

ADDISON COUNTY SOLID WASTE MANAGEMENT DISTRICT WASTE MANAGEMENT ORDINANCE

WHEREAS, the Addison County Solid Waste Management District (the "District") exists as a union municipal district under the laws of the State of Vermont; and

WHEREAS, the State Legislature has approved and confirmed the creation of the District through the enactment of the District's governing agreement in No. M-6 of the Acts of 1989, as amended (the "Charter"); and

WHEREAS, pursuant to its Charter and the State Solid Waste Management Act, the District has developed and adopted a Solid Waste Implementation Plan (the "Plan") providing for, among other things, Separation, collection, Transport, Recycling and Disposal of Solid Waste; and

WHEREAS, the Board of Supervisors has determined that recyclable materials should be collected and Recycled to minimize the consumption of resources, prolong the life of landfills, and protect the environment and the public health and welfare; and

WHEREAS, the Board of Supervisors has determined that the goals and benefits of the Waste management program set forth in the Plan, together with the environmental quality of the District and efficient administration of the District, will be assisted by the direction of all acceptable Solid Waste to the District Transfer Station in Middlebury for Disposal; and

WHEREAS, the District has the authority under the Charter and the General Laws of the State of Vermont to: provide Solid Waste Disposal services for its member municipalities; manage and regulate the collection, storage, Transport, resource recovery, Recycling, and Disposal of Solid Waste within the District; make proper charges for its facilities, programs, and services; and enact, amend, or repeal any and all rules, regulations, and ordinances otherwise necessary or desirable for the orderly conduct of the affairs of the District and for carrying out the purposes of the District; and

WHEREAS, the Board of Supervisors has determined that this Ordinance is in the public interest; promotes public health, safety and welfare; promotes the efficient, economical and environmentally sound management of Solid Waste within the District; and is in furtherance of the District's Plan and the State's Solid Waste Management Plan;

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

ARTICLE I PURPOSE; TITLE

1.1 Purpose. This Ordinance is enacted to: promote the health, safety and general welfare of the District, its member municipalities and their inhabitants and the general community by promoting Waste reduction, Reuse and Recycling; fulfill the District's responsibilities under 24 V.S.A. 2202(a); regulate the Separation, collection, Transport, Recycling and Disposal of Solid Waste within the District; facilitate the adequate provision of Solid Waste Recycling and Disposal services such that the Generators of Solid Waste pay costs reflecting the real costs of Waste management; regulate Waste Disposal practices that pose a danger to the public health and welfare and the environment; make proper charges for the District's facilities, programs, and services; implement and further the District Plan and the State's Waste

Management Plan; and provide for the efficient, economical, and environmentally sound management of Solid Waste.

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

ARTICLE II **DEFINITIONS**

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

A. "Board of Supervisors" shall mean the governing body of the District.

B. "Clean-Out Service Provider" shall mean any Person who cleans out Solid Waste from a residential or business property located within District borders, and collects, Transfers, or Transports the Solid Waste for compensation.

C. "Clean Wood" shall mean Discarded brush and limbs, trees, raw (unpainted and untreated) dimensional wood or lumber, untreated wood pallets; wood chips generated from these materials; and other natural woody debris, including tree stumps, root mats and logs. Clean Wood does not include manufactured particleboard, oriented strand board, plywood, painted wood or wood treated with preservatives.

D. "Commercial Hauler" shall mean any Person who collects, Transfers, or Transports Solid Waste generated within District borders for compensation, including Clean-Out Service Providers and operators of a Mobile Solid Waste Collection Operation.

E. "Compost" and "Composting" shall mean the controlled biological decomposition of organic matter through active management to produce a stable humus-rich material.

F. "Conditionally Exempt Generator" shall mean any business Generator of Hazardous Waste that meets the criteria as defined in Subchapter 3, Section 7-306 of the Vermont Hazardous Waste Management Regulations.

G. "Contractor" shall mean any Person who Transfers or Transports Solid Waste generated within District borders for compensation as part of a construction and/or demolition job, as long as the quantity of Waste Transported and disposed does not exceed one hundred (100) tons in a rolling year.

H. "Designated Area" shall mean an area designated for placement of Solid Waste for collection, which must be readily accessible at all times by a conventional Solid Waste collection truck and not directly on the travelled portion of any public road or sidewalk. An area may be so designated through mutual agreement between a Person and his, her, or its Commercial Hauler. However, the location of a Designated Area shall not violate any applicable local or municipal ordinance. For purposes of this Ordinance, a municipally owned Drop-Off Facility is also considered a Designated Area.

I. "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, or Disposal Facility or has had the material collected for delivery to a treatment, storage, Composting, Recyclables Processing, Transfer, or Disposal Facility.

J. “Disposal” or “to Dispose” shall mean: (1) the incineration of any Solid Waste other than Clean Wood for fuel; (2) the placement of any Solid Waste in a landfill; or (3) 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 placement of Solid Waste in a Transfer, Composting, or Recyclables Processing Facility that is in compliance with this Ordinance and is fully permitted at the time of placement.

K. “District” shall mean the Addison County Solid Waste Management District and its successors, and as appropriate in the context, the total area within the boundaries of all member municipalities within the District.

L. “District Manager” shall mean the Manager of the District, or such Manager's designee.

M. “District Transfer Station” shall mean the Facility owned by the District on Route 7 South in Middlebury that accepts and/or processes Solid Waste for ultimate Transfer to off-site locations for Disposal, Processing, treatment, or incineration.

N. “Drop-Off Facility” shall mean a Transfer Facility that primarily serves Residents who are Self-Haulers.

O. “Executive Board” shall mean the subcommittee of the Board of Supervisors established under the District’s Charter.

P. “Facility” shall mean any site or structure used for treating, storing, Processing, Recycling, Transferring or Disposal of Solid Waste. A Facility may consist of a single or several treatment, storage, Recycling, or Disposal units, and may include a Mobile Solid Waste Collection Operation.

Q. “Food Residuals” shall mean source-separated and uncontaminated material that is derived from processing or discarding of food and that is recyclable, in a manner consistent with 10 V.S.A. Chapter 159 §6605k. Food Residuals may include pre-consumer and postconsumer food scraps. “Food Residuals” does not mean meat and meat-related products when the Food Residuals are composted by a resident on site.

R. “Generator” shall mean a Person who produces Solid Waste by any means including, but not limited to, residential, commercial, institutional, and industrial activities.

