

# Variable Rate Pricing (aka unit-based pricing) Guide and Sample Ordinance for Municipalities

## A Guidance Document and Sample Variable Rate Pricing Ordinance from the Agency of Natural Resources for Compliance with Vermont's Universal Recycling Law (Act 148)

### Overview

Vermont's Universal Recycling law (Act 148) requires all Vermont municipalities (including solid waste districts, alliances, groups of towns, and individual towns—collectively Solid Waste Management Entities) to “implement a variable rate pricing system [also known as unit-based pricing] that charges for the collection of municipal solid waste from a residential customer for disposal based on the volume or weight of the waste collected.” This requirement must be met by July 1, 2015 and a sample ordinance is provided at the end of this Guide to assist municipalities with this transition.

Many aspects of Act 148 focus on creating consistent and convenient statewide solid waste services that will lead to increased waste reduction and diversion. Unit-based pricing (UBP) systems have been shown to significantly incentivize waste reduction and diversion of recyclables and compostable materials. In fact, studies have found that UBP systems reduce residential waste disposal by as much as 17% (Skumatz and Freeman, 2006). Many Vermont towns, solid waste haulers, and drop-off centers already have and use UBP systems, easing the transition for Vermont to statewide UBP adoption.

The original Vermont Solid Waste Management Plan, written in 1989, had a directive for all Solid Waste Implementation Plans (SWIPs) to include action plans for UBP implementation by both public and private haulers of volume- or weight-based charges for residences and businesses. Many solid waste management entities elected to utilize UBP systems as a result, however statewide adoption was not achieved since the directive allowed for SWMEs to provide reasons for exemptions and to propose alternatives. With the adoption of Act 148, there is now a statutory requirement for all municipalities to establish UBP systems for residential municipal solid waste (MSW). This requirement extends to solid waste hauling companies and drop-off facilities/transfer stations that collect residential MSW. This means that regardless of whether a resident is dropping off MSW at a drop-off facility, or having it collected at the curbside, the resident is paying for the amount of materials disposed on a per unit basis—either through volume, such as a fee per bag or container, or through weight, such as a fee per pound.

### Current Residential Solid Waste Disposal

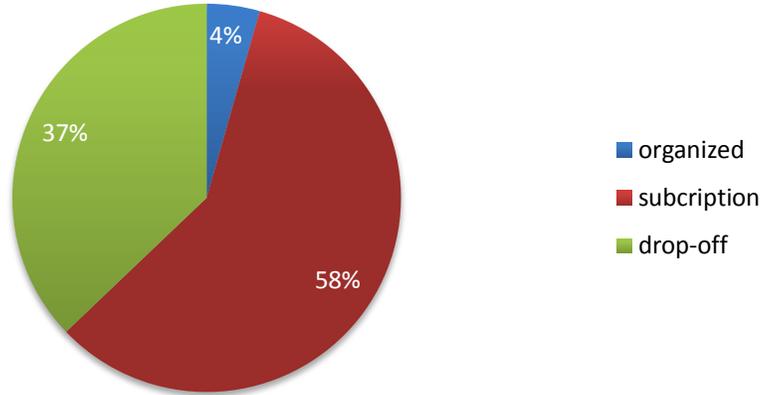
The recent report, “Systems Analysis of the Impact of Act 148 on Solid Waste Management in Vermont (October 21, 2013),” prepared by DSM Environmental Services, Inc. and the Tellus Institute, estimated the number of households in Vermont using particular disposal methods for their MSW. Of the three main methods shown in the charts below “organized curbside collection” refers to municipalities that have contracted with a hauler to provide curbside collection services to their residents; “subscription collection” refers to residents hiring private haulers to collect curbside; and “drop-off collection services” refers to resident-hauled trash and recycling that is brought to drop-off facilities/transfer stations, recycling centers, fast trash, and other drop-off centers.



