

# **Becker County**

## **Solid Waste Management Ordinance**

An ordinance authorizing and providing for County solid waste management; establishing powers and duties in connection therewith; establishing standards and requirements for solid waste management operations within the incorporated and unincorporated areas of Becker County; requiring licenses for storage, collection, transportation, processing and disposal of solid waste in accordance with the Becker County Solid Waste Management Plan; embodying and supplementing the minimum standards and requirements established by rules of the State of Minnesota; providing for enforcement of said requirements; imposing penalties for failure to comply with these provisions; requiring performance bonds and insurance; and promoting the health, safety, and welfare of the public pursuant to Minnesota Statutes, Chapters 115, 115A, 116, 375, 400 and Sections 145A.04, 145A.08, 561.01 and 609.74.

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*The County Board of Becker County, Minnesota, does ordain:*

### **Section 1: Purpose**

The Becker County Board has determined that this regulation should be adopted to:

Protect the public's health and safety, and the environment and natural resources of Becker County, from improper management of solid waste, and to:

- 1.01 Preserve and protect our air, land and water resources.
- 1.02 Assure that all individuals are informed and responsible for their actions regarding solid waste that may affect the environment and the community now and in the future.
- 1.03 Support activities that will promote use and reuse of materials in solid waste that would otherwise be disposed in ways that would not recapture the useful characteristics of its components.
- 1.04 Augment, supplement and support State of Minnesota policies regarding solid waste management.
- 1.05 Provide for an orderly implementation of solid waste management practices and services to ensure that residents have access to waste management services and to ensure that waste management services are consistent with County and State plans and policies.

### **Section 2: Definitions**

When used in this Ordinance the following terms shall have the meaning given to them:

- 2.01 “**Agency**” means the Minnesota Pollution Control Agency, its Commissioner, or representatives.
- 2.02 “**Air Contaminant**” means that the presence in the outdoor atmosphere of any dust, fume, mist, smoke, vapor, gas or other gaseous fluid, or particulate substance differing in composition from or exceeding in concentration the natural components of the atmosphere.
- 2.03 “**Business**” means an operation, location or property where an activity other than residential or an activity in conjunction with a residence takes place for the purpose of selling a product, service, commodity or recreational activity in which the sale of the product, service, commodity or recreational activity is either advertised or known to be for sale.
- 2.04 “**Canister Site**” means a facility designed to accept drop-off of mixed municipal solid waste, recyclable materials and/or source separated materials for short term storage and subsequent transfer for proper management.

- 2.05 **“Charge”** means a solid waste management charge.
- 2.06 **“Closure”** means actions to prevent or minimize the threat to public health and the environment posed by a facility that no longer accepts the solid waste for which it operated or was permitted, including the removal of contaminated equipment, the removal of liners, applying final cover, grading and seeding final cover, installation of monitoring devices, construction of ground and surface water diversion structures, and gas control systems as necessary.
- 2.07 **“Collection”** means the aggregation of solid waste from the place at which it is generated and includes all activities up to the time the solid waste is delivered to a solid waste management facility.
- 2.08 **“Commercial Hauler”** means any person who owns, operates, or leases vehicles for the purpose of collection or transporting solid waste or source separated materials from residential, commercial, or industrial property.
- 2.09 **“Compost”** means the controlled microbial process that converts organic and plant materials to a usable organic soil amendment mulch.
- 2.10 **“Construction and Demolition Debris”** means solid waste resulting from construction, remodeling, repair, erection and demolition of buildings, roads and other artificial structures, including: concrete, brick, bituminous concrete, untreated wood, masonry, glass, trees, rock, plastic building parts, plumbing fixtures, roofing materials, wallboard, and built-in cabinetry.

Construction and demolition debris does not include: asbestos waste; auto glass; wood treated with chemical preservatives; furniture; lighting equipment; vermiculite; contaminated soil; firebrick; food waste; machinery; engine parts; liquid paints; paint thinners or solvents; varnishes; street sweepings; tar; carpet/padding if not affixed to a structure; mattresses; adhesives, caulking, sealants and applicators, brushes, containers, tubes, filters contaminated with these materials; sandblasting materials; agricultural chemicals or containers (including empty pesticide, herbicide, and insecticide containers); chemical containers; animal carcasses, parts, or rendering and slaughterhouse wastes; appliances (including white goods and brown goods); ashes or hot wastes that could spontaneously combust or ignite other wastes due to high temperatures; ash from incinerators, resource recovery facilities and power plants; batteries; carbon filters; fluorescent tubes and ballasts; high-intensity discharge lamps; foundry wastes; hazardous waste; household refuse or garbage; infectious waste; liquids (any type), liquid non-hazardous materials; medical waste; mercury containing wastes (thermostats, switches); PCB contaminated wastes; petroleum products and their containers or filters (including oil, grease or fuel); radioactive waste (unless natural materials at normal background levels); septic tank pumpings; sludges (including ink, lime, wood, sewage or paper); live coal tar (including applicators, containers, and tubes); waste tires; vehicles; yard waste; and packaging materials, including cardboard, paper, shrink-wrap and styrofoam.

Mixtures of construction and demolition debris with other solid waste is not construction and demolition debris.

- 2.11 **“Construction and Demolition Debris Land Disposal Facility”** means a site used to dispose of construction and demolition debris.
- 2.12 **“County”** means any department or representative of the county who is authorized by this Ordinance or otherwise by the County Board to represent the County of Becker in the administration or enforcement of this Ordinance.
- 2.13 **“County Board”** mean the elected officers composing the Becker County Board of Commissioners.
- 2.14 **“Cover”** means cover material that is periodically spread and compacted on the top and side slopes of compacted solid waste to control fire, infiltration, and erosion.
- 2.15 **“Cover Material”** means material approved by the Agency and Solid Waste Department that is used to cover compacted solid waste in a land disposal site.
- 2.16 **“Department”** means the Becker County Solid Waste Department.
- 2.17 **“Disposal” “Dispose”** means the discharge, deposit, injection, dumping, spilling, leaking or placing of any waste into or on any land or water so that the waste or any constituent thereof may enter the environment or be emitted into the air, or discharge into any waters, including ground water.
- 2.18 **“Dump”** means the intentional or accidental discharge, deposit, injection, spilling, leaking, or placing of any solid waste into or on any land or water so that the waste or any constituent thereof may enter the environment or be emitted into the air, or discharged into any water, including ground water.
- 2.19 **“Facility”** means all contiguous land, structures, monitoring devices, and other improvements on the land used for monitoring, treating, storing, or disposing of solid waste, leachate, or residuals from solid waste processing.
- 2.20 **“Flood Plain”** means the area adjoining a water course or water basin that has been or may be covered by a regional flood, as defined in Minnesota Statutes Chapter 103F.
- 2.21 **“Garbage”** means discarded material resulting from the handling, processing, storage, preparation, serving, and consumption of food.
- 2.22 **“Ground Water”** has the meaning given for “underground water” in Minnesota Rules.
- 2.23 **“Generator”** means any person who produces solid waste.

- 2.24 **“Hauler”** means any person that provides collection or transportation services for solid waste or source separated materials but does not include self-hauler.
- 2.25 **“Hazardous Waste”** means any refuse, sludge, or other waste material or combinations or refuse, sludge, or other waste materials in solid, semi-solid, liquid, or contained gaseous form which because of its quantity, concentration, or chemical, physical, or infectious characteristics may: (a) cause or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible illness; or (b) pose a substantial present or potential hazard to human health or the environment when improperly treated, stored transported, or disposed of, or otherwise managed. Categories of hazardous waste materials include, but are not limited to: explosives, flammable, oxidizers, poisons, irritants, and corrosives.
- 2.26 **“Hauler Services”** means the mixed municipal solid waste services provided by a hauler or self-hauler.
- 2.27 **“Household”** means one or more individuals related by blood, marriage or adoption, including foster children, and excluding servants, or a group of persons, some or all of whom are not related by blood, marriage or adoption, occupying a single dwelling unit, apartment unit, or manufactured home.
- 2.28 **“Incineration”** means the process of burning wastes for the purpose of volume and weight reduction or energy recovery in facilities designed for such use.
- 2.29 **“Industrial Solid Waste”** means solid waste generated from an industrial or manufacturing process and solid waste generated from non-manufacturing activities that is collected, processed, or disposed of as a separate waste stream. Industrial solid waste does not include office materials, restaurant and food preparation waste, discarded machinery, construction and demolition debris, mixed municipal solid waste, or mixed municipal solid waste combustor ash.
- 2.30 **“Industrial Solid Waste Land Disposal Facility”** means a site used to dispose of industrial solid waste in or on the land,
- 2.31 **“Leachate”** means liquid that has percolated through refuse, ash or other solid waste and may have extracted, dissolved or suspended materials from it.
- 2.32 **“Leakproof”** means a container or enclosure that is constructed in such a manner that it will not allow its contents to spill out without being opened and physically discharging the contents.
- 2.33 **“License”** means authorization by the County Board to conduct business services that may be limited to a specific period of time, specific person, and or a specific site in the County.
- 2.34 **“Licensee”** means a person who has been issued a license by the County Board for solid waste management purposes pursuant to this Ordinance.

- 2.35 ***“Mixed Municipal Solid Waste”*** means:
- A. Garbage, refuse, and other solid waste from residential, nonresidential, industrial, and community activities that the generator of the waste aggregates for collection, except as provided in paragraph B.
  - B. Mixed municipal solid waste does not include auto hulks, street sweepings, ash, construction and demolition debris, mining waste, sludges, tree wastes, waste tires, lead acid batteries, motor and vehicle fluids and filters, and other materials collected, processed, and disposed of as separate waste streams.
- 2.36 ***“Mixed Municipal Solid Waste Land Disposal Facility”*** means a solid waste disposal facility used for mixed municipal solid waste.
- 2.37 ***“Mixed Municipal Solid Waste Services”*** means collection, transportation, processing, or disposal of mixed municipal solid waste generated in the County, including but not limited to regularly scheduled service, on-call service, one-time service, rental and other use of equipment such as solid waste containers, compactors, compactor boxes, and the like, and any other service that involves or facilitates collection, transportation, processing, or disposal of solid waste materials as mixed municipal solid waste. It does not include the sale of equipment used for the collection, transportation, processing, or disposal of mixed municipal solid waste. It does not include collection, transportation, or management of recyclable materials, yard waste, food waste, source separated compostable materials, problem materials, or other waste materials when these materials are segregated by the generator for the purpose of recycling or composting and are delivered to a recycling facility or compost facility, or the sale, rental, or other use of equipment necessary to facilitate collection, transportation, or management of these materials.
- 2.38 ***“Monitoring Point”*** means any installation used to determine the quality or physical characteristics of ground water, surface water, water in the unsaturated zone, or presence of air contaminants.
- 2.39 ***“Municipality”*** means a city, village, borough, county, town, sanitary district, school district or other governmental subdivision or public corporation, or agency created by the Minnesota Legislature.
- 2.40 ***“Nuisance”*** means the creation of acts or conditions that unreasonably annoy, injure, or endanger the safety, health, comfort, or repose of any number of members of the public.
- 2.41 ***“Open Area”*** means any lands excluding enclosed structures.
- 2.42 ***“Open Burning”*** means burning any material whereby the resultant combustion products are emitted directly to the open atmosphere without passing through an

stack, duct, or chimney which is designed to remove certain pollutants and which is approved for such purposes.

