

## THE TEWKSBURY BOARD OF HEALTH REGULATIONS

15 FEB -5 PM 1:44

### CHAPTER 7: DUMPSTER REGULATIONS

#### 7.1 AUTHORITY

These Regulations are adopted by the "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".

#### 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.

**Agent:** Any authorized agent of the Board as specified under M.G.L. c.111 § 30.

**Board:** The Town of Tewksbury Board of Health or its designee(s).

**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.

**Donation Boxes:** Containers used for the collection of donated items such as but not limited to clothes and books.

**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, or other offensive substance for municipal, residential, industrial, or commercial refuse. This includes dumpster(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.

**Long Term:** Dumpsters that are used for an exceeded period of time, which is considered permanent at one location.

TOWN CLERK  
BOARD OF REGISTRARS  
TEWKSBURY, MA

15 FEB - 5 PM 1:44

**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.

**Plan:** A certified plan prepared by a Commonwealth of Massachusetts Registered Professional Engineer showing the actual lot boundaries, foundations, test data, elevations, storms drains, sewer manholes, wetlands, surface waters, septic systems or the like within one hundred (100) feet of the dumpster. Plans may be required to contain additional information as required by the Health Department.

**Recycle Dumpster:** A Dumpster for the strict purpose to recycle i.e. cardboard, bottles, clothes, and cans, papers, etc.

**Short Term:** Dumpsters that are used temporarily. Normally this would be a roll off Dumpster that is used for renovations, development, but not limited to. A short term dumpster shall be used in conjunction with a building permit or at the discretion of the Board's Agent.

**Town:** The Town of Tewksbury

**Transportation:** The act of transporting or means of conveyance from one place to another location.

**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 shall install a long term Dumpster within the limits of the Town, in any buildings or on any premises without an approved permit from the Board's office and when necessary the Fire Department.

**7.4.2** The permit process shall include a written application form and payment of a permit fee established by the Board.

**7.4.3** The Board's 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.

TOWN CLERK  
BOARD OF REGISTRARS  
TEWKSBURY, MA  
15 FEB - 5 PM 1:44

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.

## **7.5 APPLICATION**

7.5.1 The contractor, firm, or person requesting the container shall make application for a permit to store solid waste, garbage, offal, grease, rubbish, medical waste, or other offensive substances, as well as debris, and other materials including scrap metals.

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

7.5.3 Applications shall be accompanied by:

- (a) Plan draw to scale shall be submitted to keep on file with the showing the approved location of the container in relation to other dwellings and the business being serviced.
- (b) Location of Dumpsters shall be approved by the Fire, Engineering, Conservation and Health Departments.

7.5.4 All applications shall state the home address, business address, business telephone numbers, e-mail address and emergency contact information and include the property owner's name, address, e-mail address and contact information.

7.5.5 Existing Dumpsters shall submit an approved plan within 1 year of the adoption of these Regulations.

## **7.6 LOCATION**

7.6.1 Dumpster's location shall be located at a distance from the lot line so as not to interfere with the safety, convenience, or health of the abutters or residents.

7.6.2 This location shall be approved by the, Fire, Engineering, Conservation, and Health Departments.

- (a) A plan prepared by the applicant shall be submitted to the Health Department showing the approved location of the dumpster in relation to business serviced. Plan shall be draw to scale.
- (b) Plan shall show lot lines, structures, sewer and storm drains, septic systems, wells, water ways and the like within 100 feet of proposed dumpster location.

7.6.3 Dumpsters shall be placed on an impervious pad (i.e. asphalt or concrete) of a minimum of 4 inches thick.

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

**7.6.5** No Dumpster 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 shall provide them.

**7.6.6** Dumpsters 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.

**7.6.7** Dumpster(s) adjacent to buildings shall 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.

**7.6.8** The placement of the dumpster is prohibited from utilizing an existing approved parking space(s).

**7.6.9** The placement of the dumpster shall not be placed where storm water runoff will enter the Town's drainage system and shall be in-compliance with the Town's By-Law Chapter 20, "Municipal Storm Water Discharge."

(a) For dumpsters that existed prior to the adoption of these amended regulations (----), an alternative method of diversion for the dumpster drainage can be utilized with the approval of the Town Engineer.

**7.6.10** The placement of the dumpster shall comply with Federal, State, and Local laws, regulations, and rules.

## **7.7 ENCLOSURE**

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

**7.7.1.a.** Due to extreme weather conditions during the months starting on December 15<sup>th</sup> to March 31<sup>st</sup>, the owner of Dumpster may request in writing to the Health Department for the removal of one side of the existing enclosure.

**7.7.2.** The enclosure shall comply with Zoning Bylaws.

**7.7.3** 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 FILLING TIME LIMITS**

**7.8.1** Dumpsters including short term dumpsters are not to be filled between the hours of ten (10) PM and seven (7) AM

TOWN CLERK  
BOARD OF REGISTRARS  
TEWKSBURY, MA  
15 FEB -5 PM 1:44

7.8.2 The Dumpsters lids shall be closed and locked when Dumpsters are not in use.

## **7.9 EMPTYING TIME LIMIT**

7.9.1 All Dumpsters shall be serviced at intervals to eliminate overflowing.

7.9.2 Emptying of the Dumpster's contents shall not commence before seven (7) AM and shall cease by seven (7) PM.

7.9.3 The emptying or pickup on Sunday is prohibited.

## **7.10 SIZE**

All Dumpsters including short-term durations shall be of sufficient size and capacity to fulfill the requirements of the business or location being serviced. The Owner or authorized agent for the premises utilizing the service shall take appropriate action immediately to empty contents as needed.

## **7.11 NAME DISPLAY**

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

## **7.12 MAINTENANCE**

7.12.1 It is the responsibility of the 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.

7.12.2 Dumpsters 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.

7.12.3 Dumpsters 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.

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

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

## **7.13 FEES**

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

## **7.14 APPEAL OF ADMINISTRATIVE DECISIONS**

7.14.1 Any decision by the Board's Agent(s) may be appealed in writing within seven (7) days to the Board. The Board will hold a public hearing and the Board may rescind, sustain, modify, or support any decision of the Board's Agent(s).

7.14.2 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.

## **7.15 VARIANCE**

7.15.1 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.

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

7.15.3 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.

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

## **7.16 REVOCATION AND REMOVAL**

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

7.16.2 The Board or its agent may order the contractor or owner(s) 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.

7.16.3 The Board or its agent shall order the dumpster, including recycling, and donation boxes be removed from the Town if said container is creating a public health nuisance or has not obtained the necessary approvals.

## **7.17 ENFORCEMENT**

7.17.1 The Board, 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.

7.17.2 This Regulation shall be enforced by the Tewksbury Fire Department, Tewksbury Town Engineering Department, and the Health Department, the Board's agents and

designees, and/or by any other agent of the Town to whom police powers have been delegated.

7.17.3 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.

7.17.4 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.

**7.18 PENALTIES**

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.

15 FEB - 5 PM 1:44  
TOWN CLERK  
BOARD OF REGISTRARS  
TEWKSBURY, MA

**7.19 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.

**7.20 EFFECTIVE DATE**

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

7.21.1 Amended on August 28, 2014 and January 15, 2015 and effective March 2, 2015.