

Table of Contents

INTRODUCTION

ARTICLE I PURPOSE AND TITLE

ARTICLE II DEFINITIONS

ARTICLE III REGULATION OF SOLID WASTE

ARTICLE IV LICENSING

ARTICLE V PUBLIC SAFETY

ARTICLE VI ILLEGAL DISPOSAL

ARTICLE VII OPEN FIRES AND INCINERATORS

ARTICLE VIII SOLID WASTE MANAGEMENT FEE

ARTICLE IX PAYMENT OF FEES DUE THE DISTRICT

ARTICLE X RECORDKEEPING AND INSPECTIONS

ARTICLE XI PENALTIES

ARTICLE XII ENFORCEMENT AND REMEDIES

ARTICLE XIII POWERS OF THE DISTRICT EXECUTIVE DIRECTOR

ARTICLE XIV MISCELLANEOUS

Appendix A – Mandatory Recyclables

CHITTENDEN SOLID WASTE DISTRICT
SOLID WASTE MANAGEMENT ORDINANCE

AN ORDINANCE BY THE CHITTENDEN SOLID WASTE DISTRICT
REGULATING THE COLLECTION, STORAGE, PROCESSING,
TRANSPORT, TRANSFER, AND DISPOSAL OF SOLID WASTE;
REQUIRING THE SEPARATION OF CERTAIN MATERIALS FROM OTHER
SOLID WASTE; ESTABLISHING A LICENSING SYSTEM FOR HAULING
SOLID WASTE, PROCESSING RECYCLABLES AND COMPOSTABLE
MATERIALS, TRANSFER/DISPOSAL FACILITIES, AND SCALES;
PROHIBITING THE UNLAWFUL DISPOSAL AND BURNING OF SOLID
WASTE; ESTABLISHING AND IMPOSING A MANAGEMENT FEE ON ALL
SOLID WASTE GENERATED WITHIN THE DISTRICT; PROVIDING FOR
PENALTIES AND ENFORCEMENT; AND PROVIDING AN EFFECTIVE
DATE.

WHEREAS, the State of Vermont (the "State") has enacted a comprehensive statute (10 V.S.A. § 6601, et seq.) governing the management of solid waste;

WHEREAS, the Chittenden Solid Waste District (the "District") is a municipality created by the State to reduce and manage the solid waste generated within Chittenden County in an environmentally sound, efficient, effective, and economical manner;

WHEREAS, the District's vision is that products are designed to be reused or recycled and the community fully participates in minimizing disposal and maximizing reuse and recycling;

WHEREAS, pursuant to its Charter and applicable law, the District has developed and adopted a Plan (as defined herein) designed to provide and implement programs and policies that further State and District policies and priorities;

WHEREAS, the District has determined that this Ordinance is in the public interest and necessity; promotes the public health, safety, and welfare; promotes the efficient, economical, and environmentally sound management of Solid Waste and Solid Waste Disposal within the District; and is in furtherance of carrying out the purposes of the District, the District's Plan, and applicable State law;

WHEREAS, in furtherance of its goals and the goals of the State of Vermont, through the Ordinance the District seeks (A) the greatest feasible reduction in the amount of waste generated; (B) materials management, which furthers the development of products that will generate less waste; (C) the reuse and closed-loop recycling of waste to reduce to the greatest extent feasible the volume remaining for processing and disposal; (D) the reduction of the State's reliance on waste disposal to the greatest extent feasible; (E) the creation of an integrated waste management system that promotes energy conservation, reduces greenhouse gases, and limits adverse

environmental impacts; and (F) waste processing to reduce the volume or toxicity of the waste stream necessary for disposal;

WHEREAS, the District desires to encourage Waste reduction within the District and promote a system that more fairly allocates costs of Waste management to be proportionate to the amount of Waste disposed by the Generator through a unit-based rate program; and

NOW, THEREFORE, it is hereby enacted and ordained by the District as follows:

ARTICLE I PURPOSE AND TITLE

1.1. Purpose. This Ordinance is enacted and ordained for the purpose of promoting the health, safety, and general welfare of the District, its member municipalities and their inhabitants, and the general community; to regulate the Management of Solid Waste within the District; to require Separation of certain materials from Solid Waste destined for Disposal; to facilitate the adequate provision of Solid Waste services such that the Generators of Solid Waste pay costs that reflect the real costs to society of the Management of Solid Waste; to establish fees for services provided by the District to Manage Solid Waste; to regulate Waste Disposal practices that pose a concern to the public health and welfare and the environment; to fulfill the District's responsibilities under 24 V.S.A. § 2202a; to implement and further the District's Plan and the State's Solid Waste Management Plan; and to provide for the efficient, economical, and environmentally sound Management of Solid Waste. The Ordinance is adopted pursuant to the authority contained in the District's Charter (Title 24 Appendix, Chapter 405), 24 V.S.A. § 1971 and 24 V.S.A. § 2291.

1.2. Title. This Ordinance shall be known and may be cited as the Solid Waste Management Ordinance.

ARTICLE II DEFINITIONS

2.1. Unless the context clearly requires otherwise, the following terms shall have the respective meanings:

- A. "Anaerobic digestion" shall mean a series of controlled biological processes in which microorganisms break down organic waste material inside a containment structure or vessel in the absence of oxygen. The two primary products of anaerobic digestion are biogas, which is a mixture of methane and carbon dioxide, and digestate, which consists of the remaining liquids and solids.
- B. "Applicant" shall mean a Person seeking a License under this Ordinance.
- C. "Biosolids" shall mean sewage Sludge from a municipal wastewater treatment facility.

- D. “Board” shall mean the Board of Commissioners of the Chittenden Solid Waste District.
- E. “Collect” or “Collection” shall mean to take physical possession of and remove Solid Waste or Recyclable or Compostable materials at the place of generation.
- F. “Commercial Hauler” shall mean any Person who collects, Transfers, or Transports Solid Waste for compensation, including any operator of a Mobile Solid Waste Collection Operation.
- G. “Compost” or “Composting” shall mean the Separation, Collection, and processing through controlled decomposition of Compostables into biologically stable organic material.
- H. “Compostables” or “Compostable Materials” shall mean any combination of Food Residuals; Yard Trimmings; Untreated Wood; soiled, uncoated paper; and liners approved for acceptance by a Composting Facility. Compostables shall not be considered mixed solid waste if the materials are Composted or undergo Anaerobic Digestion. This list may be amended, due to factors including, but not limited to, changes in market conditions or technology, by resolution of the Board at a publicly warned Board meeting, where the public has the opportunity to provide comment.
- I. “Composting Facility” shall mean a Facility that processes Compostables into biologically stable organic material.
- J. “Curbside” shall mean an area adjacent to the street, curb, or roadside ditch, but in no case greater than ten (10) feet from the curb or roadside nor directly on the traveled portion of any municipal road or sidewalk.
- K. “Designated Area” shall mean an area selected for placement of Solid Waste for collection, which must be readily accessible at all times by a conventional Solid Waste collection vehicle and not directly on the traveled portion of any public road or sidewalk. An area may be so designated through mutual agreement between a Person and his or her Hauler. However, the location of a Designated Area shall not violate any applicable local or municipal ordinance.
- L. “Discarded” shall mean when the original Generator of a material has released his or her direct control of the material. This will be assumed to have occurred when the original Generator of the material has delivered the material to a treatment, storage, Composting, Recyclables processing, Transfer, reuse, or Disposal Facility or has had the material collected for delivery to a treatment, storage, Composting, Recyclables processing, Transfer, reuse, or Disposal Facility.
- M. “Dispose” or “Disposal” shall mean 1) the incineration of any Solid Waste, 2) the placement of any Solid Waste in a landfill, 3) the placement of any Solid Waste in

a Facility that aggregates the Solid Waste for transfer to a landfill, an incinerator, or a mixed Solid Waste processing Facility, 4) the processing of mixed Solid Waste to produce energy or fuel products, or 5) the discharge, deposit, injection, dumping, spilling, leaking, or placing of any Solid Waste into or on any land or water so that such Solid Waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any ground or surface waters. Disposal does not include the placing of Solid Waste in a Composting or Recyclables processing Facility that is in compliance with this Ordinance.

