

ORDINANCE NO. 92-01

FLOW CONTROL ORDINANCE

AN ORDINANCE BY THE CENTRAL VERMONT SOLID WASTE MANAGEMENT DISTRICT REGULATING THE COLLECTION, TRANSPORTATION, RECYCLING, RESOURCE RECOVERY AND DISPOSAL OF SOLID WASTE WITHIN THE DISTRICT; REQUIRING LICENSES FOR THE TRANSPORTATION OF SOLID WASTE WITHIN THE DISTRICT; DIRECTING THE DELIVERY OF ALL SOLID WASTE GENERATED WITHIN THE DISTRICT TO FACILITIES DESCRIBED HEREIN; PROHIBITING THE UNLAWFUL DISPOSAL OF SOLID WASTE; AND PROVIDING FOR ENFORCEMENT AND PENALTIES.

WHEREAS, the Central Vermont Solid Waste Management District (the “District”) has been created and exists as a union municipal district; and

WHEREAS, the General Assembly of the State of Vermont (the “State”) has approved and confirmed the creation of the District through the enactment of No. M-8 of the Acts of 1987 (the “Charter”); and

WHEREAS, the District has the authority under the Charter and the general law of the State of Vermont to provide solid waste disposal services for member municipalities; to regulate by ordinance, rule or regulation, the collection, transportation, resource recovery, recycling and disposal of solid waste as defined in 10 V.S.A. Chapter 159 and in the District’s Charter; to exercise any other powers which are necessary or desirable for dealing with solid waste problems of mutual concern and which are exercised or capable of exercise by any of its member municipalities; and to exercise all powers necessary, appurtenant, convenient or incidental to the carrying out of the District’s purpose; and

WHEREAS, in order to implement a solid waste management implementation plan which contemplates and provides for an integrated means of managing all aspects of solid waste within its jurisdiction, it is deemed necessary to control and regulate the collection, transportation, storage and disposal of all solid waste; and

WHEREAS, the District had determined that this Ordinance is in the public interest, promotes the public health, safety and welfare and promotes the efficient, economical and environmentally sound management of solid waste within the District.

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

**ARTICLE I  
PURPOSE; TITLE**

1.1 Purpose. This Ordinance is enacted and ordained for the purpose of promoting health, safety and general welfare of the District, its member municipalities and their inhabitants and the general community, and to provide environmentally acceptable and economical means of waste management, to facilitate the adequate provision of Solid Waste disposal and recycling services such that the generators of Solid Waste pay disposal costs that reflect the real costs to society of waste management

and disposal, to regulate through a licensing process the collection and transportation of Solid Waste, to direct that all Solid Waste be disposed at facilities owned, controlled or designated by the District, to facilitate economical and environmentally acceptable means of regulating the waste stream, and to provide for the efficient, economical and environmentally sound management and regulation of Solid Waste and Solid Waste Disposal within the District.

1.2 Title. This Ordinance shall be known and may be cited as The Central Vermont Solid Waste Management District Flow Control Ordinance.

## **ARTICLE II DEFINITIONS**

2.1 Unless the context clearly requires otherwise, the following terms shall have the respective meanings:

- A. “Commercial Hauler” shall mean any person who, for charge, hire, fee or other consideration, collects, transports, stores or otherwise deals with Solid Waste in quantities of more than one hundred (100) pounds.
- B. “Disposal” or “Dispose” shall mean the discharge, deposit, injection, dumping, spilling, leaking, or placing of any Solid Waste or Hazardous Waste into or on any land or water.
- C. “Facility” shall mean any landfill or other solid waste disposal facility, and all contiguous land used for treating, storing or disposing of solid waste.
- D. “Hazardous Waste” shall mean any material or substance which, by reason of its composition or characteristics, is 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 any laws of similar purpose or effect, or any other materials which the State, the State Agency of Natural Resources, or the Vermont Department of Environmental Conservation or any similar governmental agency or unit having appropriate jurisdiction shall determine from time to time is ineligible for disposal in landfills, whether by reason of being toxic, reactive, ignitable, corrosive or otherwise.
- E. “Household Solid Waste” shall mean Solid Waste generated by residential housing units.
- F. “Licensee” shall mean any Person holding a license issued pursuant to Article IV hereof.
- G. “Un-Regulated Hazardous Waste” shall mean either household hazardous waste or hazardous waste from small quantity generators, in accordance with the rules and regulations of the United States Environmental Protection Agency and the State Agency of Natural Resources.
- H. “Person” shall mean an individual, partnership, company, corporation, association, unincorporated association, joint venture, trust, municipality, agency, department, and any other legal entity.
- I. “Recycle” shall mean the process of utilizing Solid Waste for the production of raw materials or products.
- J. “Secretary” shall mean the Secretary of the Agency of Natural Resources of the State.

