Health for each location from which tobacco and tobacco related products are sold; provided that only an establishment designated by the Board of Health as a retail tobacco store shall be permitted to sell rolling papers, pipes, blunt wraps which are hollow tubes made in whole or in part of tobacco or loose tobacco. For purposes of this section, a "retail tobacco store" is an establishment which is not required to possess a retail food permit, whose primary purpose is to sell or offer for sale tobacco products and paraphernalia, and in which the sale of other products is merely incidental and in which the entry of persons under the age of 18 is prohibited. The permit shall be for a term of one year, expiring on April 30 of each year. For new applicants a one-time application fee of \$50.00 will be applied to the annual permit fee of \$75.00 and should accompany the permit application. Permit holders shall apply to the Board of Health for renewal on or before April 1 each year. By applying for this permit, the applicant agrees to abide by and comply with the Massachusetts General Laws and Malden Tobacco Ordinance regarding the sale and distribution of tobacco products.

Failure to comply with the provisions of this ordinance may be punished by suspension or revocation of tobacco sales permits. The Malden Board of Health Tobacco Control Program shall provide notice of the intent to suspend a tobacco sales permit, which notice shall contain the reasons therefore and establish a time and date for a hearing date which 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 Board of Health's decision, and the reasons therefore in writing. The Malden Board of Health after a hearing may suspend the tobacco sales permit. Failure to remove all tobacco products shall constitute a separate violation of this regulation.

Failure to comply with the provisions of this ordinance may also be punished in the manner proscribed in MGL Chapter 40, Section 21D in accordance with the following schedule of fines:

1 <sup>st</sup> offense	\$100.00
2 <sup>nd</sup> offense	\$200.00
3 <sup>rd</sup> or subsequent offense	\$300.00

### *.2 RETAIL SALE OF TOBACCO PRODUCTS*

A. No person shall offer to the public for sale or distribution cigarettes, chewing tobacco, or other tobacco products unless such sale or distribution is directly controlled by such person or his employee.

B. Free standing displays of tobacco products from which individual packages or cartons may be selected shall be located only in areas of the retailer's place of business which are accessible to employees only.

C. No person shall offer or distribute any tobacco product at a price substantially reduced from the

minimum retail price for the particular brand as determined by the Department of Revenue, in or upon any street, way, park, public ground, public building, or other public place for any promotional or similar commercial purpose. Tobacco distribution includes but is not limited to, a bonus in a game, contest, or tournament which involves skill or chance.

*D.* No person shall distribute any coupon or voucher redeemable for free or reduced-price tobacco or tobacco products; provided, this paragraph shall not apply to coupons in newspapers, magazines, or industry-sponsored promotions, or to coupons affixed to packaging for products distributed to adults by tobacco retailers.

*E.* No person shall offer for sale or distribution any tobacco product in any form other than its original, factory-wrapped package.

### ***.3 SALES TO MINORS; POSSESSION BY MINORS***

*A.* Whoever owns, operates, manages, controls, or sells a cigarette, chewing tobacco, rolling papers, pipes, blunt wraps which are hollow tubes made in whole or in part of tobacco, or any tobacco in any of its forms to any person under the age of eighteen (18) shall be punished in the manner provided in Mass. General Laws Chapter 40, Section 21D in accordance with the following schedule of fines:

1 <sup>st</sup> offense	\$100.00
2 <sup>nd</sup> offense	\$200.00
3 <sup>rd</sup> or subsequent offense	\$300.00

Citation for three(3) offenses within a twelve-month period the retailer will be subject to a tobacco permit suspension for seven (7) consecutive business days. Continued non-compliance will place the retailer in jeopardy of losing his/her tobacco permit indefinitely.

*B.* No person under eighteen (18) years of age shall have, possess, or carry cigars, cigarettes, chewing tobacco, rolling papers, pipes, blunt wraps which are hollow tubes made in whole or in part of tobacco snuff or any tobacco product. Violation of this provision shall result in seizure of said tobacco products and may also be punished by a fine of \$25.00 issued pursuant to MGL Chapter 40, Section 21D.

### ***.4 Tobacco Use Prohibited in Public Parks***

No person shall use tobacco in any park, playground, cemetery or athletic field owned or maintained by the City of Malden, including but not limited to Amerige Park, Bell Rock Park, Callahan Park, Coytemore Lea Park, Devir Park, Forestdale Park, Hunting Field, Kierstead Park, Lincoln Commons, MacArthur Park, Macdonald Stadium, Maplewood Park, Miller Park, Newman Park, O'Connell Park, Patchell Park, Pearl St. Park, Roosevelt Park, South Broadway Park, Tartikoff Park, Trafton Park, and Wallace Park.

Every park in which tobacco use is prohibited shall have at least one "No Tobacco Use" sign conspicuously posted so as to be clearly visible to persons using the park.

## **DOGS, ANIMALS AND FOWL**

### **SECTION 9.16 LICENSE REQUIRED; PREREQUISITES**

*A.* On or before January 1st of each year, the owner of each dog shall apply to the City Clerk's Office for a license to keep said dog within the City of Malden.

