

# **SOLID WASTE**

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Chapter 204

From the

CODE

of the

TOWN OF WINDHAM

COUNTY OF CUMBERLAND

STATE OF MAINE

## SOLID WASTE

### Chapter 204

#### Disposal and Transporters

##### Section .....Description

- § 204-1. .... Title.  
§ 204-2. .... Purpose.  
§ 204-3. .... Definitions and word usage.  
§ 204-4. .... Designation of solid waste disposal facility.  
§ 204-5. .... Rules and regulations for use of facility.  
§ 204-6. .... Restrictions.  
§ 204-7. .... Authorized disposal facility users; permit required.  
§ 204-8. .... Resource recovery.  
§ 204-9. .... Curbside Collection From Residences.  
§ 204-10. .... Property rights; salvage or removal.  
§ 204-11. .... License fees; revocation of license; enforcement.  
§ 204-12. .... Violations and penalties.  
§ 204-13. .... Hazardous Materials Incident Billing Policy.  
§ 204-14. .... Hauling, collection, removal, transportation and disposal.  
§ 204-15. .... License required; application.  
§ 204-16. .... Tipping fees, Payment of Invoices.  
§ 204-17. .... License Denial, Revocation or Suspension.  
§ 204-18. .... Commercial or industrial solid waste haulers and residential refuse haulers.  
§ 204-19. .... Miscellaneous.

#### Disposal of Solid Waste within the Municipality of Windham [adopted 9/12/1989]

##### § 204-1. Title.

This Ordinance shall be known as and may be cited as the “Ordinance Relating to the Disposal of Solid Waste Within the Town of Windham, Maine, Prescribing Rules and Regulations Therefor; Providing Penalties for Violation Thereof” and shall be referred to herein as “this Ordinance.”

##### § 204-2. Purpose.

The purpose of this Ordinance is to protect the health, safety and general wellbeing of the citizens of the town; to enhance and maintain the quality of the environment, conserve natural resources and prevent water and air pollution by providing for a comprehensive, rational and effective means of regulating the disposal of solid waste in the town in accordance with the provisions of 38 M.R.S.A. §§ 1304—B and 1305 as amended.

##### § 204-3. Definitions and Word Usage.

The following definitions shall be observed in the construction of this Ordinance.

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Solid Waste¶

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§ 204-1. Title. 3¶

§ 204-2. Purpose. 3¶

§ 204-3. Definitions. 4¶

§ 204-4 Designation of solid waste disposal facility. 6¶

§ 204-5 Rules and regulations for use of facility. 6¶

§ 204-6 Restrictions. 6¶

§ 204-7 Authorized disposal facility users; permit required. 7¶

§ 204-8 Resource recovery. 7¶

§ 204-9 Property rights; salvage or removal. 7¶

§ 204-10 License fees; revocation of license; enforcement. 7¶

§ 204-11 Violations and penalties. [Amended 10-24-1989] 8¶

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## ACCEPTABLE WASTE:

A. Ordinary household, municipal, institutional, commercial and industrial solid waste, including but not limited to the following:

1. Garbage, trash, rubbish, paper and cardboard, plastics, refuse, beds, mattresses, sofas, refrigerators, washing machines, bicycles, baby carriages and automobile or small vehicle tires, to the extent that ecomaine determines that the air emissions criteria and standards applicable to and at the ecomaine disposal facility are not violated.
2. Processable portions of commercial and industrial solid waste.
3. Wood and lumber, tree limbs, branches, ties, logs and trees, if no more than four and one-half (4½) feet long and eight (8) inches in diameter, leaves, twigs, grass and plant cuttings, provided that the municipality shall not be obligated to deliver or cause to be delivered any items listed in this Subsection (3) to the ecomaine disposal facility, and further provided that such items may be delivered to the ecomaine disposal facility by or on behalf of the municipality on an irregular basis only and shall represent an insignificant portion of the total waste delivered to the ecomaine disposal facility by or on behalf of the municipality within any calendar year.

B. Notwithstanding any provisions to the contrary, unacceptable waste, including hazardous waste, shall not be “acceptable waste” and is explicitly excluded therefrom. Furthermore, any substances which, as of the date of a certain waste-handling agreement between the municipality and ecomaine, are included as “acceptable waste” but which are later determined to be harmful, toxic, dangerous or hazardous by any governmental agency or unit having appropriate jurisdiction shall not be “acceptable waste” under the terms of this Ordinance. However, any substances which, as of the date of said waste-handling agreement, are not included within the definition of “acceptable waste” because they are considered harmful, toxic, dangerous or hazardous and which are later determined not to be harmful, toxic, dangerous or hazardous by any governmental agency or unit having appropriate jurisdiction shall be considered “acceptable waste” unless a contrary determination has been or is made by any other governmental agency or unit having appropriate jurisdiction or unless such substances are otherwise considered unacceptable waste or hazardous waste.

