

TOWN of NORTH ATTLEBORO • BOARD of HEALTH

DRAFT Waste Hauling Regulation

September xx, 2010 (Draft #7)

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ARTICLE I **PURPOSE**

This regulation is intended to preserve the public and environmental health. It is designed to regulate the collection, transportation, disposal and disposition of solid waste and keep banned recyclable materials and certain toxic materials out of the solid waste stream.

ARTICLE II **AUTHORITY**

These regulations are promulgated under the authority granted to the North Attleboro Board of Health under Massachusetts General Law, Chapter III, Sections 31 and 31B, and 310 CMR 11.02 and 310 CMR 19.0 et seq..

ARTICLE III **DEFINITIONS**

For purposes of this regulation the following words and terms shall have the following meanings:

Applicant – any person who applies to the Board of Health for a permit to haul rubbish, garbage or recyclable materials in the Town of North Attleboro.

Definitions continued:

Board of Health or Board – the North Attleboro Board of Health, and/or any person authorized to act as its agent.

Commercial/Industrial Facility or Facility - a public or private establishment where the principal use is the supply, sale, storage and/or manufacture of services, products, or information, including but not limited to: manufacturing, processing, or other industrial operations; service or retail establishments; printing or publishing establishments; research and development facilities; small or large quantity generators of hazardous waste; laboratories and; nursing homes.

Commercial Trash Container or Container – a reusable container used to collect rubbish, garbage or recyclable materials by which the contents are removed mechanically from the container.

Compostable Material – wood, tree branches, leaves, yard trimmings, grass clippings, fruit and vegetable parings and other organic materials that will decompose to form soil.

Contaminated Waste – waste as defined in 105 CMR 480.000: Storage and Disposal of Infectious or Physically Dangerous Medical or Biological Waste, State Sanitary Code, Chapter VIII and/or 29 Code of Federal Regulation part 1910.1030, including any liquid or semi-liquid blood or other potentially infectious material; contaminated items that would release blood or other potentially infectious material in a liquid or semi-liquid state if compressed; items on which there is dried blood or other potentially infectious material and which are capable of releasing these materials during handling; sharps and any wastes containing blood or other potentially infectious materials.

Customer or Client – the property owner, person or authorized agent being serviced by the applicant who requests, contracts for, obtains or purchases waste hauling services to remove rubbish, garbage and/or recyclable materials from the Town of North Attleboro subject to this regulation.

Department or MDEP - the Massachusetts Department of Environmental Protection.

Disinfect - the destruction of disease-causing microorganisms on inanimate objects or surfaces rendering the objects safe for use or handling.

Equipment – all machinery, including vehicles, vessels, containers, tools, implements, devices and other apparatus and/or appurtenances used in connection with rubbish, garbage and/or recyclable material hauling operations subject to this regulation.

Exempt Units – residential units not eligible for participation in the Town’s trash/recycling curbside program.

Garbage – animal, vegetable or other organic waste resulting from the handling, preparing, cooking, consumption or cultivation of food, and containers and cans that have contained food unless such containers and cans have been prepared for recycling.

Definitions continued:

Integrated Waste Management Services – a waste collection program that offers proper collection and disposal services for both rubbish and recyclable materials under a single contract price.

Operator – any person who individually, jointly, or severally with others, owns or controls waste hauling operations that have been permitted to remove rubbish, garbage and/or recyclable materials from the Town of North Attleboro by its Board of Health.

Permit - Board of Health approval in writing to operate commercial waste hauling services for the removal of rubbish, garbage and/or recycling materials from the Town of North Attleboro. Said approval shall be granted solely for the conduct of such services pursuant to this regulation. Said permits are exclusive of the applicant's compliance with other licensing or permitting requirements that may exist within the Board of Health's jurisdiction.

Permittee – the holder of a waste hauling permit granted by the Board of Health pursuant to this regulation.

Person – an individual, any form of business or social organization, or any other non-governmental legal entity, including but not limited to corporations, partnerships, limited-liability companies, associations, trusts or unincorporated organizations.

Refuse- see Solid Waste and Rubbish.

Recyclable Materials or Recyclables– discarded material including but not limited to paper, plastic, glass, or metal objects, further including but not limited to cartons, cans, boxes and/or other containers that would otherwise be considered waste, but which are instead collected, sorted and processed into raw materials.

