

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

I. AUTHORITY

Pursuant to M.G.L. Chapter 111, Sections 31, 31A and 31B, the Ware Board of Health hereby issues the following regulations governing: 1) the hauling of solid waste through the Town of Ware for disposal of such waste at area solid waste and recycling facilities.

II. FINDINGS

The Ware Board of Health finds that a large number of trucks transporting solid waste to the Casella Facility in Hadwick, MA use roadways in Ware that are not well suited for this purpose.

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

The Ware 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 Ware Board of Health finds that residents and business located out side of the designated route will require trash pick up and therefore established provisions for “exempted trash haulers”.

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

III. DEFINITIONS

The term “the Board” means the Ware Board of Health.

The term “Designated Route” is the route that non-exempt trash haulers shall use for access to and egress from area solid waste and recycling facilities . The designated route for non-exempt trash haulers shall be either Route 9 or Route 32.

The term “exempt trash haulers” currently means trash haulers picking up trash and recyclables from Ware homes and business located outside of the designated route.

The term “permit” means a permit issued by the Ware Board of Health to a waste hauling company to pick-up solid waste and /or recyclables in the Town of Ware and transport it over roadways located in Ware for disposal of solid waste at area solid waste and/or recycling facilities.

The term “placard” shall mean a sign provided by the Ware Board of Health for conspicuous posting on each truck of an exempt trash hauler picking up trash and or recyclables in area outside of the designated route.

The term “registration” means a registration filed with the Ware Board of Health by a waste hauling company to transport solid waste(not collected within the Town of Ware)over roadways located in Ware for disposal of solid waste at area solid waste and /or recycling facilites.The term “solid waste” is as defined in G.L. c. 111, s 150A.

The term “trash trucks” means vehicles in the business of transporting solid waste and/or recyclables, that transport solid waste and/ or recyclables in or through Ware, or travel through Ware to collect solid waste, for disposal at area solid waste or recycling facilites.

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 picking up and transporting solid waste through Ware for disposal at area solid waste and/or recycling facilites shall apply for a permit from the Ware 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 \$XXX per permit, which shall be used to defray the costs of administering and enforcing these regulations. The permit entitles the waste hauling company to pick up and transport waste through Ware. The \$XXX 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 area solid waste and recycling facilities, *unless exempted under Section VI.*
2. A requirement that each permit recipient have in his/her possession the permit or copy thereof when driving a trash truck in Ware; and
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 \$XXX. 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 thirty days following the issuance of these regulations, it shall be a violation of these regulations for any trash truck en route to or from area solid waste and/or recycling facilities to drive through Ware without a permit, unless exempt from these requirements under Section VI(B). Knowing or willful violations of this requirement may result in the rejection of a permit application once filed.
- E. After issuance of a permit, it shall be a violation of these regulations for any trash truck en route to or from area solid waste and or recycling facilities to use roadways other than the Designated Route, unless subject to the exemptions under Section VI, VI(A),
- F. The Ware Police Department is hereby authorized to issue tickets/violation notices for any violations of these regulations and/or permit requirements. The Ware Police Department shall issue tickets/violation notices to the violator, with a copy sent to the Board of Health. The violation notice shall be signed by the 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 24-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 Ware 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 violator. This request must be in writing. The decision of the Clerk is final. Failure to either pay the fine to the WareTown Clerk within twenty-one days or abide by findings of the non-criminal hearing may result in a criminal complaint.

V. REGISTRATION REQUIREMENT

A. Within thirty days after the effective date of these regulations, all waste hauling companies transporting solid waste through Ware , but not picking up trash in Ware, for disposal at area solid waste and or recycling facilites shall file a registration form with the Ware Board of Health. The registration shall be on a form available from the Board. The registration application shall be accompanied by a fee of \$XXX, which shall be used to defray the costs of administering and enforcing these regulations. The registration entitles the waste hauling company to transport waste through Ware using the designated route for disposal at area solid waste and recycling facilites. The \$XXX fee is per waste hauling company, not per truck.

B. Upon filing a registration, each registered applicant shall receive a current copy of

these regulations. In addition, each driver of a registered truck shall receive a copy of the registration and shall comply with the following requirements:

1. Each registration recipient shall use either Rt 9 or Rt 32.
2. Each registered truck shall display a registration sticker on the right side of the front bumper when driving a trash truck in Ware; and
3. Each registered truck driver shall have in his/her possession a copy of the registration when driving a trash truck in Ware.

C. As the effective date of these regulations, it shall be

a violation of these regulations for any trash truck en route to or from to drive through Ware without a registration and sticker. . Knowing or willful violations of these requirements may result in the rescission of a registration once filed.

D. After the registration is filed, it shall be a violation of these regulations for any

trash truck en route to or from area solid waste or recycling facilities to use Ware roadways other than Routes 9 and 32, .

E. The Ware Police Department is hereby authorized to issue tickets/violation notices for any violation of these regulations. The Ware Police Department, when observing violations, shall issue tickets/violation notices to the violator, with a copy sent to the Board of Health. The violation notice shall be signed by the violator. The ticket/violation notice shall require a non-criminal penalty fine of not more than \$300.00 per day for the first violation; a \$500 fine per day for a second violation, and a

\$1,000 per day non-criminal fine pursuant to the procedures set forth in G.L. c. 40, §21 and 21D for a third and all subsequent violations incurred within a 24 month period. Payments shall be made to the WareTown Clerk within twenty-one days of the violation date. Prior to the expiration of the twenty-one day period, a non-criminal hearing before a Clerk-Magistrate may be requested by the violator. This request must be in writing. The decision of the Clerk is final. Failure to either pay the fine to the Ware Town Clerk within twenty-one days or abide by findings of the non-criminal hearing may result in a criminal complaint.

VI. 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 Ware residences, business, and institutions located in areas of Ware outside of the designated route , to use the Designated Route.
- C. Trash trucks exempted from the requirements to use the Designated Route pursuant to Sections VI (A) shall nevertheless obtain a permit pursuant to Section IV.
1. When a waste hauling company applies for a permit under Section IV and intends to collect trash from Ware residences, business or institutions that are exempted from the Designated Route, it must

obtain one or more “placards” to allow trash trucks to drive through Ware without using the Designated Route.

The permit applicant shall identify on the permit application:

- a) the exempt streets from which it collects trash;
- b) the approximate number of truck trips per week that it anticipates making from or to exempt streets;
- c) the approximate number of trucks per week that will be transporting solid waste collected from exempt streets;
- d) the number of “placards” that are requested.

The permit applicant shall pay a fee of \$ \$XX per requested placard. At the time that the permit 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 the residents, business, and institutions of Ware. . To determine the appropriate number, the Board shall review the information contained in the permit application, 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 trash hauler be equal to the number of trucks required to service Ware residences, business, and institutions, 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 collect and haul trash from areas of Ware located away from the designated route, that waste hauling company need purchase only five, and may use those five placards on any trucks employed by that company that services that exempt streets.

D. Trash trucks servicing the community of Ware are not required to use the Designated Route.

VII. 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 Ware 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 Ware, regardless of other waivers.

VIII. WASTE TRUCK SUITABILITY REQUIREMENTS

A. All vehicles traveling through Ware and transporting solid waste and or recyclables shall be drip-proof, with water tight bodies and tailgates and covered throughout the entire trip through Ware. 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 litter emanates from under the cover.

IX. 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.