

CITY OF CONCORD

In the year of our Lord two thousand and sixteen

AN ORDINANCE amending the CODE OF ORDINANCES, Title I, General Code, Chapter 5, Public Works, Article 5-8, Solid Waste Flow Control.

The City of Concord ordains as follows:

SECTION I: Amend the CODE OF ORDINANCES, Title I, General Code, Chapter 5, Public Works, Article 5-8, Solid Waste Flow Control, by amending it as follows:

5-8-1 - Short Title.

This ordinance shall be known and may be cited as the Solid Waste Flow Control Ordinance of the City of Concord.

5-8-2 - Definitions.

For the purposes of this article, the following mean:

Acceptable waste.

- (a) All waste, garbage, trash, rubbish, and refuse that is now normally disposed by or collected from residential, commercial, institutional, and industrial establishments, originating within the boundaries of the City; and
- (b) Such types of agricultural, commercial, and light industrial waste originating within the boundaries of the City as are normally collected or disposed of or caused to be collected or disposed of by or on behalf of the City but excluding hazardous waste or unacceptable waste.

Administrator. The City Manager or his/*her* designee.

Construction and demolition debris. In accordance with State law, Construction and demolition debris defined as: Non-putrescible waste, building materials and rubble which is solid waste resulting from the construction, remodeling, repair or demolition of structures or roads. The term includes, but is not limited to, bricks, concrete and other masonry materials, wood, wall coverings, plaster, dry wall, plumbing, fixtures, non-asbestos insulation or roofing shingles, asphaltic pavement, glass, plastics that are not sealed in a manner that conceals other wastes and electrical wiring and components, incidental to any of the above and

containing no hazardous liquid or metals. The term does not include asbestos waste, garbage, corrugated container board, electrical fixtures containing hazardous liquids such as fluorescent light ballasts or transformers, furniture, appliances, tires, drums and containers, and fuel tanks.

~~[Designated hauler. All haulers licensed under this Article.]~~

Designated Facility. A City-designated waste aggregation and transfer facility. The Designated Facilities are: (1) the Allenstown Transfer Station located at 104 River Road, Allenstown, New Hampshire, 03275 and (2) the Bestway Transfer Station located at 43 Industrial Drive, Belmont, New Hampshire 03220. To the extent that a circumstance prevents the use of the Designated Facilities; the Administrator may identify an alternative site for solid waste disposal.

Disposal. All Licensed Haulers delivering solid waste from the City of Concord to a Designated Facility for disposal shall be charged a tipping fee. The Administrator is authorized to establish and adjust tipping fees.

~~[Facility. City designated disposal site.]~~

Hazardous waste.

- (a) Waste containing explosive, toxic, or pathological substances;
- (b) Waste defined or classified as hazardous waste at any time under the Resource Conservation and Recovery Act, as amended (42 U.S.C. 6901, et seq.), N.H. Rev. Stat. Ann. 147-A as amended, or any other applicable federal, state, or local law, or any regulation thereunder, or waste defined by any applicable federal, state, or local law, or any regulations thereunder as low-level or high-level radioactive waste;
- (c) Waste prohibited for incineration by any local, state, or federal agency with jurisdiction over the facility because of its toxic nature;
- (d) Waste (other than acceptable waste of the character referred to in clause (a) of the definition of “acceptable waste”) the processing of which would result in hazardous waste under clauses (a), (b), or (c) of this definition; or
- (e) Containers which hold or previously held waste described under clauses (a), (b), or (c) above. If any governmental entity having jurisdiction shall determine that any substances which are not, as of the date of this Article, considered harmful or of a toxic nature or dangerous, are harmful, toxic, or dangerous, such substances shall thereafter be deemed hazardous waste.

License. A license to collect and/or dispose of solid waste within or originating within the municipal boundaries of the City as established in accordance with this Article.

License Application. Form provided by the City that entities must complete to obtain a License.

Licensed Hauler. Any entity engaged in the collection, and/or disposal of solid waste originating in or collected in the City who has obtained a License under this Article.