COUNCIL — The Town Council.

BIOMEDICAL WASTE—shall mean Waste that may contain human pathogens of sufficient virulence and in sufficient concentrations that exposure to it by a susceptible human host could result in disease.

COMMERCIAL SOLID WASTE — Acceptable waste generated by a commercial or industrial use or activity located within the town, and acceptable waste generated by occupants of structures within the town which contain more than two (2) dwellings units and which are occupied by more than two (2) household units. Except as provided above, Commercial Solid Waste shall not include household or special wastes.

COMMERCIAL OR INDUSTRIAL SOLID WASTE HAULER — Any person, firm, partnership, association, municipality, corporation or other legal entity who has been licensed by the town to collect, transport and dispose of acceptable commercial or industrial solid waste for a fee as herein prescribed.

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~~COMMERCIAL RECYCLABLE MATERIALS—shall be defined as that portion of commercial solid waste which consists of recyclable materials.~~

~~COMMERCIAL REFUSE COLLECTOR — A person, firm, corporation or other entity that collects and hauls the solid waste of another person, firm, corporation or other entity for a fee.~~

~~CONSTRUCTION AND DEMOLITION DEBRIS — Construction/demolition debris, inert fill, land—clearing debris and woodwaste, all as defined in Chapter 400 of the Maine Department of Environmental Protection regulations, but excluding acceptable waste and hazardous waste.~~

~~DISPOSAL — Shall mean the discharge, deposit, dumping, incineration, spilling, leaking or placing of any Hazardous or Solid Waste, sludge or septage into or on any land, air or water so that the Hazardous or Solid Waste, sludge or septage or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including ground waters.~~

~~DWELLING — Living quarters designed for a single household unit and containing sleeping, eating and bathroom facilities..~~

~~DWELLING, MULTIFAMILY — A freestanding building exclusively for residential use by two (2) or more families living independently of each other and consisting of two (2) or more dwelling units.~~

~~DWELLING, SINGLE FAMILY — A freestanding building exclusively for residential use by one (1) family and constituting one (1) dwelling unit.~~

~~DWELLING UNIT — One (1) or more rooms with private bath and kitchen facilities intended for occupancy by a single family.~~

~~ECOMAINE — ecomaine, formerly Regional Waste Systems, Inc., a noncapital stock, nonprofit corporation created pursuant to Title 30, Chapter 203, and Title 13, Chapter 81, of the Maine Revised Statutes, or any successor thereto or assignee thereof.~~

~~ECOMAINE DISPOSAL FACILITY — Any land or structure or combination of land area and structures, including dumps and transfer stations, owned or operated by or under a contract with ecomaine and/or any other site designated by ecomaine or its assignee used for storing, salvaging, incinerating, reclaiming or disposing of construction and demolition debris pursuant to the waste-handling agreement and amendments thereto entered into between the town and ecomaine.~~

~~FACILITY — The facility described in the waste-handling agreement between the Town of Windham and ecomaine, formerly Regional Waste Systems, Inc., dated May 1, 1985, and subsequent amendments thereto.~~

~~GARBAGE — Every accumulation of waste (animal, vegetable and/or other matter) that results from the preparation, processing, consumption, dealing in, handling, packing, canning, storage, transportation, decay or decomposition of meats, fish, fowl, birds, fruits, grains or other animal or vegetable matter, including, but not by way of limitation, used tin cans and other food containers; and all putrescible or easily decomposable waste, animal or vegetable matter that is likely to attract flies~~

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**Deleted:** The discharge, deposit, dumping or placing of any solid waste into or on any land....

**Deleted:** A building designed or used exclusively as the living quarters for one (1) or more families. The term includes single-family dwellings, multifamily dwellings, apartments and condominiums, but shall not be deemed to include a hotel, motel, boardinghouse or lodging house...