### Estimated Residential Use of Municipal Solid Waste Collection Services<sup>1</sup>

- 11,900 (4%) households are part of an **organized** curbside collection program
- 157,800 (58%) households are part of a **subscription** collection service
- 100,200 (37%) households rely on **drop off** services

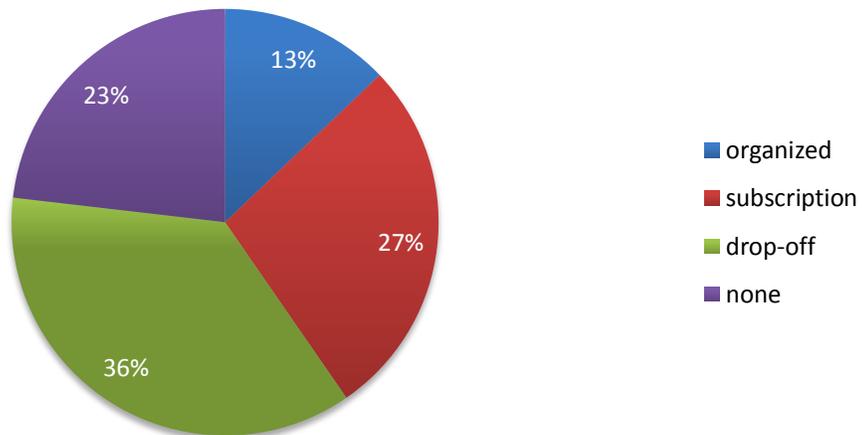
## MSW Disposal Method by Household



### Estimated Residential Use of Recycling Collection Services

- 34,800 (13%) households are part of an **organized** collection program,
- 74,200 (27%) receive subscription **curbside** collection
- 98,400 (36%) utilize **drop off** collection services
- 62,500 (23%) households **lack access** to parallel recycling services.

## Recycling Collection Method by Household



The following towns have organized curbside collection: Brattleboro, Burke (trash only), Goshen (trash only), Hartford (recycling only), Lyndon, Middlebury (recycling only), Bristol (recycling only), Proctor, Westford, Underhill, Westmore, Guildhall, Bloomfield, Brunswick, Maidstone, Westminster (trash only), and Vernon (trash only).

<sup>1</sup> This information and charts below were sourced from the “Systems Analysis of the Impact of Act 148 on Solid Waste Management in Vermont (October 21, 2013),” prepared by DSM Environmental Services, Inc. and the Tellus Institute.

## What is Unit-Based Pricing?

Many communities in Vermont, the United States, and abroad pay for their trash in the same way that they pay for their electricity—based on the amount they use—or in this case, the amount of trash they produce. This payment system is commonly referred to as unit-based pricing (UBP), where a person pays a certain fee for each bag (e.g. volume unit) or for each pound (e.g. weight unit) of trash they throw away.

These systems are also known as variable rate pricing (VRP), pay as you throw (PAYT), user pay, or SMART—“Save Money and Reduce Trash.” While these terms share the same meaning, not all UBP systems are structured the same. However all UBP systems that charge households a per unit fee, such as \$2.00 per bag, are sending a “price signal” to waste generators that the more trash they produce, the more they will have to pay.

Bringing your trash to a drop-off facility and paying a fee for each bag of trash you drop off is one example of UBP. Similarly, if you hire a trash collection service (trash pickup), and you pay a fee for each unit of trash you set out on the curb on collection day (e.g. for each bag, can, bin or container of trash) this is also a type of UBP.

### What is Not UBP?

If you pay a flat fee for trash collection services either through your town property taxes or through a private contractor that permits you to put out numerous bags, cans, bins, or containers of trash on collection day with no additional fee, that is not UBP. Similarly purchasing a “dump” sticker that allows you to drop-off as much trash as your car/truck will hold at the dump or drop-off facility is not UBP and neither is a punch card that allows the user an unlimited amount of trash disposal for one punch of the card.

