

NORTHWEST VERMONT SOLID WASTE MANAGEMENT DISTRICT

AN ORDINANCE REGULATING THE COLLECTION AND DISPOSAL OF
SOLID WASTE, GENERATED
WITHIN THE NORTHWEST VERMONT SOLID WASTE MANAGEMENT DISTRICT

WHEREAS, the Northwest Vermont Solid Waste Management District (the "District") exists as a union municipal district under the laws of the State of Vermont; and

WHEREAS, the state legislature has approved and confirmed the creation of the District through the enactment of the District's governing agreement in No. M-27 of the 1990 adjourned session (the "Charter"); and

WHEREAS, pursuant to its charter and the State Solid Waste Management Act, the District has developed and adopted a Solid Waste Implementation Plan (the "Plan") providing for, among other things, separation, collection, transportation and disposal of solid waste; and

WHEREAS, the District has the authority under the Charter and the general laws of the State of Vermont to provide solid waste disposal services for its member municipalities, to manage and regulate the collection, storage, transportation, resource recovery, recycling, and disposal of solid waste generated within the District, to make proper charges for its facilities, programs, and services, and to enact, amend, or repeal any and all rules, regulations, and ordinances otherwise necessary or desirable for the orderly conduct of the affairs of the District and for carrying out the purposes of the District; and

WHEREAS, the Board of Supervisors (hereinafter, "the Board") has determined that recyclable materials should be collected and recycled to minimize the consumption of resources, prolong the life of landfills, and protect the environment and the public health and welfare; and

WHEREAS, the Board has determined that this ordinance is in the public interest, promotes public health, safety and welfare; promotes the efficient, economical and environmentally sound management of solid waste generated within the District; and is in furtherance of the District's Plan;

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

PURPOSE

The Board of the Northwest Vermont Solid Waste Management District, pursuant to Article I, Section five of the District Bylaws and 24 V.S.A. Section 2202(a), does hereby adopt the following ordinance to regulate the separation, recovery, recycling, collection, removal, storage, and disposition of solid waste, generated in the Northwest District. Further, this Ordinance, is enacted and ordained, pursuant to Article IV, Section 8 of the District Bylaws, for the purpose of establishing certain user fees for the waste management services provided by the District in order to promote the health, safety, and general welfare of the District, its member municipalities, and their inhabitants, and the general community, and to fulfill the District's responsibilities under 24 V.S.A. section 2202(a).

Short Title. This ordinance shall be known and may be cited as the "District Waste Management Ordinance".

ARTICLE I DEFINITIONS

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

- A. "Designated area" shall mean an area designated for placement of solid waste for collection, which must be readily accessible at all times by a conventional solid waste collection truck and not directly on the traveled portion of any public road or sidewalk. An area may be so designated through mutual agreement between a Person and the person's hauler. However, the location of a Designated area shall not violate any applicable local or municipal ordinance.
- B. "Disposal" shall mean landfilling or incineration of municipal solid waste.
- C. "District" shall mean the Northwest Vermont Solid Waste Management District, a union municipal district created and authorized by act of the Vermont legislature.
- D. "Facility" shall mean any landfill, Disposal facility, processing site, and all contiguous land, structures, other appurtenances, and improvements on land, used for treating, storing, processing, or disposing of Solid Waste, including

Recyclables. A Facility may consist of a single or several treatment, storage, or Disposal units.

- E. "Generator" shall mean a Person who produces solid waste by any means including, but not limited to, household, commercial, institutional, and industrial activities.
- F. "Hauler" shall mean any Person Licensed, or required to be Licensed, that collects, transports, or delivers solid waste generated within the District.
- G. "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 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 reasons of being harmful, toxic or dangerous or otherwise.
- H. "Household Solid Waste" shall mean any garbage, trash, or rubbish derived from households, including single and multiple residences.
- I. "License" shall mean any license issued or required pursuant to this ordinance.
- J. "Non-Regulated Hazardous Waste" shall mean non-regulated Hazardous Waste that prior to its delivery to a Facility or any Person delivering it to any Facility would have been classified as either household hazardous waste or hazardous waste from exempt small quantity generators, pursuant to and determined in accordance with the rules and regulations of the State Agency of Natural Resources.
- K. "Person" shall mean an individual, partnership, company, corporation, and any other legal entity. In any provisions of this Ordinance prescribing a fine, penalty, or denial or revocation of a License, the term "person" may include the officers and directors of the corporation.
- L. "Plan" shall mean the Solid Waste Management Plan developed and adopted by the District on January 9, 1991 as such plan is amended from time to time.
- M. "Recyclables" shall mean such items as may be defined by resolution of the Board of Supervisors from time to time, which list may be amended by resolution of the Board of Supervisors, upon such publication notice as the Board may

