

## MEMORANDUM

TO: CSWD Board of Commissioners

FROM: Josh Estey, Director of Compliance

DATE: June 17, 2019

RE: Ordinance Changes – Results of Public Comment Period and Adoption of Amendments

At the Board of Commissioners' meeting on May 22<sup>nd</sup>, 2019, a resolution was passed authorizing the initiation of a public comment period, soliciting feedback on the proposed ordinance amendments as presented to the Board at the same meeting. As a result of that resolution a press release was sent out to all District media contacts outlining the proposed changes and a copy of the press release and proposed changes were sent to all member municipalities requesting they be posted in a conspicuous location. Included in the press release were details of a public hearing that was held at the District's administrative building on June 12<sup>th</sup> from 4:30-5:30.

No comments were received from the public as a result of either the press release or postings at town offices. Additionally, there were no members of the public who attended the public hearing on the 12<sup>th</sup>. As a result, staff recommends that the Board adopt the proposed ordinance amendments attached to this memo (resolution language found below). The proposed amendments are summarized as follows:

- Page 10 – amending language to allow District staff, other than the Executive Director, to approve public waste receptacle exemptions. Also removing unnecessary language detailing effective dates.
- Page 15 – amending section 4.6.H.2 to allow for the collection of fees for recycling-only trips to the Drop-Off Centers.
- Page 17 – amending 4.8.J.3 to allow a recycling container to be labelled with a subset of mandatory recyclables versus a comprehensive list pending District approval.
- Page 18 – removing section 4.8.J.9 which allowed for a labelling transition period following the previous round of ordinance amendments.
- Page 25 – amending section 10.4 to include a de minimis generation amount to further clarify which generators will be required to report and to change the reporting frequency for businesses not shipping to a District-licensed facility to annually from semi-annually.

Here are the next steps of the process in the event the proposed amendments are adopted:

- June 26<sup>th</sup> – Board of Commissioners adopt proposed changes to the Ordinance
- June 27<sup>th</sup> – Ordinance with adopted amendments are posted in at least five conspicuous spaces around the District
- Within 14 Days of Adoption – A concise summary of the proposed amendments are published in the Burlington Free Press or other paper with county-wide distribution
- August 9<sup>th</sup> – General public has until this date to present a petition for a vote signed by 5% or more of qualified voters of the District
- August 26<sup>th</sup> – Unless a petition is received by August 9<sup>th</sup>, this is the date the proposed amendments will go into effect

**Resolution –**

Be it resolved that the Board of Commissioners adopts the proposed amended Solid Waste Management Ordinance as presented at the Board of Commissioners meeting on May 22<sup>nd</sup>, 2019.

Recyclables and Solid Waste destined for Disposal, in accordance with a schedule established by the Commercial Hauler.

- D. All Solid Waste, including Mandatory Recyclables, 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. Solid Waste generated by Persons occupying rental or multi-unit properties remains the responsibility of such Persons. However, if collection costs for Solid Waste destined for Disposal are included in the rent or fees charged to occupants, the owners or managers of the property must collect or provide for the collection and recycling of Mandatory Recyclables at least once monthly. The multi-unit property owner or manager will provide instructions on proper management of Mandatory Recyclables, Special Wastes, Unregulated Hazardous Waste, and Compostables to new occupants and to all occupants on an annual basis at a minimum. The District will provide standard instructions to the 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 ~~General Manager. The effective date of this provision is July 1, 2015 for publicly owned properties in accordance with 10 V.S.A. § 66051 and July 1, 2016 for privately owned properties that are open to the general public.~~

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.

- 2) Residential Rates for Self-Haulers. ~~Operators of 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. Operators of Drop-Off, Transfer, and Disposal~~ Facilities shall charge per unit of municipal Solid Waste destined for Disposal ~~that is delivered to their Facility~~ and shall charge the same fee per each additional equal unit of Solid Waste destined for Disposal. ~~There shall be no charge for residential Mandatory Recyclables accepted at the Facility. 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. Commencing May 1, 2015, and on or before May 1 of each year thereafter, as a condition of a Hauler's License, Haulers shall submit evidence that their residential unit-based pricing schedule meets the requirements for unit-based pricing. Unit-based rates must be in effect by July 1, 2015.