*B.* Application shall include the name, address, and telephone number of the dog's owner and the sex, breed, color, age and name of the dog. The application shall be accompanied by a veterinarian's certificate of vaccination against rabies or a notarized letter from a veterinarian that a certificate was issued and is still in effect.

*C.* Except as provided in paragraph D below, fees for the licensing of dogs shall be \$15.00.

*D.* No fee shall be charged for a license for a dog specially trained to lead or serve a blind person; provided that the state Commission for the Blind certifies that such dog is so trained and actually in service of a blind person.

*E.* Upon receipt of a properly completed application, the City Clerk shall issue a dog license and a numbered metal tag indicating the year for which the license is valid. Said tag shall remain affixed to the licensed dog's collar.

*F.* No person or group of persons residing in the same dwelling unit shall obtain more than three licenses for the keeping of dogs in the City of Malden.

*G.* Failure to comply with the provisions of this section may be punished in the manner provided in Massachusetts General Laws Chapter 41, Section 21D by a fine of \$50.00. Each 24 hours period during which a violation exists shall constitute a separate offense for which an additional fine may be imposed.

### **SECTION 9.17 UNLEASHED DOGS PROHIBITED**

Dogs shall be restrained at all times by a chain or leash not exceeding six (6) feet in length, except when on the owner's property. No dog shall be tied or secured so as to permit the dog to be in or upon a public way, street or sidewalk.

### **SECTION 9.18 IMPOUNDMENT OF DOGS; RECORD KEEPING; NOTICE OF IMPOUNDMENT**

The Canine Compliance Officer (also known as Animal Control Officer) may impound any dog found in violation of Sections 9.16 or 9.17 and shall make a complete registry of dogs taken into custody, including the name and address of the owner of any licensed dog.

Upon impoundment of a dog, the Animal Control Officer shall immediately notify the dog's owner of said impoundment. If the Animal Control Officer is unable to determine the owner, notice of impoundment shall be posted in the Office of the City Clerk for 10 days immediately following said impoundment. Such notice shall include, at a minimum, a description of the dog, and the date, time and place at which the dog was taken into custody.

## **SECTION 9.19 UNCLAIMED DOGS TO BECOME CITY PROPERTY**

An impounded dog, if unclaimed 10 days following the notice of impoundment as provided in Section 9.18, shall become the property of the city and final disposition of the dog shall be determined by the Animal Control Officer.

## **SECTION 9.20 CLAIM FEES**

An impounded dog shall be returned to the owner upon payment of all expenses incurred by the City for the dog's care and upon proof of licensure, as required by Section 9.16.

## **SECTION 9.21 RESERVED**

## **SECTION 9.22 KEEPING OF NON-DOMESTIC/EXOTIC ANIMALS**

No person shall keep any non-domestic or exotic animal within the city, unless said animal is registered on or before January 1st of each year with the Animal Control Officer. Registration shall be in such form and shall provide such information as the Inspector may require; provided that registration shall not be required for the owners or keepers of animals in parades, exhibitions or other activities licensed by the City of Malden nor for the keepers of a pet shop licensed in accordance with applicable state laws.

Non-domestic or exotic animals shall be confined at all times to the property of the owner, except for permanent removal from the city or for the purpose of seeking medical treatment for the animal. The owner shall, when transporting a non-domestic or exotic animal, take all reasonable precautions to prevent said animal from coming into contact with any person or other animal.

## **SECTION 9.23 NUISANCE BY ANIMALS PROHIBITED**

The following activities are declared a nuisance and are prohibited at all times and in all places within the city:

- a. frequent or habitual noise;
- b. entry into a park, playground, school grounds or city cemetery;
- c. nipping, biting, scratching, assaulting or molesting any person, animal or property

- d. scratching, digging, urinating or defecating on any property other than that of the owner; provided that such behavior shall not be considered a nuisance if the owner or person in control of the animal has in his possession tools or implements designed for the removal of all feces and does, in fact, immediately remove and dispose of the same in a sanitary manner;
- e. creation of an offensive odor due to unsanitary conditions.

**SECTION 9.23A FEEDING OF WILD OR NON-DOMESTIC ANIMALS**

No one shall willfully or intentionally feed wild or non-domestic animals on any public property or property to which the public has a right of access, including but not limited to parks, cemeteries, and public ways.

Violations of this ordinance may be punished in the manner provided in Massachusetts General Laws Chapter 40, Section 21D in accordance with the following schedule of fines:

1 <sup>st</sup> offense	\$ 25.00
2 <sup>nd</sup> offense	\$ 50.00
3 <sup>rd</sup> /subsequent/offense	\$100.00

**SECTION 9.24 VIOLATIONS; PENALTIES**

Violations of Sections 9.17 through 9.23 may be enforced in the manner provided under Massachusetts General Laws Chapter 40, Section 21D and shall be punishable by a fine of \$25.00. Each twenty-four hour period during which a violation exists shall constitute a separate offense, and an additional fine may be imposed for each twenty-four hour period during which a violation exists.

Violation of Section 9.22 or 9.23 may also be punished by restraint or disposition of the animal, after investigation conducted in accordance with the provisions of Chapter 140 of the Massachusetts General Laws.

