

TABLE OF CONTENTS

DAKOTA COUNTY ORDINANCE NO. 110  
SOLID WASTE MANAGEMENT

	<u>PAGE</u>
<b>SECTION 1.00 PURPOSE, AUTHORITY, AND POLICY .....</b>	<b>1</b>
1.01 PURPOSE AND AUTHORITY .....	1
1.02 POLICY .....	1
<b>SECTION 2.00 DEFINITIONS .....</b>	<b>2</b>
<b>SECTION 3.00 GENERAL PROVISIONS .....</b>	<b>12</b>
3.01 GENERATOR REQUIREMENTS.....	12
3.02 LICENSE REQUIRED.....	13
3.03 REQUIREMENTS FOR OBTAINING SOLID WASTE LICENSE .....	13
3.04 DUTY TO COMPLY WITH LICENSE CONDITIONS.....	14
3.05 REQUIREMENT TO SUBMIT CLOSURE PLAN .....	15
3.06 CLOSURE PLAN REQUIREMENTS.....	15
3.07 FINANCIAL ASSURANCE FOR PRE-CLOSURE/OPERATIONAL, CLOSURE, AND POST CLOSURE PERIODS .....	19
3.08 INSURANCE REQUIRED; SOLID WASTE FACILITIES .....	23
3.09 INDEMNIFICATION OF COUNTY .....	24
3.10 TERM OF LICENSE, RENEWAL, REISSUANCE, LICENSE NOT TRANSFERABLE .....	25
3.11 FEES .....	25
3.12 OFF-SITE REUSE OF MINIMALLY CONTAMINATED SOIL FROM DEVELOPMENT PROJECTS AND ROAD CONSTRUCTION PROJECTS .....	26
3.13 ADMINISTRATION .....	28
3.14 MAJOR MODIFICATIONS .....	29
3.15 ORDINANCE VIOLATIONS .....	30
3.16 LICENSE SUSPENSION AND REVOCATION.....	34
3.17 HEARINGS.....	35
3.18 DATA PRIVACY .....	37
3.19 LIMITATIONS OF ORDINANCE NO. 110.....	37
3.20 FALSE INFORMATION .....	38
3.21 DUTY TO NOTIFY DEPARTMENT OF DELIVERY OF HAZARDOUS WASTE.....	38
3.22 HIGHEST STANDARDS PREVAIL .....	38
<b>SECTION 4.00 SOLID WASTE SURCHARGE.....</b>	<b>39</b>
4.01 FEE ON OPERATORS OF DISPOSAL FACILITIES.....	39
4.02 AMOUNT OF FEES .....	39
4.03 EXEMPTION FROM FEES .....	39
4.04 RETURNS, FEE PAYMENT EXTENSIONS AND REPORTING REQUIREMENTS .....	40
<b>SECTION 5.00 INDUSTRIAL WASTE MANAGEMENT AND LAND APPLICATION OF WASTE.....</b>	<b>43</b>
5.01 GENERAL REQUIREMENTS .....	43
5.02 REQUIREMENTS FOR ACCEPTANCE OF INDUSTRIAL WASTE AT LANDFILLS.....	45

5.03 REQUESTS FOR VARIANCE FROM REQUIREMENTS OF SECTION 5.02 ..... 51

5.04 USE OF INDUSTRIAL WASTE OR CONTAMINATED SOIL AS COVER MATERIAL ..... 51

5.05 LAND APPLICATION..... 53

**SECTION 6.00 SOLID WASTE LANDFILL FACILITIES ..... 58**

6.01 LOCATION OF FACILITY ..... 58

6.02 LICENSE REQUIRED; APPLICATION REQUIREMENTS ..... 58

6.03 GENERAL REQUIREMENTS; LAND DISPOSAL FACILITIES ..... 60

6.04 LAND DISPOSAL FACILITY OPERATING PROCEDURES ..... 61

6.05 ADDITIONAL REQUIREMENTS FOR SANITARY LANDFILLS ONLY ..... 63

6.06 ADDITIONAL REQUIREMENTS FOR DEMOLITION LANDFILLS ONLY ..... 66

6.07 ADDITIONAL REQUIREMENTS FOR SPECIAL WASTE LANDFILLS ONLY ..... 67

6.08 EXEMPTIONS FROM LANDFILL REQUIREMENTS - QUALIFIED CLEAN FILL LANDFILL..... 68

**SECTION 7.00 SPECIAL WASTE STORAGE FACILITIES AND WASTE TIRE MANAGEMENT 72**

7.01 LICENSE REQUIRED; APPLICATION REQUIREMENTS ..... 72

7.02 STATE RULE ADOPTED..... 73

7.03 WASTE TIRE MANAGEMENT ..... 73

7.04 RECORDS..... 75

7.05 UNIFORM REPORTING ..... 75

**SECTION 8.00 INCINERATION..... 76**

8.01 COMPLIANCE WITH MPCA AIR QUALITY RULES ..... 76

**SECTION 9.00 ENERGY RECOVERY FACILITIES ..... 77**

9.01 LICENSE REQUIRED; APPLICATION REQUIREMENTS ..... 77

9.02 OPERATIONAL REQUIREMENTS..... 78

**SECTION 10.00 SOLID WASTE PROCESSING FACILITIES..... 80**

10.01 LICENSE REQUIRED; APPLICATION REQUIREMENTS ..... 80

10.02 OPERATIONAL REQUIREMENTS..... 81

10.03 REDUCED REGULATION FACILITIES..... 83

**SECTION 11.00 TRANSFER STATIONS ..... 86**

11.01 LICENSE REQUIRED; APPLICATION REQUIREMENTS ..... 86

11.02 OPERATIONAL REQUIREMENTS..... 87

11.03 REDUCED REGULATION COLLECTION AND TRANSFER STATIONS ..... 88

**SECTION 12.00 INFECTIOUS WASTE FACILITIES..... 90**

12.01 LICENSE REQUIRED; APPLICATION REQUIREMENTS ..... 90

12.02 OPERATIONAL REQUIREMENTS..... 91

**SECTION 13.00 COMPOSTING FACILITIES..... 93**

13.01 LICENSE REQUIRED; APPLICATION REQUIREMENTS ..... 93

13.02 OPERATIONAL REQUIREMENTS..... 95

13.03 COMPOSTING ACTIVITIES WITH REDUCED REGULATIONS..... 96

13.04 ADDITIONAL OPERATIONAL REQUIREMENTS FOR YARD WASTE ONLY COMPOSTING FACILITIES ..... 96

13.05	ADDITIONAL DESIGN AND OPERATIONAL REQUIREMENTS FOR SOLID WASTE COMPOSTING FACILITIES EXCLUDING YARD WASTE COMPOSTING FACILITIES .....	97
13.06	EXEMPTED REQUIREMENTS FOR NON-YARD WASTE COMPOSTING FACILITIES.....	98
<b>SECTION 14.00 NONCONFORMING SITES.....</b>		<b>99</b>
14.01	REQUIREMENT TO BRING NONCONFORMING SITE INTO CONFORMITY .....	99
14.02	DUTY TO REPORT A NONCONFORMING SITE .....	99
14.03	PROCEDURE AND REQUIREMENTS FOR REMEDIATION OF NONCONFORMING SITES.....	99
14.04	FILING OF SOLID WASTE DISCLOSURE NOTICE .....	102
<b>SECTION 15.00 COLLECTION AND TRANSPORTATION OF SOLID WASTE AND RECYCLABLE MATERIALS.....</b>		<b>103</b>
15.01	LICENSE REQUIRED.....	103
15.02	EQUIPMENT AND OPERATIONS REQUIREMENTS .....	103
15.03	METROPOLITAN AREA SOLID WASTE SHALL BE DISPOSED IN CONFORMING FACILITY ...	104
15.04	SECURE ALL LOADS .....	104
15.05	RECYCLABLE MATERIALS REPORTING .....	104
15.06	RECORDS.....	104
15.07	MIXING OF MIXED MUNICIPAL SOLID WASTE AND SOURCE-SEPARATED MATERIAL PROHIBITED .....	106
15.08	ADDITIONAL REQUIREMENTS FOR HAULERS LICENSED UNDER THE REGIONAL HAULER LICENSING PROGRAM .....	106
15.09	LICENSE APPLICATION REQUIREMENTS FOR SOLID WASTE HAULERS NOT LICENSED UNDER THE REGIONAL HAULER LICENSING PROGRAM .....	109
15.10	INSURANCE REQUIRED; HAULERS.....	109
<b>SECTION 16.00 SOLID WASTE ABATEMENT .....</b>		<b>111</b>
16.01	MUNICIPALITY SOLID WASTE ABATEMENT PROGRAM .....	111
16.02	COMMERCIAL GENERATORS .....	111
16.03	MULTI-UNIT RESIDENTIAL BUILDINGS.....	112
16.04	ORGANICS.....	112
16.05	TRASH, RECYCLING AND ORGANICS REQUIREMENTS .....	113
16.06	LABELING .....	113
16.07	LAWFUL ACTS.....	113
<b>SECTION 17.00 VARIANCES.....</b>		<b>114</b>
17.01	APPLICATION.....	114
17.02	CONTINUING VARIANCE .....	114
17.03	DENIAL OF VARIANCE AND RIGHT TO APPEAL.....	114
<b>SECTION 18.00 EMERGENCY WAIVER OF STANDARDS.....</b>		<b>115</b>
18.01	IN GENERAL.....	115
18.02	LIMITATION OF EMERGENCY WAIVER.....	115
18.03	REQUEST FOR EMERGENCY WAIVER.....	115
<b>SECTION 19.00 ADDITIONAL REQUIREMENTS.....</b>		<b>117</b>
<b>SECTION 20.00 SEPARABILITY .....</b>		<b>118</b>
<b>SECTION 21.00 REMEDIES CUMULATIVE.....</b>		<b>119</b>
<b>SECTION 22.00 NO CONSENT .....</b>		<b>120</b>

**SECTION 23.00 EFFECTIVE DATE ..... 121**  
**SECTION 24.00 REPEALER.....122**

**DAKOTA COUNTY**  
**ORDINANCE NO. 110**  
**SOLID WASTE MANAGEMENT**

**SECTION 1.00 PURPOSE, AUTHORITY, AND POLICY**

**1.01 PURPOSE AND AUTHORITY.**

An ordinance establishing standards for and regulating solid waste management and the operation of solid waste facilities and activities, including infectious waste facilities and activities; establishing requirements for certain facilities on a disposal site; providing for application and license fees, financial assurance and penalties for lack of compliance with these provisions; promoting the health, welfare and safety of the public, and to protect the environment pursuant to Minn. Stat. Chs. 115A, 375, 400, and 473.

**1.02 POLICY.**

The policy of Dakota County shall be to provide for the management of solid waste in a manner that will protect the health, welfare, and safety of the public, prevent the spread of disease, prevent the creation of nuisances, conserve our natural resources, and maintain the beauty and quality of our natural environment.

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## SECTION 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 the Waste Management Act, Minn. Stat. §115A.01 *et seq.* and/or Minn. R. 7035.300, 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 "ADMINISTRATIVE PENALTY ORDER"** means an order issued pursuant to Dakota County Ordinance No. 123, Administrative Penalty Orders.
- 2.02 "AGRONOMIC RATES"** means the application of plant nutrients and soil amendments at rates recommended by the University of Minnesota or a Minnesota Department of Agriculture certified laboratory for the production of agronomic crops based upon specific crop yield goals and specific soil test values.
- 2.03 "ASH RESIDUE"** means the residue resulting from the processing combustion of solid waste, including fly ash and bottom ash and spent reagent and moisture.
- 2.04 "AUTHORIZED REPRESENTATIVE OF THE DEPARTMENT"** means an employee or agent of the Department.
- 2.05 "BACK-OF-HOUSE"** means the kitchen, food preparation, dishwashing, and storage areas of a commercial generator or large event venue with organics that are not accessed by customers or the public.
- 2.06 "BACKYARD COMPOST SITE"** means a site used to compost vegetative food scraps, garden wastes, weeds, lawn cuttings, leaves, and prunings from a single-family or household.
- 2.07 "BASE COUNTY"** means the metropolitan area county in which a hauler's office, records, and vehicles are primarily located. If different parts of the hauler's business are located in more than one metropolitan area county, the base county shall be the metropolitan area county in which most of the vehicles are kept, as determined by the department at the time of license application. The base county for haulers based in a county not participating in the regional licensing program shall be an adjacent metropolitan area county as determined by the department.
- 2.08 "BASE LICENSE"** means the license issued by a base county to a hauler as a precondition to obtaining an operating license from Dakota County or other metropolitan area counties.
- 2.09 "BENEFICIAL LAND APPLICATION"** means using certain solid wastes and their properties to improve the soil's physical, chemical and biological properties and to enhance vegetative growth and production when applied at agronomic rates.
- 2.10 "CERTIFICATION OF CLOSURE"** means the acknowledgment and legal testament of the site/facility owner and agents (operator, attorney, and professional engineer) that all required closure actions have been satisfactorily completed in accordance with the approved closure plan(s) and specifications and in compliance with all applicable regulations.
- 2.11 "CHRISTMAS TREE"** means coniferous or evergreen trees or boughs used for Yuletide decorations.
- 2.12 "CITATION"** means an order issued by the department to appear before a judge on a given date to defend against a stated charge, such as an ordinance violation.
- 2.13 "CLEAN FILL"** means uncontaminated natural earthen materials such as soil, sand and gravel.

- 2.14 "CLEAN WOOD"** means wood that has not been treated, coated, or glued (plywood, oriented strand board, etc.), including yard waste
- 2.15 "CLOSURE"** means the physical act of securing, covering, and otherwise closing a terminated licensed solid waste facility operation or nonconforming site in accordance with the requirements of this ordinance to mitigate and abate environmental impacts and public health and safety hazards, and nuisances, as well as to anticipate and resolve potential future problems.
- 2.16 "CLOSURE PERIOD"** means the time period from the date of termination of all intermediate or final disposal operations until the date that the county board approves the certification of closure.
- 2.17 "CLOSURE PLAN"** means all required closure and post-closure plans and specifications, supporting documents, reports, information and data required in section 3.06 that shall be necessary for review by the department.
- 2.18 "CO-COMPOST"** means composting of mixed municipal solid waste with a nutrient source or bulking agent.
- 2.19 "CODISPOSAL"** means the disposal of nonhazardous industrial wastes, including sludge and ash, together with mixed municipal solid waste at a solid waste facility, as approved by the Minnesota Pollution Control Agency (MPCA) and deemed acceptable by the department.
- 2.20 "COMMERCIAL"** has the same meaning as commercial generator.
- 2.21 "COMMERCIAL BUILDING"** means any permanent or temporary building used for other than residential purposes.
- 2.22 "COMMERCIAL GENERATOR"** means an entity that is not a residential source generator.
- 2.23 "COMPOSTABLE MATERIAL"** means any material that is primarily organic and can be decomposed through biological activity. Compostable plastics or lined papers must meet ASTM D6400 and ASTM D6868, respectively, as certified by the Biodegradable Products Institute or other similar independent certification bodies.
- 2.24 "COMPOSTING"** means the controlled biological decomposition and management of selected solid waste to produce an innocuous, humus-like material, which can be used as a soil conditioner.
- 2.26 "COMPOSTING FACILITY"** means a site or facility used to compost or co-compost solid waste, including all structures or processing equipment used to control surface water drainage, collect and treat contact water or leachate, and storage areas for the incoming waste, the final product, rejects and residuals resulting from the composting process.
- 2.26 "CONSTRUCTION DEBRIS"** means waste building materials, packaging and rubble resulting from construction, remodeling, and repair.
- 2.27 "CONTACT WATER"** means water that has come into contact with source separated compostable material in the tipping area, source separated compostable material mixing area, rejects, or active compost prior to meeting process to further reduce pathogens test and the Solvita maturity index is greater than or equal to five with ammonia greater than or equal to four.
- 2.28 "CORRECTIVE ACTIONS"** means the actions, including remedial actions that need to be performed by a person to correct the conditions on the property that are in violation of this ordinance.
- 2.29 "COUNTIES"** means Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington Counties, or, if one or more of said counties withdraws from the Regional Hauler Licensing Program, the remaining counties.

- 2.30 "COUNTY"** means Dakota County, Minnesota.
- 2.31 "COUNTY BOARD"** means the Dakota County Board of Commissioners.
- 2.32 "COVER MATERIAL"** means material that is used to cover compacted solid waste in a land disposal site or facility. Acceptable cover material is characterized by low permeability, uniform texture, cohesiveness and compactability, and is free of putrescible materials. Suitable cover materials include, but are not limited to, sandy loam, loam, silty loam, sandy clay loam, silty clay loam, clay loam, sandy clay, clayey sand, and loamy sand. Final cover material is used to terminate and permanently close a land disposal site, facility, or a part thereof, and the type and required characteristics of the final cover material must be approved by the department.
- 2.33 "DEMOLITION LANDFILL"** means an area of land used for final disposal of demolition waste.
- 2.34 "DEMOLITION WASTE"** means waste resulting from the demolition of man-made structures, and other similar materials specifically approved by the department. Demolition waste excludes asbestos and other materials specifically prohibited by this ordinance and the department.
- 2.35 "DEPARTMENT"** means the county department or unit designated by the county board to conduct solid waste regulatory activities within the county, its staff, and designated agents.
- 2.36 "DESIGNATED LIST OF CONTAMINANTS"** means a list of contaminants approved by the Dakota County Board of Commissioners and published by the Department on the Dakota County Website.
- 2.37 "DESIGNATED LIST OF ORGANICS"** means a list of organic material types suitable for commercial composting approved by the Dakota County Board of Commissioners and published by the Department on the Dakota County Website.
- 2.38 "DESIGNATED LIST OF RECYCLABLES"** means a list of recyclable materials types approved by the Dakota County Board of Commissioners and published by the Department on the Dakota County Website that represents the minimum haulers must accept and generators must recycle. Generators, facilities and haulers will have six months to implement any changes after it is published.
- 2.39 "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.
- 2.40 "DURABLE COMPOSTABLE BAG"** means a bag used to co-collect organics with mixed municipal solid waste for the purposes of separating the organics for composting or anaerobic digestion. The durable compostable bags must meet ASTM standards D6400 or D6868 and be sufficiently durable to contain the organics through the collection and separation process.
- 2.41 "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 solid 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.
- 2.42 "ENERGY RECOVERY"** means a process by which energy is derived or extracted from solid waste to capture the heat value for conversion to steam, electricity, or immediate heat by direct combustion.
- 2.43 "ENERGY RECOVERY FACILITY"** means a facility used to capture the heat value of solid waste for conversion to steam, electricity, or immediate heat by direct combustion.



- 2.44 "FINAL DISPOSAL"** means discharge, deposit, injection, uncontrolled dumping, spilling, leaking, or placing of any solid waste or any constituent thereof that may enter the environment or be emitted into the air or discharged into any waters, including ground waters.
- 2.45 "FLOODPLAIN"** means the beds proper and the areas adjoining a wetland, lake, or watercourse that have been or may be covered by a regional flood.
- 2.46 "GARBAGE"** means discarded material resulting from the handling, processing, storage, preparation, serving and consumption of food.
- 2.47 "GENERATE"** means the act or process of producing solid waste, including the production or aggregation of waste occurring at an intermediate disposal facility.
- 2.48 "GENERATOR"** means any person whose actions or process(es) produce solid waste.
- 2.49 "HAULER"** means any person, other than an individual resident hauling his or her own household waste, who collects or transports any solid waste.
- 2.50 "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.
- 2.51 "INCINERATOR"** means any emissions unit, emission facility, furnace, or other device used primarily for the purpose of combusting solid waste.
- 2.52 "INDUSTRIAL WASTE"** means all solid waste generated from an industrial or manufacturing process, and solid waste generated from non-manufacturing activities such as service and commercial establishments and chemical and debris contaminated soil from spills; property clean up, and development activities. Industrial waste does not include office materials, restaurant and food preparation waste, discarded machinery, demolition waste, or household waste.
- 2.53 "INERT"** means lacking the physical or chemical capacity to adversely impact human health or the environment.
- 2.54 "INFECTIOUS WASTE"** means a solid waste that has the meaning given to it in Minn. Stat. §116.76. Infectious waste includes laboratory waste, blood, regulated body fluids, sharps, and research animal wastes that have not been decontaminated.
- 2.55 "INFECTIOUS WASTE FACILITY"** means a facility where infectious waste is transferred, stored, disposed, decontaminated, or incinerated.
- 2.56 "INTERMEDIATE DISPOSAL"** means the preliminary or incomplete disposal of solid waste, including storage and any other management or handling of waste short of final disposal. Intermediate disposal does not include storage by a generator of thirty (30) cubic yards or less of solid waste if the storage meets the requirements of the city or township and does not constitute a public health nuisance.

- 2.57 "LAND APPLICATION"** means placing solid waste on land for the purpose of chemical, physical or biological treatment that may provide a beneficial amendment to the soil.
- 2.58 "LARGE EVENT VENUE WITH ORGANICS"** means a public gathering of at least 300 people that generates at least one ton of municipal solid waste or contracts for eight cubic yards or more per location, and generates organics back-of-house. Examples include but are not limited to: concerts, fairs, festivals, community events, athletic tournaments, parades, etc.
- 2.59 "LARGE COMMERCIAL ORGANICS GENERATOR"** means the following commercial generator classifications that generate one ton or more of municipal solid waste per week or contract for eight cubic yards or more per week per location, and generates organics back-of-house: restaurants; grocery stores; food wholesalers, distributors and manufacturers; hotels; hospitals; sports venues; event centers; caterers; nursing and residential care facilities; office buildings with dining services; farmers markets; food shelves and food banks; schools, colleges, and universities with dining services; shopping centers; airports; golf clubs and country clubs; and public/rental kitchens or shared-use commercial kitchens; and other businesses identified by the Department.
- 2.60 "LICENSEE"** means the person(s) who has been granted a license by the county board to establish, operate and maintain a solid waste facility or to collect and transport solid waste, pursuant to this ordinance.
- 2.61 "MAJOR APPLIANCES"** means clothes washers and dryers, dishwashers, water heaters, residential furnaces, garbage disposals, trash compactors, conventional and microwave ovens, ranges and stoves, air conditioners, dehumidifiers, refrigerators, and freezers.
- 2.62 "MAJOR MODIFICATION"** means a change in a licensed solid waste facility that requires county board approval. The criteria are stated in section 3.14.
- 2.63 "METROPOLITAN AREA"** means the area over which the Metropolitan Council has jurisdiction, including only the counties of Anoka, Carver, Dakota excluding the City of Northfield, Hennepin excluding the City of Hanover and Rockford, Ramsey, Scott excluding the City of New Prague, and Washington.
- 2.64 "MPCA"** means the Minnesota Pollution Control Agency.
- 2.65 "MIXED MUNICIPAL SOLID WASTE"** means garbage, refuse, and other solid waste from residential, commercial, industrial, and community activities that the generator of the waste aggregates for collection but does not include auto hulks, street sweepings, ash, construction debris, mining waste, sludges, tree and agricultural wastes, tires, lead-acid batteries, motor or vehicle fluids and filters, and other materials collected, processed, and disposed of as separate waste streams.
- 2.66 "MULTI-UNIT RESIDENTIAL BUILDING"** means any building with four or more residential units.
- 2.67 "MULTIPLE OPERATION FACILITY LICENSE"** means one license granted to a person who operates two or more solid waste facilities within the same site boundary.
- 2.68 "MUNICIPAL SOLID WASTE"** has the same meaning as mixed municipal solid waste.
- 2.69 "MUNICIPALITY"** means any incorporated city or township within the boundaries of Dakota County, Minnesota, or a combination thereof that are included in an agreement for purposes of solid waste management.
- 2.70 "NONCONFORMING SITES"** means real property used for final or intermediate disposal of solid waste for which no license was obtained from the county board or that has not been closed in conformance with this ordinance.
- 2.71 "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 section(s), statute(s), and/or rule(s) which are allegedly violated;
  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, which 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.
- 2.72 "OPERATOR"** means the person(s) responsible for managing the day-to-day physical handling of solid waste at a particular site or facility.
- 2.73 "OPERATING COUNTY"** means any of the metropolitan area counties, including the base county, in which the hauler collects or transports mixed municipal solid waste.
- 2.74 "OPERATING LICENSE"** means the license issued by an operating county to operate within each operating county, including the base county, in which the hauler collects or transports mixed municipal solid waste and that may contain specific conditions imposed by the issuing county.
- 2.75 "ORGANIC MATERIAL"** has the same meaning as organics.
- 2.76 "ORGANICS"** means food waste and the designated list of organics published on the Dakota County Website.
- 2.77 "PCB OR POLYCHLORINATED BIPHENYL"** means a special waste that consists of two hundred nine (209) possible compounds that may have 1-10 chlorine atoms attached to a biphenyl aromatic structure.
- 2.78 "pH"** means a value representing the acidity or alkalinity of an aqueous solution that is expressed by the negative logarithm of the hydrogen ion concentration with a scale of 0 to 14. A neutral solution has a pH of 7 and each one unit change in the pH value is a change of ten times the acidity or alkalinity of the solution.
- 2.79 "PID OR PHOTOIONIZATION DETECTOR"** means an organic vapor meter for measuring the concentration of volatile organic compounds that have an ionization potential that is less than the energy of the lamp used in the detector. The lamp shall be a minimum 10.2 eV or higher as appropriate for the compound(s) being detected.
- 2.80 "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.
- 2.81 "POST-CLOSURE"** means the physical act of long-term monitoring and maintenance for a specified number of years after the county board approval of the certification of closure or after closure of a nonconforming site. During this time, the discovery of contingencies shall require certain actions and funding to mitigate or abate environmental impacts and public health and safety hazards and nuisances.
- 2.82 "POST-CLOSURE PERIOD"** means the time period beginning with county board approval of the certification of closure or after completion of closure of a nonconforming site and extending until such time as monitoring and maintenance activities and contingency actions outlined in the approved closure plan or remedial action plan required under section 14.03(C) are completed.
- 2.83 "PRE-CLOSURE/OPERATIONAL PERIOD"** means the period of time beginning at commencement of solid waste operations until the beginning of the closure period.

- 2.84 "PROCESSING"** when referring to solid waste, means the treatment of solid waste after collection and before final disposal, and includes all activities after the time the waste is delivered to a processing facility. Processing includes, but is not limited to: storage; reduction; containment; separation; exchange; resource recovery; physical, chemical, or biological modification; and subsequent transfer from one solid waste facility to another. The storage of solid waste, in and of itself, does not constitute the treatment of waste necessary to meet this definition.
- 2.85 "PROCESSING FACILITY"** means a site used to process solid waste, including all structures, equipment used to process the waste, storage areas for the incoming waste, and the final product and residuals resulting from the process.
- 2.86 "PUBLIC ENTITY"** means the state, an office, agency, or institution of the state, the Metropolitan Council, a metropolitan agency, the Metropolitan Mosquito Control Commission, the legislature, the courts, a county, a statutory or home rule charter city, a town, a school district, a special taxing district, or any entity that receives an appropriation from the state for a capital improvement project after August 1, 2002.
- 2.87 "PUBLIC NUISANCE"** means the creation of acts or conditions that unreasonably annoy, injure or endanger the safety, health, comfort, or repose of any number of members of the public.
- 2.88 "PUTRESCIBLE MATERIAL"** means solid waste that is capable of rotting or is in a foul state of decay or decomposition.
- 2.89 "QUALIFIED CLEAN FILL"** means uncontaminated concrete, brick, or inert materials approved for beneficial use by the department.
- 2.90 "QUALIFIED CLEAN FILL LANDFILL"** means utilization of qualified clean fill for a beneficial land use project.
- 2.91 "RADIOACTIVE MATERIAL"** means any waste releasing detectable radiation.
- 2.92 "RECYCLABLE MATERIALS"** means materials that are suitable for separating from solid waste for the purpose of recycling including, but not limited to, paper, glass, plastics, metals, automobile oil, batteries, etc. Refuse derived fuel or other material that is destroyed by incineration is not a recyclable material.
- 2.93 "RECYCLABLES"** has the same meaning as recyclable materials.
- 2.94 "RECYCLING"** means the process of collecting and preparing recyclable materials and reusing the materials in their original form or using them in manufacturing processes that do not cause the destruction of recyclable material in a manner that precludes further use.
- 2.95 "RECYCLING FACILITY"** means a site at which waste materials are prepared for reuse in their original form or for use in manufacturing processes that do not cause the destruction of materials in a manner that precludes further use.
- 2.96 "REFUSE"** means something rejected or discarded as worthless or useless.
- 2.97 "REGIONAL FLOOD"** means a flood that is representative of large floods known to have occurred generally in Minnesota and reasonably characteristic of what can be expected to occur on an average frequency in the magnitude of a 100-year recurrence interval.
- 2.98 "REGIONAL HAULER LICENSING PROGRAM"** means the cooperative hauler licensing program established by the joint powers agreement approved by the County Board on September 26, 2017, as may be amended from time to time, by participating metropolitan area counties.

- 2.99 "REJECTS"** as applied to compost facilities means inorganic materials that cannot be rendered into a humus-like material or materials that are unacceptable due to licensing conditions.
- 2.100 "REMEDIAL ACTION PLAN"** means a written plan submitted to, and approved by, the department after a nonconforming site has been investigated that describes all corrective actions that the owner will complete to bring the nonconforming site within the requirements of Ordinance 110.
- 2.101 "REMEDIAL INVESTIGATION PLAN"** means a written plan describing the conditions on a nonconforming site that violate this ordinance and the activities and methods that the owner intends to use to assess the environmental conditions on the site.
- 2.102 "REMEDIAL INVESTIGATION REPORT"** means a written report describing all the findings of the investigation of a nonconforming site that have been carried out according to the approved remedial investigation plan.
- 2.103 "RESIDENTIAL"** has the same meaning as residential source.
- 2.104 "RESIDENTIAL BUILDING"** means a single family home or a building with residential units.
- 2.105 "RESIDENTIAL RECYCLING"** means a program targeted for collection of recyclable materials from a residential building.
- 2.106 "RESIDENTIAL SOURCE"** means any source from a residential building.
- 2.107 "RESIDUALS"** means all solid waste remaining after processing including ash residue and other solid waste that is not recovered or combusted. As applied to composting facilities, "residuals" means organic materials that require further composting due to their large size, such as tree branches.
- 2.108 "RESOURCE RECOVERY"** means the reclamation for sale, use, or reuse of materials, substances, energy, or other products contained within or derived from waste, including, but not limited to energy recovery, processing, and composting facilities.
- 2.109 "RESOURCE RECOVERY FACILITY"** means a solid waste facility established and used primarily for resource recovery, including related and appurtenant facilities such as transmission facilities and transfer stations primarily serving the resource recovery facility.
- 2.110 "SANITARY LANDFILL"** means a facility that employs a method for final disposal on land, of solid waste, including mixed municipal solid waste, in accordance with a preconceived plan and without creating nuisances or hazards to public health or safety, by utilizing the principles of environmental planning and engineering to confine solid waste to the proper and smallest practical area, to reduce it to the smallest volume, and to cover it with an adequate layer of cover material at the conclusion of each day's operation, or at such more frequent intervals as may be required.
- 2.111 "SCRAP YARDS"** means an establishment, place of business, or place of storage or deposit, that is maintained, operated, or used for storing, keeping, buying, or selling scrap, junk, or waste metal, including, but not limited to, automobiles, trucks, tractors, farm equipment, industrial equipment, containers, and appliances, where the total scrap metal stored is greater than 20 tons or consists of more than five motor vehicles.
- 2.112 "SEGREGATED"** means, when referring to solid waste, waste that has been separated into groups of similar materials.
- 2.113 "SHORELAND"** means land located within the following distances from public waters: 1,000 feet from the ordinary high watermark of a lake, pond, or flowage; and land within 300 feet of a river or a stream or the landward side of a delineated by ordinance on the river or stream, whichever is greater.

