

CHAPTER 133

SOLID WASTE MANAGEMENT

[HISTORY: Adopted by Special Town Meeting 4-21-1990 Article No. I. Amendments noted where applicable. Amended 3-12-2009 Town Meeting; Updated 5/5/14 Board of Selectmen; Updated 11/18/15; Updated 4/7/21]

§ 133-1 Definitions

As used in this chapter, the following terms shall have the meanings indicated:

ACCEPTABLE WASTE - Household garbage, trash, rubbish and refuse originating within the boundaries of the Town, normally collected or disposed of as a result of residential pickups or deliveries.

AUTOMATED COLLECTION - shall mean a method of collecting refuse and recycling through the use of mechanical collection equipment and special carts issued for the storage and collection of rubbish and recyclables.

AUTOMATED COLLECTION CART (Or approved cart) - shall mean a specially designed cart with wheels, approved by the Pembroke Board of Selectmen to be used for the storage of acceptable refuse or recyclables in the automated collection operation.

COMMERCIAL — Commercial entities doing business in the Town of Pembroke, including but not limited to contractors, multifamily dwellings of more than five (5) units, manufactured housing parks and commercial establishments of any size such as residential boarding and lodging homes, convalescent and nursing homes, private schools, motels, inns, restaurants, lounges, retail sales, service businesses, professional offices, manufacturing or automotive-related business.

CURB LINE -shall mean the area directly behind or adjacent to the curb; in the absence of a curb, the area adjacent to the edge of pavement or road.

CURBSIDE COLLECTION - shall mean the pickup of acceptable trash and recyclables at certain residences in the Town.

CUSTOMER – shall mean any resident who receives solid waste &/or recycling service from the Town.

DESIGNATED COLLECTION POINT - shall mean the place where the automated cart shall be placed for service, as determined by the Department of Public Works.

DIRECTOR - shall mean the Director of Public Works or his or her duly authorized representative.

DWELLING UNIT - shall mean any building or portion thereof that contains living facilities (which provide for sleeping, eating, cooking, and sanitation) for not more than one (1) household.

EXTRA REFUSE - shall mean any refuse placed on, around or in a five-foot radius of the automated collection cart in excess capacity of the automated cart.

FACILITY – Town designated disposal site.

HAZARDOUS WASTE - shall mean hazardous waste as defined in RSA 147-A: 2, as amended, and the following:

- A. Waste containing explosive, toxic or pathological substances;
- B. Waste defined or classified as hazardous waste at any time under federal, state or local law, or any regulation there under, or waste defined by any applicable federal, state or local law as low-level or high-level radioactive waste;
- C. Waste prohibited for incineration by any local, state or federal agency with jurisdiction over the waste plant or facility because of its toxic nature;
- D. Waste (other than acceptable waste of the character referred to in Subsection A of the definition of "acceptable waste"), the processing of which would result in hazardous waste under Subsections A, B or C of this definition; or
- E. Carts which hold or which previously have held waste described under Subsections A, B or C above.
- F. If any governmental entity having jurisdiction shall determine that any substances, which are not as of the date of this chapter considered harmful or of a toxic nature or dangerous, are harmful, toxic or dangerous, such substances shall thereafter be deemed "hazardous waste."

INFECTIOUS WASTE - shall mean waste that has the potential to cause an infectious disease via exposure to a pathogenic organism of sufficient virulence and dosage, through a portal of entry in a susceptible host.

MULTI-FAMILY RESIDENTIAL PROPERTY - shall mean more than one (1) but not more than five (5) dwelling units in a building.

NON-RESIDENTIAL UNIT - shall mean any establishment except those defined under residential property.

OTHER SOLID WASTE - Residential white metal goods, household appliances, recyclables, including electronic waste, tires, street sweeping, brush, tree stumps (no tree stumps will be accepted from commercial haulers), tree limbs and brush under five (5) inches in diameter and residential demolition debris that is no more than four (4) feet in length. The above noted items are not accepted at curbside, but are accepted at the Transfer Station.

