

Final approved ordinance following Public Hearing on June 28, 2016

Dodge County Solid Waste General Ordinance No. 1

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

TABLE OF CONTENTS

	Page
Section 1: Purpose.....	3
Section 2: Definitions.....	3
Section 3: Responsibilities	11
Section 4: Unlawful Activities	12
Section 5: Solid Waste Management Facilities.....	14
Section 6: Solid Waste Storage.....	15
Section 7: (Section reserved for future use).....	16
Section 8: Standards for Collection and Transportation of Solid Waste	16
Section 9: Routes, Districts, and Time for Solid Waste Collection & Transportation	17
Section 10: Permits and Licenses for Solid Waste Collection or Transportation	17
Section 11: Approval and Denial of License and Permits.....	21
Section 12: Permits and Licenses for Solid Waste Facilities.....	21
Section 13: County Operated Facilities and Programs.....	22
Section 14: Minnesota State Rules Regarding Solid Waste Management.....	23
Section 15: Enforcement	23
Section 16: Additional Requirements	32
Section 17: Repealer	32
Section 18: Provisions Are Cumulative.....	32
Section 19: No Consent.....	33
Section 20: Non-Liability.....	33
Section 21: Severability	33
Section 22: Reporting.....	33
Section 23: Effective Date	33

The County Board of Dodge County, Minnesota, does ordain:

Section 1: Purpose

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

Protect the public's health and safety, and the environment and natural resources of Dodge County, from improper management of Solid Waste, and to:

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

Section 2: Definitions

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

- 2.01 **"Agency"** means the Minnesota Pollution Control Agency, its Commissioner, or representatives.
- 2.02 **"Beneficial Use"** means a Standing Beneficial Use as determined by the Agency and other uses of the Solid Waste authorized by the Agency as a case specific beneficial use determination (CSBUD) or as a demonstration/research project (DRP).
- 2.03 **"Business"** means an Operation, location or property where an activity other than residential or an activity in conjunction with a residence takes place for the purpose of selling a product, service, commodity or recreational activity in which the sale of the product, service, commodity or recreational activity is either advertised or known to be for sale.
- 2.07 **"Collection"** means the aggregation of Solid Waste from the place at which it is generated and includes all activities up to the time the Solid Waste is delivered to a Solid Waste Management Facility.

- 2.08 **“Commercial Hauler”** means any Person who owns, operates, or leases vehicles for the purpose of Collection or transporting Solid Waste or Source Separated Materials from residential, commercial, or industrial property.
- 2.09 **“Compost”** means the controlled microbial process that converts organic and plant materials to a usable organic soil amendment mulch.
- 2.10 **“Construction and Demolition Debris”** means Solid Waste resulting from construction, remodeling, repair, erection and demolition of buildings, roads and other artificial structures, including: concrete, brick, bituminous concrete, untreated wood, masonry, glass, trees, rock, plastic building parts, plumbing fixtures, roofing materials, wallboard, and built-in cabinetry.

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

- 2.11 **“Construction and Demolition Debris Land Disposal Facility”** means a site used to Dispose of Construction and Demolition Debris.
- 2.12 **“County”** means Dodge County as a local governments, its geographic boundary, and any Department or representative of the County who is authorized by this Ordinance or otherwise by the County Board to represent the County of Dodge in the administration or enforcement of this Ordinance.
- 2.13 **“County Board”** mean the elected officers composing the Dodge County Board of Commissioners.