- 2.114 "SOLID WASTE"** means garbage, refuse, sludge from a water supply treatment plant or air containment treatment facility, and other discarded waste materials and sludges, in solid, semisolid, liquid, or contained gaseous form, resulting from industrial, commercial, mining and agricultural operations, and from community activities, but does not include hazardous waste, animal waste used as fertilizer, earthen fill, boulders, rock, sewage sludge, solid or dissolved material in domestic sewage or other common pollutants in water resources, such as silt, dissolved or suspended solids in industrial waste water effluents or discharges which are point sources subject to permits under section 402 of the federal Water Pollution Control Act, as amended, dissolved materials in irrigation return flows, or source, special nuclear, or by-product material as defined by The Atomic Energy Act of 1954, as amended.
- 2.115 "SOLID WASTE DISPOSAL DISCLOSURE NOTICE"** means a document filed with Dakota County Property Records Department containing the information required in sections 3.06 (G) and 14.04 of this ordinance.
- 2.116 "SOLID WASTE ABATEMENT"** means programs for reducing, reusing, and recycling solid waste.
- 2.117 "SOLID WASTE ABATEMENT MESSAGING"** means the standardized solid waste abatement education messaging developed by the Department and published on the Dakota County Website.
- 2.118 "SOLID WASTE FACILITY"** means all property, real or personal, including negative and positive easements and water and air rights, that is used for processing, managing, or disposing of solid waste, except property used primarily for the manufacture of metal or paper. The term solid waste facility includes solid waste landfills, transfer stations, incinerators, energy recovery facilities, special waste facilities, processing facilities, composting facilities, infectious waste facilities, and also includes any other intermediate and final solid waste disposal sites and facilities.
- 2.119 "SOLID WASTE LANDFILL"** means a site used for final disposal of solid waste utilizing the landfilling method.
- 2.120 "SOURCE SEPARATION"** means the process whereby generators separate, from mixed municipal solid waste, materials that will be reused, recycled, used as substitutes for raw material in a manufacturing process, or converted into a usable soil amendment.
- 2.121 "SOURCE SEPARATED COMPOSTABLE MATERIAL"** means materials that:
1. Are separated at the source by waste generators for the purpose of preparing them for use as compost;
  2. Are collected separately from mixed municipal solid waste, and are governed by the licensing provisions of Minn. Stat. § 115A.93;
  3. Are comprised of food wastes, fish and animal waste, plant materials, and compostable materials that meet the standards in ASTM D6400 and ASTM D6868 as incorporated by reference under Minn. Rule. 7035.0605;
  4. Are delivered to a facility to undergo controlled microbial degradation to yield a humus-like product meeting the MPCA's class I or class II, or equivalent, compost standards and where process residues do not exceed 15% by weight of the total material delivered to the facility; and
  5. May be delivered to a transfer station, mixed municipal solid waste processing facility, or recycling facility only for the purposes of composting or transfer to a composting facility, unless the MPCA determines that no other person is willing to accept the materials.

- 2.122 "SPECIAL WASTE"** means a non-hazardous industrial waste that is not mixed municipal solid waste and is managed as a separate waste stream.
- 2.123 "SPECIAL WASTE FACILITY"** means an area of land and associated structures and operations that are involved in intermediate or final disposal of special waste.
- 2.124 "STIPULATION AGREEMENT"** means a voluntary agreement entered into between Dakota County and a person, whereby the person agrees to perform actions to correct ordinance violations within an agreed upon time period and upon which its terms and conditions may be enforced in a court of competent jurisdiction.
- 2.125 "STREET SWEEPINGS"** means materials removed from streets, sidewalks, parking lots, and roadways during routine cleaning by a sweeping operation consisting of sand, sealcoat, tree waste and debris. Street sweepings do not include any material originating from an industrial spill or contaminated area.
- 2.126 "TCLP (TOXICITY CHARACTERISTIC LEACHING PROCEDURE)"** means a test designed and required by the United States Environmental Protection Agency to determine the existence of hazardous components in waste. The TCLP (Method 1311) is published in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW-846.
- 2.127 "TPH (TOTAL PETROLEUM HYDROCARBON)"** means a test used to determine the amount of oil and grease in a waste.
- 2.128 "TRANSFER STATION"** means a facility in which collected solid waste from any source is temporarily stored, concentrated or deposited to await subsequent transportation. A transfer station can be fixed or mobile. The transfer of solid waste from one collection vehicle to another constitutes a mobile transfer station.
- 2.129 "TRASH"** has the same meaning as mixed municipal solid waste.
- 2.130 "TRANSPORTATION"** means the conveying of solid waste from one place to another.
- 2.131 "UNPROCESSED MIXED MUNICIPAL SOLID WASTE"** means mixed municipal solid waste that has not, after collection and before final disposal, undergone separation of materials for resource recovery through recycling, energy recovery, production and use of refuse derived fuel, composting, or any combination of these processes so that the weight of the waste remaining that must be disposed of in a sanitary landfill is not more than thirty-five percent (35%) of the weight of the waste accepted at the facility before processing, on an annual average.
- 2.132 "UNPROCESSIBLE WASTE"** means mixed municipal solid waste that is unprocessed mixed municipal solid waste because it is not amenable to processing as determined by a processing facility operator, or it cannot reasonably be delivered to a processing facility as determined by the county in which it was generated.
- 2.133 "VOC (VOLATILE ORGANIC COMPOUNDS)"** means a group of organic chemical compounds that have a vapor pressure greater than 2mm of mercury at 25 degrees Celsius, excluding methane.
- 2.134 "WARNING NOTICE"** means a written document issued by the department to a person that includes the following:
1. A list of violations, including the ordinance section(s), rule(s), or statute(s) 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

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.

**2.135 "WASTE TIRE" OR "TIRE"** means a pneumatic or solid vehicular tire that no longer serves its original intended purpose because of wear, damage, defect, or rejection.

**2.136 "WASTE TIRE COLLECTOR"** means a person who owns or operates a site used for the collection, storage or deposit of more than fifty (50) waste tires.

**2.137 "WASTE TIRE DUMP"** means an establishment, place of business or site without a county license or department approval that is maintained, operated, used or allowed to be used for the collection, storage, or disposal of unprocessed waste tires that is in violation of this ordinance and is a public health and safety hazard or a public nuisance.

**2.138 "WASTE TIRE PROCESSING"** means the production or manufacture of usable materials, including fuel from waste tires, and including necessary incidental temporary storage activity, but excluding final disposal.

**2.139 "WETLANDS"** means a surface water feature classified as a wetland in the United States Fish and Wildlife Circular No. 39 (1971).

**2.140 "WOOD WASTE"** means solid waste composed primarily of wood that has not been chemically treated or coated, including tree and shrub waste that has been removed from its original location.

**2.141 "YARD WASTE"** means garden wastes, leaves, lawn cuttings, weeds, shrub and tree waste, and prunings generated at residential, commercial, or public properties.

**2.142 "YARD WASTE COMPOSTING FACILITY"** means a site or facility established for the controlled biological degradation/decomposition of yard waste into a stable, humus-like end product.

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## SECTION 3.00 GENERAL PROVISIONS

### 3.01 GENERATOR REQUIREMENTS.

- A. The following waste may not be placed for collection with mixed municipal solid waste:
1. Source separated recyclables
  2. Source separated organics, unless the source separated materials are contained in a durable compostable bag which will be separated for composting or anaerobic digestion.
  3. Wastes listed in section 6.05(F)
  4. Effective July 1, 2020, the designated list of recyclables generated by commercial entities and public entities subject to Minnesota Statute 115A.151
  5. Effective January 1, 2021, the designated list of recyclables generated by all commercial entities
  6. Effective January 1, 2021, the designated list of recyclables generated by residential sources
  7. Organics generated by large commercial organics generators as detailed in 16.04
- B. The following waste may not be placed for collection in a recycling collection container:
1. Municipal solid waste
  2. Infectious waste
  3. Wastes listed in section 6.05(F)(2), except for telephone directories
  4. Designated list of contaminants
- C. Yardwaste:
1. It shall be unlawful and a violation of this ordinance for any person to dispose of yard waste in mixed municipal solid waste.
  2. It shall be a violation of this ordinance for any person to place for collection in Dakota County, yard waste, unless it is: (1) placed in paper bags or other biodegradable containers that will decompose within the time period that the yard waste placed in the container(s) decomposes; or (2) placed in a reusable container that the hauler or person supplies to collect the yard waste.
- D. Scavenging:
1. Scavenging of recyclable materials is prohibited. It shall be unlawful and a violation of this ordinance for any person other than employees of the county in the scope of their employment or the collector or hauler for the property to collect, remove, or dispose of recyclable materials after said materials have been placed or deposited for collection.
- E. DISPOSAL OF SOLID WASTE. Unless otherwise provided in this ordinance, no person shall, within Dakota County:
1. Intentionally dispose of any solid waste except at a solid waste facility licensed by the county.
  2. Use or allow property or land under the person's control to be used for intermediate or final disposal of solid waste unless licensed by the county board to do so.
  3. Burn solid waste, with the exception of clean wood or small amount of paper to start a recreational fire.
- F. MANAGEMENT OF SOLID WASTE. Prior to disposal, all solid waste must be managed to:
1. Prevent litter
  2. Protect waste from vector populations
  3. Minimize odors

4. Protect from the elements
5. Prevent public health nuisances

### **3.02 LICENSE REQUIRED.**

- A. **LICENSE REQUIRED.** Unless otherwise provided in this ordinance, any solid waste facility to be established, operated, or maintained for intermediate or final disposal of solid waste must be licensed by the county and, if applicable, permitted by the MPCA before operation may commence.
- B. **LICENSING NOT EXCLUSIVE.** The obtaining of a solid waste facility license 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.
- C. **PRIVATE ON-SITE FACILITIES.** A private on-site waste facility operated by and exclusively for the owner or lessee of the property shall be licensed by the county in accordance with regulations adopted by the MPCA or this ordinance if more stringent.

### **3.03 REQUIREMENTS FOR OBTAINING SOLID WASTE LICENSE.**

- A. **APPLICATION FOR LICENSE.** Solid waste facility license applications shall be submitted to the department on forms provided by the department. Applicants shall provide all information as required for the administration of this ordinance.
- B. **SEQUENCING.** No license application will be considered until written proof that the local governing body has considered the establishment of the site or facility and the results of that consideration are provided to the department in accordance with the Dakota County Sequencing Ordinance (Ordinance No. 119).
- C. **CONTENTS OF LICENSE APPLICATION.** The license application shall include two sets of complete plans, specifications, design data, ultimate land use plan if applicable, proposed operating procedures and such other information as may be required by other sections of this ordinance or by the county, all prepared by a registered professional engineer of Minnesota.
- D. **LICENSE HOLDER.** In each application for a solid waste facility license the operator shall be named as the proposed licensee. The county may require the facility owner or landowner to be named as co-licensee. The facility owner or landowner may request to be named co-licensee. Co-licensees are jointly and severally liable for ordinance violations.
- E. **LICENSE FEES.** The application fee shall accompany the initial application for a solid waste facility license. The license fee and all other required fees in the amounts established by county board resolution shall be due by the date specified in the county board resolution approving the license. Solid waste facilities that are in the closure period shall continue to be licensed by the county and pay license fees in an amount established by the county board until county board approval of the certification of closure.
- F. **INCOMPLETE OR NON-CONFORMING APPLICATION.** If an application for a solid waste 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 in writing of the reasons for non-acceptance within sixty (60) days of the application receipt. The department 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.
- G. **HAULER EXCEPTION.** This section does not apply to applications for licenses for the collection and transportation of solid waste. Licensing requirements for haulers are set forth in section 15.00 below.

- H. **PILOT PROJECTS.** The county board may grant a variance from specific licensing requirements, and assess application and license fees different from those in the established solid waste facility fee schedule for solid waste facilities, for pilot projects that initiate solid waste management methods on a trial basis for a defined period of time to determine the feasibility of the particular method employed.
- I. **NONCONFORMING SITES.** Any solid waste facility to be established, operated, or maintained for intermediate or final disposal of solid waste that has any nonconforming site present on the property, whether historical or present, shall first comply with section 14.00 below and other applicable sections of this ordinance before making application to the department for licensing as a solid waste facility.
- J. **FAILURE TO ACT ON LICENSE APPLICATION.** If the county fails to act within ninety (90) days of receipt of a properly completed initial application, the applicant may request a hearing on the application. The 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. The request for hearing shall be governed by section 3.17.
- K. **NOTICE OF DENIAL AND RIGHT TO APPEAL.** If the county denies a license to an applicant, 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 ten (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 3.17.
- L. **MULTIPLE OPERATION FACILITIES.** The county board, at its discretion, may issue one license to a person who operates or proposes to operate two or more solid waste facilities within the same site boundary. This multiple operation license may be approved when the combined operation of two or more solid waste facilities is such that administration and enforcement of this ordinance and license conditions are most efficiently or appropriately served by one license. Each solid waste facility licensed under the multiple operation license must comply with all of the requirements of this ordinance that apply to solid waste facilities of that type, including the payment of application and license fees. The department shall work with a person operating or proposing to operate under a multiple operation license to avoid unnecessary duplication and efforts in license application, record keeping and reporting processes. The issuance of a multiple operation license shall be based on recommendation by the department to the county board or request by the facility and approval by the county board. Renewals of a multiple operation license may be issued by the department if originally issued by the county board.

### **3.04 DUTY TO COMPLY WITH LICENSE CONDITIONS.**

- A. **OPERATIONAL CONDITIONS.** The licensee shall comply with the operational conditions stated in the solid waste facility license as approved by the county. Major modifications (section 3.14) of the operation by the licensee, as determined by the department, must be approved by the county board. Failure of the licensee to comply with such operational conditions or any major modifications to the same is a violation of this ordinance and the licensee is subject to the penalties provided herein.
- B. **LICENSE WITH SPECIAL CONDITIONS.** A license may be granted that is contingent upon compliance with special conditions specified in the license. Such conditions, if any, 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 special conditions is a violation of this ordinance and is subject to the penalties provided herein.

### 3.05 REQUIREMENT TO SUBMIT A CLOSURE PLAN.

Unless otherwise provided by the county board, issuance of any solid waste facility license pursuant to the provisions of this ordinance shall be contingent upon the applicant submitting to the county a closure plan.

This closure plan must address closure of the facility in a manner that eliminates, abates, mitigates, or controls the escape of pollutants to soil, ground or surface waters, or to the atmosphere during the closure and post-closure period. This closure plan requirement also applies to nonconforming sites.

- A. COUNTY REVIEW OF CLOSURE PLANS. All solid waste facility closure plans shall be subject to review, adjustment, and approval by the county at the time of licensure. The county shall act on the adequacy of each closure plan on or before December 31 of each calendar year in which a license is renewed or at such other times as may be appropriate.
- B. COUNTY APPROVAL OF CLOSURE PLANS. Determination of adequacy of closure plans for solid waste facilities and nonconforming sites shall be reviewed, evaluated, and approved by the department pursuant to section 3.06.

### 3.06 CLOSURE PLAN REQUIREMENTS.

- A. APPLICABILITY. The requirements of this section are applicable to the closure and post-closure activities of all licensed and unlicensed intermediate and final disposal sites and nonconforming sites located within the county. The department, in consultation with the applicant, shall determine whether any requirements do not apply to the site or facility. The department may require information in addition to that required in this section.
- B. CONTENTS OF CLOSURE PLAN. The closure plan shall address, at a minimum, each of the following areas unless otherwise determined by the department:
  - 1. Dates of Operation. The closure plan must indicate the first day waste was/will be accepted and the estimated last day of acceptance of waste for disposal.
  - 2. Chronological Record of Waste Acceptance. The closure plan must provide a chronological history of the phases, lifts, cells, direction, area and depth, and cover of disposed waste. The history must be correlated with section 3.06(B)(3) below (types, composition, and dates of acceptance of waste). This part of the closure plan must be updated at the time of re-licensure.
  - 3. Notarized Affidavits. The closure plan shall indicate the type of waste accepted by providing at least two notarized affidavits from persons knowledgeable about the disposal site. The affidavits shall list the types, composition, and volume of waste disposed of on the property and include the names of haulers and generators, waste locations, and approximate waste disposal dates. The affidavits shall be accompanied by supporting documents including: tests, manifests, hauling records, generation records, list of co-disposals, segregated disposal and hazardous wastes accepted. Such affidavits shall include disclosure by the disposal site owner, operator, and/or employees who have knowledge of the above. This part of the closure plan must be updated at the time of re-licensure.
  - 4. Lists of Names of Important Persons. The closure plan shall provide a list of individuals (names, affiliations, addresses, telephone numbers) who are knowledgeable of the siting, design, construction, operation, maintenance, and closure of the site. It should include the location of the disposal site, operating records (gate receipts, tax records), consulting engineers, attorneys, property owners, government officials, and neighbors (commercial, industrial, residential, agricultural).

5. Copies of Important Regulatory Documents. The closure plan may reference state, county, and local government documents pertinent to the closure plan. These shall then be considered part of the closure plan.
6. Deviations from Specifications. The closure plan shall provide a description and documentation of any deviations from previously approved and/or planned site design, construction, operations, maintenance, closure, post-closure engineering design plans and specifications. Such deviations may be subject to county board approval.
7. Narrative Report. The closure plan must provide narratives of how the facility will be physically closed, in a manner that provides for each of the following:
  - a. Access control. Description of site security (fences, gates, berms) provided by the operator.
  - b. Final Cover. Thickness and type of final cover material approved by the department (describe location of cover material, engineer's report on tests, costs for purchase, transport, and application). This is not applicable to intermediate disposal facilities.
  - c. Landscape Maintenance. Elimination of volunteer vegetation (trees, deep-rooted brush, plants). This is not applicable to intermediate disposal facilities.
  - d. Establishment of Vegetation. Establishment of approved vegetation that promotes drainage and evapotranspiration, and controls erosion.
  - e. Slopes. Minimum of 3% and maximum of 20% slope over entire fill for sanitary landfills and special waste landfills and a minimum of 2% and maximum of 20% for demolition waste landfills. This is not applicable to intermediate disposal facilities.
  - f. Cover Maintenance. Elimination of settlement, subsidence or collapse by appropriate repair with cover material and re-establishment of vegetation and slope-drainage pattern. This is not applicable to intermediate disposal facilities.
  - g. Drainage. Drainage plan, including diversions, ditches, under-drains and ponds (all man-made and natural structures).
  - h. Covenants and Easements. Location and description of all covenants and easements for the site.
  - i. Pipelines and Utilities. Location of pipelines, powerlines, telephone lines, roads, government boundary markers, monuments, and other survey points present at the facility site.
  - j. Timeframes. The timeframes within which the solid waste facility's closure actions will be completed.
  - k. Post-Closure Maintenance Plan. A post-closure maintenance plan, addressing self-inspection frequency, designated responsible person, record keeping, access control, site security, final cover thickness, settlement repair, slope, erosion control mechanisms, turf maintenance, vegetation maintenance, vermin control mechanisms, odor control, dust control, leachate seeps, gas venting mechanisms, vandalism, illegal dumping or other illegal use of property, elimination of volunteer vegetation, flood damage, water and methane monitoring well maintenance, sample collection, analysis frequency, parameters to be analyzed, and updating of plans and specifications if any changes are required.
8. Narrative of End Use. The closure plan must provide a narrative of the proposed end use of the facility or nonconforming site. The narrative shall include the proposed zoning, municipal permitting,

structures, including parking lots, utilities, and types of vegetation to be planted, for each step leading to the intended final use of the property.

9. Drawings and Engineering Plans. The closure plan must provide drawings and engineering plans that depict the proposed method of closing the site, including each of the following:
  - a. Existing Conditions Map. An existing conditions map that provides the contours of the site(s) existing at the time of the proposed closure. The scale of the map must be 1" = 200' with a contour interval of two feet.
  - b. Final Contour Map. A final contour map describing the final contours that will be established at the site. The scale of the map must be 1" = 200', with a contour interval of two feet. All proposed landfill contours shall be designed with proper slope to prevent ponded water conditions.
  - c. Cross Section or Profile Maps. Cross sections or profiles shall be referenced in the final contour map and shall depict at least two typical cross sections or profiles of the site. The cross sections or profiles shall be provided in at least north/south and east/west directions through the site. Information depicted on the cross sections shall include depth of water table, geologic subunits underlying the site, depth of waste material, depth of each layer of final cover material, including topsoil thickness and vegetation. Additional cross sections or profiles may be necessary to identify and describe changes and deviations and variable site conditions. If monitoring wells are present, indicate their locations on the map and include any relevant documents such as well logs.
  - d. Surface Drainage Plan. A surface water drainage plan at a scale of 1" = 200'. Drainage patterns shall be indicated by arrows. The design of the surface drainage must be compatible with that of the surrounding area. All surface runoff from areas tributary to the disposal site(s) must be diverted away from the disposal areas. Drainage devices such as channels or culverts to bypass storm runoff from processing or disposal areas should be adequately sized to carry the required flow capacity (ordinarily designed for 100-year flood). Describe drainage properties of waste materials or leachate. The plan should evaluate the downslope drainage patterns of the disposal site(s) and the most likely spots that wastes or leachate may appear as a surface water discharge. In areas where there is a potential for surface water discharge of leachate, subsurface underdrains and interceptors underlying a disposal site, or special collection facilities at the downslope/downgradient side may have to be provided to ensure leachate collection and treatment as approved by the department.
  - e. Other Plans and Specifications. In addition to the plans, drawings, and specifications required, it may be necessary to prepare additional documents to depict other design features such as well installation and liner design.
10. Evaluation of Leachate and Gas Generation and Migration. The owner or operator of the site or facility must evaluate the potential for leachate and gas generation and migration. The evaluation must be based on a number of factors including, but not limited to: the site location; boundaries and area/depth of waste disposal; the types of waste present (including prohibited waste); and proximity to homes and other dwellings and sensitive environments such as lakes, rivers, and wetlands. A negative evaluation does not preclude the requirement of a reevaluation at a later date.
11. Gas and Leachate Monitoring Plan. If there is a potential for gas and leachate generation and migration based on the evaluation (section 3.06(B)(10) above), provide plans and specifications for monitoring. The plans shall be prepared by a registered engineer or other knowledgeable professional certified or recognized by the State of Minnesota, and shall be designed for a minimum of thirty (30) years after closure or such other time period stated in the approved closure plan, as well as conform to all applicable statutes, regulations, rules and ordinances.

a. Gas Monitoring.

The plans and specifications shall provide suitable site drawings that include the locations of the proposed gas monitoring points, the site boundaries and the limits of the waste fill, property lines, adjacent structures within one-quarter mile or within the drainage of any nearby surface waters. The plan must also specify the types of testing that will be done, the types of equipment and materials to be utilized, and the qualifications of the staff who will utilize it.

In the event that shallow probes made with a bar hole punch or another approved method are determined by the department to be inadequate to assess methane and other gas generation and migration, a permanent sampling point gas monitoring system must be installed. Any approved gas sampling system shall be designed to permit steady-state conditions to develop at the sampling horizon and provide representative sampling of landfill gases on at least a monthly basis until there is reasonable verification that gases will not be generated at the site(s) and/or migrate.

b. Surface Water and Ground Water Monitoring.

The plans and specifications must be prepared by a qualified hydrologist or other knowledgeable professional certified or recognized by the State of Minnesota and must propose a surface and ground water monitoring system that includes the location and description of the monitoring system, site boundaries, the limits of the waste fill, the property line, all surface water bodies, hydrogeology and all known wells and boreholes. The proposed design must describe the monitoring plan in sufficient detail to permit the department to determine construction and operation, sample and data collection, selected parameters, and analytical methods.

In consultation with a qualified hydrologist or other knowledgeable professional certified or recognized by the State of Minnesota, the groundwater monitoring plan must initially provide for a minimum of three monitoring wells (two downgradient and one upgradient) or such other arrangement as approved by the MPCA and the county. Additional monitoring wells may be required. The plan must also include an initial sampling following well development and completion, and propose a frequency of monitoring for MPCA routine and extended water monitoring parameters. Thereafter, at a minimum, samples must be collected three times per year in May, July, and October for the analysis of MPCA routine parameters, and once per year in July for MPCA extended parameters.

12. Contingency Planning. The closure plan must identify all contingency actions (remedial and/or corrective actions) necessitated by the detection of significant concentrations of landfill leachate or gas, or indicators thereof, as well as all other accidents, hazards, and acts of nature, that may reasonably occur after the closure period.
13. Closure/Post-Closure Cost Estimates. The closure plan must determine the costs of completing all outstanding work including any engineering plans and reports, costs of placing cover material and vegetation where applicable, and all other costs necessary to close out and maintain the site. Post-closure contingency action costs must also be included. If equipment, material, or labor will be provided by the owner or operator, the fair market value of such costs must be reported such that the total estimated costs represent the costs that would be charged to a third party if not completed by the owner or operator. The solid waste facility closure plan shall also specify the mechanism(s) to be used to provide financial assurance and, if applicable, the schedule of payments into the financial assurance account, if a cash account or trust has been established.

- C. DUTY TO NOTIFY THE DEPARTMENT OF SIGNIFICANT CLOSURE ACTIVITIES. Seven days prior to the commencement of any significant closure activity, the department must be notified by phone and by written correspondence. Activities that meet this requirement include placement of cover material, installation of monitoring systems, and establishment of final vegetation.
- D. IMPLEMENTATION. The solid waste facility shall implement all actions described in the closure plan within the timeframes established in the closure plan.
- E. CERTIFICATION OF CLOSURE. After completion of closure actions as specified in the closure plan, the solid waste facility shall provide a certification of closure to the department.
- F. FINAL CLOSURE INSPECTION. The department may require final inspection to verify closure of the site(s) or portions of a site. A backhoe, bulldozer, or other suitable equipment must be available to verify the depth, consistency and suitability of the cover material. Persons in attendance should include the engineer, the owner and/or operator, and the equipment operator if other than the site operator. Representatives of other regulatory units having jurisdiction over the site(s) should also be in attendance.
- G. FILING OF DISCLOSURE NOTICE. Upon completion of the final inspection of a final disposal solid waste facility, the owner or operator shall file a solid waste disposal disclosure notice that meets the requirements of this ordinance with the Dakota County Property Records Department and on a form approved by the department. The department must approve such notice prior to filing. The solid waste disposal disclosure notice shall be properly signed, dated, and notarized and shall contain, at a minimum, the following information:
  - 1. The legal description of the solid waste facility;
  - 2. The type and location of the buried solid waste on site;
  - 3. The cover material used to cover the solid wastes;
  - 4. The restrictions, if any, for use of the property; and
  - 5. A certification by the owner or operator of the solid waste facility that to the best of the owner or operator's knowledge, the information contained in the solid waste disposal disclosure notice is true and complete.
- H. APPROVAL OF CERTIFICATION OF CLOSURE. Upon verification of closure, the department shall recommend to the county board that the certification of closure be approved and that all financial assurance held by the county be released, except post-closure financial assurance.
- I. SUPERFUND SITE. If a solid waste facility is a superfund site as provided in Minn. Stat. §115B.17, Subdivision 11., states:
 

“When the agency or director has requested a person who is responsible for a release or threatened release to take any response action under subdivision 1., no political subdivision shall request or order that person to take any action which conflicts with the action requested by the agency or director.”

Therefore, to eliminate conflict, the MPCA must approve the Closure Plan prior to approval by the Department, if the site or facility has Superfund status.

**3.07 FINANCIAL ASSURANCE FOR PRE-CLOSURE/OPERATIONAL, CLOSURE, AND POST-CLOSURE PERIODS.**

LICENSE CONTINGENT ON FINANCIAL ASSURANCE. Unless otherwise provided by the county board or the department, issuance of any solid waste facility license pursuant to the provisions of this ordinance shall be



contingent upon the applicant furnishing to the department, financial assurance for pre-closure/operational and closure and post-closure periods 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 solid waste facility license, the amount and financial assurance mechanism previously approved by the county board or department shall continue to be required subject to 3.07 (C) (4). The following applies:

1. Financial assurance is not required if the department determines closure costs are less than \$10,000.
2. Financial assurance between \$10,000 and \$50,000 may be approved by the department.
3. Financial assurance greater than \$50,000 must be approved by the county board.

B. CONDITIONS. The conditions of financial assurance shall include:

1. If the licensee fails to obey any of the requirements or fails to perform any of the acts required by this ordinance during the pre-closure/operational period, closure period or post-closure period of a solid waste facility, the obligor shall release the financial assurance funds to the county.
2. The county shall reimburse the obligor all financial assurance funds previously released to the county that are not used to remedy the failure of the licensee to comply with the requirements of the ordinance, at the close of the pre-closure/operational, closure and post-closure periods, respectively.
3. The obligor will indemnify and save the county harmless from all losses, costs and charges up to the full amount of financial assurance that the county may incur resulting from the failure of the licensee to comply with the terms of its license and this ordinance.
4. Financial assurance may be canceled only upon the obligor giving the department ninety (90) days prior written notice via certified mail.
5. If any financial assurance requirements continue to apply to a solid waste facility, failure to provide the county with replacement financial assurance in the form and amount required by the ordinance and the county board at least thirty (30) days prior to the cancellation date, shall constitute a violation of the ordinance and shall be grounds for a claim against the current financial assurance.
6. The specific financial assurance mechanism(s) and amount(s) utilized by a licensee for closure and post-closure shall be specified in its closure plan in compliance with sections 3.07(C)(2) and 3.07(C)(3).