OVERLOADED - shall mean that the automated cart is so full of refuse that its lid is not completely closed, thereby exceeding the automated carts rated capacity.

PERSON - Any natural person, partnership, corporation, association or other legal entity.

RECYCLABLE - shall mean any acceptable material that is collected and handled by the Town for remanufacture into new products. The Director of Public Works shall determine which materials are acceptable in the curbside collection program.

RECYCLING (RESOURCE RECOVERY) PROGRAM - The acceptance, processing and marketing of recyclable materials such as glass, aluminum cans and newspaper.

RESIDENTIAL PROPERTY - shall mean a single-family or multi-family housing building that consists of five (5) or fewer dwelling units, including apartments in commercial buildings.

SOLID WASTE - Shall have the meaning prescribed by the Division of Solid Waste Management of the New Hampshire Department of Environmental Services as set forth in New Hampshire Administrative Rules, Env-Sw 103.46.

SOLID WASTE FACILITY - The facility maintained by the Town within the borders of the Town to collect other solid waste and acceptable waste and recyclables.

TRASH - Waste, refuse, rubbish or garbage, including any acceptable material that does not meet the definition of "recyclable."

TOWN - The Town of Pembroke, New Hampshire.

UNACCEPTABLE_WASTE - Waste that is unacceptable at curbside, at the waste plant or at the solid waste facility such as:

- A. Pathological and biological waste, oil sludge, cesspool or other human waste, human remains, street sweepings, large items of machinery and equipment such as automobile and vehicular parts, trailers, agricultural equipment, marine vessels or similar items, farm and other large machinery, wire and cable from industrial sources and, plastics from industrial sources, foundry sands, tree stumps (see "other solid waste"), liquid wastes and slurries, explosives (including ammunition and firearms), and radioactive materials.
- B. Any item of waste exceeding six (6) feet six (6) inches in any one (1) 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 over 4 feet in length (see "other solid waste") 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 Town or operator of the waste plant reasonably believes would pose a threat to health or safety or the processing of which may cause damage to the waste plant.
- 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.
- E. Hazardous waste as defined in Section 133-1 herein.

YARD WASTE shall mean organic material, including leaves, grass clippings and pine needles, which are banned by the NH Department of Environmental Services, its successor agency, or the appropriate regulatory authority from disposal in landfills and incinerators.

§ 133-2 Regulated Activity

- A. All acceptable waste or other waste originating or collected within the municipal boundaries of the Town, by the Town or its designee, shall be delivered to and deposited for disposal at the Town's approved facility as designated by the Board of Selectmen or the solid waste facility, as the case may be.

- B. The Board of Selectmen is authorized to develop and implement a resource recovery program.
- C. No person shall deliver or cause the delivery of any solid waste or recycling originating outside the municipal boundaries of the Town to the Town solid waste facility (Town transfer station).
- D. All items defined as "unacceptable waste" or "hazardous waste" shall be the responsibility of the owner or waste generator and shall be disposed at the owner's or waste generator's expense, in accordance with federal, state and local ordinances.
- E. The Town shall not bear the cost for pickup or transportation of any commercial acceptable solid waste generated in the Town of Pembroke.
- F. Residential acceptable solid waste from dwelling units that receive collection service from the Town, shall be picked up and transported to the town approved facility by the Town subject to the following conditions:
 - (1) Approved carts shall be no larger than ninety six (96) gallons. .
 - (2) Solid waste shall be bagged and placed in the proper cart. Loose household solid waste in barrels shall not be acceptable.
 - (3) Properties consisting of mixed use residential and commercial units shall be limited to pickup for residential units only. All waste from use of the commercial units shall be picked up in accordance with letter F. of this section.
 - (4) Carts must be at curbside not later than 6:45 am on collection day, and no earlier than the previous evening.
 - (5) Customers shall be required to utilize one collection cart for trash and one collection cart for recyclables per dwelling unit, in order to receive collection service by the Town.
 - (6) All customers shall be required to divert acceptable recyclables from the trash and participate in the recycling collection service.
 - (7) Acceptable recyclables shall be placed loosely in the recyclables cart.