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**Deleted:** ECOMAINE — ecomaine, formerly known as Regional Waste Systems, Inc.¶

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**Deleted:** FAMILY — One (1) or more persons occupying a dwelling unit and living as a single housekeeping unit as distinguished from a group occupying a boardinghouse, lodging house, hotel or motels as herein defined.¶

or rodents; provided, however, that all garbage within this definition must be composed of acceptable waste.

**HANDLE** — To store, transfer, collect, separate, bale, salvage, process, reduce, recover, incinerate, treat or dispose of.

**HAZARDOUS WASTE** — ~~“Hazardous Waste” shall mean waste which by reason of its composition, characteristics or other inherent properties is dangerous to handle by ordinary means, or which may present a substantial endangerment to public health or safety. “Hazardous waste” shall also mean waste which is defined as harmful, toxic, dangerous or hazardous at any time during the term of the waste handling agreement between the Town of Windham and Ecomaine pursuant to (1) the Solid Waste Disposal Act, 42 U.S.C. §6901 et seq., as amended; (2) the Maine Hazardous Waste, Septage and Solid Waste Act, 38 M.R.S.A. §1301 et seq. as amended; (3) any other federal, state, county or local codes, statutes or laws; and (4) any regulations, orders or other actions promulgated or taken with respect to the items listed in Subsections (1) through (3) above; provided, however, that any such materials which are later determined not to be harmful, toxic, dangerous or hazardous by any governmental agency or unit having appropriate jurisdiction shall not be considered hazardous waste unless a contrary determination has been or is made by any other governmental agency or unit having appropriate jurisdiction.~~

~~**INCOMBUSTIBLE REFUSE**—shall mean all discarded articles or materials except sewage, liquid waste, garbage, and combustible refuse.~~

~~**INERT FILL** — That material which does not chemically or biologically decompose, i.e. sand, gravel, bricks, rocks, etc.~~

~~**INFECTIOUS WASTE** — Includes those wastes so defined by the Solid Waste Management Regulations promulgated by the Department of Environmental Protection pursuant to 38 M.R.S.A. § 1304.~~

~~**MUNICIPALITY** — The Town of Windham, Cumberland County, State of Maine.~~

~~**PERSON** — Any individual, firm, corporation, partnership, sole proprietorship, association, municipality, quasi-municipal corporation, state agency, or any other legal entity.~~

~~**PUBLIC SOLID WASTE DISPOSAL FACILITY or DISPOSAL FACILITY** — Any land or structure or combination of land area and structures, including dumps and transfer stations, used for storing, salvaging, reducing, incinerating, reclaiming or disposing of solid wastes. This term shall include the ~~ecomaine~~ and town disposal facilities and ~~ecomaine~~ construction and demolition debris facilities.~~

~~**RESOURCE RECOVERY** — The recovery of materials or substances that still have useful physical or chemical properties after serving a specific purpose and can be reused or recycled for the same or other purposes.~~

~~**RUBBISH** — All waste wood, wood products, tree trimmings, grass cuttings, dead plants, weeds, leaves, dead trees or branches thereof, chips, shavings, sawdust, printed matter, paper, pasteboard, rags, straw, used and discarded shoes and boots, combustible waste pulp and other products such as are used for packaging or wrapping crockery and glass, floor sweepings, glass, mineral or metallic substances; provided, however, that all “rubbish” within this definition must be composed of acceptable waste.~~

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**Deleted:** PERSON — Any natural person, corporation, partnership, sole proprietorship, association or other legal entity.¶

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**SOLID WASTE** — Useless, unwanted or discarded solid material with insufficient liquid content to be free flowing, including, by way of example and not by limitation, rubbish, garbage, scrap materials, junk, refuse, inert fill material and landscape refuse, but shall not include septage tank sludge nor agricultural or hazardous wastes: it shall include acceptable waste, unacceptable waste and construction and demolition debris as defined herein.

**SPECIAL WASTE**—shall be defined as any solid waste generated by sources other than household and typical commercial establishments that exists in such an unusual quantity or in such a chemical or physical state, or any combination thereof, that may disrupt or impair effective waste management or threaten public health, human safety or the environment and requires special handling, transportation and disposal procedures. Special waste includes, but is not limited to:

1. **ASHES** — That residue from the burning of wood, coal, coke or other combustible material.
2. **Industrial and industrial process waste;**
3. **Sludge and dewatered septage;**
4. **Debris from nonhazardous chemical spills and cleanup of those spills;**
5. **Contaminated soils and dredge materials;**
6. **Asbestos and asbestos-containing waste**
7. **Sand blast grit and non-liquid paint waste;**
8. **High and low pH waste;**
9. **Spent filter media residue; and**
10. **Shredder residue**

**TIPPING FEE** — The payments required to be made by the town or commercial or industrial solid waste haulers, persons hauling their own commercial industrial solid waste and residential refuse haulers under this Ordinance for the handling of acceptable waste received at the facility.