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 Executive Board 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 two decals bearing the CSWD Hauler's License number for that vehicle. The decals shall be affixed to the front doors on the right and left sides of the vehicle or at such other locations on the vehicle as the District may designate. The Commercial Hauler shall maintain the decals in a clean and legible condition. Failure to label a vehicle or maintain such decals 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

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. Labeling of Containers.

- 1) Recycling Containers or the lids on Recycling Containers provided by Haulers will be colored royal or medium blue

OR

Recycling Containers provided by Haulers will have a royal or medium blue universal Recycling symbol (three chasing arrows) label on the front and both sides of dumpsters, and on the front or top of wheeled carts or other containers used for Mandatory Recyclables collection. The Recycling symbol label shall have:

- a) royal or medium blue printing on a white background,
- b) the standard Recycling symbol at least five and one-half inches in width and five and one-half inches in height, and
- c) the word “RECYCLE”, “RECYCLING”, or “RECYCLABLES” in letters at least three-quarters of an inch in height.

The District will provide the Recycling symbol labels to the Hauler if requested.

- 2) Recycling Containers that are royal or medium blue or have lids that are royal or medium blue will have labels or printing that include the word “RECYCLE”, “RECYCLING”, or “RECYCLABLES” alongside the universal Recycling symbol (three chasing arrows) on the front and both sides of dumpsters and on the front or top of wheeled carts or other Recycling Containers.
- 3) Recycling Containers provided by Haulers must also be clearly labeled with a list of the Mandatory Recyclables, or a District-approved subset thereof. The District will provide ~~such~~ labels listing all Mandatory Recyclables to the Hauler if requested.
- 4) If the list of Mandatory Recyclables used on the Recycling Containers or lids that are royal or medium blue includes the language and symbol required by provision 4.8.J.2, the requirements of said provision will be satisfied.

- 5) The Hauler will not provide royal or medium blue containers for the collection of Solid Waste other than Recyclables.
- 6) If the Hauler provides blue containers that are not royal or medium blue for the collection of Solid Waste destined for Disposal, the containers will have black lids.
- 7) All containers provided by Haulers for the collection of Solid Waste destined for Disposal will have labels or printing that say “TRASH” or “LANDFILL” on the front and both sides of dumpsters and on the front or top of wheeled carts or other containers and include the Vermont Universal Recycling symbol for trash. The word “TRASH” or “LANDFILL” must be in letters at least three-quarters of an inch in height. The District will provide “TRASH” or “LANDFILL” labels to the Hauler if requested.
- 8) Compost collection containers provided by Haulers must be clearly labeled with a list of the food scraps and other materials that are accepted for Composting. The label shall be medium green and white and include the Vermont Universal Recycling symbol for Composting. Labels shall be placed on the front and both sides of dumpsters used for Compostables collection and on the front or top of wheeled carts or other similar Compost collection containers. The District will provide the labels with the Compost list to the Hauler if requested. Compost collection containers already labeled with a non-green Compost list are exempt from this provision until the label is degraded.
- ~~9) **Transition Period.** All existing Solid Waste Containers provided by Haulers must meet the specifications in this Section within twelve (12) months of adoption of this Ordinance. All Solid Waste Containers provided by Haulers must meet the specifications in this Section when introduced into service.~~

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 General Manager 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.

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 ~~or through Haulers~~ that do not hold a District License shall report to the District the material type, quantity, and destination for all materials shipped for ~~the periods January 1 through June 30 and July 1 through December 31 of~~ each calendar year. The required data shall be submitted ~~within sixty (60) days of the end of each reporting period~~ 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 Five Hundred Dollars (\$500) 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 Five Hundred Dollars (\$500), 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.