**SECTION 9.25 DANGEROUS OR VICIOUS DOGS**

*.1 Definitions*

"Dangerous dog" or "vicious dog", as used in this section, shall mean any dog that has bitten any person or domestic pet or with a known propensity, tendency or disposition to attack or cause injury.

"Owner" or "keeper", as used in this section, shall mean the individual who is the registered owner of a dog or who keeps, harbors or possesses a dog.

*.2 Control/Restraint of Vicious Dogs*

A vicious dog, while on its owner's property, shall be confined indoors or in a securely enclosed and locked pen or structure. Said pen or structure must be approved by the Canine Compliance Officer and must be no less than 50 square feet in area, provide the dog with protection from the elements, secured so as to prevent escape or entry by children, and, if designed without a bottom, be

embedded in the ground to a minimum depth of 2 feet.

A vicious dog, when off its owner's property, must be accompanied by an adult, held firmly on a leash not exceeding three feet in length, and muzzled. Said muzzle must prevent the animal from biting and be so designed as not to cause injury to the dog or interfere with respiration or vision.

### *.3 Penalties for Violation*

Violation of the provisions of this ordinance may be punished in the manner provided in MGL Chapter 41, Section 21D in accordance with the following schedule of fines:

1st offense	\$150.00
2nd/subsequent offenses	\$250.00

In addition to the fines specified above, the Canine Compliance Officer may order that the dog be enrolled in a suitable behavior training program or that the dog be spayed or neutered. Violation of this ordinance twice within any twelve month period may also result in an order that the dog be removed from the city.

Compliance with the provisions of this ordinance or with any order made hereunder shall not be a defense to an order of disposal under MGL Chapter 140, Section 157.

## **SECTION 9.25A RABIES VACCINATION REQUIRED**

The owner of every dog or cat six months of age or older shall cause said dog or cat to be periodically vaccinated against rabies. Vaccinations shall be administered by a licensed veterinarian at intervals recommended by the manufacturer to assure continual immunity to rabies.

Failure to comply with the provisions of this ordinance may be punished in the manner provided in Massachusetts General Laws Chapter 41, Section 21D by a fine of \$50.00. Each twenty four hour period during which a violations exists shall constitute a separate offense for which an additional fine may be imposed.

## **SOLID WASTE MANAGEMENT**

### **SECTION 9.26 DECLARATION OF POLICY**

A. It is in the public interest that the accumulation, preparation, storage, collection, transportation, recycling and disposal of Solid Waste be handled in such a manner as to protect the public safety, health and welfare and to enhance the environment of the people of Malden.

B. The City of Malden shall cause acceptable solid waste to be collected from single family residences up to and including six (6) family residences and shall provide for proper disposal of such waste.

C. The owner or owner's agents, servants, employees, occupant or occupants shall provide and keep clean and in good repair, proper and sufficient containers for the storage and removal of solid waste and shall remove waste from residential property at sufficiently frequent intervals to prevent a

nuisance as may be determined by the City of Malden or its designee.

*D.* The owner or owner's agents, servants, employees, occupant or occupants of commercial property shall provide and keep clean and in good repair, proper and sufficient containers for the storage and removal of solid waste. The owner or the owner's agents, servants, employees occupant or occupants of any business enterprise shall provide for the removal of waste from commercial property at sufficiently frequent intervals to prevent a nuisance as may be determined by the City of Malden or its designee.

*E.* The owner or owner's agents, servants, employees, occupant or occupants of any property shall place trash to be collected only on the sidewalk appurtenant to his property, unless otherwise directed by the Director of Public Works or the Director of Public Health.

## **SECTION 9.27                      DEFINITIONS APPLICABLE TO ALL WASTE**

In the interpretation and application of this ordinance, the following definitions shall apply, unless another meaning is clearly indicated by the context:

**CITY COLLECTOR:**                      the solid waste disposal company who has contracted with the City of Malden to remove waste. All vehicles shall display signs indicating that they are engaged in city residential collection.

**COMMERCIAL WASTE:**    the general and usual waste accumulating on residential premises of 7 dwelling units or more or any business enterprise. For purposes of this ordinance, commercial waste shall include all waste generated by properties comprised in whole or in part of any business enterprise.

**DIRECTOR:** the Director of the Board of Health or the Director of the Department of Public Works, as the context may require.

**GARBAGE:** all matter incidental to the use, preparation and storage of food, including meat, poultry, fish, fowl, fruit or vegetable matter.

**GARDEN/LAWN WASTE:** grass, leaves, brush, tree trimmings and vine or shrub trimmings; provided that this shall not include tree waste, heavy logs, tree stumps or tree limbs three (3) feet or more in length or four (4 ) inches or more in diameter

**HAZARDOUS WASTE:** all materials included in the Department of Environmental Protection Hazardous Waste Regulation 310 CMR 30.00., including but is not limited to, paint, gasoline, oil, car batteries, and tires.

