

Town of North Andover Board of Health Regulations Concerning the Hauling and Disposal of Solid Waste

I. AUTHORITY

Pursuant to M.G.L. Chapter 111, Sections 31 and 31A and the authority granted to the Town of North Andover under a Site Assignment issued by the Department of Environmental Quality Engineering dated May 11, 1982, the North Andover Board of Health hereby issues the following regulations governing: 1) the hauling of solid waste through the Town of North Andover for disposal of such waste at a resource recovery facility owned and operated by Wheelabrator North Andover, Inc.; and 2) the hauling of solid waste through the Town of North Andover for disposal of such waste at the Covanta Energy resource recovery facility in Haverhill.

II. FINDINGS

The North Andover Board of Health finds that a large number of trucks transporting solid waste to the Wheelabrator facility in North Andover and the Covanta resource recovery facility in Haverhill use roadways in North Andover that are not well suited for this purpose.

The North Andover Board of Health finds that this use of unsuitable roadways imposes a substantial burden on North Andover and threatens public health, safety and the environment.

The North Andover Board of Health finds that there is a convenient and suitable route for trash trucks to use, which is referred to in these regulations as “the Designated Route.”

The North Andover Board of Health finds that in 1985, the Board of Selectmen of North Andover voted to require waste haulers to use the Designated Route pursuant to the authority granted to the Board of Selectmen in the Site Assignment for the Wheelabrator facility issued by the Department of Environmental Quality Engineering.

The North Andover Board of Health finds that despite the 1985 designation by the Board of Selectmen, there is widespread use of non-designated roadways.

The North Andover Board of Health finds that it is necessary and desirable to promulgate regulations designed to enforce the use of the Designated Route.

III. DEFINITIONS

The term “the Board” means the North Andover Board of Health.

The term “Designated Route” is the route that non-exempt trash haulers shall use for access to and egress from the Wheelabrator facility and Covanta facility. For access to the Wheelabrator facility, it is Route 495 to the Route 125 connector, and south on Route 125 to Holt Road. For egress from the Wheelabrator facility, it is Holt Road to Route 125 North to the Route 125 Connector, and to Route 495. For travel in North Andover to enter or exit the Covanta facility in Haverhill, the Designated Route for non-exempt communities is Route 495.

The term “exempt communities” currently means North Andover as set forth in section V(D), Boxford, Rowley and Georgetown as set forth in section V(E), and Andover, Lawrence, North Reading, Haverhill, Middleton, Peabody, Hamilton, Wenham, and Manchester-by-the-Sea, as set forth in section V(F).

The term “Wheelabrator” means Wheelabrator North Andover, Inc.

The term “Wheelabrator facility” means the resource recovery facility operated by Wheelabrator North Andover, Inc. and is located on Holt Road in North Andover.

The term “Covanta facility” means the resource recovery facility operated by Covanta Energy, Inc., which is located in Haverhill.

The term “permit” means a permit sticker issued by the North Andover Board of Health to a waste hauling company to transport solid waste over roadways along the designated route located in North Andover for disposal of solid waste at the Wheelabrator or Covanta facility, and/or to exit the Wheelabrator or Covanta facility via roadways along the designated route located in North Andover to collect solid waste to be disposed of at the Wheelabrator facility.

The term “solid waste” is as defined in G.L. c.16, s 18.

The term “trash trucks” means vehicles in the business of transporting solid waste, that transport solid waste in or through North Andover, or travel through North Andover to collect solid waste, for disposal at either the Wheelabrator facility or the Covanta facility. The term also includes trucks that travel through North Andover and transport ash generated from the combustion process at either the Wheelabrator facility or Covanta facility. The term "trash truck" does not refer to any specific size of make of vehicle. All commercial vehicles including, but not limited to, roll off's, recycling vehicles, dumps etc. which transport solid waste to the Wheelabrator and Covanta facilities are considered "trash trucks"

The term “waste hauling company” means a person or entity that owns or operates trash trucks.

