

**BOARD OF COUNTY COMMISSIONERS
DODGE COUNTY, MINNESOTA**

Date: October 13, 2009

Resolution # 2009-49

Motion by Commissioner: Gray

Seconded by Commissioner: Alberts

Division: Public Works

Department: Environmental Services

Name: Dodge County Waste-to-Energy

Service Charge Ordinance; Solid Waste

Ordinance #6

WHEREAS, pursuant to Minn. Stat. § 400.08 the Dodge County Board of Commissioners is authorized to establish boundaries for solid waste management service areas within the county and to impose reasonable charges for solid waste management services; and

WHEREAS, since 1986 Dodge County has worked with Olmsted County to implement a Waste-to-Energy (WTE) system that generates renewable energy from solid waste that would otherwise be landfilled; and

WHEREAS, as part of this WTE system, Municipal Solid Waste generated in Dodge County is delivered to the Olmsted WTE Facility and ancillary facilities; and

WHEREAS, Dodge County may obligate waste generators to pay a reasonable charge for waste management services the county provides; and

WHEREAS, the rate and charges may take into account the character, kind, and quality of services of the solid waste, the method of disposition, the number of people served at each place of collection, and all other factors that enter into the cost of the service, including but not limited to depreciation and payment of principal and interest on money borrowed by the county for the acquisition or betterment of facilities; and

WHEREAS, a public hearing was held on September 15, 2009, after due notice in the legal newspaper on September 1, 2009, as provided by law, in regard to this ordinance.

NOW THEREFORE BE IT RESOLVED, that the Dodge County Waste-to-Energy Service Charge Ordinance; Solid Waste Ordinance #6 is hereby adopted this 13th day of October, 2009.

ATTEST:


David Hanson

Chair, County Board


Becky Lubahn

Deputy Clerk

AYE

NAY

Alberts

X

Erickson

X

Gray

X

Hanson

X

Tjosaas

X

ARTICLE I DEFINITIONS RULES & WORD USAGE

SECTION 1.0 DEFINITIONS

Unless the context clearly indicates otherwise, the following words and phrases shall have the meanings ascribed to them in this Ordinance 6, and only for purposes of this Ordinance 6. 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 if not defined there, shall have common usage meaning. For purposes of this Ordinance, the words “must” and “shall” are mandatory and not permissive.

Agency: means the Minnesota Pollution Control Agency.

Bill: means any statement or invoice issued by a Hauler for payment of Hauler Services.

City: a statutory or home rule charter City or town located within the County.

Charge: means a Solid Waste Management Service Charge.

Collection or Collects: means the aggregation of Solid Waste from the place at which it is generated and includes all activities up to the time the Solid Waste is delivered to a Solid Waste Management Facility.

Commercial Site: means any business, commercial, industrial, institutional or governmental establishment. These include home-operated businesses, industries, commercial and institutional enterprises, and such non-residential institutions as churches, nursing homes, nonprofit associations, schools, and the like. If a Site has dwelling units, but also has one or more units not used for dwelling purposes, such as a store or a restaurant, then it is considered a Commercial Site.

Compost or Composting: means the controlled microbial degradation of organic waste to yield a humus-like product.

Compost Facility: means a site used to compost or co-compost Solid Waste, including all structures or Processing equipment used to control drainage, collect and treat Leachate, and storage areas for the incoming waste, the final product, and residuals resulting from the composting process.

Construction and Demolition Debris: means Solid Waste resulting from construction, remodeling, repair, erection and demolition of buildings, roads and other artificial structures, including: concrete, brick, bituminous concrete, untreated wood, masonry, glass, trees, rock, plastic building parts, plumbing

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

County: means Dodge County, Minnesota.

County Board: means the Dodge County Board of Commissioners.

Curbside Collection: means a Municipal Solid Waste, Yard Waste, and/or Recyclable Materials Collection system whereby the Generators set Solid Waste containers at the curb adjacent to a roadway or, where this is not practical, in locations easily accessible for Collection by a Hauler.

Department: means the Dodge County Environmental Services Department.

Disposal or Dispose: means the discharge, deposit, injection, Dumping, spilling, leaking, or placing of any waste into or on any land or water so that the waste or any constituent thereof may enter the environment or be emitted into the air, or discharged into any waters, including ground waters.

Dodge County Transfer Station or "Transfer Station" means the structures, machinery, equipment, improvements and ancillary facilities for receiving solid waste that are owned and operated by the County.

Generator: means any Person who generates or aggregates Solid Waste.

Hauler: means any Person who Collects or Transports Solid Waste, Recyclable Materials or Yard Waste, but does not include a Self-Hauler.

Hauler Services: means the Municipal Solid Waste Services provided by a Hauler or Self-Hauler.