- N. “District” shall mean the Chittenden Solid Waste District and its successors.
- O. “Drop-Off Facility” shall mean a Transfer Facility which primarily serves Residents who are Self-Haulers.
- P. “Executive Board” shall mean the subcommittee of the Board of Commissioners established under the District’s Charter.
- Q. “Facility” shall mean any Disposal, Transfer, collection, or processing site, located within or without the District, and all contiguous land, structures, other appurtenances, and improvements on land used for aggregating, treating, storing, transferring, processing, or disposing of Solid Waste, where such facility holds and is in compliance with all validly issued and current licenses and permits from all applicable federal, state, and local government authorities as required by law. A Facility may consist of a single or several treatment, storage, or Disposal units.
- R. “Food Residuals” shall mean material that is derived from processing or discarding of food and includes preconsumer and postconsumer food scraps. Food Residuals does not mean meat and meat-related products when the food residuals are Composted or aerobically digested by a Resident on site.
- S. “Generator” shall mean any Person who produces Solid Waste by any means including, but not limited to, residential, commercial, institutional, and industrial activities. For commercial activities (including but not limited to office buildings, retail operations, restaurants, nonprofits, strip malls, special events, and multifamily dwellings with five (5) or more units) the individual or entity responsible for the management of Solid Waste, Recyclables, and/or Compostables associated with the activity shall be considered the Generator. The responsibility for the management of Solid Waste, Recyclables, and/or Compostables shall be demonstrated through a contract. If no contract exists, the owner of the activity shall be considered the Generator. For special events, see also Section 3.13. A Hauler responsible for collecting, transferring, or transporting Solid Waste, Recyclables, or Compostables shall not be considered a Generator.
- T. “Hauler” shall mean any Person who Collects, Transfers, or Transports Solid Waste.

- U. “Hazardous Waste” shall mean any Waste or combination of Wastes of a solid, liquid, contained gaseous, or semi-solid form, including, but not limited to, those which are toxic, corrosive, ignitable, reactive, strong sensitizers, or which generate pressure through decomposition, heat, or other means, which in the judgment of the State may cause, or contribute to, an increase in mortality or an increase in serious irreversible or incapacitating reversible illness, taking into account the toxicity of such Waste, its persistence and degradability in nature, and its potential for assimilation, or concentration in tissue, and other factors that may otherwise cause or contribute to adverse acute or chronic effects on the health of persons or other living organisms, or any matter which may have an unusually destructive effect on water quality if discharged to ground or surface waters of the State. All special nuclear, source, or by-product material, as defined by the Atomic Energy Act of 1954, is specifically excluded from this definition.
- V. “Household Hazardous Waste” shall mean any Waste from households that would be subject to regulation as Hazardous Waste if it were not from households.
- W. “Inert Materials” means material that is non-putrescible and that will not exceed Vermont Groundwater Enforcement Standards when analyzed using EPA SW-846 Synthetic Precipitation Leaching Procedure (SPLP).
- X. “License” shall mean a signed agreement between a Person and the District that permits certain Management of Solid Waste activities under specific conditions and is issued under the provisions of Article IV of this Ordinance.
- Y. “Management of Solid Waste” or “Manage Solid Waste” shall mean to Collect, Separate, process, Recycle, store, Transfer, Transport, weigh, Dispose, or receive for Disposal any Solid Waste.
- Z. “Mandatory Recyclables” shall mean materials that must be separated from the Solid Waste stream prior to Disposal and returned for use or reuse in the form of raw materials for new, used, or reconstituted products; that meet the quality standard necessary to be used in the marketplace; and that are not landfilled. Mandatory Recyclables include any materials identified by the Board for which a market exists – the current list of Mandatory Recyclables can be found in Appendix A to this Ordinance. The list in Appendix A may be amended due to factors including, but not limited to, changes in market conditions or technology, and amendments to this list must be made by resolution of the Board at a publicly warned meeting, where the public has the opportunity to provide comment.
- AA. “Mobile Solid Waste Collection Operation” shall mean the operation of a vehicle or trailer, or a container on or attached to such vehicle or trailer, to collect Solid Waste from Self-Haulers. A Mobile Solid Waste Collection Operation shall not be considered a Facility.

- BB. “Person” shall mean an individual, partnership, company, corporation, limited liability company, association, unincorporated association, joint venture, trust, municipality, agency, department, and any other legal entity. In any provisions of this Ordinance, prescribing a fine, penalty, or denial or revocation of a License, the term “Person” shall include the officers and directors of the corporation or organization.
- CC. “Plan” shall mean the Solid Waste Management Plan adopted by the District on April 28, 2004, and any amendments or successor plans subsequently adopted.
- DD. “Process” or “Processing” the act of preparing materials for use as an ingredient in the production of raw materials or products.
- EE. “Processor” shall mean any Person that accepts Solid Waste from off-site and takes steps to remove materials from the composite waste stream for use in the production of raw materials or products.
- FF. “Recyclables” shall mean Solid Waste that may be reclaimed and/or processed and used in the production of raw materials or products.
- GG. “Recycle” or “Recycling” shall mean the Separation, collection, processing, and recovery of Solid Waste for use in the production of raw materials or products.
- HH. “Recycling Container” shall mean a bin, bag, can, or other container used for the purpose of collecting Recyclables.
- II. “Regulated Medical Waste” shall mean that portion of Waste generated in the medical industry, as defined by the State, which requires special handling and treatment prior to Disposal.
- JJ. “Resident” shall mean an individual domiciled in and having a residence in a municipality within the District either full- or part-time.
- KK. “Scale” shall mean any equipment or apparatus for the weighing of Solid Wastes or for the weighing of any Vehicle, Recycling Container, or Waste Container bearing or containing Solid Waste.
- LL. “Self-Hauler” shall mean a Person who transports and delivers their own Solid Waste or Solid Waste from other individuals for no compensation.
- MM. “Separate” or “Separation” shall mean the segregation and collection of materials, apart from Solid Waste destined for Disposal, for the sole purpose of diverting materials from Disposal.
- NN. “Sludge” shall mean any solid, semisolid, or liquid Waste generated from a municipal, commercial, or industrial wastewater treatment plant; water supply

treatment plant; or air pollution control facility or any other Waste having similar characteristics and effects.

- OO. “Solid Waste” shall mean any discarded garbage; refuse; trash; Recyclables; Compostables; septage; Sludge; and other discarded material including solid, liquid, semi-solid or contained gaseous materials, but does not include animal manure, absorbent bedding used for soil enrichment, or solid or dissolved materials in industrial discharges that are point sources subject to permits under the Water Pollution Control Act (10 V.S.A. Chapter 47).
- PP. “Special Wastes” shall mean discarded major appliances (such as refrigerators, stoves, air conditioners, and washers), tires, Untreated Wood, State-banned electronic devices, Waste oil, lead-acid batteries, nickel-cadmium batteries, lithium batteries, mercury-containing batteries, mercury-containing devices (such as thermostats), fluorescent bulbs, paint [excluding solidified water-based paint in quantities of less than one (1) gallon], scrap metal, and asbestos-free asphalt shingles, unpainted/unstained plywood, and unpainted/unstained oriented strand board.
- QQ. “State” shall mean the State of Vermont.
- RR. “Transfer” shall mean to carry, remove, Transport, or shift Solid Waste from one place, Facility, vehicle, trailer, or container to another.
- SS. “Transfer Facility” shall mean any facility to which Solid Waste is transferred from one vehicle, trailer, or container to another or deposited onto a floor for later transport.
- TT. “Transport” shall mean any movement of Solid Waste, by air, rail, highway, or water.
- UU. “Unlawful Conduct” shall mean any act, or failure to act, in violation of any provision of this Ordinance, any rule, or regulation enacted by the District, any term, condition, or restriction imposed upon, or required by, any License issued or required under the terms of this Ordinance or any applicable law or regulation relating to the Management of Solid Waste. Unlawful Conduct shall subject the violator to civil penalties as provided in this Ordinance.
- VV. “Unregulated Hazardous Waste” shall mean Hazardous Waste that, prior to its delivery to a Facility, would be classified as either Household Hazardous Waste or Hazardous Waste from conditionally exempt generators, pursuant to and determined in accordance with the rules and regulations of the United States Environmental Protection Agency and the State.
- WW. “Untreated Wood” shall mean any wood that has not been treated with any chemical, stain, preservative, paint, oil, or adhesive.

- XX. “Waste” shall mean a material that is discarded or is being accumulated; stored; physically, chemically, or biologically treated prior to being discarded; has served its original intended use and is normally discarded; or is a manufacturing or mining by-product and is normally discarded including, without limitation, Solid Waste.
- YY. “Yard Trimmings” shall mean untreated leaves, grass clippings, garden plants, prunings and twigs up to one-quarter (1/4) inch in diameter, and similar Compostable Materials.
- ZZ. “Tipping Fees” shall mean the per unit fee charged on Waste received at waste management Facilities.