prescribe, due to factors such as, but not limited to, changes in market conditions or technology.

- N. "Resident" shall mean an individual or family unit residing in and domiciled in a particular city, town or village within the District.
- O. "Solid Waste" shall mean any discarded garbage, refuse, and other discarded material including solid, liquid, semi-solid, or contained gaseous materials resulting from industrial, commercial, mining, or agricultural operations and from community activities but does not include animal manure and absorbent bedding used for soil enrichment or 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).
- P. "Violation" shall mean any act, or failure to act, in violation of any provision of this Ordinance, any rule or regulation enacted by the District, any term, condition or restriction imposed upon, or required by, any License issued or required under the terms of this Ordinance, or any applicable law or regulation relating to the collection, transfer, transportation, processing, or Disposal of Solid Wastes and/or Recyclables.
- Q. "Waste" shall mean a material that is discarded 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, or is a manufacturing or mining by-product and is normally discarded, including, without limitation, Solid Waste and Household Solid Waste. It shall not include any material that has a bona fide economic value to the generator.
- R. "Yard Wastes" shall mean tree stumps, brush, lawn clippings, leaves, weeds, and other organic materials accumulated during the normal maintenance or restoration of a yard, garden, recreational field, or other area covered with vegetation.

ARTICLE II RESPONSIBILITIES OF GENERATORS

Section 2.1. General. All Generators within the District shall separate their solid waste according to the provisions of this

Ordinance and any procedures or practices adopted by the Board of Supervisors to implement this Ordinance.

Section 2.2 Separation of solid Waste. Except as hereinafter provided in Section 2.3, every Person who generates solid waste within the District shall separate recyclables from such solid waste. Recyclables shall be prepared as required by the Hauler (i.e., free of food or other residues and non-recyclable parts).

Section 2.3 Disposal of Solid Waste. After proper separation of recyclables, and remaining solid waste, each generator shall either set such separated waste and recyclables in a designated area for collection by a hauler or deliver such waste to a facility that is legally authorized and permitted to accept such waste. This section shall not be construed to prohibit or restrict the composting by an individual of his or her own yard or food waste, or the recycling or reuse of any materials by any Person.

ARTICLE III REGULATION OF SOLID WASTE

In accordance with Article I, section two of the District Bylaws, the collection, removal and disposal of all solid waste within the Northwest District shall be regulated by the Board of the Northwest District for the orderly provision of efficient, economical, and environmentally sound disposal and reduction of solid waste generated by member municipalities, their residents and businesses. Such Administrative Procedures as are necessary and appropriate to effectuate the purposes and aims of this Ordinance shall be promulgated by said Board. Such Procedures shall be consistent with with the District Plan, with the provisions of this Ordinance, and with state and federal laws and regulations. Initial Administrative Procedures shall be promulgated hereunder no later than 30 days after the effective date of this Ordinance, or amendment thereto. The Board shall implement such measures as they deem necessary to provide for public education of the requirements of this Ordinance.

ARTICLE IV COLLECTION

Section 4.1 Applicability.

Within thirty (30) days of the effective date of this ordinance, no person or legal entity may operate, within the geographical limits of any municipality which is a member of the Northwest District, a business which is engaged in the collection and hauling of solid waste without possessing a valid and current license issued by the District. For the purposes of this ordinance, solid waste collection and hauling means commercial collection of solid waste, and businesses which self haul site generated waste, where such waste constitutes more than two tons in any two calendar months of any year. The licensing provisions of this ordinance shall not apply to the following:

(a). The collection and disposal of any special, hazardous or toxic wastes which are subject to special state and/or federal regulations and therefore are not classified as solid waste.

