



Board of Health

Edward Cosgrove, PhD
Chair

Stephen Epstein, MD, MPP
Member

Jane Fogg, MD, MPH
Vice Chair

ARTICLE 2

REGULATION GOVERNING COLLECTION AND DISPOSAL OF SOLID WASTE, RECYCLABLES, AND FOOD WASTE

SECTION 2.1 **PURPOSE**

The purpose of this regulation is to establish minimum requirements for the 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 Needham.

These regulations do not address the installation or management of dumpsters. These regulations also do not address the operation of the Needham RTS or food waste management operations.

The goal of this regulation is to ensure that:

- 2.1.1 Private Haulers providing the service of collecting Solid Waste, Recyclables, or Food Waste in Town do so in a manner that protects public health and environment;
- 2.1.2 There are fair and equitable rules for all Private Haulers providing collection service in Town;
- 2.1.3 All Private Haulers licensed to operate in Town are in compliance with state regulations (310 CMR 19.017) as well as commercial vehicle regulations (540CMR 4.05);
- 2.1.4 There is joint enforcement of the Waste Ban requirements by the municipality and all Private Haulers operating within the municipality. Municipalities and haulers work together to support the goals of the Solid Waste Master Plan and the Global Warming Solutions Act.
- 2.1.5 All residential customers are offered bundled service, such that they receive solid waste and recycling collection.
- 2.1.6 There is greater consistency across municipalities to promote clear operating guidelines for Private Haulers.

SECTION 2.2 **AUTHORITY**

These regulations are adopted by the Needham Board of Health, pursuant to its authority under Massachusetts General Laws, Chapter 111 Sections 31, 31A, 31B, 122 and 150A.

SECTION 2.3 DEFINITIONS

Acceptable Recycling Facility: shall mean the Needham RTS or a Materials Recovery Facility designed for the purpose of maximizing the recovery of materials for reprocessing or reuse or a transfer station that transfers materials to such a facility.

Acceptable Food Waste Handling Facility: shall mean the Needham RTS or a compost site or food handling facility approved and operating in compliance with the General Permit Provision of 310CMR 16.04.

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

Divertable Materials: shall mean all types of items that can be diverted or recovered from the waste stream in the Needham RTS.

Food Waste: shall mean material generated from human or animal food production, preparation and consumption activities and which consists of, but is not limited to, fruits, vegetables, grains, and fish and animal products and byproducts. This does not include the collection or storage of fats, oils, and grease which are regulated separately.

Hazardous Waste: shall mean any waste or material, in any amount, which is defined, characterized or regulated as hazardous by or pursuant to federal or state laws. For purposes of this Regulation, the term "Hazardous Waste" shall also include, but not be limited to, motor oil, gasoline other flammable liquids, caustic or poisonous liquids or solids, oil based paint, asbestos, Cathode Ray Tubes (CRTs), televisions, computer monitors, lead batteries, fluorescent light bulbs, explosives and ammunition.

Leaf and Yard Waste: shall mean deciduous and coniferous seasonal deposition (e.g., leaves), grass clippings, weeds, bush trimmings, garden materials and brush, branches, and tree limbs (size?) and any other compostable materials that are allowed to be delivered to the Needham RTS.

Needham RTS: shall mean the Recycling and Transfer Station located in the Town of Needham.

Recyclables: shall mean that subset of the Waste Banned Materials that are routinely recyclable materials such as ferrous and non-ferrous metals, glass & metal containers, recyclable paper, cardboard and paperboard, and single resin narrow-necked plastics containers.

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

Permitted Hauler: shall mean any Private Hauler who has obtained a valid hauler permit from the Town.

Private Hauler: shall mean any person or entity providing collection of Solid Waste, Recyclables and/or Food Waste or other type of waste collection for hire on a routine basis within the Town.

