


Office of the City Manager

TO: Mayor Dana S. Hilliard and City Council Members

FROM: Robert M. Belmore, City Manager 

DATE: Friday, March 1, 2019

SUBJECT: City Manager's Report for Monday, March 4, 2019
City Council Agenda

5:30 p.m.
State of the City Address

Lay on the Table (Under Section 13 of Agenda)

A. Ordinance No. 4-19: To Amend Chapter 19, Zoning Ordinance, Section 14, Historic District.

Unfinished Business (Under Section 14 of Agenda)

Ordinances

A. Ordinance No. 15-19: To Amend Chapter 19, Zoning Ordinances, Section 21, Requiring Paved Parking Spaces for Residential use and Deleting Parking Requirement in the Historic Moderate Density District. Attached is a copy of information provided by NHMA Legal Staff as well as the State RSA regarding the applicability of new regulations applying to existing uses.

New Business (Under Section 15 of Agenda)

Ordinances

A. Ordinance No. 16-19: To Amend Chapter 7, Solid Waste and Recycling, Section 7.4-Fees. As proposed by Councilor Witham, the total increase in the cost of each size of bag is fifteen cents (.15). Five cents (.05) of this increase will cover the cost of a new distribution program where bags will be shipped directly to vendors by the City's bag supplier. Ten cents (.10) of the increase will be utilized to subsidize the cost to the City for recycling or for any other cost related to solid waste and recycling collection and disposal, and will raise approximately \$25,000 for that activity.

By Way of Comparison:

	15 Gallon	30 Gallon		15 Gallon	30 Gallon
Dover	1.45	2.15	<i>Somersworth Current</i>	1.30	1.85
Concord	1.25	2.50	<i>Somersworth Proposed</i>	1.45	2.00

I recommend a Public Hearing at the next regular Council meeting on Monday, March 18th.

City Manager's Items (under section 11 of Agenda)

A. Informational Items.

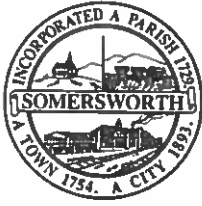
- 1. Listening Session - NH Route 108 Complete Streets Project.** Attached is a notice from McFarland Johnson Engineers regarding a Listening Session on the Route 108 Complete Streets Project that is taking place on Monday, March 18 at 7:00 p.m. at the Dover Middle School. This is a City Council meeting night, however there will be more meeting sessions taking place as the Project moves forward.

Calendar Reminders

- Monday, March 11th at 6:00 p.m. – ***Joint City Council & School Board Budget Workshop*** at the Career Technical Center.
- Monday, March 18th at 6:00 p.m. – ***Council Workshop with Historic District Commission*** – Council Chambers.
- Saturday, March 30th at 8:30 a.m. – ***Budget Workshop: Non-Profits & City Departments*** – Council Chambers

Attachments.

- 1. City Attorney Certification – one (1)**



City of Somersworth – Ordinance

Ordinance No: **15-19**

TO AMEND CHAPTER 19, ZONING ORDINANCES, SECTION 21, REQUIRING PAVED PARKING SPACES FOR RESIDENTIAL USE AND DELETING PARKING REQUIREMENT IN THE HISTORIC MODERATE DENSITY DISTRICT

February 19, 2019

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SOMERSWORTH THAT the Ordinances of the City of Somersworth, as amended, be further amended as follows:

Amend Chapter 19, Zoning Ordinances, Section 21, Circulation & Parking Regulations, by:

1. Add 'paved' to section 19.21.A. The section will read as follows:

19.21.A.1. In all districts permitting residential uses, except where otherwise dictated below, a minimum of two (2) **paved** parking spaces per dwelling unit shall be provided on the lot which they are required to serve.

2. Delete Section 19.21.A.2. in its entirety.
3. Renumber Section 19.21.A accordingly.

This Ordinance shall take effect upon passage.

