

NORTHEAST KINGDOM WASTE MANAGEMENT DISTRICT

CIVIL ORDINANCE CONCERNING THE COLLECTION & DISPOSAL OF SOLID WASTES, RECYCABLES AND COMPOSTABLES

WHEREAS, Act M-13, creating the Northeast Kingdom Waste Management District, gives that District authority to regulate the collection, transportation, storage, source recovery, recycling and disposal of solid wastes within the District and any Member Municipality therein, to be disposed of only in and upon facilities registered within the District; and

WHEREAS, the Northeast Kingdom Waste Management District has, by virtue of authority granted in 24 V.S.A § 1971, the power to adopt, amend, repeal and enforce ordinances;

WHEREAS, the Board of Supervisors of that District on 18 August 1992 did pass a Resolution requiring an Ordinance to enact and enforce any and all necessary or desirable regulations for carrying out purposes of the District;

NOW THEREFORE, the Northeast Kingdom Waste Management District, hereafter "District", in accordance with the aforementioned Resolution, the Act Creating the District and pursuant to the authority contained in Title 24 V.S.A. Chapter 61 and Chapter 121 hereby repeals all prior ordinances, and adopts a Civil Ordinance entitled:

NORTHEAST KINGDOM WASTE MANAGEMENT DISTRICT CIVIL ORDINANCE CONCERNING THE COLLECTION & DISPOSAL OF SOLID WASTES, RECYCABLES AND COMPOSTABLES

All prior ordinances are repealed.

DECLARATION OF POLICY AND PURPOSE

This Ordinance provides for the regulation of the waste generated in the District in order to:

- Assure that management and disposal are accomplished in a lawful manner and that statutory requirements are met.
- Determine the quantities and types of waste from each town in the District, so that waste is properly managed and the surcharge is fairly collected.
- State the means of enforcing the requirements of the Ordinance, along with the penalties for violation of the Ordinance.

ARTICLE I. DEFINITIONS

Unless specifically defined herein, all words used in this Ordinance shall have the meaning defined in Title 10 V.S.A. Chapter 159.

- A. AGENT shall mean the individual elected or appointed, as the case may be, pursuant to 17 V.S.A. § 2646 (11).
- B. BUSINESS or FINANCIAL RECORDS shall include those kept or made by a Person or municipality in connection with the collection, storage, and transportation reasonably related to the verification of the source and disposition of Solid Waste generated within the District.
- C. BOARD shall mean the Board of Supervisors of the Northeast Kingdom Waste Management District.
- D. COMPOSTABLES shall mean any combination of food residuals and/or leaf and yard residuals suitable for composting.
 - 1. Food residual means source separated and uncontaminated material that is derived from processing or discarding of food and that is compostable. Food residual may include preconsumer and postconsumer food scraps. “Food residual” does not mean meat and meat-related products when the food residuals are composted by a resident on site.
 - 2. Leaf and yard residual means source separated, compostable untreated vegetative matter, including grass clippings, leaves, Kraft paper bags, and brush, which is free from noncompostable materials.

- E. FACILITY shall mean any landfill, transfer station, recycling facility, incinerator or other processing facility;
1. that has been certified by the State of Vermont to receive, process or dispose of solid waste (as hereinafter defined) originating within any member municipality of the District; or
 2. which is located within the District.
- F. GRAND JUROR shall mean the individual elected or appointed by the District Board pursuant to 17 V.S.A. § 2646 (10).
- G. GENERATOR shall mean anyone who produces Solid Waste by any means including, but not limited to, residential, commercial, institutional, and industrial activities.
- H. HAULER shall mean any person that transports regulated quantities of hazardous waste or solid waste for compensation.
- I. MANDATED RECYCLABLES shall mean those materials designated as mandatory recyclables, required to be diverted from the waste stream, by 10 V.S.A. § 6002(29) as amended from time to time and/or by rules adopted by the Vermont Agency of Natural Resources.
- J. MARKETED shall mean delivered to a broker or end user, but in either case, to be used in manufacture or for beneficial reuse.
- K. PERSON shall mean any individual, corporation or partnership or their agents, employees, servants or designees who or which collects, transfers or transports, composts, recycles, processes or disposes of any Solid Waste in the District for remuneration in money or for other benefit; “Person” shall not include a District member municipality, but shall include the District.
- “Person” shall not include anyone whose only activity in the District is to transport Solid Waste which is not generated within the District or processed at a Facility within the District.
- L. SERVICE PROVIDERS shall include FACILITIES and haulers that provide collection and/or drop-off disposal services for SOLID WASTE.