- 2.15 ***“County Ordinance”*** means all ordinances adopted by Dodge County including, but not limited to, Dodge County Zoning Ordinance, Dodge County Solid Waste General Ordinance No. 1, Solid Waste Designation Ordinance No. 2, Mandatory Recycling Ordinance SW Ordinance No. 4, Ordinance No. 5 County of Dodge an Ordinance Regulating SW Management Fees within Dodge County, and Dodge County Waste to Energy Service Charge Ordinance No. 6.
- 2.16 ***“Department”*** means the Dodge County Environmental Services Department.
- 2.17 ***“Disposal” “Dispose”*** means the discharge, deposit, injection, Dumping, spilling, leaking or placing of any Solid Waste into or on any land or water or Solid Waste Facility.
- 2.18 ***“Dump”*** means the intentional or accidental discharge, deposit, injection, spilling, leaking, or placing of any Solid Waste into or on any land or water so that the waste or any constituent thereof may enter the environment or be emitted into the air, or discharged into any water, including ground water.
- 2.19 ***“Facility”*** means all contiguous land, structures, monitoring devices, and other improvements on the land used for monitoring, treating, storing, or disposing of Solid Waste, leachate, or residuals from Solid Waste Processing .
- 2.21 ***“Garbage”*** means discarded material resulting from the handling, Processing, storage, preparation, serving, and consumption of food.
- 2.23 ***“Generator”*** means any Person who produces Solid Waste.
- 2.24 ***“Hauler”*** means any Person that provides Collection or Transportation services for Solid Waste or Source Separated Materials but does not include Self-Hauler.
- 2.25 ***“Hazardous Waste”*** means any Refuse, Sludge, or other waste material or combinations or Refuse, Sludge, or other waste materials in solid, semi-solid, liquid, or contained gaseous form which because of its quantity, concentration, or chemical, physical, or infectious characteristics may: (a) cause or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible illness; or (b) pose a substantial present or potential hazard to human health or the environment when improperly treated, stored transported, or Disposed of, or otherwise managed. Categories of Hazardous Waste materials include, but are not limited to: explosives, flammable, oxidizers, poisons, irritants, and corrosives.
- 2.26 ***“Hauler Services”*** means the Mixed Municipal Solid Waste Services provided by a Hauler or Self-Hauler.
- 2.27 ***“Household”*** means one or more individuals related by blood, marriage or adoption, including foster children, and excluding a group of Persons, some or all of whom are not related by blood, marriage or adoption, occupying a single

dwelling unit, apartment unit, or manufactured home.

- 2.28 ***“Incineration”*** means the process of burning wastes for the purpose of volume and weight reduction or energy recovery in facilities designed for such use.
- 2.29 ***“Industrial Solid Waste”*** means Solid Waste generated from an industrial or manufacturing process and Solid Waste generated from non-manufacturing activities that is collected, processed, or disposed of as a separate waste stream. Industrial Solid Waste does not include office materials, restaurant and food preparation waste, discarded machinery, Construction and Demolition Debris, Mixed Municipal Solid Waste, or Mixed Municipal Solid Waste combustor ash.
- 2.32 ***“Leakproof”*** means a container or enclosure that is constructed in such a manner that it will not allow its contents to spill out without being opened and physically discharging the contents.
- 2.33 ***“License”*** means authorization by the County Board to conduct Business services that may be limited to a specific period of time, specific Person, and or a specific site in the County.
- 2.34 ***“Licensee”*** means a Person who has been issued a License by the County Board for Solid Waste Management purposes pursuant to this Ordinance.
- 2.35 ***“Mixed Municipal Solid Waste” and “MMSW”*** means:
- A. Garbage, Refuse, and other Solid Waste from residential, nonresidential, industrial, and community activities that the Generator of the waste aggregates for Collection, except as provided in paragraph B.
 - B. Mixed Municipal Solid Waste does not include auto hulks, street sweepings, ash, Construction and Demolition Debris, mining waste, Sludges, tree wastes, Waste Tires, lead acid batteries, motor and vehicle fluids and filters, and other materials collected, processed, and Disposed of as separate waste streams.
- 2.37 ***“Mixed Municipal Solid Waste Services”*** means Collection, Transportation , Processing, or Disposal of Mixed Municipal Solid Waste generated in the County, including but not limited to regularly scheduled service, on-call service, one-time service, rental and other use of equipment such as Solid Waste containers, compactors, compactor boxes, and the like, and any other service that involves or facilitates Collection, Transportation , Processing, or Disposal of Solid Waste materials as Mixed Municipal Solid Waste. It does not include the sale of equipment used for the Collection, Transportation , Processing, or Disposal of Mixed Municipal Solid Waste. It does not include Collection, Transportation , or management of Recyclable Materials, Yard Waste , food waste, source separated Compostable materials, problem materials, or other waste

materials when these materials are segregated by the Generator for the purpose of Recycling or Composting and are delivered to a Recycling Facility or Compost Facility, or the sale, rental, or other use of equipment necessary to facilitate Collection, Transportation , or management of these materials.

