

## Chapter 7

### ORDINANCE REGULATING SOLID WASTE

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### SECTION 1 – COLLECTION AND DISPOSAL OF SOLID WASTE

#### ARTICLE I. PURPOSE

This Ordinance is intended to promote the public health, safety, welfare, and the responsible use of resources and protection of the environment. It seeks to protect the interests of Town residents and businesses by regulating the accumulation, storage, collection, removal, and recycling and ultimate disposal of solid waste, so that conditions that might create fire, health, or safety hazards, harbor undesirable pests, or impair the aesthetic appearance of any part of the Town are prevented and eradicated. The emphasis of this Ordinance is on Mandatory Recycling, in accordance with Vermont Law Act 148, to reduce the amount of material in the waste stream.

#### ARTICLE II. DEFINITIONS

Active Resident Curbside User shall mean any person considered a ‘Resident’, who is actively served by the Town curbside program.

Authorization by the Town of Brattleboro shall mean authorized pursuant to a legal contract, license, or other written authorization entered into by the Town of Brattleboro and another person as defined herein.

Bulky Waste Items of solid waste such as furniture, mattresses, appliances, white goods, large auto parts, and other oversize wastes whose large size precludes the use of PAYT bags.

Collection: The act of removing solid waste or recyclables to a transfer station, processing, or disposal facility.

Commercial Building shall have the same meaning as used by the Town of Brattleboro Office of Assessment, which includes multi-family buildings with five (5) or more units.

Commercial Solid Waste shall mean garbage, refuse and other discarded solid materials generated by commercial business, industrial and institutional activities.

Commercial User: Any person, business, non-Town resident, and any other user that is not defined herein and is not an 'active resident curbside user'.

Compostables: kitchen food scraps (including plate scrapings, vegetables and fruits, breads, meat, fish, poultry, bones, dairy/cheese, fats and oils) low grade and soiled paper, and pet waste; food and organic waste generated by grocery stores, restaurants/cafeterias, and food manufacturing.

Composting the controlled biological decomposition of organic matter to produce a stable humus-rich material.

Construction and Demolition Debris or Waste: Solid waste resulting solely from construction, remodeling, repair, or demolition operations on buildings or other structures.

Container: A town approved receptacle or bag designed and intended for the storage of residential solid waste, compost or recyclables, and/or a solid waste container for use by a commercial user which may include dumpsters, solid waste compactors, or open top roll-off boxes.

Curbside shall mean an area adjacent to the street curb, but in no case greater than ten feet from the curb, nor directly on the traveled portion of any Town road or sidewalk.

Curbside Compost: Compostables placed at curb in approved container for pick-up by Town hauler.

Curbside Program: Service provided by the Town to pick up RSW, recyclables and compostables from the curbside at residential buildings containing four (4) or fewer dwelling units.

Dwelling Unit: A single unit providing independent living facilities for one or more persons

including provisions for living, sleeping, eating, cooking and sanitation, or one or more rooms within a building arranged or used for residential purposes

Garbage: All putrescible waste, including animal offal and carcasses, excluding sewage and human waste.

Generator shall mean a Person who produces Solid Waste by means including, but not limited to residential, commercial, institutional, and industrial activities.

Hauler shall mean any person who transports recyclables, compostables, and/or solid waste to an appropriate destination for compensation, and any person, business, corporation, partnership, association, or organization authorized to collect solid waste within the limits of the Town of Brattleboro. This includes property caretakers. Specifically exempted from this definition are individuals carrying their own solid waste

Hazardous Waste shall mean any material of substance which, by reason of its composition or characteristics, is from time to time defined as hazardous either by 43 USC s6901 et seq or by 15 USC s 2605(e) or by 42 USC s 9601 et seq or by 10 VSA Ch 149, or by any laws of similar purpose or effect, or by any regulations under any of the foregoing and any other material by 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, or otherwise.

Household Hazardous Waste: (HHW) means any waste from households (including single and multiple residences, hotels and motels, picnic grounds, and day-use recreation areas) that would be subject to regulation as hazardous waste if it were not from households.

Mandated Recyclables shall mean recyclable material as specifically identified in this Ordinance or other regulations promulgated by the Selectboard or by the State of Vermont.

Multi-Family Dwelling Units: A building, or buildings attached to each other, that contain two or more dwelling units.