**TOWN** — The Town of Windham, Cumberland County, State of Maine.

**TOWN DISPOSAL FACILITIES** — Any land or structure or combinations of land area and structures owned or operated by or under a contract with the town, including a transfer station or similar facility, used in connection with the disposal of acceptable waste, whether such facilities are constructed before or after the completion of the ecomaine disposal facilities.

**UNACCEPTABLE WASTE** — That portion of solid waste which is not acceptable waste and includes, but is not limited to, sewage and its derivatives, construction and demolition debris, special nuclear or by-product materials within the meaning of the Atomic Energy Act of 1954, as amended, and hazardous waste.

**WASTE**-- shall mean Solid Waste, Biomedical Waste, Hazardous Waste, agricultural waste and septic tank sludge, and includes both Acceptable and Unacceptable Wastes.

**WASTE HANDLING AGREEMENT**--shall mean a certain Waste Handling Agreement dated May 5, 1985 between the Municipality and RWS.

**WHITE GOODS** — All large appliances, including but not limited to stoves, refrigerators, freezers, washing machines, clothes dryers, dishwashers and air conditioners.

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¶ RWS DISPOSAL FACILITY — Any land or structure or combination of land area and structures, including dumps and transfer stations, owned or operated by or under a contract with Regional Waste Systems, Inc. (RWS) and/or any other site designated by RWS or its assignee used for storing, salvaging, reducing, incinerating, reclaiming or disposing of acceptable waste pursuant to the waste-handling agreement and amendments thereto entered into between the town and RWS.¶

¶ RWS or REGIONAL WASTE SYSTEMS, INC. — Regional Waste Systems, Inc., a noncapital stock, nonprofit corporation created pursuant to Title 30, Chapter 203, and Title 13, Chapter 81, of the Maine Revised Statutes, or any successor thereto or assignee thereof.¶

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#### § 204-4 Designation of solid waste disposal facility.

In accordance with the provisions of 38 M.R.S.A. § 1304-B, as amended from time to time, the town hereby designates the ecomaine disposal facility on 64 Blueberry Road in Portland, Maine, and the town disposal facilities as its public solid waste disposal facilities for the purposes cited in this Ordinance and designates the ecomaine construction and demolition debris disposal facility as its public solid waste disposal facility for construction and demolition debris. The dumping or depositing by any person at any place other than at the town disposal facilities or the ecomaine disposal facility of any acceptable waste generated within the municipality is prohibited, and subsequent to receipt by the town of notice from ecomaine of commencement of operations of the ecomaine disposal facility of any construction and demolition debris generated within the municipality is prohibited; provided, however, that the owner of any lot or any other person with the permission of the lot owner may deposit or dump inert substances such as earth, rocks, concrete or similar material for fill purposes only, subject to state or local land use regulations.

#### § 204-5 Rules and regulations for use of facility.

- A. The Council shall establish the rules and regulations governing the availability and use of the designated public solid waste disposal facilities.
- B. The operation of the designated public solid waste disposal facilities shall conform to all pertinent regulations or directives of all local, county, state or federal agencies which may have jurisdiction.

#### § 204-6 Restrictions.

- A. .... No person, firm or corporation shall dispose of solid waste of any kind except in accordance with the terms of this Ordinance.
- B. .... No person, firm or corporation shall dispose of, upon any land within the corporate limits of the town, solid waste of any kind, excepting inert fill, unless such land has been designated by the Town Council as public solid waste disposal facility.
- C. Certain materials may be excluded by regulation from that solid waste which may be deposited at a public solid waste disposal facility. These excluded materials may include junk automobile bodies and similar bulky waste which may require special processing prior to disposal, burning materials or materials containing hot or live coals; hazardous wastes; and other materials which the municipality deems necessary to exclude. Hazardous wastes shall be handled in accordance with 38 M.R.S.A § 1319.0 as amended form time to time.
- D. Except for licensed disposal of hazardous or infectious wastes, it shall be unlawful for any person, firm or corporation to burn or incinerate any solid waste within the municipality other than leaves.