- 2.43 **“Operation”** means any site, facility, or activity relating to solid waste management.
- 2.44 **“Operator”** means the person responsible for the overall operation of a solid waste facility.
- 2.45 **“Owner”** means the person or persons who own a facility, part of a facility, or the property.
- 2.46 **“Person”** means a human being, any municipality or other governmental or political subdivision or other public agency, any public or private corporation, any partnership, firm, association, or other organization, any receiver, trustee, assignee, agent, or other legal representative of any of the foregoing, or any other legal entity.
- 2.47 **“Processing”** means the treatment of solid waste or source separated materials after collection and before final disposal. Processing includes but is not limited to volume reduction, storage, separation, exchange, resource recovery, physical, chemical, or biological modifications.
- 2.48 **“Recovered Materials”** are materials that have been separated from solid waste and stored so that the material is properly protected from environmental degradation and is not a source of odor, harborage for animals, or insects and is being processed, modified, or converted to be a raw material that may be beneficially used.
- 2.49 **“Recyclable Materials”** means materials such as corrugated cardboard, office paper, newsprint, glass containers, tin containers, aluminum containers, polyethylene terephthalate and high density polyethylene plastic, that are separated from solid waste for the purpose of recycling. These materials are considered to be recyclable materials if environmentally and economically appropriate markets exist that will accept these recyclable materials. Refuse derived fuel or other material that is destroyed by incineration is not a recyclable material. Source separated compostable materials are recyclable materials.
- 2.50 **“Recycling”** means the process of collecting and preparing recyclable materials and reusing the materials in their original form or using them in manufacturing processes that do not cause the destruction of recyclable materials in a manner that precludes further use.
- 2.51 **“Recycling Facility”** means a facility used to aggregate, process, or market recyclable materials. Recycling facility does not include an individual generator of recyclable materials, such as a homeowner or business and it does not include a manufacturer using recyclable materials as feedstock.



- 2.52 **“Refuse”** means putrescible and nonputrescible solid waste, including garbage, rubbish, ashes, incinerator ash, incinerator residue, street cleanings, and commercial and industrial solid waste, and including municipal treatment wastes which do not contain free moisture.
- 2.53 **“Reuse”** in the context of this Ordinance, reuse refers to the process of making further use of a material or product after it has been utilized for its original designed purpose and before it is recycled or disposed of.
- 2.54 **“Rubbish”** means non-putrescible solid waste, including ashes, consisting of both combustible and noncombustible waste, such as paper, cardboard, tin cans, yard clippings, wood, glass, bedding, crockery, or litter of any kind.
- 2.55 **“Scavenging”** means all unauthorized removal of waste and separated materials from solid waste.
- 2.56 **“Self-Hauler”** means a generator who does not contract with a commercial hauler, but instead collects and transports its own solid waste. A self-hauler shall not provide collection and transportation services to someone else for compensation.
- 2.57 **“Service Area”** means the spatial location of a proposed or actual solid waste management activity or solid waste management facility.
- 2.58 **“Sewage Sludge”** means the solids and associated liquids in municipal wastewater which are encountered and concentrated by a municipal wastewater treatment plant. Sewage sludge does not include incinerator residues and grit, scum, or screenings removed from other solids during treatment.
- 2.59 **“Shoreland”** means land located within the following distances from the ordinary high water elevation of public waters: (a) land within one thousand (1,000) feet of lake, pond, reservoir, impoundment or flowage; and (b) land within three hundred (300) feet of a river or stream or the landward extent of a flood plain designated by ordinance on such river or stream, whichever is greater.
- 2.60 **“Sludge”** means any solid, semi-solid, or liquid waste generated from a municipal, commercial or industrial waste water treatment plan, water supply treatment plant, or air contaminant treatment facility, or any other waste having similar characteristics and effects.
- 2.61 **“Solid Waste”** means garbage, refuse, construction and demolition debris, sludge from a water supply treatment plant or air contaminant treatment facility and other discarded waste materials and sludge, in solid, semi-solid, liquid, or contained gaseous form, resulting from industrial, commercial, mining and agricultural operations, and from community activities. It does not include hazardous waste, animal waste used as fertilizer, earthen fill, boulders, rock, sewage sludge, solids or dissolved material in domestic sewage or dissolved materials in irrigation return flows or other common pollutants in waste resources, such as silt. It does

not include dissolved or suspended solids in industrial waste water effluents or discharges which are point sources subject to permits under Section 402 of the Federal Water Pollution Control Act, as amended. It also does not include source, special nuclear, or by-product materials as defined by the Atomic Energy Act of 1954, as amended.

- 2.62 **“Solid Waste Collection”** means the gathering of solid waste from public or private places.
- 2.63 **“Solid Waste Facility”** means all property real or personal, including negative and positive easements and water and air rights, which is or may be needed or useful for the processing or disposal of waste. It includes but is not limited to the storage, collection, transportation, processing and reuse, conversion, or disposal of solid waste in a safe environmentally sound manner; but does not include collection vehicles.
- 2.64 **“Solid Waste Management”** means activities which provide for or control the collection, transportation, processing, and disposal of waste.
- 2.65 **“Solid Waste Management Plan”** means the County solid waste management plan developed, adopted, and approved as per Minnesota Statutes Chapter 115A.46.
- 2.66 **“Solid Waste Management Service Charge”** means a service charge imposed pursuant to Minn. Stat. § 400.08.
- 2.67 **“Solid Waste Management Services”** means all activities provided by the County, by persons under contract with the County, or by other persons that support the waste management responsibilities described in Minn. Stat. Chapters 115A, 116, and 400, including, but not limited to: waste management information and education; waste reduction and reuse; waste recycling; composting of yard waste and food waste; resource recovery through mixed municipal solid waste composting or incineration; land disposal; management of problem materials and household hazardous waste; collection, processing, and disposal of solid waste; closure and post-closure care of a solid waste management facility; and response, as defined in Minn. Stat. §115B.02, to releases from a solid waste management facility.
- 2.68 **“Solid Waste Ordinance”** means the Becker County Solid Waste Management Ordinance(s) adopted by the County Board and as amended or supplemented from time to time.
- 2.69 **“Solid Waste Storage”** means the holding of solid waste near the point of generation.
- 2.70 **“Solid Waste Transportation”** means the conveying of solid waste from one place to another, by means of vehicle, rail car, water vessel, conveyor, or other means.

- 2.71 **“Source Separated Materials”** means materials that are separated from solid waste by the generator. Source separated materials include, but are not limited to, recyclable materials, vegetative materials recovered for composting, and organic waste.
- 2.72 **“Source Separated Organic Materials”** means materials that:
- A. are separated at the source by waste generators for the purpose of preparing them for use as compost or other processing;
  - B. are collected separately from mixed municipal solid waste; and
  - C. are comprised of organic waste, including but not limited to: food wastes, fish and animal waste, plant materials, diapers, sanitary products, and paper.
- 2.73 **“State”** means the State of Minnesota.
- 2.74 **“Tipping Fee”** means the fee at a waste facility for waste delivered to that facility based upon the weight, volume, character, or type of waste.
- 2.75 **“Tire”** means a pneumatic tire or solid tire for motor vehicles or other vehicle as defined in Minnesota Statutes.
- 2.76 **“Tire Collector”** means a person who owns or operates a site used for storage, collection, or deposit of more than fifty (50) waste tires.
- 2.77 **“Tire Processing”** means producing or manufacturing usable materials, including fuel, from waste tires including necessary incidental temporary storage activity.
- 2.78 **“Tire Processor”** means a person engaged in the processing of waste tires.
- 2.79 **“Transfer Facility”** or **“Transfer Station”** means a facility at which solid waste is concentrated for subsequent transport. A transfer facility may be fixed or mobile.
- 2.80 **“Transportation”** means the conveying of solid waste or recyclable materials from one place to another.
- 2.81 **“Unacceptable Waste”** means those solid wastes which cannot be accepted for processing or disposal as defined by a facility pursuant to local, State and federal laws or permits.
- 2.82 **“Waste Processing”** means the treatment of solid waste after collection and before disposal. Processing includes but is not limited to volume reduction, storage, separation, exchange, recovery of energy and resources, physical, chemical, or biological modification and the operations of a metal recycling or salvage facility.

- 2.83 **“Waste Tire:** means a tire that is no longer suitable for its original intended purpose because of wear, damage, or defect.
- 2.84 **“Wetland”** means a natural marsh where water stands near, at, or above the soil surface during a significant portion of most years, and which is eligible for classification as a inland fresh water wetland type 3, 4 or 5 under United States Department of Interior classification.
- 2.85 **“Yard Waste”** means the garden wastes, leaves, lawn cuttings, weeds and prunings generated at residential or commercial properties.

