

THE TEWKSBURY BOARD OF HEALTH REGULATIONS

CHAPTER 7: DUMPSTER REGULATIONS

7.1 AUTHORITY

These Regulations are adopted by the Tewksbury Board of Health ("Board") under the authority of MGL c. 111 § 31, and other applicable provisions of the Massachusetts General Laws.

7.2 PURPOSE

These regulations are promulgated for the protection of the environment and the public health, welfare, and safety within the Town of Tewksbury (the "Town").

7.3 DEFINITIONS

Abutter: Abutters and owner(s) of land directly opposite of any public or private street or way, abutters to abutters within three hundred (300) feet of the property line of the premises, which is subject matter of the application or appeal, as the owner(s) appear on the most recent applicable tax list, notwithstanding that the land of such owner(s) is located in another city or town.

Board: The Town of Tewksbury Board of Health.

Compactor: Container used to create less volume than its original state of packaging. This container is also used for external storage and collection of solid waste, refuse, garbage, rubbish, offal, or other offensive substance for municipal, residential, industrial, or commercial.

Container: Represents a compactor, dumpster, and grease dumpster for the purposes of this regulation.

Dumpster: Any container (other than a conventional trash can with tight lid) intended for the external storage and collection of solid waste, refuse, rubbish, offal, recyclable items including clothes donation boxes, or other offensive substance for municipal, residential, industrial, or commercial refuse. This includes container(s) that are considered temporarily or permanently, compacted or un-compacted by-products and requires mechanical assistance for emptying the contents.

Grease Dumpster: Also known as "bulk grease tank" or drums (usually 55 gallon drums but not limited too) used for external storage and collection of liquid waste matter.

Health Agent: Agents appointed by the appropriate authorities, which may include, but not limited to, health director, sanitary inspector, public health nurse, and health inspectors.

Health Department: The Department of Public Health for the Town.

Owner(s): A person who, individually or severally with others, has legal title, care, charge or control of any dwelling, dwelling unit, mobile dwelling unit, mobile home park, building, structure, or parcel of land, vacant or otherwise.

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Plan: Any drawings including, but not limited to, calculations, test data, supplemental maps, and any information utilized, requested or required that is necessary to explain a substantial design or plans for submittal to the Health Department and/or TBOH.

Short Term: Dumpsters that are used for a temporary duration with a maximum time of 180 days.

Town: The Town of Tewksbury

Variance: Any variance or waiver of the Board's Regulations.

Water Ways: Water ways include the following but limited to; wetland resources are as defined under M.G.L. Ch.131, s. 40, and 310 CMR 10.00, the Wetlands Protection Act, the Tewksbury Wetland Protection Bylaw, ponds and vernal pools, all streams, surface water bodies and swamps.

7.4 PERMIT

7.4.1 No person or contractor shall transport or keep a container within the limits of the Town, without the proper permits from the Health Department and or the Fire Department.

7.4.2 All permits will expire annually on May 31st and may be revoked for cause.

7.4.3 The Health and Fire Department permit is not transferable.

7.4.4 Dumpsters and/or rubbish containers of six (6) cubic yards or more in the aggregate of compacted or un-compacted, that require mechanical assistance for the emptying of the contents thereof, shall require a permit from the head of the fire department in accordance with 527 CMR 34. No Fire Department permit shall be required for containers which are delivered to a location and removed in the course of a single business day or for dumpsters that are for scrap metal collection only.

7.4.5 A permit may be revoked at any time with cause. The Board or its agent may revoke said permit without a public hearing if in its opinion, conditions exist which may endanger the environment, and the health, safety or welfare of the general public. And/ or the existing conditions create a public health nuisance.

7.4.6 The permit holder has the right to appeal the revocation at a public hearing.

7.4.7 All containers are subject to compliance inspections.

7.4.8 At the time of application all contractors must submit a current registration number(s) for each vehicle that will be transporting within the Town.

7.5 Short-Term Permit

7.5.1 Short-term permit(s) shall have duration of one (1) to ninety (90) days.

7.5.2 An extension of time may be requested in writing on a form supplied by the Health Department prior to the expiration date up to an additional ninety (90) days.

7.5.3 Permits are not transferable.

7.5.4 All containers are subject to compliance inspections.

7.6 APPLICATION

7.6.1 The contractor, firm, or person supplying the container in the Town for service will make application for a permit to transport, remove, or dispose of solid waste, garbage, offal, grease, rubbish, medical waste, or other offensive substances, as well as debris, and other materials including scrap.

