

# **BOARD OF HEALTH**

TOWN HALL – 1 MAIN STREET – AYER, MASSACHUSETTS 01432 – (978) 772-8213



## **AYER BOARD OF HEALTH Solid Waste Hauler Regulations Adopted May 18, 2015**

### **Section 1. Purpose**

The purpose of this regulation is to protect residents, businesses and the environment within the Town of Ayer from: noise, odors, insects, birds, scavengers, discharges and other nuisances caused by Solid Waste Containers, Dumpsters and/or trash pickup or hauling activities.

### **Section 2. Scope of Authority**

The Ayer Board of Health (BOH) acting under the authority of Chapter 111, Sections 31, 31A, 31B, and 122 of the Massachusetts General Laws, 310 CMR (Code of Massachusetts Regulations) Section 19, and any amendments and additions thereto, and by any other power thereto enabling, has adopted the following regulations to be effective January 1, 2016.

### **Section 3. Definitions**

In addition to the definitions included in 310 CMR 19.006 ("Solid Waste Management"), the following definitions apply to this regulation:

Curbside Pick-up Container: Any container smaller than a Dumpster that is provided to a customer by a Solid Waste Hauler Permittee for the purpose of collecting and holding Solid Waste until it is picked up by the hauler.

Dumpster: Any container three (3) cubic yards or larger, that is used to hold any of the following: construction and demolition (C&D) waste, commercial Solid Waste, garbage, municipal Solid Waste, rubbish, or Recyclable Materials.

Improper Disposal: Includes disposal of Recyclable Materials with trash and/or dumping or otherwise disposing of Solid Waste in any area other than a disposal facility licensed, permitted or approved by all governmental bodies having jurisdiction.

Permittee: Any person(s), entity, firm, corporation, or company which has applied for and obtained the required permit to collect or transport C&D waste or municipal Solid Waste in the Town of Ayer.

Recyclable Material: Material that has the potential to be recycled and which is not comingled with Solid Waste or contaminated by significant amounts of toxic substances as per 310 CMR 19.006.

Solid Waste: Shall be as defined in 310 CMR 19.006 except that for the purposes of this regulation solid waste shall not include Recyclable Materials as defined herein.

Solid Waste Collection Vehicle: Any vehicle used for the collection or transport of Solid Waste. All such vehicles must be maintained in a safe, clean condition and in good repair as specified below.

Solid Waste Container: Curbside pick-up containers and Dumpsters.

Solid Waste Hauler: Any person, entity, firm, corporation, or company which removes or transports C&D waste or Solid Waste.

Temporary Dumpster: A Dumpster or series of Dumpsters that are continually replaced for a construction, clean-out or any other project that remains on site for no more than ninety (90) days (or longer as on the basis of a written permit issued by the Ayer Fire Department).

#### **Section 4. General Requirements**

- 4.1 Any persons, businesses, corporations, LLCs, firms or other such non-municipal entity engaged in the collection and/or hauling of Solid Waste from residential, municipal, or commercial/industrial customers in the Town of Ayer, unless exempted by State law, shall:
  - Obtain a Solid Waste Hauler Permit from the Board of Health prior to beginning such activities;
  - Collect only Solid Waste and/or Recyclable Materials as set forth herein;
  - Remove this Solid Waste and/or Recyclable Materials to an approved location or facility in accordance with these regulations, as well as all other applicable rules and regulations of the Town of Ayer and/or Commonwealth; and
  - Collect Solid Waste and Recyclable Materials at least twice per month.
- 4.2 Once the Solid Waste Hauler Permit has been granted, the Permittee may enter into contractual agreements with commercial/industrial or municipal customers within the Town of Ayer, provided that these customers are responsible for all fees (pickup, transportation and disposal) and that they follow the recycling provisions outlined in these regulations.
- 4.3 A Solid Waste Hauler Permit shall expire, unless otherwise suspended or revoked, on December 31 of each year.
- 4.4 In order to encourage recycling and to allow compliance with the State of Massachusetts Department of Environmental Protection Solid Waste Bans, all Solid Waste Hauler Permittees serving residential, municipal and commercial/industrial customers in the Town of Ayer shall provide customers with the option of recycling. Recyclable Materials include, but are not limited to, the items listed in 310 CMR 19, including all future amendments.
- 4.5 Permittees may elect to exclude or require separate containers for C&D waste. If the Permittee does collect and haul C&D waste, those materials identified in 310 CMR 19 as Recyclable Materials may not be disposed of as Solid Waste and must be segregated for recycling by the customer or the Permittee.
- 4.6 Permittees are required to provide their customers with a list of acceptable Solid Waste types and Recyclable Materials according to these regulations and with a list or description of proper Solid Waste and Recyclable Materials packaging or bundling methods.
- 4.7 The Permittee shall conspicuously display the business name and telephone number on all vehicles as required by DOT laws, and on all Solid Waste Containers provided to Ayer customers. Each vehicle shall carry a copy of the Solid Waste Hauler Permit at all times while engaging in pickup and/or transportation. The Board of Health also reserves the right to require Permittees to display evidence of a valid permit or sticker on each vehicle conducting business within the Town

