

Chapter 128

SOLID WASTE

ARTICLE I

Recycling

§128-1	Definitions.	§128-10	Intent.
§128-2	Mandatory recycling program established.	§128-11	Permit required
§128-3	Requirements for handling recycling materials.	§128-12	Fees.
§128-4	Permit required for use of Recycling Center; exceptions.	§128-13	Solid waste to be generated within Town.
§128-5	Enforcement.	§128-14	Use of Transfer Station.
§128-6	Violations and penalties.	§128-15	Stumps, logs and lumber; construction debris, demolition waste, yard waste and metal goods.
§128-7	Effective date.	§128-16	Authority to promulgate additional regulations.
	ARTICLE II		
	Transfer Station/Recycling Center	§128-17	Revocation of permit; appeals.
		§128-18	Violations and penalties.
§ 128-8	Definitions.	§128-19	Enforcement.
§ 128-9	Statutory authority.	§128-20	Injunctions.
		§128-21	Conflicting Provisions

GENERAL REFERENCES

Hazardous materials – See Ch. 63
Public gatherings – See Ch 104.

Sewers – See Ch. 122.

ARTICLE I

Recycling

(Adopted 3-20-1990; amended 10-11-1991)

§ 128-1. Definitions.

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

ALUMINUM CANS - Include only those containers made entirely of aluminum and used solely for the packaging of beverages and food.

CARDBOARD – Includes corrugated cardboard and brown paper bags.

COMMERCIAL AND INDUSTRIAL ESTABLISHMENTS – Include all public or private establishments, including but not limited to manufacturing, retailing and/or service establishments; food establishments in business for the purpose of consumption, on or off premises, as well as food distribution and/or processing; and professional and/or corporate entities.

COMMERCIAL SOLID WASTE HAULER – Any private company which specifically is in the business of picking up, hauling, and delivering recyclable materials from any source within the Town of Derry to the Town of Derry Recycling Center.

COMMINGLED RECYCLABLE MATERIALS – Include the paper-stock recycling materials in one container and another container containing other recyclable materials which include glass, plastic, aluminum cans, and metal cans.

DERRY TRANSFER STATION - The area within the Town of Derry whose location and use is permitted by the State of New Hampshire Department of Environmental Services to accept recyclables.

GLASS - Includes all bottles and jars made entirely of glass and used in the storage of food and beverages. Specifically excluded are blue glass and flat glass commonly known as “window glass”, light bulbs, and fixtures.

METAL CANS – Include all cans, other than aluminum, consisting entirely of steel, tin or bimetal and used in the storage of food and beverages.

PEPER RECYCLING MATERIALS – Include newspaper, high-grade paper, mixed paper and corrugated cardboard. Newspapers include paper of any type commonly referred to as “newsprint” and distributed at stated intervals, usually daily or weekly, having printed thereon news and opinions and containing advertisements and other matter of public interest. Expressly excluded, however, are all magazines or other periodicals, as well as all other paper products of any nature whatsoever. High-grade paper includes office paper, high-grade paper, junk mail and advertisements. Corrugated cardboard include cardboard containers used primarily for the packaging, boxing and/or transporting of products of any type.

PLASTICS – Included all forms of soft and/or hard plastic used for containers.

PUBLIC OR PRIVATE INSTITUTIONS - Include all municipal and state government facilities; all religious, educational and health-care facilities; and any and all public and/or private civic organizations.

RECYCLABLE - Include all materials designated by the municipality to be source-separated from the solid waste stream for the purpose of recycling, and includes paper-stock recycling materials, glass, plastic, aluminum cans and metal cans. Hazardous wastes or medical waste containers are specifically excluded.

RECYCLING – The process, by which designated materials, which would otherwise become solid waste, are separated, collected, processed and returned to the economic mainstream in the form of raw materials or products.

RESIDENT –

- A. DWELLING OWNER - In the case of an owner-occupied dwelling, that person and/or persons whose names appear on the tax records for said dwelling kept by the Town of Derry.
- B. RENTER – In the case of a rented dwelling, that person and/or persons to whom the dwelling is rented by the dwelling owner or his representative.

SOLID WASTE - Includes all garbage and rubbish that is collected for disposal, including but not limited to metal, scrap metal, white goods (stoves, refrigerators, washers, dryers, and sinks), magazines or other periodicals, and all non-recyclable waste streams. Hazardous wastes or medical waste containers are specifically excluded.

