

**WINDHAM SOLID WASTE MANAGEMENT DISTRICT  
CIVIL ORDINANCE**

Approved March 12, 2015

**Variable Rate Pricing  
For Residential Solid Waste Collection**

WHEREAS, the WINDHAM SOLID WASTE MANAGEMENT DISTRICT has, by virtue of the authority granted in 24 V.S.A. § 1971 (Title 24, Chapter 59, Section 1971), and 24 V.S.A. § 2202a (a) (Title 24, Chapter 61, Subchapter 8, Section 2202a), the power to adopt, amend, repeal, and enforce ordinances, and to manage and regulate solid waste disposal within its district towns; and

WHEREAS, in accordance with 24 V.S.A. § 2202a (d) of Act 148, Vermont's Universal Recycling law, which requires municipalities implement a Variable Rate Pricing system by no later than July 1, 2015; the WINDHAM SOLID WASTE MANAGEMENT DISTRICT is implementing and requiring Variable Rate Pricing charges for residential solid waste (RSW) Collection based on the volume or weight of the waste collected. This requirement applies to all solid waste haulers, property caretakers and facilities that accept and collect RSW from residential customers.

WHEREAS, Variable Rate Pricing systems have been shown to be one of the most effective mechanisms for decreasing solid waste, increasing recycling and composting, and increasing the diversion and reuse of valuable materials from the solid waste stream; and Variable Rate Pricing is an equitable method for pricing for solid waste disposal by charging based on the volume or weight of solid waste a residential customer produces;

NOW, THEREFORE, to encourage the responsible use of resources and the protection of the environment, the WINDHAM SOLID WASTE MANAGEMENT DISTRICT BOARD of SUPERVISORS hereby adopts this ordinance requiring Variable Rate Pricing charges for Collection of Residential Solid Waste from residential customers in the WINDHAM SOLID WASTE MANAGEMENT DISTRICT of Vermont.

**Article I: PURPOSE; TITLE**

Purpose. This ordinance is enacted to encourage the responsible use of resources and the protection of the environment.

Title. This ordinance shall be known and may be cited as the "Ordinance Requiring Variable Rate Pricing" (VRP), which may interchangeably be called Unit Based Pricing (UBP) or Pay As You Throw (PAYT).

**Article II: DEFINITIONS**

- a. "Collection" shall mean the pickup or acceptance of solid waste by solid waste haulers, property caretakers, and solid waste facilities such as transfer stations.
- b. "Facility" shall mean any private or municipally owned and operated site or structure used for treating, storing, processing, transferring or disposal of residential solid waste.
- c. "Hauler" or "Service Provider" shall mean any person, or business commercially collecting, transporting, or delivering solid waste generated within a given area and are subject to the Vermont state permit and disclosure, reporting and registration requirements.
- d. "Property Caretaker" shall mean an individual or business commercially collecting, transporting, or delivering solid waste generated within a given area and are NOT subject to the Vermont state permit and disclosure, reporting and registration requirements and are not required to pay the Vermont state permit fee. A Property Caretaker must also meet these requirements: the volume of solid waste transported is not more than four cubic yards at any time and the solid waste transportation services performed are incidental to other non-waste-transportation related services.
- e. "Residential Solid Waste" hereinafter referred to as "RSW", means combined household waste materials generated in a residential setting.
- f. "Variable Rate Pricing" (or "Unit Based Pricing") means a fee structure that charges for RSW Collection based on its volume or weight.
- g. "District Towns" shall mean all member towns of WINDHAM SOLID WASTE MANAGEMENT DISTRICT.

**Article III: VARIABLE RATE PRICING**

Haulers and Facilities that provide collection and/or drop-off disposal services for RSW to residential customers shall charge these customers for this service on the basis of the volume or weight of the RSW which they produce.

Each Hauler or Facility shall establish a Variable Rate Pricing system for the Collection/drop-off disposal of each unit of RSW generated from residential customers.

Haulers and Property Caretakers who use a District Town Facility must comply with that Facility's Variable Rate Pricing method. Each District Town of the WINDHAM SOLID WASTE MANAGEMENT DISTRICT with a solid waste Facility or curbside Collection program shall adopt Variable Rate Pricing for their Residential Solid Waste.

The provisions of this subsection shall not be construed to prohibit any Hauler or Facility from establishing rules and regulations regarding the safe maximum weight of bags or containers of residential solid waste materials. A Hauler, Property Caretaker or Facility may refuse to collect RSW, or may collect and bill the customer for excess RSW.

**Article IV: FLAT FEE**

In addition to the Variable Rate Price charged per unit of RSW, Haulers, Property Caretakers and 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 RSW, recyclables, leaf and yard waste and organic matter(food scraps).

In the event that a Hauler, Property Caretaker or Facility elects to establish a flat fee, all bills for services provided to residential customers shall clearly show both the flat fee and the Variable Rate Price to maintain transparency.

Nothing herein shall prevent or prohibit a Hauler, Property Caretaker or Facility from charging additional fees for the Collection of materials such as food and yard residuals or bulky items; except however, that no Hauler, Property Caretaker or Facility 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 Vermont state statutes. A Hauler, Property Caretaker or Facility may incorporate the cost of mandated recyclables into the cost of the Collection of residential solid waste.

