

**ORDINANCE RELATING TO THE IMPOSITION
OF A SOLID WASTE FEE.**

The Board of Supervisors of the Central Vermont Solid Waste Management District unanimously adopted the following ordinance on January 3, 1990. Amendments to Section 1 were adopted on June 3, 1992. Additional amendments were adopted by a unanimous vote of the Board at their May 7, 2003 and November 6, 2013 meetings.

The Board of Supervisors voted on December 4, 1991 to increase the solid waste fee charge from \$4.00 per ton to \$5.00 per ton, effective July 1, 1992, in adopting a budget for fiscal year 1993; on December 2, 1992, from \$5.00 per ton to \$7.64 per ton, effective July 1, 1993, in adopting a budget for fiscal year 1994; and on June 2, 1993 from \$7.64 per ton to \$8.00 per ton, effective August 3, 1993, in adopting budget revisions for fiscal year 1994; in May 1994 from \$8.00 per ton to \$12.00 per ton, effective July 1, 1994, in adopting budget revisions for fiscal year 1995; in April 2001 from \$12.00 per ton to \$16.00 per ton, effective July 1, 2001; in May, 2003 amending and renumbering Sections II, III and IV, and adding new Sections I, V, effective July 1, 2003; and, on March 2, 2005 voting to increase the solid waste fee from \$16.00 per ton to \$21.00 per ton, effective October 1, 2005 and from \$21 per ton to \$30 per ton effective July 1, 2009.

Pursuant to the provisions of Article I, Section 5(a), (h), and (u) of No. M-8, and Section 3 of No. 78 of the Acts of 1987, the Central Vermont Solid Waste Management District, acting by and through

its Board of Supervisors, hereby enacts the following

ORDINANCE RELATING TO THE IMPOSITION OF A SOLID WASTE FEE.

SECTION I. DEFINITIONS.

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

A. "Solid Waste 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. A commercial Person who self-hauls in any manner related to the business of that Person is a "Solid Waste Hauler."

B. "Facility" shall mean any landfill, solid waste transfer station or other solid waste disposal or processing facility and all contiguous land used for treating, storing, processing or disposing of solid waste.

C. "Person" shall mean an individual, partnership, company, association, unincorporated association, joint venture, trust, municipality, agency, department and any other legal entity.

D. "Disposal" shall mean: 1) The incineration of any solid waste other than clean wood for fuel; 2) delivery of solid waste to a gasification or plasma arc conversion facility 3) the placement of any solid waste in a landfill; or 4) the discharge, deposit, injection, dumping, spilling, leaking or placing of any solid waste into or on any land or water so that such solid waste or any constituent thereof may enter the environment or be emitted

into the air or discharged into any group of surface waters. Disposal does not include the placement of solid waste in a composting or recyclables processing facility that is fully permitted at the time of placement.

SECTION II. IMPOSITION OF CHARGE

Effective July 1, 2009, there is hereby imposed a solid waste fee of \$30.00 per ton on each ton or part thereof, of solid waste, construction and demolition waste, yard waste or metal goods generated and collected for disposal within the Central Vermont Solid Waste Management District Effective July 1, 2014

The Solid Waste Fee is imposed on all solid waste collected or generated in the District including but not limited to solid waste that is collected for disposal and solid waste used as landfill daily cover within or without the District.

The rate of this Solid Waste Fee may be revised from time to time by resolution of the Board of Supervisors, upon 60 days advance public notice.

SECTION III. COLLECTION OF CHARGE

A. It shall be the responsibility of each Solid Waste Hauler to collect such solid waste disposal charges on behalf of the District, and to remit the same to the District under rules prescribed from time to time by the Board of Supervisors, for inclusion in the District's general fund. Each such Solid Waste Hauler shall establish and maintain records of all solid waste collected and delivered to such facility for disposal sufficient to establish or verify the quantity of solid waste upon which the solid waste disposal charge shall be computed.

Such records shall be made available to the District upon request and shall be deemed to constitute Trade Records, and designated

Confidential and not public records or documents subject to the provisions of 1 V.S.A. Ch. 5 with respect to public access, to the maximum extent permitted by law.