Hazardous Waste: means any Refuse, sludge, or other waste material or combinations of Refuse, sludge or other waste materials in solid, semisolid, liquid, or contained gaseous form which because of its quantity, concentration, or chemical, physical, or infectious characteristics may:

- A. Cause or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible illness; or
- B. Pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or Disposed of, or otherwise managed. Categories of Hazardous Waste materials include, but are not limited to: explosives, 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.

Industrial Solid Waste: means Solid Waste generated from an industrial or manufacturing process and Solid Waste generated from non-manufacturing activities that is Collected, Processed, or Disposed of as a separate waste stream. Industrial Solid Waste does not include office materials, restaurant and food preparation waste, discarded machinery, Construction and Demolition Debris, Municipal Solid Waste, or Municipal Solid Waste combustor ash.

License: means authorization by the County Board to conduct business services that may be limited to a specific period of time, specific person, and or a specific site in the County.

Licensee: means the Person who has been issued a license by the County to carry out any of the activities for which a license is required under the provisions of this Ordinance.

Multi-Unit Residential Building: means any building with four or more residential units.

Municipal Solid Waste (MSW): means,

- A. garbage, Refuse, and other Solid Waste from residential, Non-Residential, industrial, and community activities that the Generator of the waste aggregates for Collection, except as provided in paragraph B.

- B. Municipal Solid Waste does not include auto hulks, street sweepings, ash, Construction and Demolition Debris, mining waste, sludges, tree and agricultural wastes, Waste Tires, lead acid batteries, motor and vehicle fluids and filters, and other materials collected, processed, and Disposed of as separate waste streams.

Municipal Solid Waste Services: means Collection, Transportation, Processing, or Disposal of Municipal Solid Waste Generated in the County, including but not limited to regularly scheduled service, on-call service, one-time service, rental and other use of equipment such as Solid Waste containers, compactors, compactor boxes, and the like, and any other service that involves or facilitates Collection, Transportation, Processing, or Disposal of Solid Waste materials as Municipal Solid Waste including pay-by-the-bag services where price of bags is a part of the service. It does not include the sale of equipment used for the Collection, Transportation, Processing, or Disposal of Municipal Solid Waste. It does not include Collection, Transportation, or management of Recyclable Materials, Yard Waste, food waste, source separated compostable materials, Problem Materials, or other waste materials when these materials are segregated by the Generator for the purpose of Recycling or Composting and are delivered to a Recycling Facility or Compost Facility, or the sale, rental, or other use of equipment necessary to facilitate Collection, transportation, or management of these materials.

Municipality: means an incorporated city or town within the County.

Non-Residential Accounts: means Solid Waste Management Services provided to any non-Residential Building or parcel.

Non-Residential Property: means all property that generates waste within the County that is not defined as a Residential Property as determined by the County.

Non-Residential Rate: means the rate of the Fee imposed on any Person who pays for Municipal Solid Waste Services for Municipal Solid Waste Generated from any source in the County other than a Residential Building.

Operating License: means a license required by County Ordinance.

Operator: means the Person responsible for the operation of a Solid Waste Management Facility.

Owner: means any person or persons having a legal interest in real or personal property or any persons in possession or control of real or personal property including, but not limited to, mortgages, contract for deed vendees, and contract for deed vendors.

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, unless exempted by statute or rule.

Problem Material: means a material that, when processed or disposed of with Municipal Solid Waste, contributes to one of the following results: 1) the release of a hazardous substance, or pollutant or contaminant as defined in Minn. Stat. §115B.02; 2) pollution of water as defined in Minn. Stat. §115.01; 3) air pollution as defined in Minn. Stat. §116.06; or 4) a significant threat to the safe or efficient operation of a Solid Waste Management Facility.

Processing: means the treatment of Solid Waste after Collection and before Disposal. Processing includes but is not limited to reduction, separation, exchange, resource recovery, physical, chemical, or biological modification.

Putrescible Material: means Solid Waste that is capable of rotting or is in a foul state of decay or decomposition.

Real Property:

- A. For the purposes of taxation, "Real Property" includes the land itself, rails, ties, and other track materials annexed to the land, and all buildings, structures, and improvements or other fixtures on it, bridges of bridge companies, and all rights and privileges belonging or appertaining to the land, and all mines, iron ore and taconite minerals not otherwise exempt, quarries, fossils, and trees on or under it.
- B. A building or structure shall include the building or structure itself, together with all improvements or fixtures annexed to the building or structure, which are integrated with and of permanent benefit to the building or structure, regardless of the present use of the building, and which cannot be removed without substantial damage to itself or to the building or structure.
- C. Real Property does not include;
 - (i) Tools, implements, machinery, and equipment attached to or installed in Real Property for use in the business or production activity conducted thereon, regardless of size, weight or method of attachment, and mine shafts, tunnels, and other underground openings used to extract ores and minerals taxed under chapter 298 together with steel, concrete, and other materials used to support such openings.
 - (ii) The exclusion provided in clause (i) shall not apply to machinery and equipment includable as real estate by paragraphs (a) and (b) even

though such machinery and equipment is used in the business or production activity conducted on the Real Property if and to the extent such business or production activity consists of furnishing services or products to other buildings or structures which are subject to taxation under this chapter.