SOLID WASTE STREAM - The flow of material generated within the Town of Derry that would normally be disposed at the Town of Derry Transfer Station. This material includes but is not limited to newspapers, high-grade paper, mixed paper, corrugated cardboard, glass, aluminum cans, metal cans, plastics and other municipal solid waste.

§ 128-2. Mandatory recycling program established.

- A. There is hereby established a mandatory program for the source separation of recyclable materials from the solid waste stream in the Town of Derry.
- B. All residents, all public or private institutions and all commercial and industrial establishments within the Town of Derry shall separate recyclable material from the solid waste stream generated said recyclables shall be delivered or cause to be delivered to the Derry Recycling Center.
- C. It shall be a violation of this article for any person, public or private institution, commercial and industrial establishment or any commercial solid waste hauler not permitted by the municipality to pick up or cause to be picked up said recyclable materials as defined herein. Each such collection in violation hereof shall constitute a separate and distinct offense, punishable as hereinafter provided.

§ 128-3. Requirements for handling recyclable materials.

- A. Paper-stock recycling materials.

Newspaper shall be tied securely in bundles with twine, rope, cord or such other bindings to facilitate handling and insure that they will not be windblown and will be kept dry. Paper-stock recycling materials, except corrugated cardboard, must be placed in plastic bags or closed containers to keep dry.

- B. Commingled recyclable materials.

(1) Glass used for the storage of food and/or beverages shall be reasonable clean of all residues and shall have all caps removed.

- (2) Glass, aluminum cans, metal cans and plastic shall be placed in plastic bags or containers. No glass shall be deliberately broken for the purpose of filling any container or receptacle; however, accidentally broken glass will be accepted.

C. Cardboard Materials.

Corrugated cardboard boxes must be flattened completely and free of all wax and food residual.

§ 128-4. Permit required for use of Derry Transfer Station.

- A. It shall be the responsibility of any resident, public or private institution, commercial or industrial establishment, or any commercial solid waste hauler who uses the Town of Derry Recycling Center to obtain a valid permit from the Derry Department of Public Works. Derry residents who utilize private curbside collection do not require permits. Derry residents who reside in multifamily dwellings and dispose of their recyclable material in designated on-site recycling dumpsters do not require permits.
- B. The Department of Public Works shall, upon receipt of a completed and approved application, issue permits to any Derry resident, Derry public or private institution, Derry commercial or industrial establishment, and any commercial solid waste hauler who is in the business of picking up and delivering recyclable materials generated within Derry to the Derry Recycling Center. This permit shall authorize the delivery of certain specific recyclable materials that originate within the Town of Derry to the Derry Recycling Center.

§ 128-5. Enforcement.

The Code Enforcement Office is hereby authorized and directed to enforce this article and amendments thereto.

§ 128-6. Violations and penalties.

Any resident, public or private institution, commercial or industrial establishment and any commercial solid waste hauler who or which violates or fails to comply with §128-2 of this article shall be guilty of a violation and may be fined up to \$50 for the first offense, \$100 for the second offense, and \$200 for the third offense and each subsequent offense. Penalties will not take effect until 60 days after the effective date of this article.

§ 128-7. Effective date.

This article will take effect on October 1, 2007.

ARTICLE II
Transfer Station/Recycling Center
(Adopted 3-15-1994; amended 4-1-1997; 5-16-2000; 12-5-2000)

§ 128-8. Definitions.

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

ATTENDANTS – Those persons employed by the Town of Derry at the Transfer Station/Recycling Center who shall have the authority to require compliance with the rules and regulations pertaining to the Transfer Station/Recycling Center.

BULKY ITEMS - Include but are not limited to mattresses, box springs, couches, love seats and stuffed chairs.

CONSTRUCTION DEBRIS and DEMOLITION WASTE – Treated wood waste, shingles, sheetrock, logs greater than five inches in diameter, insulation, plywood, chipboard, building materials, rubble, rugs, toilets, sinks, bathtubs and shower stalls.

DISPOSAL – The discharge, deposit, injection, dumping, spilling, leaking or placement of any waste into or onto any land or water so that such solid waste or any constituent of it may enter the environment, be emitted into the air, or be discharged into any water, including groundwater.