7.6.2 An application for a permit shall be submitted on a form supplied by the Health Department.

7.6.3 New applications shall be accompanied by:

- (a) A plan on 8 ½ X 11 paper prepared by the applicant shall be submitted to keep on file with the Health Department showing the approved location of the container in relation to other dwellings and the business being serviced.
- (b) Plan must be drawn to the scale of ¼" = 1'.

7.6.4 All applications must state the home address, business address, business telephone numbers, e-mail address and emergency contact information. As well as the property owner's name, address, e-mail address and contact information.

7.6.5 All contractors must include a list of their containers' locations within the Town.

7.6.6 All contractors must submit a current registration number for each vehicle within the Town.

7.7 LOCATION

7.7.1 Container's location must be located at a distance from lot line so as not to interfere with the safety, convenience, or health of the abutters or residents. This location must be approved by the Health, Fire, Engineering, and Conservation Departments.

- (a) A plan prepared by the applicant must be submitted to the Board of Health showing approved location of the dumpster in relation to business serviced. Plan is to be drawn to scale of ¼" = 1'.
- (b) Plan must show lot lines, all water ways within 100 feet of proposed dumpster location.

7.7.2 Dumpsters must be placed on an impervious pad (i.e. asphalt or cement) of a minimum of 4 inches thick.

7.7.3 No container will hinder, obstruct, or restrict sight distances along roadways and will not limit or block emergency access to or egress from building or roadway.

7.7.4 No container shall be located on the Town's right-of-way without prior approval of the Department of Public Works and the Police Department. The property owner and dumpster company are responsible for ensuring that the container(s) location provide(s) for a safe and adequate flow of vehicle traffic. Where traffic cones or other means of safety and/or traffic flow indicators are warranted, the property owner or container company must provide them.

7.7.5 Containers shall not be placed at any location as to become an obstacle to the egress of persons from a building or to vehicle traffic or as to obstruct operation of the fire department personnel during a fire or other emergency.

7.7.6 Container(s) adjacent to buildings must be placed so the top of the container is less than five (5) feet vertically or horizontally below any window or other opening, unless otherwise approved by Fire Chief or his or her designee.

7.8 ENCLOSURE

7.8.1 All containers must be enclosed on all four (4) sides with a fence and a door for servicing the container. The enclosure must be a minimum of six (6) feet in height.

7.8.1.a. Due to extreme weather conditions during the months starting on December 15th to March 31st, the owner of dumpster may request in writing to the Health Department the removal of one side of the existing enclosure.

7.8.2 The enclosure must comply with Zoning Bylaws.

7.8.3 Dumpsters in existence prior to the adoption of these regulations shall have one (1) year from the effective date of these regulations to complete the enclosure requirements. However should a condition exist that is deemed a detriment to public health and the environment all sections of these regulations would immediately take effect.

7.8.4 This section does not apply to short-term permits in its duration.

7.9 FILLING TIME LIMITS

7.9.1 Container(s) and short-term permits are not to be filled between the hours of ten (10) P.M. and seven (7) A.M. at which times the lids are to be closed and locked.

7.9.2 The lids must be closed when containers are not in use during all times.

7.10 EMPTYING TIME LIMIT

7.10.1 All containers including short-term durations must be serviced at intervals to eliminate overflowing.

7.10.2 Emptying of the container's contents by the contractor must not commence before seven (7) A.M. and must cease by seven (7) P.M.

7.10.3 The emptying or pickup on Sunday is prohibited.

7.11 SIZE

All containers including short-term durations must be of sufficient size and capacity to fulfill the requirements of the business or location being serviced. The property owner or authorized agent for the premises utilizing the service must take appropriate action immediately to empty contents when full.

7.12 NAME DISPLAY

The contractor must have the name, address, and telephone number conspicuously displayed on the container.

7.13 MAINTENANCE

7.13.1 It is the responsibility of the property owner or agent being serviced for the placement and maintenance of the container(s) including short-term durations and to maintain the area free of odors, rodent, flies, insects, scattered garbage and debris, overflowing, liquid runoff, nuisances, and other materials deposited at the site of the container.

7.13.2 Containers requiring mechanical assistance to be moved shall be provided with a means of access to their interior without disconnecting from a compactor unit or they shall have a minimum port opening of the two inches (2") in diameter through which water may be introduced for extinguishing a fire. The port opening shall be labeled "FIRE HOSE PORT" or similar wording.

