

**VARIABLE RATE PRICING BY VOLUME OR WEIGHT
FOR MUNICIPAL SOLID WASTE COLLECTION**

CIVIL ORDINANCE

For the town of Benson, VT

WHEREAS, the Town of Benson, VT 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 Benson, VT has implemented and required 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; and

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, a variable rate pricing is a more equitable pricing structure for solid waste. Charges are based on the number of units of solid waste a residential customer produces; and

WHEREAS, the Town of Benson, VT has had in place and practice a variable rate pricing system for over a decade and is enacting this ordinance solely because the Benson, VT Select Board is being mandated to do so by the Agency of Natural Resources of the State of Vermont,

NOW, THEREFORE, to continue to encourage the responsible use of resources and the protection of the environment, the Selectboard of the Town of Benson, VT, hereby adopts this ordinance requiring variable rate pricing charges for Collection of MSW from residential customers in the Town of Benson, 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 also commonly known as Pay as You Throw (PAYT)."

Article II – DEFINITIONS:

- a. “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;
- b. “Facility” shall mean any site or structure used for treating, storing, processing, recycling, transferring or disposal of municipal solid waste. A Facility may consist of a single or several treatment, storage, recycling, or disposal locations;
- c. “Hauler” shall mean any person that collects, transports, or delivers solid waste generated within a given area;
- d. “Municipal Solid Waste” hereinafter referred to as “MSW,” means combined household, commercial, and industrial waste materials generated in a given area;
- e. “Variable Rate Pricing” means a fee structure that charges for MSW Collection based on its weight or volume.
- f. “Recycling Methodology” means the method of collection used by the Hauler, i.e., single stream/dual stream, type of containers, truck type, and processing facility.
- g. “Enforcement Agent” shall mean the SWAC designated administrative enforcement agent and/or the SWAC Executive Committee.

Article III - VARIABLE RATE PRICING:

Haulers and Facilities that provide Collection and/or drop-off disposal services for MSW to residential 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 or Pay As You Throw.

Each Hauler or Facility shall establish a unit-based price to be charged for the Collection/drop-off disposal of each unit of MSW from residential 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 resident. 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 Hauler or Facility from establishing rules and regulations regarding the safe maximum weight of bags or containers of MSW materials. A Hauler or Facility may refuse to collect or allow disposal of any bag or container which is overloaded or which contains 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 unit-based price charged per unit of MSW, Haulers 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 MSW.

In the event that a Hauler 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 unit-based price to maintain transparency.

Nothing herein shall prevent or prohibit a Hauler 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 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 state statutes. A Hauler or Facility may incorporate the collection cost of mandated recyclables into the collection cost of solid waste and may adjust the charge for the collection of solid waste.

Article V – SERVICE PROVIDER PRICING SYSTEM AND CERTIFICATION:

The Service Provider shall file and submit evidence of their variable rate pricing system and compliance with all applicable State laws to the Solid Waste Alliance Communities (SWAC). A form will be provided to the Service Provider by the Solid Waste Alliance Communities Administrator (www.rutlandcountyswac.org). Instructions for submittal can be found on the form. This certification must be submitted annually to meet the requirements of the Agency of Natural Resources.

Article VI - PENALTIES AND CIVIL ENFORCMENT:

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

The penalties for violating this ordinance are as follows:

<u>First Offense:</u>	Notice of Violation (written warning – demanding Variable Rate Pricing)	
	<u>Civil Penalty</u>	<u>Waiver Fee</u>
<u>Second Offense:</u>	\$100.00	\$ 50.00
<u>Third Offense:</u>	\$250.00	\$125.00
<u>Fourth and Subsequent Offenses:</u>	\$500.00	\$300.00

Article VII: DESIGNATION OF ENFORCEMENT PERSONNEL:

For the purposes of this ordinance, the Selectboard may designate any combination of the following persons as enforcement personnel; members of the Selectboard, the Town Health Officer, the Town Attorney, the Town Constable(s) and any official with law enforcement authority under Vermont law.

Article VIII: 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 IX: 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 found by a court of competent jurisdiction to be invalid, such finding shall not invalidate any other part of this ordinance.

Article X: EFFECTIVE DATE, PUBLICATION AND POSTING

This ordinance shall become effective 60 days after its adoption by the Select Board unless a petition requesting voter approval is submitted within forty-five (45) days following adoption as provided in 24 V. S. A. § 1973.

ADOPTED: by the Board of Selectmen, Town of Benson at its meeting held on the 31 day of August, 2015.

POSTED & PUBLISHED: Posted 9/4/2015 Published 9/9/2015

EFFECTIVE DATE: October 30, 2015

Guy M. Charlton
Guy Charlton, Selectboard, Chair

Samuel Bartholomew
Samuel Bartholomew, Selectboard

Gina Cull
Gina Cull, Selectboard

Sue Janssen
Sue Janssen, Selectboard

Robert Lussier
Robert Lussier, Selectboard