S. “Hauler” shall mean any Person that collects, Transports, or delivers Solid Waste generated within the District.

T. “Hazardous Waste” shall mean any Waste or combination of Wastes of a solid, liquid, contained gaseous, or semi-solid form, which, by reason of its composition or characteristics, is from time to time defined as hazardous either by 42 U.S.C. §§ 6901 et seq., or by 15 U.S.C. § 2605(e), or by 42 U.S.C. §§ 9601 et seq., or by 10 V.S.A. Chapter 159, or by any laws of similar purpose or effect, or by any regulations promulgated under any of the foregoing, and any other material which the Federal Environmental Protection Agency, the Vermont Agency of Natural Resources or its Secretary, or the Vermont Department of Environmental Conservation, or any similar governmental agency or unit having

jurisdiction, shall determine from time to time is ineligible for Disposal, whether by reasons of being toxic, reactive, ignitable, corrosive, 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 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, as amended, codified in 42 U.S.C. §2014, is specifically excluded from this definition.

U. “Household Hazardous Waste” shall mean any Waste from households that would be subject to regulation as Hazardous Waste if it were not from households.

V. “Leaf and Yard Residuals” shall mean source-separated, compostable, untreated vegetative matter, including: grass clippings, leaves, kraft paper bags, and brush, which is free from non-compostable materials; and other organic, compostable materials accumulated during the normal maintenance or restoration of a yard, garden, recreational field or other area covered with vegetation. It does not include such materials as pre- and postconsumer Food Residuals, food processing residuals, or soiled paper.

W. “License” shall mean any License issued or required pursuant to Article IV hereof.

X. “Mandated Recyclables” shall mean the following source separated materials: aluminum and steel cans; aluminum foil and aluminum pie plates; glass bottles and jars from foods and beverages; polyethylene terephthalate (PET) plastic bottles or jugs; high density polyethylene (HDPE) plastic bottles and jugs; corrugated cardboard; white and colored paper; newspaper; magazines; catalogues; paper mail and envelopes; boxboard; and paper bags.

Y. “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, used to collect Solid Waste by Commercial Haulers or by Self-Haulers, provided that: (a) the vehicle or trailer is registered and inspected as required by the State; (b) the vehicles, trailers, or containers used to collect Solid Waste must prevent the release of all Solid Waste and related liquids; and (c) Solid Waste collected pursuant to such an operation is delivered to a certified Waste management Facility by the end of the next business day, or within 48 hours of collection, whichever is later.

Z. “Municipal Solid Waste” shall mean combined household, commercial and industrial waste materials generated in a given area.

AA. “Person” shall mean an individual, partnership, company, corporation, association, institution, unincorporated association, joint venture, trust, municipality, agency, department, and any other legal entity. In any provision 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.

BB. “Plan” shall mean the Solid Waste Implementation Plan developed and adopted by the District on March 19, 1992 in accordance with the provisions of 24 V.S.A. 2202a, as such Plan is amended from time to time.

CC. “Processing” shall mean any activity that: (1) accepts Recyclables from off-site and prepares the Recyclables for sale; or (2) accepts compostable materials from off-site and Composts the materials.

DD. “Processor” shall mean any Person who engages in Processing as defined in Section 2.1(CC) of this Ordinance.

EE. “Prohibited Materials” shall mean materials that shall not be accepted at the District Transfer Station or District-Designated Facility; provided, however, that the Board of Supervisors may accept certain Prohibited Materials or designated components thereof at a District-Designated Facility, pursuant to rules and regulations (i) adopted by the District, and (ii) approved by resolution of the Board of Supervisors. The list of Prohibited Materials may be established and modified from time to time by resolution of the Board of Supervisors or by the District acting in accordance with policies and/or guidelines established and adopted by, and that may be amended from time to time by, the Board of Supervisors. A current official list of Prohibited Materials shall be maintained by the District and be available at the District office.

FF. “Recyclables” shall mean Solid Waste that may be reclaimed and/or processed and used in the production of raw materials or products.

GG. “Recycled” and “Recycling” shall mean the act of reclaiming and/or Processing using Solid Waste in the production of raw materials or products.

HH. “Resident” shall mean an individual owning or occupying a dwelling unit in a particular city, town or village within the District.

II. “Reuse” shall mean Solid Waste that is Reused by the Generator or other Person, in the material’s original or altered state, and is thereby diverted from Recycling, Composting or Disposal. Nothing in this definition shall be construed to include incineration of any kind, landfilling, or use as an alternative daily cover for a landfill.

JJ. “Scale” or “Licensed Scale” shall mean a device or Facility approved by the District for the weighing of vehicles used for the delivery, Transport or shipment of Solid Waste generated or delivered within the District or destined for disposal.

KK. “Self-Hauler” shall mean a Person who Transports and delivers his or her own Solid Waste or Solid Waste from other individuals within a member municipality for no compensation.

LL. “Separate” and “Separation” shall mean the segregation and collection of materials, apart from Solid Waste destined for Disposal, for the sole purpose of Recycling, Reuse, Composting, or special handling.

MM. “Solid Waste” shall mean any: Discarded garbage; refuse; septage; sludge from a waste treatment plant, water supply plant, or pollution control facility; Recyclables and other Waste destined for Composting, Reuse or Recycling (unless the context indicates that "Solid Waste" does not include such materials for the particular purpose of any part of this Ordinance); Special Waste; Unregulated Hazardous Waste; and other Discarded material including solid, liquid, semi-solid, or contained gaseous materials, but does not include: (i) animal manure and absorbent bedding used for soil enrichment; (ii) high carbon bulking agents used in composting; (iii) solid or dissolved materials in industrial discharges which are point

sources subject to permits under the Water Pollution Control Act (10 V.S.A. Chapter 47); or (iv) Hazardous Waste that does not qualify as Unregulated Hazardous Waste.

NN. “Special Waste” shall mean, for purposes of this Ordinance: discarded major appliances; electronics; empty compressed gas cylinders; tires; scrap metal larger than one (1) cubic foot or weighing more than twenty-five (25) pounds; non-friable asbestos-containing materials; liquid latex paint; sludge from a municipal, commercial, or industrial wastewater treatment facility, water supply treatment plant, or air pollution control facility; Leaf and Yard Residuals; Food Residuals; deceased animals of any type or size, and offal; free-standing liquids, including grease; fluorescent light bulbs; mercury-containing devices; PCB ballasts and capacitors; cathode ray tubes; used oil; used antifreeze; waste pesticides; automotive (wet-cell) batteries; nickel-cadmium and other rechargeable batteries; mercuric-oxide batteries; and silver-oxide batteries, which, for whatever reason, are to be managed separately from other Solid Waste. Special Waste does not include Regulated Medical Waste, Regulated Hazardous Waste, and Unregulated Hazardous Waste. The list of Special Waste may be established and modified from time to time by resolution of the Board of Supervisors or by the District acting in accordance with policies and/or guidelines established and adopted by, and that may be amended from time to time by, the Board of Supervisors. A current official list of Special Waste shall be maintained by the District and be available at the District office.

