



BOARD OF HEALTH

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Public Health
Prevent. Promote. Protect.

RULES AND REGULATIONS FOR REMOVAL, TRANSPORT, AND DISPOSAL OF SOLID WASTE OR RECYCLABLES IN THE TOWN OF ESSEX

I. Purpose

The goal of these regulations is to protect public health and the environment and ensure that all Private Haulers collecting Solid Waste and Recyclables adhere to the Massachusetts Waste Ban regulations and uniformly comply with permit requirements established by the Town of Essex. This should ensure that:

- The environmental benefits of recycling are maximized;
- There is joint enforcement of the Waste Ban requirements by the municipality and all Private Haulers operating within the municipality;
- There are fair and equitable rules for all Private Haulers operating in the municipality;
- All residents and businesses have convenient (parallel) access to recycling collection services;
- All Private Haulers licensed to operate in a municipality are in compliance with state regulations (310 CMR 19.017);
- There is greater consistency across municipalities to promote clear operating guidelines for Private Haulers; and,
- Municipalities and Private Haulers work together to support the goals of the Solid Waste Master Plan and the Global Warming Solutions Act.

II. Authority

These regulations establish minimum requirements for the systematic collection of Solid Waste and Recyclables in order to promote waste reduction, comply with State-mandated Waste Bans (310 CMR 19.017), and further the goals of the Town of Essex. The Board of Health of the Town of Essex adopts these regulations under the provisions of Chapter 111 Sections 31, 31A, 31B, 122 and 150A of the Massachusetts General Laws.

III. Effective Date

These regulations shall take effect on January 1, 2024.

IV. Definitions

For the purposes of this regulation, the following words and phrases shall have the following meaning unless the content clearly indicates otherwise:

Board or Board of Health shall mean the Town of Essex Board of Health.

Commercial Customers/Generators shall mean property owners and occupants of any commercial, industrial, institutional, municipal, school, or mixed-use building within the Town of Essex.

Customer shall mean either Residential Customer/Generator or Commercial Customer/Generator.

Mercury Disposal Prohibition shall mean Disposal Prohibition Provision of the Mercury Management Act (Chapter 190 of the Acts of 2006). Effective May 1, 2008, mercury-added products cannot be disposed of in Solid Waste. The law also prohibits any Solid Waste collector from collecting as Solid Waste the contents of a Solid Waste container that the collector knows (or reasonably should know) includes one or more mercury-added products. Details may be found at this link: <https://www.mass.gov/doc/faq-on-mercury-containing-product-disposal-ban/download>

Permitted Hauler shall mean any Private Hauler who has obtained a valid Private Hauler permit from the Board.

Private Hauler shall mean any person or entity providing collection of Solid Waste and/or Recyclables for hire within the Town of Essex.

Recyclables shall mean a material that is banned from disposal in the Commonwealth of Massachusetts pursuant to 310 CMR 19.017: Waste Bans. Mixed paper, cardboard, glass, metal, and plastic containers are priority materials of this regulation.

Residential Customers/Generators shall mean property owners and occupants of single and multi-family dwellings, condominiums, public housing, and mobile homes within the Town of Essex.

Solid Waste shall mean useless, unwanted or discarded non-recyclable solid and liquid wastes, excluding items restricted from disposal in Massachusetts, as defined by Table 310 CMR 19.017(3) of the Massachusetts' Solid Waste regulations (310 CMR 19.017).

Town shall mean the Town of Essex.

Waste Ban Materials shall mean all materials designated as banned from disposal in the Commonwealth of Massachusetts pursuant to 310 CMR 19.017 (see <https://www.mass.gov/regulations/310-CMR-19000-solid-waste-facility-regulations>).

V. Mandatory Separation of Recyclables

In order to protect the environment, promote recycling and be in compliance with Massachusetts Waste Ban regulations (310 CMR 19.017); the Town of Essex hereby establishes a requirement for mandatory separation of Recyclables from the Solid Waste stream, as set forth in said 310 CMR 19.07, which is incorporated herein as it may be amended from time-to-time. This requirement applies to all Residential Customers/Generators and Commercial Customer/Generators in the Town of Essex.

The Town of Essex will inform all generators (residential and commercial) at least once per year that recycling is mandatory.