Section 4.2: License Requirements.

The District shall issue a license to any person or legal entity for solid waste hauling, or subcontracting for recyclables collection pursuant to Section 4.4(b), upon application by said person or legal entity provided the following conditions are satisfied:

- (a). The applicant for license has all necessary current state licenses to operate, or satisfies the District that same is/are forthcoming.
- (b). The applicant for license is not, at the time of application, under suspension under Section 6 of this Article. For purposes of this Subsection, applicant shall mean not only the named applicant, but any person or legal entity which has a controlling interest in the applicant business.
- (c). The applicant shall submit to the District reports on waste hauled on forms supplied by the District, for reporting periods determined from time to time by the District, which reporting periods shall be no more frequent than quarterly. The reports required under this subsection shall be due thirty (30) days after the last day of the period covered by each report. Except as required by law or Court Order, the District shall ensure that reported information is held in confidence and reported to the public only in the aggregates, except when such information is used to enforce the provisions of this ordinance.
- (d). The applicant shall file a Tiered Fee Schedule, pursuant to section 4.4(d).

(e). The applicant shall identify each scale operator and the location of each scale the applicant will use in order to comply with section 5.4 below, and file the written authorization of any such operator other than the District, in a form satisfactory to the District, so that the District, its agents, employees, and independent contractors may inspect such operator's records regarding the weight of the applicant's vehicles. Each scale operator and the location of each scale shall be noted on the license. If the Hauler proposes to use any additional scale not noted on the License, the hauler shall identify the scale operator and the location of such scale and furnish a similar authorization as to the additional scale operator. Any scale identified by the applicant shall be approved by the District prior to the issuance of the License.

Section 4.3: License Fee and Renewal.

The license and each renewal issued by the District shall have a fee and annual renewal date which is established by duly adopted Administrative Procedure of the District. Each applicant shall be entitled to renewal of license, upon payment of the requisite fee, provided the applicant is in full compliance with all the provisions of this Ordinance.

Section 4.4: Responsibilities of Licensees.

(a) Each Licensee shall comply with the terms and conditions of the License, and the requirements of this ordinance.

(b) Each Licensee shall offer, either independently, or through subcontract with another Licensed hauler, Designated Area Collection of Recyclables to all the Licensee's customers in the District, except that such service need not be offered where the member municipality has arranged for such service.

(c) Licensees shall not require their customers to sort recyclables, except in situations where more than a 15 gallon container per week of one or more recyclable items are generated, into more than two groups: fibers (as identified by the Board), and a second group: containers (as identified by the Board).

(d) Tiered Fee Schedule.

All Licensees shall charge for collection services based on the volume or weight of waste collected from each customer. Said

fee system may have a base rate for minimum services, but must be designed so as to encourage the reduction, reuse, and recycling of waste materials by all of licensee's customers.

Notice of such Tiered Fee Schedule options shall be delivered to all customers at least once per year, and show all customer fees for collection and handling of recyclables separately from fees for other solid wastes. Each Licensee's Tiered Fee Schedule shall be filed with the District with the Licensee's annual License Application, and shall be subject to review for compliance with the requirements of this Ordinance, and shall otherwise be available to the District upon request.

(e) No Licensee shall (i) knowingly collect or transport for disposal solid waste which has not been separated as required by Article II, or (ii) co-mingle any such solid waste previously separated in the collection or transportation thereof. Any non-separated solid waste shall be rejected by the Licensee, who shall notify the person generating such solid waste of the reasons for rejection.

Section 4.5: Enforcement, Fines and License Suspension.

Suspension of License

(a). The license issued hereunder may be suspended by the Board or such Committee of the Board as designated by them upon finding after a Hearing that licensee has violated any provision of this ordinance or any applicable local municipal solid waste ordinance.