- (iii) The exclusion provided in clause (i) does not apply to the exterior shell of a structure, which constitutes walls, ceilings, roofs, or floors if the shell of the structure has structural, insulation, or temperature control functions or provides protection from the elements. Such an exterior shell is included in the definition of Real Property even if it also has special functions distinct from that of a building.

- D. The term Real Property does not include tools, implements, machinery, equipment, poles, lines, cables, wires, conduit, and station connections which are part of a telephone communications system, regardless of attachment to or installation in Real Property and regardless of size, weight, or method of attachment or installation. (Minn. Statute § 272.03, subdivision 1)

Recycling Facility: means a facility used to aggregate, process, or market Recyclable Materials. Recycling Facility does not include an individual generator of Recyclable Materials, such as a homeowner or business and it does not include a manufacturer using Recyclable Materials as feedstock.

Recyclable Materials: means marketable materials that are separated from Solid Waste for the purpose of Recycling, including paper, glass, plastics, metals, automobile oil, and batteries. Refuse-derived fuel or other material that is destroyed by incineration is not a Recyclable Material. Recyclable Materials also refers to marketable materials separated from Industrial Solid Wastes and Construction and Demolition Debris for the purpose of recycling.

Recycling: means the process of Collecting and preparing Recyclable Materials and reusing the materials in their original form or using them in manufacturing processes that do not cause the destruction of Recyclable Materials in a manner that precludes further use.

Refuse: means putrescible and non-putrescible Solid Wastes, including garbage, rubbish, ashes, incinerator ash, incinerator residue, waste combustor ash, street cleanings, and Industrial Solid Wastes, and including municipal treatment wastes which do not contain free moisture.

Residential Building: means a single family home, a duplex, a tri-plex, a four-plex, an apartment building, a mobile home, a condominium, a townhouse, a cooperative housing unit, or any other Residential Building as determined by the County.

Residential Property: means property on which a single family home, a duplex, a tri-plex, a four-plex, an apartment building, a mobile home, a condominium, a townhouse, a cooperative housing unit, or any other Residential Building as determined by the County is located.

Residential Rate: means the rate of the Fee imposed on a Person who pays for Municipal Solid Waste Services for Municipal Solid Waste Generated from a Residential Property.

Residential Site: means any dwelling unit including: (a) detached single family residences, and (b) buildings or sites containing multiple residences including apartment buildings, condominiums, manufactured home parks, or town-homes, none of which are used solely for commercial purposes.

Sales Price: means total consideration valued in money for Municipal Solid Waste Services.

Self-Hauler: means a Person who transports their own Solid Waste for Solid Waste Management purposes.

Service Area: means the area within the geographical boundaries of the County.

Service Charge: means a service charge imposed pursuant to Minn. Stat. §400.

Site: means the spatial location of a proposed or actual Solid Waste Management Activity or Solid Waste Management Facility.

Solid Waste: means garbage, Refuse, sludge from a water supply treatment plant or air contaminant treatment Facility, and other discarded waste materials and sludges, in solid, semisolid, liquid, or contained gaseous form, resulting from industrial, mining, and agricultural operations and from Non-Residential Property, 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.

Solid Waste Administrator: means the individual assigned by the County to oversee and direct Solid Waste Management Activities.

Solid Waste Department or Department: means the Dodge County Environmental Services Department.

Solid Waste Land Disposal Facility: means a Solid Waste Land Disposal Facility permitted by the Agency that is designed or operated for the purpose of disposing of Solid Waste on or in the land, together with any appurtenant facilities.

Solid Waste Management: means activities that are intended to affect or control the Generation of Solid Waste and activities which provide for or control the Collection, Transportation, Processing, treatment, and Disposal of waste.

Solid Waste Management Activity: means an activity related to the Generation, storage, Collection, Transportation, Processing or reuse, conversion, or Disposal of Solid Waste.

Solid Waste Management Facility: means a Solid Waste Land Disposal Facility, a Construction and Demolition Debris Land Disposal Facility, an Industrial Solid Waste Land Disposal Facility, a Compost Facility, a Transfer Station, a Solid Waste Processing Facility, a Waste Tire Facility, a Waste Tire Collection Site, a Waste Tire Facility, a Waste Tire Processing Facility, or a Recycling Facility.

Solid Waste Management Plan: means the County Solid Waste Management Plan developed, adopted, and approved under Minn. Stat. §115A.46 or Minn. Stat. §473.149.