C. REQUIREMENTS FOR FINANCIAL ASSURANCE MECHANISMS.

1. Pre-Closure/Operational Period Financial Assurance. Licensee shall provide pre-closure/operational period 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 Dakota County. The department shall notify the licensee when financial assurance funds are being withdrawn, and shall state the reasons for such withdrawal.

- b. 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. In general the surety bond must be for purposes and in an amount set by resolution of the county board and must name the County of Dakota as the obligee. 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.

If separate pre-closure/operational period financial assurance has been provided to the county by the licensee, such financial assurance shall be released by the department when the solid waste facility enters the closure period and any pre-closure/operational period violations of the ordinance have been corrected to the satisfaction of the department.

- 2. Closure Period Financial Assurance. A licensee shall provide closure period 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 Dakota County. The department shall notify the licensee when financial assurance funds are being withdrawn, and shall state the reasons for such withdrawal.
  - b. 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. In general the surety bond must be for purposes and in an amount set by resolution of the county board and must name the County of Dakota as the obligee. 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. Trust. A trust acceptable to the County Office of Risk Management and the Dakota County Attorney's Office.
  - e. 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.

If separate closure period financial assurance has been provided to the county by the licensee, such financial assurance shall be released by the department when the solid waste facility enters the post-closure period and all closure period actions as specified in the closure plan have been implemented and/or completed, as determined by the department.

- 3. Post-Closure Period Financial Assurance. Licensees that have post-closure period obligations at a site shall provide post-closure period 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 Dakota County. The department shall notify the licensee when financial assurance funds are being withdrawn and shall state the reasons for such withdrawal.
  - b. Letter of Credit. An irrevocable letter of credit acceptable to the County Office of Risk Management and the Dakota County Attorney's Office may be used to supplement the mechanisms stated above in sections 3.07(C)(3)(a), (b), and (c) until certification of closure is submitted to the department and approved by the county board.
  - c. Bond. A surety bond from a financial institution acceptable to the County Office of Risk Management and the Dakota County Attorney's Office. In general the surety bond must be for purposes and in an amount set by resolution of the county board and must name the County of Dakota as the obligee. 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. Trust. A trust acceptable to the County Office of Risk Management and the Dakota County Attorney's Office.
  - e. 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.
4. Annual Review and Adjustment. All financial assurance 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 solid waste facility specifications, operations, and/or closure plan. . 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 five percent and changes to the mechanism; the county board must approve larger adjustments made to the amount of financial assurance.
5. Failure to Comply with License Conditions. If the licensee fails to abide by any license conditions, the county board may adjust the financial assurance requirements, including the amount and mechanism(s) required.

### **3.08 INSURANCE REQUIRED; SOLID WASTE FACILITIES.**

A licensee shall provide and maintain at all times during the term of the license, such insurance coverages as set forth in this section and otherwise comply with the provisions that follow. Such policy(ies) of insurance shall apply to the extent of, but not as a limitation upon or in satisfaction of, the license indemnity provisions. The provisions of this section shall also apply to all subcontractors, sub-subcontractors, and independent contractors engaged by the

licensee with respect to the license. The licensee shall be entirely responsible for securing the compliance of all such persons or parties with these provisions.

A. WORKER'S COMPENSATION.

1. Worker's compensation insurance shall be in compliance with all applicable state statutes. Such policy shall include employer's liability coverage in at least such amounts as are customarily issued in Minnesota and an all states or universal endorsement, if applicable.
2. In the event a licensee is a sole proprietor and has elected not to provide workers' compensation insurance, the licensee shall be required to execute and submit to the department an affidavit of sole proprietorship in a form acceptable to the department.

B. GENERAL LIABILITY.

1. Commercial general liability coverage (Insurance Services Office form title), providing coverage on an "occurrence", rather than on a "claims made" basis, which policy shall include, but shall not be limited to, coverage for bodily injury, property damage, personal injury, contractual liability (applying to this contract), independent licensees, "XC&U" and products-completed operations liability (if applicable). Such coverage may be provided under an equivalent policy form (or forms), so long as such equivalent form (or forms) affords coverage that is at least as broad. An Insurance Services Office "Comprehensive General Liability" policy that includes a "Broad Form Endorsement", GL 0404 (Insurance Services Office designation) shall be considered to be an acceptable equivalent policy form.
2. The licensee shall maintain at all times during the period of the license a total combined general liability policy limit of at least \$1,000,000 for each occurrence and \$2,000,000 aggregate applying to liability for bodily injury, personal injury, and property damage, which total limit may be satisfied by the limit afforded under its "Commercial General Liability" policy, or equivalent policy, or by such policy in combination with the limits afforded by an "Umbrella" or "Excess Liability" policy (or policies), provided that the coverage afforded under any such "Umbrella" or "Excess Liability" policy is at least as broad as that afforded by the underlying "Commercial General Liability" policy (or equivalent underlying policy).
3. Such commercial general liability policy and "Umbrella" or "Excess Liability" policy (or policies) may provide aggregate limits for some or all of the coverages afforded thereunder so long as such aggregate limits have not, as of the beginning of the term or at any time during the term, been reduced to less than the total required limits stated above and further that the "Umbrella" or "Excess Liability" policy provides coverage from the point that such aggregate limits in the underlying comprehensive general liability policy become reduced or exhausted.

C. AUTOMOBILE LIABILITY. Business automobile liability insurance shall be obtained and shall cover liability for bodily injury and property damage arising out of the use, maintenance, or operation of all owned, non-owned and hired automobiles and other motor vehicles. Such policy shall provide total liability limits for combined bodily injury and/or property damage in the amount of at least \$1,000,000 per accident, which total limits may be satisfied by the limits afforded under such policy or by such policy in combination with the limits afforded by an "Umbrella" or "Excess Liability" policy(ies) provided that the coverage afforded under any such "Umbrella" or "Excess Liability" policy(ies) shall be at least as broad with respect to such business automobile liability insurance as that afforded by the underlying policy. Unless included within the scope of the licensee's commercial general liability policy, such business automobile liability policy shall also include coverage for motor vehicle liability assumed under contract.

D. ADDITIONAL INSURANCE. The county may require a licensee to undertake an annual insurance evaluation, conducted by an independent evaluator selected by the county, which evaluator shall be

reasonably acceptable to licensee. The county may, at any time during the period of the license, require that licensee secure any additional insurance, or additional feature to existing insurance, as is recommended by such evaluation as reasonably required for the protection of the county's interests or those of the public. In such event, licensee shall proceed with due diligence to make every good faith effort to promptly comply with such additional requirement(s).

- E. **EVIDENCE OF INSURANCE.** A licensee shall promptly provide the department with evidence that the insurance coverage required hereunder is in full force and effect at least twenty (20) days prior to the granting of a license by the county board. At least thirty (30) days prior to termination of any such coverage, licensee shall provide the department with evidence that such coverage will be renewed or replaced upon termination with insurance that complies with these provisions. Such evidence of insurance shall be in the form of a "Certificate of Insurance" or in such other form as the department may reasonably request and shall contain sufficient information to allow the department to determine whether there is compliance with these provisions. At the request of the department, the licensee shall, in addition to providing such evidence of insurance, promptly furnish the department with a complete (and if so requested, insurer-certified) copy of each insurance policy intended to provide coverage required hereunder. All such policies shall be endorsed to require that the insurer provide at least a sixty (60) day notice to the department prior to the effective date of policy cancellation, non-renewal, or material adverse change in coverage terms. The licensee's insurance agent shall certify on the certificate of insurance that he/she has error and omissions coverage.
- F. **INSURER: POLICIES.** All policies of insurance required by this ordinance shall be issued by financially responsible insurers licensed to do business in the State of Minnesota, and all such insurers must be acceptable to the department. Such acceptance shall not be unreasonably withheld or delayed. An insurer with a current A.M. Best Company rating of at least A:VII shall be conclusively deemed to be acceptable. In all other instances, the department shall have twenty (20) business days from the date of receipt of a licensee's evidence of insurance to advise the licensee in writing of any insurer that is not acceptable to the county. If the department does not respond in writing within such twenty (20) day period, the licensee's insurer(s) shall be deemed to be acceptable to the county.
- G. **LOSS INFORMATION.** At the request of the department, the licensee shall promptly furnish loss information concerning all liability claims brought against a licensee (or any other insured under licensee's required policies) that may affect the amount of liability insurance available for the benefit and protection of the county under this ordinance. Such loss information shall include such specifics and be in such form as the department may reasonably require.

### **3.09 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 a licensee's obligations (whether expressed or implied) under this ordinance.

### **3.10 TERM OF LICENSE; RENEWAL; REISSUANCE; LICENSE NOT TRANSFERABLE.**

This section applies to the licensure of solid waste facilities. The issuance and renewal of solid waste hauler licenses are governed by section 15.00 of this ordinance.

- A. **TERM OF LICENSE.**

1. Unless otherwise provided by the county board, the initial term of a solid waste facility license granted pursuant to the provisions of this ordinance shall be for up to one year but shall expire on December 31 of the year the license is granted, unless sooner suspended or revoked.
  2. Unless otherwise provided by the county board, the term of a solid waste facility license that is renewed pursuant to the provisions of this ordinance shall be two years but shall expire on December 31 of the second year, unless sooner suspended or revoked.
  3. Unless otherwise provided by the county board, the term of a solid waste facility license that is amended during the license term, shall be until December 31 of the year the license is amended, except if the amendment is granted after July 1, in which case the term shall be until December 31 of the second year, unless sooner suspended or revoked.
- B. **RENEWAL.** Application for renewal of a solid waste facility license shall be made in writing to the department by October 1 of the expiration year and shall be signed by an individual authorized to act on behalf of and bind the licensee. Application for a solid waste facility license renewal shall contain a statement of any changes in the information submitted from the last approved solid waste facility license application. The licensee shall submit to the department financial assurance information including the financial assurance mechanism used, the amount of bond or letter of credit, cash on deposit, amount in a depository account or trust account and other information requested on a form provided by the department. Failure to submit such information is grounds for revocation or for not granting renewal of the solid waste facility license by the county board. If there are no changes in financial assurance, it shall be so stated in the solid waste facility license renewal application.
- C. **DENIAL OF RENEWAL AND RIGHT TO APPEAL.** If an application for license renewal is denied, the county shall notify the applicant in writing of the denial. The notification shall be served by the county 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 ten (10) county working days of the service of the notification of the denial of license renewal, exclusive of the day of service. Following timely service of a request for hearing, the county board shall set a time and place for the hearing pursuant to section 3.17.
- D. **REISSUANCE.** A solid waste facility license that has terminated without being renewed may be reissued by the county board, provided that said license was not terminated for failure to comply with special conditions or for suspension or revocation, provided that the facility did not operate during the period for which no license was granted and provided that the facility is in full compliance with this ordinance.
- E. **LICENSE NOT TRANSFERABLE.** Any license granted under this ordinance may not be transferred.

### **3.11 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, license fees required by this ordinance. License fees shall be established each year for the subsequent calendar year, except for hauler license fees, which shall be established by March 1<sup>st</sup> of each year.
- C. **FEE FOR SERVICE.** The county board shall establish, by resolution, a fee for service and such other fees as determined by the department to be appropriate and exclusive of the aforementioned fees.

### 3.12 OFF-SITE REUSE OF MINIMALLY CONTAMINATED SOIL FROM DEVELOPMENT PROJECTS AND ROAD CONSTRUCTION PROJECTS.

- A. DEFINITION OF MINIMALLY CONTAMINATED SOIL. For purposes of this section, “minimally contaminated soil” means excess soil from a development project or a road construction project that is not clean fill as defined in section 2.13 above, but which meets all of the following field screening and contaminant concentration criteria:
1. Contains less than one percent by volume solid waste, debris, or asbestos-containing material and is free from visual staining and chemical odor;
  2. Organic vapors less than 10 ppm, as measured by a photoionization detector (PID);
  3. For petroleum-impacted soil, less than or equal to 100 mg/kg diesel range organics (DRO)/gasoline range organics (GRO); and
  4. For contaminants detected in soil, less than or equal to the MPCA’s Residential Soil Reference Values (SRVs) and Tier 1 Soil Leaching Values (SLVs) except for the following modification:
    - a. Lead – 100 ppm.

For purposes of this section, minimally contaminated soil is not a solid waste.

- B. USE OF MINIMALLY CONTAMINATED SOIL. Notwithstanding any provision in this ordinance to the contrary, minimally contaminated soil may be reused as fill on real estate parcels located within the county that are zoned industrial or commercial by the applicable zoning authority; subject to the conditions set forth in section 3.12(B)(1)-(5) below.
1. Prohibited Placement Locations. Placement of minimally contaminated soil is prohibited at the following locations:
    - a. Residential or recreational properties, schools, playgrounds, or daycare facilities.
    - b. Gardens or real estate parcels zoned as agricultural by the applicable zoning authority.
    - c. Within 10 vertical feet of the groundwater table.
  2. Exclusions.
    - a. Any excess soil and other material generated at a redevelopment site that is regulated as either solid or hazardous waste must be managed according to applicable solid waste or hazardous waste laws, including:
      - i. Soil that is characteristically hazardous or contaminated due to a release of a listed hazardous waste, as defined in Minn. R. ch. 7045.
      - ii. Waste material such as salvaged bituminous, crushed concrete, bricks, fly ash, etc. proposed to be reused as fill. The beneficial reuse of solid waste is governed by section 6.08 of this ordinance.
    - b. The management and reuse of dredged material may be regulated by permit or subject to other regulations. Information about the management of dredged materials may be obtained from the MPCA.

3. Sampling.

- a. Sampling Decisions. Decisions of whether to sample soil for contamination prior to reuse under this section should be based on the history of the source area, the nature of the source material, the extent to which the soil has been previously characterized, and other factors that are part of a due diligence assessment of the environmental condition of the source property.

If the soil originates from a site where known or potential sources of contamination are present, samples of the soil must be collected for field screening and laboratory analyses. Examples of sites where environmental due diligence may reveal known or potential sources of contamination include sites where contamination was previously identified as a result of regulatory action or voluntary investigation, previously developed sites (commercial, industrial, recreational or residential), agricultural properties, or land that may have been subject to dumping, spills or historic filling activities.

- b. Sample Type and Frequency. The frequency and type of samples should be based on the potential sources of contamination, the depth, volume and heterogeneity of the source material and the availability of existing data. At a minimum, analytical parameters must include volatile organic compounds, polycyclic aromatic hydrocarbons (PAHs), Resource Conservation and Recovery Act (RCRA) metals, DRO and GRO. Other contaminants of concern should be included as appropriate, based on the history of the source location. Analytical data must be recent and representative of the source material.

Some soils even slightly impacted by heavy metals have the potential to leach at concentrations at or above the Toxicity Characteristic Leaching Procedure (TCLP) regulatory limit. A TCLP analysis for RCRA metals must be conducted if the soil concentration of a metal is 20 times or greater than the TCLP regulatory criteria.

A typical frequency for the field screening of potentially contaminated soil using a PID is one measurement for every 10 cubic yards of soil. For analytical samples, the stockpile sampling guidance presented in Section 7.3 of the MPCA's Site Characterization and Sampling document can be used as a frame of reference for the appropriate sampling frequency based on soil volume. Soil sampling guidelines for the MPCA's Petroleum Remediation Program are presented in MPCA Guidance Document 4-04.

- c. Records. Any person removing, placing or receiving any minimally contaminated soil under this section must retain all records used in making the determination that the soil is minimally contaminated as defined in this section. The Department has the authority to inspect these records in accordance with section 3.13(C) of this ordinance. The records required by this section shall be maintained for a minimum period of 6 years.
4. Cover. Following placement, the minimally contaminated soil must not be left bare and must be covered within a reasonable amount of time with an appropriate cover material that prevents runoff and erosion. Vegetation is an acceptable cover under this section.
5. Compliance with Laws. Any person removing, placing or receiving any minimally contaminated soil must abide by all other applicable federal, state or local laws, statutes, ordinances, rules and regulations or any other legal obligation (including any environmental covenants).

### 3.13 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 shall not be limited to the following:
1. To review and consider all initial license applications submitted to the department for approval by the county board for operation of solid waste facilities within the county and after due consideration, the department shall recommend in writing, with documentation to the county board, that a license be granted or denied.
  2. To issue renewal licenses, except in cases of major modifications or as otherwise provided in this ordinance, when no major changes in conditions or information from when the existing license was issued are identified by the licensee or come to the attention of the department.
  3. To inspect solid waste facilities as herein provided, to investigate complaints, and to identify violations of this ordinance.
  4. To recommend, when necessary, to the Dakota County Attorney's Office, that legal proceedings be initiated against a certain person or facility to compel compliance with the provisions of this ordinance or to terminate the operation of the same.
  5. To encourage and conduct studies, investigations and research relating to aspects of solid waste disposal such as methodology, chemical and physical considerations, and engineering.
  6. To advise, consult, and cooperate with other governmental agencies in the furtherance of the purposes of this ordinance.
  7. To establish and modify procedures for regulating co-disposal and to require compliance with such conditions prior to disposal.
  8. To prepare agreements with responsible persons to address the closure and post-closure requirements for licensed solid waste facilities and nonconforming sites.
  9. To review requests from licensed facilities for modifications of operation and to determine if such requests are major modifications to the license for purposes of section 3.14. The county board must approve all major modifications of operations.
  10. To approve or deny requests from licensed facilities for modifications that are not major modifications.
- 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 solid 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 be occupied, the authorized agent shall first present proper credentials and demand entry; and if such building or premises be unoccupied, the department shall first make a reasonable effort to locate the owner or other person 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. Inspection and evaluation of solid waste facilities or other sites where the department has reason to believe solid wastes have been or are present shall be made by the department to ensure

compliance with the provisions of this ordinance. The owner, operator, or occupant shall allow the department or its authorized agent access for the purposes of making such inspections as may be necessary to determine compliance with the requirements of this ordinance. The owner, operator, or occupant shall provide requested samples of waste, free of charge, to the department to allow for appropriate tests. The owner, operator, or occupant shall also allow the department, free of charge, to take samples and do tests, as appropriate, of soils, surface waters, ground waters, air, raw materials, products, or other material or residual present at or emanating from the site if such samples and tests will demonstrate whether the owner, operator, or occupant is in compliance with this ordinance.

Because it is not always manifest to the eye or other senses that solid waste or constituents of solid waste are present, the department shall not be required to have overt or obvious reasons to believe a violation has occurred or that solid waste or constituents indicating mismanagement of solid waste are present to take samples of wastes and other materials, as described, and do tests and monitoring as required via appropriate methods and instrumentation. The department need only have reasonable belief that solid waste has been present at the site to take samples and do tests.

The owner, operator, or occupant shall allow free access at reasonable times to inspect and copy, at a reasonable cost, all business records related to an owner's, operator's, or occupant's processing and disposal of solid waste. The owner, operator, or occupant shall allow the department 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.

### **3.14 MAJOR MODIFICATIONS.**

- A. **REQUEST FOR MODIFICATION.** Prior to undertaking any modifications to operations, a licensed solid waste facility must file a written request with the department. The department shall review the request and determine if the request is a major modification.
- B. **MAJOR MODIFICATION DETERMINATION.** Any of the following changes are considered a major modification:
  - 1. The addition or substitution of a waste type or quantity that represents the potential for a significant environmental or public health impact.
  - 2. An increase in the rate at which waste is accepted.
  - 3. A change in the waste management method or addition of a new waste management or leachate management method used at a site or solid waste facility or change to the closure plan.
  - 4. An expansion of a land disposal facility.
  - 5. Any changes impacting the administration of solid waste management in the county, including, but not limited to solid waste surcharge and equity within the regulated community.

Notwithstanding these criteria, a major modification does not include changes or modifications that:

- 1. are included in the license application and operations plan;
- 2. are in conformance with the license; and
- 3. will not reduce the department's ability to monitor compliance with the ordinance.

- C. NEW LICENSE REQUIRED. If the department determines that a modification to operations is a major modification, the solid waste facility must apply for and obtain a new solid waste facility license pursuant to section 3.02. County board approval is required for this new license.

### 3.15 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; issuance of an administrative penalty order if authorized by law; 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 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 physically 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 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.

- 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 the Citation. If the alleged violator does not appear at the place and on the date and time specified on 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 3.15(D)(5) below, or if a property owner does not complete corrective actions within the timeframes stated in a NOV, a stipulation agreement or a 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:
    - (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 thirty (30) days following the service of the abatement notice.

- (3) Notice that the property owner must correct the violation(s) within thirty (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; and
    - (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 3.15(D)(2) below within ten (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 a property owner by certified mail or personal service. Service by certified mail shall be deemed complete upon mailing. If the property owner is unknown or absent and has no known representative upon whom the abatement notice can be served, the department shall post the abatement notice at the property on which the violation is located for a period of thirty (30) days prior to commencing abatement of the conditions on the property that violate this ordinance. The department must 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 ten (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 3.17.
  - 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 Management 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 Management fund balance is subject to the approval of the Department Director 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; and
  - 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 Management 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 from the property owner 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 department's fund balance shall be reimbursed by the recovered costs. The county auditor shall give notice of such reimbursement to the Director of Physical Development, or designee.
5. Emergency Abatement by County. Notwithstanding the requirements of section 3.15(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 section 3.15(D)(3) and (4). The department shall attempt to give verbal notice of the abatement to the property owner immediately, if possible, and written notice within ten (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 enforcement and abatement costs to the county board pursuant to section 3.17.

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 solid 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 timeframes 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 sections 3.15(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. ADMINISTRATIVE PENALTY ORDERS.

If authorized by Minnesota law, the county board shall have the power to issue an administrative penalty order in accordance with Dakota County Ordinance No. 123, Administrative Penalty Orders, for violations of this ordinance, including violation of conditions of a license issued pursuant to this ordinance.

H. LICENSE SUSPENSION AND REVOCATION.

The county board may suspend or revoke a license for violations of this ordinance, in accordance with section 3.16 below. The department may issue a summary suspension of a license for violations of this ordinance in accordance with section 3.16(B) below.

I. COMMENCEMENT OF A CIVIL COURT 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 timeframes, 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 3.15(D)(3) and (4).

### **3.16 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 said license may be suspended by the county board for a period not longer than sixty (60) days or until the violation is corrected, whichever is shorter.
2. Such suspension shall not occur earlier than ten (10) county working days after written notice of suspension 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 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 written request for an appeal hearing with the county board within ten (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 ten (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 3.17.
3. Continued Suspension. If said suspension is upheld and the licensee has not demonstrated within the sixty (60) day period that the provisions of the ordinance have been complied with, the county board may serve notice of continued suspension for up to an additional sixty (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 at 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 summary 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 ten (10) county working days of

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 by certified mail with a copy to the department within ten (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 3.17 below.

3. The summary suspension shall not be stayed pending an appeal to the county board or an informal review by the department head, but shall be subject to dismissal upon a favorable reinspection by the department or favorable appeal to the county board.

C. **SUSPENSION 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 reinspect 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 reinspection 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 on the licensee 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. **REVOCAION.**

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 ten (10) county working days from the time that written notice of revocation from the county board is served on the licensee or, if a hearing is requested, until written notice of the county board's action has been served on the licensee. The notice of revocation 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 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 ten (10) county working days of 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 by certified mail with a copy to the department within ten (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 to be held pursuant to section 3.17 below.

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, or revocation of the license and is subject to claim by the county in accordance with section 3.07.

**3.17 HEARINGS.**



Hearings requested under sections 3.03(I), 3.03(J), 3.10(C), 3.15(D)(2), 3.15(D)(5), 3.16(A)(2), 3.16(B)(2), 3.16(D)(2), 6.05(H), 6.08(B)(10), 15.08(E), 15.08(F), 15.09(F), 15.09(G), and 17.03 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 forty-five (45) calendar days after the date of service of request for a hearing, exclusive of the date of such service. In any event, such hearing shall be held no later than ninety (90) calendar days after the date of service of request for a hearing, exclusive of the date of such service.
- B. NOTICE OF HEARING. The county board shall mail notice of the hearing to the appellant, with a copy to the department and the Dakota County Attorney's Office, at least fifteen (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.
  - 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 THE 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 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, denial of a variance, 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 at issue.
  4. If a pre-hearing conference is held, evidence not divulged as provided above shall be excluded at the hearing unless the party advancing the evidence took all reasonable steps to divulge it to the adverse party prior to the hearing and:
    - a. The evidence was not known to the party at the time of the pre-hearing conference; or
    - b. The evidence is in rebuttal to matters raised for the first time at or subsequent to the pre-hearing conference.
- H. **FAILURE TO APPEAR.** If the appellant fails to appear at the hearing, 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.
- I. **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.

### **3.18 DATA PRIVACY.**

The department shall require that any data received by the department or any entity acting on behalf of the department shall be maintained according to the provisions of the Minnesota Government Data Practices Act, Minn. Stat., Chapter 13.

### **3.19 LIMITATIONS OF ORDINANCE NO. 110.**

The provisions of this ordinance apply only to solid waste. The generation, storage, processing, treating, handling, transportation, or disposal of hazardous waste is governed by the provisions of the Dakota County Ordinance No. 111 (Hazardous Waste Regulation).

### **3.20 FALSE INFORMATION.**

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

### **3.21 DUTY TO NOTIFY DEPARTMENT OF DELIVERY OF HAZARDOUS WASTE.**

Solid waste facility personnel shall notify the department, on the day of delivery, of any load or partial load of hazardous waste delivered to the solid waste facility. The notification shall consist of generator name and address, type of waste, time of delivery, name of the hauler, and action taken by solid waste facility personnel.

### **3.22 HIGHEST STANDARDS PREVAIL.**

Where the conditions imposed by any provision of this ordinance are either more restrictive or less restrictive than comparable conditions imposed by any provision of this ordinance or any other applicable law, ordinance, rule and regulation, the provision that establishes the higher standards for the promotion and protection of the public health, safety and general welfare shall prevail.

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## **SECTION 4.00 SOLID WASTE SURCHARGE**

This section is adopted pursuant to the authorization contained within Minn. Stat. §115A.919 (county fee authority).

A facility that has executed a Host Fee Agreement with the County is not subject to the provisions of Section 4.00 through 4.04 of this ordinance during the term of the Host Fee Agreement. If a facility Host Fee Agreement has expired or otherwise been terminated and the facility has not entered into a subsequent Host Fee Agreement, Sections 4.00 through 4.04 apply to the facility effective the day after expiration or termination of the Host Fee Agreement.

### **4.01 FEE ON OPERATORS OF DISPOSAL FACILITIES.**

- A. **BASE FEE.** Operators of facilities that accept and dispose of mixed municipal solid waste in Dakota County shall pay a surcharge fee on solid waste accepted and disposed at the facility, as described in section 4.02.
- B. **OUT-OF-COUNTY FEE.** Operators of facilities that accept and dispose of mixed municipal solid waste in Dakota County shall pay an additional out-of-county surcharge fee on solid waste, as established and described in section 4.02, collected in Minnesota, but outside Dakota County, and disposed at facilities accepting mixed municipal solid waste in Dakota County. This out-of-county fee shall not apply to demolition waste that is disposed in a designated working face separate from mixed municipal solid waste or to waste disposed pursuant to a codisposal plan approved by Dakota County. All vehicles transporting solid waste shall be registered at the entrance of the solid waste facility.

### **4.02 AMOUNT OF FEES.**

The surcharge fees described in section 4.01 above shall be established and revised by resolution of the county board. The fees shall be calculated in accordance with section 4.04. Loads that are of mixed origin and are partially from Dakota County and partially from outside of Dakota County shall be subject to a prorated out-of-county fee on the portion generated outside of Dakota County. Charges for passenger cars and pick-up trucks shall be in accordance with the rules promulgated by the Minnesota Commissioner of Revenue pursuant to the Metropolitan Landfill Abatement Act and shall be prorated in accordance with the ratio between the state fee and the county fees.

### **4.03 EXEMPTION FROM FEES.**

- A. **WASTE RESIDUALS.** Waste residuals from energy and resource recovery facilities at which solid waste is processed for the purposes of extracting, reducing, converting to energy, or otherwise separating and preparing solid waste for reuse shall be exempt from the fee imposed if there is at least an eighty-five percent (85%) reduction in the weight of the solid waste processed. To qualify for exemption under this section, residuals must be brought to the final disposal facility separately. Before any fee exemption is allowed, the verification procedures referenced by Minn. Stat. §473.843, subd. 1(c) must be followed and submitted to the department.
- B. **COVER MATERIAL AND LINING.** When solid waste that is accepted at a mixed municipal solid waste facility is not disposed of in the body of the facility, but is used in the operation of the facility as cover material or lining material, the solid waste may be exempt from the amount of the fees charged. The generator of the waste shall continue to pay a surcharge on this waste until receiving written approval from the department as to the suitability of material for cover material or lining.