Open Fire Burning shall mean open and enclosed burning of solid waste in the open where the products of combustion are emitted directly into the atmosphere without passing through a stack, chimney, or other enclosure.

Person shall mean any person, firm, partnership, association, corporation, company, or organization of any kind. Public Buildings: All buildings or structures owned or leased by governmental agencies for the purpose of conducting public business

Recyclables: Any solid waste that has been separated or should be separated as required by this Ordinance from other solid waste for the purpose of recycling.

Recycle (or "Recycling") means either the process of utilizing items from solid waste for the

production of raw materials or products; or placing of recyclables into containers whose purpose is to collect and store recyclables.

Recycling Container: A Town-approved container for purposes of recycling, and a receptacle used exclusively for the storage of recyclables until they are collected.

Recycling Facility shall mean dedicated roll-offs, a Materials Recovery Facility, or any other facility or location, public or private, which accepts materials for the purpose of recycling.

Refuse: Discarded material having not intrinsic value or use (not to include recyclables)

Resident shall mean any person who has a residence within the corporate limits of the Town of Brattleboro, including but not limited to homeowners and tenants.

Residential Solid Waste (RSW) shall mean garbage, refuse and other discarded solid materials generated by normal household activities and having no value to the owner at the time it is discarded. Residential Solid Waste shall include wastes generated in single and multi-family housing, apartments and condominiums.

Significant Quantity: Recycling content observed by driver/agent in a bag or barrel that, as a percentage of weight or volume, exceeds 10%.

Solid Waste shall mean any solid waste as defined in Title 10 VSA § 6602 and Residential Solid Waste (RSW) as defined by this Ordinance.

Town shall mean the Town of Brattleboro.

Transfer Station shall mean a solid waste management facility where solid waste is collected, aggregated, sorted, stored, and/or processed for the purpose of subsequent transfer to another solid waste management facility for further processing, treatment, transfer, or disposal.

Trash: see Residential Solid Waste (RSW)

Variable Rate Pricing (aka Unit Based Pricing, Pay-As-You-Throw, or PAYT): Charging a tiered or variable fee based on the volume or weight of the RSW collected.

Windham Solid Waste Management District (WSWMD): Waste district in which the Town is a member. WSWMD owns and operates the Material Recovery Facility (MRF) on Old Ferry Rd. in Brattleboro where recyclables and compostables collected curbside are taken.

Yard Waste shall mean tree stumps, limbs, brush, lawn clippings, weeds, and other organic material accumulated during the normal maintenance of a yard or garden.

### **ARTICLE III. ADMINISTRATION**

Enforcement of the provisions of this ordinance shall be under the direction and jurisdiction of

Town. Any violation of any part of this ordinance, as witnessed by the Town or its agent(s) is punishable by fine or cessation of curbside trash, recycling, and compost collection services as authorized herein. The Town Manager or his/her designated representative shall be empowered to make inspections, determine violations, and take action to enforce this ordinance.

The Town or its designated agent(s) reserves the right to refuse to collect solid waste or to refuse to allow disposal at any facility where this Ordinance or the Regulations promulgated hereunder are ignored or violated. Pursuant to 24 VSA section 1971(b), this ordinance is designated as a civil ordinance.

#### **ARTICLE IV. PUBLIC SAFETY**

All persons in the Town of Brattleboro have a responsibility to the collective health and public safety to handle solid waste, recyclables, and compostables safely and in accord with all local, state, and federal laws and requirements.

No person having the custody or control of residential, industrial or business premises from which solid waste, including mandated recyclables, or compostables, is collected for disposal in the Town of Brattleboro, shall permit or cause any solid waste, including mandated recyclables or compostables, within their control to become a hazard to public travel, health or safety or to become a nuisance of any sort. Solid waste, other than yard waste, and compostables, may not be deposited or otherwise left out-of-doors unless it has been placed in a proper container which must be durable, rust-resistant, nonabsorbent, watertight, rodent-proof, and easily cleanable, having close-fitting appropriate covers with adequate handles. Compostable materials may be deposited or left out-of-doors if stored and maintained as a working compost pile. Such compost must not become a nuisance of any sort, including emission of undue odors or disturbance by either domestic or wild animals. Household Hazardous Wastes may only be disposed of at an HHW collection and/or in accordance with Vermont Regulations.