#### § 204-7 Authorized disposal facility users; permit required.

- A. The availability and use of the designated public solid waste disposal facilities shall be limited to residents of the municipality and to those residents of any other municipality which

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Deleted: UNLAWFUL ACCUMULATION OF SOLID WASTE--From and after the effective date of this ordinance and for reasons of health and sanitation, it shall be unlawful, for any person to accumulate or permit to accumulate upon private property in the Town garbage, rubbish, combustible or incombustible refuse, white goods, or other solid waste generated within said Town, excepting inert fill material.¶

UNLAWFUL DISPOSAL OF SOLID WASTE--It shall also be unlawful for any person to dispose of within the limits of the Town any refuse, garbage, recyclable materials, rubbish, white goods, or other solid waste generated within said Town except in accordance with the terms of this ordinance.

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¶  
<#>The Town shall collect acceptable waste and recyclable materials from residences in the Town as provided in this ordinance. The Town shall not collect commercial or industrial solid waste and recyclable materials.¶

¶  
<#>The Town may enter into a contract or contracts with one or more commercial haulers, which shall be known as "authorized commercial haulers", for the collection and transport of acceptable waste and recyclable materials from residences in the Town as provided for in this section. Any such contract shall require the authorized commercial hauler to transport recyclable materials directly to the party or parties as designated by the Town Council.¶ ... [7]

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may, by mutual agreement, be authorized to use the designated public solid waste disposal facilities.

- B. As a means of user control, the municipality shall distribute vehicle permits to authorized users which shall be affixed to user vehicles(s). Failure to exhibit such permit shall result in denial of use of the facility.

§ 204-8 Resource recovery.

The municipality may require solid waste to be separated into such categories as may be established by municipal regulation and disposed of only in such manner and at such sites and locations as designated.

§ 204-9 Curbside Collection From Dwellings.

The Town shall collect acceptable waste and recyclable materials from dwellings in the Town as provided in this ordinance. The Town shall not collect commercial or industrial solid waste and recyclable materials.

The Town may enter into a contract or contracts with one or more commercial haulers, which shall be known as “authorized commercial haulers”, for the collection and transport of acceptable waste and recyclable materials from dwellings in the Town as provided for in this section. Any such contract shall require the authorized commercial hauler to transport recyclable materials directly to the party or parties as designated by the Town Council.

Occupants of dwellings within the Town shall place acceptable waste and recyclable materials in suitable containers at curbside no later than 7:00 am of the day of the scheduled Town collection. Town designated trash bags shall be used for the disposal of all acceptable waste herein defined. Suitable containers placed at curbside after such time shall be considered as being intended for collection and as such shall be collected by none other than an authorized commercial hauler. All suitable containers shall be covered or securely tied so as to prevent spillage, windblown littering, or the ingress or egress of flies, rats, or vermin.

For purposes of this Ordinance, “curbside” refers to that portion of a right-of-way adjacent to paved or travelled town ways and private roads accepted by the hauler, provided that the owner or owners of each residence abutting such private road have given the private hauler permission to enter upon the road for the purpose of the collection of acceptable waste and recyclable material and have agreed to release the Town from liability and to defend, indemnify and hold harmless the Town against any and all claims, damages, actions, causes of action, judgments and costs, including attorney fees, for any personal injury (including death) or property damage arising out of or resulting from said collection to the extent such personal injury or property damage is caused by the failure of the private road to be kept in repair so as to be safe and convenient for travelers with motor vehicles. Said private hauler has sole discretion to not to enter a private road.

Care shall be taken in the loading or unloading of acceptable waste and recyclable material so that none is scattered or spilled during its collection, transport and disposal; any acceptable waste or recyclable material so spilled shall be immediately cleaned up and removed by the Town or, if it has contracted with a commercial hauler, by the authorized commercial hauler.

§ 204-10 Property rights; salvage or removal.

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Any solid waste deposited within the designated public solid waste disposal facilities shall become the property of the municipality or ~~ecomaine~~, pursuant to the terms of said waste-handling Agreements. No one shall salvage, remove or carry off any such deposited solid waste without prior approval of the municipality.

#### ~~§ 204-11 License fees; revocation of license; enforcement.~~

- A. The ~~Council~~, may establish, by order, a schedule of license fees to be charged to commercial refuse collectors for the use of the designated public solid waste disposal facilities, which schedule shall be posted and published. All fees collected shall be for the use of the town.
- B. Any license granted hereunder may be revoked upon any violation of this ~~Ordinance~~.
- C. It shall be the duty of the ~~Council~~, or its designee to enforce the provisions of this ~~Ordinance~~.

