

**ADOPTION: JUNE 1, 2021**  
**PUBLISHED: JUNE 4, 2021**  
**EFFECTIVE: JUNE 14, 2021**

**NEW ORDINANCE #86 entitled**  
**DUMPSTER/GARBAGE-REFUSE CONTAINER ORDINANCE**  
**FOR THE TOWN OF BOLTON**

BE IT ENACTED as follows:

**§86-1 Legislative Intent**

The Town Board finds that placement and locations of restaurant, commercial and multi-family garbage dumpsters and garbage or refuse collection containers and dumpster / refuse collection areas can become unsightly and if not properly sited, enclosed and screened can create a blighting condition on nearby properties and in adjacent neighborhoods. It is appropriate to impose reasonable requirements concerning placement and making provisions for enclosures and screening for dumpsters and garbage-refuse containers associated with and used by restaurants, commercial enterprises and multi-family residences in the Town of Bolton. It is the intent of the Town Board to create a town wide Ordinance to require that screening and enclosures be installed to surround garbage dumpsters and refuse receptacles at all restaurants, commercial premises and multi-family properties with three (3) or more residential units in the Town of Bolton.

**§86-2 Enclosure Requirements and Procedures:**

A. Dumpsters or garbage / refuse containers which are designed to contain waste and refuse which are in use at all restaurants, commercial premises or multi-family properties with three (3) or more residential units shall be maintained with a lid or cover, suitably protected on all sides by opaque fencing or screening at least twelve (12) inches above the height of the dumpster or refuse container(s) to assure protection from open view and such areas shall be kept in a clean and neat condition, and the surrounding area shall be free of litter. Dumpster and refuse container maintenance shall require “leak free” containment, clean surfaces that are safe and free of liquid refuse. Dry sanitation/bio-hazard clean-up materials shall be maintained and used in the dumpster/refuse container areas to protect public health and safety. Dumpster and refuse containers and the areas in which they are located shall not allow liquid waste or liquid discharge upon adjacent properties or within the public right of way. Consideration shall be given to hedging and landscaping around all dumpster-refuse container enclosures as follows:

- (1) Enclosures are required to be installed and maintained, surrounding all dumpsters and/or refuse containers that are utilized as a waste storage area for restaurants, commercial enterprises or multi-family dwellings with greater with three (3) or more units.

(2) Enclosures shall primarily be located in the rear of the property. Consideration shall be given to side yards if the rear area of the property is unsuitable. Dumpsters or refuse containers of any type shall not be located in any front yard of any premises. This provision shall not be construed to limit regular curbside pickup service by a commercial refuse hauler.

(3) Placement of enclosures shall be designed and constructed in a manner that allows unobstructed access to each dumpster or refuse container and the opening of gates for pickup and disposal and access shall not be across the lands of an adjacent property except by the terms of a written contract allowing such access or access as specified by deed.

(4) Enclosures shall not be located as to allow any service vehicle to block any street intersection, driveway entrance or fire access.

(5) Enclosures adjacent to residentially zoned properties shall be placed as far as possible from an adjacent residential property line.

(6) Enclosures with swing gates shall be set back from the property line a distance equal to the width of the gate.

(7) All enclosures shall have service access gates. Gates cannot swing over the property line or into the public-right-of-way when open.

(8) A separate thirty-six (36) inch access gate to the enclosure shall be constructed for use by the tenants of multi-family properties with three (3) or more residential units.

(9) Placement of a dumpster or refuse container associated with the operation of a restaurant, commercial enterprise or a multi-family property with three (3) or more residential units shall be required to be located “on premises”.

10) The placement of a dumpster or refuse container associated with the operation of a restaurant, commercial enterprise or multi-family property with three (3) or more residential units shall not be located nor maintained “off premises”.

B. All dumpster/refuse containers and enclosures regulated by this Ordinance shall be considered for approval prior to installation and/or use at every restaurant, commercial property or multi-family property (with three (3) or more rental units) in the following manner:

(1) Under circumstances where the premises maintaining dumpsters or refuse containers existed prior to the enactment of this Ordinance, or any new development or use that does not require any Zoning Board of Appeals review or Planning Board review, then in such instance the

Zoning Administrator, or his/her designee shall have administrative authority to approve the design of any enclosure, location, setbacks, location of gate openings (including swing), dimensions, materials, height, landscaping and all things pertinent to the requirements of this Ordinance taking into account the circumstances and ability of the property owner to achieve substantial compliance with the requirements of this Ordinance where strict application hereof cannot reasonably be achieved.

(2) On any project, land use or development which involves the Planning Board for a site plan review, the Planning Board shall be authorized to consider and approve the design of enclosure, location, setbacks, location of gate openings (including swing) dimensions, materials, height, landscaping and all things pertinent to compliance with the requirements of this Ordinance.

(3) On any project, land use or development which does not require a site plan review before the Planning Board, however, where project review may be conducted by the Zoning Board of Appeals involving any variance application, the Zoning Board of Appeals shall be authorized to consider and approve the design of enclosure, location, setbacks, location of gate openings (including swing) dimensions,

materials, height, landscaping and all things pertinent to compliance with the requirements of this Ordinance.

