

**TOWN OF WHITINGHAM  
CIVIL ORDINANCE  
REGULATING THE MANAGEMENT OF SOLID WASTE  
AND VARIABLE RATE PRICING**

WHEREAS, the Town of Whitingham 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 the solid waste disposal within its boundaries; 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 Town of Whitingham is implementing and requiring variable rate pricing charges for Municipal Solid Waste (hereinafter "MSW") collection from residential customers for disposal based on the volume or weight of the waste collected. This requirement to implement applies to all solid waste haulers and facilities that accept and collect MSW from residential customers.

WHEREAS, variable rate pricing systems have been shown to be one of the most effective mechanisms for decreasing the disposal of solid waste, increasing recycling and composting rates, and increasing the diversion and reuse of valuable materials from the solid waste stream. Further variable rate pricing is more equitable or fair pricing for solid waste by charging based on the number of units of solid waste a residential customer produces.

NOW, THEREFORE, to encourage the responsible use of resources and the protection of the environment, the Selectboard of the Town of Whitingham hereby adopts this ordinance requiring variable rate pricing charges for collection of MSW from residential customers in the Town of Whitingham, 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 "Solid Waste and Variable Rate Pricing Ordinance."

**Article II: DEFINITIONS**

**"Clean Wood"** shall mean discarded brush, trees, raw (unpainted and untreated) dimensional wood or lumber, or untreated wood pallets. Clean wood does not include manufactured particleboard, oriented strand board, plywood, painted wood or wood treated with preservatives.

**"Collection"** shall mean the gathering, pickup, acceptance, and allowance to drop off municipal solid waste by both solid waste haulers and solid waste facilities such as transfer stations where drop off of municipal solid waste is permitted.

Solid Waste Collection Operation. Also referred to throughout as a “service provider” when being referred together with the term “facility”. Haulers may operate within the town, but are prohibited from using the Whitingham Transfer Station.

“**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, 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, is specifically excluded from this definition.

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

“**Mandatory Recyclables**” includes those listed in the Universal Recycling Law such as paper, cardboard, glass, specified plastics and metal.

“**Municipal Solid Waste**” hereinafter referred to as “MSW or “solid waste” means discarded garbage, refuse or rubbish; recyclables and other waste destined for composting, reuse or recycling; yard waste; electronics; tires; construction and demolition debris; and other discarded material including solid, liquid, semisolid, or contained gaseous materials, but does not include: (i) animal manure and absorbent bedding used for soil enrichment; (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.

“**Organic Materials**” include food scraps, leaf and yard debris and other materials that can be diverted from landfills through composting, diverted for agricultural use or treated using anaerobic digestion.

“**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 permit the term “person” shall include the officers and directors of the corporation.

**“Waste”** shall mean a material that is: disposed; 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.

**“White Goods”** shall mean appliances, such as refrigerators, stoves, air-conditioners, ovens, water fountains, washers, and dryers.

**“Yard Debris”** shall mean: trees; tree stumps; brush; wood chips generated from these materials; lawn clippings; leaves; weeds; and other organic, compostable materials accumulated during the normal maintenance or restoration of a yard, garden, recreational field, or other area covered with vegetation.

### **Article III: VARIABLE RATE PRICING**

Haulers and facilities (hereinafter “service providers” when jointly noted) that provide collection and/or drop-off disposal services for MSW to customers shall charge these customers for this service on the basis of the volume or weight of the MSW they produce, which is a pricing system commonly referred to as variable rate pricing.

Each service provider shall establish a unit-based price to be charged for the collection/drop-off or disposal of each unit of MSW from 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 customer. Each larger unit of MSW, such as a 64-gallon container or a 50-gallon bag, shall carry an increased price.

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 municipal solid waste materials. A service provider may refuse to collect or allow disposal of any bag or container which is overloaded or which contains a MSW 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 MSW.

### **Article IV: FLAT FEE**

In addition to the variable rate price charged per unit of MSW, service providers may, but are not required to, charge a flat fee to customers for the purpose of covering operational costs for collecting, transporting, and disposing of MSW.

In the event that a service provider elects to establish a flat fee, all bills for services provided to customers shall clearly show both the flat fee and the unit-based price to maintain transparency.

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 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 VII: PERMIT STICKER AND USE FEES**

Permit and use fees shall be listed on a fee schedule and set by the Selectboard and posted at the Town Clerk’s office, the municipality’s administrative offices and at the Transfer Station.