Prohibited Materials: shall mean mercury-added products as defined in the Mercury Management Act (Ch 190 of the Acts of 2006), including but not limited to thermostats, mercury thermometers, fluorescent light bulbs, and elemental mercury. These items are prohibited from disposal in Solid Waste.

Salvaging: shall mean picking through, and/or picking through in order to remove, materials previously deposited in any Solid Waste, Food Waste, or Recyclables container at the Needham RTS. All items

dropped at RTS are “town property” and not to be taken by individuals except at the area defined as a swap shop.

Solid Waste: shall mean useless, unwanted or discarded non-recyclable solid wastes, excluding Waste Banned Materials, Prohibited Materials, and Hazardous Waste as defined herein.

Swap Shop: shall mean the building designated as the area for residents to drop off useful and still usable items for other residents to reuse.

Town: shall mean the Town of Needham.

Waste Banned Materials: shall mean all materials designated as banned from disposal in the Commonwealth of Massachusetts pursuant to 310 CMR 19.017: Waste Bans, including: asphalt pavement, brick & concrete, cathode ray tubes, clean gypsum wallboard, commercial food waste, ferrous and non-ferrous metals, glass & metal containers, lead acid batteries, leaves and yard waste, recyclable paper, cardboard and paperboard, single resin narrow-necked plastics, treated and untreated wood and wood waste (banned from landfills only), white goods (large appliances), and whole tires (banned from landfills only).

SECTION 2.4 MANDATORY RECYCLING

2.4.1 In order to protect the environment, promote recycling and comply with Massachusetts Waste Ban regulations (310CMR 19.017), the Town hereby establishes a requirement and minimum standard for mandatory separation of Recyclables from other materials collected as Solid Waste. This requirement applies to all Residential Customers/Generators and Commercial Customer/Generators in the Town.

2.4.2 The Town will inform all Residential Customers/Generators and Commercial Customer/Generators at least once per year that recycling is mandatory.

SECTION 2.5 PRIVATE HAULER PERMITS

2.5.1 Private Haulers may be permitted to collect Solid Waste, Recyclables or Food Waste, providing such collection is performed in accordance with these regulations.

2.5.2 Private Haulers shall obtain and annually renew a permit from the Board of Health before engaging in the collection of Solid Waste, Recyclables, or Food Waste within the Town. There shall be a fee as per Article 17 of the Board of Health Regulations, Permit and License Fees, for each vehicle used in such service. The Board of Health may issue fines or revoke such license, upon receipt of evidence satisfactory to it that the Private Hauler has not complied with these regulations or such further regulations as may be adopted relative to the collection and disposal of Solid Waste, Recyclables, or Food Waste.

2.5.3 The initial permit application must be complete in order to be considered. Renewal applications will be due by March 20th. The Town will have 30 days to consider the application. Permits will be valid for 12 months and will expire on March 31st of the year unless the Private Hauler submits their permit renewal application and is approved.