- K. “Solid Waste” shall mean any discarded garbage or refuse, but shall not include septage, sludge, or materials to be recycled.
- L. “Unlawful Conduct” shall mean any act or failure to act which is in violation of any provision set forth in this Ordinance, any rule or regulation enacted by the District in furtherance of this Ordinance, or any term, condition or restriction imposed upon, or required by, any License issued or required under the terms of this Ordinance, or in violation of any term or condition of any license granted by the Regulatory Board of the District.

### **ARTICLE III REGULATION OF SOLID WASTE**

3.1 License Requirement. No Person may collect, receive, accept for disposal, transport, or dispose of Solid Waste in the District and its member municipalities unless it has obtained a License from the District, as provided in Article IV hereof.

3.2 Regulation of Commercial Haulers. No Person shall accept, receive or allow the acceptance or receipt for storage or Disposal of any Solid Waste in the District and its member municipalities except from the Person holding a valid License, and only in accordance with the terms, conditions and restrictions contained in such License.

3.3 Exemption for Self-Hauling. Notwithstanding the foregoing, a person may transport and dispose up to one hundred (100) pounds of Solid Waste per week at a district-designated location without the need for a License, and the operator of such Facility shall be permitted to accept such amount of Solid Waste for Disposal.

3.4 Hazardous Waste. This Ordinance shall not regulate the storage, disposal, collection or transportation of Hazardous Waste, other than Un-Regulated Hazardous Waste, to the extent that such storage, disposal, collection or transportation is otherwise regulated by Federal or State laws, rules or regulations.

3.5 At any location where a hauler accepts solid waste from households on a per-bag basis (i.e. where customers are charged for dropping off their household solid waste), regardless of whether such location is permanent or temporary, source-separated recyclable materials shall be accepted during all operating hours. Haulers may charge for recyclables accepted at the drop-off locations, but at a rate no more than 50% of the rate per bag of trash. Recyclable materials collected at the drop-off locations shall be delivered by the hauler to a processor or broker of recyclable materials. The list of recyclable materials to be accepted at such locations shall be set by the District Regulatory Board from time to time.

### **ARTICLE IV LICENSING**

4.1 License Requirement. Each Commercial Hauler who collects, transports, and/or delivers Solid Waste within the District shall obtain a License as provided herein.

4.2 Validity of License. Each License shall be valid for a period not to exceed one year. Each License shall expire on July 1 of each year, and shall not be assignable, fungible nor transferable.

4.3 Designation in License. Each License shall designate the Facility or Facilities to which the Licensee is authorized to deliver Solid Waste. No Licensee shall transport Solid Waste to a Facility except as designated by the District. Each Licensee shall collect and dispose of all solid waste in conformance with such terms, restrictions and conditions as the District shall impose in its License.

4.4 Changes to License. Each License shall be subject to reasonable changes in the designation of the Facility where the Licensee is authorized to transport Solid Waste.

4.5 Licensing Fee. The District may impose a licensing fee to defray the costs of administering the program. The amount of the licensing fee may be established and modified by the Board of Supervisors.

4.6 Rules and Regulations. The District Board of Supervisors shall establish all rules and regulations necessary for the implementation and enforcement of this Ordinance.

4.7 Regulatory Board. There is hereby created a Regulatory Board consisting of three members, who shall be District Supervisors, each to be appointed on or before the first day of May by the Chair of the District, subject to approval by the Board of Supervisors, and who shall serve for terms of one year. The Regulatory Board shall be responsible for the implementation of this ordinance.