### What are the Benefits of UBP?

- **Unit-Based Pricing Gives Residents Control of Costs** – If your community or local haulers do not offer a UBP payment system, trash fees are not being fairly applied to residential customers. People who produce little trash and those that are aggressive recyclers (low volume users) are required to pay the same amount as everyone else. With UBP, customers who produce more trash pay more. Flat fees do not allow a customer to control how much they spend on solid waste disposal. UBP allows all customers to have control of their solid waste costs and gives them the power to save money by recycling and composting. Once UBP is implemented, low-volume users, such as the elderly, will no longer subsidize those who generate higher volumes of trash. UBP systems can be convenient. Residents who were initially against the Pay-Per-Throw in Newark Vermont, found that recycling was not that much trouble and their disposal costs were not overwhelming.
- **Reduces Costs** – Some communities have found significant solid waste cost savings after initiating UBP systems. Flat fee structures do not send a “price signal” to residents, thereby making disposal easy and encouraging overuse of solid-waste services.<sup>2</sup> The newly implemented UBP system in Canaan Vermont helped the town gain control over their waste management costs, effectively cutting waste management costs in half. In addition the pricing system allowed the town to include two new expenses: a paid attendant to monitor the stump dump (in another location) one day a week, and a \$2,000/year contribution to a reserve fund to purchase new equipment when necessary. In Newark the cost of operating the transfer station, including recycling and disposal was removed from the town budget and significantly offset the need to raise taxes to cover other town expenses.
- **Waste Reduction and Improved Environmental Quality** – According to the U.S. EPA, UBP “has proven to be the single most measurably effective way to reduce residential solid waste, increase recycling, and decreasing waste-related greenhouse gas emissions.” Newark Vermont’s Pay-Per-Throw system has cut the amount of trash disposed in half: 33.39 tons for the 4<sup>th</sup> quarter of 2012 to 14.4 tons for the 4<sup>th</sup> quarter of 2013 Canaan Vermont selectman Gregory Noyes said of the town’s recent UBP switch, “This is the only system that rewards individuals for their efforts to reduce their costs by recycling and composting.” UBP systems extend the life of landfills, decrease air pollution from *trash* incinerators, and reduce the need for new disposal facilities. As communities turn to reuse, recycling, and composting, shared natural resources, such as land, air, and water, are protected and preserved.<sup>3</sup>

<sup>2</sup> Page 14 - Skumatz, L. A. & Freeman, D. J. – PAYT In the US: 2006 Update and Analyses, December 2006.

<sup>3</sup> Quoted from MA DEP. Retrieved September 2013 from <http://www.mass.gov/eea/agencies/massdep/recycle/reduce/pay-as-you-throw-basics-for-municipalities.html>.

- **Flexibility** – UBP systems and programs can be designed for different sized communities and can be structured in a variety of ways allowing flexibility for local governments, haulers, and customers. “When you compare our last budget with the old system and our current budget it is clear as night and day PAYT is the way to go. Every town can adopt a PAYT System that fits their town. We had to make adjustments along the way. We would never go back to the old system.” - Gregory Noyes, Canaan Selectman.

## What is Being Required of Municipalities?

1. In accordance with Act 148, all Solid Waste Management Entities (SWMEs) shall have implemented a UBP system that is based on either volume or weight of waste collected, by July 1, 2015. Satisfaction of this requirement requires SWMEs to ensure that all haulers and drop-off facility operators in their jurisdiction are using some type of UBP system and to enforce these requirements.
2. The UBP system chosen can vary depending on the needs and dynamics specific to the SWME (see the common UBP systems listed below).
3. In accordance with requirements of the new state Materials Management Plan, Solid Waste Management Entities must include in their SWIP that is submitted to ANR, a description of their UBP system or program, including how haulers and facilities have been brought into compliance and copies of any ordinance passed. ANR will review each SWME’s SWIP and may take action to enforce the adoption and implementation of a SWIP.

Since many solid waste management entities, drop-off facility operators, and haulers have legitimate UBP systems already in place, these municipalities should easily be able to meet this statutory requirement. Others will need to make changes to their payment systems for the trash services they offer in order to fulfill this requirement.