Solid Waste Management Service Charge: means a service charge imposed pursuant to Minn. Stat. §400.08.

Solid Waste Ordinance or Ordinance: means a Solid Waste Ordinance adopted by Dodge County.

Solid Waste Processing Facility: means a facility for the Processing of Solid Waste.

Solid Waste Reduction; Source Reduction: means an activity that reduces Generation of Solid Waste or the inclusion of toxic materials in Solid Waste, including:

- A. Reusing a product in its original form,
- B. Increasing the life span of a product,
- C. Reducing material or the toxicity of material used in production or packaging; or
- D. Changing procurement, consumption, or Solid Waste Generation habits to result in smaller quantities or lower toxicity of Solid Waste Generated.

Source-Separated Compostable Material: means Municipal Solid Waste that:

- A. Is separated at the source by Solid Waste generators for the purpose of preparing it for use as Compost;

- B. Collected separately from other Municipal Solid Wastes;
- C. Is comprised of food wastes, fish and animal waste, plant materials, diapers, sanitary products, and paper that is not recyclable because the Solid Waste Administrator has determined that no other person is willing to accept the paper for recycling; and
- D. Is delivered to a Facility to undergo controlled microbial degradation to yield a humus-like product meeting the Agency's class I or class II, or equivalent, Compost standards and where process residues do not exceed 15 percent by weight of the total material delivered to the Facility.

Source-Separated Recyclable Material: means Recyclable Materials separated by the Generator prior to Collection for Recycling.

Special Wastes: are non-hazardous Solid Wastes that have been prohibited from disposal with Municipal Solid Waste or have had other specific management requirements prescribed by statute.

State: means the State of Minnesota.

Transfer Station: means an intermediate Solid Waste Management Facility in which Solid Waste collected from any source is temporarily deposited to await Transportation to another Solid Waste Management Facility.

Transportation or Transports: means the conveying of Solid Waste from one place to another.

Unacceptable Waste: means those Solid Wastes that cannot be accepted for management at a Solid Waste Management Facility pursuant to local, State and federal laws, and the practices of the Solid Waste Management Facility.

Waste-to-Energy Service Charge: means a Service Charge imposed pursuant to Minn. Stat. §400.08.

Waste-to-Energy Services: means all activities related to the County's implementation of its Solid Waste Management Services Agreement with Olmsted County including, but not limited to, delivery of Municipal Solid Waste generated in the County to Olmsted County for Processing and Disposal at the Olmsted Waste-to-Energy facility and ancillary facilities.

Yard Waste: means garden wastes, leaves, lawn cuttings, weeds, and prunings generated at Residential or Non-Residential Properties.

Yard Waste Facility: means a facility used to compost Yard Waste.

ARTICLE II SOLID WASTE-TO-ENERGY SERVICE CHARGE

The following provisions are enacted pursuant to Minn. Stat. §400.08 which authorizes the County to create and to impose Service Charges within the County's jurisdiction for Solid Waste Management Services.

SECTION 1.0 PURPOSE AND AUTHORITY

The purpose of this Article is to establish collection of a Service Charge to fund Waste-to-Energy (WTE) Services intended to protect the public health and welfare and the environment pursuant to State mandates governing Solid Waste Management.

SECTION 2.0 GENERAL SERVICE CHARGE PROVISIONS

2.01 Waste-to-Energy Service Charge

A Waste-to-Energy Service Charge (Service Charge) may be imposed to pay for Waste-to-Energy Services provided within the Service Area. Generators shall pay the Service Charge imposed in the manners set forth herein in amounts as established by the County Board. Charge rates shall be just and reasonable. A copy of the current rate schedule shall be kept on file in the Department. In establishing or revising the rate schedule, the County Board may take into account all factors relevant to Solid Waste Management. Such factors include, but are not limited to: the character, kind and quality of service and of Solid Waste; the method of disposition; the number of people served at each place of Collection; and all other factors that enter into the cost of providing service including, but not limited to depreciation and payment of principal and interest on money borrowed by the County for the acquisition and betterment of Solid Waste Management Facilities; public education; recycling programs; household hazardous waste management; and Solid Waste Management Facility operating costs.

2.02 Procedures for Establishing the Amount of Service Charge

The County Board shall act to impose and establish the amount of the Service Charge, as well as the method or methods of collection, by ordinance following a public hearing, and shall state the effective date of the Service Charge.

2.03 Procedures for Adjusting the Amount of Service Charge

The Board may adjust the amount and method or methods of collecting the Service Charge by resolution following a public notice, and shall state the effective date of the adjusted Service Charge. There shall be a

minimum thirty (30) day period prior to the effective date of such adjustment.