### **Section 3: Responsibilities**

- 3.01 The Becker County Board and its Environmental Services Department shall be responsible for general administration and enforcement of this Ordinance.
- 3.02 The County shall inspect operations to determine compliance, issue licenses and permits, notices of violation, and notice of suspension or revocation of licenses and permits; make required reports, investigate complaints about violations, and make the County Attorney aware of such violations; and keep proper records of all transactions conducted under this Ordinance.
- 3.03 The County shall require that any data received by the County or any entity acting on behalf of the County shall be maintained in accordance with the provisions of the Minnesota Government Data Practices Act, Minn. Stat. Ch. 13.
- 3.04 Pursuant to Minnesota Statutes Chapter 115A.94, the County may mandate that all cities and towns participate in solid waste management activities by:
- A. Providing the residents of the political subdivision with a mixed municipal solid waste collection method (i.e. contracted collection services, canister sites, and collection services).
  - B. Provide the residents of the political subdivision with a recycling alternative through a redemption center, drop-off center or other collection methods.
- 3.05 Pursuant to Minnesota Statutes Chapters 115A, 116 and 400 and the County Solid Waste Management Plan, Becker County has implemented a system of solid waste management that includes readily assessable solid waste collection and disposal services. Such services are available county-wide through a system of licensed private and municipal haulers, as well as through readily accessible drop-off facilities.
- 3.06 Pursuant to Minn. Stat. § 400.08, subd. 2, the County establishes one Solid Waste Management Service Area, with its boundaries being coterminous with the boundaries of the County.

- 3.07 Pursuant to Minn. Stat. § 115A.46, subd. 5, a public entity within the County may not enter into a binding agreement nor develop nor undertake a solid waste management activity that is inconsistent with the County Solid Waste Management Plan without the express consent of the County.
- 3.08 Any use of land for solid waste management activities within the County shall comply with the zoning requirements of the County Zoning Ordinance, if applicable, or the requirements of municipal land use ordinances, if applicable.
- 3.09 To the fullest extent permitted by law, a licensee shall indemnify the County, its officers, employees, agents, and others acting on their behalf, to hold them harmless, and to defend and protect them, from and against any and all loss, damage, liability, cost and expense (specifically including reasonable attorneys' fees and other costs and expenses of defense), of any sort whatsoever, based upon, resulting from, or otherwise arising in connection with any actions, claims or proceedings (of any sort and from any source whatsoever) brought, or any loss, damage or injury of any type whatsoever sustained, by reason of any act or omission of a licensee, its officers, employees or agents, or any other person(s) or entity(ies) for whose acts or omissions a licensee may be legally responsible, in the performance of any of a licensee's obligations (whether expressed or implied) under this Ordinance.

#### **Section 4: Solid Waste Management Charges**

The following provisions are enacted pursuant to Minn. Stat. §400.08, which authorizes the County to create and to impose service charges within the County's jurisdiction for solid waste management services.

- 4.01 Purpose and Authority. The purpose of this Section is to establish methods of collection of service charges to fund certain solid waste management services intended to protect the public health and welfare and the environment pursuant to State mandates governing solid waste management.
- 4.02 General Service Charge Provisions.
- A. *Solid Waste Management Service Charges.* Solid waste management service charges may be imposed for solid waste management services provided within the service area. Generators shall pay the solid waste management service charges imposed in the manners set forth herein in amounts as established by the County Board. Solid waste management service charge rates shall be just and reasonable. A copy of the current rate schedule shall be kept on file at the Department. In establishing or revising the rate schedule, the County Board may take into account all factors relevant to solid waste management. Such factors include, but are not limited to: the character, kind and quality of service and of solid waste; the method of disposition; the number of people served at each place of collection; and all other factors that enter into the cost of providing service including, but not limited to, depreciation and payment

of principal and interest on money borrowed by the County for the acquisition and betterment of solid waste management facilities; public education; recycling programs; household hazardous waste management; and solid waste management facility operating costs.

- B. *Procedures for Establishing the Amount of Solid Waste Management Service Charges.* The County Board shall by resolution act to establish the amount or rate of the solid waste management service charges, as well as the method or methods of collection, following a public hearing, and shall state the effective date of the solid waste management service charge(s).
- C. *Procedures for Adjusting the Amount of Solid Waste Management Service Charges.* The County Board may by resolution adjust the amount or rate and method or methods of collecting the solid waste management service charge(s) following a public hearing, and shall state the effective date of the adjusted solid waste management service charge(s). There shall be a minimum thirty (30) day period prior to the effective date of such adjustment.
- D. *Methods of Billing and Collection.* The County may use one or both of the following methods of billing and collecting solid waste management service charge(s):
1. A per parcel service charge collected through an assessment payable with the real estate taxes;
  2. A service charge collected by licensed haulers that is based on the amount of solid waste generated.

***Per Parcel Option:***

- 4.03 Per Parcel Service Charge Collection. The County Auditor shall each year assess a solid waste management service charge per parcel payable with real estate taxes. The service charge amount or rate shall be established by resolution of the County Board, following a public hearing on the proposed service charge amount or rate. On or before October 15 of each year, the County Board shall certify to the County Auditor all unpaid outstanding per parcel charges and a description of the lands against which the charges arose. It shall be the duty of the County Auditor, upon order of the County Board, to extend the assessments with interest rate provided for in Minn. Stat. §279.03, subd. 1, upon the tax rolls of the County for the taxes of the year in which the assessment is filed. For each year ending on October 15, the assessment with interest shall be carried into the tax becoming due and payable in January of the following year, and shall be enforced and collected in the manner provided for the enforcement and collection of real property taxes in accordance with the provisions of the State of Minnesota. The charges, if not paid, shall become delinquent and be subject to the same penalties and the same rate of interest as the taxes under the general laws of the State.

Unpaid charges on tax exempt properties may be collected in Small Claims Court or through such other means as may be approved by the County Attorney.

***Hauler-Collected Option:***

4.03 Hauler-Collected Service Charge and Remittance.

- A. *Service Charge Collection by Haulers.* As a condition of maintaining its license, each hauler shall bill the service charge to and collect the service charge from all persons to whom they provide hauler services, according to the rates and provisions established herein. In the event a municipality contracts or otherwise arranges for hauler services on behalf of generators and elects to bill the service charge to and collect the service charge from persons who are billed for such services, and subsequently remits all service charges collected to the County, a hauler is not required to bill the service charge to or collect the service charge from such persons in such municipalities.

***Percentage of Sales Price Option:***

- B. The service charge is imposed on the amount of solid waste generated and shall be collected by the hauler on the sales price of hauler services as incurred by any person paying for hauler services. If the sales price does not represent the fair market value of the hauler services, the service charge shall be calculated on the fair market value of those hauler services. Any sales tax or other tax or service charge imposed by a unit of government is not subject to the service charge.

**OR**

***Weight or Container-Based Option:***

- B. The service charge is imposed on the amount of solid waste generated. If a person does not pay the service charge to a hauler or directly to the County, the County may directly bill the person or the owner, occupant, or lessee of the property on which the solid waste was generated. The amount billed will be calculated on the cost of hauler services incurred by the person. If the incurred cost is not known, the County may establish the service charge based on a reasonable estimate of such incurred costs.
- C. *Remittance.*
1. The service charge collected by haulers must be remitted to the County or its designee. Failure to remit the service charge collected may result in the revocation of the hauler's license by the County.

2. If a generator makes partial payment to a hauler, the hauler shall then apply payment to the service charge proportionally.
3. Each hauler shall remit the service charge by the last day of the month following the month in which the service charge was collected by a hauler, or incurred by a self-hauler. The County, if requested in writing by a hauler, may grant a variance from this 30-day payment requirement due to hauler billing practices. The duration of the variance will be determined by the County.
4. In the event a hauler does not receive the full amount billed on a statement or invoice when the statement or invoice includes the service charge, all payments the hauler actually receives shall be divided on a pro rata basis between the amount owed the hauler and the service charge owed the County. The hauler must remit the pro rata amount of the service charge to the County, or its designee.

D. *Service Charge Itemized on Statements.*

1. Each hauler shall separately itemize the service charge on any statement or invoice issued for payment of hauler services. The service charge must be identified as “County Solid Waste Service Charge” and no other name or description. Failure to separately itemize the service charge or to properly identify the service charge is a violation of this Ordinance.
2. Each hauler is required to provide notification of the service charge to all persons that are billed for hauler services. This notification is required through a letter jointly developed with the County. For any person billed for hauler services that has not received such notification, each hauler is required to provide a notification of the service charge through a letter jointly developed with the County at the time the person receives the first statement or invoice on which the service charge is billed.

E. *Service Charge Reports.* Each hauler shall complete a solid waste management service charge report in accordance with instructions and on forms provided by the County. The service charge report must accompany payment of service charges collected. The service charge report must include, but not be limited to, total gross billings and receipts for all collection and disposal services performed within the service area, the number of residential and nonresidential generators within the service area, the number of tons collected within the service area and disposed of within and outside of the service area, and such other information as requested by the County.



- F. *Recalculation of Service Charge.* If the County determines, after review of the service charge report, or upon failure of a hauler to submit the service charge report, that the hauler has not supplied appropriate information, the County may recalculate the service charge in accordance with this subsection. If the County finds that the information supplied by the hauler is inaccurate, incomplete or understated, the County may determine an appropriate amount for the service charge due from the hauler. The County shall send the hauler a notice, by U.S. Mail, setting forth the recalculated service charge amount. The notice shall include a statement of reasons why the service charge has been recalculated. The County may base the recalculation on information in County records or on any data currently or previously supplied by the hauler. The written notice shall be deemed received by the hauler three (3) days after the date of mailing.
- G. *Examination of Records.* The County or its duly authorized agents shall have the right to examine records, including access to computer records, maintained by a hauler. The term “record” shall include, but is not limited to, all of the accounts of a hauler. The County shall be allowed access at all reasonable times to inspect and copy, at reasonable cost, all business records related to a hauler’s collection, transportation, and/or disposal of solid waste to the extent necessary to ensure that all service charges required to be collected or paid to the County have been remitted to the County. Such records shall be maintained by the hauler for no less than six (6) years.
- H. *Late Payment.* A late payment penalty in the amount of one-half of one percent (0.5%) per month, or the maximum interest rate allowed by law, shall be imposed upon service charges collected from the generator but not remitted by the hauler to the County on or before the last day of the month following the collection. If a hauler fails to bill and collect the service charge from the generator, the hauler shall pay the generator’s service charge plus the late payment penalty. The late payment shall be calculated from the date the service charge should have been billed.
- I. *Collection Actions.* Exercise of any remedy under this subsection does not preclude exercise of other remedies.
1. If a generator fails to pay the service charge to a hauler in a timely manner, the County may use any available legal remedies to collect the overdue, unpaid service charges from the generator, including, but not limited to, the process to collect the service charge via the property tax pursuant to Section 4.03, above.
  2. If a hauler has collected service charges and failed to remit them to the County in a timely manner, the County may use any available legal remedies to collect the service charges from the hauler.