- 2.39 **"Municipality"** means a city, village, borough, County, town, sanitary district, school district or other governmental subdivision or public corporation, or Agency created by the Minnesota Legislature.
- 2.40 **"Open Area"** means any lands excluding enclosed structures.
- 2.41 **"Open Burning"** means burning any material whereby the resultant combustion products are emitted directly to the open atmosphere without passing through a stack, duct, or chimney which is designed to remove certain pollutants and which is approved for such purposes.
- 2.42 **"Operation"** means any site, Facility, or activity relating to Solid Waste Management.
- 2.43 **"Operator"** means the Person responsible for the overall Operation of a Solid Waste Facility.
- 2.44 **"Owner"** means the Person or Persons who own a Facility, part of a Facility, or the property.
- 2.45 **"Person"** means a human being, any Municipality or other governmental or political subdivision or other public Agency, any public or private corporation, any partnership, firm, association, or other organization, any receiver, trustee, assignee, agent, or other legal representative of any of the foregoing, or any other legal entity.
- 2.46 **"Processing"** means the treatment of Solid Waste or Source Separated Materials after Collection and before final Disposal. Processing includes but is not limited to volume reduction, storage, separation, exchange, resource recovery, physical, chemical, or biological modifications.
- 2.47 **"Recovered Materials"** are materials that have been separated from Solid Waste and stored so that the material is properly protected from environmental degradation and is not a source of odor, harborage for animals, or insects and is being processed, modified, or converted to be a raw material that may be beneficially used.
- 2.48 **"Recyclable Materials"** means materials such as corrugated cardboard, office paper, newsprint, glass containers, tin containers, aluminum containers, polyethylene terephthalate and high density polyethylene plastic, that are separated from Solid Waste for the purpose of recycling. These materials are considered to be Recyclable Materials if environmentally and economically appropriate markets exist that will accept these Recyclable Materials. Refuse derived fuel or other material that is destroyed by Incineration is not a recyclable material.

Source separated Compostable materials are Recyclable Materials.

- 2.49 **“Recycling”** means the process of collecting and preparing Recyclable Materials and reusing the materials in their original form or using them in manufacturing processes that do not cause the destruction of Recyclable Materials in a manner that precludes further use.
- 2.50 **“Recycling Facility”** means a Facility used to collect, aggregate, process, or market Recyclable Materials. Recycling Facility also means a Facility designed to accept drop-off of Recyclable Materials and/or Source Separated Materials for short term storage and subsequent transfer for proper management. Recycling Facility does not include an individual Generator of Recyclable Materials, such as a homeowner or Business and it does not include a manufacturer using Recyclable Materials as feedstock.
- 2.51 **“Refuse”** means putrescible and nonputrescible Solid Waste, including Garbage, Rubbish, ashes, incinerator ash, incinerator residue, street cleanings, and commercial and Industrial Solid Waste, and including municipal treatment wastes which do not contain free moisture.
- 2.52 **“Reuse”** in the context of this ordinance, Reuse refers to the process of making further use of a material or product after it has been utilized for its original designed purpose and before it is recycled or Disposed of.
- 2.53 **“Rubbish”** means nonputrescible Solid Waste, including ashes, consisting of both combustible and noncombustible waste, such as paper, cardboard, tin cans, yard clippings, wood, glass, bedding, crockery, or litter of any kind.
- 2.54 **“Scavenging”** means all unauthorized removal of waste and separated materials from Solid Waste.
- 2.55 **“Self-Hauler”** means a Generator who does not contract with a commercial Hauler, but instead collects and transports its own Solid Waste. A Self-Hauler shall not provide Collection and Transportation services to someone else for compensation.
- 2.56 **“Service Area”** means the spatial location of a proposed or actual Solid Waste Management activity or Solid Waste Management Facility.
- 2.57 **“Sewage Sludge”** means the solids and associated liquids in municipal waste water which are encountered and concentrated by a municipal wastewater treatment plant. Sewage Sludge does not include incinerator residues and grit, scum, or screenings removed from other solids during treatment.
- 2.59 **“Sludge”** means any solid, semi-solid, or liquid waste generated from a municipal, commercial or industrial waste water treatment plant, water supply treatment plant, or air contaminant treatment Facility, or any other waste having similar characteristics and effects.