#### **4.04 RETURNS, FEE PAYMENT EXTENSIONS AND REPORTING REQUIREMENTS.**

- A. **FILING OF RETURNS AND PAYMENT OF FEES.** Any operator subject to the fees imposed by this section shall file a surcharge fee monthly return on a form prescribed by the department. The return must be signed by the operator or by a person authorized by the operator to do so. The return shall be filed with the department on or before the twentieth day of the month immediately following the month in which the solid waste was received at the facility and must be accompanied by payment of the fees described in section 4.02.
- B. **EXTENSIONS.** The department may extend for reasonable cause the time for filing returns and remittance of fees for not more than sixty (60) days. The department may require the filing of an estimated return at the time fixed for filing the regularly required return and may require the payment of the estimated surcharge fees on the basis of such estimated return.
- C. **CALCULATION OF SURCHARGE FEE.** Although all solid waste must be weighed pursuant to section 6.05(L), the Dakota County surcharge fee shall be calculated based on measurements made at the scale located at the sanitary landfill as follows:
  - 1. Solid waste shall be measured in pounds or tons. As an alternative, solid waste may be measured in cubic yards if the volume capacity of a vehicle or conveyance is registered with and approved by the department. Any vehicle or conveyance that has not been registered with and approved by the department must pay the surcharge fee based only on weight as described in section 4.04(C)(3) below.
  - 2. For solid waste accepted by a sanitary landfill that is measured in pounds or tons, the sanitary landfill shall use the conversion factor of one ton equals 3.33 cubic yards to calculate the surcharge fee described in this section.
  - 3. The measurement of solid waste in pounds or tons shall be based on the difference between the tare weight of the vehicle and/or conveyance and the scale weight of the loaded vehicle and/or conveyance.
  - 4. A sanitary landfill shall determine the volume of solid waste based on the volume capacity of the vehicle or conveyance transporting the solid waste. All loads that are measured by volume shall be considered to be at full capacity. Partial loads must pay the county surcharge based on weight or the full volume capacity of the vehicle and /or conveyance.
- D. **MONTHLY RETURN.** The surcharge fee monthly return shall include:
  - 1. The amount of all solid waste accepted and disposed at the sanitary landfill;
  - 2. The amount of out-of-county solid waste accepted and disposed at the sanitary landfill;
  - 3. The surcharge fee due, computed by multiplying the total cubic yards if measured as such, or converted cubic yards if measured in pounds or tons, times the surcharge fee as set by county board resolution;
  - 4. The out-of-county fee due, if any, on the out-of-county solid waste computed by multiplying the total cubic yards of out-of-county waste if measured as such, or converted cubic yards if measured in pounds or tons, times the surcharge fee as set by county board resolution;

5. The amount of solid waste received that is exempt from the surcharge fee imposed by this section and documentation substantiating the exemption, including the name of the generator, where appropriate;
  6. Such other information as may be required by the department in order to administer this section; and
  7. Every third month, a report on electronic storage media in a form acceptable to the department summarizing the solid waste received and disposed at the sanitary landfill during the previous three months, itemized by load, that shows hauler name and unique vehicle identification, the generator name, where appropriate, for solid waste exempted from the surcharge fee, waste type, tare weight, gross weight and the number of cubic yards if surcharge was assessed based on volume, or the number of tons if the surcharge was assessed based on weight.
- E. FAILURE TO FILE RETURN. If any operator required to file any return shall fail to do so within the time prescribed by this section or shall make, willfully or otherwise, an incorrect, false or fraudulent return, such operator, upon written notice and demand, shall immediately file such return or corrected return and at the time pay any fees due on the basis thereof. If such operator shall fail to file such return or corrected return, the department may make for the operator a return, or corrected return, from its knowledge and from such information as the department can obtain through testimony or otherwise and assess a fee on the basis thereof, which fee (less any partial payments for the fee covered by such return) shall be immediately paid upon written notice and demand. Any such return or assessment made by the department shall be prima facie correct and valid and such operator shall have the burden of establishing its incorrectness or invalidity in any action or proceeding in respect thereto. Nothing in this paragraph shall preclude Dakota County from enforcing this section 4.04(E) by pursuing any other remedy authorized by law or ordinance.
- F. RECORDS.
1. Every operator of a sanitary landfill shall keep adequate and complete records showing:
    - a. The total weight of solid waste accepted and disposed based solely on the difference between the tare weight of the vehicle and/or conveyance and the gross weight of the vehicle and/or conveyance by measurements made by the scale located at the sanitary landfill;
    - b. The total number of cubic yards of solid waste accepted on a volume basis for the purpose of surcharge fee payments required by this section;
    - c. General type or types of solid waste accepted and disposed;
    - d. Origin(s) of solid waste accepted and disposed;
    - e. The dates and times of deliveries;
    - f. The hauler(s) that delivered solid waste accepted and disposed at the sanitary landfill; and
    - g. The basis for exemption of solid waste from the surcharge fee, including the name of the generator of solid waste exempted from the surcharge fee, where appropriate.

2. Daily records shall be kept in the form prescribed by the Minnesota Commissioner of Revenue under rule promulgated pursuant to the Metropolitan Landfill Abatement Act (Minn. Stat. §§473.842 – 473.847) and the department.
- G. EXAMINATION OF RECORDS. The county or its designated agent shall have the right to examine and/or copy records required by this section.

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## SECTION 5.00 INDUSTRIAL WASTE MANAGEMENT AND LAND APPLICATION OF WASTE

### 5.01 GENERAL REQUIREMENTS.

Upon application to and approval by the county, a solid waste facility may accept industrial waste, unless prohibited elsewhere in this ordinance. Nonhazardous industrial wastes, including sludge and ash, that are determined by the department to be unacceptable for codisposal may be approved by the MPCA and deemed acceptable by the department for segregated disposal at a solid waste facility provided that they are physically separated from mixed municipal solid waste.

- A. **INDUSTRIAL WASTE MANAGEMENT PLAN REQUIRED.** Prior to acceptance of industrial waste, a solid waste facility shall have a state approved industrial waste management plan, if required by state law. The licensee shall also prepare and submit an industrial waste management plan for review by the department and approval by the county board, independent of any requirement for a state-approved plan. The industrial waste management plan that is submitted to the county may be the same plan approved by the state. At a minimum, the plan must address the requirements of Minn. R. 7035.2535, subp. 5 and this ordinance.
- B. **EXEMPT INDUSTRIAL WASTE.** The following industrial wastes are exempt from the requirements of sections 5.02(A)(1)(2)(3)(6)(7)(8), 5.02(B) and 5.02(C)(3), provided the generator does not mix them with or contaminate them with industrial wastes that are not exempt.
1. Empty containers that did not at any time contain hazardous material or hazardous waste.
  2. Containers that previously held hazardous material, hazardous waste or acutely hazardous waste but are now “empty” as defined in the MPCA Hazardous Waste Rules, Minn. R. 7045.0127. “Empty” containers that previously held acutely hazardous waste must be accompanied by an empty container certification form that is prescribed by the department and signed by the generator.
  3. The following materials used in the construction industry:
    - a. Sewer pipe, plumbing material, hoses; and
    - b. Window frames and glass, untreated wood, ceramic tile, linoleum flooring, sheetrock, fiberboard, fiberglass and other insulation.
  4. The following materials from manufacturing processes or the retail industry:
    - a. Packaging material made from wood, paper and plastic and metal strapping;
    - b. Trimmings such as wood, paper, cardboard, rubber, textiles, felt, plastic, vinyl and wood sawdust;
    - c. Plastic beads;
    - d. Rubber, foam rubber, and rubber products;
    - e. Finished molds for plastic, cement, rubber or other inert materials not including foundry molds; and
    - f. Uncontaminated hoses and belts.



5. The following manufactured products, not including chemical products:
  - a. Finished household or business items such as furniture and cookware;
  - b. Finished construction materials such as shingles and plastic sheeting; and
  - c. Off-specification extrusion products that are manufactured with plastic beads as the raw material.
6. Waste textile materials, along with zippers, Velcro, cloth, felt, leather, and canvas.
7. The following materials from vehicle and equipment repair operations:
  - a. Packaging material made from paper, wood and plastic; and
  - b. Hoses, belts and other items from repaired vehicles or equipment not otherwise prohibited by this ordinance or other regulation.
8. Film scrap from silver recyclers.
9. Power belts, sanding belts, conveyor belts and sanding discs.
10. Zeolite from water purification (ion exchange) devices except for ion exchange resins from metal finishing/plating operations.
11. Ambient air filters.
12. Street sweepings as defined in section 2.00.
13. Alkaline and carbon-zinc batteries that have no added mercury and are not mixed with other hazardous batteries.
14. Non-PCB ballasts.
15. Carbon black.
16. Carpet padding.
17. Ceramic porcelain.
18. Industrial food waste (does not include restaurant waste).
19. Incandescent light bulbs.
20. Pressure tanks with valves removed.
21. Rendering and slaughter house wastes.
22. Sanitary sewer grit and bar screenings.
23. Other wastes approved in writing by the department.

Records of industrial waste accepted under this section 5.01(B), including the type of industrial waste and the name of the generator, shall be kept at the solid waste facility and made available to the department upon request.

## **5.02 REQUIREMENTS FOR ACCEPTANCE OF INDUSTRIAL WASTE AT LANDFILLS.**

A. APPLICATION REQUIRED.

1. Initial Application for Approval. A landfill operator shall submit an application to the department, in accordance with the provisions of this section 5.02(A), for review and approval of each industrial waste proposed to be accepted. No industrial waste shall be accepted for disposal other than those exempted under section 5.01(B), unless the department has approved the industrial waste for disposal in writing.
2. Renewal of Approval. Applications for renewal of department approval for the acceptance and disposal of an industrial waste shall be made in accordance with the provisions of this section 5.02(A). Applications for renewal of department approval that are submitted after the expiration of a previous approval shall be considered new applications.
3. Amendments of Applications. An amendment to an application for review and disposal of an industrial waste shall be submitted whenever there is any change in the information provided in the application required under section 5.02(A)(6), once the application has been submitted to or approved by the department. A change in the volume or frequency of disposal does not require amendment of an application, unless volume or frequency are specific conditions of the department's approval.
4. Acceptance Levels. Chemical constituents in and characteristics of industrial wastes accepted at landfills may not exceed the following acceptance levels except as provided in section 5.02(A)(5):

**County Limit  
(milligrams per liter-TCLP Leachate)**

**Metals**

Arsenic	2.5
Barium	50.0
Cadmium	0.5
Chromium (Metal & CrVI)	2.5
Lead	2.5
Mercury	0.1
Selenium	0.5
Silver	2.5

**Herbicides and Pesticides**

2,4,5-TP	0.5
2,4-D	5.0
Chlordane	0.015
Endrin	0.01
Heptachlor (& Hydroxide)	0.004
Lindane	0.20
Methoxychlor	5.0
Toxaphene	0.25

**Volatile Organic Compounds**

1,1-Dichloroethylene	0.35
1,2-Dichloroethane	0.25
1,4-Dichlorobenzene	3.75
Benzene	0.25
Carbon Tetrachloride	0.25
Chlorobenzene	50.0
Chloroform	3.0
Methyl Ethyl Ketone (MEK)	100.0
Tetrachloroethylene	0.35

Trichloroethylene	0.25
Vinyl Chloride	0.1

**Semi-volatiles**

2,4,5-Trichlorophenol	200
2,4,6-Trichlorophenol	1.0
2,4-Dinitrotoluene	0.065
Cresol	100
m-Cresol	100
o-Cresol	100
p-Cresol	100
Hexachloro-1,3-butadiene	0.25
Hexachlorobenzene	0.065
Hexachloroethane	1.50
Nitrobenzene	1.0
Pentachlorophenol	50.0
Pyridine	2.5

**Other**

**Parts Per Million or Units**

Reactive Cyanide	125 ppm
Reactive Sulfide	250 ppm
PCBs	25.0 ppm
TPH (as oil and grease)	150,000 (15%) ppm
pH	4.01-11.99 units
Flashpoint equal to or less than 140° F	

Only fully cured industrial wastes may be accepted for disposal unless otherwise approved by the department.

5. Request for Deviation From Acceptance Levels. Upon the submittal of an application by a licensee, the department may approve the disposal of an industrial waste that exceeds the acceptance levels in section 5.02(A)(4). The application must provide evidence of the stability of the industrial waste through additional sampling and statistical analysis in accordance with the methodology outlined in SW 846, Chapter 9. In the application, the licensee shall also propose additional review procedures that will be used at the landfill prior to actual industrial waste acceptance and disposal. The information included in the application shall be sufficient to assure the department that the industrial waste is not hazardous and that the industrial waste is suitable to be disposed in the applicant's landfill. The industrial waste shall not be accepted at the landfill until the department has approved the application.
6. Application Form. Application for disposal of industrial waste shall be on a form prescribed by the department and shall include at least the following:
  - a. Identification of the generator;
  - b. Detailed process information;
  - c. Detailed industrial waste description; and
  - d. Certification by the generator and landfill of the accuracy of the information in the application and acceptance of the conditions of approval.

The department may request additional information prior to final approval or denial of an application for disposal.

7. Pre-approval Sampling. Industrial waste testing and sampling data shall be submitted with the application. At a minimum, pre-approval sampling shall address all of the chemical constituents and characteristics listed in section 5.02(A)(4), unless the applicant can demonstrate that sampling for a specific chemical constituent or characteristic is not necessary. An application shall be considered incomplete if sampling data is not representative of the industrial waste or has been collected inappropriately. All required information shall be supplied on a form prescribed by the department. All analytical results on an industrial waste shall be submitted with the application.
8. Fees. The industrial waste review fee, as established annually by the county board, shall be paid for each application and each amendment of an application for disposal of an industrial waste.
9. Mixed Loads. A mixed load is one load from a hauler that is composed of different industrial wastes from different generators in different locations or composed of one or more industrial wastes mixed with other solid wastes that are not industrial wastes, that is delivered to a landfill. Each generator of industrial waste in a mixed load shall make separate application for approval and pay the appropriate review fee. Before a landfill can accept a mixed load, each application for industrial waste in the mixed load must be approved by the department.
10. Combined Loads. A combined load of industrial waste is one load from a hauler that includes either similar industrial wastes from one generator at one location, or the same industrial waste from one generator but from different locations. Before a landfill can accept a combined load, the generator shall make one application for approval and pay one review fee and the application must be approved by the department.

B. DEPARTMENT REVIEW AND APPROVAL.

1. Review Process.

The landfill shall be notified of receipt of an application. Applications for disposal of industrial waste shall be reviewed promptly by the department for completeness. Incomplete applications shall be returned to the landfill.

Following a determination that an application is complete, the department shall review the application to determine if the industrial waste is acceptable for disposal in accordance with the requirements of section 5.02. The department may request additional information prior to a final decision on approval or denial of an application.

2. Notification of Approval.

The department shall give written notification to the generator and the landfill of the department's approval or denial of an application for industrial waste disposal. The department may place special conditions on an approval, if necessary.

Department approval of the disposal of an industrial waste is conditional, and the department may revoke such approval at any time. Revocation may be based on, but is not limited to, the following reasons:

- a. Changes in the chemical composition of the industrial waste;
- b. Changes in the properties of the industrial waste;
- c. Changes in the process producing the industrial waste;
- d. Erroneous or misrepresented data or information; or
- e. New technological or toxicological standards.

3. Term of Approval. The term of department approval for disposal of an industrial waste shall be two years, unless otherwise specified. The department approval shall expire at the end of that time, unless an application for renewal of approval is submitted to and approved by the department.

C. ACCEPTANCE PROCEDURES AT THE LANDFILL.

1. Gate House Review. Each load of industrial waste delivered to a landfill for disposal, unless it is exempt under section 5.01(B) of this ordinance, shall be accompanied by a load manifest that clearly describes the industrial waste and identifies the generator and the origin of the industrial waste. The load manifest shall be compared to the industrial waste characterization data submitted by the generator to ensure that the industrial waste that is delivered to the landfill is the industrial waste approved by the department. Any discrepancies between the load manifest and the industrial waste characterization data must be reconciled before the load is accepted at the landfill.

2. Load Inspection and Review.

All closed containers of each industrial waste shall be opened for inspection and for the sampling and analysis required under section 5.02(C)(3). Sampling and analysis of the industrial waste may be conducted on composite samples. If a composite sample fails the test, the industrial waste in each of the containers used to develop the composite sample also fails the test. Individual sampling of each container comprising the composite may be done to identify the container(s) causing the composite to fail. If the container(s) causing the composite to fail are rejected, the remaining containers may be accepted at the landfill in accordance with this section. One composite sample shall be prepared if there are less than ten (10) containers, and a composite sample of each additional ten (10) containers shall be subjected to the analysis required under section 5.02(C)(3). All containers shall be tested for VOCs as described in this section 5.02(C)(2).

The containers shall be segregated as to similar industrial waste types for composite sampling. Containers holding an industrial waste that has unique characteristics shall be treated and sampled individually rather than as part of a composite.

Each load shall be inspected by landfill personnel either at the gate house or at the working face. When possible, loads shall be inspected prior to dumping and all loads shall be inspected during and after dumping. Landfill personnel shall require that the hauler remain at the working face during load inspection. When the truck and driver leave the working face, the industrial waste is considered to be accepted by the landfill.

At a minimum, the load inspection and review shall consist of the following procedures:

- a. A review of the entire load of waste, comparing the load contents to the industrial waste characterization data in the department approved application for disposal. Discrepancies shall be reconciled before the industrial waste can be accepted for disposal;
- b. Using a PID to check all loads that contain industrial waste. The PID shall be held within six inches of the industrial waste while the test is being performed. A reading of 25 on the PID will require that a jar headspace analysis be done. During inclement weather or at temperatures below 50° F the jar headspace technique shall be used;
- c. A reading of 200 on the PID while using the jar headspace technique shall require that a flash point analysis be done as described in section 5.02(C)(3)(d); and
- d. The department may approve an exemption from the requirements of section 5.02(C)(2)(b) and (c) on a case-by-case basis. Written requests for such an exemption shall be submitted to the department. The term of department approval shall be two years, unless otherwise specified and department approval shall terminate at the end of that time unless a request

for an exemption renewal is submitted to and approved by the department prior to termination of the previous approval. An exemption request submitted at a time other than at the time of the initial or renewal application for disposal shall be charged an additional review fee by the department. A request for exemption shall include the reason for such exemption.

3. Waste Sampling and Analysis.

Landfill personnel shall be trained in the use and calibration of equipment for industrial waste sampling and analysis as described in this section. The equipment that is used shall be capable of producing accurate and precise results.

Prior to an industrial waste being incorporated into the working face of the landfill, a representative sample from each load, shall be analyzed for the following characteristics:

- a. pH - An industrial waste that tests equal to or less than 4.00 pH units or equal to or greater than 12.00 pH units must be rejected unless otherwise approved by the department. If an industrial waste varies by more than 2.0 pH units from the pH as approved in the application, the industrial waste may be rejected or the industrial waste may be further evaluated to determine its suitability for disposal. Landfill personnel must document and keep on file, at the landfill, a record of all pH data on each industrial waste stream that is accepted for disposal and any actions taken by landfill personnel regarding acceptance or rejection of the industrial waste;
- b. Reactivity - An industrial waste must be tested for water, acid, and base reactivity. If an industrial waste tests positive for water reactivity, the industrial waste must be rejected. If an industrial waste tests positive for acid, the industrial waste must then be tested for cyanide and sulfide. If an industrial waste tests positive for hydrogen cyanide or hydrogen sulfide reactivity, further testing must be done to determine whether the concentrations of cyanide and sulfide in the industrial waste are below the acceptance levels in section 5.02(A)(4);
- c. Density - If an industrial waste varies by plus or minus 20% from the density in the approved application, the landfill may reject the industrial waste or may further evaluate the industrial waste before accepting it. In the event a landfill decides to accept the industrial waste, landfill personnel must document the reason for acceptance and keep the documentation on file at the landfill; and
- d. Flash point - An industrial waste that flashes must be rejected. The ASTM procedure [ASTM-E502-84(2000)] for determining the flashpoint of a solid shall be used. The sample of industrial waste must be at 65° - 75° F when conducting the flashpoint test.

The following procedures shall be used for mixed loads and combined loads. Mixed loads and combined loads shall be sampled and analyzed prior to unloading whenever possible. Mixed loads and combined loads that cannot be sampled and analyzed prior to unloading shall be sampled after unloading but shall not be incorporated into the working face until the analysis required in this section indicates that the mixed load or combined load is acceptable for disposal.

Where it is not possible to individually sample each industrial waste in a mixed load or combined load, at least two samples shall be analyzed from a load containing two industrial wastes and at least three samples shall be analyzed from a load containing three or more industrial wastes.

Where possible, industrial wastes in a mixed load or combined load that meet the requirements of this section may be segregated from industrial wastes in a mixed load or combined load that do not meet the requirements and may be accepted for disposal.

4. Exemption from Requirements of Section 5.02(C)(3).

The following industrial wastes are exempt from the analysis required under section 5.02(C)(3), provided such industrial wastes are not mixed with other industrial wastes that are not exempt from the analysis. Wastes that have been exempted from the analysis required by section 5.02(C)(3) must be visually inspected to ensure that the load does not contain waste that is not exempt from such requirements.

- a. Unopened containers of a known material where the MSDS or other manufacturer's data is available;
- b. Coal ash (pH is required);
- c. Windshield glass;
- d. Non-infectious medical waste; and
- e. Grit and bar screening from waste water treatment plants.

The department may approve an exemption from the requirements of section 5.02(C)(3) for other industrial wastes on a case-by-case basis. Written requests for such an exemption shall be submitted by landfill personnel to the department. The term of department approval shall be two years, unless otherwise specified, and department approval shall terminate at the end of that time unless a request for an exemption renewal is submitted to and approved by the department prior to termination of the previous approval. An exemption request submitted at a time other than at the time of the initial or renewal application for disposal shall be charged an additional review fee by the department. A request for exemption from section 5.02(C)(3) shall include documentation and data that indicates that the industrial waste does not exhibit hazardous characteristics, that it will not have a variable analysis, and that the industrial waste has not been treated for disposal.

5. Rejections. On the day of delivery, the landfill shall notify the department of the rejection of any load of industrial waste, the reason for such rejection, the name and address of the generator and the name of the hauler.

6. Records.

Records of each load of industrial waste received and all analysis done at the landfill in accordance with the requirements of section 5.02(C)(3) shall be maintained by the landfill operator for three years. Such records shall include a description of discrepancies between load manifests and the actual load received, along with an explanation of how the discrepancy was reconciled. The records shall be kept on-site and made available for department review.

A record of any load or portion of a load of industrial waste that is rejected by the facility shall be kept on file by the landfill operator for three years. This record shall be available to the department and shall include the generator's name and address or the name of the hauler if the generator is unknown, contact person's name and telephone number, industrial waste type and the reason for rejection.

7. Reporting.

The landfill operator shall report the total volume of industrial waste disposed each quarter to the department in accordance with the requirements of section 6.04(O).

If the composition of an industrial waste that has department approval changes, the landfill operator shall immediately cease acceptance of the industrial waste and shall notify the department within seven days, in writing, of such changes. If the landfill operator wishes to continue to accept such

an industrial waste, the landfill operator shall apply for an amendment to its initial request for approval in accordance with the requirements of section 5.02(A).

### **5.03 REQUESTS FOR VARIANCE FROM REQUIREMENTS OF SECTION 5.02.**

If a landfill operator wishes to propose an alternative industrial waste acceptance program that provides a level of environmental protection equal to or greater than that provided by section 5.02, the county board may grant a variance from requirements in section 5.02. The department shall review such proposals and prepare a recommendation to the county board based on the proposed types of industrial waste and the proposed chemical constituent acceptance levels along with the following criteria:

#### **A. QUALIFICATIONS OF ON-SITE PERSONNEL.**

1. Knowledge of hazardous waste regulations, hazardous waste chemistry, and hazardous waste management;
2. Familiarity with industrial processes; and
3. Demonstrated ability to perform required work.

#### **B. PROPOSED OPERATING PROCEDURES.**

1. Preapproval procedures;
2. Industrial waste acceptance/inspection procedures;
3. Industrial waste characterization procedures;
4. Acceptance/rejection criteria;
5. Laboratory procedures; and
6. Sampling plan and procedures.

#### **C. FACILITY DESIGN.**

1. Liner and cell design;
2. Industrial waste holding areas; and
3. Laboratory.

### **5.04 USE OF INDUSTRIAL WASTE OR CONTAMINATED SOIL AS COVER MATERIAL.**

Industrial waste and minimally contaminated soil may be used as cover material at a landfill licensed to accept industrial waste if approved by the department and if it meets, at a minimum, the following requirements.

- A. INFORMATION REQUIRED. Industrial waste or minimally contaminated soils proposed for use as cover material shall first be evaluated by the landfill and only those wastes that meet all necessary requirements shall be submitted to the department for review and approval along with the following information unless this information is already on file in the department:

1. Quantity of industrial waste or contaminated soil proposed to be used, in volume or tons per year;
2. Source of the industrial waste or contaminated soil;



3. Description of the industrial waste or contaminated soil;
  4. Description of the process that generates the industrial waste or contaminated soil;
  5. All test results on the industrial waste or contaminated soil;
  6. Industrial waste or contaminated soil samples at department request; and
  7. Any additional information deemed necessary by the department to characterize the chemical or physical hazards of the industrial waste or contaminated soil.
- B. CRITERIA. Only those industrial wastes or contaminated soils that satisfy the following criteria will be approved by the department for use as cover material:
1. The industrial waste or contaminated soil must be soil-like or other appropriate material that functions as cover material on its own merits;
  2. The industrial waste or contaminated soil must be easily spread and must spread uniformly;
  3. The industrial waste or contaminated soil must not be subject to tracking;
  4. The industrial waste or contaminated soil must not be a source of sharps or other hazards;
  5. The industrial waste or contaminated soil must not pose a dusting problem;
  6. The industrial waste or contaminated soil must not have a strong or offensive odor;
  7. The chemical constituents of the industrial waste or contaminated soil must be below the limits in section 5.02(A)(4) and must be approved by the department. If other contaminants are present, they must be evaluated and the results thereof provided to the department. The department will issue a written approval or rejection on a case-by-case basis. Department approval will be based on a risk assessment of the potential long-term health effects of the industrial waste or contaminated soil on exposed landfill personnel following department guidelines created using the general USEPA risk assessment guidelines and the MPCA guidelines, and other applicable government guidelines which include hazard evaluation, toxicity assessment, exposure assessment, and risk characterization;
  8. The industrial waste or contaminated soil must have a pH in the range: > 4.5 to < 10.5 and;
  9. The industrial waste or contaminated soil used as cover material must have concentrations of gasoline range organics, diesel range organics and total petroleum hydrocarbons below 5,000 ppm.
- C. LOAD INSPECTION AND REVIEW. Each load of approved cover material must be reviewed by the facility in accordance with section 5.02(C) and the PID reading may not be greater than twenty (20) for the waste to be used as cover material.
- D. APPROVAL LIMIT. The amount of industrial waste or contaminated soil allowed to be used for cover material shall not exceed 23% of the volume of non-cover waste. For the purpose of this section, soil shall have a density of 1.4 tons per cubic yard.
- E. TERM OF APPROVAL. The term of department approval for use of industrial waste or contaminated soil as cover material shall be two years unless otherwise specified. The department approval shall expire at the end of that time unless a request for renewal of approval is submitted to and approved by the department prior to expiration of the previous approval. Requests for renewal of department approval must address the

requirements of this section 5.04. All industrial wastes or contaminated soils used as cover material are subject to on-site inspections. In the event that on-site inspections prove that the characteristics of the industrial waste or contaminated soils are different than those originally approved, department approval may be revoked.

- F. **STOCKPILING.** Contaminated soil approved for use as cover material under section 5.04 may be stockpiled at the landfill pursuant to the following conditions:
  1. The landfill operator must submit a stockpiling plan to the department and receive department approval prior to commencing any stockpiling;
  2. The stockpile must only consist of chemically contaminated soils approved by the department for use as cover material under section 5.04. The chemically contaminated soils must not contain any debris;
  3. The contaminated soils may only be stockpiled for a period of up to one year from the date of the first load of contaminated soil is placed in the stockpile;
  4. To prevent the dispersal of the contaminated soils, the stockpile must be covered within 30 days from the date the first load of contaminated soil is placed. Acceptable cover includes clean fill, tarps, or any other material approved by the department; and
  5. The amount of contaminated soils accumulated in the stockpile(s) shall not exceed 20% of the volume of waste approved for disposal at the landfill during the previous calendar year.
  
- G. **RECORDS.** Records for all waste used as cover must be kept at the landfill and be available for review by the department upon request. These records must also be submitted to the department on a monthly basis. At a minimum, the records must include the name of the generator, the location the waste was generated, the Dakota County waste number (if applicable), the date of acceptance, and the amount of waste accepted.

**5.05 LAND APPLICATION.**

Land application of certain solid wastes (e.g., water treatment lime, petroleum contaminated soils, and industrial by-products from food and beverage processing or ethanol production) may be considered in compliance with this ordinance if all conditions and criteria are followed in this section. Sewage sludge and solid or dissolved materials in domestic sewage are excluded from the definition of solid waste and are regulated by state rule (Minn. R. Ch. 7041), Minn. Stat., Chapter 115, Dakota County Ordinance No. 113, On Site Sewage Treatment, and by federal rule (40 CFR part 503).

- A. **GENERAL REQUIREMENTS.** All land application and land treatment activities, including activities exempted under section 5.05(B)(4), must comply with the following requirements:
  1. Operations shall not create a public nuisance or any conditions that adversely affect the environment or public health; and
  2. Activities must not violate state or local laws, ordinances, rules, regulations, policies and orders.
  
- B. **BENEFICIAL LAND APPLICATION ON AGRONOMIC LAND.**
  1. Locational Requirements.
    - a. Sites proposed for beneficial land application shall meet the minimum requirements for each of the following soil characteristics:

<u>CHARACTERISTIC</u>	<u>MINIMUM REQUIREMENT</u>
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Soil texture at zone of solid waste application	Fine sand, loamy sand, sandy loam, loam, silt, silt loam, sandy clay loam, clay loam, sandy clay, silty clay loam, silty clay, or clay
Organic soils or peat soils	Cannot be used unless tiled adequately for drainage
Depth to bedrock	3 feet (5 feet if soil is classified as having a "rapid" or "very rapid" permeability rate as defined by the Soil Survey of Dakota County)
Depth to seasonal high water table (if site is tiled, the depth to top of tile line is considered the seasonal high water table)	3 feet
Percent slope	Less than twelve percent (12%)

- b. Application of solid waste that is incorporated or injected shall not take place within the following separation distances or within areas otherwise restricted by wellhead protection plans:

<u>FEATURE</u>	<u>INCORPORATED OR INJECTED</u>
	Distance from feature in feet
Residences, businesses or public buildings	200
Private drinking water supply wells	200
Irrigation wells	200
Community drinking water supply wells	1000
Down gradient sinkholes, waters of the State as defined in Minn. Stat. §115.01, subd. 6 (groundwater) and §§115.41-115.54 (municipal water pollution control, or tile inlets connected to these surface water features)	100

- c. Application of solid waste that is not incorporated as specified in section 5.05(B)(3)(d) shall follow the criteria listed in sections 5.05(B)(1)(a) and (b) except that application on slopes greater than six percent (6%) is not allowed.

2. Notification Requirements.

- a. It is a violation of this ordinance for any person to land apply solid waste without notifying the department of the proposed land application activity. The responsible person shall submit such notification no less than thirty (30) days prior to the initiation of the land application activities.
- b. For each type of solid waste proposed to be land applied, the responsible person (applicator, landowner or tenant) shall submit to the department a description of proposed land application activities, including:

- (1) Identification of the proposed land application sites by Dakota County property identification number (PIN) and by township, range and quarter, quarter, quarter section;
- (2) Description of the solid waste to be land applied and the amount of waste in tons, gallons, or cubic yards;
- (3) The results of tests that characterize the solid waste. Testing to characterize solid wastes that are yard waste or source separated food waste is not required;
- (4) Identification of the proposed land application areas on soil survey plates available from the National Resource Conservation Service, identifying site features from which separation distances are required and the acreage on which land application is proposed;
- (5) The results of soil tests and recommended application rates from a Minnesota Department of Agriculture certified laboratory for the fields where the landowner or applicator proposes to land-apply solid waste;
- (6) The names, addresses and telephone numbers of the generator, applicator, transporter if different than the applicator, land operator, and the landowner;
- (7) The status of certifications and licenses of the applicator and transporter if required by the MPCA;
- (8) A description of the land application method and incorporation method proposed and the months of the year that land application activities will occur;
- (9) Evidence of notification to affected cities and townships;
- (10) The status of any approvals required by the state or local governments; and
- (11) A listing of other solid wastes, soil amendments, or other materials, including but not limited to manure and sewage sludge, that were land applied in the previous three years.