VI. Permit Required

All Private Haulers wishing to collect, transfer, or transport Solid Waste or Recyclables generated within Essex shall be required to first obtain or annually renew a permit from the Board. Private Haulers that collect only Recyclables must also be permitted.

A. Permit Application

The permit application shall be on a form provided by the Board of Health and shall include, at a minimum, the formal name of the person or company; a statement that the person or company is registered to do business in Massachusetts and that the person or company is fully insured; and contact name, address, and telephone number. Copies of certificates of insurance for public liability and property insurance also shall be included.

The permit application must include a statement that the Private Hauler understands and is in compliance with the Massachusetts Waste Ban and Mercury Disposal Prohibition. The Private Hauler shall list the Solid Waste disposal facilities and the Recycling processing facilities where Solid Waste and Recyclables are expected to be delivered from Private Hauler's Customers during the permit year. The application shall be signed by a designated representative of the company, permitted to do business within the Commonwealth of Massachusetts.

The application shall include information on the types of services intended to be offered, and the approximate number of collection trucks expected to be used in the municipality during the course of the permit year. The application shall include information on how the Private Hauler intends to ensure that Customers prevent Waste Ban materials from being disposed with Solid Waste, and how the Private Hauler intends to notify Customers of improper Recycling or Solid Waste disposal.

In addition, the applicant shall pay an annual permit fee of \$150.00 as may be amended from time-to-time by the Board.

B. Annual Permit Renewal

Each Permitted Hauler shall annually submit a renewal application of his/her permit no later than 15th of November by submitting a renewal application and paying the annual permit fee.

The annual renewal application must indicate any changes from the original permit, including any change in Solid Waste or Recyclables facilities used, and must be signed by a business owner. The renewal must be accompanied by the following information or a completed Annual Solid Waste and Recyclables Reporting Form:

- Total tons of Solid Waste collected for disposal and total tons of Recyclables collected for processing from Residential Customers/Generators within the Town of Essex during the previous calendar year or 12-month period. (In the case where the Permitted Hauler delivers loads for disposal or recycling that are combined with more than one municipality, then the Permitted Hauler must provide their best estimate of tonnage delivered from the Town)
- The average number of Residential and Commercial Customers using each service (Solid Waste, Recycling) during the previous calendar year within the Town.
- The names of any Commercial Customers where the Permitted Hauler is providing Solid Waste only service.
- The names of any Commercial Customers where the Permitted Hauler is providing Recycling only service.
- Copies of any Waste Ban violation letters or notices received by the Permitted Hauler during the prior year that refer to loads collected within the Town of Essex.

Failure to provide a complete and accurate Annual Solid Waste and Recyclables Reporting Form may be grounds for denial of a permit to operate within the Town of Essex.

Annual permits will be issued by the 1st of January each year.

C. General Permit Requirements

All Permitted Haulers must be in compliance with the following general permit requirements:

- All Permitted Haulers must clearly display the name of the company on each vehicle operating in the Town.
- All Permitted Haulers must be in compliance with applicable federal, state and local laws. Each vehicle must meet all Department of Transportation safety requirements at all times.
- All materials must be securely contained in the vehicle. Littering or leaking shall be considered a violation of the permit.
- Recyclables shall not be commingled with Solid Waste when collected by the Permitted Hauler. Recyclables must be delivered to a processing facility designed to accept Recyclables. The Permitted Hauler shall inform Customers how to prepare acceptable Recyclables consistent with the requirements of the Recyclables processing facility.

- Permitted Haulers shall only collect for disposal Solid Waste which is not banned from disposal. It is the responsibility of the Permitted Hauler to educate the Customer about the Waste Bans and inform them that they will refuse to collect Solid Waste mixed with Waste Ban items that are visible to the driver/collector from any of their Customers (there is no requirement to open bags).
- In the event that the Permitted Hauler refuses to collect any materials, the Permitted Hauler will notify such Customers in writing of the reason(s) for refusal to collect the Solid Waste or Recyclables. In addition, the Permitted Hauler will advise the Board of Health about Customers who have received rejection notices.
- All permits shall be subject to such terms and conditions as the Board deems necessary for the protection of public health and the environment.
- Collection of Solid Waste and Recyclables may only occur during the hours of 7:00 A.M and 7:00 P.M. except in the case of bad weather or another emergency that requires collection outside of these hours, with notification to the Board of Health or their designated representative.