Authorization

Sponsored by:

Martin P. Dumont, Sr.
Richard R. Michaud
Martin Pepin

Approved:

City Attorney

City of Somersworth – Ordinance 15-19

History

First Read Date:	02/19/2019	Tabled:	
Public Hearing:	03/04/2019	Removed From Table:	
Second Read:	03/04/2019		

Discussion

Voting Record		YES	NO
Ward 1 Councilor	Pepin		
Ward 2 Councilor	Vincent		
Ward 3 Councilor	Dumont *		
Ward 4 Councilor	Austin		
Ward 5 Councilor	Michaud		
At Large Councilor	Witham		
At Large Councilor	Sprague		
At Large Councilor	Cameron		
At Large Councilor	Levasseur		
TOTAL VOTES:			
On / / . Ordinance 15-19		PASSED	FAILED

Bob Belmore

From: Legal Inquiries <legalinquiries@nhmunicipal.org>
Sent: Monday, February 25, 2019 1:45 PM
To: Bob Belmore
Subject: Somersworth: land use regulations - grandfather status

Good afternoon, Robert:

I'm sorry it took me a few days to get back to you.

First, the applicable "grandfathering" statute is RSA 674:19. Essentially, what it means is that while existing structures and uses of property/structures are "protected" from zoning changes, if those structures or uses are changed in a manner that makes them "substantially different," they *will* be subject to zoning.

Second, there has been some helpful case law from the New Hampshire Supreme Court over the years. For example, in the case of *Salem v. Wickson*, the Court said that the right to maintain nonconforming uses is meant to protect property owners from a retrospective application of zoning ordinances, so that property owners may continue using and enjoying their property when their uses were lawful prior to the enactment of a zoning ordinance. In *Dugas v. Conway*, the Court said that signs were "structures" that were exempt/grandfathered from zoning changes. Importantly, in *Ray's Stateline Mkt. v. Town of Pelham*, the Court said that the facts of each particular case must be looked at to determine whether the change is substantial, including the circumstances under which the nonconforming use first came into existence.

If you have the New Hampshire Planning and Land Use Regulation book, published by the New Hampshire Office of Strategic Initiatives, you can find a list of all the cases that have dealt with RSA 674:19 by looking at the annotations for the statute. This is extremely helpful because, as stated above, the analysis for "grandfathering" and preexisting uses is heavily dependent on the particular facts and circumstances in each particular case.

Finally, there is also a discussion of expansion of nonconforming uses in the OSI handbook, which can be found on their website [here](#).

674:19 Applicability of Zoning Ordinance. – A zoning ordinance adopted under RSA 674:16 shall not apply to existing structures or to the existing use of any building. It shall apply to any alteration of a building for use for a purpose or in a manner which is substantially different from the use to which it was put before alteration.



Margaret M.L. Byrnes, Esq.
 Executive Director
 NH Municipal Association
 25 Triangle Park Drive
 Concord, NH 03301
 Tel: (603) 224-7447
 Email: legalinquiries@nhmunicipal.org

From: Bob Belmore <bblmore@somersworth.com>
Sent: Thursday, February 21, 2019 11:18 AM
To: Legal Inquiries <legalinquiries@nhmunicipal.org>
Subject: land use regulations - grandfather status

Good Morning

Is there an article, court case, or other informative document that would spell out the nature of how a property is “grandfathered”

entitled when a new regulation is enacted? Perhaps another way of asking is – when a new City Zoning Ordinance is enacted, the property becomes perhaps “non-conforming” and is allowed to stay that way... the regulation/ordinance does not have the ability to go retroactive to all properties that are not in line with the new regulation.

please let me know, thank you

Robert M. Belmore, ICMA-CM
City Manager

City of Somersworth, NH
One Government Way
Somersworth, NH 03878

(603) 692-9503
bbelmore@Somersworth.com
www.Somersworth.com



TITLE LXIV PLANNING AND ZONING

CHAPTER 674 LOCAL LAND USE PLANNING AND REGULATORY POWERS

Zoning

Section 674:19

674:19 Applicability of Zoning Ordinance. – A zoning ordinance adopted under RSA 674:16 shall not apply to existing structures or to the existing use of any building. It shall apply to any alteration of a building for use for a purpose or in a manner which is substantially different from the use to which it was put before alteration.

Source. 1983, 447:1, eff. Jan. 1, 1984.