of Ayer, in such a fashion as determined by the Board.

- 4.8 Neither the emptying of Dumpsters nor the collection of Solid Waste in residential zoning districts shall commence before 7:00 AM and shall not continue beyond 7:00 PM.
- 4.9 Permits granted in accordance with this regulation are not transferrable except with the written approval of the Board of Health.
- 4.10 No Solid Waste Collection Vehicle shall be driven or moved on any street, road or highway within the Town of Ayer unless the vehicle is so constructed and loaded as to prevent its contents from spilling, dropping, shifting, leaking or otherwise escaping. Vehicles loaded with any material that may be blown about by the wind shall be suitably covered to prevent the contents from escaping onto any street or other public right-of-way, or other public or private property. Any Solid Waste that is spilled or otherwise escapes from the vehicle or from the Solid Waste container in the process of collection must be immediately picked up by the Permittee and removed with the other waste. Failure to comply with this requirement may result in revocation of the Solid Waste Hauler Permit by the Board of Health and a complaint filed with the court. Penalties are punishable by a fine and possible loss of driver's license subject to MGL Chapter 270 Section 16.
- 4.11 The Board of Health reserves the right to inspect Solid Waste Collection Vehicles and loads at reasonable times in order to ensure that they comply with all applicable state and local laws, bylaws and regulations.
- 4.12 An exact figure of the tonnage of Solid Waste and Recyclable Materials that the Permittee has collected shall be reported to the Ayer Department of Public Works (DPW) on a semiannual basis (or more frequently if the Permittee chooses to do so). Semiannual reports shall be submitted by August 1 and February 1 of each calendar year. The information required these reports will be identified on the reporting form provided to the Permittee by the Board of Health. Failure to provide the required information within the time period may result in revocation, suspension, or modification of a permit.

## **Section 5. Container Requirements**

- 5.1 All Solid Waste Containers shall be located where they do not interfere with the health and/or safety of any resident or business, and shall not obstruct the view or flow of traffic.
- 5.2 No Solid Waste Container shall be used to dispose of hazardous waste.
- 5.3 All Solid Waste Containers shall be constructed of durable materials equipped with tight fitting lids that shall be kept closed except when placing trash in them. Temporary Dumpsters are exempt from this regulation.
- 5.4 Dumpsters shall be placed on a solid surface such as asphalt, concrete or compacted gravel. Temporary Dumpsters are exempt from this regulation.
- 5.5 Temporary construction dumpsters are excluded from these regulations but must comply with all other applicable codes and the terms of any permit granted for such use. Contact the Ayer Fire Department for a permit.
- 5.6 Dumpsters intended for use by restaurants or other food establishments, or for use by multiple



residents of an apartment building, condominium or similar residence must be located a minimum of five (5) feet from any property line, and may not be any closer than five (5) feet vertically and horizontally from any window or other opening.

- 5.7 For residential customers the Solid Waste Hauler shall provide covered containers, carts (or wheeled containers), and recycling bins or stickers (if applicable).