2.04 Methods of Billing and Collection

The County will use the following method of billing and collecting the Service Charge:

- A. A Service Charge collected by licensed Haulers as a percentage of the Sales Price of Hauler Municipal Solid Waste Services.
- B. A Service Charge collected at the Dodge County Transfer Station for Municipal Solid Waste deposited by Self-Haulers based on the amount of waste deposited.

SECTION 3.0 HAULER COLLECTED SERVICE CHARGE AND REMITTANCE

3.01 Service Charge Collection by Haulers

- A. As a condition of maintaining its License, each Hauler shall bill the Service Charge to and collect the Service Charge from all Persons to whom they provide Hauler Services, according to the rates and provisions established herein. In the event a municipality contracts or otherwise arranges for Hauler Services on behalf of Generators and elects to bill the Service Charge to and collect the Service Charge from Persons who are billed for such services, and subsequently remits all Service Charges collected to the County, a Hauler is not required to bill the Service Charge to or collect the Service Charge from such Persons in such municipalities.
- B. The Hauler must collect and remit the Service Charge for any Hauler Municipal Solid Waste Services provided on or after January 1, 2010, notwithstanding the fact that the Hauler may have billed or invoiced prior to January 1, 2010. Each Hauler shall make reasonable efforts to collect the Service Charge.
- C. The Service Charge is imposed on the amount of Municipal Solid Waste generated and shall be collected by the Hauler on the Sales Price of Hauler Services as incurred by any Person paying for Hauler Services. The Service Charge shall be Eighteen Percent (18%) for Residential Persons and for Non-Residential Persons. If the Sales Price does not represent the fair market value of the Hauler Services, the Service Charge shall be calculated on the fair market value of those Hauler Services. Any sales tax or other tax or service charge imposed by a unit of government is not subject to the Service Charge.

- D. If a Person does not pay the Service Charge to a Hauler or directly to the County, the County may directly bill the Person or the owner, occupant, or lessee of the property on which the Municipal Solid Waste was generated. The amount billed will be calculated on the Sales Price of Hauler Services incurred by the Person. If the Sales Price is not known, the County may establish the Service Charge based on a reasonable estimate of such Sales Price.

3.02 Remittance

- A. The Service Charge collected by Haulers must be remitted to the County or its designee. Failure to remit the Service Charge collected may result in the revocation of the Hauler's License by the County.
- B. Each Hauler shall remit the total Service Charge billed to their customers by the last day of the month following the month in which the Service Charge was billed by a Hauler. The Department, if requested in writing by a Hauler, may grant a variance from this payment process due to Hauler billing and collection practices. The nature and duration of the variance will be determined by the Department.
- C. Each Hauler must make reasonable and normal efforts to collect the Service Charge. In the event a Hauler does not receive the amount billed on a statement or invoice, when the statement or invoice includes the Service Charge, a Hauler may request reimbursement from the County for Service Charges paid to the County that the Hauler is unable to collect from the Generator. Such reimbursement request must be submitted in accordance with instructions and on forms prepared by the Department and shall include at a minimum the name and address of the Hauler's customer that did not pay a portion or full amount of the Hauler's statement.

3.03 Service Charge Itemized on Statements

- A. Each Hauler shall separately itemize the Service Charge on any statement or invoice issued for payment of Hauler Services. The Service Charge must be identified as "*County Waste-to-Energy Service Charge*" and no other name or description. Failure to separately itemize the Service Charge or to properly identify the Service Charge is a violation of this ordinance.

- B. Each Hauler is required to provide notification of the Service Charge to all Persons that are billed for Hauler Services. This notification is required through a letter jointly developed with the County. For any Person billed for Hauler Services that has not received such notification, each Hauler is required to provide a notification of the Service Charge through a letter jointly developed with the County at the time the Person receives the first statement or invoice on which the Service Charge is billed.

3.04 Service Charge Reports

Each Hauler shall complete a Waste-to-Energy Service Charge Report in accordance with instructions and on forms provided by the County. The Service Charge report must accompany payment of Service Charge to the County. The Service Charge Report must include, but not be limited to, total gross billings for all Municipal Solid Waste Services performed within the Service Area, the number of residential and nonresidential Generators within the Service Area and such other information as requested by the County.

3.05 Recalculation of Service Charge

If the County determines, after review of the Service Charge report, or upon failure of a Hauler to submit the Service Charge report, that the Hauler has not supplied appropriate information, the County may recalculate the Service Charge in accordance with this subsection. If the County finds that the information supplied by the Hauler is inaccurate, incomplete or understated, the County may determine an appropriate amount for the Service Charge due from the Hauler. The County shall send the Hauler a notice, by U.S. Mail, setting forth the recalculated Service Charge amount. The notice shall include a statement of reasons why the Service Charge has been recalculated. The County may base the recalculation on information in County records or on any data currently or previously supplied by the Hauler. The written notice shall be deemed received by the Hauler three (3) days after the date of mailing.