3. Operational Requirements for Beneficial Land Application on Agronomic Land.

- a. Mixed municipal solid waste and hazardous waste shall not be land applied.
- b. Solid waste applied to land shall be applied at rates that do not exceed agronomic rates.
- c. Solid waste shall not be land applied unless the land will be cropped within the current cropping season (September 1 of one year to August 31 of the following year).
- d. All land applied solid waste shall be incorporated within twenty-four (24) hours of application except as specified in section 5.05(B)(3)(e).
- e. If solid waste is applied to land that is actively pastured or is being cropped for a hay crop and the solid waste is not incorporated, the following criteria shall apply:
  - (1) The minimum requirements for soil characteristics listed in section 5.05(B)(1)(a) shall be met except that land application of solid wastes on slopes greater than six percent (6%) is not allowed;

- (2) The minimum requirements for separation distances listed in section 5.05(B)(1)(b) shall apply;
  - (3) The land-applied material and the land application activities shall not create a nuisance condition due to debris, attraction to vermin, visual impact, or odors;
  - (4) The land-applied material and the land application activities shall not have detrimental effects to the growing crops, the natural environment, or to human or animal health;
  - (5) The land-applied material shall not translocate and its impacts shall not be transmitted via animals grazing on the land application sites;
  - (6) The land-applied material shall not migrate from the site of application via overland flow or storm water drainage;
  - (7) Land application of solid waste shall not take place when the ground is frozen or snow covered; and
  - (8) The responsible person (applicator, landowner or tenant) shall keep records for each land application site for a period of five years including: all notification information that is required to be submitted under section 5.05(B)(2); any soil test results; waste characterization test results; any statements of loading limits for the site; amounts of solid waste applied; and other information required by the department to enforce this section 5.05.
- f. The responsible person (applicator, landowner or tenant) shall submit an annual report to the department for each kind of solid waste that is land applied. The report shall be submitted by December 31 following a cropping year. A cropping year ends August 31. The report shall include the following information: sites of application; the amount of solid waste applied for the cropping year, in tons, gallons or cubic yards per acre; the cumulative amounts of solid waste applied to the same site, beginning with the initial land application; the dates of application; and other information as required by the department that is necessary to enforce this section 5.05.

4. Exempted Land Application.

A responsible person is exempt from the notification requirements of section 5.05(B)(2) and the reporting requirements of section 5.05(B)(3)(e)(9) of this ordinance if the amount of solid waste applied for beneficial use is less than one thousand (1000) pounds per cropping year, the area on which this solid waste is applied is less than one acre, and the material is incorporated and evenly distributed.

C. LAND APPLICATION FOR TREATMENT.

1. Land Treatment Agricultural Chemical Contaminated Soil.

- a. It is a violation of this ordinance for any person to land apply agriculture chemically contaminated soil without notifying the department of the proposed land treatment activity. This is done by submitting to the department copies of all forms required by the Minnesota Department of Agriculture including: application; maps of the proposed application area; analytical data; and rate calculations. The responsible person shall submit such notification no less than thirty (30) days prior to the initiation of the land treatment activities.

- b. The requirements and procedures for land treatment of agricultural contaminated soil in Dakota County shall be in accordance with Minnesota Department of Agriculture Guidance Document 13.

2. Land Treatment Petroleum-Contaminated Soils.

- a. It is a violation of this ordinance for any person to land apply petroleum-contaminated soil in Dakota County without notifying the department of the proposed land application activity. This is done by submitting to the department copies of all forms required by the MPCA including: the application for the land treatment site; the application to land treat the specific batch of soil; and copies of the site pre-approval and batch approval issued by the MPCA prior to the initiation of the land application activities. The responsible person shall submit such notification no less than thirty (30) days prior to the initiation of the land treatment activities.
- b. The requirements and procedures for land treatment of petroleum-contaminated soil in Dakota County shall be in accordance with Minn. R. Ch. 7037.

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## **SECTION 6.00 SOLID WASTE LANDFILL FACILITIES**

### **6.01 LOCATION OF FACILITY.**

A solid waste landfill shall not be located:

- A. Within areas with potentially unsuitable topography, geology, hydrogeology, or soils that may cause failures in the leachate collection system;
- B. Within a floodplain area, within a wetland area, or within five feet of the high historical groundwater table;
- C. Within 10,000 feet of an airport runway used by turbojet aircraft, or within 5,000 feet of an airport runway used by piston-type aircraft;
- D. Within 1,000 feet of a residential dwelling; or
- E. Within 1,000 feet of a public roadway or park.

### **6.02 LICENSE REQUIRED; APPLICATION REQUIREMENTS.**

It is a violation of this ordinance for any person to establish, operate and maintain a solid waste landfill without first being licensed to do so by the county board. The county board may, at its discretion, issue a license for the operation of a solid waste landfill when the following materials, prepared by a registered professional engineer of Minnesota, are submitted to the county board for consideration.

The application for the license shall contain a site-plot plan, engineering plans, an operational plan, and any other information required by other sections of this ordinance or deemed necessary by the department.

- A. **SITE-PLOT PLAN.** The site-plot plan shall have a scale of not greater than 200 feet per inch and a vertical contour interval determined by the department, but not greater than five feet. The site-plot plan shall include all land within 1,000 feet of property of the proposed facility. The following shall be included as a minimum:
  - 1. Name and address of the facility and property owner and the facility operator;
  - 2. Location and legal description of property for type of facility and operation contemplated;
  - 3. Estimate of population to be served and area of anticipated service;
  - 4. Comprehensive plan of the community, if available, or existing and future land use maps;
  - 5. A copy of the latest zoning ordinance;
  - 6. City and/or township boundaries;
  - 7. North arrow, section line, section number;
  - 8. Waters of the state, floodplains, and floodways;
  - 9. Adjacent residences and property ownership;
  - 10. Roads and railroads; and
  - 11. Easements and utilities.

B. ENGINEERING PLAN. The engineering plans shall include as a minimum:

1. A current map or aerial photograph of the area showing land use and zoning within 1/4 mile of the solid waste disposal site. The map or aerial photograph shall be of sufficient scale to show all homes, buildings, lakes, ponds, water courses, wetlands, dry runs, rock outcroppings, roads, and other applicable details and shall indicate the general topography with contours and drainage patterns. Wells shall be identified on the map or aerial photograph, U.S.G.S. datum shall be indicated, and a north arrow drawn. A location insert map shall be included.
2. A plot plan including: legal description of the site and immediate adjacent area showing dimensions; location of soil borings; and present and planned pertinent features including but not limited to roads, fencing and cover stockpiles. The plan of development including any excavation, trenching, and fill shall be shown progressively with time. Cross sections shall be included on the plot plan or on separate sheets showing progressively with time the original and proposed elevation of excavation, trenching, and fill. The scale of the plot plan shall not be greater than 200 feet per inch.
3. An ultimate land use plan of the site including stages identifying the total and complete land use. The scale of the ultimate land use plan shall not be greater than 200 feet per inch.
4. As recommended by the department, suitable geological and ground water information will be submitted.
5. Source and characteristics of cover material and method of protecting cover material for winter operation.
6. Type and amount of equipment to be provided at the site for excavating, earth moving, spreading, compacting, and other needs.
7. Area of site in acres.
8. Persons responsible for actual operation and maintenance of the site and intended operating procedures.
9. Major haul routes within five miles of the site.
10. Description of improvements proposed to comply with applicable ordinances and standards.
11. Landscape and grading plans.

C. OPERATIONS PLAN. The operations plan shall include at a minimum:

1. A description of the solid waste proposed to be disposed, collected, stored, and processed at the facility.
2. A contingency action plan identifying procedures and actions to be taken in the event of fire, spill, chemical releases, physical injury, or other emergency situations at the facility.
3. A description of the overall operation and sequencing of fill operations.
4. A description of worker protection, training, and safety equipment to be employed on site.
5. A description of the methods of weighing or measuring solid waste accepted at the facility.



### **6.03 GENERAL REQUIREMENTS; LAND DISPOSAL FACILITIES.**

The following shall be established, constructed, or provided for at the solid waste landfill site:

- A. **LINER AND LEACHATE COLLECTION.** A solid waste landfill shall incorporate into its construction, a liner and leachate collection system, or meet the applicable MPCA requirements for a bottom liner and leachate collection system, whichever is more stringent.
- B. **SANITARY FACILITIES.** Sanitary facilities and shelter shall be available for site personnel.
- C. **LITTER CONTROL.** Litter control devices such as portable wind abatement fences close to disposal operations in addition to woven wire fences at the perimeter of a landfill site where there is a potential for blowing litter.
- D. **ELECTRICAL SERVICE.** Electrical service for operations and repairs.
- E. **FIRE CONTROL.** Firefighting facilities on-site adequate to ensure the safety of employees.
- F. **FIRST AID.** Emergency first aid equipment to provide adequate treatment for accidents.
- G. **WATER SUPPLY.** A potable water supply for site personnel.
- H. **SHELTER.** Shelter for maintenance and storage of site equipment.
- I. **TRAFFIC CONTROL.** Adequate facilities to ensure that no vehicle desiring entry into the site will have to wait outside the fenced perimeter of the solid waste landfill site.
- J. **COMMUNICATION.** Adequate communication facilities shall be provided for emergency purposes.
- K. **ACCESS CONTROL.** The site shall be fenced and a gate shall be provided at the entrance to the site and kept locked when an attendant is not on duty.
- L. **ROADS.** An all-weather haul road to the disposal area.
- M. **LANDFILL EQUIPMENT.** Equipment sufficient for spreading, compacting, and covering operations to include sufficient reserve equipment or arrangements to immediately provide for equipment during periods of breakdown.
- N. **SIGN REQUIRED.** At each entrance to the site, the licensee shall erect and maintain a sign stating the name of the facility, the schedule of days and hours the facility is open to the public if applicable, prices for use of the facility, MPCA permit number, and the penalty for nonconforming dumping. The sign and its placement shall be subject to approval by the department.
- O. **VISUAL SCREENING.** Visual screening of the solid waste landfill site, as approved by the department, shall be provided by use of natural objects, trees, plants, seeded soil berms, fences, or other suitable means.
- P. **INDIVIDUAL DISPOSAL FACILITIES.** Suitable disposal facilities shall be provided for individuals who wish to transport and dispose of their own solid waste if the facility is open to such individuals.
- Q. **RECORDS.** Records as approved and requested by the department shall be maintained and shall be accessible to the department. These records shall show:

1. The total number of tons of solid waste accepted and disposed based solely on the difference between the tare weight of each vehicle and/or conveyance and the gross weight of each vehicle and/or conveyance as measured on the landfill scale or the total number of cubic yards if the facility is not equipped with a weighing scale;
  2. General type or types of solid waste accepted and disposed, passed through, or rejected by the facility;
  3. Origin(s) of solid waste accepted and disposed;
  4. The date and time of delivery; and
  5. The hauler(s) that delivered solid waste to the facility.
- R. **FILING OF DISCLOSURE NOTICE.** Upon completion of the final inspection of a solid waste landfill that has completed closure, the owner, responsible person, or operator shall file a solid waste disposal disclosure notice that meets the requirements of this ordinance with the Dakota County Property Recorder's Department and on a form approved by the department. The department must approve such notice prior to filing. The notice shall meet the requirements of section 3.06(G).

#### **6.04 LAND DISPOSAL FACILITY OPERATING PROCEDURES.**

Any person who has been granted a license by the county board to operate a solid waste landfill shall operate said landfill in conformance with the MPCA Solid Waste Management Rules, Minn. R. Ch. 7035, and comply with the following operating regulations.

- A. **OPEN BURNING.** Open burning of solid waste is prohibited. No scavenging shall be allowed. Salvaging shall be allowed only in accordance with conditions approved in writing by the county board. Animal feeding within the site is prohibited.
- B. **MINIMIZING LEACHATE.** Solid waste shall be deposited in such a manner (utilizing sound engineering and design methods) so as to minimize or prevent leachate production and movement that may cause surface and/or ground water contamination. Solid waste shall not be deposited within five feet above the highest known water table and shall not be deposited on bedrock.
- C. **MINIMUM SEPARATION DISTANCE.** Whenever the final elevation of the landfill site is lower than the abutting property, a minimum horizontal separating distance of fifty (50) feet shall be maintained. When the final elevation of the landfill site is above the abutting property, a minimum separating distance of fifty (50) feet shall be maintained, and the fill slope of the waste disposal shall not be steeper than ten (10) feet horizontal to one foot vertical. Variance from the above requirements may be granted by the county board if proper justification is submitted by the applicant.
- D. **UNLOADING AREA.** Unloading of solid waste shall be confined to as small an area as practical and surrounded with appropriate structures to confine possible wind-blown material within the area.
- E. **LITTER CONTROL.** At the conclusion of each day of operation, all wind-blown material resulting from the operation shall be collected and returned to the landfill working face and covered by the owner or operator.
- F. **COMPACTION.** Solid waste shall be compacted as densely as practicable.
- G. **SURFACE WATER DRAINAGE.** Surface water drainage shall be diverted around the landfill operating area with due consideration given to the effects of any changes to watershed areas which may occur because of such diversion. The top surface of the disposal site shall be adequately bladed to reduce rutting and shall

be sloped for proper drainage. An adequate supply of granular material or crushed stone shall be stockpiled to ensure access to the disposal area in event of unstable conditions.

- H. **WASTE TIRE PROHIBITION.** The disposal of waste tires is prohibited in a solid waste landfill. A temporary storage area for waste tires may be constructed and operated following plan review and approval by the department. Review and approval by the department shall be based upon compliance with vector and pest control, fire prevention, zoning, and other requirements. Stored waste tires shall be removed for processing on a regular basis and shall in no case exceed designated capacity or become a public health and safety hazard or public nuisance. Complete and accurate records of waste tire management shall be maintained and submitted to the department as stated in the requirements for waste tire facilities in section 7.00.
- I. **VECTOR, NUISANCE CONTROL.** Control of vectors, such as rodents and flies, and of odors, dust, wind-blown material and other potential public nuisances shall be sufficient to prevent or eliminate any public nuisance. Should the department so prescribe, the licensee at their own expense, shall engage an exterminator or pest control agent to inspect the landfill on at least a monthly basis. A copy of each inspection report shall be sent to the department immediately upon its receipt by the licensee.
- J. **ATTENDANT ON DUTY.** An attendant shall be on duty at the site at all times while it is open for public use. Unloading of solid waste shall be continuously supervised at the working face of the landfill.
- K. **LIFT HEIGHT.** The height of any single lift of solid waste shall be dependent on the method of operation but shall not exceed twenty (20) feet.
- L. **TEMPORARY COVER FOR CLOSED AREAS.** Within one month after final elevation of the landfill site is achieved, for final termination of a site, or any continuous, unbroken area of two acres or greater of a continuing operation is brought to final elevation, the area shall be covered with two feet of approved, compacted material, properly and adequately sloped to provide surface water runoff. No holes or depressions that might result in collection of surface water shall remain or exist after such covering. Final closure shall proceed according to the facility closure plan.
- M. **VEGETATIVE COVER.** The finished surface of the filled area shall be covered with adequate topsoil and seeded with native grasses or other suitable vegetation immediately, or in the spring on areas terminated during winter conditions. If necessary, seeded slopes shall be covered with straw or mulching material to prevent erosion.
- N. **FINAL INSPECTION.** Prior to termination of operations at the site, the MPCA and department shall be notified in order that site inspection may be conducted before personnel and equipment are removed from the property. The final condition of the landfill must be approved by the department and the MPCA before such removal may occur.
- O. **UNIFORM REPORTING.** The licensee shall submit in a timely manner the following reports to the department as prescribed by the county.
  - 1. Quarterly Operating Report. Each quarter, the licensee shall submit an operating report to the department on a form prescribed by the department. The quarterly report shall be due on the last day of the month following the end of each quarter and include the following information for each of the three preceding months:
    - a. Monthly totals of cubic yards or if the facility is equipped with an approved weighing scale, tons of solid waste received. Tonnage shall be determined by subtracting the tare weight of vehicles and/or conveyances from the gross weight of the vehicles and/or conveyances as measured on the landfill scale.
    - b. Number of incoming loads accepted at the facility.

- c. Identification of rejected, recycled and prohibited outgoing waste, the weight or volume and type of rejected, recycled and prohibited outgoing waste, and the destination of rejected, recycled and prohibited outgoing waste.
  - d. The amounts and the types of industrial waste received for disposal in accordance with section 5.00 and the names of the generators thereof.
  - e. Other information as determined from time to time by the department that is required by this ordinance to be kept by the facility.
2. Annual Report. The landfill operator shall submit to the county a copy of its annual report to the MPCA. At a minimum, the following information shall be included in or submitted with the annual report:
- a. Yearly totals for cubic yards or if the facility is equipped with an approved weighing scale, tons of solid waste received. Tonnage shall be determined as described in section 6.04(O)(1)(a) above.
  - b. The landfill capacity in cubic yards utilized during the same period and the landfill capacity in cubic yards remaining at the close of the reporting period in accordance with MPCA permitted capacity.
  - c. A plan describing a reuse/recycling program at the facility to minimize the amount of waste landfilled.
3. Surface and Ground Water Monitoring Report. A surface and ground water monitoring report shall include the certified analytical data for representative samples taken from all established monitoring stations for those physical and chemical parameters required by the department and the MPCA as well as all other data required by the department.
4. Methane Monitoring Report. If requested by written notice of the department, a methane monitoring report shall include all required data from established monitoring stations and methane recovery facilities.
5. Leachate Monitoring Report. If requested by written notice of the department, a leachate monitoring report shall include all required data from established monitoring stations and leachate collection and treatment facilities.
- P. **WASTE COMPOSITION STUDY**. Beginning in 2025 and completed every five years after, licensed land disposal solid waste facilities must conduct a waste sort to determine the composition of waste received. The waste composition study must be conducted in coordination with the Department and submitted to the Department no later than August 31 of the study year.

#### **6.05 ADDITIONAL REQUIREMENTS FOR SANITARY LANDFILLS ONLY**

As a minimum, the following additional requirements shall be met for a sanitary landfill:

- A. **WATER MONITORING**. A ground and surface water monitoring system must be established that complies with Minn. R. Ch. 7035.
- B. **DAILY COVER**. Solid waste shall be covered at the end of each day with at least six inches of soil or other cover material approved by the department.

- C. INTERMEDIATE COVER. Intermediate cover on all filled surfaces of the facility where no solid waste will be placed within thirty (30) days must be provided immediately. This cover must consist of compacted material of sufficient depth, at least twelve (12) inches if soil or similar material is used, to cover the waste completely and must be graded and maintained to prevent water ponding, erosion, and public nuisance conditions.
- D. PUTRESCIBLE MATERIALS. Putrescible materials that have reached a foul state of decay or decomposition, such as spoiled food and animal carcasses, shall be immediately covered and compacted.
- E. REQUIREMENT TO ACCEPT SOLID WASTE. During the posted hours of operation, the licensee shall accept all solid waste offered for disposal that may legally and reasonably be disposed of at the site.
- F. PROHIBITED WASTES.
  - 1. The following shall not be acceptable for deposit in sanitary landfills except in amounts normal in household waste:
    - a. Liquids.
    - b. Any of the following: digested sewage sludges, lime sludges, and other sludges, unless approved by the department. Approval would be based on consideration of such factors as chemical composition, free moisture content, and workability.
    - c. In no case will raw sewage, sludge, raw animal manure, or septic tank pumpings be acceptable.
    - d. Hazardous waste as identified by the department and the MPCA.
    - e. Industrial wastes, including sludge and ash, and other potentially hazardous materials or wastes that have not been tested and specifically approved for disposal by the department. Disposal of industrial waste shall be in accordance with the requirements of section 5.00 of this ordinance.
    - f. All other materials and wastes or mixtures thereof that may be determined by the department to not be acceptable.
    - g. Radioactive material that exceeds radiation emission limit standards for solid waste as determined by the Minnesota Department of Health or the MPCA or as determined by the department's review of individual loads delivered to the landfill.
  - 2. The following wastes in any amount are prohibited from disposal in a sanitary landfill located in the county:
    - a. Christmas trees;
    - b. Tires;
    - c. Lead-acid batteries;
    - d. Major appliances;
    - e. Trees and tree branches;

- f. Waste oil /used oil and used oil filters;
  - g. Yard wastes;
  - h. Mercury-containing wastes as listed in Minn. Stat.§ 115A.932;
  - i. Telephone directories; and
  - j. Cathode Ray Tubes.
- G. FIRE CONTROL. The licensee of a sanitary landfill is responsible for adequate fire protection on the site. Firefighting equipment shall be available at all times on the site or the licensee shall furnish the department proof of a fire fighting agreement between the licensee and the local fire protection agency to immediately acquire its services when needed.
- H. HOURS OF OPERATION. Receipt and disposal of solid waste by sanitary landfills shall be performed between 6:00 A.M. and 8:00 P.M. Daily cover as required by section 6.05(B) of this ordinance shall be completed by 12:00 midnight. Variances from the above schedule may be granted by the department. Requests for such variances shall be made in writing to the department setting forth therein the reasons why such a variance is needed. Variances shall be granted only for good cause shown and shall be in writing and signed by the department. No such variance shall exceed three months in duration. The department shall advise the county board in writing of all variances so granted and the county board may revoke any such variance, delete any provisions thereof, or impose additional conditions thereon at any time during its duration. In the event of denial of such a variance, the department shall notify the applicant in writing of the reasons for the denial. The notification shall be served by the department by personal service or certified mail to the address designated in the variance application. Service by certified mail shall be deemed to be complete upon mailing. The applicant may appeal the department's denial of a variance 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 ten (10) county working days of the service of the notification of the variance denial, exclusive of the day of service. Following timely service of a request for hearing, the county board shall set a time and place for the hearing pursuant to section 3.17.
- I. ACCEPTANCE OF SOLID WASTE FROM LICENSED HAULERS. A sanitary landfill licensed by the county board shall not accept for final disposal or storage, solid waste from any solid waste collection and transportation vehicle required to be licensed pursuant to this ordinance, unless said vehicle has been licensed pursuant to this ordinance.
- J. WASTE DISPOSAL ON UNLINED AREAS PROHIBITED. Effective January 1, 1995, no person may place in Dakota County or transport in Dakota County for placement outside the county, mixed municipal solid waste that is generated in the metropolitan area, in a portion of any final disposal facility that does not comply with the minimum requirements for design, construction, and operation of a new final disposal facility for the type of solid waste being disposed.
- K. ACCEPTANCE OF UNPROCESSED MIXED MUNICIPAL SOLID WASTE.
- 1. A sanitary landfill may not accept for final disposal, unprocessed mixed municipal solid waste generated in the metropolitan area unless:
    - a. The waste has been certified as unprocessable waste by a county under Minn. Stat. §473.848, subd. 2; or
    - b. The waste has been transferred to a sanitary landfill from a processing facility; no other processing facility in the metropolitan area is capable of processing the waste; and the

waste has been certified as unprocessable waste by the operator of the processing facility under Minn. Stat. §473.848, subd. 3.

2. For purposes of this section 6.05(K), mixed municipal solid waste does not include street sweepings, construction debris, mining waste, foundry sand, and other materials if they are not capable of being processed at processing facilities as determined by the MPCA
- L. **SCALE REQUIRED.** A sanitary landfill shall install a department approved weighing scale and shall weigh all incoming solid waste and shall record the weight in tons. The weights shall be automatically recorded on the scale ticket and the scale recording system shall be rendered incapable of manually overriding the automatically recorded weight.
- M. **HANDLING OF RADIOACTIVE MATERIALS.**
  1. A sanitary landfill shall install and operate a radiation monitor, mounted at the entrance scale, capable of detecting radioactive materials.
  2. The detection level of the monitor shall be set at a level as determined by the department.
  3. The sanitary landfill operator shall notify the department when radioactive materials are detected and the load shall be immediately segregated. Final disposition of the radioactive material shall be determined and approved by the department.
- N. **LEACHATE RECIRCULATION.** A sanitary landfill may recirculate its own leachate into the waste fill of the facility if it has submitted a recirculation plan that meets MPCA guidance and rules and has received approval from the MPCA and the department.

#### **6.06 ADDITIONAL REQUIREMENTS FOR DEMOLITION LANDFILLS ONLY.**

As a minimum, the following additional requirements shall be met for a demolition landfill:

- A. **LINER AND LEACHATE COLLECTION REQUIRED.** It is a violation of this ordinance for any person to establish a demolition landfill after September 1, 1993, unless the facility has, at a minimum, an approved single liner and leachate collection system.
- B. **INTERMEDIATE COVER MATERIAL.** Intermediate cover material on all filled surfaces of the demolition landfill where no solid waste will be placed within thirty (30) days must be provided within thirty (30) days after vacating that area. This cover material must consist of compacted material of sufficient depth, at least twelve (12) inches of soil or similar material is used, to cover the waste completely and must be graded and maintained to prevent water ponding, erosion, and public nuisance conditions.
- C. **PUBLIC USE RESTRICTIONS.** The working face must not be open for general public use. The use of the demolition landfill shall be restricted to municipalities, organizations, or individuals having a substantial volume of nonputrescible material from demolition or construction projects that generate wastes which may be accepted at the facility, unless otherwise approved by the county board. (Refer to definition of demolition waste).
- D. **ACCEPTABLE WASTES.** A demolition landfill may only accept demolition waste for disposal. If solid waste other than demolition waste is disposed at a demolition landfill, the licensee shall be responsible for removal and disposal of such waste at a solid waste facility properly licensed or permitted to receive the waste in question.

- E. SITE SECURITY. The licensee shall provide for adequate site security and observation of wastes deposited at the demolition landfill to minimize the potential deposition of solid wastes other than demolition waste.
- F. PROOF OF PEST ERADICATION. Before any materials from demolished structures may be disposed of, the licensee may be required to submit proof (certification from a registered pest eradicator) that the demolished structure has been subjected to satisfactory pest eradication prior to demolition.

#### **6.07 ADDITIONAL REQUIREMENTS FOR SPECIAL WASTE LANDFILLS ONLY.**

As a minimum, the following additional requirements shall be met for a special waste landfill:

- A. ACCEPTABLE WASTES. Only wastes from the approved source(s) and of the approved type(s) shall be disposed of at a special waste landfill.
- B. UNACCEPTABLE WASTES. The following shall not be accepted for segregated disposal at a special waste landfill:
  - 1. Liquids;
  - 2. Raw sewage, sewage sludge, septage, or raw animal manure;
  - 3. Hazardous waste as identified by the MPCA and the department;
  - 4. Mixed municipal solid waste;
  - 5. Industrial wastes, including sludge and ash and other potentially hazardous materials or wastes that have not been tested and specifically approved for final disposal by the MPCA and the department. The department may sample and analyze any such materials or wastes at any reasonable time at the expense of the generator or facility to verify acceptance for segregated disposal. Written permission must be obtained from the department prior to segregated disposal of any applicable waste. Disposal of industrial waste shall be in accordance with the requirements of section 5.00 of this ordinance; and
  - 6. All other materials and wastes or mixtures thereof that may be determined by the department to be not acceptable.
- C. ADDITIONAL APPLICATION REQUIREMENTS FOR LICENSE.
  - 1. Waste Description. Each special waste landfill license application shall include a detailed description of the physical and chemical characteristics of the special waste(s) to be disposed of at the proposed facility. As a minimum, this description shall include:
    - a. The process or source that generated the waste(s);
    - b. The amount of waste(s) generated during a specified time period;
    - c. The chemical composition of the waste(s);
    - d. A physical description of the waste(s);
    - e. The percent moisture present in the waste(s) and whether or not free moisture is present; and
    - f. Other information that the department may deem necessary.



2. Additional Waste Analysis. Based on the information provided in accordance with this section 6.07(C), the department shall determine whether additional chemical analyses will be required to further define the waste(s) characteristics. If the department requires additional chemical analyses, the department shall approve the proposed sampling and testing program.
  3. Waste Management Plan. Each special waste landfill application shall include a waste management plan that shall, as a minimum, address all actual and planned deviations from facility operational and design requirements, specified in section 6.00 of this ordinance, and the reasons for these deviations.
- D. PUBLIC USE RESTRICTIONS. A special waste landfill shall not be open for general public use. The use of a special waste landfill shall be restricted to the licensee unless otherwise approved by the county board.

#### **6.08 EXEMPTIONS FROM LANDFILL REQUIREMENTS - QUALIFIED CLEAN FILL LANDFILL.**

- A. EXEMPTION CRITERIA. A final disposal facility shall be considered exempt from section 3.00 and section 4.00 of this ordinance if all of the following criteria are met:
1. It is a qualified clean fill landfill as defined in section 2.00.
  2. It is operated in compliance with the requirements of section 6.08(B).
  3. An application for a qualified clean fill landfill is reviewed and approved by the department before initiation of fill activities.
- B. QUALIFIED CLEAN FILL REQUIREMENTS. The intent and purpose of these requirements is to allow for the use of certain solid waste as fill for beneficial land use projects where the potential for environmental, public health, and safety problems are minimal and to establish a staff review and approval process for qualified clean fill projects that will not be subject to county board licensure.
1. Locational Requirements. Qualified clean fill landfills shall not be located:
    - a. Within areas that violate local land use and zoning laws;
    - b. Within locations that may adversely impact surface water drainage;
    - c. Within standing water, wetlands, a lake, pond, reservoir, stream, or river, unless specifically approved by governing agencies for purposes of bank stabilization/erosion prevention. If so approved, a copy of the approval letter shall be attached to the application;
    - d. Within areas where there are karst features, such as sinkholes, solution channels, disappearing streams, or caves; or
    - e. Within areas that may adversely impact public health and safety or the environment as determined by the department.
  2. Aggregate Dimension Limitation. Aggregate size may not exceed eighteen (18) inches in any dimension unless specifically approved by the department.
  3. Application Requirements. The responsible person (owner or operator) shall submit to the department a narrative project description including:

- a. The names, addresses, and telephone numbers of the property owner(s) and the contractor(s) or party proposing to conduct the actual fill operation;
  - b. A legal description of the property at which filling activities are proposed;
  - c. The address/location from which fill materials originate;
  - d. A description of the proposed fill material(s) including: quantity; fill type (i.e., concrete, brick); and the physical/chemical characteristics of the fill material (i.e., aggregate size). Chemical analysis of proposed fill materials may be required;
  - e. Plans and specifications for the proposed fill site including, at a minimum, a scale drawing or map indicating fill areas, property lines, public and access roads, surface water bodies, existing structures, north arrow, and other information as required by the department;
  - f. The projected timetable for the proposed fill project;
  - g. A description of any local, state, and federal licenses, permits, approvals needed or acquired. If not applicable this shall be so indicated. Copies of required applications made and approvals received from local, regional, and state authorities shall be provided;
  - h. Reapplication will be required if the project exceeds the volume or duration standards indicated in section 6.08(B)(6) below; and
  - i. A statement describing the reason for the fill project and the expected use of the property after completion shall be provided.
4. Inspection Requirements. The department requires and shall implement the following inspections prior to and in conjunction with a qualified clean fill landfill:
- a. Inspection of the proposed fill material and the site from which it originates, prior to its removal;
  - b. Inspection of the proposed fill site prior to placement of any fill;
  - c. The responsible person shall notify the department at least three days prior to placement of fill at the fill site once department approval has been obtained;
  - d. The department reserves the right to inspect the fill project at any time; and
  - e. The department shall conduct a final inspection of the fill site upon completion of the project and reserves the right to require additional work at the fill site if proper site closure has not occurred.
5. Closure Requirements. The following closure requirements shall be implemented by the responsible person(s):
- a. Notice of the location and contents of the landfill shall be filed with the Dakota County Recorder's Office on a form approved by the department. At a minimum, the notice shall meet the requirements of section 3.06(G);
  - b. Completed fill areas shall be covered with earthen material or otherwise terminated properly in accordance with the plans and specifications submitted to and approved by the department; and

c. Measures shall be taken to minimize erosion, such as the establishment of vegetation, and provision of adequate surface water drainage.

