

Waste Management Ordinance

Greater Upper Valley Solid Waste Management District Waste Management Ordinance

WHEREAS, the Greater Upper Valley 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-26 of the Acts of 1990, with an effective date of March 6, 1990; 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, transportation, 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 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, to manage and regulate the collection, storage, transportation, resource recovery, recycling, and disposal of Solid Waste within the District, to make proper charges for its facilities, programs, and services, and to 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

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; to fulfill the District's responsibilities mandated under 24 V.S.A. 2202(a); to regulate the separation,

collection, transportation, Recycling and Disposal of Solid Waste within the District; to facilitate the adequate provision of Solid Waste Recycling and Disposal services such that the generators of Solid Waste pay costs reflecting the real costs to society of Waste management; to regulate Waste Disposal practices that pose a danger to the public health and welfare and the environment; to make proper charges for the District's facilities, programs, and services; to implement and further the District Plan and the State's Waste Management Plan; and to 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. "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 traveled portion of any public road or sidewalk. An area may be so designated through mutual agreement between a Person and his, her, or its Hauler. However, the location of a Designated Area shall not violate any applicable local or municipal ordinance.

C. "District" shall mean the Greater Upper Valley Solid Waste Management District and as appropriate in the context, the total area within the boundaries of all member municipalities within the District.

D. "District Executive Director" means the Executive Director of the District, or such Executive Director's designee.

E. "District Transfer Station" shall mean any facility that accepts and/or processes Solid Waste under contract to the District for ultimate transfer to off-site locations for disposal, processing, treatment, or incineration.

F. "Facility" shall mean any site or structure used for treating, storing, processing, recycling or disposing of Solid Waste. A Facility may consist of a single or several treatment, storage, Recycling, or Disposal units.

G. "Generator" shall mean a Person who produces Solid Waste by any means including, but not limited to, household, commercial, institutional, and industrial activities.

H. "Hauler" shall mean any Person that collects, transports, or delivers Solid Waste generated within the District.

I. "Hazardous Waste" shall mean any material or substance 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 as they may be amended from time to time, 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 or otherwise.

J. "Household Solid Waste" shall mean any Solid Waste derived from households, including single and multiple family residences.

K. "License" shall mean any License issued or required pursuant to Article IV hereof. "Licensee" shall mean the holder of a License.

L. "Non-Regulated 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 small quantity generators, pursuant to and determined in accordance with the rules and regulations of the United States Environmental Protection Agency and the Vermont Agency of Natural Resources.

M. "Person" shall mean an individual, partnership, company, corporation, association, institution, unincorporated association, joint venture, trust, municipality, agency, department, or 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.

N. "Plan" shall mean the Solid Waste Implementation Plan developed and adopted by the District in July 1992 in accordance with the provisions of 24 V.S.A. 2202a, as such Plan is amended from time to time.

O. "Recyclables" shall mean clear, green, and brown glass bottles and jars; aluminum, steel and tin cans; translucent high density polyethylene (HDPE) bottles and jugs (including, but not limited to, plastic milk, cider, juice, and water bottles); colored HDPE plastic bottles (including, but not limited to personal care/detergent bottles); polyethylene terephthalate (PET(E)) bottles; corrugated cardboard/kraft bags; newspaper; glossy magazines, catalogs and other publications; white typing, computer, copier, and notebook paper. This list may be amended by resolution of the Board of Supervisors, upon such publication notice as the Board of Supervisors may prescribe, due to factors such as, but not limited to, changes in market conditions or technology.

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

Q. "Solid Waste" shall mean any discarded garbage, refuse, rubbish, (including materials destined for 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 Wastes, Yard

Wastes, 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, or (ii) 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 (iii) Hazardous Waste that does not qualify as Non-Regulated Hazardous Waste.

R. "Special Waste" shall mean; asbestos waste; infectious waste; septage; sludge from a waste treatment plant, water supply plant, or pollution control facility; or other Wastes as may be designated by the Board of Supervisors which, for whatever reason, are to be managed separately from other Solid Wastes.

S. "Construction and Demolition Wastes" shall mean clean wood, stumps, non-hazardous painted, treated or stained wood, plaster, sheetrock, asphaltic roofing materials, insulation, flooring, brick, masonry and mortar, glass, soil and stone, small amounts of metal incidental to building demolition made from wood, foam and/or metal, and mattresses.