- 2.60 ***“Solid Waste”*** means Garbage, Refuse, Construction and Demolition Debris, Sludge from a water supply treatment plant or air contaminant treatment Facility and other discarded waste materials and Sludge, in solid, semi-solid, liquid, or contained gaseous form, resulting from residential, industrial, commercial, mining and agricultural Operations, and from community activities. It does not include Hazardous Waste, animal waste used as fertilizer, earthen fill, boulders, rock, Sewage Sludge, solids or dissolved material in domestic sewage or dissolved materials in irrigation return flows or other common pollutants in waste resources, such as silt. It does not include dissolved or suspended solids in industrial waste water effluents or discharges which are point sources subject to permits under Section 402 of the Federal Water Pollution Control Act, as amended. It also does not include source, special nuclear, or by-product materials as defined by the Atomic Energy Act of 1954, as amended.
- 2.61 ***“Solid Waste Collection”*** means the gathering of Solid Waste from public or private places.
- 2.62 ***“Solid Waste Facility”*** means all property real or personal, including negative and positive easements and water and air rights, which is or may be needed or useful for the Processing or Disposal of waste. It includes but is not limited to the storage, Collection, Transportation , Processing and Reuse, conversion, or Disposal of Solid Waste in a safe environmentally sound manner; but does not include Collection vehicles.
- 2.63 ***“Solid Waste Management”*** means activities or Operation which provide for or control the Collection, Transportation , Processing, or Disposal of Solid Waste including Hauler Business and Hauler Services.
- 2.64 ***“Solid Waste Management Plan”*** means the County Solid Waste Management Plan developed, adopted, and approved as per Minnesota Statutes Chapter 115A.46.
- 2.66 ***“Solid Waste Management Services”*** means all activities provided by the County, by Persons under contract with the County, or by other Persons that support the waste management responsibilities described in Minn. Stat. Chapters 115A, 116, and 400, including, but not limited to: waste management information and education; waste reduction and Reuse; waste recycling; Composting of Yard Waste and food waste; resource recovery through Mixed Municipal Solid Waste Composting or Incineration; land Disposal; management of problem materials and Household Hazardous Waste; Collection, Processing, and Disposal of Solid Waste; closure and post-closure care of a Solid Waste Management Facility; and response, as defined in Minn. Stat. §115B.02, to releases from a Solid Waste Management Facility.
- 2.67 ***“Solid Waste Ordinance”*** means the Dodge County Solid Waste Management Ordinance(s) adopted by the County Board and as amended or supplemented from time to time.