§ 133-2.1 Automated Collection

- A. The purpose of this section is to establish minimum standards for the storage, collection, transportation and disposal of solid waste and

recycling, utilizing an automated collection system to promote the health, safety, and welfare of the Town's residents, employees and environment, and to minimize the amount of trash generated in the Town.

B. The Director of Public Works (hereinafter the "Director") shall have the direct responsibility for the administration of this section subject to the direction and control of the Town Administrator and the Board of Selectmen.

C. General Requirements:

(1) Two automated collection carts and instructions for use will be available for residents at their cost who receive collection services from the Department of Public Works. Residents wishing to purchase additional carts may do so if they wish but any additional carts must be purchased in pairs, one recycling and one trash. Singles cannot be purchased.

(a) Landlords may charge their tenants for the carts.

(2) It shall be the customer's responsibility to assure that automated collection carts are placed in the appropriate location designated by the Town, by 6:45 am on collection day. **If the carts are not out at 6:45 am, the truck will not return for a special trip to pick up your carts.**

(3) The Town shall not be responsible for collection if there is a violation of any part of this section, or circumstances that are beyond the control of the Town. Circumstances or violations include, but are not limited to, automated cart overload, unacceptable materials, improperly loaded automated cart, blocked access, automated cart inaccessibility, improper carts or dangerous situations.

(4) The only automated collection carts used in the program shall be those approved by the Town, and imprinted with the Town seal. No other type of automated cart is allowed. Carts shall be placed at the Town designated collection point on the scheduled collection day by 6:45 am, if the carts are not out at their collection point, the Town will not return later to pick up the carts. Such location shall be easily accessible to the cart with the lids completely closed, at least five feet from any obstruction, and with the handle of each cart facing the house. It shall be the duty of each customer to remove the automated cart from the curb line by the end of the collection day. It is prohibited to overload automated carts in a manner that is likely to cause damage to the collection vehicle, the automated cart or to create a litter condition or to impede collection.

- (5) Automated collection within the Town is mandatory in those areas designated by the Director of Public Works.
- (6) Any manure, offal or other noxious material that, in the discretion of the Director, has not been securely wrapped and placed in an automated cart, shall not be collected. All refuse shall be drained of any free liquids prior to placement in any automated cart. Trash shall be placed in bags first, then inside the cart. Recyclables shall be placed in the cart loose. It shall be the responsibility of the resident to keep automated carts clean.
- (7) It shall be a violation hereof to place or deposit any refuse whatsoever in or around an automated cart owned or provided for the use of another customer without that customer's approval.
- (8) The Town shall reserve the right to inspect any or all refuse, prior to and/or during collection and disposal, for compliance with local, state, or federal laws or regulations, and to reject if non-compliant.

D. Carts:

- (1) All automated carts will be assigned to a street address and have an imprinted number for identification purposes.
- (2) The automated carts approved by the Town shall not be filled to exceed the manufacturer's recommended limit (two hundred (200) pounds total weight for a 96 gallon cart and one hundred fifty (150) pounds for a sixty-four-gallon cart) and all rubbish must fit inside the automated collection cart. The cover of any automated cart must be kept closed at all times except when the automated cart is being filled, emptied or cleaned. Animal wastes and ashes shall be wrapped separately from other refuse in a manner to prevent spillage prior to placement in an automated trash cart.
- (3) If a customer requires more than the determined number of automated collection carts, they may purchase additional carts but they must be in pairs. If the resident does not have the room to properly place automated carts at curbside for collection, the director may require the owner to purchase and maintain additional town-approved carts or to obtain private collection service.
- (4) Any customer in possession of an approved automated collection cart shall pay the cost of repair or replacement of any damaged cart, if it is the determination of the Director that such damage is the result of

negligence of, or abuse by, the customer. The charge shall be the actual cost of repair or replacement as determined by the Town. If a cart is rendered unusable through the fault of the Town, then a replacement cart will be provided at no cost to the customer.