**NON-ACCEPTABLE WASTE:** all waste not collected by the City Collector, including but not limited to the following:

1. Tree waste, heavy logs, tree stumps or tree limbs three (3) feet or more in length or four (4 inches )or more in diameter or any other item which in whole or in part is a solid mass in

- which a sphere with a diameter of four ( 4 ) inches could be contained;
2. Motor vehicles, motor vehicle parts and large machinery, including but not limited to, tires, auto hulks, engine blocks, fenders, transmission blocks, heavy machinery, skimobiles, motor cycles, rider lawn mowers, tractors
  3. Manufacturing wastes
  4. Hazardous materials.
  5. Human and animal remains.
  6. Demolition debris, including, but not limited to discarded or non-usable materials resulting from construction, alteration, fire or other catastrophe, or repair of structures, including but not limited to stones, plaster, brick, excavated earth, concrete, plaster, drywall, roofing materials, siding materials and structural members.
  7. Explosives.
  8. Furnaces and boilers.

**RECEPTACLES:** Approved trash bags and recycling bins. Barrels in which approved trash bags are placed must be water tight, have tight fitting covers, be rust resistant, be structurally strong and easily filled, emptied and cleaned. Cardboard barrels, wheelbarrows, lawn carts, 55 gallon oil drums, paper bags, cardboard cartons, wood crates, and all baskets and boxes that are open and cannot be adequately secured are not appropriate receptacles within the meaning of this ordinance.

**RECYCLABLE WASTE:** materials included in the Department of Environmental Protection Solid Waste Ban, including glass, paper, number 1 through number 7 plastics, cardboard, aluminum, and tin.

**RESIDENTIAL WASTE:** waste, including carpet provided that it has been cut into lengths of 3 feet or less, rolled and tied in bundles of no more than 50 pounds, normally originating in a residential properties of six dwelling units or fewer. For purposes of this ordinance, residential waste shall not include any waste generated by properties comprised in whole or in part of a business enterprise.

**RUBBISH:** waste resulting from housekeeping including cartons, paper, tin cans, bottles, metals, and similar materials.

**SOLID WASTE:** rubbish, garbage, and other discarded materials with insufficient liquid content to be free flowing. As used herein, Solid Waste does not include solids or dissolved materials in domestic sewage or other water pollutants.

**WHITE GOODS:** appliances, including washers, dryers, stoves, dishwashers, refrigerators, air conditioner units and water heaters.

## **SECTION 9.28 STANDARDS AND REGULATIONS**

### **A. RESIDENTIAL WASTE**

The owner of every dwelling unit shall be responsible for the proper handling of garbage and rubbish generated by occupants of the dwelling unit prior to its final collection or ultimate disposal

and shall be responsible for proper handling and disposal of all waste, acceptable or unacceptable, placed at the outer edge of the sidewalk appurtenant to his property.

The City of Malden shall collect such solid waste as is placed at the outer edge of the sidewalk appurtenant to a residential premises in accordance with a schedule published by the Department of Public Works; provided that residents of private ways shall provide the city collector with access to all properties appurtenant to said way. Failure to provide said access will relieve the city collector and the city of responsibility for collection.

The City collector may refuse to collect waste if it is not handled, stored or placed for collection in accordance with this ordinance. So far as practicable, a notice shall be attached to the waste or left at the premises or building noting the location and reason for refusal.

Said solid waste shall be placed in City of Malden approved trash bags and shall not exceed thirty-five (35) pounds in weight.

Solid waste shall be prepared and stored as follows:

1. garbage shall be drained of all liquid;
2. drained garbage and manure from domestic pets shall be enclosed in no less than three (3) thicknesses of newspaper or similar wrapping material or an approved scrap bag;
3. boxes and cartons and like materials shall be collapsed or broken up and securely tied in compact units not to exceed four (4) feet at their maximum measurement and fifty (50) pounds in total weight.
4. waste shall be deposited in an approved container;
5. Printed and photographic material shall be enclosed in approved trash bags so as to be concealed from the view of casual observers.

No white goods of any kind shall be placed at the curb without a collection sticker attached and all doors removed.

Mandatory Recycling:

1. Intent.

It is intended that the mandatory recycling provisions shall be liberally construed in order to implement and optimize mandatory recycling of the solid waste generated within the City of Malden, to require residents of every household utilizing solid waste municipal collection to separate designated recyclable materials, so that they may be recycled.

2. Definitions.

For the purposes of these provisions, the term "recyclable" shall mean: glass, corrugated cardboard, metal cans, as well as any other material the City may determine from time to time can be recycled. The following items shall be required to be properly secured and placed in an approved recycling bin for collection:

- Number 1-7 plastics-Cardboard-Glass-Metal cans-Newspaper-Paper
- Styrofoam
- Boxes
- Cartons
- Packing materials

Said items and materials shall be collapsed or broken up and securely tied in compact units prior to being placed in an approved recycling bin. Solid waste of this nature shall not be collected unless properly secured and placed in an approved recycling bin for disposal.

Recycling will continue on the existing weekly schedule. Recycle bins may be obtained and purchased from the Department of Public Works. Damaged bins may be turned in for free replacement. Specialized recycling days will be scheduled based on availability of funding as published by the Department of Public Works.

The Department of Public Works shall provide at the city yard, during regular hours of operation and on Saturdays from 9:00 a.m. to noon, a facility for recycling of paper, plastic, cans and bottles.

