

## TOWN OF ENFIELD

### SOLID WASTE ORDINANCE

Whereas, the Selectboard of the Town of Enfield has the authority to establish regulations to promote and protect the public health, safety and welfare, and this ordinance is declared to be an exercise of the Town's police powers; and

Whereas, this ordinance is intended to promote the public health, safety and welfare and to protect the interests of Town residents by regulating the accumulation, storage, collection, removal and disposal of solid waste so that conditions that create fire, health or safety hazards, harbor undesirable pests, or impair the aesthetic appearance of neighborhoods are prevented and eradicated.

Now, Therefore, Be it ordained by the Selectboard of the Town of Enfield, New Hampshire, that:

#### Section 1. Definitions:

For the purpose of this ordinance, the following words, terms and phrases shall have the meanings set forth:

- A. Bulky Waste: All large, heavy or otherwise difficult to handle wastes with weights and/or volumes greater than that allowed for an acceptable container, including, but not limited to, appliances, white goods and furniture.
- B. Commercial Building: Any building, or part of a building, used for any business enterprise, commercial enterprise, industrial enterprise or institutional establishment, including a building containing five (5) or more rental dwelling units.
- C. Commercial Solid Waste: All solid waste which results from the operation of any business enterprise, including commercial waste, industrial waste, institutional waste, or waste from the cleanup or maintenance of property rental operations. For the purposes of this ordinance, commercial solid waste shall also include solid waste generated from a building containing five (5) or more rental dwelling units.

- D. Container: A receptacle designed and intended for the storage of solid waste, and where permitted, may include bags.
- E. Dwelling Unit: Any room or group of rooms located within a building and forming a single habitable residence with facilities which are used or intended to be used for living, sleeping, cooking and eating.
- F. Hazardous Waste: Any material, solid waste, chemical or substance determined to be hazardous by state or federal regulations or may be potentially hazardous to any person, to property, or to the environment.
- G. Occupant: The person in actual possession of the property, premises, building or dwelling unit, whether or not the owner.
- H. Owner: The legal or equitable owner of record who has a right to participate in controlling the property, premises, building or dwelling unit, whether or not the occupant.
- I. Person: Any individual, firm, association, partnership or corporation.
- J. Residential Building: Any building, or part of a building, that contains one (1) or more dwelling units, but excluding a building containing five (5) or more dwelling units.
- K. Residential Solid Waste: All household solid waste originating from a dwelling unit within the Town and generated by the occupant. For the purposes of this ordinance, residential solid waste shall exclude solid waste generated from a building containing five (5) or more rental dwelling units.
- L. Solid Waste: All solid and semisolid wastes, including garbage, litter, trash, refuse and rubbish.
- M. Yard Waste: Vegetative matter resulting from landscaping and garden maintenance including, but not limited to, leaves, grass clippings, branches, brush, shrubbery, trees and flowers.

## Section 2. Administration and Enforcement:

Enforcement of the provisions of this ordinance shall be under the jurisdiction of the Town of Enfield Health Officer. A representative of the Police Department and the Zoning Officer shall have the authority to make inspections, determine violations, and take action to enforce the provisions of this ordinance.

## Section 3. Unlawful Disposal of Solid Waste:

- A. It shall be unlawful for any person to leave, place, throw or deposit, or cause or permit any other person to leave, place, throw or deposit, in or upon any street, alley, sidewalk, public place, public property, or private property within the Town limits, solid waste of any kind.
- B. It shall be unlawful for any person to leave, place, throw or deposit within the Town limits, or cause or permit any other person to leave, place, throw or deposit within the Town limits, solid waste of any kind for the purpose of collection and disposal by the Town when the solid waste is generated at a location outside the Town limits or from a location where the Town does not collect solid waste.
- C. It shall be unlawful for any person to leave, place, throw or deposit any yard waste at the Town of Enfield Stump Dump unless such waste is generated at a location within the Town limits. However, no tree service contractor, landscaping contractor, nursery or similar business enterprise shall leave, place, throw or deposit any yard waste at the Town of Enfield Stump Dump.
- D. It shall be unlawful for any person to bury solid waste within the Town limits.
- E. It shall be unlawful for any person to allow an accumulation of solid waste which creates a fire, health or safety hazard, or harborage for rodents or insects.
- F. No person shall deposit in a solid waste container, or otherwise set out for solid waste collection and disposal by the Town, or its authorized representative, any yard waste consisting of leaves, tires, or hazardous waste.

