

RULES AND REGULATIONS FOR REMOVAL, TRANSPORT, AND DISPOSAL OF SOLID WASTE OR RECYCLABLES IN THE TOWN OF SOUTHBOROUGH

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 Town of Southborough. 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 is greater consistency across municipalities to promote clear operating guidelines for Private Haulers; and,
- Municipalities 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 Town of Southborough. The Board of Health of the Town of Southborough 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 2/1/2025.

IV. Definitions

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

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

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

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. Details may be found at this link:
<https://www.mass.gov/doc/faq-on-mercury-containing-product-disposal-ban/download>

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

Private Hauler shall mean any person or entity providing collection of Solid Waste and/or Recyclables for hire within the Town of Southborough.

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 Town of Southborough.

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).

Town shall mean the Town of Southborough.

Waste Ban Materials shall mean all materials designated as banned from disposal in the Commonwealth of Massachusetts pursuant to 310 CMR 19.017 (see <https://www.mass.gov/regulations/310-CMR-19000-solid-waste-facility-regulations>).

V. Mandatory Recycling

These regulations are intended to support and align with the Town of Southborough Mandatory Recycling regulation. In order to protect the environment, promote recycling and be in compliance with Massachusetts Waste Ban regulations (310CMR 19.017); the Town of Southborough 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 Town of Southborough. The Town of Southborough will inform all generators (residential and commercial) at least once per year that recycling (and separation) is mandatory.

VI. Permit Required

All Private Haulers wishing to collect, transfer, or transport Solid Waste or Recyclables generated within Southborough shall be required to first obtain or annually renew a permit from the Town of

Southborough. No Private Hauler may collect Solid Waste or Recyclables unless they have obtained a valid Private Hauler Permit from the Town. Private Haulers that collect only Recyclables must also be permitted.

A. Permit Application

The permit application, a form of which is included as Attachment 3 to these regulations, shall include the formal name of the person or company; a statement that the person or company is registered to do business in Massachusetts and that the person or company is fully insured; and contact name, address, and telephone number. Copies of certificates of insurance for public liability and property insurance also shall be included.

The permit application must include a statement that the Private Hauler understands and is in compliance with the Massachusetts Waste Bans and Mercury Disposal Prohibition. The Private Hauler shall list the Solid Waste disposal facilities and the Recycling processing facilities where Solid Waste and Recyclables are expected to be delivered from Private Hauler's Customers during the permit year. The application shall be signed by a designated representative of the company, permitted to do business within the Commonwealth of Massachusetts.

The application shall include information on the types of services intended to be offered, and the approximate number of collection trucks expected to be used in the municipality during the course of the permit year. The application shall include information on how the Private Hauler intends to 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.

Upon receipt of a complete permit application, the Board of Health shall have 30 days to rule on the granting of a permit to operate within the Town of Southborough. In addition, the applicant shall pay an annual permit fee of \$300.00 as determined by the Town of Southborough.

B. Annual Permit Renewal

Each Permitted Hauler shall annually submit a renewal application of his/her permit no later than the 1st of December, by paying the annual permit fee.

The annual renewal application must indicate any changes from the original permit, including any change in Solid Waste or Recyclables facilities used, and must be signed by a business owner or designee. The renewal must be accompanied by the following information or a completed Annual Solid Waste and Recyclables Reporting Form, included as Attachment 4 to these regulations.:

- Total tons of Solid Waste collected for disposal and total tons of Recyclables collected for processing from Residential Customers/Generators within the Town of Southborough during the previous calendar year or 12-month period. (In the case where the Permitted Hauler delivers loads for disposal or recycling that are combined with more than one municipality, then the Permitted Hauler must provide their best estimate of tonnage delivered from the Town.)
- The actual number of Residential and Commercial Customers using each service (Solid Waste, Recycling) during the prior 12-month period on the date of the application within the Town; separated by residential and commercial customers.
- Copies of any Waste Ban violation letters or notices received by the Permitted Hauler during the prior year that refer to loads collected within the Town of Southborough.

Failure to provide a complete and accurate Annual Solid Waste and Recyclables Reporting Form may be grounds for denial of a permit to operate within the Town of Southborough.

Annual permits will be issued by the 1st of January each year.

C. General Permit Requirements

All Permitted Haulers must be in compliance with the following general permit requirements:

- All Permitted Haulers must clearly display the name of the company on each vehicle operating in the municipality.
- All Permitted Haulers must be in compliance with applicable federal, state and local laws. Each vehicle must meet all Department of Transportation safety requirements at all times.
- All materials must be securely contained in the vehicle. Littering or leaking shall be considered a violation of the permit.
- Recyclables shall not be commingled with Solid Waste when collected by the Permitted Hauler. Recyclables must be delivered to a processing facility designed to accept Recyclables. The Permitted Hauler shall inform Customers how to prepare acceptable Recyclables consistent with the requirements of the Recyclables processing facility.
- 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 the Customer about the Waste Bans and inform them that they will refuse to collect Solid Waste mixed with Waste Ban items that are visible to the driver/collector from any of their Customers (there is no requirement to open bags). Please refer to the list of Waste Ban items, Attachment 1 to these regulations, which may not be accepted at Massachusetts' disposal facilities.
- In the event that the Permitted Hauler refuses to collect any materials, the Permitted Hauler will notify such Customers 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 must 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 otherwise pre-approved 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.