Rubbish – combustible and noncombustible waste materials, except garbage and compostable materials, including but not limited to such material as excelsior, rags, rubber, offal, leather, mineral matter, dust and the residue from the burning of wood, coal, coke and other combustible materials.

Sanitize – make clean and free of agents of infection or disease.

Solid Waste – abandoned, useless, unwanted or discarded household/residential items that do not contain materials listed in MDEP waste bans pursuant to 310 CMR 19.17(3).

Town – the Town of North Attleboro

Toxic or Hazardous Material - any substance or mixture of physical, chemical, or infectious characteristics posing a significant, actual, or potential hazard to water supplies and/or other hazards to human health if such substance or mixture were discharged to land or water in the town. Toxic or hazardous materials include without limitation: synthetic

Definitions continued:

organic chemicals; petroleum products; heavy metals; radioactive or infectious wastes; acids and alkalis and all substances defined as Toxic or Hazardous under Massachusetts General Law, Chapters 21C and 21E, or Massachusetts Hazardous Waste Regulations 310 CMR 30.00, and also include solvents, thinners and pesticides in quantities greater than normal household use.

Waste Bans – a list of prohibited materials designated by MDEP as needing to be handled, recycled or composted pursuant to 310 CMR 19.17.

Waste Hauling - any rubbish, garbage, compostable or recyclable materials hauling, handling, clearing, collection or removal operations, including associated vehicle operations and maintenance, or any combination thereof.

ARTICLE IV **CONTAINERS**

Section 1. Each Container used in Waste Hauling shall be of sufficient size and capacity as to eliminate overflowing and be equipped with a solid cover able to be closed and latched. All new Container storage areas shall be screened from sight by fencing or plantings. It shall be the Operator's responsibility to take immediate appropriate action to empty its Containers when full and clean them when necessary or as otherwise ordered by the Board. All Containers must be covered, except that open Containers for the collection and disposal of construction and demolition debris will be specifically permitted and limited to a maximum period of 30 days on site.

Section 2. Container covers must be closed and latched when the Container is not being filled or emptied. It shall be the Customer's responsibility to maintain Container areas free of odor, scattered debris, overflowing trash, and all other nuisances.

Section 3. An Operator shall be responsible to regularly wash, Disinfect, deodorize and Sanitize its Containers as often as necessary or as otherwise ordered by the Board.

ARTICLE V **SERVICES & TRANSPORTATION**

Section 1. No contractor, firm or person shall provide Waste Hauling services or supply a Container in the Town for the purpose of storage, removal or transporting of Rubbish, Garbage, Toxic, Hazardous and/or Recyclable Materials, offal or other offensive substances without first obtaining a Permit from the Board pursuant to this regulation.

Section 2. Permits shall be valid for one calendar year from November 1 through October 31 of each year, unless sooner revoked by the Board. Initial Permit applications and any renewals thereof are subject to review and approval by the Board and are non-transferable.

Services & Transportation continued:

Section 3. Permits may be renewed annually and the Board shall establish a fee to be included in all Permits for each Waste Hauling truck or Container to be used by the Applicant in the Town. Applicants shall supply the number and identification of said trucks to be included in each Permit, and shall request that the Board revise their Permits as applicable during the course of the Permit year when the Operator deems additional vehicles necessary to service its Customer(s).

Section 4. All Permitted individuals, entities and businesses shall provide their Waste Hauling services in compliance with the Massachusetts Solid Waste Master Plan and MDEP regulations. Operators shall offer commercial Rubbish and Recyclable Material collection services at a single price to their Customers and make said services part of an Integrated Waste Management Service that includes both Rubbish collection and Recyclable Material collection.

Section 5. As part of the annual permitting procedure, Applicants shall provide the Board with the following:

- a. A list of all residential, municipal and commercial/industrial Customers to be serviced by the Operator;
- b. a description of each collection vehicle to be used by the Operator in the Town, including the make, model, registration, year, type and size of compactor, and the company name to appear on each such vehicle;
- c. a copy of the Applicant's descriptive literature explaining its Integrated Waste Management Services to potential Customers, and;
- d. a monthly report of Solid Waste and Recyclables tonnage from all Town Waste Hauling service recipients.