(4) On any Planned Unit Development, compliance with the requirements of this Ordinance shall be determined by the Town Board for the Town of Bolton.

### **§86-3 Dumpsters on Public Lands**

Dumpsters and refuse receptacles on public land owned or operated by the County, State or the Federal government shall be exempt from the application of this Ordinance.

#### **§86-4 Temporary Construction/Demolition Dumpsters and Receptacles**

The temporary use of an “on premises” dumpster or refuse receptacle at an active construction site or active demolition projects shall not be regulated by this Ordinance.



## **§86-5 Enclosure Standards**

Property owners shall maintain dumpster and refuse container enclosures in good repair and in a safe and structurally sound condition with a continuing duty to maintain the effectiveness of vegetation screens by properly caring for and replacing, as necessary, the plantings that serve as screening devices.

A. Enclosures shall be designed and constructed of opaque materials to screen the view of the dumpster / refuse container area and may consist of wood lumber, composite lumber, masonry, concrete or any sturdy material suitable to withstand the weather.

B. Landscape screening shall be required as a vegetative buffer to the maximum ability that the location permits.

C. Enclosure height shall be twelve (12) inches greater than the highest part of the dumpster but in no case shall the dumpsters, containers or enclosure exceed eight (8) feet in elevation measured from the natural grade.

D. Enclosures must be constructed on an impervious surface capable of withstanding vehicular loading and allow dumpsters to roll.

E. Service access gates must:

(1) Be constructed with a sturdy metal frame and hinges.

- (2) Container hinge assemblies shall withstand the weight and movement of the gates so as to not sag.
- (3) Be opaque, non-see-through material.
- (4) Have gate stops and latches that are functional in the full open and close position.

## **§86-6 Practical Difficulty, Waiver, Variances and Exemptions**

A. In the event that the strict application of the requirements of this Ordinance present a practical difficulty, an owner may petition the Zoning Board of Appeals to vary the requirements of this Ordinance. The Zoning Board of Appeals shall consider practical difficulty as grounds for an area variance based upon the requirements specified in Town Law for such relief. For properties that do not require any ZBA review but involve a site plan review, the Planning Board may waive the strict requirements of the Ordinance by granting a waiver upon a showing of good cause and based upon recommendations of the Zoning Administrator.

B. Enclosures shall not be required for dumpsters or refuse receptacles located on property that is entirely screened by opaque fencing and the dumpsters or refuse receptacles are not visible from the public right of way.

## **§86-7 Implementation**

A. All restaurants, commercial properties or multi-family properties with three (3) or more dwelling units within the Town of Bolton shall be required to comply with this Ordinance within twelve (12) months from its effective date. Within the initial twelve (12) month period subsequent to the effective date of this Ordinance, all pre-existing garbage dumpsters or refuse collection containers which are intended to be regulated by this Ordinance shall be brought into substantial conformity with Ordinance requirements. At pre-existing restaurants, commercial properties or multi-family properties with three (3) or more dwelling units the Zoning Administrator, or his or her designee shall have administrative authority to approve the design of enclosure, location, setbacks, location of gate openings (including swing) dimensions, materials, height, landscaping and all things pertinent to the requirements of this Ordinance. All pre-existing placement of dumpsters and refuse receptacles regulated by this Ordinance shall be required to substantially comply with the requirements specified in **§86-2 B(1)** to the maximum extent practicable.

A. In all instances where the owner of a premises or any person or entity occupying the premises shall have prior notice from the Town of Bolton concerning a substantial deviation or violation of any provisions of this

Ordinance that are enacted to protect public health, safety and the general welfare of the public, every owner or occupant shall have an affirmative duty to take immediate action and undertake such safety and health measures as directed by the Town of Bolton to mitigate unsafe or unhealthy circumstances. Any failure to do so shall authorize the Town of Bolton to mitigate such condition and the costs incurred shall be reimbursed to the Town by the owner and occupant.

## **§86-8 Penalties for Offenses**

A. A person who disobeys or disregards the requirements of this Ordinance and upon a due process hearing in a court of law it has been determined that such person or entity shall have violated any provision of this Ordinance such person or entity shall be liable to the Town of Bolton for a civil penalty not to exceed One Thousand Dollars (\$1,000.00) for each offense and for each violation thereafter. Each days' continuation of a condition violating this Ordinance shall be deemed a separate violation.

B. In addition to any civil penalties specified by this Ordinance, the Town of Bolton shall have the right to seek equitable relief from a court of competent jurisdiction, to restrain and/or remedy any violation of any provisions of this Ordinance and to seek reimbursement from a violator for the municipality's attorney's fees and enforcement costs necessarily incurred in any enforcement proceeding.

## **§86-9 Severability**

In the event that a court of competent jurisdiction shall determine that any provision or part of this Ordinance is invalid, unlawful or unenforceable, such provision so declared shall be severed from this Ordinance and all other provisions hereof are intended to remain in full force and effect.

The effective date of this Ordinance shall be after enactment and publication in accordance with requirement and law.