City of Somersworth – Ordinance

Ordinance No: **16-19**

TO AMEND CHAPTER 7, SOLID WASTE AND RECYCLING, SECTION 7.4 - FEES

March 4, 2019

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SOMERSWORTH THAT the Ordinances of the City of Somersworth as amended, be further amended as follows:

Amend Chapter 7, Solid Waste and Recycling, Section 7.4 – Fees, by deleting it in its entirety and replacing it with the following:

Section 7.4 – Fees: Effective July 1, 2019, the retail cost of the bags shall be \$2.00 for a 30-gallon bag and \$1.45 for a 15-gallon bag. Ten cents (.10) from the sale of each bag shall be utilized to subsidize the cost to the City for recycling or for any other cost related to solid waste and recycling collection and disposal. The cost to vendors shall be \$.02 cents less to provide financial incentive for selling the bags.

This Ordinance shall take effect upon its passage.

Authorization

Sponsored by:
David A. Witham

Approved:
City Attorney

City of Somersworth – Ordinance 16-19

History

First Read Date:	03/04/2019	Tabled:	
Public Hearing:		Removed From Table:	
Second Read:			

Discussion

Background: The total increase in the cost of each size of bag is fifteen cents (.15). Five cents (.05) of this increase will cover the cost of a new distribution program where bags will be shipped directly to vendors by the City's bag supplier. Ten cents (.10) of the increase will be utilized to subsidize the cost to the City for recycling or for any other cost related to solid waste and recycling collection and disposal, and will raise approximately \$25,000 for that activity.

Voting Record		YES	NO
Ward 1 Councilor	Pepin		
Ward 2 Councilor	Vincent		
Ward 3 Councilor	Dumont		
Ward 4 Councilor	Austin		
Ward 5 Councilor	Michaud		
At Large Councilor	Witham *		
At Large Councilor	Sprague		
At Large Councilor	Cameron		
At Large Councilor	Levasseur		
TOTAL VOTES:			
On / / . Ordinance 16-19		PASSED	FAILED

**PUBLIC
INVITED**

LISTENING SESSION

NH Route 108 Complete Streets Project

The New Hampshire Department of Transportation (NHDOT) invites the public to attend a Listening Session for the proposed improvements to a 5-mile section of Route 108 in Dover, Somersworth, and Rochester. This Listening Session is being held to seek community input on the corridor and desired changes that would follow the principles for a Complete Street. A Complete Street balances the needs of motorized, non-motorized, and transit users.

WHAT: LISTENING SESSION

WHEN: March 18, 2019
7:00-9:00 pm

WHERE: Dover Middle School
16 Daley Drive
Dover, NH 03802

WHO: You! Residents, Business Owners,
Commuters, Local Officials, Elected Officials



*A short presentation will be conducted at 7:00 pm followed by open discussion of ideas and dialogue between the public and the NHDOT project team

For further information, please contact Wendy Johnson, NHDOT Project Manager at Phone: (603) 271-2171 or Email: wendy.johnson@dot.nh.gov. Any individuals needing assistance or auxiliary communication equipment due to sensory impairment or other disability, should contact the Bureau of Right-of-Way, NHDOT, PO Box 483, Concord, NH 03302-0483 or call 603-271-3222 – TDD Access: Relay NH 1-800-735-2964. Notification for the need of assistance should be made at your earliest convenience.