SECTION 2.6 GENERAL PERMIT REQUIREMENTS

- 2.6.1 All Permitted Haulers must clearly display the name of the company on each vehicle operating in Town.
- 2.6.2 All Permitted Haulers must have a valid business license from the Town.
- 2.6.3 All Permitted Haulers must be in compliance with applicable federal, state and local laws.
- 2.6.4 Each vehicle must meet all Department of Transportation safety requirements at all times.
- 2.6.5 All materials must be securely contained in the vehicle. Littering or leaking shall be considered a violation of the permit.
- 2.6.6 All Permitted Haulers shall collect only Solid Waste for disposal purposes. They may collect Recyclables for management at an Acceptable Recycling Facility. They may collect Food Waste for management at an Acceptable Food Waste Facility. It is the responsibility of the Permitted Hauler to educate their customers about Waste Banned Materials, Prohibited Materials, and Hazardous Wastes. It is the responsibility of the Permitted Hauler to inform all customers that they will refuse to collect Solid Waste mixed with Waste Banned Materials, Prohibited Materials or Hazardous Wastes that are visible to the driver/collector.
- 2.6.7 All Permitted Haulers that serve Residential Customers/Generators shall deliver Solid Waste to the Needham RTS at such time as the Health Department notifies all haulers of this requirement unless the Private Hauler receives an exemption.
- 2.6.8 All Permitted Haulers that collect Food Waste shall deliver such Food Waste to the Needham RTS at such time that the facility is approved and ready to receive it unless the Private Hauler receives an exemption from this requirement.
- 2.6.9 In the event that the Permitted Hauler refuses to collect any materials from any customer, they will leave a written notification indicating the reason(s) for refusal to collect the Solid Waste, Recyclables, or Food Waste. In addition, the Hauler will advise the Board of Health about all customers who have received a rejection. The Board of Health will, where possible, assist the Private Hauler with enforcement of the Mandatory Recycling provision (Section 2.4).
- 2.6.10 Private Haulers that collect only Recyclables must also be permitted, but are not required to collect Solid Waste. They must deliver Recyclables to an Acceptable Recycling Facility.
- 2.6.11 Private Haulers that collect only Food Waste must also be permitted, but are not required to collect Solid Waste. They must deliver Food Waste to an Acceptable Food Waste Facility.

SECTION 2.7 BUNDLED SERVICE REQUIREMENT

- 2.7.1 Private Haulers that collect Solid Waste from Residential Customers/Generators must provide bundled service for the collection of both Solid Waste and Recyclables. The pricing of their service must be set at a rate that reflects the cost of providing both services. The Private Hauler may itemize the invoice to show separate costs for Solid Waste and Recycling collection, but in no instance can a Private Hauler offer only collection of Solid Waste to a Residential Customer/Generator. Solid Waste and Recycling services for all Residential

Customers/Generators must be provided by the same Private Hauler unless otherwise pre-approved by the Board of Health.

2.7.2 All Haulers collecting Solid Waste from Residential Customers/Generators (as defined above) that live in condominium, mobile home complexes or other multi-family complexes must provide appropriately-sized, clearly marked, adjacent or nearby containers for both Solid Waste, Recyclables, and Food Waste, if collected separately.

2.7.3 There is no bundled service requirement for Commercial Customers/Generators. The Hauler can provide either Solid Waste or Recyclables collection or both. If the Private Hauler is not providing collection of both Solid Waste and Recyclables, they shall provide the name of the Commercial Customer/Generator to the Town Board of Health so the Town can follow up to ensure that those Customers are receiving both services and are complying with the Waste Bans.

2.7.4 An organization that wishes to be considered for an exemption to these regulations shall submit their request in writing to the Board of Health.

SECTION 2.8 INSPECTION

The Board of Health or its designee is authorized to inspect a Hauler's truck annually and at any time. The Board of Health also has the right to request weight slips or confirmation of disposal of Solid Waste or management of Recyclables or Food Waste. At the time of inspection, the company will be expected to show proof of valid inspection, registration, and appropriate safety equipment for each vehicle in compliance with 540CMR 4.05 Procedures for Inspection of Commercial Motor Vehicles.

SECTION 2.9 ENFORCEMENT

Enforcement of this regulation shall be by administrative hearing before Board of Health or if needed by criminal complaint in the district court and/or non-criminal disposition ticket per M.G.L. Chapter 40, § 21D. Agents of the Board of Health or its designee shall have the power to enforce the provisions of this regulation.

SECTION 2.10 PENALTIES

In the event that a Hauler fails to follow these regulations, the Board of Health reserves the right to impose reasonable fines or revoke the permit to operate within the Town/City, subject to the Appeal Provisions described below.

- | | |
|-------------------------|----------------------|
| (a) First offense | Warning |
| (b) Second offense | \$ 200 fine |
| (c) Third offense | \$ 500 fine |
| (d) Subsequent offenses | Revocation of permit |

Each day of failure to comply with the regulations shall constitute a separate violation.

