

CHAPTER 16 SOLID WASTE & RECYCLING

I. Recitals

1. Since the adoption by the Town of Kent of its current ordinances concerning regulation of the collection and disposal of municipal solid waste and its program for recycling of items of certain solid waste, the State of Connecticut has amended its statutes, regulations and statewide solid waste management plan on numerous occasions and the Housatonic Resources Recovery Authority (“HRRA”) has revised the provisions of its Regional Solid Waste Disposal and Recycling System that serves as the regional solid waste management plan. Participation by the Town of Kent in HRRA’s Regional Solid Waste Disposal and Recycling System satisfies the requirements of Section 22a-220(a) of the Connecticut General Statutes that the Town of Kent make provisions for the safe and sanitary disposal of all “acceptable solid wastes,” as defined in the ordinance below, which are generated within its boundaries.
2. Those amendments by the State of Connecticut and revisions by HRRA have, among other things, increased the statewide goal for reducing the amounts of solid waste disposed of, expanded the list of items designated to be recycled, increased the amounts of materials targeted for recycling in the future in relation to amounts of solid waste to be disposed of, and adopted provisions requiring municipalities to register and collect specific data from all collectors of solid waste and recyclable materials generated within the respective municipalities.
3. The Board of Selectmen of the Town of Kent has determined that the public health, safety and welfare of the citizens of the Town of Kent will be best served by the adoption of the following ordinance concerning regulation of the collection and disposal of municipal solid waste and its program for recycling of items of solid waste to reflect the applicable revisions of the State of Connecticut’s statutes, regulations and statewide solid waste management plan.
4. It is the intention of the Board of Selectmen of the Town of Kent that the provisions of the following ordinance be interpreted in such a manner as to provide to the Town of Kent, to the greatest extent contemplated in Chapter 446d of the Connecticut General Statutes, the means to reduce the amounts of solid waste generated within the Town of Kent and disposed of as solid waste and to increase the amounts of items of such solid waste recycled in accordance with the statutes and regulations of the State of Connecticut.
5. It is also the intention of the Board of Selectmen of the Town of Kent that the adoption of the provisions of the following ordinance and the participation of the Town of Kent as a Member in HRRA’s Regional Solid Waste Disposal and Recycling System, the Town of Kent demonstrates its progress in planning and program implementation designed to achieve the State of Connecticut’s goals of diverting materials from solid waste disposal.

Sec. 16-1. Municipal Solid Waste

In order for the Town of Kent to effectively deal with its solid waste including recyclables, and to meet the State of Connecticut mandate enacted in General Statutes Section 22a-220 et seq., the provisions adopted hereby shall apply, effective on and after January 21, 2021, notwithstanding

any existing provisions of the ordinances of the Town of Kent to the contrary notwithstanding, and any such contrary provisions are hereby repealed:

1. (a) Each owner and occupant of real property located in the Town of Kent and any other person generating, producing or originating solid waste within the Town shall be required to separate recyclables from other solid waste and to deliver such recyclables to a commercial solid waste hauler registered in the Town or to an approved solid waste facility designated by the Town in accordance with the provisions of this ordinance.

(b) No person may engage in collecting, hauling or disposing of recyclables or solid waste within the Town unless such person has first registered as a commercial solid waste hauler with the Office of the First Selectman and/or its designee. Each person so registering with the Office of the First Selectman shall provide such information as the First Selectman deems necessary to insure compliance with and to carry out the purposes of this ordinance. Each person acting as a commercial solid waste hauler within the Town shall properly dispose of recyclables and of solid waste in accordance with the requirements of this ordinance and in accordance with the requirements of state law.

2. (a) All items designated as recyclables by the State of Connecticut Department of Energy and Environmental Protection or by the Board of Selectmen of the Town of Kent shall be considered recyclables and shall be subject to separation and disposal as required by this ordinance.

(b) Each person generating, producing or originating solid waste upon or from a residential property located within the Town of Kent shall separate at the source all recyclables from such solid waste and shall segregate such recyclables for disposal in an approved manner. Each other person generating, producing or originating solid waste within the Town, including commercial and industrial businesses, shall make provision for the separation of all recyclables from such solid waste and for the disposal of such recyclables in an approved manner.

(c) No commercial solid waste hauler or other person shall dispose of any recyclable item generated within the Town of Kent in any solid waste facility except in areas specifically designated for the collection of such recyclable item.