T. "Unlawful Conduct" shall mean any act, or failure to act, in violation of any provision of this Ordinance, or of any term, condition or restriction imposed upon, or required by any License, or the failure to pay any civil penalty due the District within 30 days of a final judgment of any court of general jurisdiction under 4 V.S.A. §§113 or 437(8), as amended.

U. "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.

V. "Yard Wastes" shall mean brush, lawn clippings, leaves, weeds, and other organic materials accumulated during the normal maintenance or restoration of a yard, garden, recreational field, or other area covered with vegetation.

W. "Regulations" shall mean procedures or practices adopted by the Board of Supervisors, at a warned meeting for the purpose of implementing this ordinance.

X. "Tipping Fee" shall mean charges on a per ton and/or other unit basis for waste delivered to a District facility or under contract with the District.

Y. "Waste Generation Fee" shall mean a charge per ton of waste generated. This shall not include recyclables or other materials destined for reuse or recycling.

Z. "District Facility" shall mean any solid waste management facility owned, leased, or operated by or on behalf of the District.

ARTICLE III

RESPONSIBILITIES OF GENERATOR

3.1 General. All Generators within the District shall separate their Solid Waste according to the provisions of this Ordinance and any procedures or practices adopted by the Board of Supervisors to implement this Ordinance.

3.2 Separation of Solid Waste. Except as hereinafter provided in Section 3.3, every Person who generates Solid Waste within the District shall separate Hazardous Wastes, Non-Regulated Hazardous Waste, Special Wastes, Construction and Demolition Waste, Yard Wastes and Recyclables as required by the disposal facility and/or town ordinance from such Solid Waste. Recyclables shall be free of food or other residues and non-recyclable parts. Special Wastes shall further be separated into components as the Board of Supervisors by procedures may prescribe.

3.3 Disposal of Solid Waste. After proper separation of Solid Waste, the generator shall either set such Waste in a Designated Area for collection by a Hauler or deliver such Waste to a Facility that is legally authorized and permitted to accept such Waste. All such Waste placed in a Designated Area shall be placed in the area in a manner such that each component may be collected separately by a Hauler. This Section shall not be construed to prohibit or restrict the composting by an individual of his or her own Yard Waste, or the recycling or reuse of any materials by any Person.

ARTICLE IV

RESPONSIBILITIES OF HAULERS

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

4.2 Exemptions. The following Persons are exempt from the licensing requirements of Section 4.1:

A. The District, and any member municipality of the District, in the transporting and delivery of Solid Waste generated in its municipal operations, utilizing its own vehicles including approved employee's vehicles.

B. A Person in the transporting and delivering of his, her, or its own Solid Waste or in the collection, transporting, and delivery of Solid Wastes of other Persons so long as such collecting, transporting, and delivering is performed without an intent to receive compensation.

4.3 License Application. Any Hauler, other than a Hauler exempt under Section 4.2, who desires to collect, transport, or deliver Solid Waste generated within the District shall apply to the District for a License on such form, containing such information, as is required under Section 4.7, or as is required by District regulation. Such application shall be accompanied by the fee established pursuant to Section 4.5 hereof.

4.4 Expiration of License, Renewal. Each License shall expire on the January 1st 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 Executive Director issues a final decision on the renewal application, but subject to Section 4.9 below. Any renewal application shall comply with the application requirements in this Article and be accompanied by the fee as prescribed in Section 4.5. A License shall not be assignable or transferable, and upon any assignment or transfer, the License shall immediately expire and become null and void.

4.5 Licensing Fee. For the purpose of administering the provisions of this Ordinance and the licensing program established by the Board of Supervisors 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.

4.6 Administration of Licensing Program. The Executive Director shall administer the licensing program established by this Ordinance. Any Hauler aggrieved by any decision or act taken by the Executive Director may appeal to the Board of Supervisors, which may hear the appeal, or may designate a Committee thereof to hear the appeal. Such appeal(s) shall be de novo. Upon notice and hearing, the Board, or such Committee, may affirm, reverse, or modify the decision of the Executive Director. Except as provided in Section 4.9, any such appeal shall not stay the Executive Director's decision, and shall be filed with the Executive Director within thirty (30) days of mailing of the decision to the Licensee, registered or certified mail, addressed to the Licensee at the address shown on the License, or to such other address as the Licensee may designate in writing mailed to the District by the aforementioned method, and if not so filed, the decision of the Executive Director shall be final and binding on such Licensee.

4.7 Standards for Issuance of License. In order to obtain or renew a License, a Hauler shall:

A. properly complete and file all necessary application forms and the materials described in subsections (C)-(D) below.

B. pay the License fees established under Section 4.5.

C. identify by make, model, state registration number, unloaded weight (supported by the weigh slip of a state certified truck scale, and capacity, each vehicle the 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. All such qualifying vehicles shall be noted on the License. If the Hauler proposes to use any additional vehicles not identified at the time of application, the Hauler shall identify the vehicle and make the demonstration required by subsections (C) and (D), and any such qualified vehicle shall be additionally noted on the License.

D. demonstrate that liability insurance is in force for each vehicle to be noted on the 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 10 days prior written notice to the District.

E. pay any past due amounts owed to the District.

F. demonstrate fitness and an ability to comply with the provisions of this Ordinance and, in situations where a Hauler's License has been suspended or revoked pursuant to Section 4.9, demonstrate that corrective actions have been taken, as necessary, to ensure that the Hauler will comply with this Ordinance.

G. In the event a licensed vehicle is unable to operate and must be replaced by a leased/rented/borrowed vehicle while the licensed vehicle is being repaired, the license/permit for the disabled vehicle will be automatically transferred to the leased/rented/borrowed vehicle for a period of time not to exceed two weeks. The Hauler will notify the District of such occurrence and will provide the District with make, model, state registration number, unloaded weight and capacity of the replacement vehicle. Notification by the Hauler to the District will take place no later than the completion of the next business day.

H. In the event a licensed vehicle is replaced, permanently, by a new or used vehicle the license from the replaced vehicle will transfer to the new vehicle. The Hauler will notify the District immediately of such occurrence and will provide the District with make, model, state registration number, unloaded weight and capacity of new/used vehicle, and demonstrate that all other provisions and requirements of Article 4.7 have been met and satisfied. Notification by the Hauler to the District will take place no later than the completion of the next business day.

4.8 Responsibilities of Licensees and Other Haulers Who are not Licensees.

A. A Licensee shall not use any vehicle not noted on the License for the collection, transportation, 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

4.7(D) is not in force.

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

C. Each Licensee, and each Hauler who is not a Licensee, shall keep and maintain such records within the State of Vermont as will enable the District to determine compliance with this Ordinance.

D. Each Licensee shall offer, either independently or through subcontract with another Licensed Hauler, Designated Area collection of Recyclables to all the Licensee's customers in the District, except that such service need not be offered to a Resident in a member municipality of the District which has arranged for Designated Area Recyclables collection services for its Residents.

E. Each Licensee shall gather and submit, if requested by the District, information and documentation as to Solid Waste generated within the District. Proprietary information shall be

kept confidential.

4.9 Suspension and Revocation. The Administrative Committee may suspend or revoke a License for Unlawful Conduct or repeated failure to pay one or more District billings rendered pursuant to Section 6.5 by their due dates. Any such suspension or revocation may be appealed to the Board of Supervisors, which may hear the appeal, or may designate a Committee thereof to hear the appeal. Such appeal(s) shall be de novo. Upon notice and hearing, the party hearing the appeal may affirm, reverse, or modify the decision. Any such appeal shall be filed with the Executive Director within thirty (30) days of mailing of notice of suspension or revocation to the Licensee, addressed to the Licensee at the address shown on the License, or to such other address as the Licensee may designate in writing mailed to the District by the aforementioned method, and if not so filed, the decision of the Administrative Committee to suspend or revoke shall be final and binding on such Licensee. In the event of an appeal, such suspension or revocation shall not be effective until final decision by the Board of Supervisors or such Committee designated by the Board of Supervisors.

ARTICLE V

USE OF DISTRICT FACILITIES

5.1 Use of District Facilities. A Person delivering Solid Waste to a Facility owned or operated by the District, or under contract with 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.

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, or under contract with the District ("Tipping Fees"), in order to generate revenues and defray some or all of the direct and indirect costs of operation of the District Facilities and the costs of transportation to 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, transportation and disposal, and taxes and fees. Tipping Fees shall be paid by any Hauler delivering Solid Waste to any Facility owned or operated by the District, or under contract with the District, based on tonnage or other applicable unit of Solid Waste delivered.