ARTICLE III REGULATION OF SOLID WASTE

3.1. Solid Waste Regulation. In accordance with Article I, Section 5(x) of the Charter, the Management of all Solid Waste within the limits of the District shall be regulated by the Board of Commissioners of the District by ordinance, rule, or regulation. The District may, at its option, by resolution, adopt regulations to provide that different categories of Solid Waste shall be delivered to different Facilities, and all Solid Waste generated within the District shall be disposed of only in and upon Facilities designated by the District, but only to the extent allowed by federal and State laws. No rules or regulations adopted pursuant to this Ordinance shall be contrary to the provisions of this Ordinance or the laws of the State governing the Management of Solid Waste. The Board of Commissioners shall implement measures to provide for public education of the requirements of this Ordinance and any other ordinance or regulations that are adopted by the District. The District may, in the future, enact ordinances or amend this Solid Waste Management Ordinance, to require that certain materials, including source-separated Food Residuals and Mandatory Recyclables, be directed to District-owned facilities for Processing, beneficial reuse, or Disposal.

3.2. Collection. Except for Facilities and Self-Haulers, no Person may collect, Transfer, or Transport Solid Waste generated within the District except as provided in this Ordinance and only if such Person has obtained a valid Hauler's License from the District. Solid Waste collected may only be delivered to a Facility that is fully permitted at the time of delivery.

3.3. Secure Loads. It shall be unlawful for any Person to use a vehicle to transport Solid Waste unless such vehicle securely contains the Solid Waste in a manner that, while in transit, will prevent any of the Solid Waste and related liquids from escaping or leaking from the vehicle.

3.4. Disposal or Transfer. Except for Self-Haulers, Drop-Off Facilities, and Mobile Solid Waste Collection Operations, no Person shall:

Accept, receive, or allow the acceptance or receipt in the District of any Solid Waste destined for Disposal unless they hold a valid Transfer/Disposal Facility License and only in accordance with the terms, conditions, and restrictions contained in such Transfer/Disposal Facility License.

- A. Accept, receive, or allow the acceptance or receipt in the District of any Solid Waste destined for Disposal unless it has been weighed on a District-licensed Scale.
- B. Transfer from within the District to another Facility any Solid Waste destined for Disposal unless it has been weighed on a District-licensed Scale.

No Person shall accept, receive, or allow the acceptance or receipt any Solid Waste unless it is from either a Self-Hauler or a Person holding a valid Hauler's License and only in accordance with the terms, conditions, and restrictions contained in such License.

3.5. Drop-Off Facilities. Drop-Off Facilities must obtain and abide by all required local, regional, State, and federal permits. Drop-Off Facilities that accept Solid Waste destined for Disposal must, at a minimum, accept and manage all Mandatory Recyclables, Yard Trimmings, and Food Residuals (10 V.S.A. §6605(j)).

3.6. Processing. Except for Self-Haulers, Drop-Off Facilities, Mobile Solid Waste Collection Operations, and Persons required to accept beverage containers under 10 V.S.A. Chapter 53, no Person shall accept, receive, or allow the acceptance or receipt for storage or processing in the District any Recyclables or Compostable Materials unless they hold a valid Processor's License and only in accordance with the terms, conditions, and restrictions contained in such Processor's License.

3.7. Self-Haulers. Notwithstanding the foregoing, a Self-Hauler shall be allowed to Transport and Transfer their own Solid Waste or Solid Waste from other individuals for no compensation to a Facility that is fully permitted at the time of such Transport or Transfer without holding a Hauler's License so long as the quantity of Solid Waste transported and disposed does not exceed twelve (12) tons in a calendar month.

3.8. Separation of Mandatory Recyclables and Food Residuals. Mandatory Recyclables and Food Residuals shall not be Disposed with other Solid Waste. Except as provided in Section 3.19 of this Article, all Generators shall Separate Mandatory Recyclables and Food Residuals from other Solid Waste, place the Mandatory Recyclables and Food Residuals in a designated container, and handle them as specified in Section 3.9 of this Article. The foregoing shall not be intended to prohibit or prevent the reuse or Recycling by a business, institution, or industry of materials as part of such Person's normal commercial, manufacturing, or industrial process.

3.9. Placement of Recyclables, Food Residuals, and Solid Waste Destined for Disposal. Each Generator shall:

- A) Separate Mandatory Recyclables from other Solid Waste, prepare and sort Mandatory Recyclables according to specifications established by the District, and place such Mandatory Recyclables in Recycling Containers.
- B) Separate Food Residuals from other Solid Waste and place such Food Residuals in a designated container. Food Residuals shall be managed in accordance with the requirements of 10 V.S.A. §6605k.
- C) Place Solid Waste destined for Disposal in Waste Containers.
- D) Deliver Mandatory Recyclables, Food Residuals, and Solid Waste destined for Disposal to Facilities maintained for that purpose which are fully permitted at the time of delivery, or if the Generator's Solid Waste is collected by a Commercial Hauler, place Recycling Containers, waste containers, and containers designated for Food Residuals at the Generator's Curbside or Designated Area on the scheduled day(s) for the collection of Mandatory Recyclables, Food Residuals, and Solid Waste destined for Disposal, in accordance with a schedule established by the Commercial Hauler.
- E) All Solid Waste, including Mandatory Recyclables and Food Residuals, placed for collection shall be owned by and the responsibility of the generator until the Solid Waste is collected by the licensed Hauler. The Solid Waste then shall become the property and responsibility of the licensed Hauler. No person other than the generator or licensed Hauler shall take physical possession of any Solid Waste placed for collection before delivery to a Solid Waste Facility. The collection, inspection, or investigation of such Solid Waste by local, state, and federal officials for the purpose of law enforcement, public health and safety, and data collection shall be exempt from this provision.

3.10 Rental and Multi-Unit Property Requirements.

- A) Residential Properties
 - 1) Responsibility for collection – Owners of properties that include 5 or more residential units must provide for the collection of Food residuals, Mandatory Recyclables, and Solid Waste destined for Disposal. For all other properties, the responsibility for the collection of Solid Waste, Recyclables, and/or Food Residuals shall be demonstrated through a contract. If no contract exists, the owner of the activity shall be considered responsible.
 - 2) Frequency of collection – Mandatory Recyclables shall be collected at least as often as Solid Waste for Disposal. Food Residuals shall be collected weekly.
- B) Commercial Properties
 - 1) Responsibility for collection – The responsibility for the collection of Solid Waste, Recyclables, and/or Food Residuals shall be demonstrated through a contract. If no contract exists, the owner of the activity shall be considered responsible.
 - 2) Frequency of collection – Mandatory Recyclables shall be collected at least monthly. Food Residuals shall be collected weekly.
- C) Exemptions - Exemptions to Mandatory Recycling and Food Residual collection may be approved by the District on a case-by-case basis provided the owner is managing Recyclables and/or Food Residuals in another District-approved manner.

D) Instructions for Tenants - Rental and Multi-Unit Property Owners will provide instructions on the proper management of Mandatory Recyclables, Special Wastes, Unregulated Hazardous Waste, and Compostables to new tenants and to all tenants on an annual basis at a minimum. The District will provide standard instructions to property owners or managers.

3.11 Public Solid Waste and Mandatory Recyclable Receptacles. If a Person provides a container or containers in buildings or on property open to the general public and for the public to use for Solid Waste destined for Disposal, the Person shall also provide an equal number of containers for Mandatory Recyclables. The Recycling and Disposal containers shall comply with the requirements in Section 4.8.J. of this Ordinance and be placed as close to each other as possible in order to provide equally convenient access to such public users. The Mandatory Recyclables collected must be kept separate and transported to a Recycling Facility. Bathrooms are exempt from this provision. Other exemptions may be approved by the District.

3.12. Separation of Yard Trimmings. Generators shall not dispose of Yard Trimmings with other Solid Waste. All Yard Trimmings shall be managed by one of the following alternative methods:

- A. Compost and/or mulch Yard Trimmings on the Generator's property, to the extent that this does not cause such material to create a health hazard or a nuisance.
- B. Place Yard Trimmings in Facilities that manage Yard Trimmings.

3.13. Inclusion of Recycling and Food Diversion Requirements in Event and Venue Reservation and Permitting Language. If a Person owns, manages, or operates a venue that issues a reservation or permit for public or private events, the Person shall include language in the reservation or permitting form notifying the applicant of Recycling and Food Residuals diversion requirements in Section 3.8 of this Ordinance and 10 V.S.A. § 6605k and requiring the applicant to comply with these laws as a condition of the permit or reservation. The venue owner shall be jointly responsible with the applicant for event compliance. The reservation or permitting form shall also include the District phone number and website address as resources available to assist with compliance. Sample language will be provided by the District for use as needed to satisfy the requirements of this provision.

3.14. Separation of Special Wastes. Generators shall not dispose of Special Wastes with other Solid Waste. A Special Waste shall be separated and placed in Facilities that manage that particular Special Waste. Discarded major appliances, asbestos-free asphalt shingles, unpainted/unstained plywood, unpainted/unstained oriented strand board, lead-acid batteries, nickel-cadmium and other rechargeable batteries, mercury-containing batteries, and scrap metal must be reused or Recycled. Untreated Wood, asbestos-free asphalt shingles, unpainted/unstained plywood, unpainted/unstained oriented strand board, and scrap metal may be aggregated at a Generator's site with other construction and demolition debris that will be shipped to a Recycling Facility.