#### **DUTY OF GENERATOR.**

- A. The occupant of any premises within the town, whether business, commercial, industrial, institutional or residential premises, shall maintain the premises in a clean, orderly, safe and sanitary condition, free from any accumulation of solid waste which creates a fire, health or safety hazard, or harborage for rodents or insects.
- B. The occupant of any premises within the Town shall ensure that all solid wastes, recyclable, and/or compostable materials are stored on the premises in containers complying with this ordinance.
- C. The occupant of any premises within the town shall cover and/or secure all solid waste containers, keeping the storage area and area surrounding any containers in a clean, orderly and sanitary manner and preventing the waste from being scattered by animals, wind or other means. In the event that any solid waste stored in a plastic bag or other container becomes torn, spilled or otherwise scattered, the occupant shall be responsible for clean-up of the area.

- D. The occupant of any premises within the town shall not store any recyclables or solid waste, including bulky waste, outside for more than seven (7) days. Construction and Demolition wastes may be stored outside in appropriate containers for no longer than 30 days.
- E. Containers of solid waste, recyclables, and compostables, and/or the empty containers of these materials, may not remain at the curbside beyond midnight on the day scheduled for collection.

#### DUTY OF OWNER / OCCUPANT / TENANT or LESSEE

- A. The owner of any multi-family building containing four (4) or fewer dwelling units shall provide at least one trash barrel and one Town recycling container or a suitably sized approved recyclable container per residential unit which shall be numbered, labeled, or marked in such a way as to identify each container with a specific dwelling unit (e.g. Trash barrels and recycling containers in a three unit building would be labeled "Apt. #1, Apt. #2 and Apt. #3).
- B. Owners of multi-unit dwelling commercial buildings containing five (5) or more dwelling units shall provide a means for tenants to comply with State of Vermont Solid Waste Laws and Regulations.
- C. The owner, occupant, tenant, or lessee shall cause all RSW, recyclables and compostables to be removed from his/her property as often as necessary to comply with this article.).
- D. No owner, occupant, tenant or lessee may leave outside the building or dwelling in a place accessible to children, any abandoned or unattended icebox, refrigerator, or other receptacle that has an airtight door.
- E. Regulated medical, hazardous, and radioactive wastes must be stored, contained, and disposed as required in Vermont Statutes and Regulations.
- F. The owner of any premises shall not allow the accumulation of solid waste on the premises to such an extent that the solid waste creates a fire, health or safety hazard, or harborage for rodents or insects.
- G. No owner, occupant, tenant or lessee shall place at the curb for pick up a large (32 gallon) trash bag weighing over thirty (30) pounds or a small (13 gallon) trash bag weighing over twenty (20) pounds, or a compost container weighing over thirty (30) pounds, or a trash barrel weighing over forty (40) pounds.
- H. Owner, occupant, tenant or lessee shall place trash and/or recycling/compostables at the curb for pick up no later than 6:30am on the designated collection day and no earlier than the day prior to the designated collection day.

- I. No owner, occupant, tenant or lessee shall leave trash and/or recycling at the curb beyond midnight of the designated collection day. If said trash and/or recycling was left curbside by the hauler due to violation of this ordinance, or not picked up for any other reason, the owner, occupant, tenant or lessee must remove the materials from the curbside.

**ARTICLE V.  
UNLAWFUL DISPOSAL OF SOLID WASTE**

All solid waste and recyclables, must be separated, collected and disposed of as required by this Ordinance, the laws and regulations of the State of Vermont, and the Regulations adopted by the Selectboard pertaining hereto.

In addition to non-compliance with this ordinance in its entirety, any and all of the following actions shall constitute a violation of this ordinance.

- A. It shall be unlawful for any person to deposit, dump, or leave solid waste on any public or private property or in any public or private disposal container other than their own or one specifically designated for their use by a landlord, except for placing accepted recyclables in the recycling roll-off containers at a Town designated location
- B. It shall be unlawful to place any solid waste on one's own property except in a residential or commercial container designated for collection, disposal, or composting as outlined in this Ordinance and any Regulations pertaining thereto.
- C. It shall be unlawful to deposit, dump, or leave any solid waste of any kind on land or easements of the public, including but not limited to parks, highways, or other municipally or state owned lands, except in designated containers. Further, it shall be unlawful to deposit solid waste of any kind in a municipally owned or maintained disposal container other than that created or originated in any public buildings/grounds/ highways or on the person of anyone using said public buildings/grounds/ highways.
- D. It shall be unlawful to deposit, dump or leave solid waste of any kind or recyclable materials not accepted by WSWMD in, or adjacent to the recycling roll-off containers provided at a Town-designated location.