(5) Automated carts shall only be used for storage and placement for the collection of trash and recyclables by the Town.

(6) In order to maintain an orderly and aesthetic appearance within the Town, and to prevent unauthorized encroachment on any street, public property or private property, automated carts shall be stored on private property except on collection days. Failure by the customer to comply with a Town notification citing improper storage for automated carts shall be a violation of this section.

(7) Automated collection carts are not to be left curbside, street side or roadside overnight after the day of collection.

E. Rubbish collection service:

(1) To be eligible to receive collection service, the customer shall currently be receiving service as of the effective date of this section, in accordance with the existing collection policy. Adding new customers shall be subject to approval by the Town.

(2) Standard curbside collection service shall consist of once a week collection of acceptable trash and recyclables, in accordance with Town policies.

F. Points of collection. Automated carts shall be placed:

(1) Within two (2) feet of the curb line or where directed by the Town.

(2) At least five (5) feet away from all objects such as fences, mailboxes, and utility poles, and clear of overhanging vegetation, utility wires, etc. to allow for the unimpeded operation of collection vehicles.

(3) So that the automated cart handle is facing the dwelling unit.

(4) At least two (2) feet from the other cart.

(5) At least ten (10) feet away from parked vehicles.

(6) Residents are responsible for ensuring the accessibility of all carts.

- (7) The Director of Public Works shall have the authority to designate placement of carts.
- (8) No parking between the hours of 9am – 2pm on the respective selected trash day shall be in effect for the following streets:
[Amended 9/5/17 Board of Selectmen]

- Broadway to Hillcrest
- Central Street
- Church Street – From the rear exit of the bank to Main Street
- Front Street
- Glass Street – From 60 Glass Street to 129 Glass Street
- High Street
- Howard Street – 7a.m. to 2:00 p.m. Broadway to dead end
- Kimball Street
- Lindy Street
- Main Street from Broadway to Turnpike
- Maple Street
- Millard Street
- Pine Street
- Pleasant Street
- Prospect Street
- Union Street – From High Street to 6 Union Street

- a. ALSO SEE *Chapter 191 Vehicles and Traffic* section 191-18
Schedule IV: Parking Prohibited Certain Hours.
- b. Fines are considered to be Class I violations as noted in Town Code *Chapter 191-10 Parking* violation penalties (A).

G. Prohibited material. All materials prohibited under other ordinances, and:

- (1) Unacceptable Waste as defined in Section 133-1 herein.
- (2) No toxic, extremely hazardous, dangerous/hazardous or liquid waste as defined now or hereafter, shall be deposited curbside or in any automated collection cart intended for disposal.
- (3) Household hazardous waste or small quantity generator waste shall not be deposited curbside or in any automated collection cart.
- (4) No infectious waste shall be placed curbside or in any automated cart for collection.

- (5) No rocks, concrete, asphalt, dirt, construction debris or other similar material shall be placed in automated carts.
- (6) No hot ashes or any other material capable of causing ignition or spontaneous combustion shall be placed in any automated collection cart.
- (7) No motor oil or other automotive fluids shall be deposited in any automated cart.
- (8) The Town reserves the right to prohibit, or to place disposal restrictions upon any waste that may adversely affect disposal. This shall also extend to any item that may pose a risk to the health or safety of Town employees. Disposal restrictions that may be implemented shall include, but are not limited to, item size restrictions, quantity restrictions, recycling regulations, special preparation requirements, and rubbish source documentation requirements.
- (9) Failure of a customer to comply with disposal restrictions will be deemed a violation and may, at the discretion of the director, result in revocation of collection services.

H. Enforcement: This section shall be enforced by either the Health Officer or the Code Enforcement Department or their duly authorized agents, after initial notification to the violator by the Department of Public Works.

I. Violation: Any customer found to have violated any of the provisions of this section may have their service terminated, at the discretion of the director. If service is terminated, the customer shall be entitled to a hearing before the Board of Selectmen, according to the process outlined in section 133-4.C. of this chapter.