(b). The Board or their administrative designee shall notify the licensee that it intends to suspend license in accordance with the provisions of this section by Certified Mail, or by personal service on the licensee. Said notice shall include a simple statement which itemizes the basis for the suspension action. Said notice shall also include a provision that unless the licensee provides satisfactory evidence to the District that the violation noticed has been corrected within five (5) days of the date the Notice of violation is mailed, that the suspension provisions of this section shall become effective.

(c). If the licensee fails to correct the violation or request a Hearing as noticed pursuant to Administrative Procedures within the time provided in said Procedures, then the Board of Supervisors may forthwith suspend the license.

(d). The suspension of license under section 4.5(b) above may be for:

1. a specific time period in accordance with a schedule adopted pursuant to regulation by the Board;
- or

2. until the licensee is no longer in violation of the provisions of this ordinance or, if applicable, any local waste management ordinance. Any suspension under this Sub Section shall continue until written notice of compliance has been issued by the District. Such notice to be issued forthwith upon satisfactory demonstration of compliance.

Section 4.6: Penalties.

Any person violating any provision of this Article shall be fined not more than Five Hundred (\$500.00) Dollars for each violation. Each day of operation in violation shall constitute a separate violation of the Article. Each breach of any of the other requirements of this Ordinance shall constitute a separate violation of the Ordinance.

Section 4.7: Additional Remedies.

In addition to the penalties and license suspension provided for in Sections 4.5 and 4.6 of this Article, the District may apply to the presiding judge of a court of competent jurisdiction to enjoin any violation of this Ordinance, pursuant to 24 V.S.A. Sect. 1974.

Section 4.8: Enforcement. Procedure for enforcement of this Ordinance shall be as specified in the Administrative Procedures promulgated hereunder as defined in Article II of this Ordinance.

ARTICLE V
FUNDING FOR DISTRICT ACTIVITIES

Section 5.1: Applicability.

The requirements of this Article shall apply to all Licensed Haulers and all facilities accepting solid waste for disposal which is generated within the geographical limits of any municipality which is a member of the Northwest District.

Section 5.2: Imposition of Franchise tax.

The District Board of Supervisors is authorized to impose, as a condition of acceptance of solid waste generated in the District by any solid waste management facility, or disposal by any Licensed Hauler, a franchise tax in the amount of FIFTEEN DOLLARS (\$15.00) per ton of solid waste so deposited or collected which originates in the District. Monies collected under this Franchise Tax will be used by the District for the exclusive purpose of funding District Administration and other activities

as allowed by the District Charter. The amount of the per ton franchise fee may be adjusted periodically by resolution of the Board to reflect corrections to waste generation estimates, or as needed to accommodate the District budget.

Section 5.3: Fee Variations and Surcharges.

The District may establish Fee Variations or surcharges on solid waste delivered to District facilities to encourage or otherwise provide economic incentives to comply with the provisions of this Ordinance or other District policies.

Section 5.4: Weighing.

a. The District shall maintain or cause to be available a scale or scales for weighing vehicles that have been and are being used for collecting solid waste within the District for disposal within or without the District (a "District Designated Scale"). A District Designated Scale may be operated by the District or other persons designated by the District. Any Person required to obtain a Hauler's License Pursuant to this Ordinance shall cause any such vehicle to be weighed at either such a District Designated Scale, or at a District Approved Scale.

b. A Hauler may, upon written request to the District, request the District to approve the use of a scale in addition to District Designated Scales. Any such request shall be made with the following supporting documentation: (i) identification of the scale and operator; (ii) authorization from the scale operator to the District to inspect and monitor the scale and records relating to the scale and use of such scale by the Hauler. The District may approve the use of a scale (a "District Approved Scale") by a Hauler, in addition to use of District Designated Scales, only if the District is reasonably satisfied that such scale is reliable and payment of district fees will not be avoided. The District may require the Hauler requesting to use a District Approved Scale to provide from the scale operator, an agreement authorizing the District to inspect the Scale and records relating to the scale and use of such scale by the Hauler. The District may prohibit the use of a scale that it deems unreliable for the purposes of this Ordinance. The District, upon reasonable evidence that a District Approved Scale is not accurate, payment of any fee is being avoided, or is otherwise used in violation of the Ordinance, may revoke approval of a scale as a District Approved Scale.