## Guidance for Implementing a Unit-Based Pricing System

To effectively implement a UBP system, ANR recommends that solid waste management entities adopt ordinances (in consultation with their attorney) in their districts or towns that require that all haulers and facilities establish and utilize UBP systems. Considering that solid waste collection routes frequently cross town lines, ANR encourages solid waste districts to adopt ordinances on behalf of their member towns and to coordinate with neighboring districts and other SWMEs to align ordinance language where appropriate to provide regional consistency of pricing systems.

Which UBP system a district or town decides to adopt—and requires haulers to utilize through their ordinance—is up to them as long as the UBP system meets the intent of Act 148. In southern New England, pre-paid UBP systems that require residents to purchase special bags or stickers are most common, mainly because they reduce billing and collection costs and can be adapted to fit a variety of municipal needs. Before choosing or developing a UBP system, ANR encourages SWMEs to contact the Agency for guidance with developing their UBP system.

### Common Unit-based Pricing Systems

Below is a brief description of the common types of UBP systems. It is ANR’s recommendation that UBP systems implemented by SWMEs, haulers, and drop-off facilities will meet one or a combination of these pricing systems. Systems can be combined to meet the particular needs of a given community. Any of these various systems can be used in conjunction with a flat or fixed fee as long as a per-unit-fee is also charged based on volume or weight.

- **Imprinted Trash Bags** – Residents purchase colored plastic bags imprinted with a unique identifier, such as the name or seal of the municipality. 30-35 gallon bags are most common. The price of each bag covers the cost of the bag itself and part or all of the cost of transportation, and disposal. Residents set these bags out at the curb for collection or bring them to their local drop-off facility. Waste haulers and drop-off facility operators are instructed to accept only the specially marked trash bags. Additional fees are usually charged for disposal of items too large to fit into a bag.
- **Stickers** – Residents purchase stickers at their municipal office and/or local retail stores to affix to a specific sized bags or containers (30 gallon sticker for kitchen sized bags and 50 gallon stickers for “contractor bags” for example). Only bags with these stickers are collected or are accepted for disposal at drop-off facilities. Sticker systems avoid the need for billing.
- **Per Bag Punch Cards** – Residents purchase punch cards at their municipal office and/or local retail stores priced based on the number of dots or bags offered on the card. Drop-off facility operators punch the dots for each bag

of trash a resident brings for disposal. Only residents possessing a punch card are permitted to deposit trash at the drop-off facility. This system does not require the drop-off facility operator to handle cash transactions and also avoids the need for billing.

- **Containers or Cans** – Residents are offered containers of varying sizes (in some places as small as 13-20 gallons to provide incentives for those who aggressively recycle) with an increasing charge for the collection of larger containers or, haulers offer collection of multiple containers with an increased charge for each additional container. Haulers can include a flat fee to help defray the embedded cost in making the trip, but must have a unit-based charge, per container used by the resident. For example a hauler might charge a stop fee of X for all customers, with an additional unit-based fee of Y for every 32-gallon container a resident puts out for collection. Or Y for a 32-gallon container, Z for every 48-gallon container and so on.
- **Hybrid** – Instead of receiving unlimited disposal (via collection or drop-off services) for payment of a monthly fee, annual dump sticker, or through property tax bills, residents receive a smaller, limited volume of service for that fee—for example one 32-gallon container or trash bag collected or allowed to be brought to a drop-off facility for disposal each week. If the customer needs to dispose of additional waste, there is another charge for each additional container or bag of trash that they produce. Some municipalities with organized collection may choose to maintain a small flat fee charge for household solid waste collection services through town property taxes or through something like a dump sticker. As long as a town also adopts and requires households to pay an additional per unit (volume or weight) fee for their trash (such as a charge per bag or per container of trash collected), the small flat fee would not be viewed by ANR as a tax subsidy and is therefore acceptable. This is known as a hybrid UBP system (more detail on this type of system follows below).
- **Weight-Based Systems / “Garbage by the Pound”** – Trash containers, bags, or even vehicles are weighed and customers are charged based on the weight of the trash they are disposing of. These systems require certified scales, however, to ensure accuracy of charges.