§ 133-3 Solid Waste Facility

A. Operating hours:

- (1) The solid waste facility will be open for residential users Tuesday and Saturday, 7:30 a.m. to 3:30 p.m.
- (2) The solid waste facility shall be closed on all holidays that are observed by the Town and on Old Home Day.
- (3) The Director of Public Works or his authorized representative shall have the authority to open the solid waste facility at other times.

- B. Authorized solid waste facility use shall be by residents of the Town of Pembroke who properly display a current solid waste facility permit sticker.
- C. Recycling (Resource Recovery) program. Materials for recycling shall be placed in the recycling bins under the supervision of the attendant. Recycled materials shall be dry and free of food waste and other contaminants. Users of the Town solid waste facility (Town transfer station) must recycle all recyclable materials being delivered to the Transfer Station.
- D. Scavenging/solid waste facility. Scavenging/picking at the solid waste facility is strictly prohibited.
- E. Violations of regulations. The Director of Public Works or his/her authorized representative shall be in charge of the solid waste facility operation and will ensure that all procedures and regulations are obeyed. Penalties for any violation shall be as follows:
 - (1) First violation will result in a thirty-day suspension of permit from the day of the violation.
 - (2) Second violation will result in a one-year suspension of permit from the day of the violation.
- F. Permits. All facility users must obtain and display a valid Town facility permit for admittance to the solid waste facility. Permits must be obtained at the Pembroke Public Works Department, 8 Exchange Street. Permits are available to all Town residents who must provide a valid registration for an automobile registered in the Town of Pembroke.
- G. Facility fee schedule.
 - (1) Permit fees.
 - a. Residents: no charge for annual renewal of permit.
 - (2) Tipping fees.
 - a. Fees charged are the most current voted on by the Board of Selectmen, after holding a public hearing. The Pembroke Public Works Department shall have available a current fee schedule for users.
- H. Future permits and fees. The Board of Selectmen may, from time to time, set fees and rates for the use of the solid waste facility. Per RSA 41:9-a, the Board of Selectmen shall hold a public hearing prior to setting fees and rates.

133-4 Commercial Solid Waste Collection

The provisions of this section shall apply to private haulers collecting solid waste, construction or demolition material and / or recycling in the Town, not to residents bringing their own trash and recycling to the Town solid waste facility (Town transfer station). [Board Updated 9/5/17]

A. Licensing

- (1) No person shall collect, transport or deliver solid waste, construction or demolition material or recycling originating within the Town without first obtaining a license from the Board of Selectmen, or its designee.
- (2) All waste must be collected with a vehicle with a gross vehicle weight (GVW) of greater than twenty-seven thousand five hundred (27,500) pounds.
- (3) Any person required by this section to obtain a license shall make an application to the Board of Selectmen, or its designee, providing the information required. Each application shall be accompanied by a nonrefundable application fee as voted on by the Board of Selectmen.
- (4) The application shall contain all information required by the Board of Selectmen, including but not limited to: the corporate name, address, corporate representative and title, phone number, e-mail, and website (if available); a description of the activities engaged in, e.g., collection, transportation or delivery of acceptable waste; list of commercial customers and size and location of carts, pickup route, designated day and time of pickup, type and amount of waste handled; certificate of insurance with limits of coverage as determined by the Board of Selectmen, or its designee; a description of the facilities operated and used; and an equipment inventory, including a description of the make, model and year of each vehicle used for the collection or transportation of solid waste.
- (5) The Board of Selectmen or its designee shall act to grant or deny a license application within fifteen days of the submission of a complete application.
- (6) Licenses shall be renewed annually, and all information provided in the initial application shall be revised upon application for license renewal. If the Board of Selectmen or its designee shall determine the application is incomplete, they shall notify the applicant, in writing, of the specific information necessary to complete it. The Board of Selectmen, or its designee, shall be informed immediately, in writing, of

any changes in or additions to the information required on the application.