3.15. Separation of Unregulated Hazardous Waste. Unregulated Hazardous Waste shall not be disposed with other Solid Waste. Unregulated Hazardous Waste shall be separated and placed in

Facilities that manage Unregulated Hazardous Waste and are fully permitted at the time of placement.

3.16 Quality Control of Recyclables, Compostables, Special Wastes, and Unregulated Hazardous Waste. Materials delivered to District owned or operated Facilities by any Person shall meet the specifications provided by the District or the Materials may be rejected. The Person delivering the materials will be subject to the provisions of any quality control policies established for the Facilities by the District and the enforcement provisions of this Ordinance.

3.17 Responsibility of Generators. Any Mandatory Recyclable, Yard Trimmings, Special Waste, Unregulated Hazardous Waste, Food Residuals, or Solid Waste destined for Disposal not properly separated, placed, hauled, or disposed of in accordance with this Ordinance shall remain the responsibility of the generating Person, and shall be retrieved and corrected by such Person within twenty-four (24) hours of notice thereof.

3.18 Waiver by District of Separation and/or Placement Requirements. Separation and/or placement requirements for Solid Waste may be waived by the District on a case by case basis upon written request by the Generator.

3.19 No Regulation of Hazardous Waste. This Ordinance shall not regulate the storage, Disposal, collection, processing, Transfer, or Transport of Hazardous Waste to the extent that such storage, Disposal, collection, processing, Transfer, or Transport is otherwise regulated by federal or Vermont State laws, rules, or regulations.

ARTICLE IV LICENSING

4.1. License Requirement. A license from the District is required for any Person to Manage Solid Waste generated or Collected within or delivered to a Facility within the District as provided in this Article. Four categories of Licenses are hereby established:

- A. Hauler's License. The Hauler's License shall be required for any Person to collect, Transfer, or Transport Solid Waste generated or delivered within the District. The Hauler's License shall also be required for member municipalities that Transport any Solid Waste. The following Persons are exempt from obtaining a Hauler's License: 1) Self Haulers who Transport less than twelve (12) tons of Solid Waste in a calendar month; 2) Facilities; 3) septage and leachate Haulers; and 4) freight companies that collect recyclables which are prepared according to end market specifications and transport them directly to a fully-permitted end market or pick up non-hazardous solid waste and transport it directly to a certified Hazardous Waste Facility as defined in the Vermont Hazardous Waste Management Regulations.
- B. Processor's License. A Processor's License shall be required for any Person to accept, receive, or allow the acceptance or receipt for storage or processing in the District of Recyclables or Compostable materials from off-site, other than 1) Self-

Haulers, 2) Drop-Off Facilities, 3) Mobile Solid Waste Collection Operations, 4) businesses and institutions that share Solid Waste containers, up to forty (40) cubic yards in size for each commodity, to store Solid Waste before transportation to a Recycling or Composting Facility, and 5) Persons required to accept beverage containers under 10 V.S.A. Chapter 53.

- C. Transfer/Disposal Facility License. A Transfer/Disposal Facility License shall be required for any Person, other than 1) Self-Haulers, 2) Drop-Off Facilities, 3) Vermont State certified categorical Disposal Facilities, and 4) Mobile Solid Waste Collection Operations, to accept, receive, or allow the acceptance or receipt in the District of any Solid Waste destined for Disposal.
- D. Scale License. A Scale License shall be required for any Scale used to document the delivery, Transport, or shipment of Solid Waste generated or delivered within the District and destined for Disposal.

4.2. Validity of License. Each License shall be valid for a period not to exceed one year and the License shall expire annually on July 1. Persons whose license has expired but who have submitted a complete application can continue to operate for up to thirty (30) days following receipt of the completed application by the District. Persons meeting the applicable requirements may apply for and hold more than one License.

4.3. License Fees. The fees for Licenses required under this Ordinance shall be determined by the Board of Commissioners. The District and any member municipality of the District are exempt from the License fees for the Management of Solid Waste generated in their municipal operations, utilizing their own facilities, vehicles, or approved employees' vehicles.

4.4. Licensing Process. The Executive Director will establish the requirements for each type of License. A Person seeking a License shall obtain a License application from the District. License applications may be obtained in person during normal business hours at the District's office, may be requested by mail, may be downloaded from the District's website, or may be completed electronically on the District's website. The Applicant shall complete the License application and shall provide the License application, together with all supporting materials requested in the License application, to the District.

Within thirty (30) days of receipt of a completed License application, the District shall make a determination on the License application, and the District shall thereafter notify the Applicant in writing whether the License application is accepted or denied. If denied, the reason for denial will be included in the notification. If the District denies a License application, the Applicant may request a hearing before the Executive Board for a new determination of whether the License application shall be accepted or denied. The request must be in writing and must be submitted to the Executive Director of the District no later than ten (10) days after receipt of the notice of denial of the application. If a request is not so filed, the District's determination shall be deemed final. If a hearing is held, then within thirty (30) days of such hearing, the Executive Board shall issue a decision on licensure.

4.5. Temporary Hauler's Vehicle Permit. The Executive Director or his or her designee may issue a Temporary Hauler's Vehicle Permit to: 1) a Hauler who has submitted a completed Hauler's License Application and is waiting for approval of such license or 2) a licensed Hauler for short-term use of a rented or borrowed vehicle. Temporary Hauler's Vehicle Permits will be issued for up to thirty (30) days. The Executive Director may extend the validity of the Temporary Hauler's Vehicle Permit for up to an additional thirty (30) days. A Temporary Hauler's Vehicle Permit is non-transferable and shall be void after the date stated on the Permit.

4.6. Conditions of Licenses. As conditions to the issuance and maintenance of a License under this Ordinance, the Applicant shall demonstrate to the District's satisfaction that:

- A. The Applicant has obtained, or will obtain prior to commencing activities under the License, all other necessary permits and licenses from the State and all agencies thereof, and all applicable member municipalities of the District.
- B. The Applicant will comply with all rules, regulations, and ordinances pertaining to the Management of Solid Waste as enacted by the District and all applicable federal, state, and local laws, rules, and regulations.
- C. The Applicant has no payments owed to the District that are in excess of 60 days past the billing date, and the required License fee has been paid.
- D. The Applicant's employees and personnel have received the education and training necessary to conduct safely and properly the Applicant's activities under the License.
- E. The Applicant's financial resources are adequate to allow the Applicant to safely and properly conduct the Applicant's activities under the License.
- F. The Applicant's activities under the License will not unduly pollute any element of the environment nor impose any undue burden upon any element of the community. A permit issued by a state agency so finding shall be considered satisfactory evidence that this condition is met.
- G. The Applicant for a Hauler's License will maintain liability insurance coverage at or above the following levels for the Term of the License: \$100,000 per person and \$300,000 per occurrence for personal injury or death, and \$100,000 per occurrence for property damage.
- H. Unit-Based Rates. Drop-Off, Transfer, and Disposal Facilities and Haulers shall charge residential, institutional, and commercial customers based on the volume or weight of Solid Waste destined for Disposal that is collected at rates that provide a reasonable economic incentive to their customers to reduce the amount of Solid Waste destined for Disposal that they generate.

- 1) Residential Rates for Curbside Service. In compliance with 10 V.S.A. §6607a(h), the fees for collection of residential Mandatory Recyclables shall be combined on invoices with fees for Solid Waste destined for Disposal and not itemized. Additional fees for additional services, such as collection of yard trimmings or food scraps, special pickups for bulky items, or backdoor service, are permitted.
- 2) Residential Rates for Self-Haulers. Drop-Off, Transfer, and Disposal Facilities shall offer a base unit of Disposal service of 33 gallons or less or offer service by weight of municipal Solid Waste destined for Disposal that is delivered by residents to their Facility. Facilities shall charge per unit of municipal Solid Waste destined for Disposal and shall charge the same fee per each additional equal unit of Solid Waste destined for Disposal. Fees for collection of residential Mandatory Recyclables shall be combined in the fees charged for Solid Waste destined for Disposal. Facilities may charge Self-Haulers for Mandatory Recyclables delivered without Solid Waste destined for Disposal.
- 3) Filing of Pricing System. As part of the license application process, Haulers offering residential service shall submit evidence that their residential unit-based pricing schedule meets the requirements for unit-based pricing.

4.7. Designation in Hauler's License. Each Hauler's License shall designate the allowable destinations for all Solid Waste that is collected, transferred, or transported under the License. The District reserves the right to modify any and all Licenses previously issued upon notice to the holder of such applicable License that it may not dispose of Solid Waste at a Facility if the District finds that such Facility has failed to operate in compliance with all material laws, regulations, and permits applicable to such Facility or the operator of such Facility has been found to have engaged in Unlawful Conduct.