**VIOLATIONS OF ARTICLE V WILL RESULT IN THE FOLLOWING FINES:**

First violation will be issued a fine in the amount of two hundred dollars (\$200.00) and the waiver fee shall be one hundred dollars (\$100.00).

Second and all further violations will be issued a fine in the amount of five hundred dollars (\$500.00) and the waiver fee shall be two hundred fifty dollars (\$250.00).

## **ARTICLE VI. OPEN FIRE BURNING**

Except as provided in this article, the burning of any solid waste is prohibited in the Town of Brattleboro.

A permit may be granted by the Fire Department for the open burning of yard and garden debris including trees, stumps, brush, untreated wood, and/or lawn clippings and leaves, providing the Fire Department is satisfied that no physically or environmentally hazardous condition will be created by such burning and the emission of air contaminants will not create a danger to the health and property of the citizens of the Town of Brattleboro.

Permits issued under the provisions of this Ordinance shall be for a specified date, time and location and only for specified materials. Permits must be available for inspection at the burn site. No open fires may be left unattended for any time.

## **ARTICLE VII. MANDATORY RECYCLING**

Except as hereinafter provided, mandated recyclables from all residences, inclusive of multi-family dwellings shall be kept separate from other solid waste and either delivered to a private facility, Windham Solid Waste Management district, a Town collection facility, or placed separately for collection at the street curb or designated area, as defined in this Ordinance

Occupants of commercial businesses, industries and institutions located within the Town of Brattleboro shall separate mandated recyclables, compostables and any materials banned from disposal under Vermont laws and regulations from all other solid waste in accordance with this Ordinance and any Regulations adopted by the Selectboard pursuant to this ordinance, and shall have a clearly marked area designated for the collection and pick-up of said mandated recyclables and compostables. All businesses, institutions, schools, and other facilities in the Town must recycle and/or compost the waste products mandated for such treatment by the State of Vermont and the Town of Brattleboro.

The Town Manager may waive placement requirements for persons with disabilities, age-related restrictions, or infirmities.

The Town of Brattleboro will undertake a public education/awareness program in conjunction with the enactment of this ordinance as well as following its enactment to minimize misunderstanding and to promote full compliance with this Ordinance.

## **ARTICLE VIII. COMPOST AND COMPOSTING**

The Town of Brattleboro strongly encourages residents to use on-site or “backyard” composting for management of leaves, yard waste, and home generated food scraps, provided such composting is managed in a manner to prevent annoying odors, public health nuisances, or unsafe conditions.

In addition, the Town encourages residents to use the curbside composting program that is available for every single family-residence and apartment building with four (4) or fewer units. Items which may be composted are listed both on the Town's website and in print.

Residents may place compostables curbside on their designated trash day for pickup by the Town's hauler. Compostables must be placed in a town approved compost container.

An approved container must be rigid with a tight-fitting lid, have a capacity no greater than 32 gallons and must not weigh more than thirty (30) pounds when full. Compostables may be placed in compostable bags before being placed in the approved curbside container. The compostable bags must be BPI or ASTM D6400 rated. No other bags claiming to be or labeled "compostable" or "biodegradable" or meeting other standards will be allowed or accepted.

Owner, occupant, tenant, or lessee is responsible for keeping curbside compost containers clean. Containers must not attract flies /insects, domestic or wild animals, and must not emit undue odor. Lids should be kept closed at all times.

Yard waste is picked up curbside seasonally in the spring and fall.

Curbside compost must not contain any contaminants - such as plastic, trash, metal, glass, or household trash. Compost containing contaminants will be left at the curb.

