

CHAPTER 14: RULES AND REGULATIONS FOR REMOVAL, TRANSPORT, AND DISPOSAL OF SOLID WASTE OR RECYCLABLES IN THE CITY OF EASTHAMPTON

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 City of Easthampton (“City”). 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 are clear operating guidelines for Private Haulers; and,
- The City 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 City of Easthampton. The Board of Health of the City of Easthampton adopts these regulations under the provisions of Chapter 111 Sections 31, 31A, 31B, 122 and 150A of the Massachusetts General Laws.

Private Haulers shall only collect for disposal those items acceptable for disposal. Materials banned from disposal under 310 CMR 19.017 shall not be included with Solid Waste.

III. Effective Date

These regulations shall take effect on October 3, 2022.

IV. Definitions

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

Acceptable Food Waste Handling Facility shall mean a Food Waste composting facility operating in compliance with General Permit Provisions of 310 CMR 16.04.

Board of Health shall mean the Board of Health for the City of Easthampton, Massachusetts.

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

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

Food Waste/Organic 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.

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. As of July 19, 2022, details may be found at this link: <http://www.mass.gov/eea/docs/dep/toxics/laws/hgbanfaq.pdf>

Permitted Hauler shall mean any Private Hauler who has obtained a valid Private Hauler *Permit* from the City.

Private Hauler shall mean any person or entity providing collection of Solid Waste, Food Waste/Organic Waste, and/or Recyclables for hire within the City.

Private Hauler Permit shall mean a permit issued by the Board of Health pursuant to this regulation allowing a Private Hauler to operate. Each Private Hauler Permit shall expire on December 31st of the year such Private Hauler Permit was issued.

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 City of Easthampton.

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).

City shall mean the City of Easthampton, Massachusetts

Waste Ban Materials shall mean all materials designated as banned from disposal in the Commonwealth of Massachusetts pursuant to 310 CMR 19.017.

V. Mandatory Recycling

In order to protect the public health, environment, promote recycling and be in compliance with Massachusetts Waste Ban regulations (310 CMR 19.017); the Board of Health pursuant to its authority under M.G.L. c. 111 § 31 hereby establishes a requirement for mandatory separation of Recyclables from the Solid Waste stream. This requirement applies to all Residential Customers/Generators and Commercial Customer/Generators in the City of Easthampton.

VI. Permit Required

All Private Haulers shall first obtain or annually renew a permit from the Board of Health (“Private Hauler Permit”). No Private Hauler may operate within the City limits without first having obtained a valid Private Hauler Permit from the Board of Health.

A. Permit Application

The Private Hauler Permit application shall be made on a form developed and promulgated by the Board of Health and shall include at a minimum:

1. The formal name of the person or company seeking the Private Hauler Permit;
2. A contact name, address, email address and telephone number;
3. If operating in a corporate form, evidence that the “company” is registered to do business in Massachusetts. If operating as an individual or d/b/a that such individual or d/b/a has to register with the City;
4. A statement that the person or company is fully insured along with copies of certificates of insurance for public liability and property insurance shall be affixed to such application;
5. A statement that the applicant understands, shall operate, and is in compliance with the Massachusetts Waste Bans and Mercury Disposal Prohibition;
6. A statement as to which Solid Waste disposal facilities and Recycling processing facilities Solid Waste and Recyclables are expected to be delivered from the Private Hauler’s Customers during the time the permit is valid;
7. A statement as to the types of services intended to be offered, and the approximate number of collection trucks expected to be used in the City during the time the permit is valid during the course of the permit year;
8. A statement as to how the applicant will 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;
9. The signature of the duly authorized representative of the company, or the individual indicating that her or she reviewed the Private Hauler Permit application and that to the best of his or her knowledge its contents are accurate and truthful;
10. Payment of the permit fee as determined by the Board of Health.

Upon receipt of a complete Private Hauler Permit application, the Board of Health shall have 30 days to determine whether such permit shall be granted.

B. Annual Permit Renewal

Each Permitted Hauler shall submit a renewal application to the Health Department no later than the date set annually by the Health Director of the calendar year in which such Private Hauler Permit expires. Approved renewal Private Hauler Permits will be issued by the 1st of January each year.

C. General Permit Requirements

All Permitted Haulers must comply with the following general permit requirements:

1. All Permitted Haulers must clearly display the name of the company on each vehicle operating in the City;

2. All Permitted Haulers must comply with applicable federal, state and local laws including Department of Transportation (“DOT) regulations;
3. All materials must be securely contained in the vehicle. Littering or leaking shall be considered a violation of the permit;
4. Recyclables shall not be commingled with Solid Waste when collected by the Permitted Hauler. Recyclables shall be delivered to a processing facility licensed to accept Recyclables. The Permitted Hauler shall inform Customers how to prepare acceptable Recyclables consistent with the requirements of the Recyclables processing facility;
5. 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 its Customers about the Waste Bans and inform them that they cannot collect Solid Waste mixed with Waste Ban items which are visible to the driver/collector (there is no requirement to open bags). Please refer to the list of Waste Ban items in 310 CMR 19.017 which may not be accepted at Massachusetts’ disposal facilities; and,
6. In the event that the Permitted Hauler refuses to collect any materials, the Permitted Hauler shall notify such Customer 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. The Board of Health will, where possible, assist the Permitted Hauler with enforcement of the Mandatory Recycling provision and/or Waste Ban requirement.