SECTION 2.11 APPEAL PROVISIONS

Any Hauler cited for a violation of these regulations may appeal such citation by filing a written notice of appeal with the Board of Health within seven (7) days, exclusive of Saturdays, Sundays and legal holidays, from the date of said citation. A hearing will be held within 60 days from the date of the filing of the appeal. Written notice of the hearing date will be delivered to the applicant at least two (2) weeks

prior to the scheduled date. The hearing will be conducted in accordance with the established procedures of the Board of Health.

SECTION 2.12 LEGAL PROVISIONS, NON-RETALIATION, SEVERABILITY

2.12.1 No person or employer shall discharge, refuse to hire, refuse to serve or in any manner retaliate or take any adverse personnel action against any employee, applicant, customer or person because such employee, applicant, customer or person takes any action in furtherance of the enforcement of this Article or exercises any rights conferred by this Article.

2.12.2 If any provision, clause, sentence, paragraph or word of this Article or the application thereof to any person, entity or circumstances shall be held invalid, such invalidity shall not affect the other provisions of this article which can be given effect without the invalid provisions or application and to this end the provisions of this Article are declared severable.

SECTION 2.13 OPERATION AT THE NEEDHAM RTS

2.13.1 Operation of the Needham RTS shall be conducted in accordance with federal and state regulations, including, but not limited to: the Massachusetts Department of Environmental Protection's Solid Waste Management Facility Regulations--310 CMR 19.000.

2.13.2 All users of the Needham RTS shall display a current vehicular sticker permanently attached to their vehicle. Permitted Haulers will have a current commercial sticker on each vehicle, provided by the Town Treasurer's office.

2.13.3 Only Solid Waste or Recyclables originating in Town shall be deposited at the Needham RTS, unless written approval is provided by the Board of Health.

2.13.4 Supervision of the dumping and disposal of Solid Waste at the Needham RTS shall be under the Public Works Department, including the right to collect a reasonable tip fee from Permitted Haulers. All Solid Waste, Recyclables and/or Food Waste shall be deposited in a manner and at a location as directed by the Needham RTS staff.

2.13.5 All Permitted Haulers shall have access to the Needham RTS during regular operating hours as long as they comply with all of the above requirements plus all operating standards and requirements specific to the Needham RTS and/or outlined by Needham RTS staff.

2.13.6 The hours of the Needham RTS shall be set by the Department of Public Works. Dumping outside of these hours is prohibited.

2.13.7 Scavenging of material shall not be allowed.

2.13.8 Permitted Haulers shall comply with the proper sorting of Recyclables, Food Waste and other Divertable Materials to the maximum extent feasible. All drivers shall be aware of the list of acceptable wastes allowed at the Needham RTS and the definition of Waste Banned Materials, Prohibited Materials, and Hazardous Materials. Permitted Haulers shall educate their customers about keeping Waste Banned Materials, Prohibited Materials, and Hazardous Materials out of Solid Waste and inform them of options for recycling or other proper management of such Waste Banned Materials.

2.13.9 Permitted Haulers shall comply with all operational requests of the Town staff and shall submit evidence or answer any reasonable questions concerning the origin of contents of such vehicle as the staff may request.

2.13.10 Trucks without proper covers or that are leaking will not be allowed to enter the Needham RTS.

SECTION 2.14 EFFECTIVE DATE

These regulations were formally adopted by the Needham Board of Health on May 11, 2018, to take effect on January 1, 2019.

Public meetings about this regulation occurred in February, March, and April 2018. A public hearing occurred in May 11, 2018. This regulation was approved by a [unanimous] vote.

A notice and summary of the regulation was posted by the Needham Town Clerk, was posted on the Needham Public Health Division's website, and was published in a newspaper in circulation in the Town of Needham. Copies of this regulation have also been filed with the Needham Town Clerk and the Massachusetts Department of Environmental Protection.