IV. PERMIT REQUIREMENTS

- A. Within thirty days after the effective date of these regulations, all waste hauling Companies transporting solid waste through North Andover for disposal at the Wheelabrator facility shall apply for a permit from the North Andover Board of Health. The permit application shall be on a form available from the Board. The permit application shall be accompanied by an application fee of \$350.00 per permit, which shall be used to defray the costs of administering and enforcing these regulations. The permit entitles the waste hauling company to transport waste through North Andover for disposal at the Wheelabrator facility. The \$350.00 fee is per waste hauling company, not per truck.
- B. Each permit issued by the Board shall contain the following requirements:
 - 1. A requirement that each permit recipient use only the Designated Route for access to and from the Wheelabrator and Covanta facilities, unless exempted under Section V.
 - 2. Each permitted truck shall display a permit sticker on the left side of the front bumper.
 - 3. A requirement that the permit shall expire at the end of the calendar year it is issued, but may be renewed annually on application and payment of a fee of \$350.00. No permit shall be transferred except with the approval of the Board.
- C. The permit shall be issued within twenty-one business days of the submission of the application, and shall not require public notice or a public hearing. However, a permit applicant may request public notice or a hearing prior to the issuance of a permit. If a permit application is denied, prior to utilizing any judicial or other remedies to redress the denial of the permit application, the applicant shall request a hearing before the Board. The Board shall hear the permit applicant within thirty days of the request, and decide the matter within thirty days of the hearing.
- D. After issuance of a permit, it shall be a violation of these regulations for any trash truck en route to or from the Wheelabrator or the Covanta facility to use roadways other than the Designated Route, unless subject to the exemptions under Section V.
- E. The North Andover Police Department is hereby authorized to issue tickets/violation notices for any violations of these regulations and/or permit requirements. The North Andover Police Department shall issue tickets/violation notices to the waste hauling company, with a copy sent to the Board of Health. The violation notice shall be signed by the driver/violator. The first violation notice will require a non-criminal payment of not more than \$300.00 per day as set forth in G.L. c. 40, s. 21D; \$500.00 per day for the second violation, and a fine of \$1,000 per day for a third and all subsequent violations incurred within a 12-month period pursuant to the procedure set forth in G.L. c. 40, s. 21. All payments for these non-criminal violations shall be

made to the North Andover Town Clerk within twenty-one days of the violation. Prior to the expiration of the twenty-one day period, a non-criminal hearing before a Clerk-Magistrate may be requested by the waste hauling company. This request must be in writing. The decision of the Clerk-Magistrate is final. Failure to either pay the fine to the North Andover Town Clerk within twenty-one days or abide by findings of the non-criminal hearing may result in a criminal complaint.

In addition, those who fail either to pay their fine or abide by these regulations will be subject to revocation of their permits and placards and will also be subject to denial of renewal or reissuance of their permits and placards by the Board of Health. The Board of Health will review all requests for reinstatement or reissuance of permits and placards that have been removed or denied and may require an appearance at a BOH meeting before approving the reinstatement or reissuance.

V. EXEMPTIONS FROM DESIGNATED ROUTE AND PLACARD REQUIREMENTS

- A. Notwithstanding any other provisions of these regulations, the Board of Health shall not require trash trucks hauling or collecting solid waste from the exempt communities, as defined in Section III and further defined in the sections below, to use the Designated Route.
- B. If a trash truck is hauling solid waste to Wheelabrator or Covanta and such solid waste has been collected from at least one exempt and at least one non-exempt community, the exemption from the Designated Route set forth in V (A) shall only apply if the waste was collected from an exempt community as the last stop prior to using the roadways of North Andover. If a trash truck is exiting the Wheelabrator facility or the Covanta facility to collect trash from at least one exempt and at least one non-exempt community, the exemption from the Designated Route set forth in V(A) shall only apply if the waste will be collected from an exempt community as a first stop after exiting the Wheelabrator facility or the Covanta facility.
- C. Trash trucks exempted from the requirements to use the Designated Route pursuant to Sections V (A) and V (B) shall obtain a permit sticker pursuant to Sections IV as well as a placard as described below.
 - 1. When a waste hauling company applies for a permit under Section IV and intends to collect trash from communities that are exempted from the Designated Route, it must obtain one or more "placards" to allow trash trucks to drive through North Andover without using the Designated Route.
The permit applicant shall identify on the permit application:
 - a) the exempt communities from which it collects trash;
 - b) the approximate number of truck trips per week that it anticipates making from or to exempt communities;
 - c) the approximate number of trucks per week that will be

- transporting solid waste collected from exempt communities;
- d) the number of “placards” that are requested.