6. Volume Requirements and Classification Levels. The volume of fill material(s) allowed by the department to be deposited at any one location shall be determined on a case-by-case basis dependent upon locational factors and type of material(s):

<u>Amount of Fill</u>		<u>Duration of Project</u>
Less than 20 cubic yards (exempt from county review/approval)	and	Less than 30 days
20 - 500 cubic yards (Level I)	and	Less than 90 days
500 - 5,000 cubic yards (Level II)	and	Less than 1 year
More than 5,000 cubic yards (Level III)	and	Less than 2 years

b. If a project exceeds either the volume or the duration, the department will require reapplication by the responsible person(s) and the project will be reclassified to a higher level unless the project already exceeds 5,000 cubic yards, in which case, the project will continue to be classified at the greater than 5,000 cubic yard level.

7. Financial Assurance.

Surety bonds or irrevocable letters of credit shall be required for project classification levels, as referenced in section 6.08(B)(6) above, in the following amounts:

- a. Level I \$ 5,000
- b. Level II \$ 10,000
- c. Level III \$ 20,000

In general, the surety bond or irrevocable letter of credit must be for purposes and in an amount set by resolution of the county board and must name the County of Dakota as the obligee. The bond or irrevocable letter of credit must be issued by 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.

8. Insurance. Insurance amounts for general liability and vehicle liability for project operations shall be in accordance with the amounts and conditions specified in section 3.00 of this ordinance.

9. Fees. Fees for county review and approval of qualified clean fill landfills will be established by the county board on an annual basis.

10. Appeal. Any party determined by the department to be subject to this section shall have the right to appeal that determination or any subsequent determinations made by the department during the project review process. To appeal a department determination under this section, the responsible person (owner or operator) 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 ten (10) county working days of the

department's determination appealed from. Following timely service of an appeal, the county board shall set a time and place for a hearing pursuant to section 3.17.

11. Operational Requirements. Qualified clean fill landfills exempted under section 6.08 must comply with the following provisions unless specifically waived in writing by the department:
  - a. The site must be managed to eliminate any potential hazards to the environment and surrounding population;
  - b. Only qualified clean fill or clean fill may be deposited on the site;
  - c. Two feet of final cover must be applied to the site within one month of termination of the fill;
  - d. The site must have a slope between 2-25% to promote surface water drainage;
  - e. Vegetation must be established on-site after the application of final cover material. If the site is terminated during the winter months, vegetation must be established immediately the subsequent spring after termination of filling;
  - f. Approval must be obtained, where applicable, from local, regional, and state authorities; and
  - g. The site must not be open for general public use.

## **SECTION 7.00 SPECIAL WASTE STORAGE FACILITIES AND WASTE TIRE MANAGEMENT**

### **7.01 LICENSE REQUIRED; APPLICATION REQUIREMENTS.**

It is a violation of this ordinance for any person to establish, operate and maintain a special waste storage facility without first being licensed to do so by the county board. The county board may, at its discretion, issue a license for the operation of a special waste storage facility when the following materials prepared by a registered professional engineer of Minnesota are submitted to the county board for consideration.

The application for the license shall contain a site-plot plan, engineering plans, an operational plan, and any other information required by other sections of this ordinance or deemed necessary by the department.

- A. **SITE-PLOT PLAN.** Site-plot plan shall have a scale of one inch equal to not more than fifty (50) feet and have a vertical contour interval determined by the department but not greater than five feet. The site-plot plan shall include all land within 1,000 feet of property of the proposed facility. The following shall be included as a minimum:
1. Name and address of the facility, property owner, and the facility operator;
  2. City and/or township boundaries;
  3. North arrow, section line, section number;
  4. Waters of the state, floodplains, and floodways;
  5. Land use and zoning within a 1,000-foot radius of the property lines;
  6. Adjacent residences and property ownership;
  7. Roads and railroads;
  8. Easements and utilities; and
  9. Location, size, and ownership of the land upon which the facility will operate.
- B. **ENGINEERING PLANS.** The engineering plans shall include as a minimum:
1. Roads, screening, fencing, gates, dimensions of buildings, storage areas, loading and unloading zones, and the location of existing and proposed utilities;
  2. Landscape and grading plans;
  3. Dikes, berms, walls, dividers; and
  4. The department may request a report on the subsurface conditions at the proposed facility. The department may request data that is adequate to indicate suitable soils, geological and ground water information at the site. The license applicant must detail the above information in cross section with the location indicated on the site plan.
- C. **OPERATIONS PLAN.** The operations plan shall include as a minimum:
1. A description of the special waste proposed to be collected and stored at the proposed facility;

2. A contingency action plan identifying procedures and actions to be taken in the event of fire, spill, chemical release, physical injury, or other emergency situations at the facility;
3. A description of the overall operation and a functional description of equipment to be used, including design and anticipated performance. The operations plan must describe the flow of special waste through the facility;
4. The procedures for facility start-up and scheduled and unscheduled shut down operations; and
5. A description of worker protection, training, and safety equipment to be employed on-site.

## **7.02 STATE RULE ADOPTED.**

The scope, location, design and operation of special waste facilities that provide intermediate disposal shall be in accordance with Minn. R. 7035.2855, "Solid Waste Storage Standards" that specify location, design, operation, inspection, closure, and construction requirements for facilities that store solid waste.

## **7.03 WASTE TIRE MANAGEMENT.**

- A. **WASTE TIRE MANAGEMENT; DEFINITION.** Waste tires shall be managed in full compliance with the provisions of this ordinance regardless of number. Waste tire management shall include, but is not limited to, the generation, collection, storage, transportation, processing, reuse, recycling, incineration and/or disposal of waste tires, either whole or in part.
- B. **LICENSE REQUIRED.** A solid waste facility that accumulates at any one time more than five hundred (500) waste tires shall first obtain a special waste storage facility license from the county. Such special waste storage facilities may include retail service centers, tire re-treading businesses, motor vehicle service stations, vehicle salvage yards, tire shredding facilities, transfer and storage facilities, incinerators, intermediate disposal sites, and final disposal facilities. Any person who collects, stores, or deposits fifty (50) to five hundred (500) waste tires shall submit a waste management plan to the department for review and approval. Persons using waste tires for agricultural, recreational, or other beneficial reuse purposes may be exempt from this license requirement pending review and approval by the department.
- C. **CONSTRUCTION AND OPERATION.** A special waste facility for waste tire management shall be constructed, operated, maintained, and closed in conformance with the provisions of this ordinance. Plans and specifications shall be reviewed and approved by the department prior to licensure. Review and approval by the department shall be based upon compliance with vector and pest control, fire prevention, zoning, and other requirements. Collected and stored waste tires shall be removed for processing, reuse and recycling, incineration and/or disposal on a regular basis and in no case shall the total waste tire volume exceed the designated capacity or become a public health and safety hazard or public nuisance. Complete and accurate records of waste tire management shall be maintained and submitted to the department with the operational report.
- D. **WASTE TIRE STORAGE REQUIREMENTS.** Waste tire storage shall meet the following requirements:
  1. Waste tires shall not be stored within 1,000 feet of intermittent or permanent wetlands, streams, ponds, and lakes, including shoreland and floodplain areas;
  2. Waste tires shall not be stored within 1,000 feet of wooded areas and other areas on which trees, tree stumps, and brush are located which could harbor mosquito populations.
  3. Waste tires shall not be stored within one-half mile of a known or suspected endemic area of mosquito-borne viral encephalitis or other diseases;

4. Waste tires shall not be stored within one-half mile of susceptible persons, which shall be defined to include private residences, day care centers, schools, parks, and recreational facilities;
  5. Waste tires shall not be stored within an area having a water table within five feet of the lowest tire accumulation elevation;
  6. Waste tires shall not be stored within an area that is unsuitable with respect to topography, geology, hydrology, soils, land use, or other public health and safety concerns;
  7. Waste tires shall be confined to as small an area as practicable, with individual piles not more than 2,500 feet in area and twenty (20) feet in height;
  8. A minimum separation distance of twelve (12) feet shall be provided between piles of waste tires to allow for truck and emergency vehicle access;
  9. Adequate measures shall be provided to minimize the potential for tire fires;
  10. Waste tires shall be piled so as to minimize the accumulation of stagnant water;
  11. Waste tires shall be stored a minimum of fifty (50) feet from the adjacent property lines;
  12. Surface water drainage shall be diverted around and away from waste tire storage areas; and
  13. Adequate visual screening of waste tire storage areas from housing or public right-of-ways shall be provided by use of natural objects, such as trees, berms, fences, or other means deemed acceptable by the department.
- E. **EXCLUSION FROM REQUIREMENTS.** The following persons are excluded from the waste tire storage requirements, as specified in sections 7.03(D)(2), 7.03(D)(4), and 7.03(D)(11) only:
1. A person engaged in the retail sale of tires if no more than five hundred (500) waste tires are kept on the business premises;
  2. A person who in the ordinary course of a business removes tires from motor vehicles if no more than five hundred (500) waste tires are kept on the business premises; or
  3. A person using waste tires for agricultural purposes if no more than two hundred (200) waste tires are kept on the site of use.
- F. **ABATEMENT OF WASTE TIRE DUMPS.** Waste tire dumps shall be promptly terminated and properly closed. All waste tires shall be removed from the premises and shall be processed for reuse, recycling, incineration, or final disposal in compliance with this ordinance unless otherwise authorized by the department.
- G. **CLOSURE.** Upon cessation of a waste tire processing operation, the licensee shall be responsible for removal of all waste tires and tire products from the site.
- H. **LAND DISPOSAL.** Land disposal of waste tires is prohibited.
- I. **DUAL REQUIREMENTS.** Waste tire processing facilities are subject to both the waste tire storage requirements and processing facility requirements of this ordinance.

#### **7.04 RECORDS.**

Records as approved and requested by the department shall be maintained and shall be accessible to the department. These records shall show:

- A. The total number of tons of solid waste accepted and disposed based solely on the difference between the tare weight of each vehicle and/or conveyance and the gross weight of each vehicle and/or conveyance as measured on the scale or the total number of cubic yards if the facility is not equipped with a weighing scale;
- B. General type or types of solid waste accepted and disposed;
- C. Origin(s) of solid waste accepted, passed through, or rejected from the facility;
- D. The date and time of delivery; and
- E. The hauler(s) that delivered solid waste accepted and disposed at the facility.

#### **7.05 UNIFORM REPORTING.**

Each quarter, the licensee shall submit a report to the department on a form prescribed by the department. The quarterly report shall be due on the last day of the month following the end of each quarter and include the following information for each of the three preceding months:

- A. Monthly totals of cubic yards or, if the facility is equipped with an approved weighing scale, tons of solid waste received. Tonnage shall be determined by subtracting the tare weight of vehicles and/or conveyances from the gross weight of the vehicles and/or conveyances as measured on the scale;
- B. Number of incoming loads accepted at the facility;
- C. Number of loads and weight or volume of outgoing and rejected waste, type of outgoing and rejected waste, and the facility or destination to which waste is being transferred; and
- D. Other information as determined from time to time by the department that is required by this ordinance to be kept by the facility.

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## **SECTION 8.00 INCINERATION**

### **8.01 COMPLIANCE WITH MPCA AIR QUALITY RULES.**

It is a violation of this ordinance for any person to construct, establish, maintain or operate an incinerator that is not in compliance with Minn. R. Chs. 7007, 7011, and 7017.

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## **SECTION 9.00 ENERGY RECOVERY FACILITIES**

### **9.01 LICENSE REQUIRED; APPLICATION REQUIREMENTS.**

It is a violation of this ordinance for any person to establish, operate, or maintain an energy recovery facility without first being licensed to do so by the county board. The county board may, at its discretion, issue a license for the operation of an energy recovery facility when the following materials prepared by a registered professional engineer of Minnesota are submitted to the county board for consideration.

The following information, along with any other information required by other sections of this ordinance or deemed necessary by the department, shall be submitted as a part of the application:

- A. **MAP.** A current map or aerial photograph of the site showing the land use and zoning within 1/4 mile of the energy recovery facility. A location insert map shall be included;
  
- B. **SITE PLOT PLAN.** A plot plan including the legal description of the site; a description of the immediate adjacent area showing dimensions, present and planned pertinent features, including but not limited to roads, buildings, fencing, landscaping and other applicable details; and the general topography. The scale of the plot plan should not be greater than 100 feet per inch, with a five-foot contour interval. The following shall also be included as a minimum:
  - 1. City and/or township boundaries;
  - 2. North arrow, section lines, section numbers;
  - 3. Waters of the state, floodplains, and floodways;
  - 4. Adjacent residences and property ownership; and
  - 5. Easements and utilities.
  
- C. **REPORT.** A report shall accompany the plans indicating:
  - 1. Area of site in acres;
  - 2. Owner of the site and proposed licensee;
  - 3. Person(s) responsible for actual operation and maintenance of the energy recovery facility and intended operating procedures;
  - 4. Sanitary landfill or other solid waste facility where any residuals will be transferred, the owner, hours of operation and MPCA permit number;
  - 5. Type and amount of equipment to be provided for operations of the energy recovery facility;
  - 6. A detailed description of the energy recovery process;
  - 7. Population and geographical areas to be served by the proposed facility;
  - 8. Existing collection service areas in the proposed supply area and contiguous communities;
  - 9. Anticipated supply (tons per day) of solid waste delivered to the facility from each community within the proposed supply area;

10. A detailing of the composition of solid waste to be delivered to the facility;
  11. Proposed storage capacity on-site;
  12. Proposed access routes within a one-mile radius of the proposed facility; and
  13. As recommended by the department, suitable soils, geological and ground water information shall be submitted.
- D. Other information as required by the county board or the department.

## **9.02 OPERATIONAL REQUIREMENTS.**

- A. The following shall be established and maintained at the energy recovery facility:
1. A sign, subject to the approval of the department, shall be posted on the premises indicating the facility name, the schedule of days and hours it is open to the public, and prices for use.
  2. Records as approved and requested by the department shall be maintained and shall be accessible to the department. These records shall show:
    - a. The total number of tons of solid waste accepted based solely on the difference between the tare weight of each vehicle and/or conveyance, and the gross weight of each vehicle and/or conveyance as measured on the scale or the total number of cubic yards if the facility is not equipped with a weighing scale;
    - b. General type or types of solid waste accepted, passed through, or rejected by the facility;
    - c. Origin(s) of solid waste accepted and disposed;
    - d. The date and time of delivery; and
    - e. The hauler(s) that delivered solid waste to the facility.
  3. An energy recovery facility shall be so situated, equipped, operated and maintained as to minimize interference with other activities in the area.
- B. An energy recovery facility licensee shall comply with the following regulations:
1. The premises, entrances and exits shall be maintained in a clean, neat and orderly manner at all times;
  2. All incoming and outgoing traffic shall be controlled by the licensee in such a manner as to provide orderly and safe ingress and egress;
  3. All unloading of solid waste from contributing vehicles shall be conducted in such a manner as to eliminate odor and litter outside the facility;
  4. Such other regulations as may be established by the county board in order to protect the health, safety, and welfare of the public; and

5. Each quarter, the licensee shall submit a report to the department on a form prescribed by the department. The quarterly report shall be due on the last day of the month following the end of each quarter and include the following information for each of the three preceding months:
  - a. Monthly totals of cubic yards or, if the facility is equipped with an approved weighing scale, tons of solid waste received. Tonnage shall be determined by subtracting the tare weight of vehicles and/or conveyances from the gross weight of the vehicles and/or conveyances as measured on the scale;
  - b. Number of incoming loads accepted at the facility;
  - c. Origin of waste accepted at the facility;
  - d. Number of loads and weight or volume of outgoing and rejected waste, type of outgoing and rejected waste, and the facility or destination to which waste is being transferred; and
  - e. Other information as determined from time to time by the department that is required by this ordinance to be kept by the facility.

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## **SECTION 10.00 SOLID WASTE PROCESSING FACILITIES**

### **10.01 LICENSE REQUIRED; APPLICATION REQUIREMENTS.**

It is a violation of this ordinance for any person to establish, operate and maintain a solid waste processing facility without first being licensed to do so by the county board. The county board may, at its discretion, issue a license for the operation of a solid waste processing facility when the following materials prepared by a registered professional engineer of Minnesota are submitted to the county board for consideration. The requirements of this section do not apply to those activities or facilities otherwise provided for in this ordinance.

The application for a license shall contain a site-plot plan, engineering plans, an operational plan, and any other information required by other sections of this ordinance or deemed necessary by the department. At the discretion of the county board and based on type and location of solid waste, minimum design requirements for a new solid waste processing facility may include a weather-resistant building with at least three sides, an impermeable floor, and roof. The building must be designed to prevent any public nuisance, including, but not limited to, odor, noise, and litter. After December 31, 2003, and if required by the county board, the minimum design requirement for a new solid waste processing facility will be fully enclosed buildings with impermeable flooring and public nuisance prevention.

- A. **SITE-PLOT PLAN.** The site-plot plan shall have a scale of one inch equal to not more than fifty (50) feet and have a vertical contour interval determined by the department but not greater than five feet. The site-plot plan shall include all land within 1,000 feet of property of the proposed facility. The following shall be included as a minimum:
1. Name and address of the facility, property owner, and the facility operator;
  2. City and/or township boundaries;
  3. North arrow, section line, section number;
  4. Waters of the state, floodplains, and floodways;
  5. Land use and zoning within a 1,000-foot radius of the property lines;
  6. Adjacent residences and property ownership;
  7. Roads and railroads;
  8. Easements and utilities; and
  9. Location, size, and ownership of the land upon which the facility will operate.
- B. **ENGINEERING PLANS.** The engineering plans shall include as a minimum:
1. Roads, screening, fencing, gates, dimensions of buildings, storage areas, loading and unloading zones, and the location of existing and proposed utilities;
  2. Landscape and grading plans;
  3. Dikes, berms, walls, dividers; and
  4. The department may request a report on the subsurface conditions at the proposed facility. The department may request data that is adequate to indicate suitable soils, geological, and ground

water information at the site. The license applicant must detail the above information in cross section with the location indicated on the site plan.

- C. OPERATION PLAN. The operation plan shall include as a minimum:
1. A description of the solid waste proposed to be collected, stored, and processed at the proposed facility;
  2. A contingency action plan identifying procedures and actions to be taken in the event of fire, spill, chemical release, physical injury, or other emergency situations at the facility;
  3. A description of the overall operation and a functional description of all processing equipment to be used, including design and anticipated performance. The operations must describe the flow of solid waste, including recyclable materials, through the facility;
  4. The procedures for facility start-up and scheduled and unscheduled shut down operations;
  5. A description of potential safety hazards and methods of control including, but not limited to, fire and smoke detection, air monitoring, fire control devices, ventilation and exhaust control systems;
  6. A description of worker protection, training, and safety equipment to be employed on-site;
  7. A description and schedule of cleaning procedures to be employed at the facility;
  8. A description of the handling, storage, and disposal methods to be used for unmarketable recyclable materials and residuals; and
  9. A description of the methods of weighing or measuring the solid waste accepted and processed at the facility including: residuals, by-pass waste, and recyclable materials recovered.

## **10.02 OPERATIONAL REQUIREMENTS.**

- A. The following shall be established and maintained at the solid waste processing facility:
1. A sign, subject to the approval of the department, shall be posted on the premises indicating the facility name, the schedule of days and hours it is open, and prices for public use;
  2. Roads, parking, and working areas on the premises shall be all-weather surfaced. The premises shall be constructed, screened, and landscaped in such a manner as to be aesthetically pleasing in appearance;
  3. Access control, including necessary gates and fencing;
  4. Adequate sanitary facilities and shelter for personnel shall be provided on the premises;
  5. Records, in a format approved by the department, shall be maintained for three years and shall be accessible to the department. These records shall show:
    - a. The total number of tons of solid waste accepted based solely on the difference between the tare weight of each vehicle and/or conveyance and the gross weight of each vehicle and/or conveyance as measured on the scale or the total number of cubic yards if the facility is not equipped with a weighing scale;
    - b. General type or types of solid waste accepted, passed through, or rejected;

- c. Origin(s) of solid waste accepted;
  - d. The date and time of delivery; and
  - e. The hauler(s) that delivered solid waste to the facility;
6. The operator of a facility shall implement an inventory system and segregation procedure adequate to enable identification of the type(s), origin(s), and destination(s) of solid waste in storage at any time; and
  7. The processing facility shall be so situated, equipped, operated, and maintained as to minimize interference with other activities in the area.
- B. A solid waste processing facility shall comply with the following operational requirements:
1. Outside storage of mixed municipal solid waste must be covered with a water impermeable tarp and tagged to identify the time and date of delivery, route number, and driver;
  2. Loads containing putrescible materials may not remain on-site for greater than forty-eight (48) hours;
  3. Precautions must be taken to control public nuisance conditions including litter, dust, and odors at the facility;
  4. All solid waste storage, processing, and tipping areas must include fire detection and protection equipment;
  5. Adequate storage capacity is required at the facility for all solid waste delivered and for those processed materials that will be stored prior to removal from the facility;
  6. The facility shall notify the department prior to implementing any alterations or additions to the waste processing system;
  7. Solid waste passing through the facility must be recycled, disposed, or stored at a solid waste facility that meets all applicable federal, state, and local requirements;
  8. Processing, treatment, sorting, and tipping areas at facilities that accept putrescible material must be located within an enclosed building or covered area;
  9. Each quarter, the licensee shall submit a report to the department on a form prescribed by the department. The quarterly report shall be due on the last day of the month following the end of each quarter and include the following information for each of the three preceding months:
    - a. Monthly totals of cubic yards or, if the facility is equipped with an approved weighing scale, tons of solid waste received. Tonnage shall be determined by subtracting the tare weight of vehicles and/or conveyances from the gross weight of the vehicles and/or conveyances as measured on the scale;
    - b. Number of incoming loads accepted at the facility;
    - c. Origin of waste accepted at the facility;

- d. Number of loads and weight or volume of outgoing and rejected waste, type of outgoing and rejected waste, and the destination of the outgoing waste; and
  - e. Other information as determined from time to time by the department that is required by this ordinance to be kept by the facility; and
10. Upon rejection of unacceptable waste, the licensee shall notify the department, on the day of delivery of the unacceptable waste, by facsimile or electronic mail, a description of the rejected waste, quantity of the rejected waste, the name and address of the hauler, the reason for rejection, and disposition of the waste.

### 10.03 REDUCED REGULATION FACILITIES.

- A. **MINIMAL RISK PROCESSORS.** The following facilities and activities shall be exempt from the licensing requirements of section 3.02 and sections 10.01 through 10.02 but must operate without creating a public nuisance or any condition adversely affecting the environment or public health and be in compliance with all applicable state and local laws, ordinances, rules, regulations, or orders:
- 1. Wood Waste Processors. Wood waste processors that accept only wood waste (including tree and shrub waste) and have no more than 500 cubic yards of unprocessed material on-site at any one time;
  - 2. Re-use in Own Manufacturing Process. Businesses that separate a portion of their own waste stream for re-use in their own manufacturing process;
  - 3. Recycling Facilities. Recyclables handling and recovery facilities that collect and handle less than five tons/day of nonputrescible waste that is source-separated; or
  - 4. Returnable Container Redemption Operations. Returnable container redemption operations conducted at a dealer, distributor, or retail facility.
- B. **CONCRETE AND ASPHALT RECYCLERS.** Concrete and asphalt recycling operations that regularly stockpile material and perform crushing or recovery activities are exempt from the licensing requirements of sections 3.02, 10.01, and 10.02, but the owner or operator of such operations must:
- 1. By January 31 of each year, submit a report to the department, on a form provided by the department that includes:
    - a. A written description of the operation or proposed operation that identifies the overall process and a functional description of all processing equipment to be used;
    - b. A description of the end product distribution and final disposal system for waste and residuals and the identification of potential and actual ground water and surface water discharges; and
    - c. A list of the type and quantity of waste passing through the facility for the previous calendar year.
  - 2. Operate without creating a public nuisance or any condition adversely affecting the environment or public health and be in compliance with all applicable state and local laws, ordinances, rules, regulations, or orders.
- C. **SCRAP YARDS.** Scrap yards are exempt from the licensing requirements of sections 3.02, 10.01, and 10.02, but the owner or operator must comply with the following:



1. Register with the department or obtain a hazardous waste generator license. Any scrap yard that stores more than five scrap vehicles, or stores more than 20 tons of scrap metal, or where any vehicle is crushed must:
  - a. Register with the department on forms provided by the department; or
  - b. Become licensed as a hazardous waste generator in accordance with the requirements of Dakota County Ordinance 111 (Hazardous Waste Regulation).
2. Operate without creating a public nuisance or any condition adversely affecting the environment or public health and be in compliance with all applicable state and local laws, ordinances, rules, regulations, or orders.
3. Scrap Vehicle Storage. Scrap vehicles (junk cars/inoperable motor vehicles) that are stored at a scrap yard:
  - a. Must be drained of all fluids, including but not limited to, oil, brakes, transmission, and differential, before storage. The draining of fluids must occur on a surface that is impervious to automotive fluids and is designed to capture any spills, drips, or leaks. After fluids have been drained, plugs must be replaced; and cut lines, holes, and punctures must be plugged. Alternatively, if approved by the Department, the operator may, in place of draining fluids, perform weekly inspections to detect leakage and keep a log indicating the results of each inspection. Vehicles that are inspected must be stored in such a manner that all parts of the vehicle are easily viewable. Operators must retain these records for three years.
  - b. Oil filters must be removed, or drained and replaced before storage; and
  - c. Mercury switches must be removed before storage.
4. Scrap Yard Waste Management. All scrap yards that store scrap motor vehicles must manage the following wastes according to the requirements of Dakota County Ordinance 111 (Hazardous Waste Regulation) and Minnesota Hazardous Waste Rules:
  - a. Used oil;
  - b. Used oil filters - filters may be managed separately from the vehicle or drained and reinstalled on the vehicle;
  - c. Fuels;
  - d. Lead-acid batteries;
  - e. Mercury switches;
  - f. Any other hazardous wastes generated by the vehicles;
  - g. Recover and clean up all spills, leaks, drips, and releases from the vehicles; and
  - h. Drain and manage refrigerants according to the requirements of 40 C.F.R. Part 82. Owners or operators must verify that all vehicles received without refrigerant are accompanied with a signed statement verifying that the refrigerants were removed using approved recovery methods and must keep a record of these statements for three years.

5. Scrap Vehicle Crushing.
  - a. No vehicle may be crushed unless the fluids have been drained, the oil filter removed or drained, the battery removed, and mercury switches removed.
  - b. Crushing of vehicles must be done on a surface that is impervious to used oil and other automotive fluids, or the crusher must be designed and operated to collect all fluids with no spillage.
  
6. Scrap Yard Reporting and Recordkeeping.
  - a. By January 31 of each year, the facility owner or operator shall submit reports on forms provided by the department that include, but are not limited to, reporting the type(s) and quantity of waste received, stored, and shipped by the facility during the previous calendar year; and
  - b. The facility shall maintain a record and receipts for all tires shipped off-site for disposal, which are subject to inspection by the department during regular business hours.

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## **SECTION 11.00 TRANSFER STATIONS**

### **11.01 LICENSE REQUIRED; APPLICATION REQUIREMENTS.**

It is a violation of this ordinance for any person to establish, operate, and maintain a transfer station without first being licensed to do so by the county board. The county board may, at its discretion, issue a license for the operation of a transfer station when the following materials prepared by a registered professional engineer of Minnesota are submitted to the county board for consideration.

The application for the license shall contain a site-plot plan, engineering plans, an operational plan, and any other information required by other sections of this ordinance or deemed necessary by the department. The minimum design requirement for new fixed transfer stations will be fully enclosed buildings with impermeable flooring and public nuisance prevention including, but not limited to, odor, noise, and litter.

- A. **SITE-PLOT PLAN.** The site-plot plan shall have a scale of one inch equal to not more than fifty (50) feet and have a vertical contour interval not greater than five feet. The site-plot plan shall include all land within 1,000 feet of property of the proposed facility. The following shall be included as a minimum:
1. Name and address of the facility, property owner, and the facility operator;
  2. City and/or township boundaries;
  3. North arrow, section line, section number;
  4. Waters of the state, floodplains and floodways;
  5. Land use and zoning within a 1,000-foot radius of the property lines;
  6. Adjacent residences and property ownership;
  7. Roads and railroads;
  8. Easements and utilities; and
  9. Location, size, and ownership of the land upon which the facility will operate.
- B. **ENGINEERING PLANS.** The engineering plans shall include as a minimum:
1. Roads, screening, fencing, gates, dimensions of building(s), dimensions of storage areas, loading and unloading zones, location of existing and proposed utilities;
  2. Dikes, berms, walls, dividers;
  3. Landscape and grading plans; and
  4. The department may request a report on the subsurface condition at the proposed facility. The department may request data that is adequate to indicate suitable soils, geological and ground water information at the site. The above data will be detailed on cross sections, the location of which will be indicated on the site plan.
- C. **OPERATIONS PLAN.** The operations plan shall include as a minimum:
1. Complete plans and specifications, proposed operating procedures for the transfer station, place of final disposal, and equipment to be used;

2. A contingency action plan identifying procedures and actions to be taken in the event of fire, spill, chemical release, physical injury, or other emergency situations at the facility;
3. A description of the solid waste proposed to be collected, stored, and transferred at the facility;
4. A description of the overall operation and a functional description of all equipment to be used, including design and anticipated performance. The operations must describe the flow of solid waste, including recyclable materials, through the facility;
5. The procedures for facility start-up and scheduled and unscheduled shut down operations;
6. A description of potential safety hazards and methods of control including, but not limited to: fire and smoke detection, air monitoring, fire control devices, odor, ventilation, and exhaust control systems;
7. A description of worker protection, training, and safety equipment to be employed on-site;
8. A description and schedule of cleaning procedures to be employed at the facility; and
9. A description of the methods of weighing or measuring the solid waste accepted and transferred at the facility.