#### ~~§ 204-12 Hazardous Materials Incident Billing Policy.~~

~~This Hazardous Materials Incident Billing Policy shall be in effect regarding the billing for costs incurred by the Town of Windham during hazardous materials incidents within Windham. Costs incurred by the Cumberland County Haz-Mat shall be billed separately by them.~~

The purpose of this policy is to regulate the billing for costs incurred by the Town during hazardous materials incidents which occur within the Town. Since hazardous materials pose potentially large risks for both the citizens of Windham and the environment, it is imperative that the Town adopt a policy to ensure the availability of resources to clean up hazardous materials incidents and, where appropriate, to ensure that the generator or transporter of the hazardous materials in question be made responsible for the cleanup costs of the same so that those costs need not be borne by the taxpayers of Windham generally.

Responsible Party: The responsible party for the purposes of this policy shall be the person or entity who caused the discharge of hazardous materials. Or the entity employing as an employee or agent the person who caused discharge of the hazardous materials within the scope of their employment.

The Responsible Party of any property, building, facility, or mobile property of any sort who has a hazardous materials incident occur, will be billed for the total cost of the operation as determined by the Fire Chief and as allowed by Maine law, 38 M.R.S.A. §1318-A, as the same may be amended from time to time. The Fire Chief may abate all or a portion of the hazardous materials incident cleanup costs if in his or her judgment it would be unfair and inconsistent with the purposes of this policy to impose such costs on the person otherwise responsible; provided, however, no such abatement may be granted if the Responsible Party was negligent in following or in violation of any applicable federal or State environmental or hazardous materials laws and such negligence or non-compliance caused or contributed to the incident.

Anyone who is billed for a hazardous materials incident shall have the right to appeal any or all of that bill to the Town Council, which shall make the final determination of responsibility for a hazardous materials incident and costs due the Town. On appeal, the Town Council shall also have the authority to abate any or all of such costs if it would be unfair or inconsistent with the purposes of this policy to

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ARTICLEORDINANCE H  
Transporters  
[Adopted at time of adoption of Code; see Ch.1, General Provisions, Art. I]  
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impose the costs on the person otherwise responsible; provided, further, no such abatement may be granted if the owner or transporter was negligent in folloiwng or in violation of any applicable federal or State environmental or hazardous materials laws and such negligence or non-compliance caused or contributed to the incident.

The following items (but not limited to) shall be billed as part of the operation cost:

- A. Hourly rate for apparatus: Apparatus shall be billed at the same rate established by the Cumberland County Haz-Mat Team, as promulgated and subsequently amended from time to time.
- B. Total replacement or repair cost of equipment lost or damaged.
- C. Total cost of evacuation, including housing and meals for evacuees as paid for by the Town.
- D. Total cost of manpower for all Town agencies involved in the operation.
- E. Total cost of outside agencies, mutual aid companies, and individuals called to assist with the incident.
- F. Any other cost incurred.

The total bill shall be forwarded to the responsible party for the incident. The owner will then have 30 days to notify the Town Manager in writing of any wish to appeal.

#### § 204-14 Hauling, Collection, Renewal, Transportation and Disposal

- A. Every commercial or industrial use or activity located within the town shall haul, collect, remove, transport and dispose of commercial solid waste generated within the town by itself or by agreement with a licensed commercial refuse transporter, provided, however, that all such hauling, collection, removal, transportation and disposal must be consistent with this Ordinance. Residential units shall haul, collect, remove, transport and dispose of residential refuse generated within the town by agreement with a licensed residential refuse transporter or by hauling, collecting, removing, transporting and disposing of their own residential refuse generated within the town at a solid waste disposal facility designated by the Town Council; provided, however, that all such hauling, collection, removal, transportation and disposal must be consistent with this Ordinance.
- B. Any agreement for the hauling, collection, removal, transportation and disposal of commercial solid waste or residential refuse generated within the town shall be by private contract between the person and the commercial refuse transporter or residential refuse transporter licensed by the town for the purpose of hauling, collection, removal, transportation and disposal of such commercial solid waste or residential refuse.
- C. Care shall be taken in the loading and unloading of commercial solid waste and residential refuse so that none is scattered or spilled during its hauling, collection, removal, transportation and disposal; the commercial refuse transporter or the person hauling his own commercial solid waste or the residential transporter or the person hauling his own residential refuse shall immediately clean up and remove all commercial solid waste or residential refuse that may be scattered or spilled.