McFarland Johnson

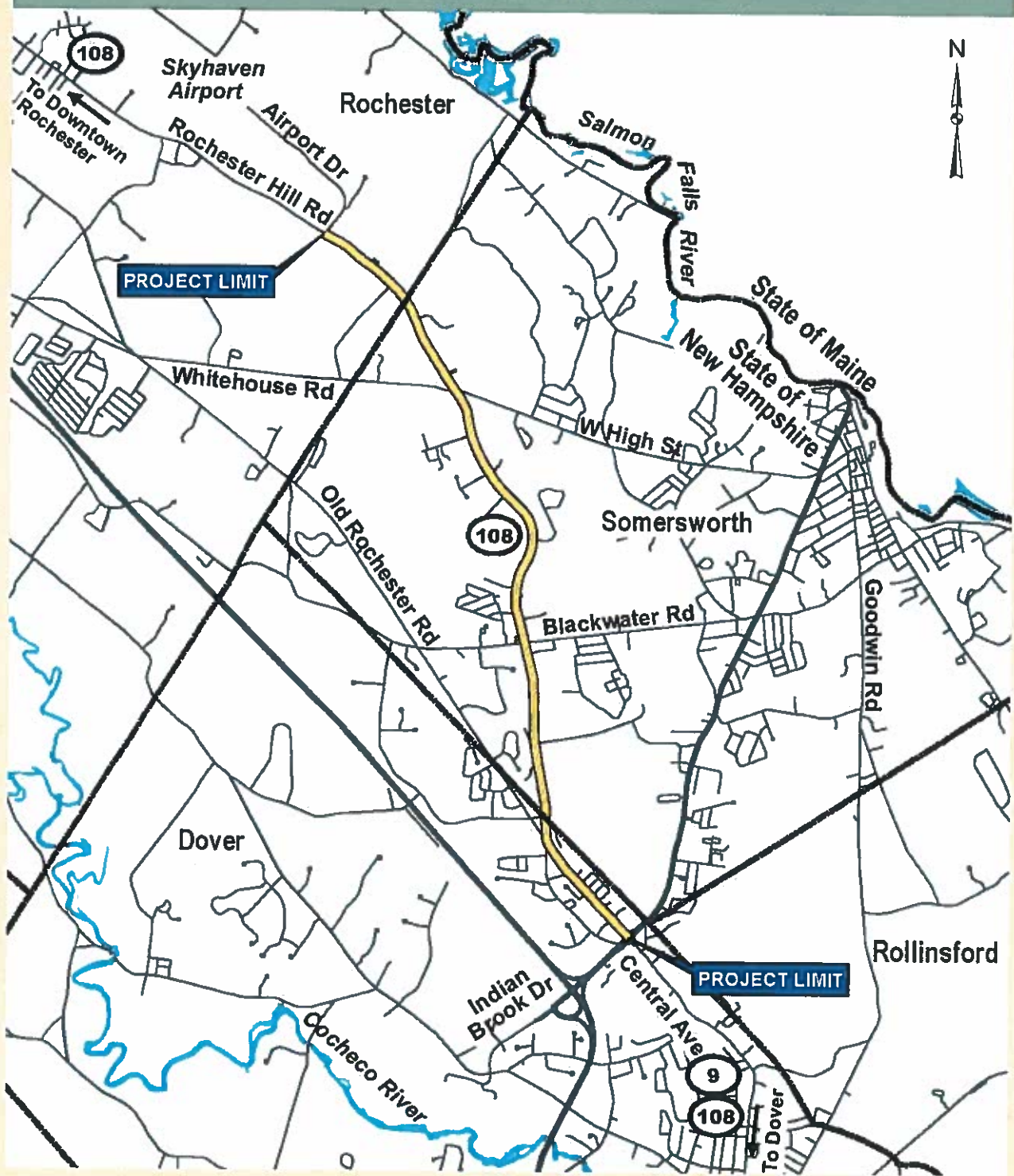
For more information visit www.108TriCityCompleteStreets.com



NH ROUTE 108 COMPLETE STREETS

Dover - Somersworth - Rochester, NH – State Project No. 29604

PROJECT LOCATION



From: Jennifer L. Zorn <JZorn@mjinc.com>

Sent: Thursday, February 28, 2019 2:59 PM

To: Colin Lentz <clentz@strafford.org>; Shanna Saunders <ssaunders@somersworth.com>; Michael Williams <mwilliams@coastbus.org>; jburdin@strafford.org; Rad Nichols <rnichols@coastbus.org>; Seth Creighton <seth.creighton@rochesternh.net>; jczysz@strafford.org; Parker, Christopher G. <C.Parker@doover.nh.gov>; gyoung@doover.nh.gov; michael.bezanson@rochesternh.net; peter.nourse@rochester.net; Michael Bobinsky <mbobinsky@somersworth.com>

Cc: Johnson, Wendy <Wendy.Johnson@dot.nh.gov>; Gene W. McCarthy <gmccarthy@mjinc.com>

Subject: Route 108 Complete Streets Project - Public Listening Session, March 18th

Hi Everyone,

Please see the enclosed flyer for the Route 108 Complete Streets Project Public Listening Session that has been scheduled for March 18th. We hope you're available to attend. If you miss this one, there are many more public meetings planned for the project. We'll have another Working Group Meeting after the Listening Session to discuss the input we receive from the public.