### Examples and Scenarios

In response to several questions ANR has received we have developed a few examples and scenarios of acceptable UBP systems.

- **What should a unit-based price cover?** – The per unit fee should cover the cost of disposal for that unit of solid waste (including any district surcharge and state franchise fee) and may also cover the cost of collection of recyclables if it has been added to solid waste costs as allowable by law.
  - For instance, a town operating a transfer station should charge a per bag fee that covers the cost of hauling that bag to a landfill and the cost to dispose of it at that landfill (e.g. the tipping fee). That same town could fund other costs such as the transfer station attendant through their town’s property taxes or through a flat fee charged for each dump sticker.
  - A town that contracts with a hauler (or hauls themselves) to provide curbside collection services to residents should ensure that the per unit fee charged covers the cost for the hauling and disposal of each unit of trash collected. Additionally a town may also include in that per unit fee the costs for the collection of recyclables as allowable by law. Other costs such as the cost of a town-owned bailer, or upkeep to town owned solid waste equipment (loader, dumpsters), buildings, may be covered by a flat fee to every resident or through property taxes.
- **Hybrid systems with a “base level” of service through property taxes** – Another acceptable UBP option would be the use of property taxes to cover a certain ‘base level’ of service, such as 32 gallons of trash collection service per household per week (either by the bag or the container). Any additional bags or containers a resident sets out on the curb on collection day would need to carry an additional unit-based charge, such as a higher bill for having two containers, or through the use of a pre-paid sticker or pre-paid bag for these extra bags. A sticker or bag purchased at the town office, local grocery store, or gas station would be most common way to implement this type of system. Any hauler hired by the town would be required to not collect any bags above and beyond each household’s first bag, if those additional bags were missing the sticker or were not the special bags sold by the town. Using property taxes to cover more than 32 gallons of trash collection service per household per week (either by the bag or the container) would not be acceptable. However, a 64 gallon container could be permitted as long as it was collected every other week (in effect maintaining the 32 gallons of trash collection service per week).

- **Can towns subsidize recycling fees in the property taxes rather than in the trash bag fees?** – Yes a town may cover the cost of collecting recyclables through property taxes as long as a unit-based fee is charged for trash collection.

### **Communicating the Transition to Unit-Based Pricing**

The following quoted sections were excerpted from Massachusetts' Department of Environmental Protection's Pay-As-You-Throw Basics for Municipalities website. Note that Massachusetts uses the acronym for pay as you throw—PAYT and the word "program" throughout in place of "system." ANR has specifically included MA DEP's section on Building Public Support because early and effective communication with residents about the shift to UBP system will significantly reduce misinformation, further public acceptance of the pricing, and ultimately, ordinance adoption. Educating the public and building support for UBP is critical for municipalities with organized collection, even though Act 148 requires them to implement UBP systems.

"With any new program, issues will arise that need to be considered and addressed before implementation. Most prominent among them are likely to be:

- **Public Perception that the Fee is a Tax.** It is possible that residents may perceive the unit-based pricing program as a new tax. To avoid this perception, communities should consider making their programs revenue-neutral, by reducing property taxes or flat fees by the amount that unit-based fees are expected to generate. As a result, residents do not view PAYT fees as taxes.
- **Adverse Effects on Low-Income Households.** Because PAYT fees for trash service represent a higher percentage of a low-income family's income, steps should be taken to minimize the impact on these households. Just as electric, gas, and water utilities provide special rates for low-income users, a PAYT program may also include lowered rates for residents who demonstrate hardship.
- **Increases in Illegal Dumping.** Many solid waste managers have expressed a fear that residents may resort to illegal dumping in commercial waste bins or public trash cans if charged a fee for waste disposal. Studies of communities in Massachusetts and around the nation with PAYT programs indicate that increased illegal dumping is NOT a problem in most communities.
- **Higher Administrative Costs.** With any new program, additional staff time may be needed for planning and start-up. However, these costs are generally recovered in the long run through savings associated with increased recycling and reduced waste disposal.