## **Section 6. Permit Application and Renewal**

- 6.1 At the time of the initial application or as otherwise specified, the Permittee or prospective Permittee shall submit to the Board of Health the following information:

- A completed application form prepared by and available at the Board of Health offices.
- A non-refundable permit fee in accordance with the fee schedule below.
- The reporting form, prepared by and available at the Board of Health offices, which includes tonnage information, number of customers, current or proposed Solid Waste collection routes, dates (day of the week) and times.
- A general description of the Solid Waste Collection Vehicles(s) to be used, the number of such vehicles making pickups within the Town of Ayer, and the company name appearing on the vehicle(s).
- Name and location of the disposal site(s) to be used for Solid Waste and Recyclable Materials collected within the Town of Ayer.
- A copy of all information to be provided to customers including a description of acceptable Solid Waste, any special bagging or bundling requirements, a list of what can be recycled and any Recyclable Material segregation or packaging requirements, and the day of the week when the customer's Solid Waste will be collected.
- Written educational materials to notify residents that recycling is required to comply with the Commonwealth of Massachusetts waste bans enforced by the Massachusetts Department of Environmental Protection.
- Certification that the Permittee shall ensure that all required state and federal inspections are maintained at all times for all vehicles.
- Proof of liability and workers' compensation insurance issued by any company or companies licensed to do business in the Commonwealth of Massachusetts, which meets or exceeds the following minimum requirements:
  - Workers' compensation: per current statutory requirements for all employees operating in the Town of Ayer.
  - Comprehensive general liability insurance: \$1,000,000 combined single limit for bodily injury and property damage.
  - Vehicle insurance: \$1,000,000 combined single limit for bodily injury and property damage.
- Certification that the Permittee agrees to maintain these insurance policies throughout the current permitting period, or will notify the Board of Health no less than thirty (30) days of any changes or cancellation.
- Certification that the Permittee agrees to comply with all parts of this regulation.

- 6.2 The Permittee is responsible for submitting the complete annual renewal application containing all information and documentation required under this regulation no later than November 1 of the prior year to allow the Board of Health sixty (60) days to process the application. Any renewal application not received by the Board of Health by November 1 will be subject to a twenty-five

dollar (\$25.00) per week late fee. Any late fees must be paid in full before the permit will be renewed for the next calendar year. A renewal application shall contain the same information listed above for the initial application, including the annual permit renewal fee. A permittee may operate under the current permit, if it is not suspended or revoked, only if a renewal application is filed by November 1 and may continue to do so while the application is under review unless and until said application is denied or deemed denied.

- 6.3 The Board of Health shall review and act upon any application for a Solid Waste Hauler Permit (original or annual renewal) within sixty (60) days of receiving a complete application containing all information required per this regulation. If the Board fails to act within sixty (60) days, the application shall be deemed denied. An applicant may request a public hearing before the Board by filing a request for a hearing no later than ten (10) business days after the receipt of a written denial or after the expiration of the sixty (60) days.
- 6.4 An applicant or Permittee will be allowed the right to appear before the Ayer Board of Health at a hearing to discuss its application only if such hearing request is filed in writing with the Board with said application.

## **Section 7. Enforcement and Inspection**

- 7.1 With the exception of the conditions described below, the failure to comply with any part of these regulations by a Permittee may result in a fine of up to one thousand dollars (\$1,000) under G.L. c. 111, §31B per occurrence and/or the suspension or revocation of the permit. Each day (or portion thereof) of noncompliance shall be considered a separate occurrence. If the violation(s) apply to more than one condition of this regulation, each condition violated shall constitute a separate offense.
- 7.2 Notwithstanding Section 7.1 above, whoever violates any provision of this regulation may be penalized by the non-criminal disposition process as provided in M.G.L c. 40 § 21D. Non-criminal disposition may be used in addition to or in the alternative any other remedy.
- 7.3 Under Section 7.2, the first violation of these requirements may result in a fifty dollar (\$50) fine or a written warning to be issued by the Board of Health within ten (10) calendar days of becoming aware of the violation. A second violation will result in a one hundred dollar (\$100) fine and a request to come before the Ayer Board of Health. A third or subsequent violation will result in a three hundred dollar (\$300) fine, and may constitute grounds for the Board of Health to refuse to issue, or revoke, a Solid Waste Hauler Permit to the company or person.
- 7.4 Improper disposal of Solid Waste or Recyclable Materials may be cause for immediate revocation of the Solid Waste Hauler Permit and prosecution to the fullest extent of the law.
- 7.5 Any party cited for a violation of this regulation may appeal such citation by filing a written notice of appeal with the Board of Health within ten (10) business days (excluding Saturday, Sunday and legal holidays) from the date of the citation. A hearing will be held within thirty (30) days from the date the appeal is received by the Board of Health. The imposition of any additional fines related to the appeal will be suspended until after the hearing. If the hearing results in a finding that the violation 1) was valid, and 2) continued during any or all of the fine suspension period, the Board of Health may then levy all applicable fines that would have accrued throughout the fine suspension period and/or take any further action in accordance with these regulations.
- 7.6 Failure to pay any fines imposed pursuant to this regulation within the time stated in the citation