Section 6. No person not permitted under this regulation to haul and dispose of trash, Rubbish, Garbage and/or Recyclables shall transport any of these materials to another community for disposal without previously submitting a copy of the express written permission from the appropriate authorities within that community to do so.

ARTICLE VI INSURANCE

Section 1. Each Applicant shall furnish the Board with certificates from an insurance company licensed to do business in the Commonwealth of Massachusetts verifying that the Applicant carries public liability and property insurance. Certificates of insurance shall be furnished each year upon the renewal of each Permit.

Section 2. A Permittee shall make certain that the insurance verified in Article VI, Section 1 herein is not cancelled prior to the Permittee's notification of the Board. Said notification shall be made not less than thirty (30) days prior to the cancellation.

ARTICLE VII **OPERATION PROCEDURES**

Section 1. Operators shall deliver all Solid Waste collected within the corporate limits of the Town to a licensed Solid Waste resource recovery plant, transfer station or sanitary landfill approved by the Commonwealth of Massachusetts.

Section 2. Operators shall provide Recyclable Material service to allow compliance with the MDEP and Board solid waste bans by the effective dates of said bans.

Section 3. Operators shall collect Customers' Recyclable Materials a minimum of two times per month and deliver the Recyclables for processing to a materials recycling facility that meets all state and local requirements. Operators shall be required to collect both paper products and co-mingled (glass/plastic/metal) materials at each pickup.

Section 4. Operators shall take reasonable care in the collection of all Solid Waste/Rubbish and/or Recyclable Material. Neither Solid Waste/Rubbish nor Recyclable Materials shall be scattered about the streets or onto private property. All Solid Waste/Rubbish and/or Recyclable Material which may be spilled in the collection process shall be immediately picked up by the Operator and removed with other Solid Wastes/Rubbish and Recyclables at the time of collection. Failure to comply may result in fines up to \$300.00 per violation.

Section 5. The Board reserves the right to inspect Operator's collection vehicles and loads at reasonable times in order to ensure compliance with this regulation and all other applicable state and local laws, by-laws and regulations.

Section 6. Any violation of this regulation or any other applicable laws, bylaws or regulations by the Operator will be grounds for suspension, modification or revocation of the Operator's Permit.

Section 7. Permittees may enter into contractual agreements with:

- a. Commercial/industrial units;
- b. residential units containing five (5) or more units, or;
- c. units within the Town under special request by the Board, provided that these Customers are responsible for all fees (pickup, transportation and disposal) and that they follow the recycling guidelines outlined in this regulation.

Section 8. Except for the contractor of the Town's curbside Solid Waste and recycling program, no Permittee may offer residential curbside pickup/collection services in the Town unless under special permit with the Board.

Section 9. The Board shall be empowered to enforce the provisions of this regulation through any of its agents in the Town's Health or Solid Waste Departments, or any law enforcement officer acting in an official capacity.

Section 10. Operators are required to provide their Customers with a list of acceptable Solid Waste/Rubbish and Recyclable Material types annually, including a list or description of proper packaging or bundling methods.

Operation Procedures continued:

Section 11. Operators may collect Solid Waste/Rubbish and Recyclable Materials from residential and industrial units within the Town limits between the hours of 7:00 a.m. and 8:00 p.m. only, and otherwise conform to the noise thresholds and exclusions of the Board's published Noise Regulations.

Section 12. Operators shall provide separate and appropriate insect- and rodent-resistant receptacles for the containment of Solid Waste/Rubbish and Recyclable Materials and maintain the receptacles in a clean and sanitary condition, free from odors, filth and causes of sickness.

ARTICLE VIII PENALTIES

Section 1. Failure to comply with the provisions of this regulation will result in specific penalties pursuant to the non-criminal method of disposition as provided in M.G.L. c.40 §21D, or to a criminal complaint that may be brought through Attleboro District Court. Non-Criminal Disposition penalties will begin with the levy of fines not less than \$100.00 for the first violation, \$200.00 for the second, and \$300.00 for each successive violation, a criminal complaint will result in a fine of not more than \$1,000, and each day's failure to comply with the provisions of this regulation shall constitute a separate violation.

