

Article IV
Solid Waste and Recyclables

[Adopted 7-6-1999; amended in its entirety 10-10-2017; amended in part 2-11-2020, effective 6-1-2020]

§ 145-30 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 Harvard. This should ensure that:

- A. The environmental benefits of recycling are maximized;
- B. There is joint enforcement of the waste ban requirements by the municipality and all private haulers operating within the municipality;
- C. There are fair and equitable rules for all private haulers operating in the municipality;
- D. All residents and businesses have convenient (parallel) access to recycling collection services;
- E. All private haulers licensed to operate in a municipality are in compliance with state regulations (310 CMR 19.017);
- F. There is greater consistency across municipalities to promote clear operating guidelines for private haulers; and
- G. Municipalities and private haulers work together to support the goals of the Solid Waste Master Plan and the Global Warming Solutions Act.

§ 145-31 Statutory authority; collection of acceptable items.

- A. 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 Harvard. The Board of Health of the Town of Harvard adopts these regulations under the provisions of Chapter 111 Sections 31, 31A, 31B, 122 and 150A of the Massachusetts General Laws.
- B. 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.

§ 145-32 Effective date.

These regulations shall take effect on November 1, 2017.

§ 145-33 Definitions.

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

COMMERCIAL CUSTOMERS/GENERATORS

Property owners and occupants of any commercial, industrial, institutional, municipal, school, or mixed

use building within the Town of Harvard.

CUSTOMER

Either residential customer/generator or commercial customer/generator.

HARVARD

The Town of Harvard, Massachusetts.

MERCURY DISPOSAL PROHIBITION

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: <http://www.mass.gov/eea/docs/dep/toxics/laws/hgbanfaq.pdf>

PERMITTED HAULER

Any private hauler who has obtained a valid private hauler permit from the Town of Harvard.

PRIVATE HAULER

Any person or entity providing collection of solid waste and/or recyclables for hire within the Town of Harvard.

RECYCLABLES

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

Property owners and occupants of single- and multi-family dwellings, condominiums, public housing, and mobile homes within the Town of Harvard.

SOLID WASTE

Useless, unwanted or discarded nonrecyclable 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).

WASTE BAN MATERIALS

All materials designated as banned from disposal in the Commonwealth of Massachusetts pursuant to 310 CMR 19.017, Waste Bans, including: asphalt pavement, brick and concrete, cathode ray tubes, clean gypsum wallboard, commercial food waste, ferrous and nonferrous metals, glass and 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). See Figure 1.

Figure 1

List of Waste Ban Materials
310 CMR 19.017

Material	Date of Ban
Lead batteries	December 31, 1990
Leaves	December 31, 1991
Tires	December 31, 1991
White goods	December 31, 1991
Other yard waste	December 31, 1992
Aluminum containers	December 31, 1992
Metal/glass containers	December 31, 1992
Single polymer plastics	December 31, 1994
Recyclable paper	December 31, 1994
Cathode ray tubes (CRT)	April 1, 2000
Asphalt pavement, brick and concrete	July 1, 2006
Metal	July 1, 2006
Wood	July 1, 2006
Clean gypsum wallboard	July 1, 2011
Commercial organic material ¹	October 1, 2014

NOTE:

¹ Applies to entities that generate more than one ton of those materials for solid waste disposal per week.

§ 145-34 Partnership between permitted haulers and Town.

This bylaw/ordinance and/or regulation is designed to ensure that the Massachusetts waste bans are uniformly adhered to in the Town of Harvard and relies on a partnership between the Town of Harvard and all permitted haulers to ensure the requirements of mandatory recycling and separation of recyclables from the solid waste stream are followed by all residential customers/generators and commercial customers/generators in the Town of Harvard.

A. The Town of Harvard will support permitted haulers by providing the following:

- (1) Educational information on the municipal website about the mandatory recycling requirement for all residential customers/generators and commercial customers/generators;
- (2) Enforcement of the bylaw/ordinance and/or regulation for residential customers/generators and commercial customers/generators who do not comply with the mandatory recycling and separation requirements.

B. Permitted haulers will support the Town of Harvard's goals by providing the following:

- (1) Instructions on proper management of solid waste and recyclables to new customers when service commences and to all customers on an annual basis at a minimum.
- (2) Permitted haulers shall not dispose of banned recyclables that are properly prepared and set out for collection.