Solid Waste Appeals Board. A Board comprised of the Deputy City Manager for Community Development, one City Councilor appointed by the Mayor and one citizen appointed by the Mayor. The Board shall hear appeals for any enforcement actions under this ordinance.

Tipping fee. Costs associated with the disposal of the City's solid waste.

Transfer station. [A site or area designated by the City Council within or outside the City to which acceptable waste collected within the borders of the City is delivered and temporarily stored for transportation and delivery by the City to the facility. The facility itself may serve as the designated transfer station.] The City-designated transfer station, located at 77 Old Turnpike Road, Concord, New Hampshire 03301 or other City-designated location for the aggregate and transfer of acceptable solid waste, subject to weight limitation under Article 5-8-5.1. The Administrator may establish rules relative to the disposal of acceptable waste at the Transfer Station.

Unacceptable waste.

- (a) Pathological and biological waste, oil sludge, cesspool, or other human waste, human remains, street sweepings, large item, or machinery and equipment such as automobile and vehicular parts (except tires), trailers, agricultural equipment, marine vessels, or similar items, farm and other large machinery, wire and cable from industrial sources, plastics from industrial sources in excess, foundry sands, tree stumps, liquid wastes and slurries, explosives (including ammunition and firearms), radioactive materials;
- (b) Any items of waste exceeding six (6) feet six (6) inches in any one of its dimensions or being in whole or in part a solid mass, the solid portion of which has dimensions such that a sphere with a diameter of eight (8) inches could be contained within such solid portion;
- (c) Animal remains, dirt, concrete, and other non-burnable construction material and demolition debris; and chemicals from industrial and commercial sources such as cleaning fluids, petroleum products, paints, acids, caustics, pesticides, insecticides, poisons, drugs or other materials the processing of which the facility reasonable believes would pose a threat to health or safety or the processing of which may cause damage to the facility;

- (d) Any waste which, if processed, would violate or cause the violation of any judicial decision, order, or action of any federal, state, or local government or any agency thereof or applicable law; and
- (e) Hazardous waste.

5-8-3 - Regulated Activity.

All acceptable waste originated or collected within the municipal boundaries of the City shall be delivered to and deposited at ~~[the facility]~~ **a Designated Facility** by ~~[designated]~~ **a Licensed Hauler[s]**. ~~[All other acceptable waste disposed of at the Concord Municipal Transfer Station shall be delivered to and deposited for disposal at the facility by the City of Concord. If for any reason the facility cannot accept waste originated from the City of Concord, another facility will be designated in accordance with the rules and regulations issued by the Administrator.]~~ **To the extent that a circumstance prevents the use of the Designated Disposal Facility, the Administrator may identify an alternative site for solid waste disposal.** ~~[Designated commercial haulers shall report quarterly to General Services Department the volume of recycled materials diverted to processing facilities.]~~

5-8-4 - Administration.

The Administrator's powers and duties are as follows:

- (a) To issue reasonable rules and regulations as needed to enforce this Article.
- (b) To consider all license applications and to grant or deny each application within thirty (30) days after receipt of a completed application by the Administrator or within such other time as the Administrator and the applicant agree is reasonable.
- (c) To review any alleged violations of this Article, and ~~the~~ impose appropriate penalties therefore after notice and hearing as required by this Article.
- (d) To institute necessary proceedings either legal or equitable to enforce this Article.
- (e) ***To take such action and to enter into agreements as may be reasonably necessary to enforce the provisions and purposes of this Article and to appoint and authorize such assistants and agents as may be necessary to carry out the provisions of this Article.***

5-8-5 – ~~[Licensing of Designated Haulers]~~ **Licensed Haulers.**

- (a) ***Any entity collecting solid waste in the City or solid waste originating in the City shall have a License.***