#### Section 4. Duty of Occupant:

- A. The occupant of any premises within the Town, whether business, commercial, industrial, institutional or residential premises, shall maintain the premises in a clean, orderly, safe and sanitary condition, free from any accumulation of solid waste which creates a fire, health or safety hazard, or harborage for rodents or insects.
- B. The occupant of any premises within the Town shall ensure that all solid waste are stored on the premises in containers complying with the requirements of this ordinance. All waste stored outside a building shall be stored in such containers, except that waste may be stored in a plastic bag complying with the requirements of Section 7, provided that such plastic bag is placed outside no earlier than the day prior to collection.
- C. The occupant of any premises within the Town shall cover and/or secure all solid waste containers, keeping the storage area and area surrounding any containers in a clean, orderly and sanitary manner and preventing the waste from being scattered by animals, wind or other means. In the event that any solid waste stored in a plastic bag or other container becomes torn, spilled or otherwise scattered, the occupant shall be responsible for clean-up of the area.
- D. The occupant of any premises within the Town shall not store any solid waste, including bulky waste, outside for more than seven (7) days.

#### Section 5. Duty of Owner:

- A. The owner of any multi-family dwelling shall provide the premises with a sufficient number of covered solid waste containers complying with the requirements of Section 7 to allow the occupants to adequately store the solid waste generated by the occupants of the premises between collection days. The owner shall provide a minimum of one (1) 45-gallon container for every two(2) persons residing on the premises. For a single occupant, a minimum of one (1) 32-gallon container must be provided.
- B. The owner of any premises shall not allow the accumulation of solid waste on the premises to such an extent that the solid waste creates a fire, health or safety hazard, or harborage for rodents or insects.

## Section 6. Collection and Disposal of Solid Waste:

- A. Commercial Solid Waste Collection and Disposal. The occupant of any commercial building shall be responsible for the lawful collection and disposal of all commercial solid waste generated from the location, except that the owner of a building containing five (5) or more rental dwelling units shall also be responsible for the lawful collection and disposal of all solid waste generated from the location.
- B. Residential Solid Waste Collection and Disposal. The Town, or its authorized representative, shall provide residential solid waste collection and disposal services from eligible residential buildings. The Town, or its authorized representative, is not required to collect any residential solid waste that does not comply with the requirements of this ordinance.
  - 1. The occupant shall place all residential solid waste at the designated location for collection and disposal by the Town, or its authorized representative, no later than 7:00 a.m. on the day of collection, nor earlier than the day prior to collection if the collection site is adjacent to a Town street. The occupant shall retrieve all solid waste containers from any street side collection site and return the containers to the storage area by 10:00 p.m. on the day of collection.
  - 2. The occupant shall place all residential solid waste for collection by the Town, or its authorized representative, within five feet (5') of the edge of the traveled portion of the alley if an alley is available, or if there is no alley, within five feet (5') of the edge of the street, or at such other place as approved or designated by the Town.

## Section 7. Containers Required:

- A. Commercial Buildings/Commercial Solid Waste.
  - 1. The occupant responsible for the condition of property used as any business enterprise and generating commercial solid waste shall have and use solid waste containers of a number and size sufficient to contain all solid waste generated from the location. The owner of a building containing five (5) or more rental dwelling units shall supply the building with containers of

sufficient number and size to contain all waste generated from the location.

2. All containers in which solid waste is placed shall be made of metal or plastic, insect-proof, rodent-proof and have a tight-fitting, watertight cover.
3. All containers shall be maintained in a clean and sanitary condition, and in good repair.
4. Any container that does not conform to the provisions of this section must be promptly removed and replaced by a proper container upon receipt of notice to that effect from the Town.

B. Residential Buildings/Residential Solid Waste.

1. The occupant of a property shall have and use either or a combination of:
  - a. Bags of sufficient strength and tightly secured to contain all solid waste generated from the location without tearing or breaking when lifted. Bags, however, may not be stored outside a building unless placed in solid waste containers meeting the limitations set forth in subsection 2. Bags, however, may be placed at the designated collection site without a container no earlier than the day before collection.
  - b. Solid waste containers of a number and size sufficient to contain all solid waste generated from the location, and meeting the limitations set forth in subsection 2.
2. All containers in which solid waste is placed shall be made of metal or plastic, insect-proof, rodent-proof and have a tight-fitting, watertight cover. A container shall be of such size and shape as to be easily handled by one person, and shall have a maximum capacity of 45 gallons and not exceed 50 pounds when full. A container with a greater capacity and weight limit may be utilized only if authorized by or provided by the Town, or its authorized representative.
3. All containers shall be maintained in a clean and sanitary condition, and in good repair.

4. Any container that does not conform to the provisions of this section, or that may have ragged or sharp edges or any other defect that will hamper or injure the person collecting the contents thereof, or is likely to cause bags to tear, must be promptly removed and replaced by a proper container upon receipt of notice to that effect from the Town.
- C. Use of unapproved containers, such as wooden containers, screen/wire containers or 35-gallon drums for the storage and collection of solid waste are prohibited. The owner or occupant shall remove and replace such unapproved containers upon the condition of the container becoming deteriorated. Replacement containers shall meet the limitations set forth in subsection A if considered to contain commercial solid waste or subsection B if considered to contain residential solid waste.