M. SOLID WASTE shall mean Solid Waste as defined in Title 10 V.S.A. § 6602 (2) as amended from time to time.

N. TRANSFER STATION shall mean any site or structure;

1. which is used for the collection of Solid Waste for which a payment is made for the right to deposit Solid Waste; or
2. in or at which Solid Waste is stored for a period in excess of forty-eight (48) hours;

where such Solid Waste is generated by persons other than those residing or employed at or on the site or structure.

O. VARIABLE RATE PRICING or UNIT-BASED PRICING shall mean a fee structure that charges for Solid Waste collection based on its weight or volume.

ARTICLE II. REGISTRATION

A. All PERSONS as previously defined herein, shall register with the District upon terms and conditions established by regulation from time to time by the Board.

1. Application for Registration shall be in such a form as provided by the District Staff.
2. Terms & Conditions: All conditions required by the State of Vermont for the transportation of SOLID WASTE must be satisfied before District Registration is issued. Failure to maintain any of these conditions during the period of Registration will result in immediate suspension of registration until requirements are met.

B. Any PERSON required to register under paragraph A above, shall be required to register all vehicles used by said PERSON in the transportation, collecting, recycling or disposing of SOLID WASTE within the District. Registration shall occur prior to use of any such vehicle and then annually, on or before December 31st.

C. Each vehicle so registered shall be required to display thereon an identification sticker or stickers in a form and location to be promulgated by the Board, by regulations to be adopted from time to time. The District Staff

shall provide each HAULER with two (2) stickers identifying the vehicle as one authorized to haul or transport District SOLID WASTE, which shall be affixed to both the driver and passenger doors of such vehicle. Stickers shall not be obstructed, removed or defaced and shall be maintained in a clean and visible fashion at all times.

- D. Any PERSON operating, or causing to be operated, any vehicle required to be registered under this Ordinance, failing to display the identification sticker so promulgated by the Board, shall be in violation of this Ordinance.
- E. Notwithstanding anything to the contrary herein, no person shall be required to register a vehicle if such vehicle is not collecting, transporting or storing Solid Waste generated within the District or disposing or leaving SOLID WASTE for processing at a FACILITY located in the District.

ARTICLE III. FEE STRUCTURE

- A. SERVICE PROVIDERS that provide collection and/or drop-off disposal services for SOLID WASTE to residential customers shall charge these customers for this service on the basis of the volume or weight of the Solid Waste they produce, which is a pricing system commonly referred to as Variable Rate Pricing or Unit-Based Pricing.
- B. Each SERVICE PROVIDER shall establish a Unit-Based Price to be charged for the collection/drop-off disposal of each unit of Solid Waste from residential customers; for example, a price per pound or a price for each 30-gallon bag or 30-gallon container that is collected or disposed of by a resident. Each larger unit of MSW, such as a 64-gallon container or a 50-gallon bag, shall carry an increased price.
- C. The provisions of this subsection shall not be construed to prohibit any SERVICE PROVIDER from establishing rules and regulations regarding the safe maximum weight of bags or containers of SOLID WASTE materials. A SERVICE PROVIDER may refuse to collect or allow disposal of any bag or container which is overloaded or which contains SOLID WASTE greater than the rated or specified volume or weight of such bag or container, or shall account for and bill the customer for the collection of such excess SOLID WASTE.
- D. In addition to the Unit-Based Price charged per unit of SOLID WASTE, SERVICE PROVIDERS 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.

- E. In the event that a SERVICE PROVIDER 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.
- F. Nothing herein shall prevent or prohibit a SERVICE PROVIDER from charging additional fees for the collection of materials such as food and yard residuals or bulky items; except however, that no SERVICE PROVIDER may charge a separate line item fee on a bill to a residential customer for the collection of MANDATED RECYCLABLES after July 1, 2015, in accordance with state statutes. A SERVICE PROVIDER may incorporate the cost of the collection cost of MANDATED RECYCLABLES into the cost of the collection of SOLID WASTE and may adjust the charge for the collection of SOLID WASTE.