- 2.68 ***“Solid Waste Storage”*** means the holding of Solid Waste near the point of generation.
- 2.69 ***“Solid Waste Transportation”*** means the conveying of Solid Waste from one place to another, by means of vehicle, rail car, water vessel, conveyor, or other means.
- 2.70 ***“Source Separated Materials”*** means materials that are separated from Solid Waste by the Generator. Source Separated Materials include, but are not limited to, Recyclable Materials, vegetative materials recovered for Composting, and organic waste.
- 2.71 ***“Source Separated Organic Materials”*** means materials that:
- A. are separated at the source by waste Generators for the purpose of preparing them for use as Compost or other Processing;
 - B. are collected separately from Mixed Municipal Solid Waste; and
 - C. are comprised of organic waste, including but not limited to: food wastes, fish and animal waste, plant materials and paper.
- 2.72 ***“State”*** means the State of Minnesota.
- 2.73 ***“Tipping Fee”*** means the fee at a Solid Waste Facility for waste delivered to that Facility based upon the weight, volume, character, or type of waste.
- 2.74 ***“Tire”*** means a pneumatic Tire or solid Tire for motor vehicles or other vehicle as defined in Minnesota Statutes.
- 2.75 ***“Tire Collector”*** means a Person who owns or operates a site used for storage, Collection, or deposit of more than fifty (50) Waste Tires.
- 2.76 ***“Tire Processing”*** means producing or manufacturing usable materials, including fuel, from Waste Tires including necessary incidental temporary storage activity.
- 2.77 ***“Tire Processor”*** means a Person engaged in the Processing of Waste Tires.
- 2.78 ***“Transfer Facility”*** or ***“Transfer Station”*** means a Facility at which Solid Waste is concentrated for subsequent transport and is permitted by the Agency or allowed by State law.
- 2.79 ***“Transportation”*** means the conveying of Solid Waste or Recyclable Materials from one place to another.
- 2.80 ***“Unacceptable Waste”*** means those Solid Wastes which cannot be accepted for Processing or Disposal as defined by a Facility pursuant to local, State and federal laws or permits.

- 2.81 ***“Waste Processing”*** means the treatment of Solid Waste after Collection and before Disposal. Processing includes but is not limited to volume reduction, storage, separation, exchange, recovery of energy and resources, physical, chemical, or biological modification and the Operations of a metal Recycling or salvage Facility.
- 2.82 ***“Waste Tire”*** means a Tire that is no longer suitable for its original intended purpose because of wear, damage, or defect.
- 2.84 ***“Yard Waste”*** means the garden wastes, leaves, lawn cuttings, weeds and prunings generated at residential or commercial properties.

Section 3: Responsibilities

- 3.01 The Dodge County Board and its Environmental Services Department shall be responsible for general administration and enforcement of this Ordinance.
- 3.02 The County shall inspect Operations to determine compliance, issue Licenses and permits, notices of violation, and notice of suspension or revocation of Licenses and permits; make required reports, investigate complaints about violations, and make the County Attorney aware of such violations; and keep proper records of all transactions conducted under this Ordinance.
- 3.04 Pursuant to Minnesota Statutes Chapters 115A, 116 and 400 and the County Solid Waste Management Plan, Dodge County has implemented a system of Solid Waste Management that includes readily assessable Solid Waste Collection and Disposal services. Such services are available through a system of Licensed private and municipal Haulers, as well as through readily accessible drop-off facilities.
- 3.05 Pursuant to Minn. Stat. § 400.08, subd. 2, the County establishes one Solid Waste Management Service Area, with its boundaries being the same as the boundaries of the County.
- 3.06 Pursuant to Minn. Stat. § 115A.46, subd. 5, a public entity within the County may not enter into a binding agreement nor develop nor undertake a Solid Waste Management activity that is inconsistent with the County Solid Waste Management Plan without the express consent of the County.
- 3.08 Any use of land for Solid Waste Management activities within the County shall comply with Dodge County Zoning Ordinance and ordinance of Municipalities in which the Facility and Operation exists.
- 3.09 To the fullest extent permitted by law, a Licensee shall indemnify the County, its officers, employees, agents, and others acting on their behalf, to hold them harmless, and to defend and protect them, from and against any and all loss, damage, liability, cost and expense (specifically including reasonable attorneys’

fees and other costs and expenses of defense), of any sort whatsoever, based upon, resulting from, or otherwise arising in connection with any actions, claims or proceedings (of any sort and from any source whatsoever) brought, or any loss, damage or injury of any type whatsoever sustained, by reason of any act or omission of a Licensee, its officers, employees or agents, or any other Person(s) or entity(ies) for whose acts or omissions a Licensee may be legally responsible, in the performance of any of a Licensee's obligations (whether expressed or implied) under this Ordinance.