DISPOSAL SITE - The site that the Town of Derry designates to dispose or incinerate its solid waste.

FACILITY – The Town of Derry Transfer Station situated in the Town of Derry off Fordway.

FACILITY OPERATOR - The Town employee who is in direct charge of the facility.

INFECTIOUS WASTE - Any waste which, because of its infectious nature, may cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness or pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed of or otherwise managed.

MOTOR VEHICLE WASTE – Motor vehicle waste as defined by RSA 149-M:18 namely used motor oil, motor vehicle batteries and other metallic items that can be readily recycled and marketed.

PERMIT – A blue window sticker or white, orange or yellow card which is issued by the Town of Derry that authorizes the holder to use the Derry Transfer Station for disposal of solid waste as herein defined.

RECYCLABLE - Include all materials designated by the municipality to be source-separated from the solid waste stream for the purpose of recycling, and includes paper-stock recycling materials, glass, plastic, aluminum cans and metal cans. Hazardous wastes or medical waste containers are specifically excluded.

RECYCLING – The collection, storage, processing and redistribution of separated solid waste so as to return material to the marketplace.

SOLID WASTE - Any matter consisting of putrescible materials, refuse and other discarded or abandoned material. It includes solid, liquid, semisolid or contained gaseous material resulting from industrial, commercial, mining and agricultural operations and from community activities. For the purposes of this article, it does not include hazardous waste as defined in RSA 147-A: 2, infectious waste as defined in this article, solid or dissolved materials and irrigation return flows or municipal and industrial discharges which are point sources subject to permits under Section 402 of the Federal Water Pollution Control Act, as amended, or source special nuclear or by-product material as defined by the Atomic Energy Act of 1954, as amended. "Solid waste" includes municipal solid waste as defined in State Solid Waste Rule Env-Wm 103.23 and further any waste product, solid or having the character of a solid rather than a liquid, in that it will not flow readily without additional liquid, and which is composed wholly or partly of such materials as garbage, swill, sweepings, cleanings, trash, rubbish, litter, industrial solid wastes or domestic solid wastes; organic wastes or residue of animals sold as meat; fruit or other vegetable or animal matter from kitchens, dining rooms, markets, food establishments or any places dealing in or handling meat, fowl, fruits, grain or vegetables; offal, animal excreta or the carcasses of animals; brick plaster or other waste matter resulting from the demolition, alterations or construction of buildings or structures; or accumulated waste material, cans, containers, tires, junk or other such substances which may become a nuisance.

SOLID WASTE HAULER – Any private company/person who or which specifically is in the business of picking up/hauling and delivering solid waste from any source within the Town of Derry to the Town of Derry Transfer Station/Recycling Center.

TREATED FURNITURE – Include desks, bookcases, shelves or other residential items that have received surface treatment to protect or enhance the item.

WHITE GOODS - Items consisting of refrigerators, air conditioners, and dehumidifiers which contain freon.

YARD WASTES – Leaves, grass clippings, weeds hedge clippings, garden wastes and twigs and brush not longer than three feet in length.

§ 128-9. Statutory authority.

These regulations have been adopted by the Derry Town Council pursuant to the authority granted the Council by RSA 149-M:17, II and RSA 147:43.

§ 128-10. Intent.

The Town of Derry Transfer Station ("Facility") is operated and maintained in accordance with RSA 149-M:17 solely for the disposal of authorized solid waste generated within the geographical boundaries of the Town. These regulations are intended to:

- A. Prevent the unauthorized entrance to and use of the facility;
- B. Prohibit the deposit of illegal and/or unacceptable waste;
- C. Control the deposit of authorized solid waste to facilitate compliance with operating standards, improve efficiency and productivity, encourage recycling and reuse of our resources and maximize the life of the facility;

- D. Establish permit fees to be assessed against solid waste haulers and Derry businesses which use the facility; and
- E. Establish fees for Derry residents who dispose of construction and demolition material, bulky items, air conditioners, refrigerators and treated furniture.

§ 128-11. Permit Required.

It shall be unlawful to deposit solid waste at the Derry facility without having first obtained from the Town of Derry a permit for such activity.

- A. All card permits shall expire on December 31 each year. Card permits shall be valid for up to one year. Window stickers issued to Derry residents must be affixed to the lower left-hand side of the vehicle windshield.
- B. All permits shall be nontransferable.