ARTICLE IV. DISPOSAL IN CERTIFIED FACILITIES

No Person, as previously defined herein,

- A. who collects, transports or stores SOLID WASTE within the District shall recycle, process or dispose of SOLID WASTE within the District, except in a FACILITY that has been certified by the State of Vermont for storing, transferring, recycling, processing or disposing of SOLID WASTE generated within the District,
- B. shall transport SOLID WASTE generated within the District to a FACILITY outside of the District, unless that FACILITY has been certified by the State of Vermont or other regulatory authority for storing, transferring, recycling, processing or disposing of District SOLID WASTE, by a procedure to be set forth in regulations to be adopted by the Board from time to time.
- C. The Vermont Statutes and the requirements of the District's Solid Waste Implementation Plan shall rule the acceptability of disposal and processing.

ARTICLE V. INSPECTION OF WASTE

To assure the health and safety of the inhabitants of the District and for purposes of ensuring compliance with this Ordinance, every registrant of the District is subject to inspection without notice by the person or persons authorized, in accordance with regulations adopted by the Board from time to time and to this purpose.

- A. Every vehicle used for handling SOLID WASTE generated or left in the District may be inspected, in or out of the District.
- B. Any PERSON who fails to stop a vehicle required to be registered under this Ordinance, when directed to do so by an authorized individual is in violation of this Ordinance.
- C. When it is found to be necessary by the District Manager, the District may initiate enforcement proceedings to assure no violation of this Ordinance occurs without penalty.

ARTICLE VI. ACCEPTABLE MATERIALS AND DISPOSAL

- A. The District has the power to designate, by regulations adopted by the Board from time to time, materials as unacceptable for collection, storage, processing, recycling, composting, or disposal. A list of unacceptable materials and the acceptable means of their disposal will be found at the District Office, forwarded to Clerks of member towns, maintained at all facilities within the District, posted on the District's website, and distributed to all registered haulers.
- B. It is illegal to burn SOLID WASTE or dispose of SOLID WASTE in areas not certified by the District.

ARTICLE VII. RECYCLABLES AND COMPOSTABLES

- 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. **Separation of Solid Waste.** Except as hereinafter provided in Section F of this Article, anyone who generates SOLID WASTE within the District shall separate MANDATED RECYCLABLES; organics suitable for composting; leaf and yard waste; and other landfill banned items in accordance with 10 V.S.A. § 6621a 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, reuse, or recycling of materials by a resident, or by a person as part of such person's normal commercial, manufacturing, or industrial process.
- C. **Separation of Mandated Recyclables.** MANDATED RECYCLABLES shall not be disposed with other SOLID WASTE. Except as provided in Section F

of this Article, all GENERATORS shall separate MANDATED RECYCLABLES from other SOLID WASTE, place the MANDATED RECYCLABLES in containers designated for Recycling, and handle them as specified in Section B of this Article.

- D. **Responsibility of Generators.** Any MANDATED RECYCLABLES or SOLID WASTE destined for disposal not properly separated, placed, hauled, or disposed in accordance with this Ordinance is the responsibility of the GENERATOR, and shall be retrieved and corrected by such GENERATOR within twenty-four (24) hours' notice thereof.
- E. **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. Requests for waivers must be submitted in writing to the District Board of Supervisors, and will be considered by the Board of Supervisors at their next regularly scheduled meeting.
- F. **Disposal of Solid Waste.** After proper separation of MANDATED RECYCLABLES from SOLID WASTE, each GENENTOR 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 GENERATOR of his or her own organic material suitable for composting and/or leaf and yard waste, or the recycling or reuse of any materials by anyone, or the burning of clean wood for fuel.
- G. **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.
- H. **Rental Property Requirements.** SOLID WASTE generated by GENERATORS who are renting property remains the responsibility of such GENERATORS. 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.

- I. **Composting Information.** Materials suitable for composting, along with instructions for their separation, and where they will be accepted, and the procedures for acquiring the compost produced will be available at the District Office.
- J. **Recycling Information.** Items acceptable for recycling and procedures required making them acceptable at District facilities, along with the hours of operation, will be maintained at the District Office.