4.8. Commercial Hauler Requirements. Commercial Haulers must abide by the following requirements:

- A. Every vehicle used by the Commercial Hauler or on the Commercial Hauler's behalf in the collection, Transfer, Transport, or Disposal of Solid Waste shall be prominently labeled with an identification number provided by the District. For each such vehicle, the District shall provide to the Hauler a decal bearing the CSWD Hauler's License number for that vehicle. The decal shall be affixed to the driver's side front door or at such other locations on the vehicle as the District may designate. The Commercial Hauler shall maintain the decal in a clean and legible condition. Failure to label a vehicle or maintain the decal as set forth in this Section shall constitute Unlawful Conduct.
- B. Commercial Haulers shall pay in full all bills due the District within such period of time as the District Board of Commissioners, by resolution, policy, or rule, may designate. After the expiration of such period, payment from any Commercial Hauler with unpaid bills remaining shall be due immediately upon

billing and shall be paid in cash or by certified check. The District may revoke the License of Commercial Haulers with overdue bills. Late bills will be charged interest up to the rate of one and one-half percent (1.5%) per month, compounded monthly.

- C. No Commercial Hauler shall deliver or Dispose of any Solid Waste generated within the District at any Facility not designated in their Hauler's License. The type, quantity, and destination of any Solid Waste delivered to a Facility not previously designated in a license must be reported by the Commercial Hauler to the District within 48 hours of such delivery.
- D. No Commercial Hauler shall place or cause to be placed any Solid Waste on private property unless lawfully authorized by the owner of the property and such placement of Solid Waste on the property is lawfully permitted.
- E. All Solid Waste collected by a Commercial Hauler that is destined for Disposal must be delivered to and deposited at a Transfer or Disposal Facility within forty-eight (48) hours of collection.
- F. The Commercial Hauler shall provide (independently or through duly licensed subcontractors) collection of Mandatory Recyclables at least once monthly to all customers for whom such Hauler provides collection of Solid Waste destined for Disposal. The Commercial Hauler shall provide separate collection of Mandatory Recyclables to all of its customers for whom the Commercial Hauler provides short-term Solid Waste container service. A Hauler shall not offer, and its customers shall not subscribe to, trash only collection service unless Recycling collection service is provided or subcontracted by the District or a member municipality or unless such customers obtain an exemption from the District. Exemptions may be provided by the District to Generators who market their Mandatory Recyclables directly to Recycling brokers, processors, or manufacturers or who self-haul their Mandatory Recyclables to Recycling Facilities.
- G. The Commercial Hauler will provide instructions on proper management of Mandatory Recyclables, Special Wastes, Unregulated Hazardous Waste, and Compostables to new customers when service commences and to all customers on an annual basis at a minimum. The District will provide standard instructions to the Hauler for use in accomplishing this requirement.
- H. No Commercial Hauler shall Dispose of source-separated Mandatory Recyclables or Food Residuals that are set out for collection.
- I. No Commercial Hauler shall knowingly collect for Disposal Solid Waste that contains Mandatory Recyclables, Food Residuals, Hazardous Waste, Special Wastes, or Yard Trimmings. Any such Solid Waste must be rejected by the Commercial Hauler, who shall notify the Person generating such Solid Waste of

the reasons for rejection. Any rejected Solid Waste shall be the responsibility of the Person who generated such Solid Waste, who must, within twenty-four (24) hours after receiving notification, retrieve such Solid Waste and properly Separate it. The Commercial Hauler shall notify the District within one business day of any Person whose Solid Waste is so rejected.

J. Coloring and Labeling of Containers.

1) Container color requirements

- a. Commercial haulers shall provide containers for collection that comply with the color requirements outlined below.
- b. Notwithstanding section a) above, a Commercial Hauler is not required to replace functional containers or lids purchased on or before January 1, 2023 that do not comply with the color requirements of this section prior to the end of the useful life of the container or prior to January 1, 2032, whichever comes first.
- c. Curbside containers and all carts:
 - i. Mandatory Recycling containers shall be royal or medium blue in color or shall have lids that are royal or medium blue in color.
 - ii. Food scrap collection containers greater than ten (10) gallons in size shall be green in color or shall have lids that are green in color.
 - iii. Landfill-bound trash containers shall not be royal/medium blue or green in color and shall have lids that are black.

2) Labeling requirements

- a. Curbside containers and all carts used for materials streams described in 4.8(J)(1).
 - i. Commercial Haulers shall place a label on the front of each container and on the lid. The label will include language and/or graphic images as provided or approved by the District that indicate primary materials accepted and common contaminants prohibited in that container.
 - ii. Commercial Haulers may comply with this section by using labels provided by the District. Labels provided by the District may not be altered without prior written approval from the District.
- b. Dumpsters, roll-off boxes, and compactors used for material streams described in 4.8(J)(1)
 - i. Commercial Haulers shall place a label on the front and both sides of dumpsters and roll-off boxes and on or near the loading door of compactors. The label will include language and/or graphic images as provided or approved by the District that indicate primary materials accepted and common contaminants prohibited in that container.
 - ii. Commercial Haulers may comply with this section by using labels provided by the District. Labels provided by the District may not be altered without prior written approval from the District.

- c. Roll-off boxes and other containers used for the collection of Special Wastes
 - i. Commercial Haulers shall provide labeling that indicates primary materials accepted in that container. Temporary means of labeling are acceptable but must be clear and legible.

4.9. Hauler's License Reporting Requirement. The District may require that every Commercial Hauler submit to the District a monthly report, on a form provided by the District, certifying the amount of Solid Waste generated in the District that was collected, transported, transferred, or disposed of during the preceding month. The District Executive Director may modify the frequency of reporting required.

4.10. Processor's License Reporting Requirement. Licensed Processors shall report to the District the quantities of Recyclables shipped and materials Composted for Solid Waste generated in the District for the periods January 1 through June 30 and July 1 through December 31 of each calendar year while operating under the License. The required data shall be submitted within thirty (30) days of the end of each reporting period on forms provided by the District or by providing copies of reports required by the State for Solid Waste Facility certification.

4.11. Designation in Transfer/Disposal Facility License. Each Transfer/Disposal Facility License shall designate the allowable destinations for all Solid Waste that is shipped from the Facility under the License.

4.12. Transfer/Disposal Facility License Reporting Requirement. Operators of licensed Transfer/Disposal Facilities shall report to the District the quantities, types, and origins of Solid Waste accepted or received by the Facility and the quantities, types, and destinations of Solid Waste shipped from the Facility for the periods January 1 through June 30 and July 1 through December 31 of each calendar year while operating under the License. The required data shall be submitted within thirty (30) days of the end of each reporting period on forms provided by the District or by providing copies of reports required by the State for Solid Waste Facility certification.

4.13. Transfer/Disposal Facility License Requirement for Collection of Banned Materials Fee. In order to further the policies and goals of this ordinance for management of Solid Waste, there is hereby imposed a twenty dollar (\$20.00) per ton Banned Materials Fee, with a sixty dollar (\$60.00) minimum charge per load, on Persons dumping any load destined for Disposal containing ten percent (10%) or more by volume of Special Wastes, Yard Trimmings, Food Residuals, or Mandatory Recyclables, or any amount of Hazardous Waste. Continued violations occurring more than once in a period of six (6) consecutive months shall be considered Unlawful Conduct and subject to further fines and penalties as set forth in Article XI of this Ordinance.

Operators of Transfer/Disposal Facilities shall, as a condition of the Transfer/Disposal Facility License, collect the Banned Materials Fee for the District and document any load in violation of this provision with photographs, customer name, license plate number, time, and date noted. Operators shall retain such documentation for at least twelve (12) months. Operators of Transfer/Disposal Facilities shall submit copies of the aforementioned documentation and remit

the Banned Materials Fee for each load violation in the previous month to the District at least once monthly. Operators of Transfer/Disposal Facilities shall make a reasonable effort to remove the Hazardous Waste, Special Wastes, Yard Trimmings, Mandatory Recyclables, or Food Residuals from any load in violation of this provision, if the health and/or safety of employees are not at risk. If employees' health and/or safety are at risk, operators of the Transfer/Disposal Facility shall dispose of the materials in accordance with applicable law, rules, and regulations.

In order to provide for the administration, documentation, and collection of the Banned Materials Fee, operators of Transfer/Disposal Facilities may retain, from the collection of Banned Materials Fees, a ten dollar (\$10.00) per ton administrative fee, with a thirty dollar (\$30.00) minimum per load, for each load for which a violation is documented and the Banned Materials Fee is imposed and due and payable.

4.14. Scale License Reporting Requirement. Operators of licensed Scales shall report the information required by the Scale License, by electronic means acceptable and compatible with the District's computer software, to the District on a monthly basis within five (5) business days at the end of each calendar month unless the District requests the information on a more frequent basis.