OO. “Transfer” shall mean to carry, remove, Transport, or shift Solid Waste from one place, Facility, vehicle, trailer, or container to another.

PP. “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.

QQ. “Transport” shall mean any movement of Solid Waste by air, rail, highway, or water.

RR. “Unit-Based Pricing” (also referred to as “Variable Rate Pricing”) shall mean a pricing system whereby Drop-off, Transfer and Disposal facilities and Commercial Haulers shall charge residential, institutional and commercial customers for the collection of Solid Waste for disposal based on the volume or weight of the waste 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. Fees established solely on the quantity of Solid Waste of a Generator (such as per bag, per cubic yard, or per pound fees), or the offering of a choice of bi-weekly, monthly, bi-monthly, and quarterly collection frequencies, shall be deemed to satisfy the requirements of this Ordinance as to Unit-Based Pricing.

SS. “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.

TT. “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 a Conditionally Exempt Generator, pursuant to and determined in accordance with the rules and regulations of the U.S. Environmental Protection Agency and the State of Vermont.

UU. “Waste” shall mean a material that is: Discarded; or is being accumulated, stored, or physically, chemically or biologically treated prior to being Discarded; or 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.

ARTICLE III
RESPONSIBILITIES OF GENERATORS

3.1 General

A. All Generators within the District shall Separate their Solid Waste according to the provisions of this Ordinance and any policies, procedures or practices adopted by the Board of Supervisors to implement this Ordinance.

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

3.2 Separation of Solid Waste. Except as hereinafter provided in Section 3.2(F) of this Article, every Person who generates Solid Waste within the District shall Separate Mandated Recyclables, Special Waste, and Unregulated Hazardous Waste from such Solid Waste. Recyclables shall be free of food or other residues and non-recyclable parts. This Section shall not be construed to prohibit or restrict the Composting or the Reuse or Recycling of materials by a Resident, or by a Person as part of such Person's normal commercial, manufacturing or industrial process.

A. Separation of Mandated Recyclables. Mandated Recyclables shall not be disposed with other Solid Waste. Except as provided in Section 3.2(F) of this Article, all Generators shall Separate Mandated Recyclables from other Solid Waste, place the Mandated Recyclables in a container designated for Recycling, and handle them as specified in Section 3.2 of this Article.

B. Separation of Special Waste. Special Waste shall not be disposed with other Solid Waste. Special Waste shall be Separated and placed in Facilities that manage that particular Special Waste and are fully permitted at the time of placement.

C. Separation of Unregulated Hazardous Waste. Unregulated Hazardous Waste shall not be disposed with other Solid Waste. Unregulated Hazardous Waste shall be separated and delivered to a special collection event or placed in Facilities that manage Unregulated Hazardous Waste and are fully permitted at the time of placement.

D. Separation of Leaf and Yard Residuals. Leaf and Yard Residuals shall not be disposed with other Solid Waste. All Leaf and Yard Residuals shall be managed using an alternative method that is in conformance with the State of Vermont Air Quality Rules and local ordinances.

E. Responsibility of Generators. Any Mandated Recyclable, Special Waste, Unregulated Hazardous Waste, or Solid Waste destined for Disposal not properly Separated, placed, hauled or disposed in accordance with this Ordinance shall remain the responsibility of the Generator, and shall be retrieved and corrected by such Person within twenty-four (24) hours' notice thereof.

F. 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.

3.3 Disposal of Solid Waste. After proper Separation of Mandated Recyclables, Special Waste and Unregulated Hazardous Waste from Solid Waste, each Generator shall either set such Solid Waste in a Designated Area for collection by a Commercial Hauler or deliver such Solid Waste to a Designated Area at a Facility that is legally authorized and permitted to accept such Solid Waste. All such Solid Waste placed in a Designated Area shall be placed in the area in a manner such that each component may be collected Separately. This Section shall not be construed to prohibit or restrict the Composting by a Person of his or her own Leaf and Yard Residuals, or the Recycling or Reuse of any materials by any Person, or the burning of Clean Wood for fuel.

3.4 Drop-Off Facilities. Drop-Off Facilities must obtain and abide by all required local, regional, Vermont State and Federal permits. Drop-Off Facilities must, at a minimum, accept and recycle all Mandated Recyclables.

3.5 Rental Property Requirements. Solid Waste generated by Persons who are renting property remains the responsibility of such Persons. However, if the collection costs for Solid Waste destined for Disposal are included in the rent charged to tenants, the owners of rental properties must collect or provide for the collection and Recycling of Mandated Recyclables at least once monthly.

3.6 No Regulation of Hazardous Waste or Medical Waste. This Ordinance shall not regulate the storage, Disposal, collection, Processing, Transfer or Transport of Hazardous Waste or Medical Waste to the extent that such storage, Disposal, collection, Processing, Transfer, or Transport is otherwise regulated by Vermont State or Federal 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 within the District as provided in this Article. Four categories of Licenses are hereby established:

A. Commercial Hauler's License. Except as provided in Section 4.2 of this Ordinance, no Commercial Hauler shall collect, Transport, or deliver Solid Waste generated within the District unless such Commercial Hauler holds a valid License from the District, issued as provided in this Article.

B. Processor's License. A Processor's License shall be required for any Person, other than Self-Haulers, Drop-off Facilities, Mobile Solid Waste Collection Operations, and Persons required to accept beverage containers under 10 V.S.A. Chapter 53, to accept, receive, or allow the acceptance or receipt for storage or Processing in the District of Recyclables or Compostable materials.

C. Transfer/Disposal Facility License. A Transfer/Disposal Facility License shall be required for any Person, other than Self-Haulers, Drop-off Facilities, and 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 Exemptions. The following Commercial Haulers are exempt from the License requirement of Section 4.1:

A. The District, and any member municipality of the District, in the Transport and delivery of Solid Waste generated in its municipal operations, utilizing its own vehicles.

B. Freight companies that: (a) collect Recyclables prepared according to end market specifications and Transport them directly to a fully-permitted end market or to out-of-District Processing/brokering facilities; (b) collect Unregulated Hazardous Waste and Transport it directly to a certified Hazardous Waste Facility as defined in the Vermont Hazardous Waste Management Regulations; or (c) collect Special Waste in exchange for the purchase of a replacement item.