3.06 Examination of Records

The County or its duly authorized agents shall have the right to examine records, including access to computer records, maintained by a Hauler. The term "record" shall include, but is not limited to, all accounts of a Hauler. The County shall be allowed access at all reasonable times to inspect and copy at reasonable cost all business records related to a Hauler's Collection, Transportation, and/or Disposal of Solid Waste to the extent necessary to ensure that all Service Charges required to be

collected or paid have been remitted to the County. Such records shall be maintained by the Hauler for no less than six (6) years

3.07 Late Payment

A late payment penalty in the amount of one-half of one percent (0.5%) per month, or the maximum interest rate allowed by law, shall be imposed upon Service Charges collected from the Generator but not remitted by the Hauler to the County on or before the last day of the month following the month in which the Service Charge was billed by the Hauler.. If a Hauler fails to bill and collect the Service Charge from the Generator, the Hauler shall pay the Generator's Service Charge plus the late payment penalty. The late payment shall be calculated from the date the Service Charge should have been billed.

3.08 Collection Actions

Exercise of any remedy under this subsection does not preclude exercise of other remedies.

- A. If a Generator fails to pay the Service Charge to a Hauler in a timely manner, the County may use any available legal remedies to collect the overdue, unpaid Service Charges from the Generator, including, but not limited to, the process to collect the Service Charge via the property tax described as follows: The County Auditor shall each year assess a solid waste management service charge per parcel, payable with real estate taxes, for service charges not collected pursuant to this Section 3. On or before October 15th of each year, the County Board shall certify to the County Auditor all unpaid outstanding per parcel charges and a description of the lands against which the charges arose. It shall be the duty of the County Auditor, upon order of the County Board, to extend the assessments with interest rate provided for in Minn. Stat. §279.03, subd. 1, upon the tax rolls of the County for the taxes of the year in which the assessment is filed. For each year ending October 15th, the assessment with interest shall be carried into the tax becoming due and payable in January of the following year, and shall be enforced and collected in the manner provided for the enforcement and collection of real property taxes in accordance with the provisions of the State of Minnesota. The charges, if not paid, shall become delinquent and be subject to the same penalties and the same rate of interest as the taxes under the general laws of the state. Unpaid charges on tax exempt properties may be collected in Small Claims Court or through such other means as may be approved by the County Attorney.

- B. If a Hauler has collected Service Charges and failed to remit them to the County in a timely manner, the County may use any available legal remedies to collect the Service Charges from the Hauler.
- C. Unpaid Service Charges may be collected from tax-exempt properties as otherwise provided in this Ordinance.

SECTION 4.0 SELF-HAULER SERVICE CHARGE AND REMITTANCE

4.01 Service Charge to Self-Haulers

Self-Haulers depositing Municipal Solid Waste at the Dodge County Transfer Station must pay the Waste to Energy Service Charge based on the amount of Municipal Solid Waste deposited. The Service Charge shall be One Hundred Thirty Dollars (\$130) per ton of Municipal Solid Waste but may be calculated on an equal basis by the County based on volume of waste when weighing the waste is not practical.

4.02 Remittance

Self-Haulers must remit the Service Charge to the County at the time waste is deposited at the Dodge County Transfer Station unless a charge account is authorized by the Department. Payments on charge accounts must be made in accordance to the Department's Self-Hauler Charge Account Policy. The Service Charge will be effective January 1, 2010.

4.03 Collection Actions

Exercise of any remedy under this subsection does not preclude exercise of other remedies.

- A. If a Self-Hauler fails to pay the Service Charge to the County in a timely manner, the County may use any available legal remedies to collect the Service Charge from the Self-Hauler including the process defined in Section 3.08.
- B. Unpaid Service Charges may be collected from tax-exempt properties as otherwise provided in this Ordinance.

SECTION 5.0 RIGHT OF APPEAL

Any Person or Generator aggrieved by a decision of the County in accordance with the provisions of this Article shall have the right to appeal the decision by serving the County Board with a request for hearing. The request for hearing must be received within thirty (30) days after the Person or Generator receives written notice of the decision. If the Person

or Generator fails to request a hearing within the time prescribed, the Person or Generator shall forfeit any right to a public hearing. Upon receipt of a written request for a hearing, the Board shall follow the hearing procedures set forth in this Ordinance..

ARTICLE III INSPECTIONS, VIOLATIONS AND ENFORCEMENT

SECTION 1.0

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 Citation(s); 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 or other related County Ordinance; execution of a Stipulation Agreement; and/or commencement of other civil proceedings.

1.01 Warning Notice

The Department may issue a Warning Notice as defined in this Ordinance to any Person alleged to have committed a violation of this Ordinance. A Warning Notice shall serve to place the Person on notice that compliance with specified Ordinance requirements must occur to avoid additional enforcement actions. A Warning Notice may be served in person or by mail.

