

# TOWN of FOXBOROUGH

## **Waste Hauling Regulation**

*Approved by Board of Selectmen: June 9, 2015*

*Effective: July1, 2015*

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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 Town of Foxborough under Massachusetts General Law, Chapter 111, 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 Town of Foxborough for a permit to haul rubbish, garbage, other solid wastes and/ or recyclable materials within the Town of Foxborough.

Board of Health or Board – the Foxborough 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 Foxborough subject to this regulation.

Department or MassDEP - 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.

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.

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 by the Town of Foxborough.

Permit - Approval in writing to operate commercial waste hauling services for the removal of rubbish, garbage, or other solid wastes and/or recycling materials from the Town of Foxborough. 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 Town of Foxborough.

Permittee – the holder of a waste hauling permit granted by the Town 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 MassDEP waste bans pursuant to 310 CMR 19.017

Town – the Town of Foxborough, as represented by the Town Manager or his designee as the official responsible for the enforcement of these regulations.

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 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 30.000, 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 19.017.

Waste Hauling - Hauling, handling, clearing, collection or removal operations, including associated vehicle operations and maintenance, or any combination thereof relative to any solid waste, rubbish, garbage, compostable or recycling materials within or through the Town of Foxborough.

#### **ARTICLE IV**                      **COMMERCIAL TRASH 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. 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 Town. All Containers must be covered, except that open containers for the collection and disposal of construction and demolition debris will be specifically permitted and, unless permitted by variance as provided in Article XIII herein, shall be limited to a maximum period of 30 days on site. No container shall be left on or blocking any public way, including sidewalks, except on scheduled pick up days.

Section 2- Container covers must be closed 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- All new container storage areas shall be screened from sight by fencing or plantings. All container storage areas in place as of the effective date of this regulation shall be similarly screened from sight by fencing or plantings within twelve months of said effective date.

Section 4- An operator shall be responsible to regularly wash, disinfect, deodorize and sanitize its containers as often as necessary or as otherwise ordered by the Town.

## **ARTICLE V RESIDENTIAL TRASH AND RECYCLING CONTAINERS**

### **Section 1- RESIDENTIAL TRASH CONTAINERS**

Reference 105 CMR 410.000 Minimum Standards of Fitness for Human Habitation (State Sanitary Code, Chapter II)

#### **105 CMR 410.600: Storage of Garbage and Rubbish**

(A) Garbage or mixed garbage and rubbish shall be stored in watertight receptacles with tight-fitting covers. Said receptacles and covers shall be of metal or other durable, rodent-proof material. Rubbish shall be stored in receptacles of metal or other durable, rodent-proof material. Garbage and rubbish shall be put out for collection no earlier than the day of collection.

(B) Plastic bags shall be used to store garbage or mixed rubbish and garbage only if used as a liner in watertight receptacles with tight-fitting covers as required in 105 CMR 410.600(A), provided that the plastic bags may be put out for collection except in those places where such practice is prohibited by local rule or ordinance or except in those cases where the Department of Public Health determines that such practice constitutes a health problem. For purposes of the preceding sentence, in making its determination the Department shall consider, among other things, evidence of strewn garbage, torn garbage bags, or evidence of rodents.

(C) The owner of any dwelling that contains three or more dwelling units, the owner of any rooming house, and the occupant of any other dwelling place shall provide as many receptacles for the storage of garbage and rubbish as are sufficient to contain the accumulation before final collection or ultimate disposal, and shall locate them so as to be convenient to the tenant and so that no objectionable odors enter any dwelling.

(D) The occupants of each dwelling, dwelling unit, and rooming unit shall be responsible for the proper placement of his garbage and rubbish in the receptacles required in 105 CMR 410.600(C) or at the point of collection by the owner.

### **Section 2- RESIDENTIAL RECYCLING CONTAINERS**

Residential Recycling Containers may be obtained through permitted vendors. Residents may also purchase Residential Recycling Containers through the Town's Department of Public Works (DPW).

## **ARTICLE VI**

## **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 materials, Solid waste and/or Recyclable Materials, offal or other waste materials without first obtaining a permit from the Town pursuant to this regulation.