#### **ARTICLE IX. COLLECTION OF RECYCLABLES AND SOLID WASTE**

The Selectboard is authorized to employ or make contracts for the separation, recovery, collection, removal, storage, or disposition of solid waste, including mandated recyclables and compostables. Contracts which are pursuant to this authority shall be advertised or otherwise put to competitive bid. Contracts may be rejected or awarded at the sole discretion of the Selectboard for any reasons they deem appropriate. However, in the event that the Board does not enter into a contract for the separation, collection, or disposal of solid waste, such materials must still be separated, collected, and disposed of as otherwise outlined in this Ordinance.

The Selectboard may adopt additional regulations governing the preparation of solid wastes, including mandated recyclables and compostables for collection.

- A. Town provided residential curbside collection shall be under the direction of the Town. Frequency of any collection provided by the Town shall be in accordance with a yearly schedule to be published as applicable by the Town.
- B. The Town does not provide collection services to commercial or industrial establishments or to any building with more than 4 dwelling units.
- C. Any public or private collection of solid waste or recyclables or compostables shall not commence until after 6:30 a.m. The conduct of any Town provided private collection service shall be governed by the provisions of the contractual arrangements and by this Ordinance and any regulations pursuant hereto approved by the Selectboard.

- D. Title to Mandated Recyclables, solid waste, and compostables shall remain with the generator until removed by either the Town's contracted haulers, other contracted haulers, the Town and/or its agent, or self-hauled by the generator to the place of recycling/disposal.
- E. Appropriate commercial hauling vehicles: vehicles, front loading dumpsters, and roll-off containers used for collecting and transporting recyclables and solid waste and compostables shall be enclosed or covered, vermin and leak resistant, durable, and must be easily cleaned.
- F. Maintenance of commercial hauling vehicles, front loading dumpsters, and roll-off containers: Vehicles, dumpsters, and containers shall be maintained in good repair and in a clean condition to prevent public health nuisance conditions. Persons operating/utilizing such vehicles and containers shall securely close all lids, and doors.
- G. Hauler Requirements:
- a) All collectors and haulers of solid waste, ~~and~~ mandated recyclables and compostables in the Town of Brattleboro shall be required to register with the Town Manager's Office. A form for this registration will be provided. Such registration constitutes authorization by the Town of Brattleboro to collect solid waste, mandated recyclables and compostables in the Town. No person may provide solid waste, recycling, or composting services without having completed such a registration. The Selectboard reserves the right to establish a registration fee for this authorization. Failure to abide by this requirement is punishable by a fine as set forth herein.
  - b) In order to enforce this ordinance, the Town and/or its agent shall have the right to inspect all waste routes and all solid waste, recyclables, or compostables set out or collected.
  - c) No hauler shall knowingly collect for disposal any solid waste which contains a significant quantity of mandated recyclables or any hazardous waste. Any such mixed waste must be rejected by the hauler and the resident must be notified of the reasons for rejection.

## **ARTICLE X. ILLEGAL COLLECTION**

It shall be a violation of this Ordinance for any person or organization not authorized by the Town of Brattleboro to collect or pick up or cause to be picked up any solid waste, including mandated recyclables, except that any person may take their own solid waste to a transfer station and their own recyclables to a Recycling Facility or may authorize another individual, incidental Hauler or organization to do so on their behalf. Any and each such collection shall constitute a separate and distinct offense punishable by penalties set forth in Article XII. Penalties, Section C. Hauler Violations.

## **ARTICLE XI. VARIABLE RATE PRICING**

The Town of Brattleboro has adopted a Variable Rate Pricing Program (aka Pay-As-You-Throw or PAYT) for all residents served by curbside RSW collection. The Town will sell special marked bags for refuse collection. These bags will be sold to residents through various retail outlets throughout the Town, and at Town Hall. Bags will be sold at a price determined and set by the Selectboard.

The following rules/guidelines apply:

- A. Trash, recyclables and compostables will be collected only during the established collection schedule.
- B. All trash shall be in designated Town of Brattleboro PAYT bags. No trash will be removed if it is not in the required bag.
- C. Large (32 gallon) and small (13 gallon) PAYT bags will be available for purchase. The large bag shall not exceed 30 pounds when filled. The small bag shall not exceed 20 pounds when filled. Bags exceeding these weights will not be collected.
- D. Trash not in regulation PAYT bags will not be collected by the hauler and must be removed from the curb as required in Article 4, Duty of Generator, Section E.
- E. All bags must be closed before being set at curbside. Litter as a result of open bags will be the resident's responsibility.
- F. Ripped bags will not be collected. However, homeowners may place ripped bags in a clear bag that allows the driver/agent to see the original authorized bag/sticker.