1.02 Notice of Violation (NOV)

The Department may issue a Notice of Violation (NOV) as defined in this Ordinance to any Person alleged to have committed a violation of this Ordinance. A NOV shall serve to place the Person alleged to have committed a violation on notice that compliance with specified Ordinance requirements must occur to avoid additional enforcement actions. The NOV shall be served by certified mail or by personal service on the Person(s) alleged to have committed a violation of this Ordinance.

1.03 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 except on a warrant duly issued by the Court.

A. Issuance of the Citation

Citations shall be issued to the Person alleged to have committed the violation either by personal delivery or by certified mail. In the case of a public, private or municipal corporation, the Citation shall be issued to any officer or agent with express or implied authorization to accept such issuance.

B. Notice of Citation

Citations shall be made out in quadruplicate (4). One copy shall be issued to the Person alleged to have committed the violation; one copy shall be filed with the Department; one copy shall be filed with the County Attorneys Office; and one copy shall be filed with the District Court.

C. Form of Citation

Citations shall be on such form(s) as approved by the Department and shall contain at least the following:

1. The name and address of the Person alleged to have committed the violation and, when known, the owner or Person in charge of the premises or equipment involved in the violation.
2. The date, time (if known) and place of violation.
3. A short description of the violation followed by reference to the Section of this Ordinance violated.
4. The name of the Person issuing the Citation.
5. The date and place at which the Person receiving the Citation shall appear in Court and a notice that if such Person does not respond a warrant may be issued for such Person's arrest.
6. Such other information as the Court may specify.

D. Court Appearance

The Person charged with the violation shall appear at the place and on the date specified in the Citation and either:

1. Plead guilty to the Citation and meet the requirements of the sentencing order issued by the court; or
2. Plead not guilty to the Citation and schedule a court date for further hearing or trial on the Citation.

E. Failure to Appear on the Citation

If the Person charged with the violation does not appear at the place and on the date specified on the Citation a bench warrant may be issued by the Court.

F. Complaint

If the Person issued the Citation and charged with the violation fails to appear as required by the Citation, the Citation may be referred

to the County Attorney's Office for issuance of a summons and complaint.

1.04 Embargo

The Department may issue a written Embargo order prohibiting the use, sale, movement, treatment or disposal of a material or item that the Department determines is used without authorization or reasonably suspects is, or will be, managed in violation of this Ordinance. The Department shall place a tag to indicate the Embargo on the suspected material. No Person shall remove the tag or remove, transport, dispose, treat, 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.

1.05 Stipulation Agreement

The Department and a Person alleged to have violated provision(s) of this Ordinance may voluntarily enter into a Stipulation Agreement, whereby the parties to the agreement: identify conditions on the property that require Corrective Action; agree on the Corrective Actions that must be performed by the Person; and agree on the timelines in which the Corrective Actions must be completed. The parties may seek compliance with the terms of the Stipulation Agreement through a court of competent jurisdiction.

1.06 License Suspensions

- A. A Hauler's Solid Waste Collection and Transportation License may be suspended by the County Board for violation of any provision of this Ordinance. Upon written notice to the Licensee a 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.
- B. Such suspension shall not occur earlier than ten County working days after written notice of suspension by the County Board has been served on the Licensee or, if a hearing is requested or public hearing is required, until written notice of the determination of the County Board action has been served on the Licensee. Notice to the Licensee shall be served personally or by registered or certified mail at the address designated in the license application. Such written notice of suspension shall contain the effective date of the suspension, the nature of the violation or violations constituting the basis for the suspension, the facts which support the conclusion that a violation or violations has occurred, and a statement that if the Licensee desires to appeal, he must within ten (10) County working days, exclusive of the day of service, file a request for an appeal hearing with the County Board. The hearing request shall be

in writing stating the grounds for appeal and served personally or by certified mail on the County Board, with a copy to the Department by midnight of the 10th County working day following service. Following receipt of a request for a hearing, the County Board shall set a time and place for the hearing to be held pursuant to Section 2.0 below.

C. Continued Suspension

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

1.07 Emergency Suspension

- A. 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, emergency suspension of a license may be ordered by the Department upon written notice to the facility, with a copy to the County Attorney's Office and the County Board. The County Board must make a determination if the emergency suspension should be ratified at its next board meeting. Written notice of such emergency suspension shall be personally served on the Licensee, or shall be served by certified mail to said Licensee at the address designated in the license application. In addition, the Department may post copies of the notice of emergency 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.
- B. The written notice in such cases shall state the effective date of the emergency suspension and the nature of the violation requiring emergency action, the facts which support the conclusion that a violation or violations has occurred and a statement that if the Licensee desires to appeal, the Licensee must, within ten (10) County working days, exclusive of the day of service, file a request for a hearing with the County Board. The hearing request shall be in writing stating the grounds for appeal and served personally or by certified mail on the County Board, with a copy to the Department and the County Attorney's Office, by midnight of the 10th County working day following service. Following receipt of a request for an appeal, the County Board shall set a time and a place for the hearing to be held pursuant to Section 2.0 below.
- C. The emergency 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 re-inspection by the Department or favorable appeal to the County Board.