ARTICLE VIII. REGULATIONS

The Board may set forth regulations implementing this Ordinance which may include, but are not limited to, regulating and governing the manner in which SOLID WASTE is collected, stored, transported, processed, recycled and disposed.

ARTICLE IX. HEALTH AND SAFETY

No Person having custody, control or ownership of residential, industrial or business premises within the District shall permit or cause any SOLID WASTE, Recyclables, Compostables or materials defined as unacceptable pursuant to Article IV, within his or her control, to become a hazard to public travel, health or safety or to become a nuisance of any sort or knowingly to be disposed of in contravention to this Ordinance.

ARTICLE X. PAYMENT OF SURCHARGE

- A. All Persons required to be licensed or certified by the state of Vermont to transport SOLID WASTE shall cause such SOLID WASTE to be weighed, by or on behalf of the District, at a District operated Facility, or at a weighing facility registered with the District, as the Board shall specify by regulation.
- B. All Persons and municipalities transporting SOLID WASTE either;
 - 1. generated within the District, or
 - 2. disposed of within the District, or
 - 3. processed at a Facility located within the District,

where such transportation is the final transportation prior to disposal or processing at a FACILITY, shall pay a surcharge on each ton of SOLID WASTE so transported, in an amount and at such times as shall be established from time to time by the Board. No surcharge shall be paid

on Recyclables or Compostables which are actually marketed. No SOLID WASTE shall be surcharged by the District more than once. The surcharge levied by the District shall be paid on or before the thirtieth (30th) day after the close of the month being reported on forms to be provided by the District.

- C. All PERSONS and municipalities shall make their “business or financial records” as defined, available to the District upon requesting the registered office of the PERSON or municipality.

This provision is a condition of obtaining and holding any license from the District.

- D. Upon refusal of any PERSON to allow inspection, sampling, or copying pursuant to this Section, the Agent or Grand Juror or the duly authorized representative of the District may apply for and obtain a warrant or subpoena to allow such entry, inspection, sampling or copying in the manner established by the Vermont rules of criminal or civil procedure.

ARTICLE XI. REPORTING

- A. All PERSONS or municipalities that deliver SOLID WASTE generated within the District or left within the District at a facility shall be required to report (to the District office) the tonnage delivered during the previous month. A report of tonnages from each District municipality served shall be delivered by the 15th day after the close of the month being reported on forms to be provided by the District. Determination of weight by the hauler must be in a manner acceptable by the District.
- B. Any information obtained hereunder relating to customer lists, shall be maintained by the District as confidential information not subject to release as a public record and shall be considered a trade secret under Title 1 V.S.A. § 317, except that in the event of criminal or civil litigation between the District and any licensee, the information may be released.

ARTICLE XII. RECIPROCAL ASSISTANCE AGREEMENTS

- A. A reciprocal assistance agreement may be entered into between the Northeast Kingdom Waste Management District and any other union municipal solid waste district or districts organized pursuant to Title 24 V.S.A., Chapter 121, and with the chief investigative officer of any Vermont municipality not a member of a union municipal solid waste district.

- B. The authority of a duly authorized and certified municipal law enforcement officer, or solid waste district agent, employees, servants or designees shall extend to another union district or municipality in this state.
- C. A reciprocal assistance agreement shall remain in full force and effect until terminated as to one member or all by mutual consent of the parties to the agreement.

ARTICLE XIII. ENFORCEMENT

Enforcement of this Ordinance and any regulations enacted hereunder shall be by the Executive Director, District Grand Juror, District Agent, by any State prosecuting officer, or any certified police officer, or other person authorized by law to enforce this Ordinance.

ARTICLE XIV. PENALTIES

- A. This Ordinance is designated as a civil ordinance pursuant to 24 V.S.A. § 1971(b).
- B. The following civil penalties and waiver penalties are hereby imposed for violations of this Ordinance. Civil penalty amounts will be imposed in cases where violations are brought in the Vermont Judicial Bureau. Where the violation is admitted or not contested, the waiver penalty amounts will be imposed in lieu of the civil penalty amounts.