may result in revocation of the permit, or a decision not to renew the permit for the upcoming year.

- 7.7 At the Board of Health's discretion, violations of any part of this regulation may be addressed through a written request for appropriate corrective action(s) to be identified and implemented by the Permittee according to a schedule agreed to between the Board of Health and the Permittee. This remedy may be applied in lieu of or in addition to any fines prescribed in this regulation.
- 7.8 The agent of the Board of Health, any member of the Board of Health or any Ayer Police Officer may enforce these regulations or enjoin violations thereof through any lawful process, and the election of one remedy shall not preclude enforcement through any other lawful means.

#### **Section 8. Permit Fees**

- 8.1 The permit fee for a Solid Waste Hauler Permit shall be posted on the Board's website no later than October 1 of the preceding year each year. All existing Permittees will be given a three-month notice before the scheduled increase.
- 8.2 The annual permit renewal fee shall be the same as the initial permit fee unless otherwise specified by the Board of Health.
- 8.3 Fees shall not be prorated or refunded for any reason.

#### **Section 9. Variances**

The Board of Health may in its sole discretion vary the application of any provision of this regulation with respect to any particular case when, in its opinion, the enforcement thereof would do manifest injustice; provided that the decision of the Board of Health shall not conflict with the spirit of these regulations or the minimum standards required by the laws of the Commonwealth of Massachusetts. Any variance granted by the Board of Health shall be in writing and shall be subject to such conditions as the Board deems appropriate. A copy of any such variance shall, while it is in effect, be available to the public at all reasonable hours in the office of the Board of Health.

#### **Section 10. Responsibility of the Permittee**

- 10.1 Permittees may enter into arrangements for the collection of refuse and recyclables with individual residents, the municipality and/or commercial/industrial customers of the Town, in which the Permittee will be paid directly by the customer.
- 10.2 By issuing said permit, neither the Board of Health nor the Town of Ayer or its officers, employees, department and the like assume any responsibility or liability for the actions or inactions of the Permittee and the Town of Ayer shall have no liability for payment to the Permittee for any residential or commercial/industrial collection and disposal work that is not included in a contract duly executed with the Town of Ayer in accordance with the laws of the Commonwealth.
- 10.3 As a condition of holding a Solid Waste Hauler Permit, the Permittee shall take all responsibility for the work and take all reasonable precautions for preventing injuries to persons or damage to property; shall bear all losses resulting to the Solid Waste hauling company on account of the quantity or character of the work; shall assume the defense of and indemnify and hold harmless the Town of Ayer, its officers, agents and servants from all claims relating to labor and materials furnished for the work, and for all injuries to any person or corporation received or sustained by

or from the Permittee and employees doing the work, in consequence or any improper materials, implements or labor used therein; and to any act, omission or neglect by the Permittee and its employees, contractors or agents to the extent permitted by the laws of the Commonwealth.

- 10.4 The Permittee agrees to indemnify the Town of Ayer for any liability that may arise from the improper treatment, storage or disposal of any Solid Waste, Recyclable Materials or hazardous wastes collected within the Town.

#### **Section 11. Severability**

A determination that any portion or provision of this regulation is invalid shall not invalidate any other portion or provision thereof, nor shall it invalidate any permit previously issued thereunder.

This regulation is not intended to replace or to supersede the requirements of 527 CMR 34 with respect to the Ayer Fire Department's permitting and oversight of rubbish handling, including the permitting provisions contained therein.

Signed this 8<sup>th</sup> day of June, 2015 by the members of the Ayer Board of Health.

  
Heather Hasz, Chair

  
Mary Spinner, Clerk

  
Pamela Papineau, Member