- (3) No permitted hauler shall knowingly collect for disposal solid waste that contains visible waste ban materials. Any such solid waste must be left behind/rejected by the permitted hauler, who shall notify the customer generating such solid waste of the reason for rejection, e.g., via sticker affixed to noncompliant set-out, including Town of Harvard contact information for follow-up regarding the mandatory recycling requirement. The permitted hauler shall notify the appropriate Town of Harvard contact regarding any customer whose solid waste is so rejected. If notified, Harvard will follow up to enforce the mandatory recycling requirement.

§ 145-35 Mandatory recycling.

- A. In order to protect the environment, promote recycling and be in compliance with Massachusetts waste ban regulations (310 CMR 19.017), the Town of Harvard 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 Harvard.
- B. The Town of Harvard will inform all generators (residential and commercial) at least once per year that recycling is mandatory.

§ 145-36 Permit required for collection, transfer or transport.

All private haulers wishing to collect, transfer, or transport solid waste or recyclables generated within Harvard shall be required to first obtain or annually renew a permit from the Town of Harvard. 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.

(1) The permit application shall include:

- (a) The formal name of the person or company.
- (b) The contact name, mailing address, telephone number and e-mail address.
- (c) The approximate number of collection trucks expected to be used in the Town during the course of the permit year, and the associated truck information.
- (d) A list of the solid waste disposal facilities and the recycling processing facilities where solid waste and recyclables are expected to be delivered from the private hauler's customers during the permit year.

(2) The permit application must have attached:

- (a) The application fee, as prescribed in the fee schedule listed in Chapter **145**, Article **VI** of the of the Code of the Town of Harvard.
- (b) Annual Solid Waste and Recyclables Reporting Form.
- (c) Copies of certificates of insurance for personal and adverse injury.

- (d) A copy of the private hauler's marketing materials indicating the types of services offered, reminding customers that recycling is mandatory, and describing the Massachusetts waste ban materials.
 - (e) A copy of the private hauler's notification that will go to customers who set out visible waste ban materials mixed with solid waste, including a reminder that recycling is mandatory, describing what was seen that violated the waste bans, and providing a phone number for the Board of Health.
- (3) The permit application must include the following certifications:
- (a) The individual is an authorized official of the private hauler applying for this permit.
 - (b) The private hauler is registered to do business in Massachusetts.
 - (c) The private hauler operates in compliance with the Massachusetts waste ban regulations and the mercury disposal prohibition.
 - (d) The private hauler is in compliance with the bundled service requirement outlined in § **145-38** of these regulations.
 - (e) All employees of the private hauler understand and will help educate all customers about the Massachusetts waste bans.
 - (f) Pursuant to MGL c. 62C, § 49A, to the best of the applicant's knowledge and belief, the private hauler has filed all state tax returns and paid all state taxes required under law.
- (4) 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 Harvard.

B. Annual permit renewal.

- (1) Each permitted hauler shall annually submit a renewal application of his/her permit no later than December 1 by paying the annual permit fee.
- (2) 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. The renewal must be accompanied by the following information or a completed Annual Solid Waste and Recyclables Reporting Form.
- (3) The Annual Solid Waste and Recyclables Reporting Form shall include:
 - (a) Company name, contact person, mailing address, phone number, and e-mail address.
 - (b) The average number of residential and commercial customers using each service (solid waste, recycling) during the previous calendar year within the Town.
 - (c) Total tons of solid waste collected for disposal and total tons of recyclables collected for processing

from residential customers/generators within the Town of Harvard during the previous calendar year or twelve-month period, and the associated disposal or processing facility. 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.

- (4) The Annual Solid Waste and Recyclables Reporting Form must have attached:
 - (a) The names of any residential customers where the permitted hauler is providing solid waste and recyclables service.
 - (b) The names of any commercial customers where the permitted hauler is providing solid waste and recyclables service.
 - (c) The names of any residential customers where the permitted hauler is providing recycling only service.
 - (d) The names of any commercial customers where the permitted hauler is providing recycling only service.
 - (e) 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 Harvard.
- (5) The Annual Solid Waste and Recyclables Reporting Form must certify that the private hauler has been in communication with the Board of Health regarding customer set-outs not in compliance with the Harvard regulation.
- (6) 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 Harvard.
- (7) Annual permits will be issued by February 1 each year.
- C. General permit requirements. All permitted haulers must be in compliance with the following general permit requirements:
 - (1) All permitted haulers must clearly display the name of the company on each vehicle operating in the municipality.
 - (2) 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.
 - (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 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.