- (7) Licenses issued hereunder shall not be transferable.
- (8) All licenses shall expire one (1) year from the date of issue unless otherwise stated on the license or revoked or suspended sooner in accordance with the provision of this chapter.
- (9) The annual license fee shall be designated by the Board of Selectmen for each applicant licensed. In the event that the Board of Selectmen, or its designee, deny a license application, they shall notify the applicant, in writing, and shall state the reasons for the denial. Upon such notice, the applicant may request a hearing in accordance with the procedures in § 133-4C hereof.
- (10) Operating times are the same as provided in *Chapter 171: Ordinance Regulating Noise Nuisance*

B. Suspension and revocation.

- (1) Any license issued under this chapter may be suspended or revoked by order of the Board of Selectmen after the Board of Selectmen shall have notified the licensee, in writing, of the intent to suspend or revoke, the reasons therefor and the licensee has had an opportunity for a hearing in accordance with the procedures in § 133-4C hereof.
- (2) A license may be suspended or revoked for the following causes:
 - (a) Violation of this chapter;
 - (b) Violation of any provision of any state or local law or regulation relating to this chapter, including but not limited to RSA 149-M or any environmental law;
 - (c) Violation of any license condition; or
 - (d) Falsehoods, misrepresentations or omissions in the license application.

C. Hearings.

- (1) Any person denied a license or whose license is proposed to be suspended or revoked pursuant to § 133-4B shall be entitled to a hearing before the Board of Selectmen, if such request is made, in

writing, within fifteen (15) days of the licensee's receipt of the notice of denial or proposed suspension or revocation.

- (2) A hearing authorized by this chapter shall be held within thirty (30) days after receipt by the Board of Selectmen of the written request for a hearing.
- (3) The 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 applicant or licensee has the right to be represented by counsel, to offer evidence and to cross-examine witnesses.
- (4) A determination shall be made by the Board of Selectmen within twenty (20) days after the conclusion of the hearing and a notice of the decision shall be served upon the applicant or licensee by certified mail, return receipt requested.
- (5) 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 licensee or applicant. Such final determination shall be conclusive. Notice of the final determination shall set forth reasons for the denial, suspension or revocation and the effective dates thereof, together with a statement that such decision may be appealed as provided by the laws of the State of New Hampshire.
- (6) Any claim arising out of or relating to a final determination shall be reviewable as provided by the laws of the State of New Hampshire.

§ 133-5 Administration

This chapter shall be administered by the Board of Selectmen, whose powers and duties are as follows:

- A. To adopt reasonable rules, regulations, fees and fines as needed to enforce this chapter, including, without limitation, rules and regulations governing the delivery of acceptable waste to the municipal solid waste facility, as well as other facilities the Town has an agreement or contract with to provide such services;
- B. To consider all license applications and to grant or deny each application within fifteen (15) days after receipt of a completed application at the town

offices or within such other time as the Board of Selectmen and the applicant shall agree is reasonable;

- C. To review any alleged violations of this chapter, and to impose appropriate penalties as required by this chapter; and
- D. To institute necessary proceedings, either legal or equitable, to enforce this chapter.

§ 133-6 Enforcement and penalties

- A. Any person who violates this chapter may be guilty of a violation for each incident or occasion of violation
- B. Any person who violates this chapter may be subject to a fine, payable to the Town, of not more than one thousand dollars (\$1,000) and or revocation of service for each violation.

§ 133-7 Conflict and severability

- A. The provisions of this chapter shall supersede all other local laws, ordinances, resolutions, rules or regulations contrary hereto or in conflict herewith.
- B. The provisions of this chapter shall be severable, and if any phrase, clause or sentence or provision or the application thereof to any person or circumstance shall be held invalid, the remainder of this chapter and the application thereof shall not be affected thereby.

§ 133-8 Amendment of provisions

The Board of Selectmen, after a public hearing, may amend this chapter as it relates to the municipal solid waste facility and or collection of municipal solid waste or recyclables.