- (b) All Licenses shall expire one year from the date of issue unless otherwise stated on the License or revoked or suspended sooner in accordance with the provisions of this Article. Licenses shall be renewed annually.*
- (c) The annual License fee shall be listed in Schedule I.*
- (d) Licenses issued hereunder shall not be transferable.*
- (e) To obtain or renew a License, entities that wish to collect solid waste in the City or solid waste originating in the City shall complete an application to the Administrator.*
- (f) Each License Application shall be accompanied by a nonrefundable application fee, which shall be determined by the Administrator.*
- (g) The License Application shall be on the form provided by the City and contain all information required by the Administrator, including but not limited to: a description of the activities engaged in, e.g., collection, transportation, or disposal of acceptable waste; type and amount of waste handled; a description of the facilities operated and used; and an equipment inventory, including a description of the make, model, year, and gross vehicle weight of each vehicle used for the collection or transportation of solid waste, and a listing of the total number of containers served by size (two-yard, four-yard, six-yard, eight-yard, ten-yard), and the frequency of the service in the City of Concord. If the Administrator shall determine the License Application is incomplete, he shall notify the applicant in writing of the specific information necessary to complete it.*
- (h) The Administrator shall be informed immediately in writing of any changes in or additions to the information on the License Application, including the Licensed Hauler's equipment inventory.*
- (i) In the event the Administrator denies a License Application, the Administrator shall notify the applicant in writing within fifteen (15) days and shall state the reasons for denial. The applicant may request a hearing in accordance with the procedure in 5-8-7.*
- ~~[(a) All designated haulers shall dispose of acceptable waste originating within the City at the Allenstown Transfer Station in Allenstown, New Hampshire. Acceptable waste may be delivered to the Allenstown Transfer Station in Allenstown, New Hampshire only by self-emptying vehicles or transfer trailers and in a manner which reasonably assures that the waste will not blow, leak, or spill prior to unloading at the facility site. All waste must be delivered in a vehicle~~

~~with gross vehicle weight of greater than twenty-seven thousand five hundred (27,500) pounds and is self-dumping.]~~

~~[(b) — Any person required by this ordinance to obtain a license shall make application to the Director of Public Works. Each application shall be accompanied by a nonrefundable application fee.]~~

~~[(c) — The application shall be on the form provided by the City and contain all information required by the Administrator, including but not limited to a description of the activities engaged in, e.g., collection, transportation, or disposal of acceptable waste; type and amount of waste handled; a description of the facilities operated and used; and an equipment inventory, including a description of the make, model, year, and gross vehicle weight of each vehicle used for the collection or transportation of solid waste, and a listing of the total number of containers served by size (four yard, six yard, or eight yard), and the frequency of the service in the City of Concord. Licenses shall be renewed annually and all information provided in the initial application shall be revised upon application for license renewal. If the Administrator shall determine the application is incomplete, he shall notify the applicant in writing of the specific information necessary to complete it. The Administrator shall be informed immediately in writing of any changes in or additions to equipment including vehicles. If the Administrator requires licenses to provide the names of customers, that that information shall be sealed so that only the Administrator or his immediate designees can see it.]~~

~~[(d) — License issued hereunder shall not be transferable.]~~

~~[(e) — All licenses shall expire one year from the date of issue unless otherwise stated on the license or revoked or suspended sooner in accordance with the provisions of this Article.]~~

~~[(f) — The annual license fee shall be listed in Schedule I. In the event the Administrator denies a license application, they shall notify the applicant in writing and shall state the reasons for denial. The applicant may request a hearing in accordance with the procedure in Section 5-8-7.]~~

5-8-5.1 – Licensed Hauler Activity

(a) All solid waste originated or collected within the municipal boundaries of the City shall be delivered to and deposited for disposal at a Designated Facility by Licensed Haulers or the City's collection contractor(s).