#### **11.02 OPERATIONAL REQUIREMENTS.**

- A. The following shall be established and maintained at the transfer station site:
  1. A sign, subject to the approval of the department, shall be posted on the premises indicating the station name, the schedule of days and hours it is open, materials accepted, and prices for use if it is open to the public;
  2. Roads on the premises shall be all-weather surfaced. The premises shall be constructed, screened, and landscaped in such a manner as to be aesthetically pleasing in appearance;
  3. Adequate sanitary facilities and shelter for personnel shall be provided on the premises;
  4. Records. Records as approved and requested by the department shall be maintained and shall be accessible to the department. These records shall show:
    - a. The total number of tons of solid waste accepted and disposed based solely on the difference between the tare weight of each vehicle and/or conveyance and the gross weight of each vehicle and/or conveyance as measured on the landfill scale or the total number of cubic yards if the facility is not equipped with a weighing scale;
    - b. General type or types of solid waste accepted, transferred, or rejected;
    - c. Origin(s) of solid waste accepted;
    - d. The date and time of delivery; and
    - e. The hauler(s) that delivered solid waste to the facility;
  5. The operator shall implement an inventory system and segregation procedure sufficient to enable identification of the type(s), origin(s), and destination(s) of solid waste in storage at any time; and

6. The transfer station shall be so situated, equipped, operated, and maintained as to minimize interference with other activities in the area.
- B. OPERATIONAL REQUIREMENTS. A transfer station licensee shall comply with the following operational requirements:
1. When stated in and so required by the license, the licensee shall wash, clean, and disinfect the station at the end of each day of use;
  2. The premises, entrances, and exits shall be maintained in a clean, neat, and orderly manner at all times;
  3. All unloading of wastes from waste transportation vehicles shall be conducted in such a manner as to reduce odor and litter outside the station to a minimum;
  4. The facility shall notify the department prior to implementing any alterations or additions;
  5. Putrescible materials shall not remain in the transfer station longer than forty-eight (48) hours. Storage limitations for other solid wastes shall be subject to conditions stated in approved plans, and specifications; and
  6. Each month, the licensee shall submit a report to the department on a form prescribed by the department. The monthly report shall be due on the last day of the following month and include the following information:
    - a. Monthly total of cubic yards or, if the facility is equipped with an approved weighing scale, tons of solid waste received, by county of origin. Tonnage shall be determined by subtracting the tare weight of vehicles and/or conveyances from the gross weight of the vehicles and/or conveyances as measured on the scale;
    - b. Number of incoming loads accepted at the facility;
    - c. Number of loads and weight or volume of outgoing and rejected waste, type of outgoing and rejected waste, and the destination of the outgoing and rejected waste; and
    - d. Other information as determined from time to time by the department that is required by this ordinance to be kept by the facility.

### **11.03 REDUCED REGULATION COLLECTION AND TRANSFER STATIONS**

- A. SMALL VOLUME COLLECTION AND TRANSFER. The collection and transfer activities of the following materials shall be exempt from licensing requirements of Sections 3.02, 11.01 and 11.02 and operations must not create a public nuisance or any condition negatively affecting public health or the environment and be in compliance with all applicable state and local laws, ordinances, regulations and orders:
1. Organics. Organics with no more than 10 cubic yards on site at any given time. The organics must be stored in covered leak-proof containers and transferred to a composting facility or anaerobic digester at least once per week.
  2. Yard Waste. Yard waste with no more than 40 cubic yards on site at any given time and transferred to a yard waste compost facility at least once per week.

3. Municipal Solid Waste. Municipal solid waste items for disposal with no more than 30 cubic yards on site at any given time. The municipal solid waste must be stored in a covered container or indoors and transferred to a solid waste disposal facility at least once per week.
  4. Construction Debris and Demolition Waste. Construction debris and demolition waste with no more than 90 cubic yards on site at any given time. The waste must be containerized and transferred to a disposal facility at least once per week.
  5. Recyclables.
    - a. Mattresses for Recycling. Mattresses for recycling with no more than one semi-trailer or no more than 100 cubic yards stored in a weather-tight enclosure.
    - b. Carpet and Pad for Recycling. Carpet and carpet pads with no more than one semi-trailer or no more than 100 cubic yards stored in a weather-tight enclosure.
    - c. Film plastic. Film plastic with no more than one semi-trailer or no more than 100 cubic yards.
    - d. All Other Recyclables. All other recyclables with no more than 40 cubic yards stored in a covered container.
- B. DEPARTMENT NOTIFICATION. Operators of reduced regulation collection and transfer sites must notify the Department of their intention to operate at least 30 days prior to starting operations and prior to any change in services offered.
- C. SITE CONTROL. Collection and transfer sites must be staffed and/or have adequate site control to prevent illegal dumping of wastes
- D. ANNUAL REPORTING. By February 15 of each year, the Reduced Regulation Collection and Transfer Station must report annually on forms provided by the Department.

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## **SECTION 12.00 INFECTIOUS WASTE FACILITIES**

### **12.01 LICENSE REQUIRED; APPLICATION REQUIREMENTS.**

It is a violation of this ordinance for any person to establish, operate, and maintain an infectious waste facility without first being licensed to do so by the county board. The county board may, at its discretion, issue a license for the operation of an infectious waste facility when the following materials prepared by a registered professional engineer of Minnesota are submitted to the county board for consideration.

The application for the license shall contain a site-plot plan, engineering plans, an operational plan, and any other information required by other sections of this ordinance or deemed necessary by the department.

- A. **SITE-PLOT PLAN.** The site-plot plan shall have a scale of one inch equal to not more than fifty (50) feet and have a vertical contour interval not greater than five feet. The site-plot plan shall include all land within 1,000 feet of property of the proposed facility. The following shall be included as a minimum:
1. Name and address of the facility, property owner, and the facility operator;
  2. City and/or township boundaries;
  3. North arrow, section line, section number;
  4. Waters of the state, floodplains, and floodways;
  5. Land use and zoning within a 1,000-foot radius of the property lines;
  6. Adjacent residences and property ownership;
  7. Roads and railroads;
  8. Easements and utilities; and
  9. Location, size, and ownership of the land upon which the facility will operate.
- B. **ENGINEERING PLANS.** The engineering plans shall include as a minimum:
1. Roads, screening, fencing, gates, dimensions of buildings, dimensions of storage areas, loading and unloading zones, and location of existing utilities;
  2. Dikes, berms, walls, dividers;
  3. Landscape and grading plans;
  4. If applicable, an engineering report including treatment equipment design criteria and expected performance data, the present and future population and area to be served by the facility, and the characteristics, quantities, and sources of infectious waste to be treated, disposed, or stored; and
  5. Such additional clarifying data as may be requested by the county.
- C. **OPERATIONS PLAN.** The operations plan shall include as a minimum:
1. Plans for the final disposal of the treated waste;

2. A management plan in compliance with Minn. R. 7035.9130 that requires information regarding infectious waste facility handling, contingencies, packaging, staff training, processing, and disposal, to be submitted to and approved by the MPCA; and
3. The name of the local fire department and a description of the arrangements that have been made and will be made with the local fire department to ensure the safety of fire response personnel and to minimize health hazards that might otherwise occur as a result of fire or firefighting efforts.

## **12.02 OPERATIONAL REQUIREMENTS.**

- A. The following shall be established and maintained at the infectious waste facility:
  1. A sign, subject to the approval of the department, shall be posted on the premises indicating the facility name, the schedule of days and hours it is open, materials accepted, and prices for use if it is open to the public;
  2. Roads on the premises shall be all-weather surfaced. The premises shall be constructed, screened, and landscaped in such a manner as to be aesthetically pleasing in appearance;
  3. Adequate sanitary facilities and shelter for personnel shall be provided on the premises;
  4. Records as approved and requested by the department shall be maintained and shall be accessible to the department. These records shall show:
    - a. The total number of tons of infectious waste accepted, based solely on the difference between the tare weight of each vehicle and/or conveyance, and the gross weight of each vehicle and/or conveyance as measured on the scale or the total number of cubic yards if the facility is not equipped with a weighing scale;
    - b. General type or types of infectious waste accepted at the facility;
    - c. Origin(s) of infectious waste accepted, passed through, or rejected from the facility;
    - d. The date and time of delivery; and
    - e. The hauler(s) that delivered infectious waste to the facility;
  5. The operator of a facility shall implement an inventory system and segregation procedure sufficient to enable identification of the type(s), origin(s), and destination(s) of solid waste in storage at any time;
  6. The infectious waste facility shall be so situated, equipped, operated, and maintained as to minimize interference with other activities in the area;
  7. The premises, entrances, and exits shall be maintained in a clean, neat, and orderly manner at all times; and
  8. All unloading of wastes from waste transportation vehicles shall be conducted in such a manner as to reduce odor and litter outside the station to a minimum so as not to create a public nuisance.
- B. An infectious waste facility licensee shall comply with the following operational requirements:



1. An infectious waste facility shall comply with the provisions of section 3.00 and with other applicable provisions of this ordinance except for those provisions specifically waived by the department, and shall pay the appropriate fees;
2. The facility must be in compliance with Minn. R. 7035.9100-7035.9140, (Infectious Waste Facility and transporter requirements);
3. The facility shall notify the department prior to implementing any alterations or additions to the treatment or disposal system;
4. Infectious wastes shall not remain at the facility longer than five working days;
5. Decontaminated infectious wastes shall not be stored on site longer than seventy-two (72) hours unless specifically approved by the county board; and
6. Each quarter, the licensee shall submit a report to the department on a form prescribed by the department. The quarterly report shall be due on the last day of the month following the end of each quarter and include the following information for each of the three preceding months:
  - a. Monthly totals of cubic yards or, if the facility is equipped with an approved weighing scale, tons of infectious waste received. Tonnage shall be determined by subtracting the tare weight of vehicles and/or conveyances from the gross weight of the vehicles and/or conveyances as measured on the scale;
  - b. Number of incoming loads accepted at the facility;
  - c. Number of loads and weight or volume of outgoing and rejected waste, type of outgoing and rejected waste, and the destination of the outgoing waste; and
  - d. Other information as determined from time to time by the department that is required by this ordinance to be kept by the facility.

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## **SECTION 13.00 COMPOSTING FACILITIES**

### **13.01 LICENSE REQUIRED; APPLICATION REQUIREMENTS.**

It is a violation of this ordinance for any person to establish, operate, and maintain a composting facility without first being licensed to do so by the county board. The county board may, at its discretion, issue a license for the operation of a composting facility when the following materials, prepared by an appropriate professional, as determined by the department, are submitted to the county board for consideration.

The application for the license shall contain a site-plot plan, engineering plans, an operational plan, and any other information required by other sections of this ordinance or deemed necessary by the department.

- A. **SITE-PLOT PLAN.** Site-plot plans shall have a scale of one inch equal to not more than fifty (50) feet and have a vertical contour interval not greater than two feet. Site plot plans shall include the following:
1. An existing conditions site plan identifying: area of the site in acres, existing topography, surface water drainage, buildings, vegetation, roadways, utilities, water supply wells, residences, surface water, drainage swales and closed depressions on-site and within 1,000 feet of the site;
  2. Name and address of the facility, property owner, and the facility operator;
  3. City and/or township boundaries;
  4. North arrow, section line, section number;
  5. Waters of the state, floodplains and floodways;
  6. Land use and zoning within a 1,000-foot radius of the property lines;
  7. Adjacent residences and property ownership;
  8. Roads and railroads;
  9. Easements and utilities; and
  10. Location, size, and ownership of the land upon which the facility will operate.
- B. **ENGINEERING PLANS.** The engineering plans shall include as a minimum:
1. Roads, screening, fencing, gates, dimensions of buildings, storage areas, loading and unloading zones, and the location of existing and proposed utilities;
  2. Landscape and grading plans that delineate the composting facility drainage characteristics;
  3. Dikes, berms, walls, dividers; and
  4. The department may request a report on the subsurface conditions at the proposed facility. The department may request data that is adequate to indicate suitable soils, geological and ground water information at the site. The license applicant must detail the above information in cross section(s) with the location of the cross section(s) indicated on the site plan.

C. OPERATIONS PLAN. The operations plan shall include as a minimum:

1. A description of the solid waste proposed to be collected, stored, and processed at the proposed facility;
2. A contingency action plan identifying procedures and actions to be taken in the event of fire, spill, chemical release, physical injury, or other emergency situations at the facility;
3. A description of the overall operation and a functional description of all composting equipment to be used, including design and anticipated performance. The operations plan must describe the flow of solid wastes through the facility;
4. The procedures for facility start-up and scheduled and unscheduled shut down operations;
5. A description of potential safety hazards and methods of control including, but not limited to: fire and smoke detection, air monitoring, fire control devices, ventilation, and exhaust control systems;
6. A description of worker protection, training, and safety equipment to be employed on-site;
7. A description and schedule of cleaning procedures to be employed at the facility;
8. A description of the handling, storage, and disposal methods to be used for unmarketable compost, rejects and residuals;
9. A description of the methods of weighing or measuring the solid waste accepted and processed at the facility including: residuals, rejects, and final product recovered;
10. Total capacity of the site including proposed storage and processing capacity for the incoming solid waste, rejects, residuals, compost in progress, curing compost, and finished compost;
11. Site access control methods;
12. Schedule of operation including days and hours of operation;
13. Special precautions or procedures for operation during wind, heavy rains, snow, and freezing conditions;
14. Procedures that address operator's response to odor, dust, ground or surface water contamination, on-site litter and blowing litter, and other nuisance conditions at the site;
15. Methods of controlling the types of solid waste received at the facility. The plan shall specify inspection procedures, number and location of spotters, rejection criteria, and procedures to be followed if prohibited wastes are discovered;
16. Methods and solid waste processing sequence, including the equipment to be used, the composting method to be employed (for example; in vessel, static pile, windrow, etc.), turning frequency, and total time of the composting process from initiation to completion and distribution;
17. Proposed monitoring, sampling protocol, and chemical analyses to be performed on the composting and composted materials; and
18. The proposed end markets and quality of the finished compost, wood mulch, or chips produced at the facility.

## 13.02 OPERATIONAL REQUIREMENTS.

- A. The following shall be established and maintained at the composting facility:
1. A sign, subject to the approval of the department, shall be posted on the premises indicating the facility name, the schedule of days and hours it is open, materials accepted, and the prices for public use;
  2. Roads and working surfaces on the premises shall be all-weather surfaced;
  3. Access control, including necessary gates and fencing;
  4. Adequate sanitary facilities and shelter for personnel shall be provided on the premises;
  5. Records as approved and requested by the department shall be maintained for three years and shall be accessible to the department. These records shall show:
    - a. The total number of tons of solid waste accepted and disposed based solely on the difference between the tare weight of each vehicle and/or conveyance, and the gross weight of each vehicle and/or conveyance as measured on the scale or the total number of cubic yards if the facility is not equipped with a weighing scale;
    - b. General type or types of solid waste accepted, passed through, or rejected;
    - c. Origin(s) of solid waste accepted or rejected by the facility;
    - d. The date and time of delivery; and
    - e. The hauler(s) that delivered solid waste to the facility;
  6. The composting facility shall be situated, equipped, operated, and maintained as to minimize interference with other activities in the area.
- B. A composting facility licensee shall comply with the following requirements:
1. Adequate storage must be provided for all solid waste delivered to the facility and for the rejects, residuals, compost and other products that are produced, with limitations to be set by the county board as part of the license conditions;
  2. Adequate storage area must be provided for all products that are available at the facility but are not produced at the facility and shall not impinge upon or compromise the day-to-day operations of the facility, with limitations that may be set by the county as part of the license conditions;
  3. Drainage must be controlled to prevent ponding and surface water drainage from off-site must be diverted away from the composting site;
  4. All contact water or leachate must be collected for re-use, on-site treatment, or transported off-site for treatment or proper disposal;
  5. Such other requirements as may be established by the county board in order to protect the health, safety, and welfare of the public; and

6. Within one month after facility closure, all nonimpervious surfaces on which solid waste, compost, residuals, or finished product were staged, must be seeded with native grasses or other suitable vegetation. If operations cease between October 1 and April 1, the site must be seeded by May 1.

### **13.03 COMPOSTING ACTIVITIES WITH REDUCED REGULATIONS.**

The following composting activities shall be considered exempt from the requirements of sections 3.02, 13.01, 13.02, 13.05, and 13.06:

- A. Backyard compost sites and the resulting compost.
- B. The composting of less than 200 cubic yards of yard waste per year, provided the process follows acceptable methods of composting.
- C. Small compost sites of 120 cubic yards on site at any one time that meet the definition and operating requirements of Minn. Rules 7035.0300, Subp. 99a.
- D. REQUIREMENTS.

Composting activities under section 13.03(A), (B) and (C) must comply with the following requirements:

1. Operations at the site shall not create a public nuisance or any conditions adversely affecting the environment or public health;
2. Activity at the site must not violate state or local laws, ordinances, rules, regulations, or orders; and
3. Failure to comply with the requirements of this section 13.03 is a violation of this ordinance.

### **13.04 ADDITIONAL OPERATIONAL REQUIREMENTS FOR YARD WASTE ONLY COMPOSTING FACILITIES.**

Yard waste composting facilities are subject to the following operational requirements, in addition to those contained in sections 13.01 and 13.02:

- A. Only yard waste, or similar vegetative waste as specifically approved by the department may be accepted at the facility;
- B. The facility must notify the Department when a load is rejected and identify the origin, date, and reason for the rejection.
- C. The facility operator must take steps to prevent the incoming material from undergoing anaerobic decomposition; and
- D. Operational reports, on a form approved by the department, must be submitted to the department semi-annually by July 31 and January 31 and must include the type and quantity, by weight or volume, of yard waste received at the facility; the quantity, by weight or volume, of rejects and residuals separated; the quantity, by weight or volume, of compost, wood chips, and mulch produced; the quantity, by weight or volume, of compost, wood chips, and mulch stored at the facility; and a description of the end-product distribution and residuals disposal.

### **13.05 ADDITIONAL DESIGN AND OPERATIONAL REQUIREMENTS FOR SOLID WASTE COMPOSTING FACILITIES EXCLUDING YARD WASTE COMPOSTING FACILITIES.**

In addition to the requirements established in sections 13.01 and 13.02, a composting facility accepting solid waste must comply with the following design and operational requirements:

- A. The facility operator must provide a detailed description, including appropriate chemical and physical analysis, as determined by the department, of the source(s), quality, and quantities of the solid waste(s) to be composted or used as bulking agents;
- B. The waste storage areas and the waste processing, composting, curing, and compost storage areas must be constructed of water impermeable surfaces such as concrete or asphalt, and designed to control leachate and surface water run-off;
- C. The tipping, processing, curing, and active composting activities must be conducted within an enclosed building;
- D. The facility must be designed and operated to control odors;
- E. The facility operator must initiate the processing of all solid waste within forty-eight (48) hours of delivery to the facility;
- F. Facilities that compost solid waste possessing a pathogen concern must meet the MPCA approved criteria for a process to further reduce pathogens and provide a description of temperature monitoring protocol and procedures;
- G. Daily operational records must be maintained for the facility that include temperature monitoring data, and operational data such as quantity and types of waste processed;
- H. Periodic analyses of the compost, as determined by the department, must be completed for the following parameters: percentage of total solids; volatile solids as a percentage of total solids; pH; Kjeldahl, ammonia, and nitrate nitrogen; total phosphorus; cadmium; chromium; copper; lead; nickel; zinc; mercury; and polychlorinated biphenyls (PCBs) and other parameters specified in Minn. R. 7035.2836, subp. 6. All analyses must be reported on a dry weight basis. The sampling and analysis program must be established in the facility license based on the facility design, intended end use distribution of the compost, waste composted, and facility operations;
- I. A quarterly operational report must be submitted to the department within thirty (30) days of the end of the calendar quarter and must include: all information and analyses specified in the license application, including copies of laboratory reports; the origin, types, and quantities of solid waste and bulking agents composted at the facility; the quantity of compost and residuals produced; sampling and monitoring locations and protocol used to obtain representative conditions and samples; operational information including temperature monitoring data and facility operational problems; and a description of the ultimate use and distribution of the finished compost;
- J. All compost produced at the facility is subject to the classification parameters established in Minn. R. 7035.2836, subp. 6(A); and
- K. Compost distribution and end use is subject to the restrictions outlined in Minn. R. 7035.2836, subp.7(A)-(C).

### **13.06 EXEMPTED REQUIREMENTS FOR NON-YARD WASTE COMPOSITING FACILITIES.**

Solid waste composting facilities that only accept segregated, homogenous compostable materials may apply for an exemption from some of the requirements of section 13.00, subject to the department's written approval.

### **13.07 ADDITIONAL DESIGN AND OPERATIONAL REQUIREMENTS FOR SOURCE SEPARATED COMPOSTABLE MATERIAL COMPOSTING FACILITIES.**

Source separated compostable material composting facilities are subject to the following design and operational requirements, in addition to those contained in sections 13.01 and 13.02:

- A. The facility must provide the department with the design and construction documents that meet the requirements of Minn. R. 7035.2836.
- B. The facility must provide the department with the operations manual and operate in a manner that meets the requirements of Minn. R. 7035.2836, Subp. 6 to 11.
- C. The facility must notify the Department at least 30 days prior to implementing changes to material acceptance.
- D. The facility must notify the Department when a load is rejected and identify the origin, date, and reason for the rejection.
- E. A quarterly operations report must be submitted to the department within thirty (30) days of the end of the calendar quarter and must include: all information and analyses specified in the license application, including copies of laboratory reports; the origin, types, and quantities of source separated compostable materials and bulking agents received at the facility; the quantity of compost and residuals produced; the quantity and type of rejects separated; the quantity of compost, wood chips, and mulch stored at the facility; and a description of the end-product distribution and rejects disposal.

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## **SECTION 14.00 NONCONFORMING SITES**

### **14.01 REQUIREMENT TO BRING NONCONFORMING SITE INTO CONFORMITY**

- A. IN GENERAL. The owner of a nonconforming site shall bring the site into conformance with the requirements of this ordinance as well as all other applicable laws, rules, and ordinances.
- B. HAZARDOUS WASTES. In the event a hazardous waste, as that term is defined by Dakota County Ordinance 111, was disposed of or released on a nonconforming site, the owner of the site shall also comply with the requirements of Ordinance 111 as well as all other applicable laws, rules, and ordinances.
- C. REQUIREMENTS. The department may require the owner of a nonconforming site to:
  - 1. Obtain a license as a solid waste facility from the county board pursuant to the requirements of this ordinance;
  - 2. Complete closure of the facility not currently licensed under this ordinance in accordance with the requirements of section 3.05, section 3.06, and any other applicable sections of this ordinance;
  - 3. Complete remediation of the nonconforming site in accordance with the requirements of sections 14.03 and 3.00 and any other applicable sections of this ordinance;
  - 4. File a solid waste disposal disclosure notice with the Dakota County Property Record's Department that meets the requirements of section 14.04 and any other applicable sections of this ordinance; and/or
  - 5. Submit to the department all documents pertaining to the nonconforming site, including, but not limited to: investigations conducted of the site, environmental assessments, test results, and any other relevant information.

### **14.02 DUTY TO REPORT A NONCONFORMING SITE.**

A person who has knowledge of a nonconforming site shall disclose all information known to that person about the nonconforming site to the department. Failure to do so is a violation of this ordinance.

### **14.03 PROCEDURE AND REQUIREMENTS FOR REMEDIATION OF NONCONFORMING SITES.**

- A. REMEDIAL INVESTIGATION PLAN. If the department requires the owner of a nonconforming site to remediate the site pursuant to section 14.01(C)(3), the owner must submit a remedial investigation plan to the department. The remedial investigation plan shall be prepared in accordance with recognized industry standards, including but not limited to American Society for Testing and Materials (ASTM) standards; and applicable MPCA guideline documents. The owner may not begin any corrective actions on the nonconforming site until the owner has submitted and received department approval of a remedial action plan as required by section 14.03(C).

The remedial investigation plan must include, at a minimum, the following information:

- 1. The disposal history of the site including the approximate dates of waste acceptance and the types, composition, location, volumes, and manner of disposal of waste.
- 2. The identification of regulatory documents including a list of all permits, licenses, and approvals applied for or issued by federal, state, county, and local governments, and all previous environmental assessments conducted for the nonconforming site.



3. A description of the proposed assessment activities that will be used to properly characterize the nonconforming site. Such assessment activities shall include the following components:
    - a. Assessment of the soil for all known or potential areas of contaminated sediments, including soils and underlying unconsolidated and consolidated sediments;
    - b. Characterization of the solid wastes and if applicable, hazardous wastes present on the site;
    - c. Location of the solid wastes and if applicable, hazardous wastes present on the site;
    - d. Assessment of all above-ground and underground containers and any releases therefrom;
    - e. Assessment of air quality and soil gas including information regarding monitoring locations and techniques;
    - f. Assessment of the ground water where there is a potential for release of contaminants to vadose, if applicable, and ground water;
    - g. Assessment of all surface waters and sediments where there is a potential for waste disposal in or release of contamination to surface waters; and
    - h. An ecological assessment of any known or potential impacts to animal and/or plant life.
  4. An accurate map depicting locations and depths of proposed borings, monitoring wells, sampling locations, test pits, or any other areas of assessment. The map shall include all appropriate buildings, structures, and other site features, an appropriate scale, orientation to north, and a key to all symbols used.
  5. A description of the actions that shall be taken if site conditions or wastes not addressed in the remedial investigation plan are encountered. The remedial investigation plan shall be modified upon discovery of such conditions or wastes, by submitting an addendum to the plan, for department approval, that addresses how the conditions or wastes shall be managed.
  6. A statement of objectives for sampling and laboratory analysis including a list of the parameters to be analyzed, the analytical methods, and the practical quantification limits to be employed by the selected laboratory. A laboratory certified by the Minnesota Department of Health shall perform any analyses conducted in accordance with the remedial investigation plan.
  7. A schedule of the fieldwork for the various stages of the investigation, and the estimated dates that the results of the remedial investigation plan, in the form of a remedial investigation report, shall be available.
  8. Site Health and Safety Plan. A description of the site health and safety plan for investigation activities to be conducted upon the nonconforming site. The site health and safety plan must include hazard evaluation, levels of personal protection to be used, and emergency procedures. Department approval of the remedial investigation plan shall not be construed as an approval of the adequacy of the site health and safety plan or its compliance with EPA rules, OSHA standards, or any other applicable laws, rules, or ordinances.
- B. REMEDIAL INVESTIGATION REPORT. The owner of a nonconforming site shall submit a remedial investigation report to the department, based on implementation of the department approved remedial investigation plan required by section 14.03(A). The report must include the results of all sampling and testing completed under the remedial investigation plan and an evaluation of all appropriate remedial

options based upon the investigation results. The owner may not begin any corrective actions on the nonconforming site until the owner has submitted and received department approval of a remedial action plan as required by section 14.03(C).

C. REMEDIAL ACTION PLAN.

1. Remedial Action Plan. The owner of a nonconforming site shall submit a remedial action plan to the department, based on the remedial investigation report required by section 14.03(B), and shall receive department approval of the remedial action plan prior to beginning any corrective actions at the nonconforming site. The corrective actions proposed for the nonconforming site shall be based upon the type and extent of the wastes and contamination, if any, at the nonconforming site and the current and proposed land use of the nonconforming site and adjacent properties. If applicable, the remedial action plan shall be reviewed and approved by the appropriate state agency authorized by Minnesota law.
2. Remedial Actions. Corrective actions required at a nonconforming site may include, but are not limited to, the complete removal of waste and contaminated soils, the covering of any residuals and soils containing contaminants, and the remediation of any releases to the environment. The closure of a nonconforming site shall be conducted in accordance with the requirements of sections 3.05 and 3.06, and any other applicable sections of this ordinance. The remedial action plan shall include the solid waste facilities proposed for the intermediate and final disposal of excavated waste and contaminated soils, if any, and the methods and equipment to be used to remove them. If there is a need for post-closure care, this must be included in the remedial action plan.
3. Site Health and Safety Plan. The remedial action plan shall include a site health and safety plan that is submitted to the department for review prior to the implementation of any corrective actions or closure activities on the nonconforming site. At a minimum, the site health and safety plan shall include hazard evaluation, levels of personal protection to be used and emergency procedures. Department approval of the remedial action plan shall not be construed as an approval of the adequacy of the site health and safety plan or its compliance with EPA rules, OSHA standards, or any other applicable laws, rules, or ordinances.
4. Implementation of Remedial Action Plan.
  - a. Documentation of the management and disposal of all wastes, contaminated soil, and releases to environmental media, if any, identified on the nonconforming site must be submitted to the department within thirty (30) days of completion of the remedial action plan to verify the proper management of waste and the approved remediation of the site.
  - b. A nonconforming site owner shall take measures to minimize erosion, such as the establishment of vegetation and provision of adequate surface water drainage, to all areas affected by the excavation of wastes or soil from the nonconforming site.
  - c. The remediated nonconforming site shall be closed in such a way so as to facilitate, when appropriate, the approved, compatible end use, which protects the environment and promotes the public health and safety in the future.

D. COMPLIANCE WITH OTHER REGULATORY REQUIREMENTS. In addition to complying with this ordinance, a nonconforming site that is not in compliance with other applicable county, local, state, or federal agencies' regulations or standards shall bring the nonconforming site into compliance with those regulations, standards, or guidelines.

E. ADDITIONAL REQUIREMENTS. If deemed necessary by the department, the department may require additional information and/or investigation in the preparation of the remedial investigation plan required by

section 14.03(A), the remedial investigation report required by section 14.03(B), and/or the remedial action plan required by section 14.03(C).