### **Building Public Support**

Public acceptance and support are the most important components of a successful unit-based pricing program. Key players from the municipal government and from the community at large must be involved from the beginning of the planning process. Taking the time and committing the resources to build support within both the government and community will minimize confusion about the program from the beginning. Here are a few suggestions about how to gather support in your community:

- **Sell the Program to Key Decision Makers.** Begin by gaining the support of local officials. Prepare briefing documents that analyze costs and address potential concerns, and develop a number of program options from which decision makers can choose. Once support among key decision makers has been established, build community awareness and support for the program.
- **Gather Public Input.** Community awareness and support is a key to the ultimate success of PAYT programs. Without public support, a PAYT program has less chance of being accepted. After all, the citizens make the program work by following the rules. Comments should be solicited from the public to help identify misperceptions about the program and reasons for opposition, and to inform program planners of current public opinion. Public meetings also are important for providing an additional avenue for residents to voice their concerns and raise issues.
- **Educate the Public.** The final step in the process of building local support for unit-based pricing is to address the public's concerns and misperceptions. Provide program specifics and offer information on waste

reduction and recycling. If residents believe the pricing structure is arbitrary and are unaware of ways to reduce their costs, the program is likely to fail.”<sup>4</sup>

For detailed guidance and information on implementing a UBP systems, ANR strongly recommends municipalities consult the report entitled *Pay-As-You-Throw: An Implementation Guide for Solid Waste Unit-Based Pricing Programs* and produced by the Massachusetts, Department of Environmental Protection, January 2004. The report provides detailed information on the pros and cons of various UBP systems, which MA communities have adopted various systems, and specific information on adding in collection of recycling, bulky items, and compostable materials such as food, leaf, and yard waste. It also discusses the challenges to UBP systems posed by apartment building residents and seasonal residents and suggests solutions such as instructing and requiring property owners to educate their renters or seasonal residents on local UBP systems and recycling and composting requirements in state law. This report can be accessed here: <http://www.mass.gov/eea/docs/dep/recycle/reduce/m-thru-x/pguide04.pdf>.

### **Designing and Setting Sustainable UBP Rates**

As with any service paid on a per-unit or per-use basis, such as per kilowatt with electricity, a service administrator (be it a town, private hauler or drop-off facility operator), should ensure that the fees cover the costs of maintaining and operating the system and the service. In towns with contracted haulers, UBP systems (e.g. “organized collection”) generally involve a two-tiered pricing system that combines a flat fee with a unit-based fee. The flat fee provides stability to the solid waste UBP system and ensures that the basic costs of collection are covered. The unit-based fee provides the incentive for residents to recycle and compost.<sup>5</sup>

The U.S. EPA’s *Rate Structure Design: Setting Rates for a Pay-As-You-Throw Program* guide can be a valuable resource in determining how to set rates for your UBP system. Rates that are too high will upset residents, while rates that are too low may not cover the cost of solid waste collection and disposal. You can download the USEPA guide here: <http://www.epa.gov/epawaste/consERVE/tools/payt/tools/rsd.htm>.

The EPA also offers a Pay-As-You-Throw Tool Kit and 7 worksheets that are useful for designing a UBP system and even evaluating how it is working. These worksheets cover the following topics:

- Worksheet 1: Program Goals
- Worksheet 2: Potential Barriers
- Worksheet 3: Public Outreach
- Worksheet 4: Container & Pricing Choices
- Worksheet 5: Rate Structure Design
- Worksheet 6: Implementation Checklist
- Worksheet 7: Monitoring & Evaluation

Access these resources by following this link: <http://www.epa.gov/epawaste/consERVE/tools/payt/tools/toolkit.htm>.

Other tools available from the U.S. EPA include the “SMART BET Calculator” (Saving Money and Reducing Trash Benefit Evaluation Tool). This tool allows users to see the greenhouse gas reductions and cost savings that are possible by implementing a UBP system. Download the U.S. EPA’s SMART BET Calculator here: <http://www.epa.gov/epawaste/consERVE/tools/payt/tools/smart-bet/index.htm>

A significant number of Vermont towns and solid waste districts utilize UBP systems. For information on towns that may have recently adopted UBP systems talk to your local solid waste district, group, or alliance.