We did our best to find a good location (and one that was free of charge) and was available in mid to late March. We certainly plan to move the public meeting locations around within the 3 cities as much as we can during the project. The Dover location for March 18 is just a starting location to kick-off the project and to begin receiving public feedback.

My apologies for the press release being sent out prior to notifying all of you. The press release was issued yesterday. I've been out of the office for a few days. In addition, Foster's has just informed us that an article will be published to spread the word on the Listening Session and to generate public interest. This is great news!

The project website is live. www.108TriCityCompleteStreets.com (I will post the Listening Session information on the website shortly)

If you could help spread the word on the Listening Session, we would be greatly appreciated. We are hopeful to have a high attendance.

Please me know if you have any questions or would like to participate in the Listening Session.

Thank you,

Jennifer

Jennifer L. Zorn, AICP • Project & Public Outreach Manager



McFarland Johnson

100 International Drive, Suite 300 • Portsmouth, NH 03801
Office: 603-225-2978 ext. 141

MITCHELL MUNICIPAL GROUP, P.A.

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WALTER L. MITCHELL
LAURA A. SPECTOR-MORGAN
STEVEN M. WHITLEY
JUDITH E. WHITELAW (OF COUNSEL)

TELEPHONE (603) 524-3885

February 27, 2019

CERTIFICATION

Re: City of Somersworth, New Hampshire

Ordinance No. 16-19

Title: **TO AMEND CHAPTER 7, SOLID WASTE AND RECYCLING,**
SECTION 7.4 - FEES

This is to confirm that in accordance with Somersworth City Council Rules and Regulations #17 (D)1, we have reviewed the above referenced ordinance, after it passed a first reading. To our examination it is in correct technical form, and to our understanding is not repugnant to the laws and constitution of the State of New Hampshire nor the Charter and Ordinances of the City of Somersworth.

MITCHELL MUNICIPAL GROUP, P.A.
City Attorney

Date: 2/27/19

By: 