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

Section 3- Permits may be renewed annually and the Town 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 Town revise their Permit 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 MassDEP 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 Town with the following:

- a. A list of all residential, municipal and commercial/industrial Customers to be serviced by the Operator and if these customers are receiving recycling services; Amounts of Trash and Recyclables shall be submitted to the town.
- 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. Annual report of estimated average Solid Waste and Recyclables tonnage from all Town Waste Hauling service recipients must be submitted by 15 days, close of the year.
- e. Summary slips with information on where the trash and recyclables are transported to/disposed.

Section 6- Pursuant to this regulation, no person or business entity may for the purpose of disposal 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 VII**

## **INSURANCE**

Section 1- Each applicant shall furnish the Town 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- The applicant shall make certain that the insurance verified in Article VI, Section 1 herein is not cancelled prior to the notification of the Town. Said notification shall be made not less than thirty (30) days prior to the cancellation.

Section 3- The applicant shall provide a certificate of proof that workers' compensation insurance meeting the statutory requirements has been provided for all employees engaged in work under the permit.

Section 4- The applicant shall provide a certificate of insurance as evidence of having automobile insurance. The automobile liability policy will be in the amount of not less than \$1,000,000 combined single limit for bodily injury and property damage.

Section 5- The Town of Foxborough shall be listed as an additional insured on all liability policies of the Contractor and subcontractors hired by the Contractor. The General Liability Additional Insured Endorsement should include operations and completed operations.

## **ARTICLE VIII**      **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 MassDEP solid waste bans by the effective dates of said bans.

Section 3- Operators shall collect Customers' Recyclable Materials at a minimum schedule of every other week and deliver the Recyclables for processing to a MassDEP-approved 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.

Section 5- The Town 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, by-laws or regulations by the Operator will be grounds for suspension, modification or revocation of the Operator's Permit.

Section 7- The Town shall be empowered to enforce the provisions of this regulation through any of its agents in the Town's Health or Building Dept., or any law enforcement officer acting in an official capacity.

Section 8- 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.

Section 9- 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 7:00 p.m., Monday -

Saturday or as otherwise required in order to conform to the noise level thresholds and exclusions of the Town's General By-Laws- Article 5, unless otherwise determined by the Town.

## **ARTICLE IX**

## **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 Wrentham 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 X**

## **GROUND FOR SUSPENSION, DENIAL, REVOCATION, OR REFUSAL TO RENEW A PERMIT**

Section 1- Consistent with the permit policy of the Town, 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 Town to conduct inspections pursuant to Article VII, Section 5 herein;
- e. Attempts to obstruct, evade, or impede the work of duly authorized agents of the Town;
- 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 Town may determine would render the Operator unfit to continue providing Waste Hauling services in the Town.
- j. Being disrespectful towards residents and or residents property.

Section 2- The Town shall notify Operators in writing of any violation(s) of this regulation for which the Town 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 Town 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 Town's Permit Policy and Article IX herein.

Section 3- Applicants denied a Permit may reapply at any time after a denial has been issued.

**ARTICLE XI****GROUND FOR SUMMARY SUSPENSION OF PERMIT**

Section 1- The summary suspension of a Permit shall take effect immediately upon written notice of such suspension by the Town.

**ARTICLE XII****PROCEDURE FOR HEARINGS**

Section 1- Operators shall be given written notice of the Town'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 Town 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 XIII****VARIANCES**

Section 1- Variances may be issued unilaterally by the Town 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 Town and shall be subject to a public hearing before the Town. Any variance granted by the Town shall be in writing. Any denial of a variance by the Town shall also be in writing and shall contain a brief statement of the reasons for such denial.

Section 2- The Town 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 Town, 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 Town may be subject to such qualification, revocation, suspension, or expiration as the Town shall express in its grant.

**ARTICLE XIV****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 XV****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 XVI****EFFECTIVE DATE**

Section 1- This regulation shall become effective on July 1, 2015. Renewals of permit applications shall be filed no later than December 1 or 30 days prior to the expiration date of December 31 of each calendar year.

By the Town of Foxborough