c. Weighings at any scale shall be performed: (1) before any solid waste is removed from such vehicle at a Disposal or

Transfer Facility of any kind, either within or without the District; and, (2) when such vehicle is empty. In the event weighing of a vehicle is performed at other than a Disposal Facility or Transfer Facility for the Solid Waste in such vehicle, the average tare weight of the vehicle may be used in lieu of actual weighing of the empty vehicle unless the District finds the use of such tare weight is inaccurate.

d. If weighing facilities are not readily available, or, upon a showing of undue burden, a Hauler may request the approval of the District to pay the fee based upon the estimated weight of Solid Waste such Hauler will collect within the District. Such request shall be made as part of an application for a license or an amendment to an existing license and shall be incorporated into an agreement between the licensee and the District. Estimated weights shall be based upon information and evidence reasonably satisfactory to the District and shall be valid for no longer than one (1) year, or such shorter period of time as the District may designate. The District shall promptly consider any request for an amendment to a Hauler's License. Approval of any such amendments may be made by the Executive Board of the District. The District shall conduct tonnage audit(s) and adjust fees upon the expiration of the agreement, or at such other times as set forth in the agreement.

If weighing facilities are not readily available, or if an undue burden would be imposed on the Hauler, the District may authorize the Hauler to use estimated weights for specific and isolated loads of Solid Waste for purposes of calculating the Fee due the District.

e. In the event that any Hauler either (i) fails to cause a vehicle to be weighed at a District Designated Scale or a District Approved Scale or fails to obtain the approval of the District to use an estimate of weight of Solid Waste collected within the District, or (ii) fails to provide the District with satisfactory documentation of any such weighing as so required, or (iii) submits any information that is incorrect, inaccurate, or fraudulent, the District may assess or reassess Fees on the basis of any information available. If necessary, such fees may be estimated on the basis of external indices, such as amounts of Solid Waste normally generated from any group of Solid Waste Generators or other factors.

Section 5.5: Record Keeping.

Every Person collecting Solid Waste or recyclables within the District shall keep such accurate, daily records as will

enable the District to determine compliance with the terms of this and any other ordinance adopted by the District and with any license granted by the District, including without limitation records setting forth at least the following information:

a. The date, time, and place that each vehicle collecting Solid Waste or recyclables in the District for Disposal within or without the district was weighed, and the gross and tare weights measured at each such weighing;

b. Each and every destination to which each vehicle load or partial vehicle load of Solid Waste or recyclables was taken for Disposal, and the weight of Solid Waste or recyclables in each such load;

c. All monies and other compensation received, paid to or charged by the Hauler for the collection, Transfer or Disposal of Solid Waste, or recyclables, the basis for the receipt, payment or charging of such monies or other compensation; and

d. All monies and other compensation paid by or charged to the Hauler for the Hauler's Transfer or Disposal of any Solid Waste, or recyclables including without limitation all such monies and compensation constituting tipping fees, solid waste management fees, and Disposal fees, and the amount of Solid Waste with regard to which monies or other compensation were paid or charged.

Such records are 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 regarding access by the public, to the maximum extent permitted by 1 V.S.A. Ch.5.

Section 5.6: Inspections.

All records required to be kept under Section IV.5 above shall be available during business hours, upon two (2) days written notice, for inspection and audit by the District and the District's authorized employees or agents. All required records shall also be preserved for a period of at least five years, except that the District may consent to their destruction within that period or may require that they be kept longer. All vehicles, Waste Containers and Recyclable Containers used in the collection, transportation, Transfer or Disposal of Solid Waste or recyclables generated within the District shall be subject to inspection without notice by the District or its agents for

purposes of determining compliance with the terms of this or any other Ordinance adopted by the District or with any license granted by the District or for the purpose of data collection. Failure to allow such inspection constitutes a violation of the Ordinance. Unless the District has reasonable grounds to believe that a Hauler, vehicle, Waste Container or recyclable Container is not in compliance with the terms of any applicable license, this Ordinance or the Districts's other ordinances and regulations, the District shall attempt to limit any inspection to no more than one hour.