C. Contractors, as defined in this Ordinance.

4.3 RESERVED -

4.4 License Application. The District shall establish the requirements for each type of License. A Person seeking a License shall obtain a License application from the District office. License applications may be obtained in person during normal business hours at the District's office or may be requested by mail. Such application shall be accompanied by the Licensing Fee established pursuant to Section 4.7 hereof.

4.5 Amendments to License

A. A Person may request to amend an existing License. The District shall promptly consider any requests for amendments within the timeframe for License Applications under Section 4.6 of this Article. In order to become effective, any amendments must be approved in writing by the District Manager.

B. A License holder shall seek to amend an existing License under the following circumstances: (1) a significant change in operation; (2) the assignment of services to subcontractors; (3) the addition of vehicles; (4) change in ownership; or (5) dissolution of business.

4.6 Expiration of License, Renewal. Each License shall expire on the December 31st next following its date of issuance, provided, however, that in the event an application is made for renewal prior to the expiration date of a License, such License shall remain in force until such time as the District Manager issues a final decision on the renewal application, but subject to Section 4.8 below. Any renewal application shall comply with the application requirements in this Article and be accompanied by the Licensing Fee as prescribed in Section 4.7. A License shall not be assignable or transferrable, and upon any assignment or transfer, the License shall automatically expire and become null and void.

4.7 Licensing Fee. For the purpose of administering the provisions of this Ordinance and the Licensing program established herein, the Board of Supervisors may impose an annual Licensing Fee as a condition to issuance and renewal of a License. The amount of the Licensing Fee shall be established, and may be modified from time to time.

4.8 Administration of Licensing Program. The District Manager shall administer the Licensing program established by this Ordinance.

A. Commercial Hauler's License and Scale License

(1) Within thirty (30) days of receipt of a completed Commercial Hauler's License or Scale License application, the District Manager shall make a determination on the License application, and the District shall thereafter notify the applicant in writing whether the License application is: (a) accepted; (b) conditionally accepted subject to the applicant's fulfillment of any number of conditions and/or requirements; or (c) denied and the reason(s) for denial.

(2) Any applicant for a Commercial Hauler's License or Scale License aggrieved by any decision of the District Manager may appeal to the Board of Supervisors, which may hear the appeal, or may designate a Committee thereof to hear the appeal. Upon notice and hearing, the Board of Supervisors, or such Committee, may affirm, reverse, or modify the decision of the District Manager. Any such appeal shall not stay the District Manager's decision, and shall be filed with the District Manager within thirty (30) days of mailing of the decision to the applicant, by registered or certified mail, addressed to the applicant at the address shown on the License, or to such other address as the applicant may designate in writing mailed to the District by the aforementioned method, and if not so filed, the decision of the District Manager shall be final and binding on such applicant.

B. Processor's License and Transfer/Disposal Facility License. Within sixty (60) days of receipt of a completed Processor's License or Transfer/Disposal Facility License application, the District Manager shall make a determination on the License application, and the District shall thereafter notify the applicant in writing whether the License application is complete. The District Manager shall then forward the complete application to the Executive Board for their review at their next scheduled meeting. The Executive Board shall then forward the application to the Board of Supervisors for final consideration of whether the License application is: (a) accepted; (b) conditionally accepted subject to the applicant's fulfillment of any number of conditions and/or requirements; or (c) denied and the reason(s) for denial.

4.9 Standards for Issuance of License. In order to obtain, reinstate, or renew a License, a Person shall:

A. Properly complete and file all necessary application forms and the materials described in subsections (C)-(H) below;

B. Pay the Licensing Fee established under Section 4.7;

C. 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;

D. Demonstrate compliance with all District Plan criteria, and other 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;

E. Not be delinquent in any payments owed to the District;

F. Demonstrate that an education and training program for employees is in place and is sufficient to ensure safe and proper conduct of the applicant's activities under the License;

G. Demonstrate adequate financial resources to enable the applicant to safely and properly conduct the applicant's activities under the License;

H. Demonstrate that the applicant's activities under the License will not have an undue adverse impact on human health or the environment, nor impose any undue burden upon the community. A permit issued by a State agency so finding shall be considered satisfactory evidence that this condition has been met.

4.10 Commercial Hauler's License Requirements. Commercial Haulers must abide by the following requirements:

A. Each Commercial Hauler's License shall designate the allowable destinations for all Solid Waste that is collected, Transferred, or Transported under the License. The District Manager reserves the right to modify any and all Licenses previously issued upon notice to the holder of such applicable License that it may not Transfer or Transport Solid Waste to 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, or the Facility is no longer a District-Designated Facility.

B. The Commercial Hauler shall identify by make, model, State registration number, VIN number, tare weight (supported by the weigh slip of a Licensed Scale), and capacity of each vehicle the Commercial Hauler proposes to use to collect and Transport Solid Waste, and demonstrate that each vehicle identified will not leak or spill Waste, and will not create a nuisance with respect to noise, odor, or litter; and all such qualifying vehicles shall be noted on the License. The Commercial Hauler shall physically mark each vehicle and container with the Commercial Hauler's name, logo, trademark, or other identifying symbol or license number. If the Commercial Hauler proposes to use any additional vehicles not identified at the time of application, the Commercial Hauler shall identify the vehicle and make the demonstration required by subsections (C) and (D), and the District shall add any such qualified vehicle to the License.

C. The Commercial Hauler shall demonstrate that liability insurance is in force for each vehicle noted on the Commercial Hauler's License, in amounts as may be required in procedures established by the Board of Supervisors, by a Certificate of Insurance providing that such insurance shall not be cancelled, nor reduced in coverage, without at least ten (10) days' prior written notice to the District.

D. The Commercial Hauler shall file a Unit-Based Pricing Schedule with the License application, except as may be exempted under Section 4.12(E).

E. The Commercial Hauler shall identify on the License application each Licensed Scale operator and the location of each Licensed Scale the applicant will use in order to comply with Section 4.12(C) below, and file the written authorization of any such operator other than the District, in a form satisfactory to the District Manager, so that the District, its agents, employees, and independent contractors may inspect such operator's records regarding the weight of the applicant's vehicles. The District shall note each Scale operator and the License number and location of each Scale on the Commercial Hauler's License. If the Commercial Hauler proposes to use any additional Licensed Scale not noted on the Commercial Hauler's License, the Commercial Hauler shall identify the Scale operator and the location of such Licensed Scale and furnish a similar authorization as to the additional Scale operator. The District shall note any additional Licensed Scale and Scale operator on the Commercial Hauler's License.

F. The Commercial Hauler shall pay any past due amounts owed to the District.

G. The Commercial Hauler shall demonstrate the ability to comply with the provisions of this Ordinance and, in situations where a Commercial Hauler's License has been revoked pursuant to

Section 8.3, demonstrate that corrective actions have been taken, as necessary, to ensure that the Commercial Hauler will comply with this Ordinance. In situations where past payments to the District have been late or where the District Manager has reason to believe that the District may be at risk for late payment or non-payment of Tipping Fees or District Fees, the District Manager may require that the demonstrations required by this subsection include the provision of a letter of credit or other security in amounts and on terms necessary to ensure proper payment.

H. The Commercial Hauler shall demonstrate conformance with all applicable local, Vermont State and Federal licensing requirements, including proof of a Vermont State Waste Transportation Permit for all vehicles.

4.11 Terms, Restrictions, and Conditions of Licenses. The District Manager may attach to any License such reasonable terms, restrictions, and conditions as are necessary to ensure that Solid Waste is Separated, collected, Transported, Recycled, and disposed in an environmentally sound manner, and to ensure compliance with this Ordinance.

4.12 Responsibilities of Commercial Haulers and Other Haulers

A. A Commercial Hauler shall not use any vehicle not noted on the Commercial Hauler's License for the collection, Transport, or delivery of Solid Waste generated within the District, nor shall any such vehicle be used for such purposes during any period of time when the insurance required by Section 4.10(C) is not in force, nor shall any Commercial Hauler use a Scale in order to weigh vehicles as required by subsection (C) below unless such Scale is noted on the Commercial Hauler's License, and the authorization required by Section 4.10(E) is in effect.

B. Each Commercial Hauler shall comply with all the terms and conditions of the Commercial Hauler's License and the requirements of this Ordinance. Each Hauler who is not a Commercial Hauler shall comply with all the terms and conditions of this Ordinance applicable to Haulers who are not Licensed.

C. Each Commercial Hauler, and each Hauler who is not Licensed, shall cause each vehicle Transporting a load of Solid Waste generated within the District to be weighed either through the use of District owned or operated truck scales or another Licensed Scale. In cases where a Commercial Hauler uses Scales owned or operated by the District, the District shall be responsible for producing and maintaining weight information of such loads. In cases where a Commercial Hauler uses non-District owned or operated Scales that have been Licensed, the Commercial Hauler shall:

- (1) Obtain a weigh slip from the Scale operator, showing the date of weighing, and the vehicle's loaded and unloaded (gross and tare) weights;
- (2) Note on each such weigh slip whether the vehicle weighed contained Recyclables or other materials destined for Composting, Reuse or Recycling, or other Solid Waste, using such distinguishing abbreviations as the District Manager may prescribe;
- (3) File with the District, by the seventh (7th) day of each month, all weigh slips required to be obtained under subsection C(1) for vehicles weighed during the calendar month just ended, with the notations required by subsection C(2) above, and the Commercial Hauler's or other Hauler's name and address;
- (4) File with the District, by the seventh (7th) day of each month: (a) a summary, on such form as the District Manager may prescribe, showing, for the month just ended, the total Solid Waste collected, total Recyclables and other materials destined for Composting, Reuse or Recycling collected, and the total Solid Waste collected after

subtracting Recyclables and materials destined for Composting, Reuse or Recycling; and (b) such other information, on forms to be provided by the District, as the District Manager may prescribe;

- (5) Furnish the District Manager, within ten (10) business days of the District Manager's written request, such documentation as the District Manager may require to verify or substantiate the information required under C(1)-(4) above, or to otherwise determine the amount of Solid Waste collected during a calendar month or its components.

D. Each Commercial Hauler, and each Hauler who is not Licensed, shall keep and maintain such records within the State of Vermont as will enable the District to determine compliance with this Ordinance, including but not limited to records on a daily basis of the amount of Solid Waste generated within the District that is collected and/or Transported by such Person for purposes of Disposal; separate records shall be kept showing on a daily basis, total Solid Waste collected and/or Transported, the amount of such Waste consisting of Recyclables and other materials destined for Reuse, Recycling, or Composting, and the amount of Solid Waste after subtracting Recyclables and other Separated materials; such records shall include, on a daily basis, the gross and tare weight information for each vehicle collecting and/or Transporting loads of Solid Waste required to be weighed under subsection (C) above. All such records shall be made available to the District and its agents for inspection and copying during normal business hours of the District. The records for each day of operation shall be retained for at least five (5) years. It is the responsibility of each Commercial Hauler to inform its customers of the material separating and reporting requirements of this Ordinance.

E. Each Commercial Hauler shall provide (independently or through duly Licensed subcontractors) collection of Mandated Recyclables at least once monthly to all customers for whom such Commercial Hauler provides collection of Solid Waste destined for Disposal. A Commercial Hauler may not offer, and his or her customers may not subscribe to, trash-only collection service unless: (a) curbside collection service of Mandated Recyclables is provided or subcontracted by the District or a member municipality; or (b) a Commercial Hauler obtains an exemption from the District. Exemptions may be provided for the Commercial Hauler: (a) contracting with a municipality or the District to collect Solid Waste at a municipally-owned or District-owned Drop-off Facility that collects Mandated Recyclables; or (b) servicing Generators who market their Mandated Recyclables directly to Recycling brokers, Processors, or manufacturers, or who self-haul their Mandated Recyclables to Recycling Facilities that are fully permitted at the time of delivery.

F. No Commercial Hauler shall require their customers to sort Mandated Recyclables (except in situations where more than a 15-gallon container per week of one or more Mandated Recyclables are generated), into more than two groups, one group of fibers (including but not limited to white paper, newspaper, cardboard, and magazines) and a second group of containers (including but not limited to glass, plastic, and metal containers). Mandated Recyclables and any other Recyclables set out by customers for collection shall be rejected by the Commercial Hauler if the Recyclables contain five percent (5%) or more (by volume) of contaminants, and the Commercial Hauler shall indicate to the Generator the reason why the Recyclables were rejected.

G. Unit-Based Pricing by Commercial Haulers

- (1) Except as provided herein, each Commercial Hauler shall offer Unit-Based Pricing to all of its customers within the District, and mail notice of such Unit-Based Pricing Schedule to all customers at least once per year.

(2) Each Commercial Hauler's Unit-Based Pricing Schedule shall be filed with the District as part of the Commercial Hauler's annual License application, and shall otherwise be available to the District upon request.

(3) In compliance with 10 V.S.A. §6607a(h), as of July 1, 2015, a Commercial Hauler that offers the collection of Solid Waste may not charge a separate line item fee on a bill to a residential customer for the collection of Mandated Recyclables, provided that a Commercial Hauler may charge a fee for all service calls, stops, or collections at a residential property and a Commercial Hauler may charge fees based on Unit-Based Pricing. A Commercial Hauler may incorporate the cost of the collection of Mandated Recyclables into the cost of the collection of Solid Waste and may adjust the charge for the collection of Solid Waste. A Commercial Hauler that offers the collection of Solid Waste may charge a separate fee for the collection of Leaf and Yard Residuals or Food Residuals from a residential customer.

(4) **Flat Fee.** In addition to the Unit-Based Price charged per unit of MSW, Commercial Haulers may, but are not required to, charge a Flat Fee to residential customers for the purpose of covering operational costs for collecting, Transporting and Disposing of MSW. In the event that a Commercial Hauler elects to establish a Flat Fee, all bills for services provided to residential customers shall clearly show both the Flat Fee and the Unit-Based Price to maintain transparency.

H. Each Commercial Hauler shall gather and submit, if requested by the District, information documenting as to Solid Waste generated within the District:

(1) Participation rates (the percentage of customers Recycling in a set time period) for any route, not more than once/year, according to a methodology approved by the District Manager; and

(2) Capture rates (the percentage of Recyclables found in garbage, by weight or by volume, as determined by sorts of customers' Solid Waste) on any route according to a methodology approved by the District Manager, not more than once per year unless the District Manager has determined, through visual inspections, that one or more of the Commercial Hauler's loads of Solid Waste contain five percent (5%) or more (by volume) of Recyclables.

I. Each Commercial Hauler, and each Hauler who is not Licensed, shall prepare and furnish to the District when arriving at the District Transfer Station, an itinerary, upon a form approved by the District Manager, that shows the total quantity of Solid Waste collected within each municipality served by the Hauler's vehicle.

J. No Commercial Hauler, and no Hauler who is not Licensed, shall (i) knowingly collect or Transport for Disposal Solid Waste that has not been Separated as required by Article III of this Ordinance, or (ii) co-mingle any such Solid Waste previously Separated in the collection or Transport thereof. Any non-Separated Solid Waste shall be rejected by the Hauler, who shall notify the Generator of such Solid Waste of the reasons for rejection. Any rejected Solid Waste shall remain the responsibility of the Generator for delivery to a Facility authorized to receive it. However, at such time as the non-Separated Solid Waste is collected by a Hauler, the Solid Waste becomes the concurrent, joint and several responsibility of the Generator and the Hauler who collected the Solid Waste to deliver it to a Facility

authorized to receive it. This provision shall not be construed as authorizing the collection or Transport of non-Separated Solid Waste.

K. No 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. Each Commercial Hauler shall include such Solid Waste in its reports required by Section 4.12(C) of this Ordinance.

L. All vehicles used to collect Solid Waste must retain and prevent the release of all Solid Waste contained in the vehicle.

M. All Solid Waste that is destined for Disposal and collected by a Hauler must be delivered to a certified Waste management Facility by the end of the next business day, or within 48 hours of collection, whichever is later.

N. Each Commercial Hauler shall provide Recycling instructions to new customers when service commences and to all customers on an annual basis, at a minimum.

O. No Hauler shall knowingly collect or Transport for Disposal any Solid Waste that has been co-mingled with any Unregulated Hazardous Waste.

P. Any Solid Waste co-mingled with Unregulated Hazardous Waste shall be rejected by the Hauler, who shall notify the Generator of such Solid Waste of the reasons for rejection. Any Solid Waste so rejected shall remain the responsibility of the Generator for delivery to a Facility authorized to receive it. However, at such time as any Solid Waste co-mingled with Unregulated Hazardous Waste is collected by a Hauler, the Waste becomes the concurrent, joint and several responsibility of the Generator and the Hauler who collected the Solid Waste, regardless of whether knowingly or unknowingly, to deliver it to a Facility authorized to receive it and to pay all charges and fees associated with the proper handling and Disposal of such Waste. This provision shall not be construed as authorizing the collection or Transport of Solid Waste mixed with Hazardous Waste or Regulated Medical Waste.

Q. Each Commercial Hauler, and each Hauler who is not Licensed, shall deliver all Solid Waste collected within the District, after proper Separation of Mandated Recyclables, Special Waste and Unregulated Hazardous Waste from such Solid Waste, to the District Transfer Station in Middlebury, or such other District-Designated Facility for Disposal. This provision shall not apply to a Self-Hauler who delivers properly Separated Solid Waste to a Drop-Off Facility or to a Mobile Solid Waste Collection Operation.

ARTICLE V USE OF DISTRICT OR DISTRICT-DESIGNATED FACILITIES

5.1 **Use of District Facilities.** A Person delivering Solid Waste to a Facility owned or operated by the District shall follow all of the procedures and practices established by the District for use of the Facility, and shall deliver to the Facility only such types of Solid Waste as: (i) the Facility is certified to accept; and (ii) the Board of Supervisors by resolution approves for delivery to the Facility.

5.2 **Prohibition.** No Person may deliver to a District owned or operated Facility or to a District-Designated Facility Solid Waste that does not meet the Separation requirements of this Ordinance, nor may a Person deliver Prohibited Materials to a District owned or operated Facility or District-Designated Facility. Nothing within this Ordinance shall be construed at any time to restrict the ability of

the District to refuse to accept Hazardous Waste or other Prohibited Materials at the District Transfer Station or any other District-Designated Facility. The District may, from time to time, provide alternative Disposal means at the District Transfer Station or other District-Designated Facilities for selected Prohibited Materials. All Disposal requirements specified herein may be amended or adjusted from time to time by resolution of the Board of Supervisors or by the District acting in accordance with policies and/or guidelines established and adopted by, and that may be amended from time to time by, the Board of Supervisors.

5.3 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.

5.4 Unit-Based Pricing at Facilities.

A. Drop-off, Transfer and Disposal Facilities shall charge residential, institutional and commercial customers for the Collection of Solid Waste for Disposal based on the volume or weight of the Solid Waste 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. Fees shall be established solely on the quantity of Solid Waste of a Generator (i.e., on a unit basis, such as per bag, per cubic yard, or per pound).

B. Operators of Drop-off, Transfer and Disposal Facilities shall offer a base unit of Disposal service of thirty-three (33) gallons or less, or offer service by weight of 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 Solid Waste destined for Disposal that is delivered to their Facilities and shall charge the same fee per each additional equal unit of Solid Waste destined for Disposal.