VII. Bundled Service Requirement

A. Service to Residential Customers/Generators

For **Residential Customers/Generators**, the bundled service must provide Customers with Solid Waste and Recyclables collection at a rate that reflects the cost of providing both services. Solid Waste and Recycling services must be provided by the same Permitted Hauler unless otherwise pre-approved by the Board of Health. The Permitted Hauler may itemize the invoice to clearly show the cost of Recycling collection contained in the bundled service.

All Permitted Haulers serving Residential Customers/Generators must provide appropriately sized, paired Solid Waste and Recyclables containers that are clearly marked and adjacent or in close proximity to each other.

B. Service to Commercial Customers/Generators

For **Commercial Customers/Generators**, the Permitted Hauler must provide both Solid Waste and Recyclables collection; unless the Customer can provide proof to the Permitted Hauler that separate Recycling services are provided by another Permitted Hauler or via one of the methods listed on the Recycling Service Exemption Form. Permitted Haulers may charge separately for the collection of Recyclables. Commercial Customers/Generators may choose to contract for collection of Recyclables by a second Permitted Hauler that only performs Recyclables collection. Permitted Haulers that collect only Recyclables are not required to collect Solid Waste.

Permitted Haulers must provide the names and addresses of their Solid Waste only Commercial Customers to the Town so the Town can follow up to ensure that those Customers are complying with the Waste Bans.

VIII. Inspection

The Board of Health or its designee is authorized to inspect a Permitted Hauler's truck and load at any time. The Board of Health also has the right to require weight slips or confirmation of disposal of Solid Waste or management of Recyclables.

IX. NUISANCE

The Board of Health and its agents reserve the right to monitor collection vehicles, loads, litter and/or nuisance conditions and routes at reasonable times to ensure that all Hauler services comply with all applicable State and local laws, by-laws and regulations. The Board of Health retains the right to define and determine "nuisance" conditions.

X. Enforcement

1. The Board of Health may modify, suspend or revoke any permit issued pursuant to these regulations for any violation of these regulations, or any other applicable General Law, regulation or by-law, including but not limited to 310 CMR 19.17. Such revocation or suspension may take place after a hearing held by the Board of Health of which the permit holder is given seven (7) days written notice. Such notice shall be deemed given upon mailing same, certified mail, return receipt requested, to the address listed on the permit application.

2. In the case of a violation or condition that constitutes an imminent threat to public health, the Board's agent may issue a notice of immediate emergency suspension. An immediate suspension may be appealed to the Board of Health by making a written request for hearing. Said request shall be in writing and must be received by the Board within seven days of the notice of immediate suspension.

3. This regulation may be enforced by any duly authorized agents of the Town's Board of Health. Whoever violates any provision of this regulation may be penalized by a noncriminal disposition process as provided in G.L. c.40, §21D and the Town's non-criminal disposition by-law, General Bylaw Section 3. If noncriminal disposition is elected, then the non-criminal fine for each such violation, if not shall be:

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|----|-----------------|----------------------|
| a. | First offense: | \$400 fine |
| b. | Second offense: | \$600 fine |
| c. | Third offense: | Revocation of permit |

Each day or portion thereof shall constitute a separate offense. If more than one, each condition violated shall constitute a separate offense.

4. Whoever violates any provision of this by-law may be penalized by indictment or on complaint brought in the district court. Except as may be otherwise provided by law and as the

district court may see fit to impose, the maximum penalty for each violation or offense shall be one thousand dollars (\$1,000). Each day or portion thereof shall constitute a separate offense. If more than one, each condition violated shall constitute a separate offense.

5. The Board of Health may enforce these Regulations or enjoin violations thereof through any lawful process, and the election of one remedy by the Board of Health shall not preclude enforcement through any other lawful means.

Signed: _____

Date: _____

Dr. David Driscoll, Chairman

Signed: _____

Date: _____

Dr. Fares Mouchantaf

Signed: _____

Date: _____

Sally Ann Rich