CM

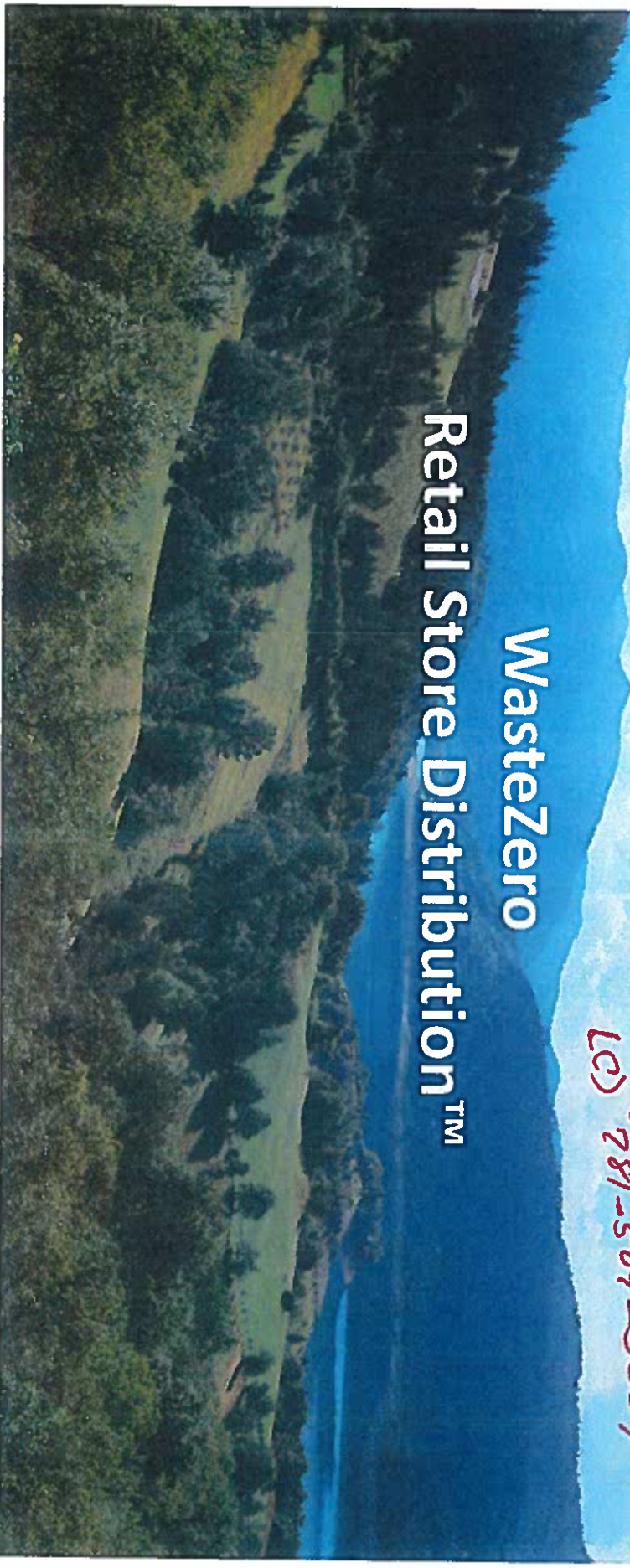
WasteZero®

Save Money. Reduce Waste.

*Country foraster
LC) 781-504-5204*

WasteZero

Retail Store Distribution™



The Challenges of Basic Pay-As-You-Throw

The Good News

Bag-based pay-as-you-throw (PAYT) programs are the most successful type.

- They deliver the best results.
- Bags are easy to identify and the program is easy to enforce.
- Bags are fair and equitable.

The Challenges

- Distributing bags efficiently to residents is difficult.
- Basic PAYT requires pre-payment of all stock.
- It is tough to manage inventories.
 - Inventory can be costly.
 - There is risk of stock-out.
 - There is risk of loss, theft, or damage.
- It requires time- and resource-intensive accounting (e.g., order processing and accounts receivable from participating stores)

Without a true PAYT supplier partner, communities are left to their own devices to staff, fund, and manage this critical cost-saving program.

WasteZero

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The Challenges of Basic Pay-As-You-Throw

You are managing everything...

- Program administration
 - Personnel
 - Retailer management
 - Customer service
 - Collections and reporting
 - Warehouse management
 - Delivery
- Risk
 - Inventory shrinkage
 - Damaged product
 - Theft/fire insurance

...and bearing the costs

- Salaries and benefits
- Warehousing costs
 - Warehouse space
 - Protective systems (security, sprinklers)
 - Personnel for repackaging of damaged goods
- Vehicle costs
 - Insurance
 - Fuel
 - Depreciation and maintenance
- Workers' compensation insurance

What does it really cost your municipality to manage your PAYT bag program?

WasteZero

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The Solution?

Partner with a vendor who can supply both high-quality, US-made bags and the valuable services to help get those bags into the hands of your residents.



High Quality,
US-Made Bags

Value-Added
Services

**WasteZero Retail Store
Distribution™:
A 100% Worry-Free,
Turnkey Solution**

WasteZero Retail Store Distribution™ helps reduce the risks associated with inventory and order management, while taking full responsibility for managing, delivering, inventorying, billing, and accounting for your PAVT bags—freeing up administrative personnel to do other things.

WasteZero

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WasteZero Retail Store Distribution™ (RSD)

OVERVIEW



This is often
all most bag
vendors offer.



WasteZero makes all our
bags right here in the US.



We handle shipping
and delivery to your
retail store locations.



We monitor and maintain your
inventory and provide logistics and
A/R collections with your stores.



DETAILS

1

Town-approved participating stores agree to sell WasteZero bags as part of the town's PAYT program. Each store receives clear instruction on carrying out their role in the program.