Additionally Massachusetts and Connecticut both have extensive lists of communities that have adopted UBP systems including specifics on when the program was initiated, what UBP system is being employed (bags, stickers, punch cards,

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<sup>4</sup> Mass DEP Pay-As-You-Throw Basics for Municipalities: <http://www.mass.gov/eea/agencies/massdep/recycle/reduce/pay-as-you-throw-basics-for-municipalities.html>

<sup>5</sup> Mass DEP Pay-As-You-Throw Basics for Municipalities: <http://www.mass.gov/eea/agencies/massdep/recycle/reduce/pay-as-you-throw-basics-for-municipalities.html>

etc.), what the prices per bag or container are, and contact information for the person who operates the municipal program. To view a list of Massachusetts' UBP communities visit:

<http://www.mass.gov/eea/agencies/massdep/recycle/reduce/pay-as-you-throw-payt.html>. To view a list of Connecticut's UBP communities visit: <http://www.ct.gov/deep/cwp/view.asp?a=2714&q=324920#Conn>.

### **Passing/Amending an Ordinance**

To implement UBP, SWMEs may choose to adopt an ordinance requiring all haulers and facilities in their jurisdiction utilize a unit-based pricing system. One way to enforce this is for SWMEs to license haulers and facilities and require them to include evidence of their unit-based pricing structure along with their license application. If their pricing structure does not meet one of the categories for UBP, the SWME may reject or revoke their license application, fine them, or take other actions as outlined by their ordinance.

Attached to this guide is a sample and example ordinance offered by ANR that could be adopted and adapted by SWMEs. ANR strongly advises SWMEs to consult their attorney before adopting any new ordinance. ANR shall be indemnified and held harmless by any municipality who chooses to use this sample ordinance.

### **Towns with Taxpayer Funded Solid Waste Collection (e.g. "Organized Collection")**

A town or towns, which are not part of a district and that have contracted with a solid waste hauler that serves their residents, may enact a UBP system by voting at a meeting of their governing body—the select board—or via a public vote at town meeting. At a town meeting vote, local leaders should make it clear that Act 148 clearly requires all municipalities implement a UBP system by July 1, 2015. The only choice presented to municipalities is what type of UBP system they might choose to adopt or implement.

### **Incorporating Recycling**

It is essential that convenient and comprehensive recycling be part of any UBP program. Act 148 requires all facilities that provide trash disposal to also offer recycling drop-off services by July 1, 2014 and all haulers who provide trash collection to also offer recycling collection, by July 1, 2015. Neither facilities nor haulers may charge a separate fee for the drop-off or collection of recycling from residential customers; however they may incorporate the costs for collection into the costs for solid waste.

## **Additional Resources and Assistance**

- MA DEP: The Massachusetts Department of Environmental Conservation maintains an extensive website on pay as you throw including case studies on both pay as you throw collection programs and drop-off programs <http://www.mass.gov/eea/agencies/massdep/recycle/reduce/pay-as-you-throw-payt.html>.
- US EPA's Dedicated Pay As You Throw webpage - <http://www.epa.gov/epaoswer/non-hw/payt/intro.htm>
- US EPA Education & Outreach Resources - <http://www.epa.gov/osw/consERVE/tools/payt/top5.htm>
- US EPA PAYT tools - <http://www.epa.gov/osw/consERVE/tools/payt/index.htm>
- The 'Reason Foundation' has an extensive independent study of Pay As You Throw - <http://www.reason.org/files/cb914cdfff39846fc8a59f3620bfeeb4.pdf>.