**Article V: LICENSING OF HAULERS AND PROPERTY CARETAKERS**

Haulers shall file an annual license application with the WINDHAM SOLID WASTE MANAGEMENT DISTRICT BY JULY 31, to be effective the following AUGUST 1 through JULY 31.

Haulers offering residential curbside Collection, in addition to submitting evidence of their Variable Rate Pricing system, shall also submit a description of their recycling methodology as well as a valid copy of their current VT WTVR (Vermont Waste Transportation Vehicle Report) with their annual license application/renewal.

Property Caretakers shall file an annual license application with the WINDHAM SOLID WASTE MANAGEMENT DISTRICT BY JUNE 1, to be effective the following JULY 1 through JUNE 30. This annual license application/renewal must include a description of their recycling methodology and a detailed list of vehicles to be included for licensing.

The WSWMD must approve all aspects of the application and review the applicant's performance prior to issuance of its annual license.

Haulers, Property Caretakers and Facilities must abide by the provisions of their approved application and license. Failure to do so is an offense.

The Board of Supervisors of the WINDHAM SOLID WASTE MANAGEMENT DISTRICT retains the authority to set an annual license fee.

A current year WSWMD decal will be issued to licensed Haulers and Property Caretakers for each vehicle as proof of valid licensure. The decal shall be affixed to each licensed vehicle for viewing by the WINDHAM SOLID WASTE MANAGEMENT DISTRICT, municipality and Facility operators. Without the required affixed licensing decal, the Hauler or Property Caretaker will be refused access to the Facility or service and the violation of non-compliance must be reported to WINDHAM SOLID WASTE MANAGEMENT DISTRICT by the Facility or municipality that same day.

**Article VI: FILING OF PRICING SYSTEM FOR A FACILITY OR A MUNICIPALITY**

The owner or operator of a Facility managing Residential Solid Waste and any municipality offering curbside pickup shall annually submit 1) evidence of their Variable Rate Pricing system, and 2) a description of their recycling methodology to the WINDHAM SOLID WASTE MANAGEMENT DISTRICT annually BY JUNE 1st.

**Article VII: PENALITIES AND CIVIL ENFORCEMENT**

Facilities and municipalities must verify that incoming vehicles with RSW have a valid WINDHAM SOLID WASTE MANAGEMENT DISTRICT decal. If the decal is absent, the violation of non-compliance must be reported to WINDHAM SOLID WASTE MANAGEMENT DISTRICT. Failure to comply with this requirement will be reported to state authorities.

a. The penalties for violating this ordinance are as follows:

1st offense: WINDHAM SOLID WASTE MANAGEMENT DISTRICT shall provide WRITTEN Notice of Violation to the Hauler, Property Caretaker, or Facility. IF the violation is not corrected within thirty (30) calendar days, it will be considered a second offense.

2<sup>nd</sup> offense: WINDHAM SOLID WASTE MANAGEMENT DISTRICT shall provide WRITTEN Notice of Violation to the Hauler, Property Caretaker, or Facility AND make a written report to the State of Vermont Agency of Natural Resources. WINDHAM SOLID WASTE MANAGEMENT DISTRICT shall immediately REVOKE the Hauler's or Property Caretaker's license. The license remains revoked until the violation is corrected by the violator, or dismissed by the WSWMD's appointed agent after an informal hearing is held as soon as practical.

3<sup>rd</sup> offense: WINDHAM SOLID WASTE MANAGEMENT DISTRICT shall provide WRITTEN Notice of Violation to the Hauler, Property Caretaker, or Facility AND make a written report to the State of Vermont Agency of Natural Resources. WINDHAM SOLID WASTE MANAGEMENT DISTRICT shall immediately REVOKE the Hauler's or Property Caretaker's license. The license remains revoked for a minimum of fourteen (14) calendar days or until the violation is corrected, whichever is longer, unless dismissed by the WSWMD's appointed agent after an informal hearing is held as soon as practical. This, and other repeated violations, may result in Vermont state civil penalties and fines or other relief as designated in Section b.

Offenses and violations are cumulative and carry over from year to year.

b. This is a civil ordinance and enforcement may be brought in the judicial bureau in accordance with 24 V.S.A. §§ 1974a (b) et seq.

**Article VIII: DESIGNATION OF ENFORCEMENT PERSONNEL**

For the purposes of this ordinance, the Board of Supervisors shall designate an appointed agent for the WINDHAM SOLID WASTE MANAGEMENT DISTRICT as well as any official with law enforcement authority under Vermont law as agents for enforcement of this ordinance.

**Article IX: REPEAL OF INCONSISTENT PROVISIONS**

All ordinances or parts of ordinances, resolutions, regulations, or other documents inconsistent with the provisions of this ordinance are hereby repealed to the extent of such inconsistency.

**Article X: SEVERABILITY**

This ordinance and its various parts, sentences, sections, and clauses are hereby declared to be severable. If any part, sentence, section or clause is adjudged invalid, it is hereby provided that the remainder of this ordinance shall not be affected thereby.

**Article XI: EFFECTIVE DATE**

This ordinance shall become effective 60 days after the adoption date shown below.

Adopted this 16th day of April, 2015.

Windham Solid Waste Management District Board of Supervisors

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Chair signature, as Authorized

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Chair printed name