3. If a self-hauler fails to pay the service charge to the County in a timely manner, the County may use any available legal remedies to collect the service charge from the self-hauler.
  4. Unpaid service charges may be collected from tax-exempt properties as otherwise provided in this Ordinance.
- J. *Right of Appeal.* Any person or generator aggrieved by a decision of the County in accordance with the provisions of this Section shall have the right to appeal the decision by serving the County Board with a request for hearing. The request for hearing must be received within thirty (30) days after the person or generator receives written notice of the decision. If the person or generator fails to request a hearing within the time prescribed, the person or generator shall forfeit any right to a public hearing. Upon receipt of a written request for a hearing, the Board shall follow the hearing procedures set forth in Section 15.04.
- K. *Tipping Fees.* The County Board may, by Board action, designate an amount and method of payment for tipping fees, which shall be a charge to users for services provided at County solid waste facilities.

## **Section 5: Unlawful Activities**

- 5.01 Improper Transportation. It shall be unlawful for any person:
- A. To collect and transport, for compensation, solid waste or source separated materials within the service area, without having obtained a license to do so, or when such license has been revoked or suspended, unless as transported by a self-hauler.
  - B. To collect or transport solid waste or source separated materials within the County in such a way as to violate any requirements of any County Ordinance, State or Federal law.
  - C. To fail to correct any condition or method of operation which violates any County Ordinance or rules applicable to the collection or transportation of solid waste or source separated materials after being ordered to do so by the County.
- 5.02 Upsetting of Containers Prohibited. No person shall willfully turn over or upset any vessel or container used for sorting or storing solid waste, recyclable materials, compost or other waste, resulting in spilling the contents or any portion thereof on any roadway, waterway, or on any public or private property.
- 5.03 Using Containers of Another Prohibited. No person shall place solid waste or any other material in a solid waste container of another person without the express consent of the person. This prohibition shall not apply to containers placed for

public convenience along streets or sidewalks and in buildings of public accommodation.

- 5.04 Containment of Solid Waste or Source Separated Materials. No person shall discharge or allow the discharge of liquid, solid waste, or source separated materials from any container or vehicle containing solid waste or any other waste, or permit such vehicle to stand, be stored or kept in such manner or for such length of time that it will be or constitute a nuisance.
- 5.05 Improper Disposal. Pursuant to Minnesota Statutes Chapters 115A, 116 and 400 and the County Solid Waste Management Plan, the County has implemented a system of solid waste management that includes readily accessible solid waste collection and disposal services. Such services are available county-wide through a system of licensed private and municipal haulers as well as through readily accessible solid waste transfer facilities.
- A. Except as provided in this Ordinance, no person shall dump, throw or in any manner deposit or dispose of solid waste upon or in any roadway, waterway, body of water, public or private property, or at an Agency permitted waste facility other than during the facility's operating hours and in a manner consistent with disposal of solid waste at the waste facility.
- B. No person shall conduct open burning of: garbage; rubber; plastics; chemically treated materials; hazardous waste; industrial waste; construction and demolition debris; motor vehicles; solid waste that is generated from the resident's household or business; or other materials that produce excessive or noxious smoke including, but not limited to, tires, railroad ties, chemically treated lumber, composite shingles, tar paper, insulation, composition board, sheetrock, wiring, paint, or paint filters. Burning of solid waste shall be allowed only in compliance with Minnesota Statutes §§88.171 and 17.135. If the County Board has adopted a resolution stating that regularly scheduled pickup of solid waste is reasonably available throughout the County, the exception for onsite burning in Minnesota Statutes §17.135 shall not apply.
- C. Electric utility and railroad companies that distribute chemically treated wood products to the general public for reuse must, upon providing such products, also provide written information on proper disposal of such products pursuant to the requirements of Minnesota Statutes §§88.171 and 17.135, and this Ordinance.
- D. No person shall bury solid waste generated from the person's household or business operation without a permit as required by this Ordinance. If the County Board has adopted a resolution stating that regularly scheduled pickup of solid waste is reasonably available throughout the County, the exception for onsite burial in Minnesota Statutes §17.135 shall not apply.

- E. No person shall place or cause to be placed in any solid waste collection container any material not specifically allowed in that container.
- 5.06 Solid Waste Burning Prohibited. Burning of solid waste shall be prohibited except (a) as allowed at a licensed solid waste facility (b) as allowed under the terms of the “Permit for Open Burning” issued by authority of the Agency or the Minnesota Department of Natural Resources or (c) as allowed by Minnesota Statutes §§88.171 and 17.135, or this Ordinance. However, if the County Board has adopted a resolution stating that regularly scheduled pickup of solid waste is reasonably available throughout the County, the exception for open burning in Minnesota Statutes §17.135 shall not apply.
- 5.07 Duty to Provide Collection, Transportation and Disposal of Solid Waste. It shall be the duty of the person, which specifically includes the owner, lessee or occupant, having properties within the County to provide for the lawful collection, transportation, and disposal of all solid waste generated on such properties.
- 5.08 Items Prohibited for Collection or Placement with Mixed Municipal Solid Waste.
- A. No person shall place in containers for collection by a hauler or for disposal in a solid waste facility any of the following materials: a significant amount of manure; household hazardous waste; hazardous waste; pathological waste or infectious waste as these wastes are defined by state and federal regulations; materials separated for recycling; tires; used motor oil; lead acid batteries; rechargeable or button batteries; yard waste, mercury or a thermostat, thermometer, electric switch, appliance or a medical or scientific instrument for which the mercury has not been removed for reuse or recycling; or any other item specifically barred from the waste stream under Minnesota law. These items shall be otherwise disposed of by a person or legal entity in accordance with programs administered by the Department or in accordance with Minnesota law.
- B. When any hauler finds any of the above-mentioned prohibited articles in solid waste containers to be collected, the hauler may, at its option, refuse to collect the contents of the container. The hauler shall notify the occupant of the premises of the prohibited articles in the container and the reason for non-collection. If a hauler chooses to collect prohibited articles that hauler must transport those articles to a place providing proper disposal.
- 5.09 Scavenging. Without the consent of the owner/operator of that facility or container, it shall be unlawful for a person to remove waste materials, including mixed municipal solid waste, recyclable materials, scrap metals, appliances, tires, construction and demolition debris, or other waste materials, from any solid waste facility or from any privately or publicly owned solid waste or recycling container. This prohibition shall not apply to materials removed from waste facilities by contract, or through a managed salvaging program.

- 5.10 Spills. Vehicles or containers used for the transportation of any solid waste must be loaded and moved in a manner that does not allow the contents to fall, leak, or spill therefrom, and must be covered when necessary to prevent blowing of material. Where spillage does occur, the material and any contaminated soils must be picked up immediately by the transporter and returned to the vehicle or container and the area properly cleaned.
- 5.11 Prohibited Disposal Facilities. The County prohibits development of disposal facilities for the following types of waste:
- A. Regulated infectious waste land disposal facilities.
  - B. Hazardous waste land disposal or hazardous waste incineration facilities.
  - C. Radioactive waste disposal facilities.
  - D. Solid waste land disposal facilities or solid waste transfer stations unless need for those facilities has been established in the current County Solid Waste Management Plan.

### **Section 6: Solid Waste Management Facilities**

- 6.01 No person shall use, cause, permit, or allow land or property under their control to be used for solid waste management purposes, except at an operation for which a permit has been generated by the County Board, unless otherwise provided by this Ordinance.
- 6.02 Any operation to be used for any method of solid waste management which includes but is not limited to land disposal, resource recovery, composting/co-composting, recycling and transfer stations must be licensed by the County Board before operation may commence. The permit application shall contain two complete sets of plans, specifications and reports prepared by a Minnesota registered professional engineer. Those shall include:
- A. A current map or aerial photograph of the area showing land use and zoning, if applicable, within one-fourth (1/4) mile of the site or facility. The map or aerial photograph shall be of sufficient scale to show all homes, buildings, lakes, ponds, watercourses, wetlands, roads and other applicable details as determined by the Department, and shall include the general topography with contours and drainage patterns. The location of wells shall be identified on the map or photograph. United States Geological Survey data shall be included and a north arrow drawn. A location insert map shall be included.
  - B. A plot plan including a legal description of the site and adjacent area showing dimensions, location of soil borings, present and planned pertinent features including, but not limited to, roads, fencing, screening,

cover stockpiles and monitoring points if planned for. The scale of the plot plan shall not be greater than 200 feet per inch.

- C. An ultimate land use plan of the site including stages identifying the total and complete land use, and showing finished contour lines and elevations. The scale of the ultimate land use plan shall not be greater than 200 feet per inch.
  - D. A report indicating:
    - 1. The geographical areas expected to be served by the facility, current population of the area, and projected population figures for the period of the expected life of the facility.
    - 2. The anticipated type, quantity and source of material to be managed at the site.
    - 3. The type and amount of equipment to be provided at the site for waste handling.
    - 4. The area of the site in acres.
    - 5. The name and address of the owner of the site or facility, and the name and address of the individuals responsible for the actual operation and maintenance of the site.
    - 6. The intended operating procedures.
    - 7. The expected schedule of fees to be imposed at the facility.
    - 8. An estimate of the number of vehicles using the facility each day and the volume of wastes deposited daily.
    - 9. The layout and construction of the facility.
  - E. A notarized affidavit stating that the applicable local governments have been given at least thirty (30) days of written notification of the pending application for a license.
  - F. Explanation of the availability of revenues necessary to operate the facility in accordance with applicable state and local laws, ordinances and rules.
  - G. Such additional information as may be required by the Department.
- 6.03 After receiving an application for a license, the County Board shall refer such application to the Department, which shall give a non-binding recommendation to the County Board concerning whether it should issue or deny the license.

If an applicant is denied a license, such applicant shall be notified in writing of the reasons therefore by the County Board. A denial shall be without prejudice to the applicant's right to an appearance before the County Board or to the applicant's right to file a further application after revisions are made to satisfy objections specified as reasons for the denial.

- 6.04 Except as otherwise provided, a public hearing before the County Board is required prior to the issuance of a license for a solid waste management facility.

Notice of the time, place and project to be considered shall be given by publication in the official newspaper for the County at least ten (10) days before the hearing.

Written notice shall be sent to property owners of record within one-quarter mile of the existing or proposed project, or to the ten properties nearest to the project, whichever would provide notice to the greatest number of owners.

Written notice shall also be given to the affected board of town supervisors and the municipal council of any municipality within which the existing or proposed project is located.

The applicant and all other interested parties shall be afforded an opportunity to be heard at the hearing.