All Solid Waste or recyclables generated within the District or deposited at any facility owned, operated or designated by the District, it's agents, or member municipalities shall be subject to inspection without notice by the District or its agents for the purposes of determining compliance with the terms of this and any other Ordinance adopted by the District or with any license granted by the District or for the purpose of data collection. Failure to allow such inspection constitutes a violation of this Ordinance.

Section 5.7: Payments.

Each Fee required under this Ordinance shall be assessed by the District or its agent at the time each vehicle is weighed for the second time under Section 5.4 above, if such weighing occurs at a Scale operated by or on behalf of the District, and otherwise at the same time that the Hauler provides the District with documentation of the weighing, which shall be within five business days of such weighing. the weight slips at time of each weighing of Solid Waste shall be considered an invoice for the fee due.

At the time of the first such assessment, each Person required to pay any such Fee shall be required to choose one of the following options for payment:

- a. Pay the facility acting on behalf of the District according to the terms allowed by the facility; or
- b. Pay the District in cash or with a check by the end of the day on which each assessment is made; or
- c. Provide the District with authorization to make withdrawals by electronic funds transfer from a checking or savings account with a balance sufficient to cover all fees assessed each day; or,

d. Pay the invoices, submitted weekly, within such period of time as the District's Board by resolution, policy or rule, may designate;

e. Establish or maintain an escrow account or provide a letter of credit satisfactory to the District equal to anticipated monthly bill and pay monthly statements within such period of time as the District's Board may, by resolution, policy or rule, designate. Haulers may opt for an actual calendar month payment in which the Hauler would be responsible to add or delete days of the month as needed to effect an actual calendar month. Once a Hauler opts for a "calendar month payment," written permission from the District would be required to effect a change.

Each Person required to pay any Fee under this Ordinance may request to change the option selected by notifying the District in writing thirty (30) days prior to the change. The District, with good cause, reserves the right to refuse to allow any such change.

The District may modify such payment policies by resolution, rule, or policy.

ARTICLE VI PENALTIES

Section 6.1 Late Payments; Assessments and Penalties.

Any Person who fails to pay a Fee imposed by this Ordinance on the date prescribed for payment shall be subject to any or all of the following assessments and penalties:

a. A penalty equal to two and one-half percent (2 1/2%) of the unpaid balance of any Fee; and

b. Interest on the unpaid balance of any Fee, accruing at the highest rate allowed by law, and charged daily; and

c. A requirement that all future payments be made only pursuant to option B. of Section IV.7 above.

Section 6.2 :Determination of Fee.

In addition to the penalties provided by this Ordinance, if any Person required to pay a Fee under this Ordinance fails to cause a vehicle to be weighed as required by this Ordinance or the District's regulations, or fails to provide the District with documentation of any such weighing as so required, or submits any information that is incorrect or insufficient, the amount of the Fee due shall be determined by the District from any information available. If necessary, such Fee may be estimated on the basis of external indices, such as amounts of Solid Waste normally generated from any group of Solid Waste Generators or other factors. Notice of the determination shall be given to the Person liable for the collection of payment of the Fee. The determination shall finally and irrevocably fix the amount of the Fee 60 days after giving notice of the determination unless the Person against whom it is assessed shall apply in writing to the District for a hearing by the Board, or unless the District shall redetermine the Fee. After the hearing, the District shall give notice of determination to the Person against whom the Fee is assessed.

Section 6.3: Intentional Evasion of Fees; Penalties.

Any Person who knowingly and with intent to defeat or evade a Fee imposed by this Ordinance fails to remit a fee required by this Ordinance, fails to keep or provide records required by this Ordinance, or fails to cause a vehicle to be weighed as required by this Ordinance, shall have violated this ordinance and shall be subject to the provisions of Section 4.5 of this Ordinance.

Section 6.4: Disposal at Unlined Landfills and Illegal Transportation; Penalties.