4.8 Revocation. Any License may be revoked by the District, following notice and hearing, for any violation of a rule, regulation, or ordinance promulgated by the District, including any term, condition or restriction contained in the License; or for any other act committed by the Licensee which constitutes Unlawful Conduct.

4.9 Local Regulation. Nothing in this Ordinance shall be construed to prohibit any member of the District from enacting and enforcing ordinances and regulations regarding the collection, transportation, storage and disposal of solid waste within its jurisdiction, provided that any such regulation or order is not inconsistent with the provisions of this Ordinance and does not conflict with any disposal site designation made by the District under Section 4.3 hereof.

## **ARTICLE V FLOW CONTROL**

5.1 Delivery to District Facilities. Solid Waste collected or generated in the District shall be delivered to a transfer station or Facility designated by the District. No Person shall deliver, or cause to be delivered, Solid Waste in the District except to such Facilities designated by the District.

5.2 Emergency Powers. The Executive Board may, by order, permit temporary changes to any license condition

## **ARTICLE VI ENFORCEMENT AND REMEDIES**

6.1 Fines. Any Person who engages in Unlawful Conduct shall be fined not more than \$500.00 for each violation or maximum allowed by law. Each day on which Unlawful Conduct continues or is repeated, shall constitute a separate violation. All fines collected shall be paid over to the District.

6.2 Injunction. In addition to any other remedy provided in this Ordinance or available at law or in equity, the District may institute a suit in equity for an injunction to prevent, restrain, or abate a violation of this Ordinance, or the rules or regulations of the District, or the terms of any License granted under this Ordinance, and shall be entitled to recover costs and reasonable legal fees in connection therewith.

6.3 Revocation of License. Upon finding that any Person has engaged in Unlawful Conduct, following notice and hearing before the Board of Supervisors, the District may revoke any License issued under the terms of this Ordinance and may deny any subsequent application for a License by such Person based on such Unlawful Conduct.

6.4 Right of Appeal. An applicant or licensee may appeal any condition, denial, or modification of a license to the District Appeal Committee within seven days of the decision appealed from. The Appeal Committee shall consist of three members of the Board of Supervisors who do not serve on the Regulatory Board.

6.5 When a hauler is issued a ticket and wishes to have a hearing before the Appeals Board, the following procedure will be followed:

- the hauler requesting the hearing shall, within seven (7) business days, submit a Request for Appeal, stating grounds for the appeal in writing.
- Upon receipt of a request for appeal, District staff shall, within seven (7) business days, schedule a day, time, and place for the hearing and notify the hauler in writing.

## **ARTICLE VII MISCELLANEOUS**

7.1 Existing Contracts. Nothing contained in this Ordinance shall be construed to interfere with or in any way modify the provisions of any existing contract existing within the District between the District and a licensee 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.

7.2 Severability. The Provisions of this Ordinance are severable. If any provision of this Ordinance, or its application to any Person or circumstance 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.

7.3 Repeal. All provisions of any other District Ordinance which are inconsistent with the provision of this Ordinance are hereby repealed.

7.4 Nothing herein shall displace or diminish any private right of action under Vermont Law.

7.5 Effective Date. The Effective Date for this Ordinance shall be August 4, 1992.

**ARTICLE VIII  
ADOPTED HAZARDOUS WASTE PLAN**

8.1 Pursuant to the Non-Regulated Hazardous Waste Management Plan of the Central Vermont Solid Waste Management District, hazardous waste generated within Central Vermont shall be unacceptable for landfill disposal. Waste delivered from within District member municipalities for transfer or disposal shall be subject to random load inspections. Any time a visual sampling and/or full load inspection identifies hazardous waste, the facility operator and/or District personnel shall fill out a written Incident Report. All Incident Reports shall be submitted to the District office within one week. Copies of Incident Reports shall be provided by the District to the affected hauler, together with written warning of hazardous waste violation. Any hauler who receives three (3) violation warnings in one calendar year shall be fined as a violation of this ordinance.

**ARTICLE IX  
SEVERABILITY**

9.1 The invalidity of any provision of this Ordinance shall not invalidate any other part.

I certify that this is a true and exact copy of this Ordinance, as adopted June 3, 1992, and amended October 6, 1993.

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Ben Rose, Clerk  
Central Vermont Solid Waste Management District