### 3. Hazardous Materials:

The following items are deemed "hazardous" under Department of Environmental Protection guidelines, and shall not be placed in approved trash bags or recycling bins for collection:

-Tires-Automotive Batteries-Nickel Cadmium Batteries-Any oil based product, including paint, gasoline, kerosene and motor oil-Cathode Ray Tubes, including televisions and computer monitors-VCRs and tape decks-Florescent light bulbs

These items must be properly disposed of by the person or party in possession, and may be properly disposed of on a Hazardous Recycling Day at the Department of Public Works.

Non-hazardous debris resulting from home renovations for which no building permit is required shall be removed by the city collector provided that, prior to collection, the home owner has consulted with an agent or employee of the Department of Public Works relative to the acceptability of the materials for collection and incineration or deposit in a land fill in accordance with Environmental Protection Agency guidelines.

The city will provide for collection of garden and lawn waste on a schedule to be determined by the Public Works Commission; provided that said schedule include at a minimum weekly curbside pick-up from the beginning of April through the end of October, and such additional weeks as are deemed practicable by the Commission. Small branches shall be cut to lengths not exceeding four (4) feet.

## ***B. COMMERCIAL WASTE COLLECTION & RECYCLING***

The owner of every commercial property shall provide proper and sufficient receptacles for accumulation of waste and shall make provisions for removal of waste, no less than once a week, through a private licensed collector.

The owner of every commercial property shall make provisions for waste recycling with their waste collection contractor. Said provisions shall comply with the Massachusetts Department of Environmental Protection Solid Waste Plan and Section 9.29 of this ordinance.

### **I. SOLID WASTE COLLECTION BY DUMPSTER**

For purposes of commercial waste, proper receptacles shall include dumpsters; provided that the

owner of commercial property has obtained a permit for said dumpster from the Board of Health. The Board of Health shall promulgate rules and regulations relative to the use, maintenance and placement of dumpsters.

Application for a dumpster permit shall be accompanied by a \$25.00 fee and a site plan, showing the proposed location of the dumpster, the distance to the closest abutter and the type enclosure or screen, if any.

Dumpster permits shall be granted upon such terms and conditions as deemed appropriate by the Director of Public Health and shall be renewable annually on December 31. The Director of Public Health may order a dumpster enclosed, screened, removed, dumpster capacity size changed and /or additional scheduled pickups.

No waste shall be deposited in dumpsters between the hours of 11:00 P.M. and 7:00 A.M. Dumpster waste shall be collected between the 7 a.m. and 8 p.m., Monday through Friday or 8 a.m. and 6 p.m. on Saturday. No dumpster waste shall be collected on Sunday or holidays.

## 2. SOLID WASTE COLLECTION BY CITY COLLECTOR

Upon the approval of the Director, the City collector may collect no more than fourteen (14) bags of rubbish and/or garbage in 33 gallon capacity plastic bags of at least 1.5 millimeters in tensile strength, tightly sealed, properly tied or secured, weighing no more than 35 pounds; provided that every said bag has a collection sticker attached thereto, and provided further that a number in excess of 14 bags of waste, properly stickered, may be collected by the city collector, when in the judgement of the Director of Public Works, public health and convenience so warrants.

The City collector shall provide recycling services free of charge to all commercial properties from which it collects solid waste.

## 3. SOLID WASTE COLLECTION BY OTHER MEANS

Subject to the approval of the Director of Public Works and the Director of Public Health, the owner of any commercial property may make alternate provisions for solid waste removal; provided that such arrangements include provisions for recycling services in compliance with the Massachusetts Department of Environmental Protection Solid Waste Plan and Section 9.29 of this ordinance. The Director may approve any suitable device for storage, handling and disposal of Waste provided that the device meets the intent of the standards and requirements otherwise set forth in these regulations.

### *C. PROVISIONS APPLICABLE TO ALL WASTE*

#### 1. FEES

Fees for collection of residential waste and for collection of commercial waste shall be as follows:

Approved 35 lb. trash bag		\$ 2.00 ea.
Approved 15 lb. trash bag		\$ 1.00
White Goods(residential customers only)		\$ 20.00
Recycling Bin	1st	Free
	additional	\$ 5.00 ea.

Approved trash bags shall be made available at the Office of the City Treasurer and the Department of Public Works Office during regular business hours. Approved trash bags shall also be made available for resale to the public at retail and commercial establishments as determined by the Director of Public Works, provided that no retail or commercial establishment shall charge more than \$2.00 for each approved trash bag.

Subject to annual funding, the Mayor shall work with local anti-poverty agencies to provide approved trash bags to qualified residents for the disposal of residential solid waste as outlined in this paragraph, provided that said resident is not receiving assistance towards such costs from any other source.

**2. LITTER**

No solid waste, including styrofoam, boxes, or packing materials, shall be stored or packaged for disposal unless properly secured so as to prevent it from being effected by wind or weather conditions.

**3. SCAVENGING**

No person, other than the city collector or an authorized representative of a private waste contractor, shall scavenge or remove waste which has been placed at the curb for collection.