- F. WAIVER OF REQUIREMENTS. In its discretion, the department may waive any of the requirements set forth in sections 14.03(A) to 14.03(C).

#### **14.04 FILING OF SOLID WASTE DISCLOSURE NOTICE.**

- A. IN GENERAL.

An owner of a nonconforming site, who is required by the department to complete closure of an unlicensed facility pursuant to section 14.01(C)(2), shall file a solid waste disclosure notice with the Dakota County Property Records Department in accordance with section 3.06(G).

An owner of a nonconforming site who is required by the department to complete remediation of the site pursuant to section 14.01(C)(3) shall file a solid waste disclosure notice with the Dakota County Property Records Department if the remedial action plan approved by the department under section 14.03 allows solid waste or the residuals of wastes or releases to remain on the property with approved cover material. The solid waste disclosure notice shall meet the requirements of section 14.04(B) below and shall be in a form approved by the department. The owner shall file the solid waste disclosure notice with the Dakota County Property Records Department within thirty (30) days following completion of the approved corrective actions.

- B. CONTENT OF A SOLID WASTE DISPOSAL DISCLOSURE NOTICE. The solid waste disposal disclosure notice shall be properly signed, dated, and notarized and shall contain, but not limited to, the following information:

1. The nonconforming site's legal description;
2. The type and location of solid wastes or residuals that are located on the property in violation of this ordinance;
3. The cover material, if any, used to cover the solid wastes or residuals;
4. The restrictions, if any, for use of the portion of the property upon which the solid wastes or residuals are located; and
5. A certification that to the best of the property owner's knowledge the information contained in the solid waste disposal disclosure notice is true and complete.

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## **SECTION 15.00 COLLECTION AND TRANSPORTATION OF SOLID WASTE AND RECYCLABLE MATERIALS**

### **15.01 LICENSE REQUIRED.**

No person may collect and/or dispose solid waste, including recyclable materials, within Dakota County without first being granted a license to do so by the department as specified in this section. This section shall not apply to persons who collect and transport their own household solid waste. This section shall not apply to persons collecting or hauling strictly demolition waste or special waste to a demolition landfill or special waste landfill except for the provisions of section 15.04.

### **15.02 EQUIPMENT AND OPERATIONS REQUIREMENTS.**

- A. **EQUIPMENT REQUIREMENTS.** All solid waste collection and transportation vehicles shall be easily cleanable, leak-proof, and be covered with metal, canvas, or a fish-net type material so as to prevent escape of solid waste while in transit.
- B. **MAINTENANCE.** The licensee shall maintain all solid waste collection and transportation vehicles in a safe and sanitary manner and provide brooms and shovels on each vehicle for the purpose of cleaning spilled material. All safety equipment including but not limited to horns, lights, and reflectors shall be operable.
- C. **LABELING.** Each vehicle used by a hauler for the collection or transportation of solid waste shall be identified by a license decal issued for that vehicle for the current license year. The hauler must permanently affix the decal in a conspicuous place on the left side of the cab of the vehicle for which it was issued as directed by the department. The hauler must maintain the license decal so that it is readily visible and legible at all times. Any vehicle not bearing the required decal shall be considered unlicensed. Vehicles used exclusively for collecting source-separated recyclable materials or hauling processed recyclable materials to market need not have a license decal, but the hauler must be licensed.

In addition, the hauler shall print or paint in legible characters the capacity of each vehicle and container and the name, address, and telephone number of the hauler on each side of all vehicles or containers used by the hauler to store, collect, or transport solid waste in Dakota County. Letters and numbers shall be at least four inches high for all vehicles and at least two inches high for all containers. This provision shall not apply to containers owned and maintained by a solid waste generator.

Haulers must ensure all solid waste containers provided to their customers are labeled according to the requirements in section 16.06.

- D. **INSPECTION.** The department may inspect and approve all solid waste collection and transportation vehicles.
- E. **STORAGE.** The licensee shall not allow solid waste to remain or be stored in any collection or transportation vehicle, including roll-offs and other detachable containers in excess of forty-eight (48) hours, except in the event of an emergency such as inclement weather, equipment breakdown, or accident. Any storage of waste in containers must be done with a water impermeable cover.
- F. **PROTECTING PRIVATE PROPERTY.** The licensee shall take reasonable care to protect the property of customers being served. The licensee shall be responsible for any damage or spillage of solid waste as a result of the licensee or the licensee's employees or agent's action(s).
- G. **SMOKING, SMOLDERING OR BURNING WASTE.** The licensee may not collect and transport waste materials that are smoking, smoldering, or burning.

- H. DUMPING IN AN EMERGENCY. The licensee shall be responsible for the clean-up of any waste that must be dumped in an emergency. The operator of the vehicle shall immediately notify the department and the appropriate law enforcement agency and emergency service of such a dumping and clean the area within a time limit set by the department.
- I. HOURS OF OPERATION. The licensee may not collect and transport solid waste from residential sources before 6:00 a.m. or after 9:00 p.m.
- J. YARD WASTE COLLECTION. Solid waste haulers shall only accept for collection, yard waste that is generated and placed for collection in Dakota County: (1) that has been placed in paper bags or other containers that meet all the specifications in American Society for Testing and Materials (ASTM) Standard Specific for Compostable Bags (D6400) or (2) that is in a container that is not collected with the yard waste; or (3) that is not containerized.
- K. PROHIBITED WASTES. Solid waste haulers shall not accept for collection in Dakota County any mixed municipal solid waste that contains yard waste, Christmas trees, dry cell batteries (as prohibited by Minn. Stat. §115A.9155), wastes containing mercury (as prohibited by Minn. Stat. §115A.932), motor vehicle fluids and filters (as prohibited in Minn. Stat. §115A.916), cathode ray tubes or any additional materials prohibited under Section 3.01 A and B.

**15.03 METROPOLITAN AREA SOLID WASTE SHALL BE DISPOSED IN CONFORMING FACILITY.**

No person may place in Dakota County, or transport in Dakota County for placement outside the county, solid waste that is generated in the metropolitan area, in a portion of any final disposal facility that does not comply with the minimum requirements for design, construction, and operation of a new final disposal facility for the type of solid waste being disposed.

**15.04 SECURE ALL LOADS.**

A person who collects or transports solid waste must do so in a safe and sanitary manner and must secure all loads so as to prevent escape of any of these materials. Failure to do so is a violation of this ordinance and subjects a hauler to enforcement actions under section 3.15.

**15.05 TRASH, RECYCLABLES, AND ORGANICS MATERIALS REPORTING.**

A licensed hauler who collects or transports municipal solid waste, recyclables, or organics in Dakota County must report to the Department information relating to the collection, processing, and disposition of recyclable materials, organics, and solid wastes. The information shall be reported to the department on at least a quarterly basis (no later than 30 days after the end of each quarter) on the form developed under MN 115A.93 sub 1, c.

**15.06 RECORDS.**

- A. INFORMATION REQUIRED. A person who collects solid waste in Dakota County shall maintain records regarding the volume, weight, type(s), and origin(s) of waste collected. Each day, a record of the origin(s), type(s), and weight of the waste collected that day and the identity of the solid waste facility at which collected waste is deposited must be kept on the waste collection vehicle. If the waste is measured by volume at the solid waste facility at which it is deposited, the record may indicate the volume rather than the weight of the waste. These daily records must be maintained at the Haulers Base County Office for 3 years and be available for inspection.
- B. WASTE DEPOSIT DISCLOSURE.

1. Disclosure Required.
  - a. At least annually between January 1 and March 31, a person who collects for transportation (hauler) to a solid waste facility, construction debris, industrial waste, or mixed municipal solid waste generated in Dakota County, shall disclose to each waste generator from whom such waste is collected, the name, location, and type of, and the number of the permit issued by the MPCA, or its counterpart in another state, if applicable, for the processing or final disposal facility or facilities, excluding a transfer station, at which the waste will be deposited. The hauler shall state the approximate percentage of waste deposited at each of the two primary facilities used for the type of waste collected from the generator in Dakota County and any alternative solid waste facilities regularly used by the hauler for the type of waste collected from the generator in Dakota County.
  - b. All written disclosures must include the following statement: "You may be responsible for any liability that results from contamination at a facility where your waste has been deposited. Minnesota believes that its waste management system provides substantially more financial and environmental protection than depositing waste in landfills in other states. Managing your waste in Minnesota may minimize your potential liability."
  - c. All oral disclosures must include the following statement: "You may be responsible for any liability that results from contamination at a facility where your waste has been deposited. Minnesota believes that its waste management system offers more protection from liability than the waste management systems of other states."
  - d. If any of the primary or alternative disposal facilities identified by the hauler in paragraph (a) are not located in Minnesota, the disclosure must also state "The landfill to which your waste may be sent during the current calendar year is not a Minnesota landfill."
2. Form of Disclosure.
  - a. A hauler shall make the disclosure to the solid waste generator in writing at least once a year between January 1 and March 31 and on any written contract for collection services for that year. The written disclosure must include all of the information described in section 15.06(B)(1). The oral disclosure required in this section need only include the statement required in section 15.06(B)(1)(b) and the statement required in section 15.06(B)(1)(c) if that paragraph applies.
  - b. An oral disclosure is only required with regard to the collection of mixed municipal solid waste. A hauler must provide the required disclosure orally to a waste generator at the time the generator agrees to purchase regular collection service and must provide written disclosure to the generator within forty-five (45) days from the date of request for collection service. This oral disclosure is not required if Dakota County or the city in which the waste is generated selects the hauler that may provide collection services to the generator.
  - c. If a hauler provides one-time or occasional service to a waste generator, the hauler must orally provide the generator with the required disclosure at the time the generator agrees to purchase the collection service. The hauler shall then provide written disclosure to the generator within forty-five (45) days from the date of request for services.
  - d. If an additional facility becomes either a primary facility or an alternative facility during the year, the hauler shall make the disclosure set forth in section 15.06(B)(1) within thirty (30) days. A municipality that collects solid waste without direct charges to waste generators shall make the disclosure on any statement that includes an amount for waste

management, provided that, at a minimum, disclosure to waste generators must be made at least twice annually in a form likely to be available to all generators.

3. Hauling to Transfer Stations. If a hauler deposits solid waste at a transfer station, the hauler need not disclose the name and location of the transfer station to the solid waste generator but must disclose the destination of the waste when it leaves the transfer station.

#### **15.07 MIXING OF MIXED MUNICIPAL SOLID WASTE AND SOURCE-SEPARATED MATERIAL PROHIBITED.**

Solid waste haulers shall not mix source-separated materials with mixed municipal solid waste or handle source-separated materials in any way that reduces the reusability or marketability of the source-separated material. All source-separated materials must be delivered to a facility licensed or permitted to accept the material. Co-collection of durable compostable bags with mixed municipal solid waste is allowed as long as the durable compostable bags are separated for composting or anaerobic digestion.

#### **15.08 ADDITIONAL REQUIREMENTS FOR HAULERS LICENSED UNDER THE REGIONAL HAULER LICENSING PROGRAM.**

No hauler shall collect or transport for disposal in Dakota County, mixed municipal solid waste generated in the counties unless the hauler has a valid base license and a valid Dakota County operating license. On the expiration date of a current license, any activity for which the license is required shall cease. Haulers licensed under the Regional Hauler Licensing Program shall comply with the following additional requirements:

- A. **LICENSE APPLICATION FOR BASE AND OPERATING LICENSES.** The hauler shall submit a completed application to the base county on forms provided by the base county. The hauler shall submit to the base county all license application information necessary to obtain a base license and all operating licenses. Information necessary to obtain base and operating licenses shall be set forth on the application form as determined by the department. An application that is not complete may be returned to the hauler. An application will be deemed incomplete if information is omitted, incomplete, inaccurate, non-compliant, or if the required fees do not accompany the application.
- B. **INCOMPLETE OR NONCONFORMING APPLICATION.** If an application for a base or operating license is not complete or otherwise does not conform to the requirements set forth in this ordinance, the department shall notify the applicant, in writing, of the reasons for non-acceptance and may request that the applicant resubmit, modify, or otherwise alter the application. The notification required by this section shall be served upon the applicant by first class mail sent to the address provided on the application form.
- C. **LICENSE FEES.** The hauler shall pay to the base county all license fees for a base license and all operating licenses issued pursuant to the Regional Hauler Licensing Program. No license fee shall be prorated for a portion of a year and no license fee shall be refunded.
- D. **APPLICATION DUE.** License renewal applications must be submitted to the base county by April 30 of the license term. A license renewal application received after April 30 shall be subject to a late fee. A complete application submitted after the due date specified in this section shall be subject to the following late fees:
  1. One to seven days late - twenty-five percent (25%) late fee;
  2. Eight to thirty (30) days late - fifty percent (50%) late fee; and
  3. After thirty (30) days - one hundred percent (100%) late fee.

An application for a license that has expired shall be deemed an initial application, except that it must be accompanied by the license fee plus the late fees imposed by this section.

- E. **FAILURE TO ACT ON LICENSE APPLICATION.** If the base county does not act on a license renewal application that is complete and submitted by June 30, the current base and operating licenses shall continue in force until the base county takes action on the application. If the department fails to act within sixty (60) days of receipt of a properly completed initial application, the applicant may request a hearing on the application. The 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. The request for hearing shall be governed by section 3.17.
  
- F. **NOTICE OF DENIAL AND RIGHT TO APPEAL.** If the department denies a license to an applicant, 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 ten (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 3.17.
  
- G. **BASE LICENSE.**

A hauler that collects or transports for disposal in Dakota County, mixed municipal solid waste generated in Dakota County shall obtain and maintain a base license from the base county.

A hauler that collects or transports for disposal in Dakota County, mixed municipal solid waste generated in any of the counties shall obtain and maintain a base license from Dakota County, if Dakota County is the hauler's base county.
  
- H. **VEHICLES LICENSED.** All vehicles used by a hauler for the collection or transportation of mixed municipal solid waste within the counties shall be included in the hauler's license application submitted to the base county. If a vehicle is put into service during the license year, the hauler shall submit the required information for this vehicle to the base county and shall not use the vehicle to collect or transport mixed municipal solid waste within the counties until a decal has been issued and affixed to the new vehicle.
  
- I. **OPERATING LICENSE.** Any hauler that collects or transports for disposal in Dakota County, mixed municipal solid waste in Dakota County must obtain and maintain an operating license from Dakota County. A hauler shall obtain and maintain a base license from the base county in order to be eligible for an operating license. Suspension or revocation of a hauler's base license shall result in the summary suspension of the hauler's operating license issued by Dakota County.
  
- J. **TERMINATION OR CANCELLATION OF REGIONAL HAULER LICENSING PROGRAM.** In the event Dakota County withdraws from the Regional Hauler Licensing Program or this program is terminated, any hauler licenses in effect at that time shall continue in force until the end of the current license term.
  
- K. **HAULERS SHALL OFFER RECYCLING SERVICES.**
  - 1. Solid waste haulers collecting mixed municipal solid waste in Dakota County shall be required to provide recycling services and opportunities for their customers.
  - 2. Effective January 1, 2022, solid waste haulers shall offer weekly recycling services to all residential customers that are single family and residential customers where each household has its own curbside collection container for recycling. A solid waste hauler shall be exempt from the weekly recycling requirement if its previous year's residential recycling rate in Dakota County is at least 40%.



The recycling rates shall be calculated based on the reporting under Section 15.05. Organics and yard waste recycling shall not enter into this calculation. If in a community, a hauler provides residential recycling services only, the recycling rate will be calculated based on the total residential municipal solid waste reported in that community.

3. Haulers must collect the designated list of recyclables approved by the Dakota County Board of Commissioners. The designated list of recyclables will be published on the Dakota County Website. Haulers may collect additional materials for recycling if they have identified a recycling market.
4. All recyclables collected must be delivered to a facility licensed and/or permitted to accept the recyclables.

L. COLLECTION FEES.

1. Charges for the collection of mixed municipal solid waste in Dakota County shall increase with the volume or weight of the waste collected;
2. Collectors of mixed municipal solid waste in Dakota County are prohibited from imposing a greater charge on residents who recycle than on residents who do not recycle;
3. Haulers shall offer a 35-gallon or less base unit fee for mixed municipal solid waste generated by a residential source. Incremental service levels shall not increase by more than thirty-two (32) gallons, with the exception of fees charged for bulky items;
4. Fees for service that are not based on volume or weight are prohibited by this ordinance.

M. INVOICES. Effective July 1, 2020, all invoices must contain the following information itemized for each waste type covered by the invoice:

1. Price for service
2. Taxes and fees collected
3. Container size for each collection container serviced
4. Collection frequency for each collection container serviced
5. Service period covered in the invoice

N. CUSTOMER EDUCATION. All haulers must provide the following:

1. Effective July 1, 2020, haulers must provide solid waste abatement messaging to all of their customers with the list of recyclable materials and organics they accept. Messages shall be in print or electronic form and must be consistent with the solid waste abatement messaging published by the Department. The solid waste abatement messaging must happen upon initial service acquisition and annually thereafter. The communication method and message must be documented and available to Department inspectors for three years.

O. CHANGES IN SERVICE OFFERED. Haulers must submit an amended license application 30 days prior to implementing any changes in service offered including, but not limited to, changes in materials accepted.

**15.09 LICENSE APPLICATION REQUIREMENTS FOR SOLID WASTE HAULERS NOT LICENSED UNDER THE REGIONAL HAULER LICENSING PROGRAM.**

Solid waste haulers not licensed under the Regional Hauler Licensing Program shall comply with the following additional requirements:

- A. LICENSE APPLICATION. The hauler shall submit a completed application to Dakota County on a form provided by the department. An application will be deemed incomplete if information is omitted, incomplete, inaccurate, non-compliant, or if the required fees do not accompany this application.
- B. VEHICLES LICENSED. All vehicles used for the collection and transportation of solid waste in Dakota County shall be listed on the application. The applicant shall specify the make, model, year and capacity, in cubic yards, as well as the tare weight of each vehicle. If a vehicle is put into service during the license year, the hauler shall submit the required information for this vehicle to the department and shall not use the vehicle until a decal has been issued and affixed to the new vehicle.
- C. APPLICATION DUE. License renewal applications must be submitted to the department by April 30 of the license term. License renewal applications received after April 30 shall be subject to a late fee.
- D. INCOMPLETE OR NON-CONFORMING APPLICATION. If a license application is not complete or otherwise does not conform to the requirements set forth in this ordinance, the department shall advise the applicant of the reasons for non-acceptance and may request that the applicant resubmit, modify, or otherwise alter the application.
- E. LICENSE FEES. The hauler shall pay all license fees to Dakota County. The amounts of such license fees shall be established by the county board. No license fee shall be prorated for a portion of the license term and no license fee shall be refunded.
- F. FAILURE TO ACT ON LICENSE APPLICATION. If the department does not act on a license renewal application that is complete and submitted by June 30, the current license shall continue in force until the department takes action on the application. If the department fails to act within sixty (60) days of receipt of a properly completed initial application, the applicant may request a hearing on the application. The 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. The request for hearing shall be governed by section 3.17.
- G. NOTICE OF DENIAL AND RIGHT TO APPEAL. If the department denies a license to an applicant, 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 ten (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 3.17.

#### **15.10 INSURANCE REQUIRED; HAULERS.**

Unless otherwise provided by the county board, a licensed hauler shall furnish to the county, certificates of insurance issued by insurers duly licensed within the State of Minnesota evidencing the following insurance coverages and amounts or a self-insurance plan certified by the Minnesota Commissioner of Commerce providing equivalent coverages:

- A. ALL HAULERS SHALL PROVIDE AT A MINIMUM:
  - 1. Commercial General Liability/Professional Liability with contractual liability coverage in the amount of the Counties' tort liability limits set forth in Minnesota Statute 466.04 and as amended from time to time. The Regional Hauler Licensing Board, the County, its agents, officers, and employees shall be listed

as an additional insured as it relates to these liabilities. The certificate of insurance shall require that at least sixty (60) day notice be given to the county of cancellation of any insurance coverage specified therein.

2. Automobile coverage in the amount of the Counties' tort liability limits set forth in Minnesota Statute 466.04 and as amended from time to time.
3. Workers' Compensation in statutory amount (if applicable)

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## **SECTION 16.00 SOLID WASTE ABATEMENT**

### **16.01 MUNICIPALITY SOLID WASTE ABATEMENT PROGRAM.**

- A. Each municipality shall have a solid waste abatement program. Each municipality's program must:
  - 1. Be consistent with the County Solid Waste Master Plan; and
  - 2. Ensure the opportunity to recycle exists for all residents and commercial generators.
  - 3. Deliver solid waste abatement messaging as determined by the Department.
  - 4. Support the implementation of the County Solid Waste Master Plan.
  
- B. By January 1, 2021, each municipality with a population over 10,000 shall enact or modify and enforce an ordinance that must:
  - 1. Be consistent with and no less restrictive than this ordinance.
  - 2. Require property owners of multi-unit residential buildings to comply with section 16.03, except for 16.03 (A) (5).
  - 3. Require event sponsors, owners and operators of large event venues with organics to comply with section 16.05.
  
- C. If a municipality does not maintain a solid waste abatement program, the county may implement a solid waste abatement program in that municipality consistent with the county's solid waste master plan and this ordinance.
  
- D. The county may recover its costs for developing, implementing, and operating a solid waste abatement program including, but not limited to, administrative, monitoring and public education costs, from any municipality or group of municipalities, which does not maintain a solid waste abatement program. Costs may be pursued through a service charge established pursuant to Minn. Stat. §400.08 or through such other means deemed appropriate by the county board.
  
- E. Each municipality shall submit a completed annual report to the department on a form prescribed by the department by February 15 of the following year. Failure to submit a report shall be construed by the department as a failure on the part of the municipality to have a solid waste abatement program and shall be subject to sections 16.01(C) and 16.01(D).

### **16.02 COMMERCIAL GENERATORS.**

- A. By July 1, 2020, commercial generator owners and managers shall:
  - 1. Ensure all collected source separated recyclables are delivered to a recycling facility.
  - 2. Ensure all collected source separated organics are delivered for food recovery, to a composting facility or an anaerobic digester.
  - 3. Comply with section 16.05.
  - 4. Ensure that the collection schedule and container capacity are sufficient to contain all the recyclables collected and organics (if collected) from the building and public spaces and to prevent overflowing containers.

5. Submit a completed annual report on a form prescribed by the department by January 31 of each year.

### **16.03 MULTI-UNIT RESIDENTIAL BUILDINGS.**

- A. By January 1, 2020, Multi-Unit Residential Building owners and managers who manage municipal solid waste through a common contract shall:
  1. Ensure recycling service is provided to all residents.
  2. Comply with section 16.05.
  3. Provide recycling containers with a weekly service capacity of at least 0.1 cubic yards per dwelling unit.
  4. Ensure that the collection schedule and container capacity are sufficient to contain all the recyclables collected and organics (if collected) from the building and public spaces and to prevent overflowing containers.
  5. Submit a completed annual report on a form prescribed by the department by January 31 of each year.

### **16.04 ORGANICS.**

- A. Property owners, managers, and event sponsors of the following large commercial organics generators shall comply with this section:
  1. By January 1, 2022, Food wholesalers, distributors and manufacturers; grocery stores.
  2. By January 1, 2023, Hospitals; schools, colleges and universities with dining services.
  3. By January 1, 2024, Office buildings with dining services; hotels; farmers markets; food shelves and food banks; nursing and residential care facilities; restaurants; shopping centers; airports; golf clubs and country clubs; public/rentable commissaries or shared use commercial kitchens; sports and event centers; caterers; large event venues with organics; other businesses identified by the Department.
- B. Large commercial organics generators shall:
  1. Ensure back-of-house organics are separated from other solid waste. Only incidental amounts of organics shall be disposed of in a garbage disposal.
  2. Comply with Section 16.05
  3. By January 31 of each year, submit a completed annual report on a form prescribed by the Department.

### **16.05 TRASH, RECYCLING AND ORGANICS REQUIREMENTS.**

- A. Property owners, managers, and event sponsors shall:
  1. By the dates established in 3.01 (A) (4) and (5) ensure the designated list of recyclables are collected for recycling.
  2. Provide a collection schedule and containers adequate to meet the requirements of this ordinance. Container locations must include but are not limited to: indoor and outdoor locations, public spaces, private spaces, and communal spaces.
  3. Ensure all trash collection containers or collection chutes are co-located within 10 feet from a recycling container or recycling chute. Each container or chute must have equal access.
  4. Ensure all trash, recyclables, and organics collection containers are clearly labeled or marked as required in 16.06.
  5. Ensure all trash is delivered to a facility licensed or permitted to accept the waste, recyclables are delivered to a recycling facility, and organics are delivered for food recovery or to a composting facility or anaerobic digester.

6. Provide solid waste abatement messaging in print or electronic form to each employee, tenant, multi-unit resident, student, volunteer, and housekeeping and custodial contractors. Messaging must be documented and follow the solid waste abatement messaging published on the Dakota County Website and occur:
  - a. At least annually.
  - b. Within 30 days of any substantive change to generator's waste program.
  - c. Within 30 days of a new hire or new tenant.

#### **16.06 LABELING.**

A. Property owners and managers shall:

1. Ensure each trash, recycling, and organics container has a visible sign or label that is consistent with the Department's solid waste abatement messaging including:
  - a. Indicates which materials are acceptable in designated containers by using the term "Trash" or "Recycling" or "Recycle" or "Organics." Any other waste types must be clearly labeled with materials accepted.
  - b. Shows images of acceptable materials.
  - c. Is color-coded: blue for recycling; green for organics; and, gray or black for trash.
  - d. Is visible and legible to users.
  - e. Includes preparation instructions where applicable,
2. Replace a sign or label if it becomes damaged, faded, illegible, or when images or text conflict with the designated list of organics or the designated list of recyclables.
3. This section goes into effect on:
  - a. January 1, 2020 for all containers purchased after December 31, 2019.
  - b. January 1, 2022, for containers purchased prior to January 1, 2020.

#### **16.08 LAWFUL ACTS.**

Nothing in this ordinance shall abridge the right:

- A. Of any solid waste abatement program to lawfully operate within Dakota County, subject to such licenses or other regulations as may be required by law.
- B. Of any person to give or sell their recyclable materials to any solid waste abatement program lawfully operating for profit, non-profit, or charitable purposes.

## **SECTION 17.00 VARIANCES**

### **17.01 APPLICATION.**

Upon written application by the applicant or operator, 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. The variance shall be in writing and granted only for good cause. A request for such variance shall be accompanied with a plan and time schedule for compliance with the provisions of this ordinance.

### **17.02 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.

### **17.03 DENIAL OF VARIANCE AND RIGHT TO APPEAL.**

If a variance request 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 on the county board by personal service or certified mail with a copy to the department within ten (10) county working days from the date of the denial of the variance. Following timely service of a request for hearing, the county board shall set a time and place for the hearing pursuant to section 3.17.

[Remainder of page left intentionally blank.]

## **SECTION 18.00 EMERGENCY WAIVER OF STANDARDS**

### **18.01 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.

### **18.02 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 18.02(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.

### **18.03 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.

[Remainder of page left intentionally blank.]

## **SECTION 19.00    ADDITIONAL REQUIREMENTS**

For purposes of protecting and providing for public health, safety, and welfare, the county board may impose additional requirements consistent with the intent of this ordinance for the operation of solid waste facilities and may amend or revoke portions of this ordinance as deemed best to protect public interest.

[Remainder of page left intentionally blank.]

## **SECTION 20.00 SEPARABILITY**

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

- A. 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; and/or
- B. If any court of competent jurisdiction shall adjudge invalid the application of any provisions of this ordinance to a particular structure, site, facility or operation, such judgment shall not affect the application of said provisions to any other structure, site, facility or operation not specifically included in said judgment.

[Remainder of page left intentionally blank.]

## **SECTION 21.00 REMEDIES CUMULATIVE**

No remedy set forth in this ordinance is intended to be exclusive but each such remedy shall be cumulative and in addition to other remedies now or hereafter existing at law or in equity. No delay in the exercise of any remedy for violation of this ordinance shall later impair or waive any such right or power of the county.

[Remainder of page left intentionally blank.]

**SECTION 22.00 NO CONSENT**

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

[Remainder of page left intentionally blank.]

## **SECTION 23.00 EFFECTIVE DATE**

This ordinance shall be in full force and effect from and after its passage and publication according to law.

[Remainder of page left intentionally blank.]

## **SECTION 24.00 REPEALER**

Dakota County Ordinance No. 105, Solid Waste Disposal Ordinance, dated August 3, 1971 is hereby repealed.

Dakota County Ordinance No. 115, Solid Waste Source Separation, dated March 28, 1989 and amended on June 18, 1991 is hereby repealed.

[Remainder of page left intentionally blank.]

Passed by the Board of County Commissioners of Dakota County this 5th day of July 1977.

Amended 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 25th day of June 1985.

Amended by the Board of County Commissioners of Dakota County this 15th day of April 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 12th day of April 1988.

Amended by the Board of County Commissioners of Dakota County this 30th day of August 1988.

Amended by the Board of County Commissioners of Dakota County this 6th day of February 1990.

Amended by the Board of County Commissioners of Dakota County this 10th day of April 1990.

Amended by the Board of County Commissioners of Dakota County this 24th day of July 1990.

Amended by the Board of County Commissioners of Dakota County this 25th day of September 1990.

Amended by the Board of County Commissioners of Dakota County this 8th day of October 1991.

Amended by the Board of County Commissioners of Dakota County this 24th day of August 1993.

Amended by the Board of County Commissioners of Dakota County this 4th day of April 1995.

Amended by the Board of County Commissioners of Dakota County this 2nd day of May 1995.

Amended by the Board of County Commissioners of Dakota County this 24th day of September 1996.

Amended by the Board of County Commissioners of Dakota County this 23<sup>rd</sup> day of March 1999.

Amended by the Board of County Commissioners of Dakota County this 26th day of November 2002.

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 18th day of June 2013.

Amended by the Board of County Commissioners of Dakota County this 12th day of December 2017.

Amended by the Board of County Commissioners of Dakota County this 26<sup>th</sup> day of November 2019.

ATTEST:

COUNTY OF DAKOTA, STATE OF MINNESOTA

Jennifer Reynolds  
 Jennifer Reynolds  
 Sr. Administrative Coordinator  
 to the Board  
 DATE: 12-17-19

Liz Workman  
 Liz Workman, Chairperson  
 Dakota County Board of Commissioners  
 DATE: 12/17/19

Approved as to Form  
Helen Brosnahan  
 Helen Brosnahan  
 Assistant County Attorney  
 DATE: 12-6-19

Approved as to Execution  
Helen Brosnahan  
 Helen Brosnahan  
 Assistant County Attorney  
 DATE: 12-19-19