(d) Solid waste from which recyclables have not been separated shall not be collected, transported or disposed of by commercial solid waste haulers. Each commercial solid waste hauler shall routinely inspect collected solid waste for separation of recyclables and shall issue a violation notice, by tag or other means approved by the First Selectman, to each person whom the commercial solid waste hauler determines is not in substantial compliance with the requirements of this ordinance. Each commercial solid waste hauler shall periodically provide the First Selectman and the Department of Energy and Environmental Protection with such information, including the record of violation notices, as they deem necessary to assure and assess compliance with this ordinance. A collector shall also assist the First Selectman or their designee to identify any person responsible for creating loads containing significant quantities of recyclable items mixed with solid waste which are delivered to a resources recovery facility or solid waste facility by the collector and detected by the owner or operator of such facility.

(e) Recyclables shall be prepared for recycling, processing or sale in the manner

required by procedures or practices established by the Board of Selectmen pursuant to the authority vested in the Board by Section 16-1.3(a) of this ordinance.

(f) No person shall knowingly combine previously segregated designated recyclable items with other solid waste.

(g) The authority to designate recyclable items that are additional to the items designated as recyclables under state law or pursuant to regulations adopted by the Connecticut Department of Energy and Environmental Protection is hereby vested in the Board of Selectmen.

3. (a) Each person desiring to engage in collecting, hauling, or disposing of recyclables generated, produced or originating in the Town of Kent, shall register with the Office of the First Selectman as a commercial solid waste hauler. In order to be eligible for registration as a commercial solid waste hauler, such person shall agree to comply with the provisions of applicable state law, with this ordinance and with the procedures, practices, rules and regulations established by the Board of Selectmen relative to the collection, transportation and disposal of solid waste and of recyclables. All information and representations made in connection with an application for registration as a commercial solid waste hauler shall be made under penalties of false statement under Section 53a-157 of the General Statutes.

(b) Any collector hauling solid waste generated by residential, business, commercial or other establishments, including, but not limited to, recyclables generated within the borders of the town of Kent, shall register and apply for a permit annually as directed by the First Selectman or his or her designee and disclose: (1) The name and address of the collector and the owner of such collection company; (2) the name of any other municipality in which such collector hauls such solid waste, including recyclables; (3) whether the hauling done by such collector is residential, commercial or other; (4) the types of waste hauled; (E) the anticipated location of any disposal facilities or end users receiving recyclable solid waste; and (5) any additional information that such First Selectman or his or her designee requires to enhance the health and safety of the residents of the town of Kent. No person may act as a collector in the Town of Kent without maintaining an active permit issued pursuant hereto, and no person may drive a solid waste collection vehicle to collect solid waste in the Town of Kent without demonstrating that such person has a valid license issued by the State of Connecticut to drive such vehicle. It shall be a condition of such registration and permit that any such collector agrees to comply with (i) all provisions of this ordinance and Chapter 446d of the Connecticut General Statutes applicable to collectors, and all other requirements set forth in the application for such permit, which agreement to comply shall be contained in all annual registrations and permit applications.

(c) Any such collector shall report to the First Selectman or their designee (A) the types of solid waste, including recyclables, as listed in subsection (c) of section 22a-208e of the Connecticut General Statutes, as it may be amended from time to time, generated within the borders of the Town of Kent and collected by such collector, (B) the name, location and contact information for the first destination where such solid waste, including recyclables, was delivered by the collector during the previous fiscal year, and (C) the types and actual or estimated amounts of such solid waste, including recyclables, directly delivered to (i) an out-of-state destination, (ii) an end user or manufacturer in Connecticut, or (iii) any other location in Connecticut not maintaining an active permit as a solid waste facility issued by the Connecticut Department of Energy and Environmental Protection. Such reports shall be submitted to the First Selectman or his or her designee annually, on

or before July thirty-first, and shall provide the information specified in this subdivision for the prior fiscal year of the State of Connecticut. Such reports shall be on a form prescribed by the Connecticut Commissioner of Energy and Environmental Protection and shall include any other additional information the commissioner and/or HRRRA deems necessary.

(d) Each contract between a collector and a customer for the collection of solid waste shall make provision for the collection of designated recyclable items, either by providing for the collection of designated recyclable items by the same collector who is party to the solid waste contract or by including an identification by the customer of the collector with whom such contract exists. The provisions of this section shall not be construed to require a customer to contract exclusively with one collector for the collection of both designated recyclable items and other solid waste. Each collector shall provide each customer with clear written or pictorial instructions on how to separate designated recyclable items in accordance with the provisions this ordinance.