**4. ORDER TO REMOVE WASTE FROM PREMISES**

The Director of Public Health, the Director of Public Works, the Building Inspector, or their agents or their designees may order the owner, agent, or occupant of a premises to remove any improper accumulation or storage of waste or offensive material, in such a manner and within such time as said agent or employee deems reasonable.

Failure to comply with any removal order made by an authorized agent of the City of Malden may result in removal of said waste by the City at the expense of the owner.

**5. LIMITATION ON PLACEMENT OF SOLID WASTE AT CURB**

No person, firm, or corporation shall place or keep any box, barrel, container, crate, bag or other receptacle containing junk, debris, waste, rubbish or garbage on any sidewalk in the City of Malden, except for removal or collection by a private collection agent. Placement of any of such items upon a sidewalk other than that adjacent to the premises owned or occupied by such person, firm or corporation shall be a violation of this ordinance.

No waste shall be placed at the curb prior to 9 p.m. on the day before collection. Non-disposable

receptacles shall be returned to their storage space by owners no later than midnight on the day of collection.

## **SECTION 9.29 PRIVATE COLLECTORS**

Vehicles conveying waste shall be of such construction and so operated that contents shall not be exposed to public view nor create a nuisance and shall be sanitized and deodorized daily. All vehicles engaged in private collection shall display a sign indicating that they are engaged in private commercial collections.

All persons collecting trash and recyclables in the City of Malden shall obtain a non-transferable Trash Hauling Permit from the Board of Health. Application for a Trash Hauling Permit shall be accompanied by a \$200 application fee, an accounting of available recycling services, a complaint resolution plan, and a list of customers served in the City of Malden, including the day and time of said service and an estimate of the volume of solid waste and recyclables collected. Trash Hauling Permits shall be renewable annually in December 31. Failure to provide all information required by the application shall be grounds for denial of a permit.

Every private collector shall provide recycling services in compliance with the State of Massachusetts Solid Waste Plan and DEP regulations.

Every private collector shall submit a monthly report as required by the Board of Health. Said reports shall be submitted to the Department of Public Works and shall provide, at a minimum, a record of the tonnage of refuse and recyclables collected, the customers served, including the day and times of collections and shall include weight slips or vendor receipts to document tonnage figures on waste and recyclables.

Failure to submit reports in a timely fashion may result in modification, suspension or revocation of the permit.

## **SECTION 9.30 LITTER- REMOVAL FROM COMMERCIAL AND INDUSTRIAL PROPERTY**

All owners, agents in charge or tenants of land or buildings abutting or within business districts in the City of Malden shall remove any trash, bottles, or cans, refuse, rubbish, ga hours of the placement thereon by anyone. "Business Districts" shall be those areas, as described in the City of Malden Zoning Ordinances Section 300.3.4 and all properties having "business use" as described therein.

## **SECTION 9.31 ADMINISTRATION**

The Board of Health shall adopt, revise, and revoke rules and regulations governing the administration of this ordinance.

The Director is hereby authorized to issue permits for all elements of Waste management. The Director shall prepare application forms for all permits. Such forms shall require all information necessary to fulfill the intent of this ordinance. All permits shall be non-transferable. Permits for non-commercial use shall be issued for a twenty-four (24) hour period. Permits for commercial use shall expire at the end of the calendar year in which issued.

## **SECTION 9.32 ENFORCEMENT**

Agents and employees of the Board of Health, the Compliance Bureau, the Department of Public Works, the Fire Department, and the Police Department shall have the power to enforce the provisions of this ordinance.

Violation of this ordinance may also be enforced in the manner provided under Massachusetts General Laws Chapter 40, Section 21D and shall punishable as follows:

- (a) 1st offense warning, plus item collection fee, if applicable
- (b) 2nd offense \$50.00 fine plus item collection fee, if applicable
- (c) third offense \$100.00 fine plus item collection fee, if applicable
- (d) subsequent offenses not less than \$100.00 nor more than \$300.00 plus item collection fee, if applicable

Each twenty-four hour period during which a violation shall exist shall constitute a separate offense, and a separate and additional fine shall be imposed for each twenty-four hour period during which a violation exists.

The provisions of this ordinance relative to commercial collection shall take effect on July 1, 2000. The provisions of this ordinance relative to residential collection shall take effect on September 1, 2000.

## **SECTION 9.33 LITTER- REMOVAL FROM COMMERCIAL AND INDUSTRIAL PROPERTY**

All owners, agents in charge or tenants of land or buildings abutting or within business districts in the City of Malden shall remove any trash, bottles, or cans, refuse, rubbish, garbage, debris, scrap, waste or other material of any kind on any sidewalk abutting said land or building within twenty-four (24) hours of the placement thereon by anyone. "Business Districts" shall be those areas, as described in the City of Malden Zoning Ordinances Section 300.3.4 and all properties having "business use" as described therein.

Violation of this ordinance may also be enforced in the manner provided under Massachusetts General Laws Chapter 40, Section 21D and shall be punishable as follows:

- (a) first offense warning
- (b) second offense \$ 50.00 fine
- (c) third/subsequent offenses \$100.00 fine

Each twenty-four hour period during which a violation shall exist shall constitute a separate offense, and a separate and additional fine shall be imposed for each twenty-four hour period during which a violation exists.