**Article VIII: REQUIREMENT FOR HAULER ANNUAL FILING OF PRICING SYSTEM**

No person or entity acting as a hauler shall solicit the collection of solid waste from residences, commercial establishments, construction sites, or any source whatsoever, within the Town of Whitingham without first submitting evidence of their variable rate pricing system with the Selectboard Office. This evidence shall include a breakdown of any and all fees including any flat fees. Haulers may not use the transfer station unless given specific approval by the Selectboard to do so.

**Article IX: SEPARATION OF SOLID WASTE AT TRANSFER STATION**

No person, generator, resident, self-hauler, hauler or other entity shall deposit any MSW at the transfer station unless all materials have been separated and deposited according to the direction of the Transfer Station Attendant or the Attendant’s designated representative.

Materials accepted at the transfer station should be separated into the following categories and disposed of in the appropriate designated area as directed by the Transfer Station Attendant or the Attendant’s designated representative:

- Mandatory Recyclables
- Organic Materials (Compost) and Yard Waste
- Clean Wood
- Tires
- Metals
- Construction and Demolition Debris
- Electronics or E-waste
- White Goods

All other non-hazardous and non-prohibited materials shall be discarded as solid waste as directed by the Transfer Station Attendant or the Attendant’s designated representative.

**Article X: PROHIBITED MATERIALS**

The following materials shall not be delivered to the transfer station nor accepted by the Attendant (except by specific authorization of the Selectboard):

- animal carcasses or remnants thereof
- intact motor vehicles or sections thereof
- fire damaged material
- hazardous waste
- household hazardous waste

If unauthorized waste or prohibited materials have been disposed of at the transfer station, the offending party shall remove such waste at the offending party’s expense.

## **Article XVII: PROHIBITED ACTS**

The following are prohibited acts that constitute penalties of this ordinance and are subject to fines and enforcement as set forth herein and through laws of the State of Vermont:

1. No burning, salvaging, discharging of firearms, soliciting, advertising or any other similar activity shall be permitted within the transfer station.
2. No disposal of prohibited materials is allowed at the transfer station, with the exception of proper disposal of hazardous waste and household hazardous waste during a hazardous waste collection event should it be occurring at the transfer station.
3. No person, generator, resident, self-hauler, hauler or other entity shall dispose of solid waste when the transfer station is closed, dispose anything at the transfer station not within the list of accepted materials in Article IX of this ordinance, nor dispose of solid waste contrary to any other provision of this ordinance.
4. It shall be unlawful for any person or persons to dump, deposit, throw or leave, or to cause or permit the dumping, depositing, placing, throwing or leaving of litter on any public or private property in the Town of Whitingham unless:
  - a) Such property is designated by the Selectboard or by the State of Vermont for the disposal of such litter, and such Person is authorized by the proper public authority to use such property; or
  - b) Such waste material is placed into a litter receptacle or container installed on such property.

Any person, generator, resident, self-hauler, hauler or other entity found in violation of this ordinance or any regulations adopted hereunder can be directed to leave the transfer station by the Attendant on duty. Failure to leave when so directed shall constitute a separate violation of this ordinance.

If unauthorized waste or prohibited materials have been disposed of at the transfer station, the offending party shall remove such waste at the offending party's expense.

## **Article XVIII: INSPECTIONS**

All solid waste generated within the Town, and all solid waste deposited at the transfer station, shall be subject to inspection without notice by the Transfer Station Attendant or the Attendant's designated representative; for purposes of ensuring compliance with this ordinance. Failure to allow inspection shall be a violation of this ordinance and constitutes unlawful conduct.

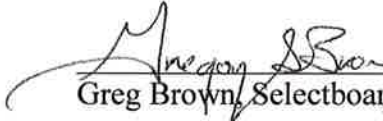
**Article XXIV: EFFECTIVE DATE**

This ordinance shall be effective on July 1, 2018.

Adopted this 28th day of March, 2018.

*Keith Bronson, via Skype*

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Keith Bronson, Selectboard Chair

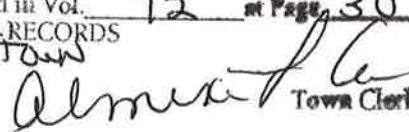
  
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Greg Brown, Selectboard Vice Chair

  
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Allan Twitchell, Selectboard Member

  
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Karl Twitchell, Selectboard Member

  
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Robin Kingsley, Selectboard Member

Attest:   
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Almira Aekus, Town Clerk

WHITINGHAM, VERMONT  
TOWN CLERK'S OFFICE  
RECEIVED FOR RECORD  
this 29 day of MAR A.D. 2018 at  
09 o'clock 30 minutes A.M.  
Recorded in Vol. 12 at Page 30  
of LAND RECORDS  
Attest   
Almira Aekus  
Town Clerk