All persons and/or businesses applying for a permit must present vehicle registration with payment (if applicable) for the permit. Permits may be obtained at the Derry Transfer Station. Payments must be made at the Derry Transfer Station.

§ 128-12. Fees.

The following permit fees are designed to defray some of the expense incurred by the Town in administering the facility:

A. Solid Waste Haulers.

- (1) Solid waste haulers who propose to use the Town of Derry facility to dump solid waste must pay \$100 per year to obtain a solid waste hauler's permit. If solid waste haulers use more than one vehicle, each vehicle must be permitted. Solid waste hauler card permits are colored orange.
- (2) Permitted solid waste haulers who propose to use the Town of Derry Transfer Station to dump non-recyclable solid waste collected from other than one to three family residences must pay at the prevailing contracted cost for the Town of Derry to transport and dispose of solid waste brought to the Town's Transfer Station by solid waste haulers. The Town will credit each Derry business the value of one ton per year (Town's prevailing contracted cost) to dispose and transport business solid waste. The Town will bill haulers monthly. If bills are not paid within 30 days from invoice, haulers will lose their permit to dump.

B. Business owners.

Derry businesses which haul their own solid waste to the facility must pay \$50 per year per vehicle to obtain a business owner permit. If business owners use more than one vehicle, each vehicle must be permitted. Business card permits are colored yellow.

C. Derry residents.

Derry residents who take their own solid waste generated from their own Derry residence to the facility are exempt from a fee, except fees as outlined below. These residents must obtain a residential solid waste permit from the Town to use the facility.

Item	Fee
Construction and demolition waste	\$0.07/pound or \$140/ton
Treated furniture	\$0.07/pound or \$140/ton
Bulky items	\$5.00 each
Refrigerator, A/C, Dehumidifiers	\$10.00 each
Mattresses and couches	\$5.00 each
Toilets	\$5.00 each
Televisions/Monitors 13"-25"	\$15.00 each [Eff. 7/16/2009]
Televisions/Monitors 26" and larger	\$25.00 each [Eff. 7/16/2009]

§ 128-13. Solid waste to be generated within Town.

Any resident, business, corporation, trust or solid waste hauler delivering waste under this article must deliver loads which consist of residential, commercial, industrial and institutional solid waste generated within the Town of Derry. Any part of a load which is delivered to the facility and which is found to contain solid waste generated outside the Town of Derry will subject the holder of the permit to the revocation of permit procedures pursuant to Article V.

§ 128-14. Use of Transfer Station.

The Town of Derry Transfer Station/Recycling Center is a State of New Hampshire permitted solid waste receiving site. Its intended used is to receive and transport solid waste that is generated within the Town of Derry. Solid waste which is allowed to be received at the facility includes refuse, construction debris and demolition waste (residential solid waste permit holders only), motor vehicle waste, yard waste, residential brush, appliances and scrap metal, not including automobile or truck parts.

- A. Unacceptable waste_ Materials which will not be accepted at the facility shall include by not be limited to the following: pesticides, insecticides, chemicals (when not normally in household waste), pathological and biological waste, radioactive materials, oil sludge, asbestos or asbestos shingles, hazardous refuse of any kind or other substances which are now or are hereafter considered harmful, inflammable, hazardous or toxic or which would otherwise not normally be allowed for burial as Class 2 under Environmental Protection Agency regulations or which would be likely to violate Environmental Protection Agency regulations or which would be likely to pose a threat to health or safety or which may cause to or adversely affect the operation of the Derry solid waste facility.

B. Hazardous waste or materials which the Town considers to be detrimental to the operation of the facility or which require special handling or disposal procedures will not be accepted at the facility. The term “hazardous waste” means:

- (1) A solid, semisolid, liquid or contain gaseous waste, or any combination of these wastes, which, because of either quantity, concentration, or physical, chemical or infectious characteristics, may:
 - i. Cause or contribute to an increase in mortality or an increase in irreversible or incapacitating reversible illness; or
 - ii. Post a present or potential threat to humans or the environment when improperly treated, stored, transported, disposed of or otherwise mismanaged; or
- (2) Any material which has been identified as hazardous waste by the Bureau of Solid Waste Management of the State of New Hampshire using the criteria established under RSA 147-A:3, I or as listed under RSA 147-A:3, II. Such wastes include, but are not limited to, those which are reactive, toxic, corrosive, ignitable, irritants or strong sensitizers or which generate pressure through decomposition, heat, or other means. Such wastes do not include radioactive substances that are regulated by the Atomic Energy Act of 1954, as amended.