(e) Each collector who offers curbside or backyard collection of solid waste generated by residential properties in the Town of Kent shall offer curbside or backyard collection of designated recyclable items to each of such collector's customers and such curbside or backyard collection of designated recyclable items shall be included in the collector's charge for solid waste collection. The provisions of this subsection shall not be construed to prohibit any collector from determining and adjusting its fees for combined curbside collection services.

(f) The Town of Kent, in collaboration with HRRRA, to set an annual registration fee no later than April 30th each year and, among other things, (1) authorize the imposition of an increase of the fee to an amount twice the disclosed fee if the registration and permit application of the collector is not filed timely in accordance with (b)(1) above, (2) authorize HRRRA to retain the fees for the purpose of solid waste management authorized by the Authority, and (3) provide for a proration of the registration fee for a new collector applying for a registration and permit for new collection service to be begun after December 31 in any fiscal year.

(g) Upon the effective date hereof, HRRRA shall be the initial designee of the First Selectman as regional agent to: (i) process and receive the collector registrations and reports set forth in subsections III(b)(1) and (2) above, (ii) collect the fees established in subsection III(c) above, (iii) provide notices to collectors concerning the recycling requirements of the Town of Kent as set forth in subsection IV(b) and Section V below, and (iv) receive notices from collectors concerning persons suspected of discarding recyclable items mixed with solid waste.

(h) The Board of Selectmen may deny registration as a commercial solid waste hauler or may, after hearing, revoke such registration on the basis of any of the following reasons: (1) such person has been charged with violations of federal, state or local environmental laws, regulations or codes including, but not limited to, those applicable to the handling or disposal of solid waste or recyclables; (2) such person makes misrepresentations of fact on his application; (3) such person has failed in the past to comply with the provisions of this ordinance; and (4) the Board of Selectmen determines that registration of such person as a commercial solid waste hauler will not be consistent with the Town's interest or plans with respect to the handling, transporting, processing or disposal of solid waste, including recyclables.

(i) Any person fined or whose permit has been or may be revoked or suspended pursuant to this Section may request and shall be granted a hearing on the matter, provided that such request

must be made, after notice to such person, and the hearing shall be conducted, in accordance with the provisions of Section 7-152c of the Connecticut General Statutes.

(j) Only one registration as a commercial solid waste hauler shall be issued to any one person. Each such registration shall be valid for a period of not more than one (1) year and to a date established by the Board of Selectmen. Registration may be renewed by the Board of Selectmen provided the registrant demonstrates continued compliance with the requirements for issuance of registration.

4. (a) Any person who violates any provision of this ordinance or any practice or procedure by the Board of Selectmen for the segregation, transportation, processing or disposal of solid waste or recyclables shall be subject to a fine of \$1,000 for the first violation and a fine of \$5,000 for each subsequent violation.

(b) Any person who violates any provision of this ordinance or the practices and procedures adopted by the Board of Selectmen for the segregation, transportation, processing or disposal of solid waste or recyclables shall be subject to any and all civil remedies, including temporary and permanent injunction, which may be available to the Town.

(c) Any police officer or other person authorized by the First Selectman may issue a citation to any person who commits a violation set forth in this ordinance.

5. Nothing in this ordinance shall prohibit any person or business from selling their self-generated recyclables, including but not limited to containers to any program lawfully operated, whether for profit, nonprofit or charitable purposes.

6. The dumping or disposal in the Town Solid Waste Facility of any solid waste generated from a source outside of the Town is prohibited. Recyclables originating outside of the Town may be permitted at the Town Solid Waste Facility subject to procedures established by the Board of Selectmen.

7. As used in this ordinance the following terms shall have the following meanings:

Board of Selectmen. The Board of Selectmen of the Town of Kent, Connecticut.

Collector. Any person who holds himself out for hire regularly to collect, or who actually collects, solid waste from residential, business, commercial or other establishments.

“Collector” does not include: (1) Any person who collects and transports septic tank pumpings, and (2) any person who transports used materials for the purpose of delivering such materials to a charitable organization that distributes reused household items or to a retail facility that sells reused household items.

Business Customers of Collectors. A business (including without limitation a sole proprietorship) and any other establishment or institution, including without limitation any landlord, and any association or company managing a common ownership housing facility or facilities.

Curbside or Backyard Collections. The collection of presorted designated recyclable items or solid waste left for such collection by residents and businesses on the property where such

residents reside or on the property of such business.