Evidence may be adduced in a manner consistent with rules of evidence applied in civil cases. A transcript thereof shall be made by tape recording or other suitable technique. All books, records, files and correspondence of the County Board pertaining to said application shall be available for public inspection.

- 6.05 The County Board may refuse to issue a license for any operation that does not comply with this Ordinance, Agency rules and the County Solid Waste Management Plan as provided for in Minnesota Statutes.
- 6.06 Issuance of any license pursuant to the provisions of this Ordinance shall be contingent upon the applicant furnishing to the County a bond in the amount to be set by the County Board. The bond shall name the County as obligee with sufficient sureties duly licensed and authorized to transact business in the State as sureties. The condition of such bond shall be that if the licensee fails to comply with any of the requirements of County ordinances, or fails to perform any of the acts required or ceases to operate, and the County is required to expend any moneys, or expend any labor or material to restore the operation to a condition in compliance with this Ordinance, the bond holder and the sureties on its bond shall reimburse the County for any and all the expenses incurred by the County to remedy failure of the licensee to comply with the terms of County ordinances, and the bond holder and its sureties shall indemnify and hold the County harmless from all losses, costs and charges that may occur to the bond holder or its sureties because of any default of the licensee under the terms of its permit to operate in compliance with the terms of the ordinances of the County.

- 6.07 In addition to the bond, issuance of any license pursuant to the provisions of this Ordinance shall be contingent upon the applicant securing and furnishing to the County certificates of insurance which may include but not be limited to the following types of insurance issued to the licensee by insurers duly licensed within the State: general liability, including, but not limited to, bodily injury, property damage, motor vehicle, loading and unloading, completed operations, explosion and collapses of underground operations and worker's compensation. The insurance shall be issued in the amounts equal to or greater than the minimum insurance limits provided in Section 11.03.
- 6.08 Any license granted by the County Board under the provisions of this Ordinance may be conditionally revoked or suspended by the County Board for non-compliance with the provisions of the license, this Ordinance or applicable State laws or rules, or upon written notification to the licensee and the County Board by the Department or by an authorized representative of the County Board that the continued use of the operation may endanger the health, welfare and safety of the public or that the continued use may cause pollution or impairment of the environment. In the event of emergency health, safety or welfare dangers, the County Board or the Department may conditionally suspend or revoke the license immediately pending a hearing before the County Board, pursuant to the County Administrative Ordinance. If the County Board revokes the license, the operator may apply for a new license when in full compliance with this Ordinance, State laws and rules.

The notice of conditional revocation or suspension shall be deemed served whenever it is served upon the licensee personally or by leaving the same at the licensed premises with the person in charge thereof. A copy of the notice of conditional revocation or suspension shall be provided to the County Board. The County Board shall remove the license suspension when the situation has been fully corrected. The conditional revocation or suspension shall become final unless within ten (10) days of service the licensee requests a hearing before the County Board. Except as herein provided, a license may be finally revoked or suspended only after the County Board has held a hearing at which the licensee and other persons wishing to be heard concerning the operation shall have the right to be heard. The date of said hearing for permit revocation or suspension shall be set by the County Board and shall not be held earlier than ten (10) days, nor later than thirty (30) calendar days after notice of said hearing was mailed to or served on the licensee. Evidence may be adduced in a manner consistent with the rules of evidence applied in civil cases. A transcript thereof shall be made by tape recording or other suitable technique. If, pursuant to said hearing, the County Board shall determine that the operation has been conducted in violation of the provisions of the license, this Ordinance, State law or rules, the County Board may finally revoke the license, or the County Board may continue such suspension in effect until the licensee has demonstrated that full compliance with the provisions of the license, County Ordinance, State laws and rules has been attained and that such compliance will be continued in the foreseeable future. If



the County Board revokes the operator's license, the operator may apply for a new license.

- 6.09 Unless otherwise provided by the County Board, each license granted pursuant to the provisions of this Ordinance shall expire on December 31 of the year specified by the County Board, unless sooner revoked pursuant to this Ordinance. Application for license renewal shall be made in writing to the County 180 days prior to the date of expiration. Application for renewal shall contain a statement of any changes in the information submitted in the last approved license application. Failure to submit such information shall result in the denial of the license by the County Board. If there are no changes, it shall be so stated in the renewal application.
- 6.10 Where the conditions imposed by any provision of this Ordinance are either more restrictive or less restrictive than comparable conditions imposed by any other provision of this Ordinance, or any other applicable law, ordinance, or rule, that provision which establishes the higher standards for the promotion of the public health, safety and general welfare shall prevail.
- 6.11 Every license issued for a solid waste operation in the County shall be registered with the Department.

### **Section 7: Solid Waste Storage**

- 7.01 Storage of Waste.
- A. The owner and occupant of any premises, business establishment, or industry is responsible for the satisfactory storage of all solid waste accumulated at that premises, business establishment, or industry in compliance with this Ordinance, Minnesota Rules and any local ordinances.
- B. No person who is not permitted by the State as a tire collector or tire processor may accumulate more than ten (10) waste passenger tires or equivalent weight of other waste tires on the person's premises, unless such person is a retail tire seller, tire-retreading business, or vehicle repair business subject to the requirements of Section 8.01. Exceptions may be allowed when waste tires are utilized outside of a building for agricultural purposes where they comply with the requirements of other applicable laws or sections of this Ordinance.
- C. A person may not dispose of major appliances in or on the land.
- D. A person may not store waste materials in a manner that could cause pollution of the air, water, or soils, or that could cause harm to other's health or well-being.

- 7.02 Solid Waste Accumulations. Except as otherwise allowed by this Ordinance, owners, occupants or managers of every property shall be responsible for maintaining all open areas free of improperly stored solid waste accumulations. Solid waste accumulations include, but are not limited to: (a) appliances and fixtures damaged, deteriorated or in obsolete condition as to have no substantial value and can be reasonably considered to be solid waste; (b) tin cans, broken glass, broken furniture, boxes, crates, and other debris, (c) any other form of solid waste or mixed municipal solid waste which is in a condition of disrepair such as to have no immediate useful purpose.
- 7.03 Storage Facilities and Containers Required. Every property shall be supplied with adequate solid waste storage facilities or containers. Such facilities or containers shall be provided by the owner or manager of the property or by contract with a commercial hauler.
- 7.04 Provided Facilities Required to be Used. Property owners or occupants shall store waste for removal in the solid waste storage facilities or containers. The property owner or occupant shall not permit solid waste to be placed in locations or in a manner that the solid waste can be scattered by water, wind, animals or insects.
- 7.05 Frequency of Container Service. Every property owner or occupant shall cause the solid waste to be removed and deposited at a place allowed by this Ordinance, at least every other week. Non-putrescible waste suitable and sorted for recycling may be retained if stored in an aesthetically acceptable manner that avoids unacceptable health risk or nuisances, and otherwise complies with this Ordinance.
- 7.06 Storage Container Maintenance. Solid waste containers shall be maintained and kept in a neat, clean, sanitary, and leak-resistant condition by the container's owners so as to prevent insect breeding, nuisances, and unsightly conditions.
- 7.07 Container Location. No containers shall be placed out for collection more than twelve (12) hours prior to the normal collection route time, unless said container is constructed resistant to rodent, insect or small animal entry. Containers shall be secured so as to minimize or eliminate spillage. No hauler shall provide collection service that encourages its customers to place containers out at any collection point except at times corresponding to twelve (12) hours prior to the normal route services.
- 7.08 Commercial waste haulers that provide a collection service that does not allow the hauler continual identification of customers that purchase such services (i.e. the sale of prepaid bags that include both the cost of collection and disposal) are responsible for the immediate collection and cleanup of all bags and the area surrounding the location whether or not the bag is located on a normal collection route or not.
- 7.09 Commercial Compliance.

- A. Any commercial hauler finding solid waste containers in use that appear not to be in compliance with this Ordinance shall report the location of the containers to the Department.
  - B. The Department shall investigate complaints about solid waste containers and if the container is found not in compliance a notice shall be attached to the container as provided in this Section. If the Department cannot investigate the complaint it shall mail to the container's owner a notice that the complaint was received regarding the container.
- 7.10 Unauthorized Transfer of Solid Waste. Except as permitted by this Ordinance, solid waste shall not be transferred to another property or another property's waste storage facility except with the consent of the property owner.

### **Section 8: Tires, Yardwaste, Composting, Street Cleanings, and Unacceptable Waste**

#### 8.01 Waste Tires.

- A. Waste tire collectors and processors shall meet all the requirements of State laws and rules administered by the Agency.
- B. A County license is not required for:
  - 1. A retail tire seller for the retail selling site if no more than 500 waste tires are kept on the business premises;
  - 2. An owner or operator of a tire re-treading business for the business site if no more than 3,000 waste tires are kept on the business premises;
  - 3. An owner or operator of a business who, in the ordinary course of business, removes tires from motor vehicles if no more than 500 waste tires are kept on the business premises;
  - 4. A landfill operating under state permit with less than 10,000 waste tires stored at the permitted site; or
  - 5. A person using waste tires for agricultural purposes if the waste tires are kept on the site of use.
- C. Waste tires shall be stored in a manner which will not create a nuisance, blight, health hazard or fire hazard.
- D. Waste tires within one thousand (1000) feet of a residence shall be stored or utilized in a manner that prevents water from being retained in the tires.
- E. Waste tires shall not be placed, stored, left, or permitted to remain in any lake, stream, wetland, sinkhole, gully, waterway, floodplain or shoreland.

- F. The owner or occupant of the land or premises upon which waste tires are located in violation of this Ordinance shall be obligated to remove them to a licensed solid waste facility, or obtain the license required by this Ordinance.
- 8.02 Yardwaste Composting. A yardwaste compost site not exceeding two hundred (200) cubic feet in size may be allowed on a land parcel without a permit or license under this Ordinance if the site is properly managed to prevent nuisance or health and safety problems. Such compost site may utilize grass clippings, leaves, and brush limbs not exceeding one-half (½) inch in diameter.
- 8.03 Unacceptable Waste. A solid waste facility rejecting waste as “unacceptable waste” shall provide information regarding the nearest suitable facilities where that waste can be properly accepted.

### **Section 9: Standards for Collection and Transportation of Solid Waste**

- 9.01 The owner or leasee of any premises, business or industry may transport self-generated solid waste or contract with a licensed commercial hauler to collect and transport solid waste.
- 9.02 All solid waste collected and removed from every premises, business or industry shall be transported to the appropriate facility licensed and designated for that purpose, pursuant to the laws of the State and this Ordinance.
- 9.03 Vehicles and containers for solid waste transportation shall be enclosed, covered, leakproof, durable, and of easily cleanable construction. Suitable equipment shall be provided on each vehicle for the purpose of collecting spilled materials.
- 9.04 All solid waste shall be loaded and moved in such a manner that it will not escape from its container. Where spillage does occur, the material shall be picked up immediately by the hauler or solid waste transporter and returned to the vehicle or container, and the area properly cleaned.
- 9.05 Transporter shall notify the Department and the appropriate law enforcement agency if a load or partial load of solid waste is dumped or spilled except where allowed by this Ordinance, and clean the area as instructed by the authorities.
- 9.06 No one shall collect or transport solid waste that is smoking, smoldering, or burning except in a container designed and approved by the State Fire Marshal and the Department.
- 9.07 Solid waste shall not be allowed to remain or be stored in any collection or transportation vehicle in excess of forty eight (48) hours, except in the event of an emergency.
- 9.08 Vehicles and containers for solid waste transportation shall be constructed, loaded, transported, and unloaded in a safe, sanitary and nuisance-free manner.

They shall be cleaned to prevent nuisance, pollution or insect breeding, and shall be maintained in good repair. The container inspection doors and hoppers shall be securely closed except when the vehicle or container is being inspected, cleaned or stored.

- 9.09 Solid waste transported in the County in vehicles or containers that do not properly protect such solid waste from being spilled may be charged a disposal rate equaling two times the posted rate for disposal.

### **Section 10: Routes, Districts, and Time for Solid Waste Collection & Transportation**

- 10.01 The County Board, by resolution, may adopt designated routes for transporting solid waste to solid waste management facilities in the County. Vehicles transporting solid waste to these facilities must use the designated routes.
- 10.02 Nothing in this section shall prevent any municipality from establishing solid waste collection districts or routes within their jurisdiction, except that such districts or routes shall not interfere with the implementation of the County Solid Waste Plan.

### **Section 11: Permits and Licenses for Solid Waste Collection or Transportation**

- 11.01 State Rules. The collection and transportation of solid waste shall be performed in accordance with State laws and rules in addition to the requirements of this Ordinance.
- 11.02 Licenses and Vehicle Permits Required. Any person, firm, corporation or commercial hauler that transports solid waste or source separated materials in the County must annually obtain a solid waste collection and transportation license and a permit for each vehicle used.
- A. The following vehicles are exempt from this vehicle permit requirement:
1. Vehicles transporting solid waste or source separated materials from only a single household or business or from only the vehicle owner's property.
  2. Vehicles owned and operated by the County are not required to obtain vehicle permits, but are required to follow all of the requirements of this Ordinance.
  3. Vehicles transporting solid waste or source separated materials from another county that has executed a joint powers agreement or other agreement with the County for processing and/or disposal provided the following conditions are met:

- (a) The vehicles are properly licensed, bonded and insured in the county from which they originate.
  - (b) The vehicles are only hauling waste covered by the agreement.
  - (c) The vehicles and operators comply with all other requirements of this Ordinance.
- B. Applications for licenses and vehicle permits shall be made upon forms provided by the Department and shall be filed with the appropriate fee at the Department. The applicant shall have in force at all times and furnish with the application proof of comprehensive automobile liability insurance (owned, non-owned, hired) for bodily injury and property damage (combined limited) as described in Section 11.03.
- C. Each vehicle permit issued shall be maintained in or on the vehicle and displayed as required by the County. Any license or vehicle permit may be suspended or revoked by the Department or the County Board for a violation of this Ordinance or other applicable State, County or local law or rules, in accordance with the procedures identified in Section 6. All licenses and vehicle permits shall expire immediately upon transfer of ownership of the vehicle or on the 31<sup>st</sup> day of December following issuance.
- 11.03 Insurance Requirements. No licensee or any contractor operating under contract or agreement with a licensee shall commence operation until the licensee or contractor has obtained, at their own cost and expense, all insurance required herein. All insurance coverage is subject to the approval of the County and shall be maintained by the licensee for the term of the license. All insurance shall be on an occurrence basis only, and not on a claims made basis. The licensee or contractor is responsible for any deductible or self-insured retention. Any solid waste collection and transportation license and vehicle permit issued hereunder are immediately suspended or revoked upon cancellation of the insurance coverage of the licensee, or its contractor.
- A. *Insurance Coverage.*
- 1. Auto Liability.
    - (a) A combined single limit policy with minimum limits established by resolution of the County Board.
    - (b) The auto coverage must also include the following: any auto, hired and non-owned auto.
  - 2. Commercial General Liability. Coverage with minimum limits established by resolution of the County Board for:

- (a) each occurrence;
- (b) general aggregate;
- (c) products and completed operations aggregate;
- (d) personal injury and advertising injury;
- (e) fire damage; and
- (f) (f) medical expense.

3. Workers' Compensation and Employer's Liability.

- (a) Workers' compensation coverage at minimum limits per applicable State and Federal statutory law.
- (b) Employers liability coverage shall include bodily injury by accident; bodily injury by disease (each employee); and bodily injury by disease (policy limit) with minimum limits as established by resolution of the County Board.

B. *Proof of Insurance.* Insurance certificates evidencing that the above insurance is in force with companies acceptable to the County and in the amounts required shall be submitted to the Department for examination along with an application for license and vehicle permits. If the insurance policy expires during the term of the license, a new certificate must be received by the Department at least 10 days prior to the expiration date. The County shall be listed as an additional insured, except for workers compensation coverage. The insurance certificates shall specifically provide that a certificate will not be modified except upon thirty (30) days prior written notice to the Department. Neither the Department's failure to require or insist upon certificates or other evidence of insurance, nor the Department's acceptance of a certificate or other coverage, changes the licensee's responsibility to comply with the insurance specifications.

C. All terms used above to specify the required insurance are to be interpreted according to the ordinary usage of the insurance industry.

11.04 Application Requirements. All applications for a solid waste collection and transportation license and vehicle permits and subsequent annual renewals submitted to the Department shall include the following:

- A. The name and address of the applicant.
- B. A description of each vehicle to be used for solid waste collection.
- C. The location and address describing the place where the applicant is storing equipment/vehicles.

- D. Current copy of certificate of insurance, indicating proper insurance coverage for the period of the license, including the name of the insurance carrier, its agent, policy number and effective dates.
- E. A map of the area of each city, township and county served.
- F. A bond in an amount to be specified by the County Board listed in favor of the County (municipality exempt).
- G. A license fee to be established by resolution of the County Board (municipality exempt).
- H. Other information the County may reasonably require including but not limited to applicant's signature, and appropriate fees for the license and permits.

#### 11.05 Implied Consent.

- A. The application for and acceptance of a solid waste collection and transportation license in the County is evidence of the licensee's intent to comply with all state, county, and federal regulations applicable to the collection, transportation and disposal of solid waste and source separated materials.
- B. By the application for and acceptance of a solid waste collection and transportation license, the licensee consents to allow the County access to all equipment used for collection and transportation for the purpose of inspections for compliance with this Ordinance. Such inspection may be with or without prior notice to the licensee.

#### 11.06 Additional Requirements.

- A. All solid waste collection and transportation license holders are responsible for the collection of waste in a timely manner consistent with this Ordinance and for the proper transportation and disposal of the solid waste at a properly licensed facility. The licensee is responsible for the service provided pursuant to a contract between the licensee and the purchaser of the service.
- B. All solid waste collection and transportation licensees shall charge for the collection of solid waste within the County so that the charges shall vary with the volume or weight of the solid waste collected and shall annually provide the Department written proof of the variable charge rates utilized.
- C. No later than July 1st of each year, each solid waste collection and transportation license holder must submit to the Department, on forms supplied by the Department, an accurate and current listing of all business and commercial accounts and waste volumes generated by those accounts.



Failure to supply this information or the supplying of intentionally misleading information may be reason for immediate license revocation.

## **Section 12: Permits & Licenses for Solid Waste Facilities**

12.01 License Required. Unless otherwise provided by this Ordinance, no person shall cause, permit, or allow real or personal property under their control to be used for the following solid waste management operations unless a license for that purpose has been granted by the County, and a permit obtained from the Agency, if required. County licenses shall be required for construction and operation of:

- A. Transfer stations, including canister sites.
- B. Mixed municipal solid waste land disposal facility.
- C. Ash, construction and demolition debris, and industrial solid waste land disposal facilities.
- D. Incinerators with a capacity equal to or greater than five hundred pounds per hour.
- E. Waste tire processing or storage facilities.
- F. Solid waste processing facilities.
- G. Facilities designed to process source separated materials, including but not limited to, recyclable materials, source separated organic materials, and batteries.

12.02 License Considerations. As per Minnesota Statutes Chapters 400 and 115A, the County has adopted a comprehensive Solid Waste Management Plan. Any application for license to operate a solid waste facility in the County will first be evaluated based on whether the need and location of the proposed facility is consistent with the comprehensive Solid Waste Management Plan.

12.03 License Modification.

- A. The Board may modify existing licensing requirements due to information indicating that the original permit provisions were based on inadequate or erroneous information. Such change in the provision can only be made after advance notification of the licensee.

12.04 License Renewal.

- A. Each license granted by the County under this section shall expire on the conclusion of the December 31 following its issuance, or on the December 31 for a term to be determined by the County Board and specifically stated upon the license.

- B. If the licensed activities have been performed in compliance with this Ordinance and other applicable laws, and a proper application for renewal has been made with appropriate fees paid, the County Board may issue the renewal license.

12.05 Storage of Recovered Materials from Demolition. Segregated construction and demolition debris materials may be stockpiled for construction or recycling provided the Department and the Agency has authorized such storage. Use of such materials shall comply with other applicable County or State laws and rules.

12.06 Permit for Disposal of Selected Construction and Demolition Debris.

- A. Construction and demolition debris generated at an individual property may be buried on-site provided a permit is issued by the Agency. A record of such burial of waste shall be filed at the office of the County Recorder.
- B. Placement of select construction and demolition debris as fill for a specific land improvement projects may be allowed provided a permit for that debris at that site is obtained from the Agency. Type and area filled shall be filed at the office of the County Recorder. The County may limit the amount of construction and demolition debris to be used as fill to an amount less than that allowed in the Agency permit, if needed to address public health and safety concerns.

### **Section 13: County Operated Facilities and Programs**

13.01 The provisions of this Ordinance allow the County, as an owner or operator, to participate in solid waste management activities, operate solid waste management facilities, and provide solid waste management services and programs without obtaining a license to do so from itself.

13.02 As an operator of a solid waste management facility under the provisions of this Ordinance the County Board may from time to time establish rates or charges for services provided. It may further utilize all of the provisions of this Ordinance to enforce the payment and collection of those designated changes.

### **Section 14: Minnesota State Rules Regarding Solid Waste Facilities**

14.01 Minnesota statutes and rules and federal regulations regarding waste facilities shall apply in addition to the provisions provided in this Ordinance.

### **Section 15: Enforcement**

15.01 Inspections. Inspection of licensed or permitted solid waste management activities, facility and/or a licensee's premises shall be made by the County in such frequency as to insure consistent compliance by the licensee with this Ordinance.

- A. The applicant or licensee shall allow free access to authorized representatives of the County at any reasonable time for the purpose of making such inspections as may be necessary to determine compliance with the requirements of all County ordinances, or rules or statutes.
- B. Failure of the applicant or licensee to permit such inspection shall be grounds for denial, suspension or revocation of a license. The licensee shall be provided with written documentation of any deficiencies and the date by which the corrections shall be completed.
- C. Whenever necessary to enforce any provision of this Ordinance, or whenever the County has reasonable cause to believe that a violation of this Ordinance exists, the County may enter premises or vehicles to inspect the same or to perform any duty incumbent upon the County, provided that if such premises or vehicle be occupied, the authorized representative shall first present proper credentials and request entry; and if such premises or vehicles are unoccupied, the County shall first make a reasonable effort to locate the operator or other persons having charge or control of the premises or vehicle and request entry. If such entry is refused, the County may order an emergency suspension, suspension or revocation of a license and shall have recourse to other remedies provided by law.
- D. Whenever the County or its authorized representatives shall find in any building, vehicle, or on any premises any material, condition or activity endangering the health, welfare or safety of the public, the County shall issue such orders as may be necessary for the enforcement of this or other applicable County ordinances governing and safeguarding the health, welfare and safety of the public.
- E. Repeated violations of this Ordinance or failure to comply with any order of the County shall be grounds for emergency suspension, suspension or revocation of a license.
- F. Any order or notice issued or served by the County shall be complied with by the owner, operator or other persons responsible for the condition or violation to which the order or notice pertains. Every order or notice shall set forth a time limit for compliance depending on the nature of and the danger created by the violation. In cases of extreme danger to health, welfare and safety of the public, immediate compliance shall be required.
- G. If a building, premises or vehicle is owned by one person and occupied or operated by another, under lease or otherwise, and the order or notice requires immediate compliance for the health, welfare and safety of the public, such order or notice shall be served on the owner, operator or occupant and the owner, operator or occupant shall ensure compliance with the order or notice.

- 15.02 Re-Inspection. Upon written notification from the licensee that all the violations for which a suspension or emergency suspension has been issued have been corrected, the County shall re-inspect the solid waste management activity. If the County finds upon such re-inspection that the violation has been corrected, the County shall inform the licensee of reinstatement of the license.
- 15.03 Action Authorized. For violations of this Ordinance, the County may take the following action: issuance of a Warning Notice; issuance of a Notice of Violation; issuance of a Citation(s); issuance or revocation of a license issued under this Ordinance; execution of a Stipulation Agreement; and/or commencement of other civil proceedings.
- A. *Warning Notice.* The County may issue a Warning Notice as defined in this Ordinance to any person alleged to have committed a violation of this Ordinance. A Warning Notice shall serve to place the person on notice that compliance with specified Ordinance requirements must occur to avoid additional enforcement actions. A Warning Notice may be in the form of an Inspection report for a licensed facility. A Warning Notice may be served in person or by mail.
- B. *Notice of Violation (NOV).* The County may issue a Notice of Violation (NOV) as defined in this Ordinance to any person alleged to have committed a violation of this Ordinance. A NOV shall serve to place the person alleged to have committed a violation on notice that compliance with specified Ordinance requirement must occur to avoid additional enforcement actions. The NOV shall be served by certified mail or by personal service on the person(s) alleged to have committed a violation of this Ordinance.
- C. *Citations.* Any person who fails to comply with the provisions of this Ordinance is guilty of a misdemeanor, and upon conviction thereof, shall be punished as provided by law. A separate offense shall be deemed committed each day during or on which a violation occurs or continues. An authorized representative of the County shall have the power to issue Citations for violation of this Ordinance, but shall not be permitted to physically arrest or take into custody any violator except on a warrant duly issued by the Court.
1. Issuance of the Citation. Citations shall be issued to the person alleged to have committed the violation either by personal delivery or by certified mail. In the case of a public, private or municipal corporation, the Citation shall be issued to any officer or agent with express or implied authorization to accept such issuance.
  2. Notice of Citation. Citations shall be made out in quadruplicate (4). One copy shall be issued to the person alleged to have committed the violation; one copy shall be filed with the County;

one copy shall be filed with the County Attorney's Office; and one copy shall be filed with the District Court.

3. Form of Citation. Citations shall be on such form(s) as approved by the County and shall contain at least the following:
  - (a) The name and address of the person charged with a violation.
  - (b) The date and place of the violation.
  - (c) A short description of the violation followed by the section of the Ordinance violated with reference made to all other pertinent Ordinance provisions.
  - (d) The date and place at which the person receiving the citation shall appear and a notice that if such person does not respond a warrant may be issued for such person's arrest.
4. Court Appearance. The person charged with the violation shall appear at the place and on the date specified in the Citation and either:
  - (a) Plead guilty to the Citation and meet the requirements of the sentencing order issued by the court; or
  - (b) Plead not guilty to the Citation and schedule a court date for further hearing or trial on the Citation.
5. Failure to Appear on the Citation. If the person charged with the violation does not appear at the place and on the date specified on the Citation a bench warrant may be issued by the Court.
6. Complaint.
  - (a) If the person issued the Citation and charged with the violation fails to appear as required by the Citation, the Citation may be referred to the County Attorney's Office for issuance of a summons and complaint.
  - (b) At their discretion, the County Attorney's Office may issue a summons and complaint initially.

D. *Abatement.* In the event of an emergency abatement by the County as described below or if a property owner does not complete Corrective Actions within the timeline given in a NOV, a Stipulation Agreement or a Court Order, the County may abate the violation and the County has the authority to enter the property and perform the Corrective Actions and

recover the costs of the same from the property owner through the following procedures:

1. Abatement Notice.
  - (a) Contents of Abatement Notice. An Abatement Notice shall include the following:
    - i. Notice that the property owner has not completed the Corrective Actions within the time period required in the attached NOV(s), Stipulation Agreement or Court Order;
    - ii. Notice that the County or its agent intends to enter the property and commence abatement of the conditions on the property that violate this Ordinance in thirty days;
    - iii. Notice that the property owner must correct the violation(s) before thirty days to avoid any civil liability for the costs of inspection and abatement that the County may incur; and
    - iv. A statement that if the property owner desires to appeal, the property owner must file a request for an appeal hearing with the County Auditor or County Board Chair with a copy sent to the Department pursuant to Minnesota Statutes 373.07 that meets the requirements of the sections below on the County within ten (10) County working days, exclusive of the day of service.
2. Service. The Abatement Notice must be served on a property owner by certified mail or personal service. Service by certified mail shall be deemed complete upon mailing. If the property owner is unknown or absent and has no known representative upon whom the Abatement Notice can be served, the County shall post the Abatement Notice at the property. The County must send a copy of the Abatement Notice to the County Attorney's Office.
3. Right to Appeal the Abatement Notice.
  - (a) Request for Hearing. The property owner's request for a hearing must be in writing and must state the grounds for appeal and be served by certified mail on the County Board, with a copy to the County by the close of the tenth County working day following service of the Abatement Notice. Following receipt of a request for a hearing, the County

Board shall set a time and place for the hearing to be held pursuant to Section 15.04.

- (b) Stay of Notice. Pending the appeal hearing and final determination by the County Board, the County shall take no further action on the Abatement Notice.
4. Abatement by the County. In the event a property owner does not abate the Ordinance violation or does not appeal the Abatement Notice within the applicable time period, the County may expend funds necessary to abate the violation(s) in accordance with applicable County policies and procedures.
5. Recovery of Abatement Costs.
- (a) The County may pursue recovery of all costs, including enforcement costs, from the property owner for abatement incurred by the County, by any means allowable by law. The cost of any enforcement action may be assessed and charged against the real property on which the violations are located.
  - (b) The County shall keep a record of the costs of abatements done under this Ordinance and report all work done for which assessments are to be made, stating and certifying the description of the land, lots or parcels involved and the amount assessable to each of the County Auditor by September 1 of each year.
  - (c) On or before October 1 of each year, the County Auditor shall list the total unpaid charges for each abatement made against each separate lot or parcel to which they are attributable under this Ordinance to the County Board.
  - (d) The County Board may then spread the charges or any portion thereof against the property involved as a special assessment, for certification to the County Auditor and for collection the following year along with current taxes.

6. Emergency Abatement by County. Notwithstanding the requirements of Section 15.03(D), in the event of an imminent threat to the public's health, welfare and safety, the County shall have the authority to immediately enter property and abate the violations and recover the costs as set out in Section 15.03(D)(5). The County shall attempt to give verbal notice to the property owner immediately, if possible, and in writing within 10 work days. The property owner shall have the right to appeal the assessment of costs of the County Board pursuant to Section 3 of this Article.
  
- E. *Stipulation Agreement.* The County and a person alleged to have violated provision(s) of this Ordinance may voluntarily enter into a Stipulation Agreement, whereby the parties to the agreement: identify conditions on the property that require Corrective Action; agree on the Corrective Actions that must be performed by the person; and agree on the timelines in which the Corrective Actions must be completed. If the timelines have not been met as agreed in the Stipulation Agreement, the County may abate the violation in accordance with Section 15.03(D), above. The parties may seek compliance with the terms of the Stipulation Agreement through a court of competent jurisdiction.
  
- F. *Special Assessment for Removal of Unauthorized Deposit of Solid Waste.* In addition to the remedies set forth above, at the discretion of the County, all costs for removal of unauthorized deposits of solid waste or corrective action maybe certified to the County Auditor as a special assessment against real property.
  
- G. *License Suspensions.*
  1. Any license required under this Ordinance may be suspended by the County for violation of any provision of this Ordinance. Upon written notice to the Licensee a license may be suspended by the County or designee for a period not longer than sixty (60) days or until the violation is corrected, whichever is shorter.
  
  2. Such suspension shall not occur earlier than ten (10) County working days after written notice of suspension by the County has been served on the licensee or, if a hearing is requested, until written notice of the determination of the County's action has been served on the licensee. Notice to the licensee shall be served personally or by registered or certified mail at the address designated in the license application. Such written notice of suspension shall contain the effective date of the suspension, the nature of the violation or violations constituting the basis for the suspension, the facts which support the conclusion that a violation or violations has occurred, and a statement that if the licensee desires to appeal, the licensee must within ten (10) County working



days, exclusive of the day of service, file a request for an appeal hearing with the County Board. The hearing request shall be in writing stating the grounds for appeal and served personally or by certified mail on the County Board, with a copy to the County by the close of the tenth County working day following service. Following receipt of a request for a hearing, the County Board shall set a time and place for the hearing to be held pursuant to the section below.

3. Continued Suspension. If said suspension is upheld and the licensee has not demonstrated within the sixty (60) day period that the provisions of the Ordinance have been complied with, the County Board may serve notice of continued suspension for up to sixty (60) days or initiate revocation procedures.

H. *Emergency Suspension*.

1. If the Department finds that the health, safety or welfare of the public requires emergency action, the County may order an emergency suspension of a license. Written notice of such emergency suspension shall be served on the licensee, or shall be served by certified mail to said licensee at the address designated in the license application.
2. The emergency suspension shall not be stayed pending an appeal to the County Board or an informal review by the County, but shall be subject to dismissal upon a favorable re-inspection by the County or favorable appeal to the County Board.

I. *Suspension Re-Inspection*. Upon written notification from the licensee that all violations for which a suspension or emergency suspension was invoked have been corrected, the County shall re-inspect the facility or activity within a reasonable length of time. If the County finds upon such re-inspection that the violations constituting the grounds for the suspension have been corrected, the County shall immediately dismiss the suspension by written notice to the licensee, served personally or by certified mail on the licensee at the address designated in the license application, with a copy to the County Board and the County Attorney's Office.

J. *License Revocation*.

1. Any license granted pursuant to this Ordinance may be revoked by the County for violation of any provision of this Ordinance.
2. Revocation shall not occur earlier than ten (10) County working days from the time that written notice or revocation from the County is served on the licensee or, if an appeal hearing is

requested, until written notice of the County Board's action has been served on the licensee. Notice of revocation to the licensee shall be served personally or by certified mail at the address designated in the license application. Such written notice of revocation shall contain the effective date of the revocation, the nature of the violation or violations constituting the basis for the revocation, the facts which support the conclusion that a violation or violations has occurred and a statement that if the licensee desires to appeal, the licensee must within ten (10) County working days, exclusive of the day of service, file a request for a hearing with the County Board. The hearing request shall be in writing stating the grounds for appeal and served personally or by certified mail on the County Board, with a copy to the County and the County Attorney's Office, by the close of the tenth County working day following service. Following receipt of a request for a hearing the County Board shall set a time and place for the hearing to be held to this section.

- K. *Status of Financial Assurance.* Financial assurance issued for the facility shall remain in full force and effect during all periods of suspension, emergency suspension and revocation of the license and is subject to claim by the County in accordance with the provisions of this Section.
- L. *Commencement of a Civil County Action.* In the event of a violation or a threat of violation of this Ordinance, the County may also institute other appropriate civil actions or proceedings in any court of competent jurisdiction, including requesting injunctive relief, to prevent, restrain, correct or abate such violations or threatened violations. The County may recover all costs, including reasonable attorney's fees, incurred for enforcement of this Ordinance through a civil action. If a property owner does not complete the Corrective Action within the timelines in a court order, the County may correct the violation and the County has the authority to enter the property and perform the Corrective Actions. The County may recover the costs of the same from the property owner through the court process or through the process set out in sections above.

15.04 Hearings. A request for hearing on a denial, suspension, emergency suspension, non-renewal, or revocation of a license, or receipt of a Notice of Abatement shall be held before the County Board, or a hearing examiner as provided below, and shall be open to the public. If a request for a hearing is not filed within the specified time period, the opportunity for a hearing is forfeited and the action of the Department becomes final and binding.

- A. *Timeframe for Hearing.* Unless an extension of time is requested by the appellant in writing directed to the Chair of the County Board and is granted, the hearing will be held no later than forty-five (45) calendar days after the date of service of request for a hearing, exclusive of the date of

such service. In any event, such hearing shall be held no later than ninety (90) calendar days after the date of service of request for a hearing, exclusive of the date of such service.

- B. *Notice of Hearing.* The County Board shall mail notice of the hearing to the appellant, with a copy to the Department and the County Attorney's Office, at least fifteen (15) working days prior to the hearing. Such notice shall include:
1. A statement of time, place and nature of the hearing.
  2. A statement of the legal authority and jurisdiction under which the hearing is to be held.
  3. A reference to the particular section of the Ordinance and Agency rules, if any, involved.
- C. *Hearing Examiner.* The County Board may by resolution appoint an individual or the Solid Waste Subcommittee, to be known as the hearing examiner, to conduct the hearing and to make findings of fact, conclusions and recommendations to the County Board. The hearing examiner shall submit the findings of fact, conclusions and recommendations to the County Board in a written report, and the County Board may adopt, modify or reject the report.
- D. *Conduct of the Hearing.* The appellant may be represented by counsel. The County may be represented by the County staff or by the County Attorney's Office. The County, the appellant, and additional parties, as determined by the County Board or hearing examiner, in that order, shall present evidence. All testimony shall be sworn under oath. All parties shall have full opportunity to respond to and present evidence, cross-examine witnesses, and present argument. The County Board or hearing examiner may also examine witnesses.
- E. *Burden of Proof.* The County shall have the burden of proving its position by a preponderance of the evidence, unless a different burden is provided by substantive law, and all findings of fact, conclusion, and decisions by the County Board shall be based on evidence presented and matters officially noticed.
- F. *Admission of Evidence.* All evidence that possesses probative value, including hearsay, may be admitted if it is the type of evidence on which prudent persons are accustomed to rely in the conduct of their serious affairs. Evidence that is incompetent, irrelevant, immaterial or unduly repetitious may be excluded. The hearing shall be confined to matters raised in the County's written notice of denial, suspension, emergency suspension, non-renewal or revocation of a license, denial of a variance, or Abatement Notice or in the appellant's written request for a hearing.

- G. *Pre-Hearing Conference.* At the request of any party, or upon motion of the County Board or hearing examiner, a pre-hearing conference shall be held. The pre-hearing conference shall be conducted by the hearing examiner, if the County Board has chosen to use one, or by a designated representative of the County Board. The pre-hearing conference shall be held no later than five (5) County working days before the hearing. The purpose of the pre-hearing conference is to:
1. Clarify the issues to be determined at the hearing.
  2. Provide an opportunity for discovery of all relevant documentary, photographic or other demonstrative evidence in the possession of each party. The hearing examiner or County Board's representative may require each party to supply a reasonable number of copies of relevant evidence capable of reproduction.
  3. Provide an opportunity for discovery of a full name and address of all witnesses who will be called at the hearing and a brief description of the facts and opinions of which each is expected to testify. If the names and addresses are not known, the party shall describe them thoroughly by job duties and involvement with the facts at issue.
  4. If a pre-hearing conference is held, evidence not divulged as provided above shall be excluded at the hearing unless the party advancing the evidence took all reasonable steps to divulge it to the adverse party prior to the hearing and:
    - (a) The evidence was not known to the party at the time of the pre-hearing conference; or
    - (b) The evidence is in rebuttal to matters raised for the first time at or subsequent to the pre-hearing conference.
- H. *Failure to Appear.* If the appellant fails to appear at the hearing, they shall forfeit any right to a public hearing before the County Board or hearing examiner and their failure to appear shall be deemed their waiver of their right to appeal the decision made by the County and the decision made by the County will stand.

### **Section 16: Additional Requirements**

- 16.01 The County Board may impose additional requirements consistent with the intent of this Ordinance.
- 16.02 Unless specifically authorized in advance by the owners of a facility, it shall be a violation of this Ordinance for any person or persons to enter upon or remain on

property permitted or authorized by this Ordinance at any time during which the facility is not open, as indicated by the posted hours of operation.

### **Section 17: Repealer**

17.01 The Becker County Solid Waste Management Ordinance, dated November 3<sup>rd</sup>, 2001, is hereby replaced.

### **Section 18: Provisions Are Cumulative**

18.01 The provisions in this Ordinance are separate, distinct, and cumulative and no such provision shall be exclusive of any other provisions.

### **Section 19: No Consent**

19.01 Nothing contained in this Ordinance shall be deemed to be a consent, license, or permit to locate, construct or maintain a site, facility or operation, or to carry on any activity.

### **Section 20: Non-Liability**

20.01 Neither the County nor any officer or employee thereof shall be held liable for any damage to persons or property by reason of any inspection, re-inspection or failure to inspect, or by reason of the approval or disapproval of equipment or the granting, not granting, suspending or revoking of any license hereunder, nor for any action in connection with the inspection or control of solid waste or in connection with any other official duties.

### **Section 21: Severability**

21.01 The provisions of this Ordinance are severable. Should any action, paragraph, sentence, clause, phase, or portion of this regulation be declared invalid for any reason, the remainder of this regulation shall not be affected.

### **Section 22: Reporting**

22.01 The County may require information to be gathered by solid waste generators, solid waste management facility operators, commercial haulers, and self-haulers regarding matters related to this Ordinance. Such information may include, where applicable, customer names and locations, waste origins, waste types and amounts, and waste destinations for reuse, recycling, resource recovery, or disposal. Any such information gathered by the County will be managed subject to the Minnesota Data Practices Act or other applicable data management laws or agreements as amended from time to time. Failure to provide this information will be considered a violation of this Ordinance.

**Section 23: Effective Date**

23.01 This regulation shall be in full force and effect upon adoption and publication pursuant to law.

Dated: \_\_\_\_\_

BECKER COUNTY

ATTEST:

By: \_\_\_\_\_  
Larry Knutson, Chair

\_\_\_\_\_  
Clerk

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