The applicant shall pay a fee of \$100.00 per requested placard at the time that the permit sticker(s) is issued. The Board shall issue one or more placards bearing the name of the approved route listed on the permit application. The Board shall issue sufficient placards to each placard applicant to ensure that the applicant possesses enough placards to serve exempt communities. To determine the appropriate number, the Board shall review the information contained in the permit application, and data contained in a report entitled Trash Truck Route Survey: NESWC & Ogden-Martin Facilities: prepared by the Merrimack Valley Planning Commission (“MVPC Study”) that describes the number of trash trucks serving the exempt communities and not using the Designated Route based on a survey. Should there be a significant divergence between the information contained in the permit application and the MVPC study, the Board may request that the permit applicant provide additional documentation to support the number of requested placards. Notwithstanding the foregoing provisions, it is the intent of these regulations that the number of placards needed for each exempt community be equal to the number of trucks required to service each community, and that the placards be freely transferable from separate vehicles owned by a waste hauling company. For example, if a waste hauling company needs a maximum of five trash trucks per day to haul trash from an exempt community, that waste hauling company need purchase only five placards for that exempt community, and may use those five placards on any trucks employed by that company that services that exempt community.

2. All trash trucks using North Andover roadways to service an exempt community shall post the placard in the windshield in the driver’s side window of the trash truck so that it can easily be observed.
 3. Any waste hauler may apply to the Board to include other communities within the list of exempt communities. However, the Board shall not issue additional exemptions unless it is shown that:
 - a) requiring the applicant to use the Designated Route for such other communities imposes a substantial hardship on the applicant; and
 - b) this substantial hardship is different in kind or degree from the hardship imposed upon other waste haulers serving other nearby communities. Should the Board grant the request to include other communities as exempt communities, the procedures governing such communities shall be those set forth in Sections VI (A) through VI (C).
- D. Trash trucks servicing the community of North Andover are not required to use the Designated Route.

- E. Trash trucks servicing the communities of Boxford, Georgetown, Rowley (and other similarly located communities if specifically exempted by the Board of Health pursuant to Section V (C)(3) shall instead use Route 133 to Route 125 to enter/exit the Wheelabrator facility, and shall also use Route 133 to Route 125 if they are traveling through North Andover to enter or exit from the Covanta facility.
- F. Trash trucks servicing the communities of Andover, Lawrence, North Reading and Haverhill, Middleton, Peabody, Hamilton, Wenham, and Manchester-by-the-Sea are not required to use the Designated Route. Trash trucks servicing these communities (and other similarly located communities if specifically exempted by the Board of Health pursuant to Section V(C)(3)) shall use the Designated Route or Route 114/Route 495/Route 125 Connector to access/exit from the Wheelabrator facility, and shall also use either the Designated Route or Route 114/Route 495/Route 125 Connector if they are traveling through North Andover to enter or exit from the Covanta facility.
- G. Only the Trucks that receive a route exemption designating "All Roads" are allowed to utilize the section of Road from the intersection of Route 114 and 125 going north to the intersection of Great Pond Road and Route 125 in North Andover. It shall be a violation for a trash truck to travel on this section of Route 125 without displaying a placard with the "all routes" designation.

VI. OTHER EXEMPTIONS

- A. The requirement that trash trucks use the Designated Route shall not apply in cases in which the Designated Route is not usable due to exigencies such as vehicle accidents, construction work, and similar events.
- B. The requirements for obtaining a permit under Section IV shall not apply to a waste hauler that drives through the roadways of North Andover but does not use the Wheelabrator or Covanta facilities.
- C. The North Andover Board of Health may waive permit and/or placard fees for municipalities that transport their own solid waste in municipality-owned vehicles. A small fee for requested placards to cover annual manufacturing costs may be levied. Fines for violations of these regulations shall remain in place and be applicable to all transporters of solid waste through North Andover, regardless of other waivers.