All owners, agents in charge, or occupants of land or buildings, as described herein, shall comply with the Board of Health Rules and Regulations relating to cleanliness and removal of trash, bottles, cans, refuse, rubbish, garbage, debris, scrap, waste or other material of any kind located upon yards, parking areas, or private land used for business, and said rules and regulations shall be strictly enforced.

## **TRAILERS, TRAILER CAMPS AND MOTOR VEHICLES**

### **SECTION 9.34 TRAILER CAMPS- GENERALLY**

No trailer for habitation or business or commercial use shall be allowed in the City of Malden except in a licensed trailer camp or park. Such camp shall be licensed by the City Council and the Board of Health.

### **SECTION 9.35 TEMPORARY USE**

The preceding section shall not prohibit the granting of a permit for the temporary use of a trailer for business or commercial purposes, during the construction of permanent structures for commercial or business uses.

Such trailer shall be located at or near the location of permanent construction and shall be removed upon completion of permanent structure.

Such permit may be issued by the Building Inspector for a period not to exceed sixty (60) days. Such permit shall be subject to renewal at the discretion of the Building Inspector.

### **SECTION 9.36 REMOVAL OF CERTAIN MOTOR VEHICLES FROM PUBLIC OR PRIVATE PROPERTY**

#### **A. *IN GENERAL***

**MOTOR VEHICLE DEFINED:** For purposes of this section, "motor vehicle" shall include all vehicles described in MGL Chapter 90, Section 1, including but not limited to automobiles, buses, trailers, motorcycles, and all vehicles constructed or designed for propulsion by power other than muscular power.

**PRESUMPTION OF ABANDONMENT:** Failure to attach current registration plates, a current registration sticker and a current inspection sticker or to register any motor vehicle as required by law for more than 72 continuous hours shall create a presumption that said motor vehicle has been abandoned or its use discontinued by the owner.

**RECORDS REQUIRED:** The Police Department shall record the date, time, location, make, model, year, vehicle identification number if discernable, registration number if any, and a detailed account of the contents and condition of every vehicle towed and stored under the provision of this ordinance. The record shall also include the name of the person ordering the vehicle removed and the reasons for removal.

**TOWING AND STORAGE COSTS:** The owner of any vehicle removed under the provisions of this ordinance shall be liable for any costs associated with towing and storage of the vehicle.

**RECOVERY OF VEHICLE BY OWNER:** Prior to the sale or disposition of a vehicle under the provisions of this ordinance, the owner may reclaim the vehicle by presentation to the Police Department of proof of ownership and verification that towing, storage and associated cost have been paid.

**ELECTION OF REMEDIES:** The rights, powers and duties set forth in this ordinance may be exercised in addition to or in conjunction with all civil and criminal remedies provided in Massachusetts General Laws. The provisions of this ordinance may also be enforced in the manner provided in Massachusetts General Laws Chapter 40, Section 21D and shall be punishable as follows:

First Offense	\$ 50.00
Second/subsequent Offense	\$100.00

Each twenty four hour period during which a violation exists shall constitute a separate offence, punishable by the imposition of an additional fine.

***B. PLACEMENT OF MOTOR VEHICLES ON A PUBLIC WAY OR PUBLIC PROPERTY***

When, in the judgement of the Police Chief, Fire Chief or Fire Marshall, a motor vehicle has been placed on a public way or public property in such a manner or in such a condition as to pose a threat to public safety, the Police Chief or Fire Chief may order its immediate removal.

No person shall place upon a public way or public property any motor vehicle for purposes of abandonment or discontinuance of use.

The Police Chief, Fire Chief, Fire Marshall, Director of Public Works, Building Inspector or

Compliance Officers may order the owner of any motor vehicle abandoned on a public way or public property to remove the same. If the owner cannot be located or fails after reasonable notice to remove said vehicle, it shall be towed, stored and disposed of in accordance with the provisions of Massachusetts General Laws Chapter 90, Section 22C.

*C. PLACEMENT OF MOTOR VEHICLES ON A PRIVATE WAY OR PRIVATE PROPERTY*

When, in the judgement of the Police Chief, Fire Chief or Fire Marshall, a motor vehicle has been placed on a private way or private property in such a manner or in such condition as to pose a threat to public safety, the Police Chief, Fire Chief or Fire Marshall may cause its immediate removal.

No property owner shall permit on any residential property a recreational vehicle in excess of thirty five (35) feet in length or in excess of eleven (11) feet in height unless said vehicle is parked in a side yard totally enclosed from view from the street or is parked in a back yard more than fifty (50) feet from any structure.

No property owner shall permit an abandoned motor vehicle to remain on his property for more than five days without having obtained a permit therefor from the Fire Marshall. The Police Chief, Fire Chief, Fire Marshall, Director of Public Works, Building Inspector or Compliance Officers may order the owner of any property on which an abandoned or unregistered motor vehicle is stored to remove said vehicle; provided that any removal order shall allow five (5) days to effect removal before any penalties, as provided herein, are imposed.