Commercial Solid Waste Hauler. Any person, firm or corporation (other than incidental commercial user) whose business activity is collecting, picking up, and or transporting solid waste.

Common Gathering Venue. Any area or building located in the Town of Kent, or portion thereof, that is open to the public, including but not limited to, any (A) building that provides facilities or shelter for public assembly, (B) inn, hotel, motel, sports arena, supermarket, transportation terminal, retail store, restaurant or other commercial establishment that provides services or retails merchandise, of (C) museum, hospital, auditorium, movie theater or university building

Generated. Sold or given away at a common gathering venue.

Person. Any individual, firm, partnership, association, syndicate, company, trust, corporation, limited liability company, municipality, agency or political or administrative subdivision of the State of Connecticut, or other legal entity of any kind.

Recyclables. Any item designated by the State Department of Energy and Environmental Protection of the Board of Selectmen which can be separated or diverted from other solid waste as defined below under "recycle."

Recycle. To separate or divert an item from the solid waste stream in order to process, cause to be processed, or store for later processing into a material product, including the production of compost. Nothing in this definition shall preclude the use of waste oil as fuel in an oil burner or of scrap tires as fuel in an incinerator.

Recycling Coordinator. The municipal agent designated by the Board of Selectmen to assist in the administration of this ordinance.

Refuse. That part of the solid waste stream remaining after recyclables have been removed.

Solid Waste. Unwanted or discarded materials; an all-encompassing term including, but not limited to, garbage, demolition and construction debris, refuse, recyclables, and materials from land clearing.

Town Solid Waste Facility. The area or area designated by the Board of Selectmen for the handling of the Town's solid waste. This facility may include a landfill, transfer station and/or recycling centers.

History: Adopted at special town meeting, Dec. 28, 1990.

Sec. 16-2 Transfer Station

The Board of Selectmen are authorized to operate a transfer station for the residential drop off of municipal solid waste and recyclables on such terms and conditions, including permit and other disposal fees, as may be established by the Board of Selectmen.

6. The place where acceptable solid waste generated within the boundaries of the town of Kent by residential, business, commercial or other establishments may be disposed is the Solid Waste Transfer Station designated by HRRRA and operated under contract as part of its Regional Solid Waste Disposal and Recycling System the Transfer Station, located 38 Maple Street, Kent, CT 06757 operated under contract as part of HRRRA's Regional Solid Waste Disposal and Recycling System.

7. The place where curb-side collected items designated for recycling by Connecticut statute, regulation, the Statewide Solid Waste Management Plan (including without limitation the 2016 Comprehensive Materials Management Strategy), or by HRRRA, all as may be amended or updated from time to time, generated within the boundaries of the Town of Kent by residential, business, commercial or other establishments may [shall - *for Newtown*] be taken for processing or sale elsewhere is the recyclable materials processing facility operated under contract as part of HRRRA's Regional Solid Waste Disposal and Recycling System

History: Voted at special town meeting Dec. 17, 1993. Prior solid waste vote of August 6, 1969 and ordinance adopted July 25, 1980 and amended June 24, 1988 and May 31, 1991 authorizing a town dump on property of Stanley Works no longer effective.

Sec. 16-3. Housatonic Resources Recovery Authority

1. The provisions of Chapter 103b, Sections 7-273aa to 7-273oo, as, amended by the provisions of Public Act 85-478, are hereby adopted.

2. A public body politic and corporate of the State, to be known as the "Housatonic Resources Recovery Authority" (hereinafter referred to as the "Authority"), constituting a political subdivision of the State of Connecticut established and created for the performance of an essential public and govern- mental function is hereby created for the purposes, charged with the duties and granted the powers provided in Chapter 103b, Sections 7-273aa to 7-273oo of the General Statutes, as amended by Public Act 85-478, and Chapters 446d and 446e of the General Statutes, as amended, which Authority is hereby designated as the Resources Recovery Authority for the Town of Kent. The Authority shall be the Resources Recovery Authority for the Town of Kent and for such other member municipalities as shall by ordinance concurrent herewith adopt the provisions of Chapter 103b of the General Statutes, as amended, create the Authority and designate the Authority as their Resources Recovery Authority, and such other municipalities as shall by ordinance and upon such terms and conditions as the Authority may determine, hereafter become member municipalities of the Authority.