VII. ASH TRUCK TRANSPORTATION

All vehicles traveling through North Andover and transporting ash from resource recovery operations shall be drip-proof and covered throughout the entire trip through North Andover. The cover shall enclose the entire length and width of the body of the trailer of the vehicle and shall ensure that no dust or ash emanates from under the cover.

VIII. SEVERABILITY

Should any portion of these regulations be deemed invalid by a court of competent jurisdiction, it is the intent of the Board that any lawful portions of the regulations remain in full force and effect to the maximum extent possible.

Adopted: September 28, 2000
Effective date: January 1, 2001

Amended: December 19, 2002
Effective date: January 1, 2003

Amended: January 23, 2003
Effective date: January 23, 2003

Amended: October 26, 2006
Effective date: October 26, 2006

Amended: July 24, 2008 (Section IV.E)
Effective date: July 25, 2008

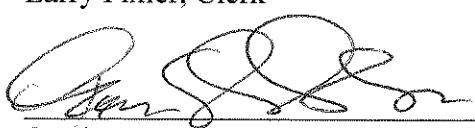
Dr. Thomas Trowbridge, Chairman

Date: _____



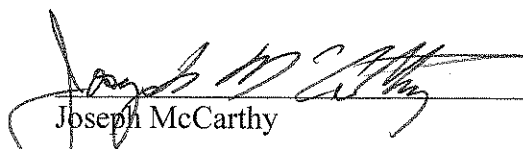
Larry Fixler, Clerk

Date: 7-24-08



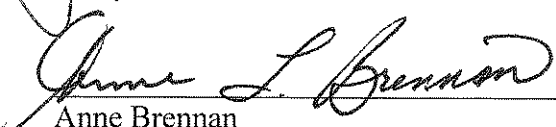
Frank MacMillan, Jr.

Date: 7/24/2008



Joseph McCarthy

Date: 7/24/2008



Anne Brennan

Date: 7/24/2008

**AMENDMENT TO TOWN OF NORTH ANDOVER BOARD OF HEALTH
REGULATIONS CONCERNING THE HAULING AND DISPOSAL OF SOLID
WASTE**

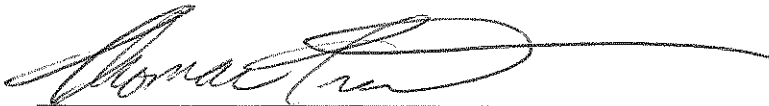
The North Andover Board of Health hereby amends its Regulations Concerning the Hauling and Disposal of Solid Waste (the "Regulations") such that all references in the Regulations to the Wheelabrator facility shall be deemed to be references to both the Wheelabrator facility and the TBI facility. For purposes of this Amendment, "TBI facility" shall mean the recycling facility and transfer station located at 210 Holt Road in North Andover and operated by Thomson Brothers, Inc. or its successors.

The Board hereby directs the Health Department to make available to the public this amendment or an as-amended version of the Regulations that incorporates this amendment.

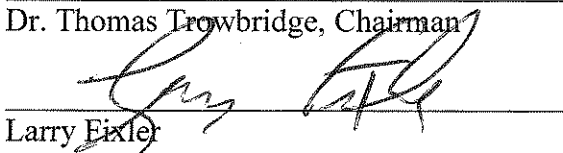
The Board further directs the Health Department to ensure compliance with applicable public notice and filing requirements set forth in G.L. c. 111, § 31A.

Amendment Adopted: November 20, 2008

Effective date: November 20, 2008

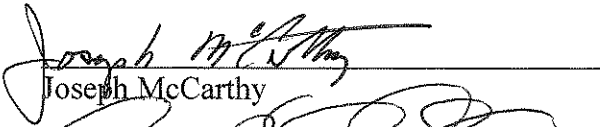


Dr. Thomas Trowbridge, Chairman

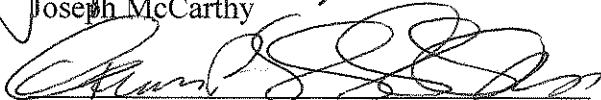


Larry Eixler

Anne Brennan



Joseph McCarthy



Francis P. MacMillan, Jr.