Penalties for Violations of the Ordinance

| | Civil Penalty | Waiver Penalty |
|----------------------------------|----------------------|-----------------------|
| First Violation | Warning | |
| Second Violation | \$100 | \$ 50 |
| Third Violation | \$200 | \$100 |
| Fourth and subsequent violations | \$500 | \$250 |

- C. Actions of employees or agents of a corporation or partnership shall be deemed an action by both the agent/employee and the corporation or partnership.
- D. Each violation of this Ordinance or any regulation adopted hereunder shall be considered a separate offense. The District may issue separate citations for each violation of this Ordinance.

E. After notice and hearing, the Board may suspend or revoke or refuse to renew a District permit or registration for non-compliance with this Ordinance or any regulations adopted hereunder. Upon conviction for a violation of this Ordinance, without notice or further hearing, the District Manager may suspend or revoke or refuse to renew a Person's District license or registration.

ARTICLE XV. SEVERABILITY

The invalidity of any provision of this Ordinance shall not affect the validity of any other provision or the validity of the Ordinance as a whole.

EFFECTIVE DATE:

Pursuant to 24 V.S.A. §1975, this Ordinance will become effective on May 10, 2015; that being sixty (60) days after passage with no petition for a vote on the Ordinance having been received by the Clerk of the District within the time allowed.

NOTICE OF A PROPOSAL TO AMEND THE NORTHEAST KINGDOM WASTE MANAGEMENT DISTRICT CIVIL ORDINANCE CONCERNING THE COLLECTION & DISPOSAL OF SOLID WASTES, RECYCLABLES, AND COMPOSTABLES

Pursuant to Title 24 of the Vermont Statutes Annotated, Chapter 59, the Public is hereby given notice that this Ordinance was adopted by the Board of Supervisors of the Northeast Kingdom Waste Management District on March 10, 2015.

It provides for the regulation of the waste flow in the District in order to:

- Assure that disposal is accomplished in a lawful manner and that statutory requirements are met.
- Determine the quantities and types of waste from each town in the District, so that the surcharge is fairly collected.
- State the means of enforcing the requirements of the Ordinance, along with the penalties for violation of the Ordinance.
- Replace Article III – Certification with Article III – Fee Structure.
- Change the title of Article VI from Unacceptable Materials to Acceptable Materials and Disposal.
- Add clarifying language to Article VII – Recyclables and Compostables
- Clarify the penalties in Article XIV – Penalties for violations of the Ordinance

AVAILABILITY OF FULL TEXT

The full text of this Ordinance is available at the District Office located at 224 Church Street, Lyndonville, VT 05851, and on the District website at www.nekwmd.org. For additional information contact Paul Tomasi, Executive Director, NEKWMD at (802) 626-3532, or mail comments to NEKWMD Civil Ordinance, P.O. Box 1075, Lyndonville, VT 05851.

RIGHT TO PETITION FOR DISAPPROVAL

Pursuant to 24 V.S.A. Ss. 1973, an ordinance may be disapproved by a vote of a majority of qualified voters within the District, pursuant to a petition signed by not less than five percent of the qualified voters of the District and presented to the Clerk of the District within forty-four (44) days following the date of adoption by the District Board of Supervisors.

EFFECTIVE DATE: MAY 10, 2015

Pursuant to 24 V.S.A. Ss. 1975, this Ordinance will become effective on May 10, 2015; that being sixty days after passage with no petition for a vote on the Ordinance having been received by the Clerk of the District within the time allowed.

I, Libre Drouin, _____, Clerk of the Northeast Kingdom Waste Management District (NEKWMD), attest that on March 10, 2015 at a duly warned, regularly scheduled meeting of the Board of Supervisors of the NEKWMD the following ordinance was adopted:

THE NORTHEAST KINGDOM WASTE MANAGEMENT DISTRICT CIVIL ORDINANCE CONCERNING THE COLLECTION & DISPOSAL OF SOLID WASTES, RECYCLABLES, AND COMPOSTABLES

I further attest that the provisions of Title 24 V.S.A. Chapter 59 were followed during the adoption process. The ordinance was posted in 5 conspicuous locations through the NEKWMD for 60 days and a notice of the Ordinance adoption was placed in the NEKWMD newspaper of record within 14 days of the Board's action (a copy of which shall be maintained as part of this record). In addition, the Ordinance and the notice were placed on the District's website – www.nekwmd.org

The notice was also mailed to the Town Clerks of all District member Towns and to all register haulers.