3. The Authority is established and created for the purpose of providing solid waste management and disposal services within the region of the Authority, which shall be the region within the jurisdiction of all the member municipalities of the Authority, and which purpose includes providing for the disposal of residential and commercial solid waste, the financing, construction and operation of one or more solid waste disposal facilities for such purpose, and the delivery of solid waste thereto, including facilities for incineration of solid waste and production of steam, electricity and other by-products for sale to public utilities and others.

4. (a) The membership of the Authority shall consist of one member from each member municipality of the Authority. Each such member, including each of the first members of the Authority, shall be appointed in the manner set forth in the concurrent ordinance adopted by each

member municipality. Members shall serve for terms of three years, on a rotating basis as determined by the Board of the Authority, provided however, that members shall continue to serve until their successors are appointed and have qualified. In no event shall the terms of more than one half of the members expire simultaneously. If because of the addition or reduction of the number of member municipalities, the terms of more than one half of the members would expire simultaneously, then the terms of a sufficient number of members shall be automatically extended for a period of one year. Said extensions shall be based upon the alphabetical order of the member municipalities.

(b) Each member municipality may appoint one alternate member of the Authority who shall act in the event of the disability or absence for any other reason of the member of the municipality. Said alternate member shall only have a voice and vote at Authority meetings if the member from said municipality is absent from the meeting.

5. The Board of Selectmen of the Town of Kent shall appoint the Kent member and alternate to the Authority. The Board of Selectman shall fill any vacancy which occurs and may remove said member or alternate for cause. No person shall be eligible for appointment as a Kent member or alternate to the Authority unless at the time of his appointment he is an elector of the Town. Any such person who ceases to be an elector of the Town shall thereupon cease to hold said office.

6. Except in the case of proceedings to terminate membership in the Authority, the Authority shall operate with one hundred (100) voting units which shall be assigned to member municipalities in proportion to each municipality's share of the total population of all members of the Authority as determined by the latest decennial federal census of population. There shall be no fractional votes and each municipality shall have a minimum of one vote. The distribution of voting units among members shall be recomputed following each decennial federal census and upon the withdrawal or termination of any member municipality or the admission of a new member municipality. All actions by the Authority shall require the affirmative vote of at least fifty-one (51) percent of the total voting units present and voting at a duly called meeting of the Authority at which a quorum is present.

Members of the Authority holding a majority of the voting units shall constitute a quorum, provided that no quorum shall be deemed to exist unless at least fifty-one (51) percent of the members of the Authority shall be present and voting.

In the case of proceedings to terminate membership in the Authority, each member municipality shall have one vote and there shall be no vote by voting units.

7. Members of the Authority shall serve without compensation but may be reimbursed for their necessary expenses.

8. Member municipalities may withdraw from the Authority only after agreeing, in writing, to comply with the terms and conditions contained in any contracts between such municipality and the Authority, or the holders of any bonds of the Authority. No such withdrawal shall relieve such municipality of any liability, responsibility or obligation incurred by it as a member of the Authority or as a user of any of the Authority's projects.

9. The ordinance shall be deemed to be concurrent with such ordinances as shall be enacted

by the member Towns which ordinances are not inconsistent in any material respect with the provisions of this ordinance. Said ordinance shall be deemed concurrent even though said ordinances are not adopted simultaneously by said municipalities.

History: Adopted at annual town meeting October 5, 1987, Secs. 6 and 7, amended at special town meeting May 19, 1989.

Sec. 16-4. Waste Disposal Service Agreement

1. Recycling Service Agreement

The Town of Kent is authorized to execute a municipal recycling service agreement as proposed by Housatonic Resources Recovery Authority.

2. Waste Disposal Agreement

The First Selectman is authorized to execute a municipal waste disposal agreement between the Town of Kent and Housatonic Resources Recovery Authority.

History: Recycling disposal agreement voted at special town meeting January 25, 1991. Waste disposal agreement voted at special town meeting November 15, 1991.

Sec. 16-5. Radioactive Waste Ordinance

1. No low-level radioactive waste generated by any commercial, governmental or private entity shall be treated, recycled, stored, or disposed of in the Town of Kent whether or not such low-level radioactive waste has been reclassified as below regulatory concern (BRC) by the U.S. Nuclear Regulatory Commission the U.S. Environmental protection agency, the Department of Energy, or other federal agency.

2. Further no radioactive waste shall be transported through the Town of Kent except in clearly marked vehicles and with advance notice to town officials of times and routes of transit.

History: Adopted at special town meeting May 31, 1991.