VII. Bundled Service Requirement

A. Service to Residential Customers/Generators

For **Residential Customers/Generators**, the bundled service shall 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 a variance is obtained 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 Board of Health, upon request, so the Board of Health may follow up to ensure that those Customers are complying with the Waste Bans as necessary

VIII. Unlawful Disposal or Dumping:

It shall be unlawful for any Permitted Hauler or person, without proper authorization, to dispose of their refuse, recyclables, or waste into another person's dumpster or onto another person's property.

IX. Permitting Haulers Who Collect Food Waste

A. Minimum Level of Service

In general, if Food Waste is collected separately from Solid Waste, collection shall occur as often as necessary to prevent a nuisance.

B. Containers

Maintenance:

Dumpsters, carts or compactors should be closable and cleanable, leak-free, water tight and capable of being locked. All doors/hatches/tight-fitting lids should be closed or in place when not in immediate use to prevent pests from entering the container. Plastic bags and wet strength paper bags may be used to line closed outside receptacles.

C. Residential Rates for Additional Services

Separate fees for additional services, such as collection of Food Waste, yard trimmings, special pickups for bulky items, or backdoor service, are permitted.

D. Food Waste Handling Facility

Permitted Haulers collecting Food Waste/Organic Waste shall annually report to the City of Easthampton during the annual permit renewal period the Acceptable Food Waste Handling Facilities where Food Waste/Organic Waste is expected to be delivered from Hauler's Customers during the permit year.

X. Inspection

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

XI. Hours of Collection

Residentially Zoned Areas: Collection of Solid Waste and Recyclables may only occur in a residentially zoned district from 7 a.m. to 5:00 p.m. except in the case of inclement weather or another emergency that requires collection outside of these hours, with notification to the Board of Health as soon as possible, but prior to beginning pickup, either by email or phone call.

Commercial or Business Zoned Areas: Collection of Solid Waste and Recyclables may occur at any time only in the Downtown Business (DB), Highway Business (DV), Industrial (I), Mixed Use/Mill Industrial (MI), and Neighborhood Business (NB).

For further guidance, please refer to the City of Easthampton’s current zoning map for further delineation of zoning districts.

XII. Nuisance

The Board of Health and its agent reserve the right to monitor collection vehicles, loads, litter and/or nuisance conditions and routes at reasonable times to ensure that all Permitted 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.

XIII. Communication with Waste Ban Inspector

The City of Easthampton reserves the right to exchange information and coordinate enforcement activity with MassDEP’s waste ban inspectors in order to enforce the provisions of these regulations and State law.

XIII. Variance Requests

The Board of Health may, but is not required to, grant a variance after receiving a request from the Permitted Hauler in writing on the form promulgated by the Board of Health. The Board of Health may approve variances on a permanent or temporary basis until the applicant can come into full compliance.

To request a variance, the Permitted Hauler must articulate the following on the Variance Request Form provided by the Health Department:

1. Identify which section of the regulation they are requesting a variance from;
2. Articulate how the enforcement of the regulation would do manifest injustice; and,
3. Prove to the Board by a preponderance of the evidence that the same degree of environmental protection can be achieved without strict application of the particular section of the regulation.

Decisions by the Board shall be documented in writing and approvals shall not be in effect until the applicant receives written approval from the Board of Health.

XV. Enforcement

Enforcement of this regulation shall be by criminal complaint in the district court and/or non-criminal disposition ticket per MGL Chapter 40, Section 21D and/or revocation of permit. Agents of the Board of Health or its designee shall have the power to enforce the provisions of this regulation.

A. Penalties

In the event that a Permitted Hauler fails to follow these regulations, the Board of may impose reasonable fines and/or revoke the permit to operate within the City, subject to the Appeal Provisions described below. Each day of failure to comply with the regulations shall constitute a separate violation, cumulative during the permit year.

- (a) First offense warning

- (b) Second offense \$ \$100 fine
- (c) Third offense \$ \$200 fine
- (d) Subsequent offenses not less than \$ \$250 nor more than \$ \$300

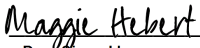
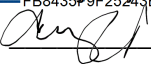
B. Appeal Provisions

Any Permitted 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. The BOH shall hold a hearing within 60 days from the date of the filing of the appeal. Written notice of the hearing date shall be delivered to the applicant at least two (2) weeks prior to the scheduled hearing date. The hearing shall be conducted in accordance with the established procedures of the Board of Health.

C. Legal Provisions

If any portion of these regulation is declared unlawful or invalid for any reason, such declaration shall not affect the remaining parts of this regulation.

XVI. Signatures

<small>DocuSigned by:</small> 	Maggie Hebert, Chair	7/27/2022
<small>DocuSigned by:</small> 	Aimee Petrosky	7/27/2022

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Voted on during a public hearing at an open meeting of the Easthampton Board of Health on July 26, 2022.