- (b) *Licensed Haulers must deliver solid waste to a Designated Facility only by self-emptying vehicles or transfer trailers and in a manner which reasonably assures that the waste will not blow, leak or spill prior to unloading at the facility site.*
- (c) *Licensed Haulers shall deliver solid waste to a Designated Facility in a vehicle with gross vehicle weight of greater than twenty-seven thousand five hundred (27,500) pounds and self-dumping. Licensed Haulers in a vehicle with gross vehicle weight of less than twenty-seven thousand five hundred (27,500) pounds and self-dumping may deliver solid waste to the Transfer Station.*
- (d) *All Licensed Haulers bringing solid waste from the City to a Designated Facility for disposal shall be charged a tipping fee at a Designated Facility. The Administrator is authorized to establish and adjust tipping fees.*

5-8-6 - Suspension and Revocation.

- (a) *Failure to comply with any provision of this Article or the rules and regulations issued by the Administrator will be deemed a violation and may result in revocation of a license.*
- (b) *Each violation may result in a penalty of up to \$3,000 per occurrence, as permitted under RSA 149-M:17 or other applicable law.*
- (c) *Licensed Haulers.*
 - (1) *Collecting solid waste originating in the City without a License, diverting solid waste from the Designated Facility, or otherwise failing to comply with the provisions of this Article or the rules and regulations issued by the Administrator will be deemed a violation and may result in a penalty of up to \$3,000 per occurrence, as permitted under RSA 149-M:17 or other applicable law.*
 - (2) *Licensed Haulers under this Article may have their Licenses suspended or revoked for the following causes:*
 - (i) *Violation of this Article;*
 - (ii) *Violation of any provision of any state or local law, ordinance, code, or regulation, including but not limited to RSA 149-M or any environmental other law;*
 - (iii) *Violation of any License condition; or*

(iv) ***False statements, misrepresentations, or omissions in the License Application.***

- ~~[(a) — A license issued under this Article may be suspended or revoked for the following causes:~~
- ~~(1) — Violation of this Article;~~
 - ~~(2) — Violation of any provision of any state or local law, ordinance, code, or regulation, including but not limited to New Hampshire RSA 149-M or any environmental law;~~
 - ~~(3) — Violation of any license condition; or~~
 - ~~(4) — Falsehoods, misrepresentations, or omissions in the license application.~~
- ~~(b) — It shall be the duty of the licensee if his licensee is suspended to provide an alternate licensed service to its customers.]~~

5-8-7 - Hearing.

- (a) A person denied a license or whose license is suspended or revoked [~~pursuant to Section 5-8-5~~] shall be entitled to a hearing before the Solid Waste [~~Advisory~~] ***Appeals Board*** [~~Committee~~], if such request is made in writing within ten (10) days of the ***Licensed Hauler's*** [~~licensee's~~] receipt of the notice of denial, suspension, or revocation.
- (b) Such hearing shall be held within ***thirty (30)*** [~~ten (10)~~] days after receipt by the Solid Waste [~~Advisory~~] ***Appeals Board*** [~~Committee~~] of the written request for a hearing.
- (c) The ***Licensed Hauler*** [~~licensee~~] or applicant shall be notified in writing as to the time and place of the hearing at least ten (10) days prior to the hearing date. The ***Licensed Hauler or*** applicant [~~or licensee~~] has the right to be represented by counsel, to offer evidence and to cross examine witnesses.
- (d) A determination shall be made by the Solid Waste [~~Advisory~~] ***Appeals Board*** [~~Committee~~] within ***forty-five (45)*** [~~twenty (20)~~] days after the conclusion of the hearing; a notice of the decision shall be served upon the applicant or licensee by certified mail, return receipt requested.
- (e) A final determination relative to the denial, suspension, or revocation of a license and the period of suspension or revocation shall take effect as provided in the notice but no later than ten (10) days after the date notice of such final determination has been mailed by certified mail, return receipt requested, to the

Licensed Hauler [licensee] or applicant. Such final determination shall be conclusive. Notice of the final determination shall set forth the reasons for the denial, suspension, or revocation and the effective dates thereof, together with a statement that such decision may be applied as provided in the Article.

SECTION II: This ordinance shall take effect upon its passage.

Explanation: Matter added to the current ordinance appears in ***bold italics***.
Matter removed from the current ordinance appears in [brackets and ~~struck through~~].