The Fire Chief or Fire Marshall may issue a permit for the keeping of an unregistered vehicle where he finds that:

1. the presence of the vehicle does not endanger the health or safety of area residents;
2. all applicable permits for storage of oil or gasoline have been obtained.

Said permit may specify the location and manner of storage of the motor vehicle and shall be renewed annually at the discretion of the Fire Marshall.

## **UNDERTAKERS AND BURIALS**

### **SECTION 9.37 FUNERAL UNDERTAKERS TO BE APPOINTED**

Persons not licensed pursuant to Massachusetts General Laws are forbidden to act as funeral directors or embalmers.

### **SECTION 9.38 PERMIT REQUIRED FOR BURIAL; INFORMATION REQUIRED**

No person shall bury or inter, or cause to be buried or interred, in the City, or remove or cause to

be removed, from the City, the body of a deceased person, or its remains, without having obtained a permit to do so from the Board of Health. The Board or its agents shall not grant the same, unless a certificate of the cause of death, signed or approved as required by law has been obtained.

## **SECTION 9.39                   BURIALS PROHIBITED AT CERTAIN TIMES; PERMIT REQUIRED FOR DISINTERRING BODIES**

No person shall bury or inter, or cause to be buried or interred, any dead body, at any other time than between sunrise and sunset, except when ordered by the Board of Health; and no person shall remove or cause to be removed from a grave or tomb, or disturb or cause to be disturbed in a grave or tomb any human body or its remains, without a permit therefor from the Board of Health.

## **SECTION 9.40                   RENTAL UNITS - INSPECTION REQUIRED**

### **. 1     IN GENERAL**

Except as provided in this section, no owner, lessor or person in control or in charge of a rental unit shall commence any new tenancy or occupancy in an existing rental unit without having obtained a Rental Unit Inspection Certificate from the Board of Health; provided that any unit may be occupied prior to inspection after five business days have elapsed from the submission of a completed application for inspection; and provided further that any unit occupied under this exception shall be subject to inspection subsequent to the commencement of a tenancy or occupancy.

The following properties shall be exempt from the provisions of this section:

- .1     property or units owned or managed by the Malden Housing Authority;
- .2     hotels, motels and mobile homes that have been otherwise permitted by the Board of Health;
- .3     owner occupied premises containing three or fewer units, provided that a homeowner may elect to participate in the program.

### **.2     APPLICATION FOR INSPECTION**

The owner, lessor or person in control or in charge of a rental unit shall submit a completed application for dwelling unit certification to the Board of Health Office for each unit requiring inspection. Application shall be in a form determined by the Director of Public Health and shall be accompanied by a non-refundable fee of \$50.00.

The Director of Public Health shall deny, without inspection, an application which:

- .1     fails to provide the required information;
- .2     provides false information;
- .3     is not accompanied by the required fee;
- .4     pertains to property that is in violation of the zoning ordinance;

- .5 pertains to property or property owners who have outstanding taxes, fees, fines or charges due the city; or
- .6 the owner, lessor or person in control or in charge of the rental unit has failed, in the judgment of the Director of Public Health, to provide reasonable access to the unit for purposes of inspection.

### **.3 INSPECTION - STANDARDS FOR CERTIFICATION; ORDER TO CORRECT DEFICIENCIES**

The Director of Public Health or his agents and employees shall inspect each rental unit to assure compliance with Minimum Standards of Fitness for Human Habitation, as set forth in the State Sanitary Code, and Housing Standards, as adopted by the Malden Board of Health.

The Director of Public Health shall issue a Rental Unit Inspection Certificate for each unit found to be in compliance or, if a rental unit fails to meet the minimum standards set forth above, shall issue Housing Inspection Report and an Order to Correct Deficiencies. Said order shall establish the date by which corrections must be completed and shall provide notice that proper permits must be obtained for any work done under the order.

The owner of a unit for which an Order to Correct Deficiencies has been issued may request re-inspection at any time and shall pay a \$20.00 re-inspection fee. Upon completion of the required corrections and verification that proper permits have been obtained, a Rental Unit Inspection Certificate shall be issued.

### **.4 DENIAL OF CERTIFICATE - RIGHT TO APPEAL**

An applicant may, within seven days of receipt of an Order to Correct, file an appeal, in writing, with the Board of Health, detailing the alleged grounds for modification, or withdrawal of the Order to Correct.

The Board of Health shall, within 30 days of receipt of a notice of appeal, hold a public hearing, notice of the time and place of which shall be provided to all parties in interest. Failure to hold a hearing within the time specified herein shall not effect the validity of an Order to Correct.

The applicant or any other interested party may present documentary evidence and witnesses at the hearing. Within 7 days of the public hearing, the Board of Health shall issue a decision sustaining, modifying or vacating the Order to Correct and, if the Order is sustained, shall stipulate the time within which corrections shall be made.

### **.5 PENALTY FOR VIOLATION**

Violations of any provision of this ordinance may be punished in the manner provided in Massachusetts General Laws Chapter 41, Section 21D by a fine of \$100.00 per incident. Each 24 hours during which a violation exists shall constitute a separate offense for which an additional fine may be imposed.