1.08 Suspension Re-Inspections

Upon written notification from the Licensee that all violations for which a suspension or emergency suspension was invoked have been corrected, the Department shall re-inspect the facility or activity within a reasonable length of time, but in no case more than three (3) County working days after receipt of the notice from the Licensee. If the Department finds upon such re-inspection that the violations constituting the grounds for the suspension have been corrected, the Department shall immediately dismiss the suspension subject to County Board ratification at its next meeting, by written notice to the Licensee, served personally or by certified mail on the Licensee at the address designated in the license application, with a copy to the County Board and the 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.

1.09 License Revocation

- A. A Hauler's Solid Waste Collection and Transportation License may be revoked by the County Board for violation of any provision of this Ordinance.
- B. 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 an appeal hearing is requested or public hearing is required, until written notice of the County Board's action has been served on the Licensee. Notice of revocation to the Licensee shall be served personally or by certified mail at the address designated in the license application. Such written notice of revocation shall contain the effective date of the revocation, the nature of the violation or violations constituting the basis for the revocation, the facts which support the conclusion that a violation or violations has occurred and a statement that if the Licensee desires to appeal, he must within ten (10) County working days, exclusive of the day of service, file a request for a hearing with the County Board. The hearing request shall be in writing stating the grounds for appeal and served personally or by certified mail on the County Board, with a copy to the Department and the County Attorney's Office, by midnight of the 10th County working day following service. Following receipt 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 2.0 below.

1.10 Commencement of a Civil Court Action

In the event of a violation or a threat of violation of this Ordinance, the County Board may also institute other appropriate civil actions or proceedings in any court of competent jurisdiction, including requesting injunctive relief, to prevent, restrain, correct or abate such violations or threatened violations. The County may recover all costs, including reasonable attorney's fees, incurred for enforcement of this Ordinance through a civil action. If a property owner does not complete the Corrective Actions within the timelines in a court order, the Department may correct the violations and the Department has the authority to enter the property and perform the Corrective Actions. The Department may recover the costs of the same from the property owner through the court process.

SECTION 2.0 HEARINGS

A request for hearing on a denial, suspension, emergency suspension, non-renewal, or revocation of a license shall be held before the County Board, or a hearing examiner as provided below, and shall be open to the public.

2.01 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.

2.02 Notice of Hearing

The County Board shall mail notice of the hearing to the appellant, with a copy to the Department and the County Attorney's Office, at least fifteen (15) working days prior to the hearing. Such notice shall include:

- A. A statement of time, place and nature of the hearing.
- B. A statement of the legal authority and jurisdiction under which the hearing is to be held.
- C. A reference to the particular Section of the Ordinance and Agency Rules, if any, involved.

2.03 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.

2.04 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.

2.05 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.

2.06 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, emergency suspension, non-renewal or revocation of a license, denial of a variance, or Abatement Notice or in the appellant's written request for a hearing.

2.07 Pre-Hearing Conference

At the request of any party, or upon motion of the County Board or hearing examiner, a pre-hearing conference shall be held. The pre-hearing conference shall be conducted by the hearing examiner, if the County Board has chosen to use one, or by a designated representative of the County Board. The pre-hearing conference shall be held no later than five (5) County working days before the hearing. The purpose of the pre-hearing conference is to:

- A. Clarify the issues to be determined at the hearing.
- B. 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.

- C. 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.
- D. If a pre-hearing conference is held, evidence not divulged as provided above shall be excluded at the hearing unless the party advancing the evidence took all reasonable steps to divulge it to the adverse party prior to the hearing and:
 - 1. The evidence was not known to the party at the time of the pre-hearing conference; or
 - 2. The evidence is in rebuttal to matters raised for the first time at or subsequent to the pre-hearing conference.

2.08 Failure to Appear

If the appellant fails to appear at the hearing, they shall forfeit any right to a public hearing before the County Board or hearing examiner and their failure to appear shall be deemed their waiver of their right to appeal the decision made by the Department and the decision made by the Department will stand.

2.09 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.

ARTICLE IV EFFECTIVE DATE

This ordinance amendment shall be in full force and effect following the adoption by the County Board of Commissioners and publication as required by law.

ARTICLE V ADOPTION

The DODGE COUNTY Solid Waste Ordinance No. 6 is hereby adopted by the Dodge County Board of Commissioners on the 13th day of October, 2009.



Chairperson, Dodge County Board of Commissioners

ATTEST:



EFFECTIVE DATE: January 1, 2010