4.15. Amendments to Licenses. A licensee may request to amend an existing License. The District shall promptly consider any requests for amendments within the time frame for License Applications under Section 4.4 of this Article. In order to become effective, any amendments must be approved by the District Executive Director.

4.16. Compliance with License Conditions and Requirements. All License holders shall comply with all conditions and requirements of the License. Failure to comply with License conditions and requirements shall be deemed Unlawful Conduct.

4.17. Licenses are not alienable, transferable, or assignable. For any Person that is not an individual, any transfer of the voting control or majority ownership of the holder of a License shall be deemed an assignment, thereby requiring the holder to obtain a new License.

ARTICLE V PUBLIC SAFETY

5.1. No Person having the custody or control of residential, commercial, institutional, or industrial premises within the District at which Solid Waste is generated shall permit or cause any Solid Waste within their control to become a hazard to public travel, health, or safety or to become a nuisance of any sort. Solid Waste, other than Yard Trimmings and Untreated Wood, may not be deposited or otherwise left out of doors unless it has been placed in a proper Recycling or Waste Container. Scrap metal items that are too large to reasonably store in a conventional Recycling Container are exempt from this requirement.

ARTICLE VI ILLEGAL DISPOSAL

6.1. Unlawful Entry. It shall be unlawful for any Person to enter any Solid Waste Facility of the District or any member municipality when said Facility is not open nor shall they deposit, dump, or leave Solid Waste of any kind in any such Facility or adjacent to any such Facility without the express permission of the authorized operator of said Facility.

6.2. Illegal Dumping. It shall be unlawful for any Person to deposit, dump, or leave Solid Waste in any Waste or Recycling Container, other than their own, unless lawfully authorized by the owner of the Container. It shall be unlawful for any Person to deposit, dump, or leave Solid Waste on any property unless lawfully authorized by the owner of the property and the property is a Facility permitted to accept such Solid Waste. It shall be unlawful for any Person to deposit, dump, or Dispose Solid Waste in any stream or other waters or on his or her property except as allowed and approved by the State. District municipal members shall be responsible for the enforcement of illegal disposal cases within their boundaries.

ARTICLE VII OPEN FIRES AND INCINERATORS

7.1. Burning Prohibited. Except as provided by this Article and applicable State and federal regulations, the burning of Solid Waste in the District, either by open fire or incineration, is prohibited. Exemptions may be granted by the District on a case by case basis.

7.2. Fire Permits. Within each member municipality of the District, a specific permit may be granted by the Fire Warden (of the applicable municipality) or his or her designee for the open burning within the corresponding municipality of Yard Trimmings and Untreated Wood provided the Fire Warden is satisfied that no hazardous condition will be created by such burning and the emission of air contaminants will not create a danger to the health and property of the citizens of the District.

7.3. Incinerators. The incineration of Solid Waste at any Facility regulated by the State, and having and abiding by all other necessary permits in accordance with all applicable laws, rules, and regulations (including all air quality permits), shall be exempt from the prohibition under this Article.

ARTICLE VIII SOLID WASTE MANAGEMENT FEE

8.1. Establishment. As provided in the District's Charter, Article I, CREATION AND POWERS, Section 5. POWERS, in order to provide for the efficient, economical, and environmentally sound Management and regulation of Solid Waste within the District and its member municipalities, there is hereby established a Solid Waste Management Fee. The Solid Waste Management Fee is imposed on all Solid Waste generated in the District including, but not limited to, Solid Waste that is collected for Disposal, however, only twenty-five percent (25%) of the fee shall be imposed on all of the 1) Solid Waste approved by the State for use as landfill daily cover and used as landfill daily cover at Facilities within or without the District and 2) construction and demolition debris fines, derived from the processing of mixed construction and demolition debris for Recycling, and processed concrete contaminated with lead paint, when

approved by the State for use in landfill site improvements. The Board of Commissioners may exempt or partially exempt other materials from the imposition of the Solid Waste Management Fee upon good cause shown. The Solid Waste Management Fee is also imposed on 1) any Solid Waste residues generated and collected in the District that are mixed with Recyclables and exceed ten percent (10%) of those Recyclables delivered to Recycling end market Facilities and 2) mixed Solid Waste used in the production of raw materials or products.

8.2. Exemptions. The following categories of Solid Waste shall be exempt from the Solid Waste Management Fee: 1) Recyclables that are separated from other Solid Waste and recycled; 2) Compostables that are separated from other Solid Waste and Composted or anaerobically digested at Composting Facilities; 3) Biosolids; 4) non-landfilled Untreated Wood; 5) Hazardous Waste and non-hazardous Solid Waste delivered to certified Hazardous Waste Facilities as defined in the Vermont Hazardous Waste Management Regulations; 6) Regulated Medical Waste delivered to certified Regulated Medical Waste treatment or Regulated Medical Waste Disposal Facilities; 7) Inert Materials, stumps, root masses, rotted wood, and animal carcasses delivered to certified categorical disposal Facilities; 8) Inert Materials approved by the District Executive Director that are used for landfill site improvements; and 9) screened municipal street sweepings, that are approved by the Vermont Agency of Natural Resources to be used in clean fill applications, as well as alternative daily landfill cover, when used as alternative daily landfill cover.

8.3. Purpose and Uses. The purpose of the Solid Waste Management Fee is to generate revenue to defray some or all of District costs other than those to be defrayed by the Tipping Fees, by the sale of goods, or by revenues, receipts and other income received by the District from District owned or operated solid waste management facilities. In establishing the annual budget the Board will include all or portions of the costs which it desires to defray by the Solid Waste Management Fee, which may include, but are not limited to: debt service (principal and interest), capital reserves, any portion of the costs of operation not being defrayed by the Tipping Fees, Special Waste programs, Recycling programs, educational programs, administration costs, and other District Facilities, programs, and service costs.

8.4. Amount of Fee. The Solid Waste Management Fee is Forty Dollars (\$40.00) per ton; the Solid Waste Management Fee is subject to change as follows:

The Solid Waste Management Fee shall be subject to annual adjustment in accordance with the budget appropriation procedures in Article IV of the District Charter. Adjustments to the fee shall be at the discretion of the Board when it is reviewing its annual financial position, and be determined by the Board which shall consider the Purpose and Uses of the Solid Waste Management Fee as identified in Section 8.3, and Consumer Price Indices as determined and published by the U.S. Bureau of Labor Statistics, referencing both the Northeast Urban Class B/C Consumer Price Index and the Garbage and Trash Index (or a reasonable equivalent index) for the twelve (12) month period immediately preceding January 1 of the current fiscal year. The proposed adjustment shall be calculated as of January 1 for the subsequent fiscal year. The actual adjustment to the Solid Waste Management Fee shall be set forth in the final annual budget that is approved by the Board for adoption.

All fee adjustments shall become effective on July 1 of the same calendar year in which the calculation is made, and as set forth in the adopted budget.

8.5. Waiver of the Solid Waste Management Fee. For good cause shown, the District Executive Board may waive or partially waive the imposition of the Solid Waste Management Fee to provide economic incentives to comply with the provisions of this Ordinance, any other ordinance or regulations adopted by the District, District policies, or to reduce the cost of alleviating a specific environmental hazard.

8.6. Weighing. The District shall license one or more Scales for determining the weight of Solid Waste collected within the District for Disposal within or without the District. Any Person required to obtain a Hauler's License and any Self-Hauler delivering Solid Waste to a Transfer/Disposal Facility shall cause any vehicle that has been or is being used to collect any such Solid Waste to be weighed on a District-licensed Scale. Weighings at any District-licensed Scale shall be performed: 1) before any Solid Waste is removed from such vehicle at a Transfer/Disposal Facility of any kind, either within or without the District, and 2) when such vehicle is empty. In the event weighing of a vehicle is performed at other than a Transfer/Disposal Facility for the Solid Waste in such vehicle, the average tare weight of the vehicle may be used in lieu of actual weighing of the empty vehicle upon approval of the Executive Director. It is presumed that all Solid Waste in every such vehicle was generated within the District. The owner or operator of each such vehicle shall have the burden to demonstrate to the District, by a preponderance of the evidence, that any Solid Waste in any such vehicle was generated outside of the District. If weighing facilities are not readily available, or upon a showing of undue burden, a Hauler may request the approval of the District to pay the Solid Waste Management Fee based upon the estimated weight of Solid Waste such Hauler will collect within the District. Such request shall be made in a License application or an amendment to an existing License. Estimated weights shall be based upon information and evidence reasonably satisfactory to the District and shall be valid for no longer than one (1) year, or such shorter period of time as the District may designate. If weighing facilities are not readily available, or if an undue burden would be imposed on the Hauler, the District Executive Director may authorize the Hauler to use estimated weights for specific and isolated loads of Solid Waste for purposes of calculating the Solid Waste Management Fee due the District.