Any Person who transports, collects, dumps, stores or disposes (or arranges for any of the foregoing) of any Solid Waste generated within the District at other than a certified facility or at a facility which that person knows, or with reasonable diligence, should know is operating in a manner that does not comply with applicable laws, rules, regulations and permit conditions, or otherwise contrary to the requirements of this ordinance or any of the District's regulations, shall have violated this ordinance and shall be fined not more than One

Thousand Dollars (\$1,000.00) for each such offense, and shall be subject to the license suspension provisions of Article 4, Section 5 of this Ordinance.

Section 6.5: Collection by Unauthorized Person; Penalties.

It shall be a violation of the Ordinance for any person to collect, transport, Dispose of or pick up or cause to be collected, transported, Disposed of or picked up any Solid Waste generated within the District in a manner that is not in compliance with this Ordinance. Each such occurrence shall be punishable by a fine of not more than Five Hundred Dollars (\$500) and shall be a separate and distinct violation of this Ordinance. Further, the District may seek injunctive relief pursuant to Section 4.7 of this Ordinance.

In addition, the District may direct any Person subject to this Ordinance to abate hazards created as a result of the Unlawful Conduct or to restore the environment to the condition existing before the Unlawful Conduct.

In determining the amount of civil penalty to be ordered, the District shall consider the following:

- a. the degree of actual or potential impact on public health, safety, welfare, and the environment resulting from the violation;
- b. whether the Person has cured the violation;
- c. the presence of mitigating circumstances;
- d. whether the person knew or had reason to know the violation existed;
- e. the Person's record of compliance;
- f. the economic benefit gained from the violation;
- g. the costs of enforcement;

Section 6.6: No Waiver.

No failure or repeated failure by the District to impose any of the penalties or requirements provided in this Ordinance shall be construed as a waiver by the District of any of its rights. Nor shall such failure or repeated failure constitute a course of conduct or dealing upon which any Person is entitled to rely.

ARTICLE VII
MISCELLANEOUS

Section 7.1: Local Regulation. Nothing in this ordinance shall be construed to prohibit any member municipality of the district from enacting and enforcing ordinances and regulations regarding the collection, transportation, storage, processing and disposal of solid waste within its jurisdiction, provided that any such regulation or ordinance is not inconsistent with the provisions of this ordinance.

Section 7.2: No Regulation of Hazardous Waste or Bio-Medical Waste. This ordinance does not regulate the storage, recycling, disposal, collection, or transportation of hazardous waste, special medical waste, infectious waste, or human or animal remains, to the extent that such storage, recycling, disposal, collection or transportation is otherwise regulated by Federal, or State laws, rules, or regulations.

Section 7.3: Waiver by District. The Board of Supervisors may, upon issuance of Public Notice, extend the commencement date for the separation of solid waste.

Section 7.4: Construction. The terms and provisions of this ordinance are to be liberally construed so as to best achieve and promote the goals and purposes thereof. The captions and heading in this ordinance are inserted for purposes of convenience and reference only, and shall not be used in any way for the construction and interpretation of this ordinance.

ARTICLE VIII POWERS OF THE DISTRICT

Section 8.1 General Powers. The Board may:

a. Delegate to any officer or employee of the District such administrative functions as the Board may deem necessary to carry out the provisions of this Ordinance;

ARTICLE IX SEVERABILITY

This Ordinance and the various parts, sentences, sections, and clauses thereof, 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 X
EFFECTIVE DATE

This Ordinance and amendments thereto shall take effect upon adoption by the Board of Supervisors or the Date the Board declares it effective, provided that Art. 4 Sec. 4(d) (requiring a tiered fee schedule by haulers) shall take effect one hundred and twenty (120) days after the effective date of the amendment creating said tiered fee schedule requirement.

Adopted: February 2, 1994

Effective Date: April 1, 1994

Amended: February 1, 1995; July 10, 1996

Amendments to this Ordinance shall become effective upon adoption by the Board of Supervisors or such other date as may be set by resolution of the Board. The requirements for recycling under this Ordinance may be phased in pursuant to the District Plan.