C. Flat Fee. In addition to the Unit-Based Price charged per unit of Solid Waste, Facilities may, but are not required to, charge a Flat Fee to residential customers for the purpose of covering operational costs for collecting, Transporting and Disposing of Solid Waste. In the event that a Facility elects to establish a Flat Fee, all bills for services provided to residential customers shall clearly show both the Flat Fee and the Unit-Based Price to maintain transparency.

Sections 5.4 (A)-(C) shall not apply to the District in its charges at the District Transfer Station.

ARTICLE VI
ESTABLISHMENT AND PAYMENT OF CHARGES

6.1 Tipping Fees. The Board of Supervisors shall adopt, and revise from time to time, charges on a per ton and/or other unit basis for Solid Waste delivered to a District Facility ("Tipping Fees"), in order to generate revenues and defray some or all of the direct and indirect costs of operation of the District Transfer Station and any other Facilities owned or operated by the District, and the costs of Transport out and Disposal of Solid Waste delivered to any such District Facility. In establishing and from time to time revising the Tipping Fee, the Board will assign to (and may from time to time make additions to and/or deletions from) costs of operation, all or portions of those costs which it desires to defray by the Tipping Fee charge, which may include, but are not limited to, labor, benefits, utilities, all or portions of fixed District costs and expenses, fuel, maintenance and repair, Transport and Disposal, taxes and fees, and the District Fees. Tipping Fees shall be paid by any Hauler delivering Solid Waste to any Facility owned or operated by the District, based on tonnage or other applicable unit of Solid Waste delivered.

6.2 District Fees. The Board of Supervisors shall adopt, and revise from time to time, a charge per ton of Solid Waste generated within the District that is collected and/or Transported for Disposal ("District Fee"). The purpose of the District Fee is to generate revenue to defray some or all of District costs other than those to be defrayed by the Tipping Fees. In establishing and from time to time revising the District Fee, the Board will include all or portions of the costs which it desires to defray by the District 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. Each Hauler collecting and/or Transporting Solid Waste generated within the District shall pay the District an amount per ton or part thereof which such Hauler collects and/or Transports calculated by multiplying the per ton District Fee by the amount of Solid Waste collected and/or Transported. These charges shall be paid regardless of the final Disposal location, and shall be included in Tipping Fees as to deliveries to a District owned or operated Facility.

A. Exemptions from District Fees. As used in this Section, and for purposes of computing the District Fee charge, the following categories of Solid Waste shall be exempt from the District Fee:

- (1) Recyclables or other materials the District determines are Separated and destined for Reuse, Recycling or Composting;
- (2) Sludge;
- (3) Clean Wood for use as fuel;
- (4) Unregulated Hazardous Waste that is delivered to certified Hazardous Waste Facilities as defined in the Vermont Hazardous Waste Management Regulations;
- (5) Non-friable Asbestos-containing Materials;
- (6) Deceased Animals of any type or size, offal;
- (7) Free-standing Liquids, including grease;
- (8) Other materials approved by the District.

6.3 Establishment of Fees. The Fees described in Sections 6.1 and 6.2 shall be set and may be amended from time to time by resolution of the Board of Supervisors, in accordance with the budget appropriation procedures in Section 33 of the District Charter. Reasonable notice of such an increase or decrease shall be sent to all holders of Commercial Hauler's Licenses and Scale Licenses. The District shall also publish a notice of such increase or decrease in one or more newspapers of known circulation in the District at least thirty (30) days prior to the effective date of such increase or decrease.

6.4 Determination of Fees. The fees based on tonnage established by Sections 6.1 and 6.2 shall be determined on the basis of weight through the weighing requirements in Section 4.12(C) above, provided however that if weigh slips and other documentation are not furnished to the District as required by Section 4.12(C), or the District Manager deems such weigh slips or documentation to be unreliable, the District Manager may determine weight of loads of Solid Waste by any reasonable method approved by the Board of Supervisors. Tipping Fees and the District Fees established for Special Waste may be determined by the Board of Supervisors on a per-unit basis other than weight.

6.5 Fee Variations and Surcharges. The Board of Supervisors may establish fee variations or surcharges on Solid Waste delivered to District owned or operated Facilities or to District-Designated Facilities to encourage or otherwise provide economic incentives to comply with the provisions of this Ordinance.

6.6 Payment of Fees. The District shall render bills for Tipping Fees and the District Fee to such Persons, and upon such terms, cash or credit, including furnishing of letters of credit on terms and in amounts satisfactory to the District Manager, as the Board of Supervisors establishes by resolution. If a Hauler does not pay a District bill by its due date, the District Manager may place such Hauler on a cash-only basis or prohibit that Hauler's use of the District Facility until the bill is paid. Any billed amount not paid when due shall bear interest at the rate of one percent (1%) per month from its due date. The District Manager may place a Hauler on a cash-only basis at a District owned or operated Facility indefinitely if, in the District Manager's opinion, such action is warranted.

ARTICLE VII
INSPECTIONS

7.1 Vehicles. Vehicles used in the collection or Transport of Solid Waste within the District shall be subject to reasonable inspection by the District or its agents for purposes of determining compliance with the terms of Licenses and this Ordinance and for the purposes of data collection. Failure to allow inspection shall be a violation of this Ordinance.

7.2 Solid Waste. All Solid Waste generated within the District and set at a Designated Area for collection by a Hauler, and all Solid Waste deposited at Facilities owned or operated by the District or at District-Designated Facilities, shall be subject to inspection without notice by the District or its agents, for purposes of ensuring compliance with this Ordinance and for the purposes of data collection. Failure to allow inspection shall be a violation of this Ordinance and constitutes Unlawful Conduct.

7.3 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.

ARTICLE VIII
ENFORCEMENT AND REMEDIES

8.1 This Ordinance is designated as a civil ordinance pursuant to 24 V.S.A. § 1971(b).

8.2 The following civil penalties and waiver penalties are hereby imposed for violations of this Ordinance. Civil penalty amounts will be imposed except that in cases where violations are brought in the Vermont Judicial Bureau, and where the violation is admitted or not contested, the waiver penalty amounts will be imposed in lieu of the civil penalty amounts. Each day the violation continues shall constitute a separate violation.