C. Tires.

- (1) Tires on rims will not be accepted. No tires will be accepted from any commercial establishment. Tires may be deposited at the facility; provided, however, that no more than four such tires may be deposited per Derry registered vehicle per year.
- (2) All Derry residents depositing tires at the facility must first obtain tire coupons from the attendant. There will be no cost for said coupons.

D. Recyclables.

- (1) Recyclable materials must be brought to the facility as required in Article I, Recycling, of this chapter.
- (2) All requirements and procedures contained within Article I, Recycling, are incorporated into this article.

§ 128-15. Stumps, logs and lumber; construction debris, demolition waste, yard waste and metal goods.

A. Stumps, logs and lumber.

- (1) Stumps will not be accepted at the facility.
- (2) Logs greater than five inches in diameter or four feet in length will be accepted and charged a fee based on the fee structure detailed in § 128-12C.
- (3) Lumber must be put into lengths not exceeding eight feet and placed in the designated area at the facility.
- (4) Wood chips will not be accepted at the facility.

B. Construction debris, demolition waste, yard waste and metal goods.

- (1) Derry residents who obtain a residential solid waste permit may bring construction debris and demolition waste, brush, yard waste and metal goods generated from their own residence to the facility. The above materials generated from commercial, industrial or business sources will not be accepted.
- (2) No commercial and/or business use of the brush disposal area will be allowed.
- (3) A business owner who is a resident and has a business owner permit to use the facility for solid waste disposal will need a separate residential solid waste permit to use the brush disposal area for his home use. Any such double permit holder found to be bringing in brush to the site for any commercial enterprise or any other source may be subject to enforcement procedures and civil penalties, which may include revocation of both permit.
- (4) Yard waste must be brought to the designated area (compost pile) at the Town's facility. Yard waste must be free of large braches. Branches that are mixed in yard waste must be ½ inch or less in diameter and three feet or less in length. Paper, cans or other items which will not decompose in composting areas are prohibited.

§ 128-16. Authority to promulgate additional regulations.

The Director of Public Works is hereby authorized to promulgate additional regulations, subject to the approval of the Derry Town Council, which may include but are not limited to the following subject:

- A. Separation of solid wastes and other materials.
- B. Inspection procedure.
- C. Hours of operation.

§ 128-17. Revocation of permit; appeals.

The facility operator may revoke the permit of any holder when he makes a written finding that the holder has violated these regulations or any regulations promulgated hereunder. The facility operator will provide written notice of the revocation to the holder of the permit by certified mail. Any person provided with such a notice of revocation may request a hearing before the Director of Public Works within 15 days of the receipt of such notice.

The Director of Public Works will affirm or reverse the action of the facility operator. The revocation of the permit will be stayed during the pendency of the appeal.

§ 128-18. Violations and penalties.

- A. Any person who deposits unacceptable waste as that term is defined in § 128-14A above shall be responsible for the removal of all unacceptable waste and shall fully indemnify the Town of Derry from any damages resulting from the deposit of unacceptable waste at the facility.
- B. Violators of this article may be levied civil penalties up to \$3,000 for each act of violating the provisions of this article.

§ 128-19. Enforcement.

The Code Enforcement Officer is hereby authorized and directed to enforce this article and amendments thereto.

§ 128-20. Injunctions.

The Town may apply to a Justice of the Superior Court for injunctive relief against existing or impending violations of this article pursuant to RSA 149-M:15; VIII. Notice of any such action shall be given to the Attorney General and Commissioner of Environmental Services at least 30 days prior to the commencement thereof, unless more immediate action is necessary to prevent irreparable environmental damage or other serious public harm, in which case such notice shall be given as soon as practicable, but in no event later than the date of commencement of the action. The application for injunctive relief shall in no way affect the Town's ability to exercise its regulatory authority as otherwise provided in this article or to cite any person for violation thereof.

§ 128-21. Conflicting provisions.

Where the provisions of this article are in conflict with other ordinances, regulations or laws, the more stringent shall apply.