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¶ A. The following words and terms, as used in this Article, shall have the meanings ascribed thereto, unless the context indicates a different meaning:¶

¶

ACCEPTABLE WASTE: ¶

1. Ordinary household, municipal, institutional, commercial and industrial solid waste, including but not limited to the following:¶

¶

a. Garbage, trash, rubbish, paper and cardboard, plastics, refuse, beds, mattresses, sofas, refrigerators, washing ... [21]

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§ 204-15 License required; application.

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- A. It shall be unlawful for any person, except a person with his own commercial solid waste, to haul, collect, remove, transport and dispose of commercial solid waste, or residential refuse generated within the town over the streets of the town for a fee without first securing a commercial refuse transporter or residential refuse transporter's license. The town, upon application and after investigation, may issue said licenses for a period of one (1) year, beginning on July 1<sup>st</sup>.
- B. All licenses shall expire on June 30th of each year, unless revoked or suspended pursuant to this Ordinance. All renewal licenses shall be applied for by May 1st and, if granted, will be effective on July 1st. Any person applying for a license shall provide a certificate of insurance showing evidence of vehicle liability and comprehensive general liability coverages with limits of no less than \$300,000.
- C. Any person wishing to obtain a commercial or residential refuse collector license shall present a written application therefor on a form provided by the town, accompanied by payment of a fee of five hundred dollars (\$500) for each license requested and a copy of a valid contract with the Town of Windham for disposal of all acceptable waste collected in the Town of Windham, such contract to remain in effect throughout the license year. A commercial or residential refuse collector license shall be issued by the Town Manager (the "Issuing Authority"). All fees collected shall be for the use of the town. [Amended 2/25/2003 and 7/22/2003]
- D. An application for a commercial or residential refuse collector license shall contain the following information:
1. Applicant's name;
  2. Applicant's residence;
  3. Address of the applicant's place(s) of business;
  4. If the applicant is a corporation, the names and addresses of each of its directors and officers;
  5. A description of the vehicles and equipment to be used, including the make, model, year of manufacture and license plate number of said vehicles and equipment; and
  6. Whether applicant will be collecting, recycling or hauling solid waste generated by residences, by commercial activities or uses and/or by industrial activities or uses; if the applicant intends to collect, recycle or haul solid waste generated by commercial and/or industrial activities or uses, the applicant shall describe the location of any dumpster(s) or other container(s) used by the commercial or industrial activity or used to store solid waste.
  7. A copy of the commercial or residential refuse transporter's current license with the Maine Department of Environmental Protection, if required.
- E. A copy of each commercial or residential refuse transporter license issued may be sent by the town to ecomaine. Upon issuing a license hereunder, the Town also may issue to the

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commercial or residential refuse transporter for each vehicle to be used by it a numbered sticker, provided by [ecomaine](#), and shall inform [ecomaine](#) of the number on the sticker assigned to the commercial or residential refuse transporter. If the town provides said stickers, each commercial or residential refuse transporter shall affix this numbered sticker to the lower left-hand corner of the front windshield of each vehicle owned or operated by it. [ecomaine](#) may refuse to accept solid waste from vehicles lacking this numbered sticker.

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- F. All licensed commercial or residential refuse transporters shall comply with such rules and regulations as the Town Council may adopt by order from time to time; failure to comply with such rules and regulations shall be a violation of this Ordinance. Each licensed commercial refuse transporter shall send [ecomaine](#) a copy of each category A manifest that it provides to the Department of Environmental Protection pursuant to Chapter 411, Section 6 of the Department's Rules as amended from time to time.

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#### **§ 204-16 Tipping fees, Payment of Invoices.**

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- A. In addition to any other payments for solid waste disposal that may be required, each commercial or residential refuse transporter shall be responsible for payment of tipping fees at [ecomaine](#) for the commercial or industrial solid waste and residential refuse hauled, collected, removed, transported or disposed of by it. However, residential refuse transporters shall enter into an agreement with the town so as to allow the residential refuse transporter to pay a portion of the [ecomaine](#) tipping fee for disposal of residential refuse at the facility based on a formula to be determined by the Town Manager, and approved by the Town Council, for each license year. Any such agreement shall require the residential refuse transporter to maintain a valid current license under this Ordinance, to indemnify the town for personal injury and property damage, to provide proof of adequate workers' compensation and public liability and property damage insurance, and shall require that the residential refuse transporter only dispose of residential refuse generated within the town at the agreed upon tipping fee.