A. Penalties for Violations of Article III

	<u>Civil Penalty</u>	<u>Waiver Penalty</u>
First Violation	\$100	\$ 50
Second Violation	\$200	\$100
Third Violation	\$300	\$150
Fourth and subsequent violations	\$500	\$250

B. Penalties for Violations of Article IV

	<u>Civil Penalty</u>	<u>Waiver Penalty</u>
First Violation	\$500	\$250
Second Violation	\$500	\$500
Third and subsequent violations	\$500 and/or revocation of License	

C. Penalties for Violations of Articles V, VII and IX

	<u>Civil Penalty</u>	<u>Waiver Penalty</u>
First Violation	\$100	\$ 50
Second Violation	\$200	\$100
Third Violation	\$300	\$150
Fourth and subsequent violations	\$500	\$250

8.3 License Revocation Hearing Rules and Procedures

A. The burden of proof in establishing a violation shall be upon the District.

B. Hearings shall be held before the District Manager or other hearing officer appointed by the Board of Supervisors. The Hearing Officer shall have the power to set the time and place of the hearing, grant recesses and adjournments, rule upon motions and requests, rule upon the admissibility of evidence and make findings of fact.

C. The Commercial Hauler may be represented by counsel.

D. Witnesses shall be sworn and subject to cross-examination. A stenographic record of the proceedings shall be kept.

E. Evidence submitted shall be relevant and may include evidence as to the past performance of the Commercial Hauler. Hearsay evidence shall be admissible, but shall be accorded such weight as the Hearing Officer deems appropriate, consistent with its reliability.

F. Findings of fact shall be made by the Hearing Officer, in writing, upon a preponderance of the evidence.

G. Upon a finding that a violation is proved, the Hearing Officer shall impose such penalty, short of revocation, which shall be applicable, or shall refer the matter to the Board of Supervisors for consideration of revocation of the License. The Board of Supervisors may, on the basis of the record presented and without further testimony, elect to: (a) revoke the License; or (b) impose a lesser penalty consistent with the circumstances of the offense; or (c) remand the matter back to the Hearing Officer for further action or investigation. In the event of revocation, the decision of the Board shall be considered final, subject to review pursuant to the laws of the State of Vermont.

8.4 Injunction. In addition to any other remedy provided in this Ordinance or available at law or in equity, the Board of Supervisors may cause the District to institute a suit in equity for an injunction to

prevent, restrain or abate any violation of this Ordinance, and may sue for any unpaid District Fees or Tipping Fees.

8.5 Refusals and Rejections by the District. Notwithstanding any provisions in this Ordinance to the contrary, the District Manager may refuse to accept Solid Waste or refuse to allow Disposal at any Facility operated by or on behalf of the District where such Solid Waste does not meet the requirements of this Ordinance.

8.6 Other Penalties. The Board of Supervisors shall be authorized to impose any other civil penalty and fine to the maximum extent permitted by law.

8.7 Attorney's Fees. In any action brought by the District to enforce the provisions of this Ordinance, to enjoin violation of this Ordinance, to collect any Tipping Fees or District Fees and/or interest thereon, or to collect any civil penalty or other amount due the District, the Person in violation or liable for amounts due the District shall pay the District its reasonable attorneys' fees and other costs and expenses of such action.

8.8 Enforcement of Final Order. The District may seek enforcement of a final order in the Superior Court or before the Environmental Court for the State of Vermont.

8.9 Presumptions. There shall be rebuttable presumptions in the enforcement of this Ordinance that:

A. The placement of any container, which is marked or identified with the name, logo, trademark, or other identifying symbol or license number, or the collection of any container by a vehicle marked or identified with the name, logo, trademark or other identifying symbol or license number, of any Commercial Hauler, at any location within the District, shall be presumptive evidence that said Commercial Hauler is providing Solid Waste collection services at said location within the District as of the date of said placement.

B. Evidence of Solid Waste in a container located as described in 8.9(A) above, and subsequent observation of the same container empty, shall be presumptive evidence that Solid Waste was collected from the container by the Commercial Hauler whose name or other identifying symbol or number is marked on the container or on the vehicle delivering the container.

C. The failure to deliver any Solid Waste to the District Transfer Station within three (3) days of the collection of Solid Waste from any location within the District shall be presumptive evidence of a violation of Section 4.12(M) or (Q) of this Ordinance.

ARTICLE IX **PUBLIC SAFETY**

9.1 No Person 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.

9.2 All vehicles used in the Transport or Transfer of Solid Waste must be registered with the State of Vermont.

ARTICLE X
MISCELLANEOUS

10.1 Local Regulation. Nothing in this Ordinance shall be construed to prohibit any member municipality of the District from enacting and enforcing ordinances and regulations regarding the collection, Transport, storage, Processing, and Disposal of Solid Waste within its jurisdiction, provided that any such regulation or ordinance is not inconsistent with the provisions of this Ordinance.

10.2 Existing Contracts. Nothing contained in this Ordinance shall be construed to unconstitutionally interfere with or modify the provisions of any existing contract 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, which does not comply with the requirements of this Ordinance.

10.3 Construction. The terms and provisions of this Ordinance are to be liberally constructed so as to best achieve and promote the goals and purposes hereof. 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.

10.4 Severability. The provisions of this Ordinance are severable. If any provision of this Ordinance, or its application to any Person or circumstances or within any part of the District is held invalid, illegal, or unenforceable by a court of competent jurisdiction, said invalidity shall not apply to any other portion of this Ordinance which can be given effect without the invalid provision or application thereof.

Adopted: August 12, 1993

Amended:

- *September 30, 1993 -- To establish District Fee at \$28.49/ton, and to authorize letters of credit as additional payment option.*
- *December 16, 1993 -- To amend sections related to Tiered Schedules and allowing capture rate information by volume as well as weight.*
- *January 19, 1995 -- To change the District Fee from \$28.49 to \$29.87 per ton.*
- *August 31, 1995 -- To tighten licensing provisions to assure payment of District Fees and to add section providing for attorney's fees.*
- *September 28, 1995 (effective January 1, 1996) -- Board resolution adding to list of Mandatory Recyclables.*
- *March 21, 1996 -- To change the District Fee from \$29.87 to \$29.54 per ton.*
- *June 20, 1996 -- To clearly designate the Ordinance as a civil ordinance and to establish penalty schedules for violations.*
- *October 16, 1997 -- To enact Board resolution deleting polystyrene plastic #6 from the list of Mandatory Recyclables.*
- *February 18, 1999 -- To change the District Fee from \$29.54 to \$33.40 per ton.*
- *February 15, 2001 -- To adjust the fine system and to more clearly define Hazardous Waste. Also to incorporate some general "housekeeping" within the document.*
- *July 20, 2006 -- To adjust the system of fines and to more clearly define Mandatory Recyclables collection. To require the delivery of Solid Waste destined for disposal to the District Transfer Station or other District-Designated Disposal Facility. Also to incorporate some general "housekeeping" within the document.*
- *July 16, 2015 -- To conform to the requirements of Vermont's Universal Recycling Law (Act 148), Vermont statutory changes, and the State Solid Waste Plan (rev. 2014), and other housekeeping changes.*