## **ARTICLE XII. PENALTIES**

### **A. RESIDENTIAL VIOLATIONS**

#### **I. Recyclables in Trash**

If the driver for the Town's contracted Hauler observes or detects a significant quantity of recyclables within a trash bag/barrel he shall affix a Violation Sticker with the appropriate box checked, place it on the offending trash bag/barrel where it can be plainly seen and leave the offending bag/barrel at the curb.

The driver shall record the street address (and apt. #, if a multi-unit building) on a data sheet with a brief description of the offense. All drivers shall turn in their violation records weekly (Thursday or Friday) to the Hauler's dispatcher who will record the data in a Violation Spreadsheet shared by the Hauler and the Town.

## **II. Other Violations**

Except as otherwise provided, other violations herein identified by the Ordinance will be subject to penalty in the same manner as outlined for Commercial User Violations.

### **CESSATION OF SERVICE FOR TOWN CURBSIDE PARTICIPANTS**

The Town will track violations via the Violations Spreadsheet. If any location violates the Ordinance three (3) times within a rolling two month period the Town shall notify the owner (and tenant(s), if a rental property) by certified mail that curbside trash service will no longer be provided to that address starting two weeks from the date of the certified letter. The letter will contain educational information about the recycling and composting programs and requirements of the Ordinance.

When the owner and/or resident(s) demonstrates to the Town's agent that resident(s) of the property can and will abide by the ordinance and the Town's agent agrees, curbside service will be restored immediately.

The Hauler will not cease pick up of trash at any specific address/location until notified to do so by the Town. After such notification, the Hauler will not collect any trash from that address from that date forward until notified by the Town to resume service.

The Hauler will continue uninterrupted pick up of properly sorted recyclables and compostables.

Subsequent violations that occur after resumption of service must meet the three (3) violations within a rolling two month period threshold to trigger additional cessations of service. Protocol for ceasing and resuming service will be the same as outlined above.

## **III. Improperly Sorted/Prepared Recyclables or Contaminants in Compost**

If the Hauler's driver observes recyclables that are improperly sorted or presented he shall affix a Violation Sticker with the appropriate box checked, place it on the offending recyclables where it can be plainly seen and leave the offending recyclables at the curb.

If the Hauler's driver observes contaminants in compostable material, he shall affix a Violation Sticker with the appropriate box checked, place it on the offending container where it can be plainly seen, and leave the offending container at the curb.

## **B. COMMERCIAL USER VIOLATIONS**

First and Second Infractions of this Ordinance. The Town will send a certified letter to the violator explaining the ordinance and the appropriate recycling separation procedure.

Third Infraction of this Ordinance will result in a two hundred dollar fine (\$200.00) and the waiver fee shall be one hundred dollars (\$100.00).

Fourth and all further Infractions of this ordinance will result in a five hundred dollar fine (\$500.00) and the waiver fee shall be two hundred fifty dollars (\$250.00).

### **C. HAULER VIOLATIONS**

First and second infractions will be issued a written warning.

Third infraction will be issued a fine in the amount of two hundred dollars (\$200.00) and the waiver fee shall be one hundred dollars (\$100.00).

Fourth and all further infractions will be issued a fine in the amount of five hundred dollars (\$500.00) and the waiver fee shall be two hundred fifty dollars (\$250.00).

In addition to the above listed fines, the Town reserves the right to revoke a hauler's license at any time for any infraction of this ordinance.

The Town reserves all rights to seek injunctive relief and relief under any available health orders in addition to the fines listed above.

### **ARTICLE XIII. PUBLIC EDUCATION**

The Town of Brattleboro shall provide or cause to be provided an education program for its residents and commercial/institutional/industrial entities regarding appropriate solid waste management, including the curbside compost program and mandatory recycling. Such a program shall include but is not limited to the following:

- A. Yearly publication of acceptable solid waste, compostables and recyclable materials.
- B. Placement of periodic information in local media (newspapers, radio programs, cable TV).
- C. Forums for interest groups

The Town Manager or his/her designated representative shall report to the Selectboard annually regarding the success of the recycling program and the status of solid waste management in the Town. This report shall include statistics on amount of trash,-recyclables and compostables; cost of the program, and suggestions for improvement.