Section 8. Notice:

- A. Upon discovery of a violation of this ordinance, the person or persons in violation shall be given written notice describing the violation, and if the Town is seeking abatement of the violation, the Town shall give the violator three (3) days from the service of the notice to abate the violation.
- B. The notice shall contain the following information:
  1. Date;
  2. Name of the person(s) to whom the notice is given, however, if the name of the occupant cannot reasonably be determined, it will be deemed sufficient for the notice to be given to "Occupant";
  3. Address and/or parcel number of the real property that is subject to the notice;
  4. Nature of violation and the action required, including the period of time in which the action is required to be accomplished measured from the time the notice is given;
  5. Statement indicating the opportunity for a hearing or the date of any court appearance required;

6. If the Town is seeking abatement of the violation, a statement indicating that the notice becomes final three(3) days after the notice is given if a hearing is not requested in writing and delivered to the Town before the end of the three (3) day period;
7. Statement briefly indicating what action can be taken by the Town if the notice is not complied with; and
8. Name, address and telephone number of the enforcement authority.

C. Service of this notice is deemed sufficient if given by one of the following:

1. Sending a copy by registered or certified mail, return receipt requested, to the person(s) to be notified; or
2. Delivering a copy personally to the person(s) to be notified; or
3. Leaving a copy at the residence of the person(s) to be notified.

D. It shall be the responsibility of the occupant to abate the existing violation after receipt of a notice. If the notice is not complied with, the Town may take appropriate action to abate the violation, and cost thereof shall be assessed pursuant to Section 10, or the Town may elect to notify the owner of the premises of the violation and order the owner to abate the violation. The owner shall be entitled to the same notice and period of time to abate the violation that was originally given to the occupant. If the owner does not then abate the violation, the Town may take appropriate action to abate the violation and assess the costs of the abatement to either the occupant or the owner.

E. Enforcement of this ordinance against any owner of record shall not in any manner diminish the ability of the Town to enforce the ordinance against an occupant of the real property, and the enforcement of this ordinance against any occupant shall not in any manner diminish the ability of the Town to enforce the ordinance against an owner of record of the real property.

- F. This ordinance shall not prohibit a landlord from including a provision in a lease agreement to collect any enforcement costs imposed by the Town against the landlord due to the actions or inactions of a tenant.

Section 9. Hearing:

- A. In the event that a person receiving a notice seeking abatement of a violation does not believe that he or she is in violation of this ordinance, the person may request a hearing before the Board of Selectmen.
- B. The request for a hearing before the Board of Selectmen must be in writing and delivered to the Town Manager's Office within three (3) days after the date the notice is given.
- C. A hearing will be scheduled to be held within ten (10) days of receipt of the written request.
- D. At the hearing, the person will be given the opportunity to appear, with or without counsel, to present such evidence to the Board of Selectmen that reasonably relates to whether the presence of the solid waste on the real property is in violation of this ordinance. Each person appearing will also be given the opportunity to cross-examine any opposing witnesses and present evidence and arguments.

Section 10. Abatement of Violation by the Town; Collection of Costs:

- A. The Town may take action to abate the violation from real property if any person who has been provided written notice fails, neglects or refuses to comply with the notice; and has not requested a hearing, or, if a hearing was requested, the Board of Selectmen affirmed the notice; and the notice is not being reviewed by the Court system. The Town may abate the violation by contract with a contractor or with Town personnel and equipment.
- B. The owner and occupant of the real property shall be jointly and severally responsible for the Town's cost for the abatement of the violation under this ordinance. The costs for abatement shall be fifty dollars (\$50.00) or the actual costs of the work performed by a Town department or contractor, whichever is greater.

- C. The Town Manager shall send a bill to the person violating this ordinance for the Town's cost for abatement of the violation. Payment shall be due fifteen (15) days after the billing date.
- D. If the bill is not paid within forty-five (45) days of the due date, the Town may file a civil action in a court of competent jurisdiction in Grafton County against the violator to collect the costs for the abatement of the violation, including reasonable attorney's fees.

Section 11. Penalty:

Any person who violates a provision of this ordinance may be subject to a fine in an amount not more than five hundred dollars (\$500.00) for each offense. If the violation is of a continuing nature, each day of failure to comply with the provisions of this ordinance shall constitute a separate offense. A complaint for violation seeking imposition of a fine may be filed with any court of competent jurisdiction in Grafton County.

Section 12. Other Ordinances:

All other ordinances and parts of ordinances inconsistent or conflicting with any part of this ordinance are hereby repealed to the extent of such inconsistency or conflict.

Section 13. Severability:

If any provision, clause, sentence, or portion of this ordinance is held invalid by a court of law, such invalidity shall not affect other provisions of the ordinance which can be given effect without the invalid provisions.

Section 14. Effective Date:

This ordinance shall be in full force and effect from and after its passage, approval and publication according to the laws of the State of New Hampshire.

Adopted March 5, 2007  
Enfield Board of Selectmen