ARTICLE IX PAYMENT OF FEES DUE THE DISTRICT

9.1. Payments. The Solid Waste Management Fee shall be assessed by the District or its agent at the time each vehicle is weighed for the second time under Section 8.4 in Article VIII. The weight slips at the time of each weighing of Solid Waste shall be considered an invoice for the Solid Waste Management Fee due. Any other fees due the District from the use of Facilities owned or operated by the District or the use of other District services shall be assessed at the time the Facility or service is used.

At the time of the first such assessment, each Person required to pay a fee due the District shall be required to choose one of the following options for payment:

- A. Pay the fees owed to the District in cash, other certified funds, or with a check at the time of the transaction.
- B. Provide the District with authorization to make withdrawals by electronic funds transfer from a checking or savings account with a balance sufficient to cover all fees assessed each day.
- C. With District credit approval, pay the invoices within such period of time as the District's Board may designate by resolution, policy, or rule.
- D. Establish and maintain an escrow account or provide a letter of credit satisfactory to the District equal to the anticipated monthly bill and pay monthly statements within such period of time as the District's Board may designate by resolution, policy, or rule.

Each Person required to pay a fee to the District may request to change the option selected by notifying the District in writing ten (10) days prior to the change. The District reserves the right to refuse to allow any change if the person has been delinquent in payments or is not otherwise in compliance with this Ordinance.

The District may modify such payment policies by resolution, rule, or policy. Additionally, the District's Executive Director may permit or require the fees to be paid upon such other terms as they may specify.

ARTICLE X RECORDKEEPING AND INSPECTIONS

10.1. Record Keeping. All Persons issued a License under this Ordinance shall keep accurate, daily records as will enable the District to determine compliance with the terms of this Ordinance and regulations adopted by the District and with any License.

Every Hauler shall maintain records containing at least the following information:

- A. The date, time, and place that each vehicle collecting Solid Waste in the District for Disposal within or without the District was weighed, and the gross and tare weights measured at each such weighing.
- B. The weight or volume of Recyclables and Compostable materials collected and their destinations.
- C. Each and every point of origin of Solid Waste collected in any vehicle used by the Commercial Hauler or on the Commercial Hauler's behalf and an estimate of the quantity of Solid Waste collected at each collection site.

- D. Each and every destination to which each vehicle load or partial vehicle load of Solid Waste was taken for Disposal, and the weight of Solid Waste in each such load.
- E. All monies and other compensation received, paid to, or charged by the Hauler for the Management of Solid Waste, the basis for the receipt, payment, or charging of such monies or other compensation, and the amount of Solid Waste with regard to which such monies or other compensation were received, paid, or charged.
- F. All monies and other compensation paid by or charged to the Hauler for the Hauler's Transfer or Disposal of any Solid Waste, including without limitation all such monies and compensation constituting tipping fees, Solid Waste Management Fees, and Disposal fees, and the amount of Solid Waste with regard to which such monies or other compensation were paid or charged.

All records required to be maintained by licensees by this Article are deemed to constitute Trade Records, and are designated confidential and not public records or documents subject to the provisions of 1 V.S.A. Chapter 5 regarding access by the public, to the maximum extent permitted by 1 V.S.A. Chapter 5. The District reserves the right to disclose such records in any proceeding or action in connection with this Ordinance and any other ordinance or regulations adopted by the District or to any federal or state governmental entity as may be required by law or under governmental investigation.

All records required to be maintained by licensees pursuant to this Ordinance or any other ordinance or regulations adopted by the District, including, without limitation, all source materials, documents, or records utilized in compiling such records, and such records themselves, shall be retained by licensees for a period of at least five (5) years, except that the District's Executive Director may consent in writing to their destruction before expiration of such five-year period.

10.2. Inspections. All records required to be maintained under this Ordinance shall be available between the hours of 9:00 a.m. and 5:00 p.m., Monday through Friday, upon one day's notice, for inspection and audit by the District and the District's authorized employees or agents. All Solid Waste generated within the District or deposited at any Disposal or Transfer Facility and all vehicles, Scales, Waste Containers, and Recycling Containers used in the Management of Solid Waste generated within the District shall be subject to inspection without notice by the District or its agents for purposes of determining compliance with the terms of this and any other ordinance or regulations adopted by the District or with any License granted by the District or for the purpose of data collection. Failure to allow such inspection constitutes Unlawful Conduct. Unless the District has reasonable grounds to believe that a Hauler, vehicle, Solid Waste, Waste Container, or Recycling Container is not in compliance with the terms of any applicable License, this Ordinance or any other ordinance or regulations adopted by the District, the District shall attempt to limit any inspection to no more than one hour.

10.3. False Statements and Failure to File Data. Any Person filing or causing to be filed, making or causing to be made, or giving or causing to be given any certificate, affidavit,

representation, information, testimony, or statement, which is willfully false or willfully omits to state material facts, or any Person willfully failing to file data that the District, by rule or otherwise, may require shall have committed Unlawful Conduct.

10.4. Diversion Reporting Requirement. A Person in the District that directly ships any Solid Waste, including Recyclables and Compostables, that exceeds an aggregate amount of two (2) tons annually, to Facilities that do not hold a District License shall report to the District the material type, quantity, and destination for all materials shipped for each calendar year. The required data shall be submitted annually by March 1 of the following year.

ARTICLE XI PENALTIES

11.1. Penalties for Unlawful Conduct. Any Person who engages in any Unlawful Conduct shall be subject to a civil penalty of not more than Eight Hundred Dollars (\$800) for each violation or, if lower, the maximum amount allowed by law. Each instance of Unlawful Conduct shall be a separate violation. In the event of other Unlawful Conduct which is deemed “continuing”, the Person who engages in such conduct shall be subject to a civil penalty of not more than Eight Hundred Dollars (\$800), plus not more than One Hundred Dollars (\$100) for each succeeding day, or, if lower, the maximum amounts allowed by law. All penalties for Unlawful Conduct under this Ordinance shall be paid to the District.

In addition, the District may direct any Person subject to this Ordinance to abate hazards or nuisances created as a result of the Unlawful Conduct or, if such Unlawful Conduct was found to have caused contamination or damage to any land or property, to restore such land or property to the condition existing before the Unlawful Conduct.

In determining the amount of civil penalty to be ordered, the District shall consider the following:

- A. The degree of actual or potential impact on public health, safety, welfare, and the environment resulting from the violation.
- B. Whether the Person has cured the violation.
- C. The presence of mitigating circumstances.
- D. Whether the Person knew or had reason to know the violation existed.
- E. The Person's record of compliance.
- F. The economic benefit gained from the violation.
- G. The deterrent effect of the penalty.
- H. The costs of enforcement.

I. The length of time the violation existed.

11.2. Penalties for Disposal at Unlawful Facilities. Any Person who Manages Solid Waste or arranges for the Management of Solid Waste generated within the District at an uncertified Facility or at a Facility which that Person knows or, with reasonable diligence, should know is operating in a manner that does not comply with applicable laws, rules, regulations, and permit conditions, or otherwise contrary to the requirements of this Ordinance or any other ordinance or regulations adopted by the District, shall have committed Unlawful Conduct and shall be subject to a civil penalty of not more than Eight Hundred Dollars (\$800) per violation or, if lower, the maximum amount allowed by law. Each day that the violation continues shall constitute a separate violation of this Ordinance.

11.3. Penalties for Non-Payment of Solid Waste Management Fee. Any Person who Manages Solid Waste generated within the District and destined for Disposal without paying the Solid Waste Management Fee shall have committed Unlawful Conduct and shall be subject to a civil penalty of not more than Eight Hundred Dollars (\$800) per violation or, if lower, the maximum amount allowed by law. Each day that the violation continues shall constitute a separate violation of this Ordinance.

11.4. Assessments and Penalties for Late Payments. Any Person who fails to pay a fee imposed by this Ordinance on the date prescribed for payment shall be subject to any or all of the following assessments and penalties:

- A. A one-time assessment equal to two and one-half percent (2.5%) of the unpaid balance of any fee.
- B. Interest on the unpaid balance of any fee, accruing at an annual rate of eighteen percent (18%), or, if lower, the maximum rate allowed by law, and charged monthly.
- C. A requirement that all future payments be made only in cash or with certified funds.