### **ARTICLE XIV. SOLID WASTE PROGRAM DESCRIPTION**

A Solid Waste Program Description pursuant to the Town's Solid Waste Ordinance for the collection and recycling of solid waste in the Town of Brattleboro, Vermont will be published separately and updated as necessary. It will be available to residents both on the Town's website and in print.

**ARTICLE XV. INCONSISTENT REPEAL**

All ordinances or parts of ordinances, rules, resolutions, regulations, or other documents inconsistent with the provisions of this ordinance are hereby repealed to the extent of such inconsistency.

**ARTICLE XVI. SEVERABILITY**

This ordinance and its 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 the ordinance shall not be affected thereby.

**ARTICLE XVII. EFFECTIVE DATE**

This ordinance shall take effect on the 16th day of May, 2015.

**- End of Section 1 -**

## SECTION 2 - REGULATING SINGLE-USE PLASTIC BAGS

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Art. VII	Hardship Deferments

### ARTICLE I. PURPOSE

This Section of the Ordinance is intended to promote the public health, safety, welfare, and the responsible use of resources and protection of the environment. It seeks to mitigate the effect the single-use plastic bags provided within the Town, and encourage the use of reusable bags.

### ARTICLE II. DEFINITIONS

#### **DEFINITIONS:**

(A) As used in this Section of the Ordinance, the following terms have the meaning indicated by the definition.

**ASTMD6400 standard specification** means the standard specification for labeling of plastics designed to be aerobically composted in municipal or industrial facilities set by the American Society for Testing and Materials, as may be amended from time to time.

**Compostable Bag** means a bag that meets the current ASTM D6400 for compostability.

**Recyclable** means material that can be sorted, cleansed, and reconstituted using available recycling collection programs for the purpose of using the altered form in the manufacture of a new product. “Recycling” does not include burning, incinerating, converting, or otherwise thermally destroying solid waste.

**Retail Establishment** means all sales outlets, stores, shops, pharmacies, or other places of business located within the Town of Brattleboro which sell or convey merchandise directly to the ultimate consumer.

**Retail Food Establishment** means all sales outlets, stores, shops, restaurants, markets, supermarkets, clubs or other places of business which sell, serve or convey foods directly to the ultimate consumer. This definition shall include but is not limited to any place where food is prepared, mixed, cooked, baked, smoked, preserved, bottled, packaged, handled, stored, manufactured, sold or offered to the public; similar places in which food or drink is prepared for sale or service on the premises or elsewhere; and any other establishment or operation, including in-home caterers, where food is processed, prepared, sold, served or provided for the public, regardless of whether there is a charge for the food.

**Retail Service Establishments** means all places of business located within the Town of Brattleboro where a service, specialized or professional work is offered to the public, regardless of whether there is a charge for the service.

### **SHOPPING BAG DEFINITIONS:**

(B) As used in this Section of the Ordinance, the following terms shall have the meanings indicated:

**Compostable Plastic Bags** means a bag that is:

1. Labeled in a manner that is readily and easily identifiable from other plastic bags;
2. Labeled in a manner that is consistent with the Federal guides for the use of environmental marketing claims;
3. Labeled with a certification logo indicating the bag meets the ASTM D6400 standard specification, as amended from time to time; and
4. (i) a uniform color of green and labeled with the word “compostable” in at least a 1 inch font on one side of the bag; (ii) labeled in green writing with the word “compostable” in at least a 1 inch font on both sides of the bag; or (iii) labeled with the word “compostable” in at least a one-half inch font on both sides of the bag within a green color band that: 1. Contrasts with the compostable bag’s background color; and 2. Is at least 1 inch in height.

**Plastic Bag** means any bag made of plastic derived from either petroleum, ethylene derived from natural gas, polyethylene, polypropylene, or nylon.