B. Each Solid Waste Hauler may discharge its responsibility under Subsection (A) of this section by obtaining from such Facility having a contractual relationship with the District or situated within the District jurisdiction, a receipt signed by or with authorization on behalf of the Facility, and setting forth the proper amount of the solid waste fee together with the Facility's statement that the solid waste fee has been collected by the Facility and will be remitted to the District by the Facility. In that event, any Solid Waste Hauler may submit a receipt in lieu of direct payment to the District of that portion of the District solid waste fee to which the receipt refers. All receipts shall be of a form chosen solely by the District, its employees or agents, and shall be supplied to the Facility by the District at no charge to the facility.

C. Upon request of any licensed District Solid Waste Hauler, it shall be the responsibility of the operator of any facility having a contractual relationship with the District or situated within the District jurisdiction, to collect such solid waste fees on behalf of the District, and to remit the same to the District under rules prescribed from time to time by the Board of Supervisors or by agreement with the District, for inclusion in the District's general fund. Each such facility operator shall provide a District approved receipt to each such Solid Waste Hauler upon request, bearing the authorized mark by or on behalf of the Facility, and setting forth the amount of District solid waste fee collected, the municipality within which it was collected, the date and time of collection and the identity of the Solid Waste Hauler from which it was received, and shall at all

times establish and maintain records of all solid waste delivered to such facility for disposal sufficient to establish or verify the quantity of solid waste upon which the solid waste disposal charge shall be computed. Such records shall be made available to the District upon request.

SECTION IV. CIVIL PENALTIES

A person violating the provisions of this ordinance shall be subject to a civil penalty of not more than \$100.00 for each violation, and shall be liable to make restitution to the District of all solid waste fees for which the person was obligated to collect and remit, without regard to whether the solid waste fee was in fact collected, together with any proved damages, legal fees incurred by the District, and costs of collection. Any such violation is further subject to investigation or action by or on behalf of the State of Vermont pursuant to 13 V.S.A. § 2537 . Each ton of solid waste disposed in violation of any provision of this ordinance shall be deemed a separate violation. In addition, The District shall have the power to enjoin violations of this ordinance.

Section V. Opportunity for Hearing
Parties subject to violations of this ordinance shall have the right to the following process for protesting the alleged violation.

Preliminary Hearing by Financial Oversight Committee. A Person who receives a violation or civil penalty shall be offered an opportunity for a hearing before the CVSWMD's Financial Oversight Committee for determining whether the conduct leading to the penalty occurred. The request for hearing must be made by the Person, in writing, to the General Manager of the District no later than ten (10) days after the date the notice of violation is received. The Financial Oversight Committee shall hold a hearing within fourteen (14)

days of receipt of the request for a hearing. If 1) no hearing is requested within ten(10) days after the date of the receipt of the notice of violation, or 2) if a hearing is held, then within thirty (30) days of such hearing, the Executive Board shall issue a proposed order pursuant to 204 V.S.A. 2297a(e). Such Proposed order shall be mailed to the respondent by certified mail, return receipt requested.

Hearing by Executive Board. A person who receives an order or violation after hearing by the Financial Oversight Committee shall be offered an opportunity for a hearing before the Executive Board provided that the request for a hearing is made in writing to the General Manager of the CVSWMD no later than fifteen (15) days after the date of receipt of the proposed order of the Financial Oversight Committee. If the respondent does not request a hearing, the order shall be deemed a final order and shall be effective on the date of receipt or a later date stated in the order. If the respondent does request a hearing subsequent to the receipt of the order, the Executive Board shall hold a hearing within fourteen (14) days of receipt of the request. After the hearing the Executive Board may withdraw or amend the order and may issue a final order, which shall be delivered or mailed to the respondent in the same manner as proposed orders and which shall be effective on the date of receipt or a later date stated in the order.

The District may seek enforcement of a final order in the superior court or before the environment court.

SECTION VI. PROGRAM - SPECIFIC SOLID WASTE FEE VARIATIONS

The District may establish temporary or permanent Solid Waste Fee variations as a mechanism to

encourage or provide economic incentives for persons to comply with the provisions of this Ordinance, with District Programs as they may be created or amended from time to time, or with other District Policies.

Attest:

District Clerk, Barb Baird
Date: