



**Ordinance No. 111,
Hazardous Waste Regulation**

Adopted by the Dakota County Board of Commissioners
January 4, 2017

TABLE OF CONTENTS
DAKOTA COUNTY ORDINANCE NO. 111
HAZARDOUS WASTE REGULATION

| | | |
|-------------|--|-----------|
| 1.00 | PURPOSE AND AUTHORITY | 1 |
| | 1.01 Purpose | 1 |
| | 1.02 Authority..... | 1 |
| 2.00 | DEFINITIONS | 2 |
| 3.00 | STANDARDS..... | 6 |
| | 3.01 Standards Adopted..... | 6 |
| | 3.02 Standards Amended..... | 6 |
| | 3.03 Standards for Minimal Generators | 8 |
| | 3.04 Standards for the Management of Special Hazardous Waste | 10 |
| | 3.05 Standards for the Management of Universal Waste | 13 |
| | 3.06 Agency Program Management Decisions and Policies | 14 |
| 4.00 | GENERAL PROVISIONS..... | 15 |
| | 4.01 Compliance Required | 15 |
| | 4.02 License Required | 15 |
| | 4.03 Requirements for Obtaining License | 16 |
| | 4.04 Renewal of License | 18 |
| | 4.05 Registration Requirements for Minimal Generators | 19 |
| | 4.06 Fees..... | 19 |
| | 4.07 Waste Management | 20 |
| | 4.08 Financial Assurance and Insurance | 20 |
| | 4.09 Change in Facility Operation | 22 |
| | 4.10 Interim Operating Approval | 23 |
| | 4.11 Indemnification of County | 23 |
| | 4.12 Administration..... | 23 |
| | 4.13 Ordinance Violations | 25 |
| | 4.14 License Suspension and Revocation | 29 |
| | 4.15 Hearings | 31 |
| | 4.16 False Information..... | 32 |
| 5.00 | TERMINATION OF OPERATION OR ABANDONMENT | 33 |
| | 5.01 Termination of Operation | 33 |
| | 5.02 Abandonment | 33 |
| 6.00 | VARIANCES | 34 |
| | 6.01 Variances..... | 34 |
| | 6.02 Continuing Variance | 34 |
| | 6.03 Denial of Variance and Right to Appeal | 34 |
| | 6.04 Agency Approval | 34 |

| | | |
|--------------|--|-----------|
| 6.05 | Closure/Post Closure | 34 |
| 7.00 | EMERGENCY WAIVER OF STANDARDS | 35 |
| 7.01 | In General..... | 35 |
| 7.02 | Limitations of Emergency Waiver..... | 35 |
| 7.03 | Request for Emergency Waiver | 36 |
| 8.00 | EFFECTIVE DATE | 36 |
| 9.00 | SEVERABILITY..... | 36 |
| 10.00 | PROVISIONS ARE CUMULATIVE | 36 |

DAKOTA COUNTY

ORDINANCE 111

HAZARDOUS WASTE REGULATION

1.00 PURPOSE AND AUTHORITY

1.01 PURPOSE. It is the purpose and intent of this ordinance to establish rules, regulations, and standards for hazardous waste management in Dakota County, Minnesota for: the identification, labeling, and classification of hazardous waste; the handling, collection, transportation, and storage of hazardous waste; the treatment, processing and/or disposal of hazardous waste; requiring the licensing of hazardous waste generators, hazardous waste facilities, and special hazardous waste processing/storage facilities; payment of license fees; penalties for failure to comply with the provisions of this ordinance; issuing, denying, modifying, imposing conditions upon, suspending or revoking licenses; and other matters as determined to be necessary for the health, welfare and safety of the public. Further, this ordinance shall be liberally construed so as to protect the natural environment from hazardous waste contamination.

1.02 AUTHORITY. This ordinance is adopted pursuant to Minn. Stat. chs. 145A and 473.

2.00 DEFINITIONS

Unless the context clearly indicates otherwise, the following words and phrases shall have the meanings ascribed to them in this section. Unless specifically defined herein, terms used in this ordinance shall have the same definition as provided in Minn. R. ch. 7045 and if not defined there, shall have common usage meaning. For purposes of this ordinance, the words "must" and "shall" are mandatory and not permissive unless a different definition appears in this ordinance.

- 2.01 "AGENCY"** means the Minnesota Pollution Control Agency (MPCA).
- 2.02 "CATHODE RAY TUBE"** means a vacuum tube in which a hot cathode emits electrons that are accelerated as a beam through a relatively high voltage anode, further focused or deflected electrostatically or electromagnetically, and allowed to fall on a fluorescent screen.
- 2.03 "CIRCUIT BOARDS"** means electrical equipment panels consisting of fiberglass, a paper and epoxy blend, or other inert material and electrical conductors, traces, or foils.
- 2.04 "CIRCUIT BOARD TRIMMINGS"** means the pieces, including dust particles that are cut or trimmed off of circuit boards or printed circuit boards during the routing or punching process in order to make the boards the proper size for use.
- 2.05 "COLLECTOR OF SPECIAL HAZARDOUS WASTE"** means any person or facility, or part thereof that receives or collects special hazardous waste and where no disassembly or processing of special hazardous waste occurs.
- 2.06 "COUNTY"** means Dakota County, Minnesota.
- 2.07 "COUNTY BOARD"** means the Dakota County Board of Commissioners.
- 2.08 "DEPARTMENT"** means the county department or unit designated by the county board to conduct hazardous waste regulatory activities within the county, its staff, and designated agents.
- 2.09 "DISASTER"** means a situation that creates an actual or imminent serious threat to the health and safety of persons, or a situation that has resulted or is likely to result in catastrophic loss to property or the environment, and for which traditional sources of relief and assistance within the affected area are unable to repair or prevent the injury or loss.
- 2.10 "ELECTRONIC COMPONENT"** means components, subassemblies, or other parts derived from the disassembly of electronic devices, including circuit boards.
- 2.11 "ELECTRONIC DEVICE"** means electronic equipment that contains one or more electronic circuit Boards, cathode ray tubes, or other circuitry that exhibit the toxicity characteristics under Minn. R. 7045.0131.
- 2.12 "ELECTRONICS"** means electronic devices and/or electronic components.
- 2.13 "EMBARGO"** means a written order issued by the department prohibiting the movement, removal, transport, disposal, treatment, sale, or use of any material which is or is suspected to be a hazardous waste and which is being mismanaged or which the department has reason to suspect is being or will be managed in violation of this ordinance.
- 2.14 "EXTENDED PRODUCER RESPONSIBILITY"** is an environmental policy strategy of product stewardship that extends the producer's responsibility for their product to post-consumer management of that product and its packaging.

Ordinance No. 111, Hazardous Waste Regulation

- 2.15** “**FACILITY**” has the meaning in Minn. R. 7045.0020, subp. 24 and shall also include facilities that collect for the treatment, storage, or disposal of universal waste and shall also include used oil collection sites and used oil filter collection sites, but does not include special hazardous waste processing/storage facilities as defined by this ordinance.
- 2.16** “**GENERATOR**” means any person, by site, whose act or process produces hazardous waste, or whose act first causes a hazardous waste to become subject to regulation. This includes owners of property upon which hazardous waste or hazardous materials have been abandoned or released. “Generator” means all size generators, including large quantity generators, small quantity generators, very small quantity generators and minimal generators, unless specifically stated otherwise.
- 2.17** “**HAZARDOUS WASTE**” means any refuse, sludge, spent solutions or other waste material or combinations of refuse, sludge, spent solutions or other waste materials in solid, semi-solid, liquid, or contained gaseous form which because of its quantity, concentrations, 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, flammables, oxidizers, poisons, irritants, and corrosives. Hazardous waste does not include source, special nuclear, or by-product material as defined by the Atomic Energy Act of 1954, as amended.
- 2.18** “**MINIMAL GENERATOR**” means any very small quantity generator who generates one or more of only the following wastes:
1. 10 gallons or less per year of hazardous waste that is not acutely toxic as defined by Minn. R. 7045.0020, subp. 3a;
 2. Any amount of used oil, used oil contaminated absorbents, or used oil filters;
 3. Any amount of spent lead-acid batteries managed under Minn. R. 7045.0685;
 4. Universal wastes and special hazardous wastes as defined by this ordinance;
 5. Feedstock or by-product waste;
 6. Waste photographic fixer solution which is shipped off site for recycling;
 7. Waste photographic fixer if treated to remove 80% of the hazardous constituents;
 8. Waste fuel/water mixtures and fuel tank filters that are not stored or accumulated on site; or
 9. Any amount of waste amalgam from dental operations.
- 2.19** “**MINIMAL RISK FACILITY**” means a licensed hazardous waste generator operating without a facility license that is a collection site for one or more of the following:
1. Paint collection site operating under Minn. Stat. § 115A.1415;
 2. Collection sites accepting household pharmaceuticals operating under Minn. Stat. § 151;
 3. Collection sites accepting household universal waste; and
 4. Other collection sites operating under extended producer responsibility or product stewardship program statutes.
- 2.20** “**NOTICE OF VIOLATION**” means an administrative version of a judicial complaint that is issued by the department to a person. A notice of violation must contain the following sections:
1. Findings of fact with corresponding conclusions of law, which describe the alleged violations and the corresponding ordinance sections, statutes, and/or rules which are allegedly violated;

Ordinance No. 111, Hazardous Waste Regulation

2. Orders for corrective action which describe specifically how each alleged violation must be corrected and the timeframes within which the corrections are required to be made; and
3. Notice of further action that describes in general terms the additional administrative and judicial enforcement actions that could be pursued by the department if the alleged violations are not satisfactorily corrected.

2.21 "PERSON" means any 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.

2.22 "PHOTOGRAPHIC NEGATIVES" means film, paper, or plates, not including those containing nitrate stock, used in photography. (Please note that the definition excludes photographic negatives containing nitrate stock and, therefore, photographic negatives containing nitrate stock are not covered by this ordinance.)

2.23 "PRINTED CIRCUIT BOARDS" means circuit boards in which a configuration of electrical circuits has been printed or plated onto the boards.

2.24 "PRODUCT STEWARDSHIP" means that all parties involved in designing, producing, selling or using a product assume responsibility for environmental impacts of that product throughout its life; and extend manufacturers' responsibility for products to the disposal and recycling stage.

2.25 "RELEASE OR RELEASES" means the accidental or intentional spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing of a waste into the environment.

2.26 "SPECIAL HAZARDOUS WASTE" means the following hazardous wastes:

1. Photographic negatives, film scrap, x-ray film, and paper which exhibit the toxicity characteristic for silver under Minn. R. 7045.0131; and
2. Electronics.

2.27 "SPECIAL HAZARDOUS WASTE PROCESSING/STORAGE FACILITY" means any facility where special hazardous waste is disassembled or processed for recycling or disposal, or a collector of special hazardous waste who exceeds its time or quantity limits set forth in section 3.04(F) of this ordinance.

2.28 "UNIVERSAL WASTE" has the meaning given in Code of Federal Regulations, title 40, section 273.9.

2.29 "USED OIL COLLECTION SITE" means a site where used oil is collected from generators and/or stored before recycling or transportation to another site for recycling.

2.30 "USED OIL FILTER COLLECTION SITE" means a site where used oil filters are collected from generators and/or stored before recycling or transportation to another site for recycling.

2.31 "WARNING NOTICE" means a written document issued by the department to a person that includes the following:

1. A listing of violations, including the ordinance sections, rules, or statutes violated, the factual basis for the violations, and the date(s) of the violations;
2. The specific actions required to be taken by the person to correct the violations and the timeframes within which the corrections are required to be made; and

Ordinance No. 111, Hazardous Waste Regulation

3. A description, in general terms, of the additional administrative and judicial enforcement actions that could be pursued by the department if the alleged violations are not satisfactorily corrected.

3.00 STANDARDS

3.01 STANDARDS ADOPTED. Minn. R. ch. 7045, except for Minn. R. 7045.1000 through 7045.1030 inclusive, as may be amended, are hereby adopted by reference and made a part of this ordinance.

3.02 STANDARDS AMENDED. The above-adopted rules are hereby amended as follows:

A. Wherever the term "Minnesota Pollution Control Agency", "Pollution Control Agency" or "agency", appears in these adopted rules, it shall be held to mean the "department" except in Minn. R.:

- 7045.0020, subps. 4, and 9c
- 7045.0070
- 7045.0075
- 7045.0080
- 7045.0090 when referenced by 7045.0545, 7045.0546, 7045.0547, and 7045.0548
- 7045.0125 subp. 9, item D
- 7045.0129
- 7045.0133
- 7045.0135 subp. 5, item E
- 7045.0218
- 7045.0243, subp. 3, item D
- 7045.0261, subp. 6
- 7045.0275, subp. 2
- 7045.0302
- 7045.0361
- 7045.0395
- 7045.0397
- 7045.0450
- 7045.0452, subp. 2
- 7045.0468, subp. 2
- 7045.0498 through 7045.0524
- 7045.0540
- 7045.0546
- 7045.0552
- 7045.0554
- 7045.0556, subp. 2
- 7045.0574, subp. 2
- 7045.0608 through 7045.0624
- 7045.0645
- 7045.0655, subp. 1
- 7045.0692
- and where used with "Environmental Protection Agency", or "federal or state agency," where they shall remain unchanged.

B. Wherever the term "Commissioner" appears in these adopted rules, it shall mean "department" except in Minn. R.:

- 7045.0020, subp. 6a, item B and subps. 9c, 22, 34, 43b, and 73h
- 7045.0075
- 7045.0080
- 7045.0090 when referenced by 7045.0545, 7045.0546, 7045.0547, and 7045.0548
- 7045.0120, subp. 1, item X
- 7045.0125, subps. 4, item N(5) and 9, item D
- 7045.0129
- 7045.0131
- 7045.0218
- 7045.0265
- 7045.0294, subp. 1a, item B
- 7045.0302
- 7045.0310, subp. 3, items B and C
- 7045.0310, subp. 5, items C and D
- 7045.0310, subp. 6, item D (second occurrence only)
- 7045.0320, subps. 9 and 10
- 7045.0395, subp. 5, item B
- 7045.0476, subp. 3, item A
- 7045.0498 through 7045.0524
- 7045.0528, subp. 4, item D (4) 7045.0545
- 7045.0546
- 7045.0552 subp. 1a
- 7045.0582, subp. 3, item A
- 7045.0608 through 7045.0624
- 7045.0628
- 7045.0652, subp. 2, item B
- 7045.0665
- 7045.0686
- 7045.0845
- 7045.0875, subp. 8, item B
- 7045.0990
- 7045.1309
- 7045.1315, subp. 2, item G
- and 7045.1360, where it shall remain unchanged

Ordinance No. 111, Hazardous Waste Regulation

- C. Wherever the term "permit", "permittee", "permitting" or "permitted" appears in these adopted rules, it shall mean "license", "licensee", "licensing" or "licensed" except in Minn. R.:
- 7045.0020, subps. 10b, 15, 23, 23a, 24, and 58a
 - 7045.0121, subp. 2, item D
 - 7045.0135, subp. 5 item E
 - 7045.0208
 - 7045.0210
 - 7045.0261, subps. 2, and 6
 - 7045.0310, subp. 3, item D
 - 7045.0310, subp. 6, item D
 - 7045.0320
 - 7045.0397
 - 7045.0450
 - 7045.0498 through 7045.0524
 - 7045.0546
 - 7045.0552
 - 7045.0554, subp. 1
 - 7045.0608 through 7045.0624
 - 7045.0692
 - 7045.0790, subp. 7
 - 7045.1380, subp. 1, item A
 - and where used with "National Pollutant Discharge Elimination System Permit", "NPDES Permit", "permit by rule", "State Disposal Permit," "Emission Facility Operating Permit", "Air Quality Permit", where they shall remain unchanged.
- D. The term "Minnesota" or "State of Minnesota" shall be held to mean "County of Dakota" in Minn. R.:
- 7045.0210
 - 7045.0212
 - 7045.0214
 - 7045.0240
 - 7045.0261, subp. 6, item A (except for the phrases "Specific Minnesota" and "in Minnesota" which shall remain unchanged)
 - 7045.0302, subp. 1
 - 7045.0351, subp. 1
 - 7045.0355
 - 7045.0361
- E. Minn. R. 7045.0020, subp. 66 is deleted in its entirety.
- F. Minn. R. 7045.0060 is amended to read as follows:
- "No variance may be granted if granting the variance would result in noncompliance with Environmental Protection Agency (EPA) regulations and Minnesota Pollution Control Agency (MPCA) rules for the generation, storage, processing, treatment, transportation, or disposal of Hazardous Waste or the operation of Hazardous Waste facilities."
- G. Minn. R. 7045.0225, subp. 1 is amended by deleting the last two sentences in their entirety.
- H. The first paragraph of Minn. R. 7045.0230, subp. 1 is amended to read:
- "Information required. An application must be on a form provided by the department and must include the following information:"
- I. Minn. R. 7045.0230, subp. 1a is deleted in its entirety.
- J. Minn. R. 7045.0240 is amended by the deletion of the second sentence in subp. 3.
- K. Minn. R. 7045.0243 is amended by the deletion of subp. 1 and subp. 3, item C.
- L. The first paragraph of Minn. R. 7045.0248, subp. 1 is amended to read as follows:
- "A licensed generator must submit a license renewal application to the department on forms provided by the department. A generator must submit the application and report by the

Ordinance No. 111, Hazardous Waste Regulation

January 31 preceding the expiration of the generator license. The application must contain the following information for each hazardous waste produced during the preceding calendar year:"

- M. Minn. R. 7045.0248, subp. 1, item B is deleted in its entirety.
- N. In Minn. R. 7045.0292, subps. 1, 5, 6, and 8, the phrase "without a permit or without having interim status" is amended to read "without a facility permit or interim status". The word "permit" in these references remains unchanged.
- O. The first paragraph of Minn. R. 7045.0302, subp. 2. is amended to read as follows:

"Subp. 2. Notification. When shipping hazardous waste outside the state of Minnesota to a foreign country the primary exporter must notify the commissioner, the department, and the EPA of an intended export before the waste is scheduled to leave the United States. A complete notification should be submitted 60 days before the initial shipment is intended to be shipped off site. This notification may cover export activities extending over a 12-month or lesser period. The notification must be in writing, signed by the primary exporter, and include the following information:"

The remainder of Minn. R. 7045.0302, subp. 2 remains unchanged.
- P. Minn. R. 7045.0460, subp. 1, item A is amended to read as follows:

"Procedures are in effect which will cause the waste to be removed safely before floodwaters can reach the facility to a location where the wastes will not be vulnerable to flood waters. The location to which wastes are moved must be a facility that is either licensed by this department, or permitted by the Environmental Protection Agency, or by a state with a hazardous waste management program authorized by the Environmental Protection Agency, or which has interim status."
- Q. The term "in chapter 7001" is deleted wherever it appears.
- R. The phrase "under chapter 7046" is deleted wherever it appears.

3.03 STANDARDS FOR MINIMAL GENERATORS.

- A. Minimal generators must manage their hazardous waste according to all applicable rules and regulations of the state and county.
- B. Minimal generators who fail to comply with the waste management requirements of this ordinance may, at the discretion of the department, lose their minimal generator status. The department will notify the minimal generator of the status change.
- C. Minimal generators whose rate of generation exceeds that defined in section 2.17 shall lose their minimal generator status.
- D. **WASTE ACCUMULATION.** Minimal generators that exceed 65 gallons of accumulated hazardous waste shall lose minimal generator status. The generation of used oil, used oil contaminated absorbents, used oil filters, lead-acid batteries, universal waste, special hazardous waste, feedstock, or by-product waste is not counted towards this accumulation limit.
- E. **CONTAINERS AND TANKS.**
 - 1. Hazardous waste must be placed in a container or tank that is compatible with the waste and that contains no material or residue that may react with the waste.

Ordinance No. 111, Hazardous Waste Regulation

Hazardous waste must not be placed in a container that previously held an incompatible material unless the incompatible material has been entirely removed. Hazardous waste must be adequately separated from any other container or tank holding an incompatible material.

2. Containers and tanks must be kept closed unless adding or removing wastes. Containers and tanks must be maintained in good condition with no rust, corrosion, or damage that may result in a leak or a release. If the container or tank is rusted, corroded, or damaged, it must be repaired or the waste must be moved to a sound container or tank.
3. Containers and tanks must be labeled with the words "hazardous waste" and a clearly understandable description of the type of waste in the container or tank. Containers and tanks of special hazardous waste must be labeled in accordance with section 3.04(I) of this ordinance.

F. STORAGE AREAS.

1. Storage of liquid hazardous waste indoors or outdoors must be done on a surface impermeable to the hazardous waste.
2. Outdoor storage areas where liquids or wastes containing free liquids are stored must have secondary containment to prevent release to soil or water. If ignitable wastes are stored outdoors, the waste must be shaded from the sun and managed to prevent overheating and rupture of containers.
3. Storage areas for hazardous wastes must have protection from damage including vehicular accidents and vandalism.
4. All generators must comply with the state fire code and local regulations.
5. Hazardous waste containers must be stored in such a way that there is adequate aisle space to allow for unobstructed movement of personnel and equipment in an emergency.

G. **SPIILLS.** The generator shall immediately clean up any spills or leaks of hazardous waste or hazardous material. Upon discovering a leak or a spill of hazardous waste or hazardous material, the generator must immediately notify the Minnesota Duty Officer by calling (651) 649-5451. When reporting the spill or release, the generator must be prepared to describe the location, type of material, amount, and the cleanup activities. Within one county working day, the generator shall notify the department of the spill and the actions taken to recover the spilled material.

H. **TRANSPORTATION.** The generator must comply with all United States Department of Transportation regulations when shipping hazardous waste.

I. **DISPOSAL STANDARDS.** Hazardous wastes must be disposed of by one of the following methods:

1. Treat on-site by a method acceptable to the agency and the department;
2. Ship to a licensed or permitted hazardous waste facility using a hazardous waste manifest and hazardous waste transporter;
3. Ship to a very small quantity generator collection site in compliance with Minnesota Department of Transportation regulations;

Ordinance No. 111, Hazardous Waste Regulation

4. Ship special hazardous waste, used oil, used oil filters, used oil contaminated absorbents, spent lead-acid batteries, silver only photographic fixer solution or fluorescent lamps to a disposal facility, recycler, collector of special hazardous waste or special hazardous waste processing/storage facility in compliance with Minnesota Department of Transportation requirements; or
 5. Sewer with the approval of local publicly owned treatment works.
- J. PROHIBITED ACTIONS. The following actions are prohibited by minimal generators:
1. Abandoning or relinquishing control of hazardous waste if the generator has reason to believe that the hazardous waste will not be properly managed or the treatment, storage, or disposal facility cannot legally take the waste;
 2. Relinquishing control of manifested waste to a transporter who is not licensed or permitted by the Minnesota Department of Transportation as a hazardous waste transporter;
 3. Placing used oil in or on the ground and/or water; or
 4. Evaporating hazardous waste except as provided in section 4.07(A).
- K. RECORD KEEPING. All hazardous waste management records, including manifest copies, receipts, shipping papers, or bills of lading must be kept on-site for a minimum of three years from the date of shipment.

3.04 STANDARDS FOR THE MANAGEMENT OF SPECIAL HAZARDOUS WASTE.

- A. GENERAL STANDARDS FOR SPECIAL HAZARDOUS WASTE MANAGEMENT. Special hazardous wastes that are managed in compliance with the management requirements specified in this ordinance are not subject to the hazardous waste management requirements in Minn. R. 7045.0205 to 7045.0990 and 7045.1300 to 7045.1400, except for those provisions specified by reference in this ordinance. Special hazardous wastes that are not managed in compliance with the requirements specified in this ordinance must be managed in accordance with all applicable hazardous waste management requirements in Minn. R. 7045.0205 to 7045.0990 and 7045.1300 to 7045.1400.
- B. APPLICABILITY. The provisions of this section apply to all generators, collectors, processors, or recyclers of special hazardous waste. A person who collects special hazardous waste from businesses or households must manage the waste in accordance with the requirements for collectors or processing/storage facilities as applicable.
- C. HOUSEHOLD SPECIAL HAZARDOUS WASTE. A person who collects special hazardous waste generated by households or commingles special hazardous waste generated by households with any special hazardous waste as defined by this ordinance, shall manage the collected special household hazardous waste or commingled special hazardous waste under the requirements of this ordinance. A person who produces special hazardous waste from their own household activity is exempt from the requirements of this ordinance.
- D. LICENSE REQUIRED. Except for collectors of special hazardous waste that have completed a notification form and generators, a special hazardous waste processing/storage facility license is required.
- E. REGISTRATION REQUIRED. Collectors of special hazardous waste must register with the department on forms provided by the department. Collectors that have submitted a complete

Ordinance No. 111, Hazardous Waste Regulation

registration form and are in compliance with the requirements of section 3.04 do not need to obtain a license as required in section 4.02. Generators are not required to register with the department.

F. ACCUMULATION TIME AND QUANTITY LIMITS.

1. **Generator.** A generator may accumulate up to 10,000 pounds of special hazardous waste for up to one year. A generator may accumulate over 10,000 pounds of special hazardous waste for longer than one year if such activity is solely for the purpose of accumulation of such quantities of waste as necessary to facilitate proper recovery, treatment, or disposal. However, the generator bears the burden of proving that such activity is solely for the purpose of accumulation of such quantities of special hazardous waste as necessary to facilitate proper recovery, treatment, or disposal.

A generator of special hazardous waste who accumulates special hazardous waste must be able to demonstrate the length of time that the special hazardous waste has been accumulated from the date it becomes a waste. The generator may make this demonstration by:

- a. Placing the special hazardous waste in a container and marking or labeling the container with the earliest date that any special hazardous waste in the container became a waste;
 - b. Marking or labeling each individual special hazardous waste with the date it became a waste;
 - c. Maintaining an inventory system on-site that identifies the date each special hazardous waste became a waste;
 - d. Maintaining an inventory system on-site that identifies the earliest date that any special hazardous waste in a group of special hazardous waste or a group of containers of special hazardous waste became a waste;
 - e. Placing the special hazardous waste in a specific accumulation area and identifying the earliest date that any special hazardous waste in the area became a waste; or
 - f. Any other method, as approved by the department, which clearly demonstrates the length of time that the special hazardous waste has been accumulated from the date it becomes a waste.
2. **Collectors.** A collector of special hazardous waste may store up to 40,000 pounds of special hazardous waste for up to one year. Upon reaching 40,000 pounds or one year, whichever is reached first, all special hazardous waste must be shipped off-site within 10 days. A collector may store less than 40,000 pounds of special hazardous waste for longer than one year if such activity is solely for the purpose of accumulation of such quantities of waste as necessary to facilitate proper recovery, treatment, or disposal. However, the collector bears the burden of proving that such activity is solely for the purpose of accumulation of such quantities of special hazardous waste as necessary to facilitate proper recovery, treatment, or disposal.

A collector of special hazardous waste who accumulates special hazardous waste must be able to demonstrate the length of time that the special hazardous waste has been accumulated from the date it becomes a waste. The collector may make this demonstration in accordance with the methods provided in section 3.04(F)(1)(a)-(f).

3. Collectors of special hazardous waste that exceed the time or weight limit must apply for a processing/storage facility license.

Ordinance No. 111, Hazardous Waste Regulation

4. Processing/storage facility. A processing/storage facility must not collect special hazardous waste in a manner that is considered speculative accumulation as defined in Minn. R. 7045.0020.
- G. STORAGE. All special hazardous waste shall be stored in containers or in a manner that:
1. Prevents damage to or breakage of special hazardous waste during normal handling conditions;
 2. Are compatible with the waste being stored in the container;
 3. Will not leak or break open during normal handling conditions;
 4. Protect handlers and all other persons from physical injury caused by contact with special hazardous waste; and
 5. Prevent releases of special hazardous waste, including components or residues of special hazardous waste.
- H. STORAGE AREAS.
1. Storage of special hazardous waste indoors or outdoors must be on a surface impermeable to the special hazardous waste;
 2. Outdoor storage areas must prevent release to soil and/or water;
 3. Storage areas for special hazardous wastes must have protection from damage including vehicular accidents and vandalism; and
 4. Special hazardous waste containers must be stored in such a way that there is adequate aisle space to allow for unobstructed movement of personnel and equipment in an emergency.
- I. LABELING OF CONTAINERS. All containers of special hazardous waste shall be labeled with, as applicable:
1. The words "used" or "waste" followed by a brief description of the waste in the container; or
 2. A brief description of the waste in the container followed by the words "for recycling."
- J. RESPONSES TO RELEASES OR DETECTION OF INADEQUATE CONTAINER. Any generator, collector, or processing/storage facility shall conduct the activities set out in (1) to (4) below upon detection of storage that no longer meets the standards in section 3.04(G) or upon a release of a special hazardous waste, including components or residues of a special hazardous waste:
1. Immediately stop and contain any release of a special hazardous waste, including all components or residues of a special hazardous waste.
 2. If a container storing a special hazardous waste begins to leak or does not otherwise meet the container standards in section 3.04(G), all waste remaining in the leaking or inadequate container shall be transferred to a container that meets the requirements of section 3.04(G).

Ordinance No. 111, Hazardous Waste Regulation

3. Prior to returning to service any leaking or otherwise damaged container, the container shall be repaired so that it meets the container standards of section 3.04(G).
4. If a release may cause pollution of the environment, a generator, collector, or processing/storage facility shall immediately notify the Minnesota Duty Officer by calling (651) 649-5451. Within one county working day, the generator shall notify the department of the spill and the actions taken to recover the spilled material,

K. TREATMENT.

1. A generator is prohibited from conducting any treatment of special hazardous waste, except for activities associated with:
 - a. Responding to a release as set out in section 3.04(J);
 - b. Transferring a type of special hazardous waste from one storage container into another storage container containing the same type of special hazardous waste; or
 - c. Shredding or cutting up circuit boards, hard drives, or photographic film/negatives.
2. A collector of special hazardous waste is prohibited from conducting any treatment of waste except for the activities associated with:
 - a. Responding to a release as set out in section 3.04(J); or
 - b. Transferring a type of special hazardous waste from one storage container into another storage container containing the same type of special hazardous waste.

L. **TRANSPORTATION.** All special hazardous waste must be shipped to a collector of special hazardous waste, a licensed special hazardous waste processing/storage facility, a recycler, or a permitted hazardous waste facility. Shipments must be accompanied by a shipping paper, bill of lading, or manifest. The shipping documents must include the name of the shipper, the date of shipment, the amount of waste, a general description of the waste, and the destination facility's name, address, and phone number.

M. **TRAINING.** Generators, collectors, and owners or operators of special hazardous waste processing/storage facilities must train all applicable site personnel on the management requirements for special hazardous waste. Owners or operators of special hazardous waste processing/storage facilities shall maintain records on-site documenting that the training has been provided to applicable site personnel. Documentation of training is not required for generators or collectors.

N. **RECORDKEEPING.** All shipping papers for the receipt and shipment of special hazardous waste and employee training records, if applicable, must be kept on-site for a minimum period of three years and must be available for inspection.

O. **FINANCIAL ASSURANCE AND INSURANCE.** A special hazardous waste processing/storage facility must establish and maintain financial assurance and insurance in accordance with section 4.08.

3.05 STANDARDS FOR THE MANAGEMENT OF UNIVERSAL WASTE.

- A. Generators and facilities utilizing the universal waste exemption must manage their universal waste in accordance with Minn. R. 7045.1400 and this ordinance.
- B. A person who collects universal waste generated by households or commingles universal waste generated by households with any universal waste shall manage the collected universal waste or commingled universal waste under the requirements of this ordinance. Facilities that

Ordinance No. 111, Hazardous Waste Regulation

are operated by or under contract, license, or formal agreement with a local unit of government to collect universal waste from households do not need to obtain a hazardous waste generator or facility license to operate; however, such facilities must abide by all other applicable provisions of this ordinance.

- C. **APPLICABILITY.** The term handler adopted in Minn. R. 7045.1400 shall mean the following:
1. Generator when the universal waste activity meets the definition of "generator" in section 2.16 of this ordinance.
 2. Facility when the universal waste activity meets the definition of "facility" in section 2.15 of this ordinance.
- D. **RECORDKEEPING.** Records shall be kept for all shipments of universal waste. Each record shall be maintained on-site for a minimum period of three years from the date the shipment was initiated. The record may take the form of a log, invoice, manifest, bill of lading, or other shipping document. The record for each shipment of universal waste must include the following information:
1. The name, address, and telephone number of the destination the universal waste was sent;
 2. The quantity of each type of universal waste sent; and
 3. The date the shipment of universal waste left the site.
- E. **ADDITIONAL STANDARDS FOR MERCURY-CONTAINING EQUIPMENT.** Mercury-containing equipment must be stored in a container. The container must be closed, structurally sound, compatible with the contents, and must lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions. The container must also be reasonably designed to prevent the escape of mercury into the environment by volatilization or any other means.

3.06 AGENCY PROGRAM MANAGEMENT DECISIONS AND POLICIES.

The Department may allow generators and facilities to abide by less stringent standards as set forth in Program Management Decisions and Policies published and authorized by the Agency. If the generator or facility fails to abide by any Program Management Decision or Policy standards, the generator or facility is subject to all applicable regulations in Minnesota Rules, chapter 7045.

4.00 GENERAL PROVISIONS

4.01 COMPLIANCE REQUIRED.

Any person within Dakota County who shall generate, store, deposit, keep, accumulate, process, treat, reclaim, dispose of, or otherwise handle, process, or cause to be transported hazardous waste, in violation of this ordinance, or who shall permit such hazardous waste to exist on the premises under his control or who shall fail to take immediate action to abate the existence of the hazardous waste when ordered or notified to do so by the department shall be guilty of a misdemeanor.

4.02 LICENSE REQUIRED.

A. LICENSE REQUIRED.

1. **Generator License.** Unless otherwise provided by this ordinance, no person shall, within the county, make or allow property under his or its control to be used for any activity, which generates hazardous waste except at an individual generation site for which a hazardous waste generator license has been granted by the county board or the department. Unless a variance is requested under section 6.00, the department may issue a new generator license if the applicant has met all applicable conditions of this ordinance.
2. **Facility License.**
 - a. **Hazardous Waste/Universal Waste Facility License.** Unless otherwise provided by this ordinance, no person shall, within the county, generate, store, deposit, keep, accumulate, process, treat, reclaim, recycle, dispose of, or otherwise handle, process, or cause to be transported, hazardous waste, including universal waste, except at a site or facility for which a license has been granted by the county board.
 - b. **Used Oil Collection Site and Used Oil Filter Collection Site Licenses.** Unless otherwise provided by this ordinance, no person shall operate a used oil collection site or a used oil filter collection site except at an individual site for which a license has been granted by the county board.
3. **Special Hazardous Waste Processing/Storage Facility License.** Unless otherwise provided by this ordinance, any facility where special hazardous waste is disassembled or processed for recycling or disposal, or a collector of special hazardous waste who exceeds their time or quantity limits set forth in section 3.04(F) of this ordinance must obtain a license granted by the county board.
4. **Minimal Risk Facilities.** The Department may allow the following facilities to operate without a facility license required by section 4.02(A)(2). The minimal risk facility must be licensed under sections 4.02(A)(1); operate without creating a public nuisance or any condition adversely affecting the environment or public health; and be in compliance with all applicable federal, state, and local laws, ordinances, rules, regulations, and orders:
 - a. Paint collection sites operating under Minn. Stat. § 115A.1415;
 - b. Collection sites accepting household pharmaceuticals operating under Minn. Stat. § 151;

Ordinance No. 111, Hazardous Waste Regulation

- c. Collection sites accepting household universal waste; and
 - d. Other collection sites operating under extended producer responsibility or product stewardship program statutes or rules.
- B. **LICENSING NOT EXCLUSIVE.** The obtaining of a license required by this ordinance shall not be deemed to exclude the necessity of obtaining other appropriate licenses or permits except as expressly provided herein. Compliance with the provisions of this ordinance shall not relieve any person of the need to comply with any and all other applicable rules, regulations and laws.

4.03 REQUIREMENTS FOR OBTAINING LICENSE.

- A. **APPLICATION FOR LICENSE.** Applications for license or license renewal shall be submitted to the department on forms provided by the department. Applicants shall provide such information as may be needed for the administration of this ordinance. Such information shall include, but not necessarily be limited to, the information specified in Minn. R. 7045.0230 or 7045.0248 as applicable. Applicants for a facility license shall submit to the department, on request, all of the documents and supporting information required by the agency in its permitting procedures.
- B. **APPLICATION FEES AND LICENSE FEES.**
- 1. Facility and Special Hazardous Waste Processing/Storage Facility.
 - a. **Application Fee.** The required application fee shall accompany the initial application for a facility license or a special hazardous waste processing storage facility license required by this ordinance.
 - b. **License Fee.** For a new facility license or a special hazardous waste processing/storage facility license, the required license fee must be paid within 30 days following county board approval of the license. Failure to pay or failure to timely pay the required license fee shall be deemed a violation of this ordinance and subject to the penalty provisions set forth in this ordinance and to the imposition of a late payment fee.
 - 2. Generator. The required application fee and license fee shall be paid in accordance with the invoice issued by the department. Failure to pay or failure to timely pay the required license and application fees shall be deemed a violation of this ordinance and subject to the penalty provisions set forth in this ordinance and to the imposition of late payment fees.
- C. **INCOMPLETE OR NON-CONFORMING APPLICATION.**
- 1. Generator. If an application for a generator license or generator license renewal is not complete or otherwise does not conform with the requirements set forth in this ordinance, the department shall advise the applicant within 60 days of application receipt, in writing, of the reasons for non-acceptance and may request that the applicant resubmit, modify, or otherwise alter the application. The applicant shall comply with such requests within the time specified by the department.
 - 2. Facility. If an application for a facility license or facility license renewal is not complete or otherwise does not conform with the requirements set forth in this ordinance, the department shall advise the applicant within 120 days of application receipt, in writing,

Ordinance No. 111, Hazardous Waste Regulation

of the reasons for non-acceptance and may request that the applicant resubmit, modify or otherwise alter the application. The applicant shall comply with such requests within the time specified by the department.

3. Special Hazardous Waste Processing/Storage Facility. If an application for a special hazardous waste processing/storage facility license or license renewal is not complete or otherwise does not conform with the requirements set forth in this ordinance, the department shall advise the applicant within 120 days of application receipt, in writing, of the reasons for non-acceptance and may request that the applicant resubmit, modify or otherwise alter the application. The applicant shall comply with such requests within the time specified by the department.

D. FAILURE TO ACT ON LICENSE APPLICATION.

1. Generator. Failure by the department or the county board to act on an initial generator license application within 60 days from the date of receipt of a completed application shall constitute grounds for the applicant to request a hearing. The hearing request shall be in writing stating the grounds for the appeal and served upon the county board by personal service or certified mail with a copy to the department. The request for a hearing shall be governed by section 4.15 of this ordinance. Failure to act shall be construed as denial without prejudice.
2. Facility. Except as provided in section 4.10, failure by the department or county board to act on an initial facility license application within 120 days from the date of receipt of a completed application shall constitute grounds for the applicant to request a hearing. The hearing request shall be in writing stating the grounds for the appeal and served upon the county board by personal service or certified mail with a copy to the department. The request for a hearing shall be governed by section 4.15 of this ordinance. Failure to act shall be construed as denial without prejudice.
3. Special Hazardous Waste Processing/Storage Facility. Except as provided in section 4.10, failure by the department or county board to act on an initial special hazardous waste processing/storage facility license application within 120 days from the date of receipt of a completed application, shall constitute grounds for the applicant to request a hearing. The hearing request shall be in writing stating the grounds for the appeal and served upon the county board by personal service or certified mail with a copy to the department. The request for a hearing shall be governed by section 4.15 of this ordinance. Failure to act shall be construed as denial without prejudice.

- E. **NOTICE OF DENIAL AND RIGHT TO APPEAL.** If a license application is denied, the applicant shall be notified of such denial in writing. The denial shall be served by the department by personal service or by certified mail to the address designated in the license application. Service by certified mail shall be deemed to be complete upon mailing. The applicant may appeal the license denial by filing a request for an appeal hearing. The appeal hearing request shall be in writing stating the grounds for the appeal and served on the county board by personal service or certified mail with a copy to the department within 10 county working days of the service of the license denial, exclusive of the day of service. Following timely service of a request for a hearing, the county board shall set a time and place for the hearing pursuant to section 4.15.

- F. **CONSTRUCTION/OPERATION NOT PERMITTED.** Unless interim operating approval has been granted under section 4.10, applicants for a facility license or applicants for a special hazardous waste processing/storage facility license shall not commence any construction or operations until the county board has approved the license application. A license shall not be issued to a facility or a special hazardous waste processing/storage facility until construction

Ordinance No. 111, Hazardous Waste Regulation

has been completed in accordance with the ordinance and with the construction plans as approved by the department.

- G. LICENSE TERM. Unless otherwise provided by the county board, each license granted pursuant to the provisions of this ordinance shall be for a period of not more than one year, unless earlier suspended or revoked. The license year for licenses issued under this ordinance shall be from April 1 - March 31.
- H. LICENSE NOT TRASFERABLE. Any license granted under this ordinance may not be transferred.
- I. DUTY TO COMPLY WITH LICENSE CONDITIONS. A license may be granted that is contingent upon compliance with conditions specified in the license. Such conditions shall be designed to promote the health, welfare and safety of the public and to protect the environment pursuant to this ordinance. Failure of the licensee to comply with such conditions is a violation of this ordinance and is subject to the penalties provided herein.

4.04 RENEWAL OF LICENSE.

A. GENERATOR.

- 1. In General. Applications for a generator license renewal shall be received by the department no later than January 31. Applications for license renewal must be accompanied by a statement of any change in information submitted in the last approved license or in the license renewal application. If there are no changes, it shall be so stated in the license renewal application. If the department or county board does not act on a generator license renewal application, which is complete and submitted on time, the current license shall continue in force until action is taken.
- 2. License Fee and Late Application Fee. The generator shall pay a license fee for renewal of a license, which shall be paid in accordance with an invoice issued by the department. Applications for license renewal received after January 31 shall be considered late and subject to a late application fee.

B. FACILITY AND SPECIAL HAZARDOUS WASTE PROCESSING/STORAGE FACILITY.

- 1. In General. Applications for a facility license renewal or a special hazardous waste processing/storage facility license renewal shall be received by the department no later than January 31. Applications for license renewal must be accompanied by a statement of any change in information submitted in the last approved license or in the license renewal application. If there are no changes, it shall be so stated in the license renewal application. If the department or county board does not act on a facility license renewal application or a special hazardous waste processing/storage facility license renewal, which is complete and submitted on time, the current license shall continue in force until action is taken.
- 2. License Fee and Late Application Fee. A facility or special hazardous waste processing/storage facility shall pay a license fee for renewal of a license, which shall be paid prior to the expiration of the current license term. Applications for license renewal received after January 31 shall be considered late and subject to a late application fee.

- C. MINIMAL RISK FACILITIES. Application for a minimal risk facility renewal must be submitted on the generator renewal application form required by 4.04(A)(1). Waste collected under the

Ordinance No. 111, Hazardous Waste Regulation

facility activities must be reported separately from the waste generated by the minimal risk facility.

- D. **DENIAL OF RENEWAL AND RIGHT TO APPEAL.** If an application for license renewal is denied, the department shall notify the applicant in writing of the denial. The notification shall be served by the department by personal service or by certified mail to the address designated in the license application. Service by certified mail shall be deemed to be complete upon mailing. The applicant may appeal the denial of license renewal by filing a request for an appeal hearing. The appeal hearing request shall be in writing stating the grounds for the appeal and served on the county board by personal service or certified mail with a copy to the department within 10 county working days of the service of the notification of the denial of license renewal, exclusive of the date of service. Following timely service of a request for a hearing, the county board shall set a time and place for the hearing pursuant to section 4.15.

4.05 REGISTRATION REQUIREMENTS FOR MINIMAL GENERATORS. Minimal generators shall comply with the following registration requirements in place of the licensing requirements of sections 4.02 and 4.03:

- A. Minimal generators shall register with the department within 75 days of first generating hazardous waste.
- B. Registration will be effective as long as the generator meets the minimal generator definition.
- C. Minimal generators shall notify the department within 30 days whenever any of the following occurs:
1. The business closes;
 2. The business is sold or otherwise changes ownership;
 3. The business moves to a new location;
 4. The business assumes a new name; or
 5. The generator's rate of generation no longer meets the minimal generator definition listed in section 2.18.
- D. Any generator who loses minimal generator status pursuant to section 3.03 shall be subject to the full generator licensing standards of this ordinance. The generator will not be eligible to regain minimal generator status for a period of two license years and to regain minimal generator status, the generator must be in compliance with the minimal standards defined in this ordinance. An inspection by the department may be required to confirm compliance with these standards.
- E. Any minimal generator may, by making written request to the department, remain regulated as a very small quantity generator in lieu of the minimal generator requirements.

4.06 FEES.

- A. **APPLICATION FEES.** The county board shall establish, by resolution, application fees to process license applications required by this ordinance.
- B. **LICENSE FEES.** The county board shall establish, by resolution, initial license fees and renewal license fees required by this ordinance. For initial licenses, the license fee shall be based on estimated waste production as determined by the department. For renewal licenses,

Ordinance No. 111, Hazardous Waste Regulation

the license fee shall be based on the previous year's generation of hazardous waste, or on an alternate fee structure as approved by the county board.

- C. **LATE FEES.** The county board shall establish, by resolution, fees for the late payment of: (1) initial generator license application fees; (2) initial facility, special hazardous waste processing/storage facility or generator license fees; and (3) renewal facility, special hazardous waste processing/storage facility or generator license fees.
- D. **FEE FOR SERVICE.** The county board shall establish, by resolution, a fee for service and other such fees as determined by the department to be appropriate and exclusive of the aforementioned fees.

4.07 WASTE MANAGEMENT.

- A. **ON-SITE TREATMENT.** For licensing purposes, the department may consider on-site treatment by the generator of on-site generated hazardous waste as part of the generator's licensure and may exempt such on-site treatment from facility licensing requirements. Such exemption shall be limited to the following types of treatment: the specific treatment activities allowed in Minn. R. 7045.0665, subp. 1b, 7045.0652 and 7045.0855, subp. 3; and/or recovery of reusable solvents by distillation. The treatment must be described in the generator license application and approved by the department. The department may require generators, who do on-site treatment as identified above, to comply with the requirements of Minn. R. 7045.0558; 7045.0562, subps. 1 and 2; and 7045.0566 through 7045.0576 or may impose such license conditions as may be deemed necessary to monitor the treatment operation and ensure community health and safety.
- B. **SEWERED WASTES.** Generators utilizing any sewer system for the disposal of hazardous waste shall comply with all of the requirements of this ordinance. They shall maintain on-site a copy of any permits or reports required by the Metropolitan Council Environmental Services (MCES), or other Publicly Owned Treatment Works (POTW), or as a condition of a National Pollutant Discharge Elimination System (NPDES), or State Disposal System (SDS) Permit concerning the character, concentration, and quantity of the sewered hazardous waste for inspection by the department. These reports shall be maintained for a period of three years from the report date. Generators shall obtain written authorization from the department before treating or discharging hazardous waste or used oil to on-site sewage/septic tanks, soil absorption systems, or disposal systems.

4.08 FINANCIAL ASSURANCE AND INSURANCE.

A. IN GENERAL.

- 1. **Facilities and Special Hazardous Waste Processing/Storage Facilities.** Unless otherwise provided by the county board, issuance of a facility or special hazardous waste processing/storage facility license shall be contingent upon the applicant furnishing financial assurance in accordance with section 4.08(B) below and proof of adequate insurance in accordance with section 4.08(C) below.
- 2. **Generators.**
 - a. Unless otherwise provided by the county board, applicants for a generator license are not required to provide financial assurance.
 - b. Whenever the department concludes that hazardous waste has been mismanaged by a licensed generator, the department may require that the generator furnish to the department financial assurance in accordance with

Ordinance No. 111, Hazardous Waste Regulation

section 4.08(B) below. The amount and form of the financial assurance are subject to the approval of the County Office of Risk Management and the Dakota County Attorney's Office.

- c. If a generator's site becomes tax delinquent, the county board may require the owner to provide adequate financial assurance in accordance with section 4.08(B) below

B. FINANCIAL ASSURANCE.

1. License Contingent on Financial Assurance. When required by this ordinance and unless otherwise provided by the county board or the department, issuance of any license pursuant to the provisions of this ordinance shall be contingent upon the applicant furnishing to the department, financial assurance in an amount and form set by the county board or department and naming the county as obligee. At the time of renewal or extension of any license, the amount and financial assurance mechanism previously approved by the county board or department shall continue to be required subject to 4.08 (B) (3). The following applies:
 - a. Financial assurance is not required if the department determines closure costs are less than \$10,000.
 - b. Financial assurance between \$10,000 and \$50,000 may be approved by the department.
 - c. Financial assurance greater than \$50,000 must be approved by the county board.

At the time of renewal or extension of any generator license for which financial assurance was required by the department pursuant to section 4.08(A)(2)(b) above, the amount and financial assurance mechanism previously approved by the department shall continue to be required, unless changed by the department.

2. Requirements for Financial Assurance Mechanisms. When financial assurance is required, the licensee shall provide financial assurance through one or a combination of the following mechanisms:
 - a. Single Access Cash Account. A single access cash account at a financial institution acceptable to the County Office of Risk Management and the Dakota County Attorney's Office. The funds in this account may only be withdrawn by, or with the consent of the county. The department shall notify the licensee when financial assurance funds are being withdrawn and shall state the reasons for such withdrawal.
 - b. Irrevocable Letter of Credit. An irrevocable letter of credit from a financial institution acceptable to the County Office of Risk Management and the Dakota County Attorney's Office.
 - c. Bond. A surety bond from a financial institution acceptable to the County Office of Risk Management and the Dakota County Attorney's Office. Acceptable surety companies include those companies that are licensed and authorized to transact corporate surety business in the State of Minnesota and that are listed as acceptable sureties on federal bonds in Circular 570, issued by the United States Department of the Treasury, as published annually in the Federal Register on July 1.
 - d. MPCA Financial Assurance Plan. An MPCA approved financial assurance mechanism. This financial assurance mechanism must be implemented and kept in good standing. The county board reserves the right to require additional financial assurance if it deems the state financial assurance inadequate to protect the county from any liability.

3. Annual Review and Adjustment. All financial assurance required by this ordinance is subject to annual review by the department. Adjustments shall be based on published economic indicators deemed relevant by the County Office of Risk Management and the Dakota County Attorney's Office and/or modifications to the specifications or operations of the licensed facility, special hazardous waste processing/storage facility or generator. With the approval of the County Office of Risk Management and the Dakota County Attorney's Office, the department may approve any changes to the amount up to 5% and changes to the mechanism, the county board must approve larger adjustments made to the amount of financial assurance. For financial assurance required by the department pursuant to section 4.08(A)(2)(b) above, the department must approve any adjustment made to the mechanism or amount of financial assurance, subject to the approval of the County Office of Risk Management and the Dakota County Attorney's Office.

- C. **INSURANCE.** Unless otherwise provided by the county board, issuance of a facility or special hazardous waste processing/storage facility license shall be contingent upon the applicant furnishing to the county satisfactory evidence of compliance with Minn. R. 7045.0518 and 7045.0620. The county shall be notified 30 days prior to the effective date of a cancellation or change of insurance.

Unless otherwise provided by the county board, issuance of a license to a facility or special hazardous waste processing/storage facility not required by the agency to meet the liability requirements of Minn. R. 7045.0518 or 7045.0620, shall be contingent upon the applicant furnishing to the county a certificate of insurance showing that the applicant maintains the following minimum coverage:

1. A commercial general liability insurance policy covering all premises and operation with limits of not less than \$1,000,000 for personal injuries arising from one occurrence, \$1,000,000 for damages arising from death and/or total bodily injuries arising from one occurrence, and \$1,000,000 for property damage arising from one occurrence, or a combined single limit thereof, with a \$2,000,000 annual aggregate.
2. A business automobile liability insurance policy, if applicable, with limits of \$1,000,000 per accident for death, bodily injury and/or damages to any one person, \$1,000,000 for total bodily injuries and/or damages arising from one accident and with limits of not less than \$1,000,000 per accident for property damage.
3. Workers compensation coverage at the statutory limits or written confirmation that the applicant is a qualified self-insured or is otherwise exempt under Minn. Stat. § 176.041.

Under interim operating approval as provided by section 4.10, the county board shall specify the required insurance.

4.09 CHANGE IN FACILITY OPERATION.

No change shall be made in the operation of a hazardous waste facility or a special hazardous waste processing/storage facility unless such change is first approved by the department.

4.10 INTERIM OPERATING APPROVAL.

A. COUNTY BOARD APPROVAL REQUIRED.

In order to operate a facility or a special hazardous waste processing/storage facility during the interim period between license application and license approval by the county board, interim operating approval must be obtained from the county board. A request for interim approval shall be made in writing to the department.

If interim operating approval is granted, a facility or a special hazardous waste processing/storage facility operating in full compliance with this section shall be considered to be in compliance with section 4.02 until the county board acts to grant or deny the license.

B. DUTY TO COMPLY WITH LAWS. If interim operating approval is granted, the facility or special hazardous waste processing/storage facility must abide by all applicable laws, statutes, rules, regulations and ordinances. Nothing in this section is intended to allow a facility or a special hazardous waste processing/storage facility to operate without permits, licenses, or compliance agreements required by the MPCA.

C. DUTY TO COMPLY WITH CONDITIONS. If interim operating approval is granted, the county board may make such approval contingent upon compliance with certain conditions. Failure of the applicant to comply with such conditions is a violation of this ordinance and is subject to the penalties provided herein.

D. INSURANCE REQUIRED. If interim operating approval is granted, the facility or special hazardous waste processing/storage facility shall meet the insurance requirements of section 4.08(C).

E. REVOCATION OF INTERIM OPERATING APPROVAL. The requirements under interim operating approval shall remain in force until the county board acts to grant or deny the license. If the department finds that the facility or special hazardous waste processing/storage facility is not being operated in compliance with the requirements of interim operating approval, the approval shall be automatically revoked without further action by the county board.

4.11 INDEMNIFICATION OF COUNTY.

To the fullest extent permitted by law, a licensee shall indemnify Dakota 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 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 licensee's obligations (whether express or implied) under this ordinance.

4.12 ADMINISTRATION.

A. DUTIES OF THE DEPARTMENT. The department shall be responsible for the administration and enforcement of this ordinance. The department's duties shall include, but not be limited to, the following:

Ordinance No. 111, Hazardous Waste Regulation

1. Receive and review hazardous waste generator, facility, and special hazardous waste processing/storage facility license or license renewal applications; issue new and renewal hazardous waste generator licenses; recommend action to the county board on interim operating approval for facilities and special hazardous waste processing/storage facilities under section 4.10; recommend action to the county board on initial facility license applications and special hazardous waste processing/storage facility license applications; and issue facility and special hazardous waste processing/storage facility license renewals under section 4.04.
 2. Inspect facilities, special hazardous waste processing/storage facilities, generators, collectors of special hazardous waste, and any other site falling under the jurisdiction of this ordinance to investigate alleged violations of this ordinance and/or to ensure compliance with this ordinance or license conditions.
 3. Issue summary license suspensions under section 4.14(B).
 4. Recommend that legal proceedings be initiated by the county to compel compliance with the provisions of this ordinance or license conditions.
 5. Advise, consult, and cooperate with other governmental agencies in furtherance of the purposes of this ordinance.
- B. **RIGHT OF ENTRY.** Whenever necessary to perform an inspection to enforce any of the provisions of this ordinance, or whenever the department has reasonable cause to believe that hazardous waste exists in any building or upon any premises, the department or its authorized agent may enter such building or premises at all reasonable times to inspect the same or to perform any duty imposed upon the department by this ordinance, provided that if such building or premises are occupied, the authorized agent shall first present proper credentials and demand entry; and if such building or premises are unoccupied, the department shall first make a reasonable effort to locate the owner or other persons having charge or control of the building or premises and demand entry. If such entry is refused, the department shall have recourse to every remedy provided by law to secure entry including, but not limited to, administrative and criminal search warrants.

C. **INSPECTIONS.**

The department may inspect and evaluate those operations that fall under the jurisdiction of this ordinance to ensure compliance with the provisions of this ordinance. The department shall be allowed access for the purposes of making such inspections as may be necessary to determine compliance with the requirements of this ordinance.

At the department's election, the department shall be allowed to collect samples of waste, soils, surface waters, ground waters, air, raw materials, sewage discharges or other materials or residues present at or emanating from the site for testing. These samples shall be provided to the department free of charge.

The department shall be allowed free access at all reasonable times to inspect and copy, at a reasonable cost, all business records related to the generation, collection, processing and transporting of waste. All records required to be maintained under this ordinance or as a license condition must be kept at the site and must be available for review during an inspection.

The department shall be allowed to record and document its findings in any reasonable and appropriate manner including, but not limited to, notes, photographs, photocopies, readouts from analytical instruments, videotapes, audio recordings, and computer storage systems or other electronic media.

Upon completion of an inspection, the department may provide written notice of any deficiencies, recommendations for their correction, and the date by which the corrections must be accomplished.

4.13 ORDINANCE VIOLATIONS.

For violations of this ordinance, the county may take the following actions: issuance of a warning notice; issuance of a notice of violation; issuance of a citation or complaint; issuance of an abatement order; issuance of an embargo order; suspension 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 department may issue a warning notice 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. Service of the warning notice shall be made by first class mail, electronic mail, or by personal service.
- B. **NOTICE OF VIOLATION (NOV).** The department may issue a notice of violation (NOV) to any person alleged to have committed a violation of this ordinance. A NOV shall serve to place the person on notice that compliance with specified ordinance requirements must occur to avoid additional enforcement actions. Service of the NOV shall be made by certified mail or by personal service.
- 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 department shall have the power to issue citations for violations of this ordinance, but shall not be permitted to arrest or take into custody any violator.

- 1. Issuance of the Citation. Citations shall be issued to the person alleged to have committed the violation (alleged violator) either by personal service 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 alleged violator; one copy shall be filed with the department; one copy shall be filed with the Dakota County Attorney's Office; and one copy shall be filed with the Dakota County District Court, First Judicial District.
- 3. Form of Citation. Citations shall be on such form(s) as approved by the department and shall contain at least the following:
 - a. The name and address of the alleged violator and when known, the owner or person in charge of the premises at which the violation occurred.
 - b. The date, time (if known), and place of the violation.
 - c. A short description of the violation followed by reference to the section of this ordinance violated.
 - d. The name of the person issuing the citation.

Ordinance No. 111, Hazardous Waste Regulation

- e. The date, time, and place at which the alleged violator shall appear in court and notice that if such person does not appear, a warrant may be issued for such person's arrest.
 - f. Such other information as the court may specify.
4. Court Appearance. The alleged violator shall appear at the place and on the date and time specified in the citation and either:
- a. Plead guilty to the citation and meet the requirements of the sentence imposed by the court; or
 - b. Plead not guilty to the citation and schedule a court date for further hearing or trial.
5. Failure to Appear on Citation. If the alleged violator does not appear at the place and on the date and time specified in the citation, the court may issue a warrant for the person's arrest.
6. Complaint. A complaint may be issued in lieu of a citation as determined by the Dakota County Attorney's Office.
7. Aiding and Abetting. As set forth in Minn. Stat. § 609.05, a person is criminally liable for a crime committed by another if the person intentionally aids, advises, hires, counsels, or conspires with or otherwise procures the other to commit the crime. A person liable for such crime is also liable for any other crime committed in pursuance of the intended crime if reasonably foreseeable by the person as a probable consequence of committing or attempting to commit the crime intended. A person who intentionally aids, advises, hires, counsels, or conspires with or otherwise procures another to commit a crime and thereafter abandons that purpose and makes a reasonable effort to prevent the commission of the crime prior to its commission is not liable if the crime is thereafter committed.

A person liable under this section may be charged with and convicted of the crime although the person who directly committed the crime has not been convicted, or has been convicted of some other degree of the crime or of some other crime based on the same act, or if the person is a juvenile who has not been found delinquent for the act. For purposes of this section, a crime also includes an act committed by a juvenile that would be a crime if committed by an adult.

D. ABATEMENT.

In the event of an emergency abatement by the county as described in section 4.13(D)(5), or if a property owner or tenant does not complete corrective actions within the time frames stated in a NOV, a stipulation agreement, or court order, the department may abate the violations by entering the property and performing the corrective actions and recover the costs of the same from the property owner through the following procedures:

- 1. Abatement Notice. The department shall serve an abatement notice on the property owner.
 - a. Contents of Abatement Notice. An abatement notice shall include the following:

Ordinance No. 111, Hazardous Waste Regulation

- (1) Notice that the property owner has not completed the corrective actions within the time frames required in the NOV, stipulation agreement, or court order. The NOV, stipulation agreement, or court order shall be attached to the abatement notice.
 - (2) Notice that the department or its agent intends to enter the property and commence abatement of the conditions on the property that violate this ordinance in 30 days following the service of the abatement notice.
 - (3) Notice that the property owner must correct the violations within 30 days following service of the abatement notice to avoid any civil liability for the costs of inspection and abatement that the county may incur.
 - (4) A statement that if the property owner desires to appeal, the property owner must file a request for an appeal hearing with the county board that meets the requirements of section 4.13(D)(2) within 10 county working days of service of the abatement notice, exclusive of the day of service.
- b. Service. The abatement notice must be served on the 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 department shall post the abatement notice at the property on which the violation is located for a period of 30 days prior to commencing abatement of the conditions on the property that violate this ordinance. The department shall send a copy of the abatement notice to the Dakota County Attorney's Office.
2. Right to Appeal the Abatement Notice.
- a. Request for Hearing. The property owner has the right to appeal the abatement notice. To appeal the abatement notice, the property owner must serve on the county board a written request for a hearing stating the grounds for the appeal. The written request must be served on the county board by personal service or certified mail with a copy to the department within 10 county working days of service of the abatement notice, exclusive of the day of service. Following the timely service of an appeal, the county board shall set a time and place for a hearing pursuant to section 4.15.
 - b. Stay of Notice of Abatement. Pending the appeal hearing and final determination by the county board, the department shall take no further action on the abatement notice.
3. Abatement by the County. In the event a property owner does not abate the ordinance violation(s) or does not timely appeal the abatement notice, the department may expend funds necessary to abate the violation(s) from the Environmental Legacy Fund balance in accordance with the Dakota County Bid Grant and Contracting Policy with the following qualifications:
- a. The department's authorization for payment of funds from the Environmental Legacy Fund balance is subject to the approval of the Director of the Environmental Resources Department and the monetary limits for approval of fund expenditures by department heads. The Director of the Physical Development Division shall be notified of all such expenditures.

Ordinance No. 111, Hazardous Waste Regulation

- b. The county board must approve by resolution all abatement expenditures, regardless of the amount, with regard to tax forfeited property and publicly owned property. Such expenditures will be reimbursed to the Environmental Legacy fund at the discretion of the county board.

4. Recovery of Abatement Costs.

- a. The department may pursue recovery of all enforcement and abatement costs by any means allowable by law. The costs may be assessed and charged against the real property on which the violations are located.
- b. The department shall keep a record of the enforcement and abatement costs and report all work done for which assessments are to be made, stating and certifying the description of the real property, lots or parcels involved and the amount assessable to each to the county manager by September 1 of each year.
- c. On or before October 1 of each year, the county manager 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. The county board may spread the charges or any portion thereof against the real property involved as a special assessment for certification to the county auditor and for collection.
- d. The Environmental Legacy Fund balance shall be reimbursed by the recovered costs. The county auditor shall give notice of such reimbursements to the Director of Physical Development or designee.

- 5. Emergency Abatement by County. Notwithstanding the requirements of sections 4.13(D)(1) and (2), in the event of an imminent threat to the public's health, safety, or welfare, the department is authorized to immediately enter property and abate violations of this ordinance and recover the costs thereof as set out in sections 4.13(D)(3) and (4). The department shall attempt to give verbal notice of the abatement to the property owner or tenant immediately, if possible, and written notice within 10 county working days following the first date of entry upon the property to abate the violations. The property owner shall have the right to appeal the assessment of abatement costs to the county board pursuant to section 4.15.

E. EMBARGO.

The department may issue a written embargo order prohibiting the movement, removal, transport, disposal, treatment, sale, or use of any material which is or is suspected to be a hazardous waste or material contaminated with hazardous waste and which is being mismanaged or which the department has reason to suspect is being or will be managed in violation of this ordinance. The department shall place a tag to indicate the embargo on the suspect material. No person shall remove the tag or remove, transport, dispose, treat, sell, or use such embargoed material except as authorized by the department. Such action by the department shall not be considered to impute ownership or management responsibility upon the county.

F. STIPULATION AGREEMENT.

The department and a person alleged to have violated provisions 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 time frames in which the corrective actions

must be completed. If the person fails to fulfill the requirements of the agreement, the county may abate the violations in accordance with section 4.13(D)(3) and (4); seek compliance with the terms of the agreement through a court of competent jurisdiction; or pursue other enforcement action allowed by this ordinance.

G. LICENSE SUSPENSION AND REVOCATION.

The county board may suspend or revoke a license for violations of this ordinance in accordance with section 4.14 below. The department may issue a summary suspension of a license for violations of this ordinance in accordance with section 4.14(B) below.

H. COMMENCEMENT OF A CIVIL ACTION.

In the event of a violation or a threat of violation of this ordinance, the county board may institute appropriate civil actions or proceedings in any court of competent jurisdiction, 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. If a person does not satisfactorily complete the corrective actions set forth in a court order within the necessary time frames, the department has the authority to enter the property and perform the corrective actions. The department may recover the costs thereof from the property owner through the court process or through the process set out in sections 4.13(D)(3) and (4).

4.14 LICENSE SUSPENSION AND REVOCATION.

A. SUSPENSION.

1. Any license required under this ordinance may be suspended by the county board for violation of any provision of this ordinance. Upon written notice to the licensee the county board may suspend said license for a period not longer than 60 days or until the violation is corrected, whichever is shorter.
2. Such suspension shall not occur earlier than 10 county working days after written notice of suspension has been served on the licensee or, if a hearing is requested, until written notice of the county board action has been served on the licensee. Notice to the licensee shall be made by personal service or by certified mail to the address designated in the license application. Service by certified mail shall be deemed to be complete upon mailing. Such written notice of suspension shall contain the effective date of the suspension, the nature of the violation(s) constituting the basis for the suspension, the facts which support the conclusion that the violation(s) occurred, and a statement that if the licensee desires to appeal, the licensee must file a request for an appeal hearing with the county board within 10 county working days of the service of the suspension notice, exclusive of the day of service. The appeal hearing request shall be in writing stating the grounds for appeal and served on the county board by personal service or certified mail with a copy to the department within 10 county working days of service of the suspension notice, exclusive of the day of service. Following timely service of a request for a hearing, the county board shall set a time and place for the hearing pursuant to section 4.15.
3. Continued Suspension. If said suspension is upheld and the licensee has not demonstrated within the 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 an additional 60 days or initiate revocation procedures.

B. SUMMARY SUSPENSION.

1. If the department finds that the public health, safety or welfare imperatively requires emergency action, and incorporates a finding to that effect in its order, summary suspension of a license may be ordered by the department upon notification to the Dakota County Attorney's Office and the county board, subject to county board ratification at its next meeting. Written notice of such summary suspension shall be made by personal service or by certified mail on the licensee at the address designated in the license application. Service by certified mail shall be deemed complete upon mailing. Alternatively, the department may post copies of the notice of summary suspension of the license on the licensed facility or property being used for the licensed activity. Said posting shall constitute the notice required under this section.
2. The written notice in such cases shall state the effective date of the suspension, the nature of the violation(s) requiring emergency action, the facts which support the conclusion that the violation(s) occurred, and a statement that if the licensee desires to appeal, the licensee must file a request for an appeal hearing with the county board within 10 county working days of the service or posting of the suspension notice, exclusive of the day of service. The appeal hearing request shall be in writing stating the grounds for appeal and served on the county board by personal service or certified mail with a copy to the department within 10 county working days of service or posting of the suspension notice, exclusive of the day of service. Following timely service of a request for a hearing, the county board shall set a time and place for the hearing pursuant to section 4.15.
3. The summary suspension shall not be stayed pending an appeal or informal review by the department head, but shall be subject to dismissal on a favorable re-inspection by the department.

C. SUMMARY RE-INSPECTIONS.

Upon written notification from the licensee that all the violations for which a suspension or summary suspension was invoked have been corrected, the department shall re-inspect the facility or activity within a reasonable length of time, but in no case more than three county working days after receipt of the notice from the licensee. If the department finds upon such re-inspection that the violations constituting the grounds for the suspension have been corrected, the department shall immediately dismiss the suspension, subject to county board ratification at its next meeting, by written notice to the licensee, served personally or by certified mail at the address designated in the license application with a copy to the county board and the Dakota County Attorney's Office. The county board must make a determination at its next board meeting about whether the violations have been corrected and whether the department's decision to reinstate the license should be ratified.

D. REVOCATION.

1. Any license granted pursuant to this ordinance may be revoked by the county board for violation of any provision of this ordinance.
2. Revocation shall not occur earlier than 10 county working days from the time that written notice of revocation is served on the licensee or, if a hearing is requested, until written notice of the county board action has been served on the licensee. Notice to the licensee shall be made by personal service or by certified mail to the address designated in the license application. Service by certified mail shall be deemed complete upon mailing. Such written notice of revocation shall contain the effective date of the revocation, the nature of the violation(s) constituting the basis for the

Ordinance No. 111, Hazardous Waste Regulation

revocation, the facts which support the conclusion that the violation(s) occurred, and a statement that if the licensee desires to appeal, the licensee must file a request for an appeal hearing with the county board within 10 county working days of the service of the revocation notice, exclusive of the day of service. The appeal hearing request shall be in writing stating the grounds for appeal and served on the county board by personal service or certified mail with a copy to the department within 10 county working days of service of the revocation notice, exclusive of the day of service. Following timely service of a request for a hearing, the county board shall set a time and a place for the hearing pursuant to section 4.15.

E. STATUS OF FINANCIAL ASSURANCE.

Financial assurance issued for the facility shall remain in full force and effect during all periods of suspension, summary suspension and revocation of the license and is subject to claim by the county in accordance with section 4.08.

4.15 HEARINGS.

Hearings requested under sections 4.03(D)(1), 4.03(D)(2), 4.03(E), 4.04(C), 4.13(D)(2), 4.13(D)5), 4.14(A)(2), 4.14(B)(2), 4.14(D)(2), and 6.03 of this ordinance shall be held before the county board or a hearing examiner as provided below and shall be open to the public.

- 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 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 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, to the department, and the Dakota County Attorney's Office at least 15 county 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; and
 3. A reference to the particular section of the ordinance and rules involved.
- C. **HEARING EXAMINER.** The county board may by resolution appoint an individual, 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 HEARING.** The appellant and the department may be represented by counsel. The department, 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 department shall have the burden of proving its position by a preponderance of the evidence, unless a different burden is provided by substantive law, and

Ordinance No. 111, Hazardous Waste Regulation

all findings of fact, conclusions, 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 department's written notice of denial, suspension, summary suspension, non-renewal or revocation of a license, or the contents of an abatement notice, or in the appellant's written request for a hearing.
- G. **PRE-HEARING CONFERENCE.** At the written 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 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 the full name and address of all witnesses who will be called at the hearing and a brief description of the facts and opinions to 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 in issue.
- H. **FAILURE TO DIVULGE EVIDENCE.** 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:
 - 1. The evidence was not known to the party at the time of the pre-hearing conference; or
 - 2. The evidence is in rebuttal to matters raised for the first time at or subsequent to the pre-hearing conference.
- I. **FAILURE TO APPEAR.** If the appellant fails to appear at the hearing, appellant shall forfeit any right to a hearing before the county board or hearing examiner. Appellant's failure to appear shall also be deemed as a waiver of appellant's right to appeal the department's decision and the department's decision shall stand.
- J. **APPEAL OF COUNTY BOARD DECISION.** Any appellant aggrieved by the decision of the county board may appeal that decision to any court with appropriate jurisdiction.

4.16 FALSE INFORMATION.

Intentional submission of false information shall be deemed a violation of this ordinance.

5.00 TERMINATION OF OPERATION OR ABANDONMENT

5.01 TERMINATION OF OPERATION.

Any person, who for any reason terminates operations at a regulated site, must remove all hazardous waste and materials contaminated with hazardous waste prior to termination of operations. Termination of operation includes the sale of a site or operation to a new entity, the simple shutdown of a site which is then not operated, the relinquishing of lease or rental rights to a property, or a change in operation such that hazardous waste is no longer generated. Removal of the waste from the site must be completed in a timely manner as determined by the department and accomplished in full compliance with this ordinance and Minn. R. chs. 7045 and 7001. Any material remaining on the site of a terminated operation shall be considered waste materials unless it can be shown that the material is a usable product. Continued storage of hazardous waste at a site which has terminated operations shall be done in compliance with the hazardous waste storage facility rules in Minn. R. chs. 7001 and 7045, and this ordinance.

5.02 ABANDONMENT.

Any person who owns property that has been abandoned and on which hazardous waste or materials contaminated with hazardous waste is located, must remove all waste and contaminated materials. Removal must be completed in a timely manner as determined by the department and accomplished in full compliance with this ordinance and Minn. R. chs. 7045 and 7001. Continued storage of the waste on the abandoned site is prohibited.

6.00 VARIANCES

6.01 VARIANCES.

- A. **VARIANCES ALLOWED.** The county board may grant variances from the requirements of the regulations and standards prescribed by this ordinance in order to promote the effective and reasonable application and enforcement of the provisions of this ordinance. A request for a variance must be made, in writing, to the department and must include justification for the request. A variance may only be granted for good cause shown under this section.
- B. **DUTY TO COMPLY WITH VARIANCE CONDITIONS.** A variance may be granted that is contingent upon compliance with conditions specified in the variance. Such conditions shall be designed to promote the health, welfare and safety of the public and to protect the environment pursuant to this ordinance. Failure of the applicant to comply with such conditions is a violation of this ordinance and is subject to the penalties provided herein.

6.02 CONTINUING VARIANCE.

The county board may approve a variance that will carry over to each successive license renewal granted, unless specifically rescinded by the county board.

6.03 DENIAL OF VARIANCE AND RIGHT TO APPEAL.

If a variance is denied, the applicant may appeal the denial by filing a request for an appeal hearing. The appeal hearing request shall be in writing stating the grounds for the appeal and served upon the county board by personal service or certified mail with a copy to the department within 10 county working days from the date of the denial of the variance. Following timely service of a request for a hearing, the county board shall set a time and place for the hearing pursuant to section 4.15.

6.04 AGENCY APPROVAL.

No variance may be granted if it would result in noncompliance with Minn. R. ch. 7045 unless such variance has been approved or granted by the agency.

6.05 CLOSURE/POST CLOSURE.

For facilities permitted or granted interim status by the agency, amendments to the facility closure/post closure plans and extensions to the closure/post closure period shall be granted by the department only where said amendments or extensions have been approved by the agency.

SECTION 7.00 EMERGENCY WAIVER OF STANDARDS

7.01 IN GENERAL.

In the event of a disaster occurring within or outside the boundaries of Dakota County, the department may grant an emergency waiver from the requirements of the regulations and standards prescribed by this ordinance.

7.02 LIMITATIONS OF EMERGENCY WAIVER.

- A. An emergency waiver may only be issued when:
 - 1. There has been a presidential declaration of major disaster in the State of Minnesota;
 - 2. The governor has declared a peacetime emergency under the authority of Minn. Stat. § 12.31, subd. 1; or
 - 3. A local emergency has been declared under the authority of Minn. Stat. § 12.29.

- B. The department may issue an emergency waiver if the waiver will not pose a threat to public health and safety or the environment. If granted, the department may set conditions on the emergency waiver, as necessary, to protect public health and safety or the environment.

- C. If granted, the department must specify in the emergency waiver:
 - 1. The requirements of the regulations and standards set forth in this ordinance and/or conditions of a license issued under this ordinance that are waived; and
 - 2. Any required conditions set in accordance with section 7.02(B) above.

- D. The effective period of an initial waiver shall not exceed 60 days. The department may extend the effective period of a waiver, as necessary, to assist in the recovery from a disaster.

- E. If granted, an emergency waiver only serves to waive requirements of the regulations and standards set forth in this ordinance and/or conditions of a license issued under this ordinance. All other minimum standards of this ordinance and license conditions which are not the subject of the waiver shall remain in effect. The person receiving the waiver is still obligated to abide by all other applicable federal, state, or local laws, statutes, ordinances, rules and regulations or any other federal, state, or local permit and/or license.

- F. An emergency waiver may be modified, canceled or revoked by the department without advance notice if the department determines that any of the following have occurred:
 - 1. The use of an emergency waiver will cause or contribute to a public health and safety or environmental problem;

2. The terms of the emergency waiver are not being used expressly in response to the disaster for which it was issued; or
3. The waiver is no longer necessary.

7.03 REQUEST FOR EMERGENCY WAIVER.

- A. A person must apply to the department for an emergency waiver on forms provided by the department. The applicant must supply all information required by the department that it deems necessary to evaluate the emergency waiver request.
- B. The department shall notify the applicant in writing whether the waiver request has been granted or denied. If denied, the department shall state the reasons for the denial. If applicable, the applicant may reapply for the waiver by submitting additional documentation as requested by the department.

8.00 EFFECTIVE DATE

This ordinance shall be effective immediately upon passage by the county board.

9.00 SEVERABILITY

It is hereby declared to be the intention of the county board that the provisions of this ordinance shall be severable in accordance with the following:

- A. **VALIDITY OF PROVISIONS.** If any court of competent jurisdiction shall adjudge any provision of this ordinance to be invalid, such judgment shall not affect any other provisions of this ordinance not specifically included in said judgment.
- B. **APPLICATION TO SITE OR FACILITY.** If any court of competent jurisdiction shall adjudge invalid the application of any provision of this ordinance to a particular structure, site, facility or operation, such judgment shall not affect the application of said provision to any other structure, site, facility or operation not specifically included in said judgment.

10.00 PROVISIONS ARE CUMULATIVE

The provisions of this ordinance are cumulative to all other laws, ordinances and regulations heretofore passed or which may be passed hereafter, covering any subject matter in this ordinance.

* * * * *

Passed by the Board of County Commissioners of Dakota County this 15th day of April, 1980.
Amended by the Board of County Commissioners of Dakota County this 12th day of January, 1982.
Amended by the Board of County Commissioners of Dakota County this 4th day of December, 1984.
Amended by the Board of County Commissioners of Dakota County this 28th day of June, 1985.
Amended by the Board of County Commissioners of Dakota County this 6th day of May, 1986.
Amended by the Board of County Commissioners of Dakota County this 14th day of July, 1987.
Amended by the Board of County Commissioners of Dakota County this 9th day of January, 1990.
Amended by the Board of County Commissioners of Dakota County this 1st day of September, 1992.
Amended by the Board of County Commissioners of Dakota County this 18th Day of April, 1995.
Amended by the Board of County Commissioners of Dakota County this 11th Day of February, 1997.
Amended by the Board of County Commissioners of Dakota County this 30th Day of June, 1998.
Amended by the Board of County Commissioners of Dakota County this 21st Day of September, 1999.
Amended by the Board of County Commissioners of Dakota County this 15th Day of May, 2001.
Amended by the Board of County Commissioners of Dakota County this 31st Day of October, 2006.
Amended by the Board of County Commissioners of Dakota County this 16th day of March, 2010.
Amended by the Board of County Commissioners of Dakota County this 4th day of January, 2017.

ATTEST:
COUNTY OF DAKOTA, STATE OF MINNESOTA


Jennifer Reynolds
Administrative Coordinator to the Board


Mike Slavik, Chairperson
Dakota County Board of Commissioners

DATE: 8-28-17

DATE: 8-28-17

Approved as to Form:

Approved as to Execution:


Helen R. Brosnahan
Assistant County Attorney


Helen R. Brosnahan
Assistant County Attorney

DATE: 8-23-17

DATE: 8-29-17