**Reusable Bag** means a bag that meets the following requirements: (a) has a minimum lifetime of 125 uses, which for the purposes of this Section means the capability of carrying a minimum of 22 pounds 125 times over a distance of at least 175 feet; (b) has a minimum volume of 15 liters; (c) is machine washable or is made of a material that can be cleaned or disinfected; (d) does not contain lead in an amount greater than 89 parts per million (ppm), nor contain total heavy metals (lead, hexavalent chromium, cadmium, and mercury) in an amount greater than 99 ppm, unless lower heavy metal limits are imposed by applicable state or federal law, in which case such standards shall apply; (e) has printed on the bag, or on a tag that is permanently affixed to the bag, (1) the name of the manufacturer, (2) the country where the bag was manufactured, (3) a statement that the bag does not contain lead, cadmium, or any other heavy metal in toxic amounts, (4) the percentage of Postconsumer Recycled Material used, if any, and (5) bag care and washing instructions; and (f) if made of plastic, is no less than 2.25 mils thick anywhere on the bag.

**Thin-Film Single-Use Plastic Bag** means a bag with a thickness of less than 2.25 mils and which are intended for single-use transport of purchased products.

## **ARTICLE III. GENERAL PROHIBITION AND REGULATION**

No retail establishment, retail food establishment, or retail service establishment as defined in Article II of this Section, shall sell or convey merchandise to ultimate consumers in thin-film

single-use plastic bags, and said establishments shall only use such bags that are:

- (1) Reusable bags; or
- (2) Compostable plastic bags; or
- (3) Paper Bag.

#### **ARTICLE IV. EXEMPTIONS TO GENERAL PROHIBITION**

Article III of this Section shall not apply to the following items:

- (1) Thin-film plastic bags used to contain framed art and art supplies, dry cleaning, newspapers, produce, meat, bulk foods, wet items, and other similar merchandise, typically manufactured as thin-film single use bags without handles;
- (2) Any flexible transparent covering for covering uncooked raw meat, poultry, raw fish, hard cheese, cold cuts, fruit, and vegetable products, baked goods, or bread;

#### **ARTICLE V. PENALTIES AND ENFORCEMENT**

- (1) If it is determined that a violation of any subsection of this Section has occurred, the Town Manager's Office or designee shall issue a warning notice for the initial violation.
- (2) If an additional violation of this section occurs within one year of the initial violation, the Town Manager's Office or designee shall issue a second notice of violation.
- (3) The Town shall impose a penalty against the retail establishment for the third and each subsequent violation.
- (4) The penalty for each violation that occurs after the issuance of the second notice of violation shall be no more than: i) \$50.00 for the first offense, with a waiver fee of \$25.00; ii) \$100.00 for the second offense and all subsequent offenses, with a waiver fee of \$50.00. Payment shall be made to the Town of Brattleboro within 30 days from the date of notice to the Town Treasurer. Nonpayment of such fines may be enforced by the Judicial Bureau. No more than one penalty shall be imposed upon a retail establishment within a 24-hour period.

#### **ARTICLE VI. DATE OF EFFECT**

Date of Effect. This section will take effect on July 1, 2018.

#### **ARTICLE VII. HARDSHIP DEFERMENTS**

Hardship deferments.

- (1) Upon written application, the Town Manager's Office or designee may defer application of any subsection of this section for a six-month period after the effective date stated in Article VI upon a showing of hardship. Hardship may be found when:
  - a. Compliance with any subsection would cause significant economic difficulty; or
  - b. There is no readily available compliant substitute.

- (2) Any entity granted a deferment by the Town Manager's Office or designee must reapply prior to the end of the six-month exemption period and demonstrate continued undue hardship if it wishes to have the deferment extended. Deferments may only be granted for intervals not to exceed six months.
- (3) A deferment granted in accordance with this subsection may be extended for no more than two additional six-month periods, upon which a written application to the Town Manager's Office or designee at least two months prior to the expiration of the prior deferment period and upon a showing that the circumstances justify deferment continue to exist.
- (4) A deferment application shall include all information necessary for the Town Manager's Office or designee to make its decision, including, but not limited to, documentation showing the factual support for the claimed deferment. The Town Manager's Office or designee may require the applicant to provide additional information to permit it to determine facts regarding the deferment application.
- (5) The Town Manager's Office or designee may approve the deferment application, in whole or in part, with or without conditions that it deems necessary to protect the environment and/or public health and further the interests of this section.
- (6) Deferment decisions are effective immediately and are final.

**- End of Section 2 -**