- (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 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 which may not be accepted at Massachusetts' disposal facilities.
- (6) 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.

§ 145-37 Amendments to permits.

A permitted hauler may request to amend an existing permit. The Harvard Board of Health shall promptly consider any requests for amendments within the time frame for permit applications under § **145-36** of this regulation. In order to become effective, any amendments must be approved by the Board of Health.

§ 145-38 Bundled service requirement.

A. Service to residential customers/generators.

- (1) 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 preapproved 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.
- (2) All permitted haulers serving residential customers/generators must provide appropriately sized, paired solid waste and recyclables containers, with lids, that are clearly marked and adjacent or in close proximity to each other.

B. Service to commercial customers/generators.

- (1) 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.
- (2) Permitted haulers must provide the names and addresses of their solid waste only commercial customers to Harvard so Harvard can follow up to ensure that those customers are complying with the waste bans.

C. Exceptions. The Board of Health will consider exceptions upon written request.

§ 145-39 Provision of recycling to commercial customers/generators.

- A. A permitted hauler seeking to provide solid waste collection to a commercial customer must, at a minimum, conduct a site visit to the commercial customer and prepare a proposal that describes which materials should be separated as recyclables banned from disposal, and then provide an adequate sized container for the expected quantity of recyclables, separate from solid waste.
- B. If a commercial customer chooses solid waste only collection from their permitted hauler, exemptions may be provided by Harvard to permitted hauler's customers who market their recyclables directly to recycling brokers, processors, or manufacturers or customers who provide proof of recycling collection by a different permitted hauler who is permitted to operate in the municipality. All commercial customers seeking an exemption must file an exemption form.

§ 145-39.1 Hours of collection.

Collection of solid waste and recyclables may only occur during the hours of 7:00 a.m. to 7:00 p.m. except in the case of municipal buildings, and bad weather or another emergency that requires collection outside of these hours, with notification to the Board of Health or its designated representative.

§ 145-39.2 Insurance.

A permitted hauler must furnish and maintain adequate liability insurance, as specified by the Board of Health. Cancellation of insurance shall automatically be grounds for cancellation of the private hauler permit. The private hauler's permit application will maintain liability coverage at or above the following levels for the term of the permit: \$1,000,000 per occurrence, \$1,000,000 per personal and adverse injury occurrence, and \$2,000,000 aggregate.

§ 145-39.3 Nuisance conditions.

The Board of Health and its agents 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, bylaws and regulations. The Board of Health retains the right to define and determine "nuisance" conditions.

§ 145-39.4 Inspections.

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.

§ 145-39.5 Communication with waste ban inspectors.

The Town of Harvard 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.

§ 145-39.6 Enforcement; appeals; severability.

- A. Enforcement and resolution of hauler permit requirements.
 - (1) The Board of Health shall issue a notice of violation to the permitted hauler and provide the permitted hauler seven business days to respond to the allegations of noncompliance 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 section shall be the Agent of the Board of Health, any member of the Board of Health, Inspectional Services, the Director of the Public Works Department or designee, or other Town of Harvard designee.

- (2) If the permitted hauler does not respond within seven days, the Board of Health shall hold a public hearing, subject to MGL c. 111, § 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. Enforcement and resolution of mandatory recycling requirements for generators. Enforcement of this regulation shall be by criminal complaint in the district court and/or noncriminal disposition ticket, MGL c. 40, § 21D. 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. The Town of Harvard shall also have the option of seeking equitable relief to enjoin violations of the rules and regulations of the Health Department.
- C. Penalties.
- (1) Violations of this regulation shall be punished by fines as follows:
- (a) First offense: written warning.
- (b) Second offense: fine of \$100.
- (c) Third offense: fine of \$300.
- (d) Subsequent offenses: fine of not less than \$300 nor more than \$500.
- (2) Each day of failure to comply with the regulations shall constitute a separate violation.
- D. 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 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 weeks prior to the scheduled date. The hearing will be conducted in accordance with the established procedures of the Board of Health.
- E. Severability. Each of these regulations shall be construed as separate to the end that if any regulation, clause or phrase thereof should be held invalid for any reason, the remainder of the regulation and all other regulations shall continue to be in force.