3

Upon delivery, WasteZero bills the retailers.

2

Upon order, WasteZero delivers customized trash bags in specified quantities directly to the retailers.

4

Each month, WasteZero reconciles the municipal account and provides comprehensive accounting reports for the municipality's review.

WasteZero

Copyright © 2014 WasteZero

5

WasteZero Retail Store Distribution™ (RSD) Supplies



WasteZero's manufacturers all of the supplies that support our programs in a state-of-the-art manufacturing facility, located in Hemingway, SC.

- Working directly with the manufacturer assures municipalities and residents unparalleled quality and reliability—with product and with services.
- We offer products and customization that no other manufacturing facility can.
 - Drawstring or twist-tie bags
 - Numerous packaging options
 - Customized imprinting on all bags (municipal seals, program instructions, etc.)
 - Counting and coding of each bag; our secure supply chain starts in manufacturing
- We can manufacture fully biodegradable bags, as well as bags with any percentage of recycled content.

WasteZero

Copyright © 2014 WasteZero

WasteZero Retail Store Distribution™ (RSD)

Inventory and Distribution



With WasteZero's safe, secure, on-time, and worry-free RSD, you'll never have to worry about having supplies when and where you need them.

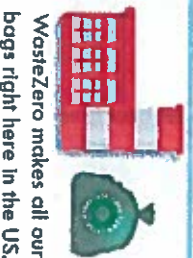
- We maintain a secure, dependable supply chain with signature tracking.
- Our active inventory management services ensure that you never run out of supplies.
- We store bags at our own secure warehouses in multiple locations to meet customer needs.
- We monitor inventory at distribution centers.
- We develop and register UPC codes for every program.
- We provide retailer setup processes with participating stores.
- We assign unique ID tags for each case—critical for quality control.
- Customer service representatives are available to answer questions and provide support.

WasteZero

Copyright © 2014 WasteZero

WasteZero Retail Store Distribution™ (RSD)

Coordinating Retailer Participation



We even help coordinate retailer participation! Here's how...

From Your Perspective...

- You provide us a recommended list of retailers.
- You invite retailers to participate in the program (we can provide a sample letter).
- After performing background checks, we set up retailers to carry the official trash bags and provide:
 - A customized retailer instruction letter
 - An explanatory brochure for retailers to provide their customers

From the Retailer's Perspective...


- It's rare that a retailer would not want to participate.
- We work with you to ensure that there are no underserved areas.
- Participation has its benefits:
 - Helps the municipality carry out its commitment to the municipal ordinance to provide bags to all residents
 - Increased foot traffic to retailers' businesses when residents drop in to get their trash bags

WasteZero®

Copyright © 2014 WasteZero

WasteZero Retail Store Distribution™ (RSD)


Accounting and Funds Management



WasteZero makes all our bags right here in the US.



We handle shipping and delivery to your retail store locations.



We monitor and maintain your inventory and provide logistics and A/R collections with your stores.

WasteZero offers comprehensive and fully transparent accounting and funds management services.

- WasteZero handles all billing, accounts receivable, and bookkeeping demands.
- WasteZero manages and tracks all funds and inventories by:
 - Maintaining inventory records
 - Billing retailers
 - Collecting from retailers
 - Managing the fiduciary bank account for the municipality
 - Issuing payments to municipalities
 - Providing monthly order summary and financial reports
- We eliminate worries related to shrinkage and inventory control.
- We are fully insured against loss.

WasteZero®

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Benefits

WasteZero works to reduce your risks and your day-to-day operational concerns.

Our Retail Store Distribution™ program lets you focus on other priorities and do what you do best.

- Significantly lower your costs
 - No up-front expenditures
 - Program administration
 - Warehousing and delivery
 - Personnel
- More efficiently manage retailers
 - Ensuring inventory and availability
 - Managing accounts receivable and collections
 - Handling questions
- Completely eliminate risk of theft or damage
- Enjoy complete transparency
- Feel comfortable with supplies you can depend on
 - Top-quality, US-made plastic bags, made to your specs
 - Rigorous in-house quality control
- Have minimal-to-no worry; transfer the hassle to WasteZero!

WasteZero

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