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- B. All licensed commercial or residential refuse transporters must pay all appropriate tipping fees for deliveries to [ecomaine](#); said payments to be made within fourteen (14) days and to be based on invoices from the town. If payments are not made within said fourteen (14) days, the town may charge interest to the unpaid portion of the invoiced amount at the same interest rate allowed in the then current year for municipal real estate taxes.

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- C. If an invoice or any portion thereof, remains unpaid after ninety (90) days, a violation of the license shall exist and the licensed refuse transporter will be subject to penalties under this Ordinance including the possibility of license suspension and revocation.

#### **§ 204-17 License Denial, Revocation or Suspension.**

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- A. Licenses and renewals of licenses issued under this Ordinance may be denied, revoked or suspended by the issuing authority as follows:

1. The first violation by a licensed commercial or residential refuse transporter of any provision or provisions of this Ordinance may result, in addition to any penalty or relief that the [Town](#) may seek, in a suspension of up to thirty (30) days of that commercial or

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residential refuse transporter license, or if on the date of the first violation, said license shall expire in less than thirty (30) days, said license may be revoked.

2. The second violation, at any time, by a licensed commercial or residential refuse transporter of any provision or provisions of this Ordinance, may result, in addition to any penalty or relief the Town may seek, in a suspension of up to six (6) months of the commercial or residential transport license or, if on the date of the second violation, said license will expire in less than six (6) months, the license may be revoked.
3. The third violation, at any time, by a licensed commercial or residential refuse transporter of any provision or provisions of this Ordinance may result, in addition to any penalty or relief the town may seek, in revocation of that commercial or residential refuse transporter's license and in the denial of commercial and residential refuse transporter licenses to that person for subsequent license years unless and until the Town Council determines that the commercial or residential refuse transporter may be allowed to apply for and receive all licenses under this Ordinance due to a change in the person's circumstances since the time of the third violation; provided, however, that any further violation shall result in the revocation of the commercial or residential refuse transporter license and the barring of that commercial or residential refuse transporter from applying for a license under this Ordinance for a period of five (5) years.

B. Licenses and renewals of commercial and residential refuse transporters licenses may be denied, suspended or revoked by the Town Manager for violation of or failure to comply with any of the provisions of this Ordinance or with the provisions of any other applicable Ordinance of the town. Determination of the severity of the violation and whether a denial, suspension or revocation is warranted shall be made by the Town Manager after notice and hearing. Appeals from the Town Manager's decision may be taken to the Town Council by filing a written notice of the appeal with the Town Clerk within thirty (30) days after the Town Manager's decision. Upon notice and hearing, the Town Council may affirm, reverse or modify the Town Manger's decision.

C. If any license application is denied or license revoked, the applicant/licensee may not reapply for a period to be determined by the Town Manager based on the provisions of sections 204-16A 1, 2, and 3.

D. The town shall inform ecomaine immediately in writing whenever it denies, suspends or revokes a commercial or residential refuse transporter license hereunder.

#### **§ 204-18 Penalties for Civil Violations.**

Whoever violates any of the provisions of this Ordinance shall be subject to a civil violation and may be punished by a fine of not more than One Thousand Dollars (\$1,000) for the first violation and not more than Two Thousand Dollars (\$2,000) for the second and subsequent violations, plus costs, including attorney's fees and costs, which fine shall be recovered on complaint to the use of the town. Each day upon which any continuing violation of any provisions of this Ordinance shall occur shall constitute a separate violation, and each incident of disposal of solid waste in violation of this Ordinance shall constitute a separate violation. In addition, the Town may seek equitable relief, including but not limited to injunctive relief and indemnification of the Town's liquidated damages to ecomaine, and attorney's fees and costs to ensure compliance with the terms of this Ordinance.

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Payment of fines must be made within fourteen (14) days of notice. The ~~Town~~ may charge interest to the unpaid portion of any fine at the same interest rate allowed in the then current year for municipal real estate taxes. Further, outstanding fines will be considered as grounds for denying a license renewal in accordance with Section 204-16B.

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**§ 204-~~19~~ Miscellaneous.**

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- A. It shall be the duty of the Town Manager to enforce the provisions of this Ordinance.
- B. All ordinances or parts of ordinances in conflict with this Ordinance are hereby repealed.
- C. If any section, subsection, sentence or part of the Ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this Ordinance..

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