6.2 Waste Generation Fees. The Board of Supervisors shall adopt, and revise from time to time, a charge per ton of Solid Waste generated within the District which is collected and/or transported for disposal ("Waste Generation Fee"). As used in this section, and for purposes of

computing the District Fee charge, the term "Solid Waste" shall not include Recyclables or other materials destined for reuse or recycling. The purpose of the Waste Generation Fee is to generate revenue to defray some or all of District costs other than those to be defrayed by the Tipping Fee and the Annual Towns' Assessment. In establishing and from time to time in revising the Waste Generation Fees, the Board will include all or portions of the costs which it desires to defray by the Waste Generation Fees, 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 Fee or Annual Towns' Assessment, Special Waste programs, recycling programs, educational programs, household hazardous waste and Conditionally Exempt Small Quantity Generator programs, administration costs, and other District Facilities, programs, and services costs. These charges shall be paid regardless of the final disposal location, and shall be in addition to Tipping Fees.

6.3 Establishment of Fees. The fees described in Section 6.1 shall be set and may be amended from time to time by procedure described in the Charter. The fees described in Section 6.2 shall be adopted and amended by District Ordinance. The procedure for collection of fees described in Section 6.2 shall be through Regulations adopted by the Board of Supervisors.

6.3.1 Waste Generation Fee. The Waste Generation Fee authorized under Section 6.2 of this Ordinance is established at Fifteen Dollars (\$15.00) per ton.

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

6.5 Payment of Fees. The District shall render bills for Tipping Fees and Waste Generation Fees to such Persons, and upon such terms, cash or credit, including furnishing of letters of credit on terms and in amounts satisfactory to the Executive Director, as the Board of Supervisors establishes by resolution. If a Hauler does not pay a District bill by its due date, the Executive Director may prohibit that Hauler's use of the District Facility, or facility under contract with the District, 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.

ARTICLE VII INSPECTION

7.1 Vehicles used in the collection or transportation of Solid Wastes 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 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 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.

ARTICLE VIII

ENFORCEMENT AND REMEDIES

8.1 Civil Remedies. The enforcement and remedies for violations of this Ordinance shall be civil in nature in conformance with the requirements of 24 V.S.A. §1974a.

8.2 Civil Penalties. Any Person who engages in Unlawful Conduct shall forfeit and pay to the District a Civil Penalty of not more than Five Hundred Dollars (\$500) for each act or failure to act constituting Unlawful Conduct. Such Civil Penalty may be recovered by the District in an action brought by the District in a Court having jurisdiction under 4 V.S.A. §113 or under 4 V.S.A. §437(8). Each day in which Unlawful Conduct continues shall constitute a separate violation. All penalties collected shall be paid to the District, pursuant to 24 V.S.A. §7251.

8.3 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 Unlawful Conduct.

8.4 Refusals and Rejections by the District. Notwithstanding any provisions in this Ordinance to the contrary, the Executive Director 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 Wastes does not meet the requirements of this Ordinance.

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

ARTICLE IX

PUBLIC SAFETY

9.1 No Person shall permit or cause any Solid Waste within his, her or its control to become a hazard to public travel, health or safety or to become a nuisance of any sort.

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, transportation, 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 No Regulation of Hazardous Waste or Bio-medical Waste. This Ordinance does not regulate the storage, recycling, disposal, collection, or transportation of Hazardous Waste to the extent that such storage, recycling, disposal, collection or transportation is otherwise regulated by Federal or State laws, rules or regulations. This Ordinance does not regulate the storage,

collection, transportation, recycling, or disposal of special medical Wastes, infectious Waste, or human or animal remains, so long as such storage, collection, transportation, recycling, and disposal remains under the jurisdiction of the Vermont Agency of Natural Resources.

10.3 Waiver by District. Upon issuance of public notice, the Board of Supervisors may extend the commencement date for the separation of Solid Waste.

10.4 Existing contracts. Nothing contained in this Ordinance shall be construed to interfere with or modify the provisions of any existing contract within the District on the effective date of this Ordinance in an unconstitutional manner, 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.

10.5 Construction. The terms and provisions of this Ordinance are to be construed in a manner so as to best achieve and promote the goals and purposes hereof, of the District's Charter, and of 24 V.S.A. §2202a. . The captions and headings in this Ordinance are inserted for purposes of convenience and reference only, and shall not be used in any way as an aid in the construction or interpretation of this Ordinance.

10.6 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 may be given effect without the invalid provision or application thereof.

10.7 Implementation Date. Sections 2.1 and 4.3 through 4.7 shall be implemented commencing with the adoption of this Ordinance. All other Sections shall be effective commencing January 10, 1995.

Enacted and ordained this 10th day of November, 1994.

Amended: 12/7/95