ARTICLE IX GROUND FOR SUSPENSION, DENIAL, REVOCATION, OR REFUSAL TO RENEW A PERMIT

Section 1. Consistent with the Permit Policy of the Board, it may suspend, deny, revoke or refuse to renew an Operator's Waste Hauling Permit on the following grounds, each of which, in and of itself, shall constitute full and adequate grounds for suspension, denial, revocation or refusal to renew:

- a. Any actions which would indicate that the health or safety of the public would be at risk;
- b. fraud, deceit or misrepresentation in obtaining a permit, or its renewal;
- c. failure to comply with any applicable codes, ordinances or regulations;
- d. failure to allow agents of the Board to conduct inspections pursuant to Article VI, Section 5 herein;
- e. attempts to obstruct, evade or impede the work of duly authorized agents of the Board;
- f. criminal conduct or any present or past violation(s) of this regulation;
- g. the Operator, its employees or agents conducting waste hauling operations in the Town while the ability to do so is impaired by alcohol, drugs, physical disability or mental instability;
- h. continuing to provide waste hauler services while the Permit to do so is lapsed, suspended, or revoked, or;
- i. such other just and sufficient cause as the Board may determine would render the Operator unfit to continue providing Waste Hauling services in the Town.

Grounds for Suspension, Denial, Revocation or Refusal to Renew a Permit continued:

Section 2. The Board shall notify Operators in writing of any violation(s) of this regulation for which the Board intends to deny, suspend, revoke, or refuse to renew a Permit. An Operator shall have seven (7) days after receipt of such written notice in which to comply with this regulation. The Board may deny, suspend, revoke or refuse to renew a Permit, if the Operator fails to comply after said seven (7) days subject to the procedure outlined in the Board's Permit Policy and Article XI herein.

Section 3. Applicants denied a Permit may reapply at any time after denial.

ARTICLE X GROUND FOR SUMMARY SUSPENSION OF PERMIT

Section 1. Consistent with its 2008 Permit Policy and subsequent amendments, if any, the Board may summarily suspend a Permit pending a final hearing on the merits on the question of revocation if, based on the evidence before it, the Board determines that an Operator is an immediate and serious threat to the public health, safety or welfare. The summary suspension of a Permit shall take effect immediately upon written notice of such suspension by the Board.

ARTICLE XI PROCEDURE FOR HEARINGS

Section 1. Operators shall be given written notice of the Board's intent to hold a hearing for the purpose of suspension, revocation, denial or refusal to renew a Permit. This written notice shall be served through a certified letter sent by first class and certified return receipt requested mail. The notice shall include the date, time and place of the hearing and the Operator's right to be heard. The Board shall hold the hearing no later than 21 days from the date the written notice is received. In the case of a suspension of a permit as noted in Section 16 above, a hearing shall be scheduled no later than 21 days from the date of the suspension.

ARTICLE XII VARIANCES

Section 1. Variances may be issued unilaterally by the Board or formally requested by any party affected by this regulation. Every request for a variance shall be made in writing on a form provided or specified by the Board and shall be subject to a public hearing before the Board. Any variance granted by the Board shall be in writing. Any denial of a variance by the Board shall also be in writing and shall contain a brief statement of the reasons for such denial.

Section 2. The Board may vary the application of any provision of this regulation, unless otherwise prohibited by state law or regulation when, in the sole opinion of the Board, enforcement of this regulation will do manifest injustice, or the requesting party can demonstrate that the provision will impose an extraordinary or unreasonable burden. Any variance or other modification authorized by the Board may be subject to such qualification, revocation, suspension, or expiration as the Board shall express in its grant.

ARTICLE XIII OTHER APPLICABLE LAWS

Section 1. This regulation shall not be interpreted or construed to supersede or nullify the requirements of any other applicable local, state or federal codes, regulations or statutes.

ARTICLE XIV SEVERABILITY

Section 1. If any provision contained in this regulation is deemed invalid for any reason, it shall be severed and shall not affect the validity of the remaining provisions.

ARTICLE XV EFFECTIVE DATE

This regulation replaces the Commercial Trash Container Regulations originally promulgated by the Board on the 8th day of May, 1997 and shall take effect immediately upon adoption by the Board at its regularly scheduled meeting of August xx, 2010, except that all Operators currently licensed in the Town shall comply with this regulation within ninety (90) days of said adoption.

By the North Attleboro Board of Health:

Donald M. Bates, Chairman

John J. Donohue, Jr., Member

Jonathan D. Maslen, Member