### **Links to Sample Ordinances**

- Boulder County, CO: <http://www.bouldercounty.org/doc/government/ordwastehauler.pdf>
- Fort Collins, CO: [http://www.fcgov.com/recycling/pdf/trash\\_ordinance\\_20090519.pdf](http://www.fcgov.com/recycling/pdf/trash_ordinance_20090519.pdf)

### **Assistance**

If you would like assistance implementing a UBP system in your district or town, please contact:

Josh Kelly, ANR-DEC, Solid Waste Program  
(802) 522-5897 or [josh.kelly@state.vt.us](mailto:josh.kelly@state.vt.us)

## Resource List

- DSM Environmental Services, Inc. and Tellus Institute. (July 2013). *Systems Analysis of the Impact of Act 148 on Solid Waste Management in Vermont*. Retrieved from <http://www.anr.state.vt.us/dec/wastediv/solid/documents/Act1487292013/DraftReport-Act148Analysis-7-29-2013-DSMandTellus.pdf>
- Massachusetts, Department of Environmental Protection. (January 2004). *Pay-As-You-Throw: An Implementation Guide for Solid Waste Unit-Based Pricing Programs*. Retrieved from <http://www.mass.gov/eea/docs/dep/recycle/reduce/m-thru-x/pguide04.pdf>
- Skumatz, L. A. & Freeman, D. J. (December 2006). *Pay As You Throw (PAYT) In the US: 2006 Update and Analyses*. Retrieved from <http://www.epa.gov/osw/conserve/tools/payt/pdf/sera06.pdf>

## SAMPLE ORDINANCE

### TOWN OF           OR SOLID WASTE DISTRICT           CIVIL ORDINANCE

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

WHEREAS, the [Town(s) of           OR SOLID WASTE DISTRICT          ] 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(s) of           OR SOLID WASTE DISTRICT          ] is implementing and requiring 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.

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 Variable rate pricing is more equitable or fair pricing for solid waste by charging based on the number of units of solid waste a residential customer produces.

NOW, THEREFORE, to encourage the responsible use of resources and the protection of the environment, the [Selectboard of the Town(s) of           OR the          SOLID WASTE DISTRICT, BOARD of SUPERVISORS          ] hereby adopts this ordinance requiring Variable rate pricing charges for collection of MSW from residential customers in the [Town(s) of           OR SOLID WASTE DISTRICT          ], 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.”

#### **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.

**Article III: VARIABLE RATE PRICING**

Haulers and Facilities (hereinafter “Service Providers”) 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.

Each Service Provider 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 Service Provider from establishing rules and regulations regarding the safe maximum weight of bags or containers of municipal solid waste materials. A Service Provider may refuse to collect or allow disposal of any bag or container which is overloaded or which contains a 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, Service Providers 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 Service Provider 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 Service Provider from charging additional fees for the Collection of materials such as food and yard residuals or bulky items; except however, that no Service Provider 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 Service Provider may incorporate the cost of the Collection cost of mandated recyclables into the cost of the Collection of solid waste and may adjust the charge for the Collection of solid waste.

**Article V: FILING OF PRICING SYSTEM**

The Service Provider shall file and submit evidence of their variable rate pricing system, including a breakdown of any and all fees including any flat fees, to the [Town(s) of OR SOLID WASTE DISTRICT] or shall file such evidence along with their license application.

**Article VI: PENALTIES AND CIVIL ENFORCEMENT**

- 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.
- b. The penalties for violating this ordinance are as follows:

1st offense: Notice of Violation (written warning – demanding Variable rate pricing)

	<u>Civil Penalty</u>	<u>Waiver Fee</u>
2nd offense:	\$100.00	\$50.00
3rd offense:	\$250.00	\$125.00
4th and subsequent offenses:	\$500.00	\$300.00

The waiver fee is paid by a violator who admits or does not contest the violation.

**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 adjudged invalid, it is hereby provided that the remainder of this ordinance shall not be affected thereby.

**Article X: EFFECTIVE DATE**

This ordinance shall become effective 60 days after the adoption date shown below.

Adopted this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Selectboard OR Board Member if from a District Board of Supervisors

\_\_\_\_\_  
Selectboard OR Board Member if from a District Board of Supervisors

\_\_\_\_\_  
Selectboard OR Board Member if from a District Board of Supervisors

Attest: \_\_\_\_\_