7.13.3 Containers which are not part of a compactor unit shall not be required to have the additional openings or hose connection for fire extinguishment if they are provided with a cover to make the contents accessible during firefighting operations.

7.13.4. No person shall damage the physical integrity of public curbs, sidewalks, or roadways.

7.13.5. The contractor must remove the contents so as not to cause spillage during removal and transportation.

7.14 FEES

Fees shall be set by the Board annually and published as part of its fee schedule.

7.15 TRANSPORTATION VEHICLES

The Health Department shall inspect each vehicle annually for leaks within the holding tanks.

7.16 APPEAL OF ADMINISTRATIVE DECISIONS

7.16.1 Any decision by the Director may be appealed in writing within seven (7) days, to the Board. The Board may rescind, sustain, modify, or support any decision of the Director.

7.16.2 Any person aggrieved by the final decision of the Board with respect to any order issued under these regulations may seek relief in any court of competent jurisdiction, as provided by the laws of this Commonwealth.

7.17 VARIANCE

7.17.1 Any person may seek a variance of any Board's Regulation and shall provide documentation to demonstrate a hardship, which would result from strict enforcement of regulation.

7.17.2 The applicant shall also demonstrate that no other method or technology exists that will comply with the Board's Regulation. Further, the applicant must employ every measure to ensure the greatest degree of compliance that can be reasonably achieved.

7.17.3 Variances may be granted if the Board finds that the applicant has proposed adequate measures to protect the environment and public health, welfare and safety, that the proposed variance is in keeping with the intent of Board Regulations, and that the granting of the variance will not be detrimental to the environment and public health, welfare, and safety.

7.17.4 Variance applicant(s) must follow the requirements the Board's Regulation "Chapter 2 Request for an Administrative Determination of Applicability; Section 2.5".

7.18 REVOCATION AND REMOVAL

7.18.1 The Board or its agent may suspend or revoke a contractor or container permit for unsatisfactory service of a property at any time.

7.18.2 The Board or its agent may order the contractor in person, by telephone, or letter to immediately remove said container and contents from the premises being serviced whenever a container remains overflowing or an overflowing condition is continuously being repeated.

7.18.3 The Board or its agent shall order a container removed from the Town if the property owner or authorized agent has been notified to secure a permit and has not done so.

7.19 ENFORCEMENT

7.19.1 The Tewksbury Board of Health, its agents, and designees may order that any dumpster which fails to comply with state and local sanitary codes and represents a threat to the public health or safety be removed from the property with a seven day notice.

7.19.2 This Regulation shall be enforced by the Tewksbury Fire Department, Tewksbury Town Engineering Department, and the Tewksbury Board of Health, its agents and designees, and/or by any other agent of the Town to whom police powers have been delegated. Enforcement may be by means of non-criminal disposition as allowed under Massachusetts General Laws Chapter 40, Section 21D, or by other means permitted by law.

7.19.3 Any person who violates any provision of this regulation may be subject to a fine to be determined by the Board. Each day a violation continues to occur shall constitute a separate offense.

7.20 PENALTIES

7.20.1 Any person(s) violating or failing to comply with any provision of any Regulations of the Board, shall be warned in writing that said person(s) shall be subject to the appropriate enforcement action and/or to the non-criminal disposition process adopted by Special Town Meeting at its meeting of May 8, 1991 (warrant article number 47) as follows:

1st offense – written warning.

2nd offense – one hundred (\$100) dollar fine.

3rd offense – two hundred (\$200) dollar fine.

4th and subsequent offenses – three hundred (\$300) dollar fine and/or enforcement action.

7.20.2 The Board may modify, suspend, or revoke, for just cause, any permit issued by the Board. In addition, the Board's health agent or his or her designee may enforce the Board Regulations using any other established means of enforcement in addition to or in lieu of non-criminal disposition process.

7.21 SEVERABILITY

If any paragraph, sentence, phrase or word of the Board's Regulation shall be declared invalid by a court of competent jurisdiction, such decision shall not affect the validity of any other provision of the Board Regulations, which Regulations shall remain in full force and effect; and to this end the provisions of the Board Regulations are declared severable.

7.22 EFFECTIVE DATE

Regulations adopted on April 7, 2011 and shall take effect on May 12, 2011.

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