11.5. Determination of Solid Waste Management Fee. If any Person required to pay a Solid Waste Management Fee under this Ordinance fails to cause a vehicle to be weighed as required by this Ordinance or any other ordinance or regulations adopted by the District, fails to provide the District with documentation of any such weighing as so required, or submits any information that is incorrect or insufficient, the amount of the Solid Waste Management Fee due shall be determined by the District's Executive Director from any information available. If necessary, such Solid Waste Management Fee may be estimated on the basis of external indices, such as amounts of Solid Waste normally generated from any group of Solid Waste Generators or other factors. Notice of the determination shall be given to the Person liable for the payment of the Solid Waste Management Fee. The determination shall finally and irrevocably fix the amount of the Solid Waste Management Fee sixty (60) days after giving notice of the determination unless the Person against whom it is assessed shall apply in writing within the sixty (60) days to the

District's Executive Director for a hearing or unless the District's Executive Director of their own motion shall redetermine the Solid Waste Management Fee. After the hearing, the District's Executive Director shall give notice of their determination to the Person against whom the Solid Waste Management Fee is assessed. The determination of Solid Waste Management Fees due as provided in this Section shall be in addition to any penalties that may otherwise be imposed.

11.6. No Waiver. No failure or repeated failure by the District to impose any of the penalties or requirements provided in this Ordinance shall be construed as a waiver by the District of any of its rights. Nor shall such failure or repeated failure constitute a course of conduct or dealing upon which any Person is entitled to rely.

ARTICLE XII ENFORCEMENT AND REMEDIES

12.1. Injunction. In addition to any other remedy provided in this Ordinance or available at law or in equity, and because a violation of this Ordinance could constitute irreparable harm to the District and the public it serves, the District may institute a suit in equity for an injunction to prevent, restrain, or abate a violation of this Ordinance, any rules or regulations of the District, or the terms of any License issued by the District.

12.2. Revocation of License. Upon finding that any Person has engaged in Unlawful Conduct, the District may, pursuant to Section 12.5 of this Ordinance, revoke any License issued under the terms of this Ordinance and may deny any subsequent application for a License by such Person based on such Unlawful Conduct.

12.3. Revocation of Privilege to use Solid Waste Facilities. The District reserves the right to refuse to collect Solid Waste from any Person or to refuse to allow acceptance from any Person at any Facility operated by the District or for the benefit of the District or licensed by the District where this Ordinance or any other ordinance or regulations adopted by the Board are ignored or violated by such Person.

12.4. Other Penalties. The District shall be authorized to impose any other civil penalty and fine to the maximum extent permitted by law.

12.5. Enforcement Procedures. Procedures for enforcement of this Ordinance shall be as provided by applicable law and as specified below:

- A. The District shall undertake an education/awareness plan to promote full compliance with, and to minimize misunderstandings of, this Ordinance. However, any violation of any part of this Ordinance or any other ordinance or regulations adopted by the District may be punishable by fine as authorized and pursuant to the procedures set forth in this Ordinance.
- B. This Ordinance shall be enforced with respect to Unlawful Conduct by any Person as follows:

Notice. When the District has reasonable grounds to believe that a Person has committed Unlawful Conduct, the Executive Director shall send a written notice, by first class mail or by certified mail, return receipt requested, to such Person. If mailed by first class mail, the notice is deemed received three (3) days after the date of mailing. The notice of violation shall include:

- 1) A brief description of the alleged Unlawful Conduct.
- 2) A brief description of the potential enforcement actions that may be taken.
- 3) A statement that the respondent has a right to a hearing before the Executive Board of the District and a description of the procedures for requesting a hearing.

Preliminary Hearing by Executive Board. A Person who receives a notice of Unlawful Conduct shall be offered an opportunity for a hearing before the District's Executive Board for the purpose of determining whether such Unlawful Conduct occurred. The request for hearing must be made by the Person in writing to the Executive Director of the District no later than ten (10) days after the date the notice of Unlawful Conduct is received. The Executive Board shall hold a hearing within fourteen (14) days of receipt of the request for a hearing. If 1) no hearing is requested within the ten (10) days after the date of receipt of the notice of Unlawful Conduct, or 2) if a hearing is held, then within thirty (30) days of such hearing, the Executive Board shall issue a proposed order pursuant to 24 V.S.A. § 2297a(e). Such proposed order shall be delivered to the respondent or mailed by first class mail or by certified mail, return receipt requested. If mailed by first class mail, the notice is deemed received three (3) days after the date of mailing.

Hearing by Board of Commissioners. A Person who receives a proposed order shall be offered an opportunity for a hearing before the Board of Commissioners, provided that the request for a hearing is made in writing to the Executive Director of the District no later than fifteen (15) days after the date of receipt of the proposed order of the Executive Board. If the respondent does not request a hearing, the order shall be deemed a final order and shall be effective on the date of receipt or a later date stated in the order. If the respondent does request a hearing subsequent to receipt of the order, the Board of Commissioners shall hold a hearing within fourteen (14) days of receipt of the request. After the hearing, the Board of Commissioners may withdraw or amend the order and may issue a final order, which shall be delivered or mailed to the respondent in the same manner as proposed orders and which shall be effective on the date of receipt or a later date stated in the order.

- C. The District may seek enforcement of a final order in the superior court or before the environmental court.

ARTICLE XIII
POWERS OF THE DISTRICT EXECUTIVE DIRECTOR

13.1. General Powers. In addition to other powers granted to the District Executive Director by this Ordinance or otherwise, the District Executive Director may:

- A. Extend, for cause shown, the time for performance of any act required to be performed by any Generator, Hauler, or Facility operator for a period not exceeding three months on such terms and conditions as they may require. Any extension granted shall be recorded in writing.
- B. Delegate in writing to any officer or employee of the District powers that the District Executive Director may deem necessary to carry out the provisions of this Ordinance.
- C. With the approval of the Board, assess, determine, revise, and adjust or readjust any fee imposed pursuant to this Ordinance.
- D. With the approval of the Board, enter into agreements with any Person, including, without limitation, the owner(s) or operator(s) of any Facility or Scale, providing for the exchange or provision of information, records, or documents.
- E. Inspect, audit, and require the production of any Solid Waste, vehicle, Scale, container, record, or document required to be maintained and made available to the District pursuant to this Ordinance or any other ordinance or regulation adopted by the District.

ARTICLE XIV
MISCELLANEOUS

14.1. Existing Contracts. Nothing contained in this Ordinance shall be construed to interfere with or modify unconstitutionally the provisions of any existing contract existing within the District on the effective date of this Ordinance, provided that no contract shall be renewed, and no new contract shall be entered into, that does not comply with the requirements of this Ordinance.

14.2. Construction. The terms and provisions of this Ordinance are to be liberally construed so as best to achieve and promote the goals and purposes of this Ordinance. The captions and headings in this Ordinance are inserted for purposes of convenience and reference only, and shall not be used in any way for the construction and interpretation of this Ordinance. Where required by the context, the singular shall include the plural and the plural shall mean the singular. The masculine, feminine, and neuter forms shall be interpreted interchangeably wherever the context requires. The Original Ordinance, the Original Fee Ordinance, and the Original Regulations are hereby ratified and confirmed as amended and consolidated herein. The provisions of this Ordinance are cumulative to all other laws, ordinances, and regulations heretofore passed or that may be applicable to the subject matter contained in this Ordinance.

14.3. Severability. The provisions of this Ordinance are severable. If any provision of this Ordinance, or its application to any Person, Facility, circumstance, activity, or operation is held invalid, illegal, or unenforceable by a court of competent jurisdiction, said invalidity shall not apply to any other portion of this Ordinance or its application to any Person, Facility, circumstance, activity, or operation that can be given effect without the invalid provision or application thereof.

14.4. Notice and Limitations of Time. Any notice under this Ordinance may be given by mailing it to the Person for whom it is intended in a postpaid envelope addressed to that Person at the address given in the last document filed with the District or, if no documents have been filed, to any address readily obtainable. The mailing of the notice shall be presumptive evidence of its receipt by the Person to whom it is addressed. Any period of time, which is determined under this Ordinance by the giving of notice, shall, unless expressly provided otherwise, commence to run from the date of mailing of the notice.

14.5. Effective Date. The effective date for the Original Ordinance was November 1, 1992. The effective date for the Original Fee Ordinance was November 28, 1994. The effective date for the Original Regulations was November 28, 1994. The amendments to the Original Ordinance, Original Fee Ordinance, and the Original Regulations and the replacement of the Original Ordinance, Original Fee Ordinance, and the Original Regulations through consolidation into this Solid Waste Management Ordinance as adopted on November 17, 2004, was effective on January 18, 2005. Additional amendments were effective July 1, 2009, July 1, 2011, September 1, 2013, July 1, 2015, July 1, 2016, August 26, 2019; June 9, 2020 and August 21, 2022.

Appendix A – Mandatory Recyclables

Aerosol cans from non-hazardous products

Aluminum and steel cans from non-hazardous products

Aluminum foil and pie plates

Glass bottles and jars from foods and beverages

Rigid, single-use, plastic containers and packaging made from PETE (#1), HDPE (#2), or PP (#5) plastics.

Corrugated cardboard

Paper, newspaper, magazines and catalogs

Paper mail and envelopes

Boxboard

Paperback books

Paper bags