VIII. Inspection

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

IX. Insurance

Each applicant shall furnish to the Board of Health an insurance certificate showing that the applicant carries Public Liability Insurance in an amount of at least \$1,000,000 for the injury or death of one or more persons, and \$500,000 for damage to property. Certificates of Insurance shall be furnished each year upon renewal of permit. The Certificate of Insurance shall provide that the policy may not be canceled absent 30 days prior notification of the Southborough Board of Health.

X. Operations

A. Hours of Collection

Collection of Solid Waste and Recyclables may only occur during the hours of 6 a.m. to 6 p.m. except in the case of bad weather or another emergency that requires collection outside of these hours, with notification to the Board of

Health or their designated representative.

B. Minimum Service Level Requirements

(a.) Permitted haulers shall not collect Solid Waste and Recyclables from Residential Customers/Generators at least every two weeks.

(b.) Collection of Recyclables from Residential Customers must be on the same day of the week as Solid

XI. Enforcement

A. Hauler Permit Requirements

The Board of Health shall issue a notice of violation to the Permitted Hauler and provide the Permitted Hauler seven (7) business days to respond to the allegations of non-compliance with any section of this regulation. Failure to respond shall be grounds for revocation of the Permit in accordance with the hearing provisions below. The individuals empowered to enforce the provisions of this regulation shall be the Agent of the Board of Health, any member of the Board of Health, the DPW Solid Waste Coordinator, Inspectional Services, or other Town designee, or any police officer of the Town.

If the Permitted Hauler does not respond within seven (7) days, the Board of Health shall hold a public hearing, subject to MGL Chapter 111 Section 127B. If the Board of Health determines that the Permitted Hauler is in violation of this Permit, then the Board may either provide the Permitted Hauler with an order to fix the problem and/or suspend the Permit until the Permitted Hauler demonstrates to the Board's satisfaction that the Permitted Hauler will be in compliance with this regulation. In the event that a

Permitted Hauler fails to follow this regulation, the Board of Health reserves the right to impose reasonable fines or take other action in accordance with State and local regulations.

B. Mandatory Recycling Requirements for Generators

Enforcement of this regulation shall be by any legal means, including equitable relief in a court of competent jurisdiction; or fines as set forth below in accordance with G.L. c. 111 and/or via non-criminal disposition under MGL Chapter 40, Section 21D (as may be permitted under local general bylaws implementing these regulations). DPW or Solid Waste Administrators, Inspectional Services, and Agents of the Health Department or their designees shall have the power to enforce the provisions of this regulation.

C. Suspension, denial, revocation, or refusal to renew permit.

The Board may suspend a permit, deny a permit, revoke a permit, or refuse to renew a 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 and safety of the public would be at risk.
- b. Fraud, deceit, or misrepresentation in obtaining a permit, or its renewal.
- c. Criminal conduct which the Board determines to be of such a nature as to render the establishment, owner, operator, or applicant unfit to haul as evidenced by criminal proceedings resulting in a conviction, guilty plea, of plea of nolo contendere, or an admission of sufficient facts.
- d. Any present or past violations of the Board's regulations governing these operations.
- e. Knowingly permitting, aiding, or abetting an unauthorized person to perform activities requiring a permit.
- f. Continuing to operate while the permit is lapsed, suspended, or revoked; and
- g. Having been disciplined in another area in any way by the proper permitting authority for reasons substantially the same as those outlined in the Board's regulations.
- h. Other than just and sufficient cause which the Board may determine would render the establishment, owner, operator, or applicant unfit to haul.

D. Penalties

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

- | | |
|-------------------------|---------------------------|
| (a) First offense | warning |
| (b) Second offense | \$ <u>100</u> fine |
| (c) Third offense | \$ <u>200</u> fine |
| (d) Subsequent offenses | \$ <u>300</u> fine |

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

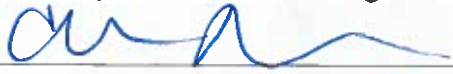
XII. Severability

If any paragraph or provision of this article is found to be illegal or against public policy or unconstitutional, it shall not affect the legality of any remaining paragraphs or provisions being in force.

XIII. Attachments

1. List of Waste Ban Materials.
2. Reserved.
3. Permit Application Form.
4. Annual Solid Waste and Recyclables Reporting Form.
5. Reserved.
6. Waste Ban Educational Handout - <https://www.mass.gov/doc/fact-sheet-what-are-the-massachusetts-waste-bans/download>
7. Waste Ban Guidance for Haulers - <https://www.mass.gov/doc/guidance-brief-haulers-waste-ban-compliance/download>
8. Recycle Smart Checklist

Signed by Town of Southborough Board of Health:



Chelsea Malinowski, Chairperson



Safdar Medina Vice Chairperson



Elizabeth Zulick

1/28/2025

Date