Section 4: Unlawful Activities

4.01 Improper Transportation . It shall be unlawful for any Person:

- A. To collect and transport, for compensation, Mixed Municipal Solid Waste within the County or Solid Waste Management Service Area, without having obtained a License to do so, or when such License has been revoked or suspended, unless as transported by a Self-Hauler.
- B. To collect, store, or transport Solid Waste or Source Separated Materials within the County in such a way as to violate any requirements of County Ordinance, or related Local, State or Federal law.
- C. To fail to correct any condition or method of Operation which violates County Ordinance or rules applicable to the Collection or Transportation of Solid Waste or Source Separated Materials after being ordered to do so by the County.

4.02 Upsetting of Containers Prohibited. No Person shall willfully turn over or upset any vessel or container used for sorting or storing Solid Waste, Recyclable Materials, Compost or other waste, resulting in spilling the contents or any portion thereof on any roadway, waterway, or on any public or private property.

4.03 Using Containers of Another Prohibited. No Person shall place Solid Waste or any other material in a solid waste container of another Person without the express consent of the Person. This prohibition shall not apply to containers placed for public convenience along streets or sidewalks and in buildings of public accommodation.

4.04 Containment of Solid Waste or Source Separated Materials. No Person shall discharge or allow the discharge of liquid, Solid Waste, or Source Separated Materials from any container or vehicle containing Solid Waste or any other waste, or permit such vehicle to stand, be stored or kept in such manner or for such length of time that it will be or constitute a nuisance.

4.05 Improper Disposal.

- A. Except as provided by County Ordinance, no Person shall Dump, throw or in any manner deposit or Dispose of Solid Waste upon or in any roadway, waterway, body of water, public or private property, or at an Agency

permitted Solid Waste Facility other than during the Facility's operating hours and in a manner consistent with Disposal of Solid Waste at the waste Facility.

- B. No Person shall conduct Open Burning of Solid Waste except (a) as allowed at an Agency permitted Solid Waste Facility (b) as allowed under the terms of the "Permit for Open Burning" issued by authority of the Agency or the Minnesota Department of Natural Resources or (c) as allowed by Minnesota Statutes §88.171 and 17.135, or County Ordinance. However, if the County Board has adopted a resolution stating that regularly scheduled pickup of Solid Waste is reasonably available throughout the County, the exception for Open Burning in Minnesota Statutes §17.135 shall not apply.
- C. Electric utility and railroad companies that distribute chemically treated wood products to the general public for Reuse must, upon providing such products, also provide written information on proper Disposal of such products pursuant to the requirements of Minnesota Statutes §88.171 and 17.135, and County Ordinance.
- D. No Person shall bury Solid Waste generated from the Person's Household or Business Operation without a permit issued by the Agency unless exempt per MN Statutes §17.135. If the County Board has adopted a resolution stating that regularly scheduled pickup of Solid Waste is reasonably available throughout the County, the exception for onsite burial in Minnesota Statutes §17.135 shall not apply.
- E. No Person shall place or cause to be placed in any Solid Waste Collection container any material not specifically allowed in that container.
- F. No Person shall place, or cause to be placed, any Solid Waste at Recycling Facilities or in containers specified for Collection of Recyclable Materials.

4.07 Duty to Provide Collection, Transportation and Disposal of Solid Waste. It shall be the duty of the Person, including the Owner, lessee or occupant, having properties within the County to provide for the lawful Collection, Transportation, and Disposal of all Solid Waste generated on such properties.

4.08 Items Prohibited for Collection or Placement with Mixed Municipal Solid Waste.

- A. No Person shall place in containers for Collection by a Hauler or for Disposal in a Solid Waste Facility any item specifically barred from the waste stream under Minnesota law and County Ordinance such as Hazardous Waste, pathological waste or infectious waste as defined by State and federal regulations; materials separated for recycling; Tires; used motor oil and filters; lead acid batteries; rechargeable or button batteries;

Yard Waste , mercury or a thermostat, thermometer, electric switch, appliance or a medical or scientific instrument for which the mercury has not been removed for Reuse or recycling. These items shall be otherwise Disposed of by a Person or legal entity in accordance with programs administered by the Department or in accordance with Minnesota law.

- B. When any Hauler finds any of the above-mentioned prohibited articles in Solid Waste containers to be collected, the Hauler may, at its option, refuse to collect the contents of the container. The Hauler shall notify the occupant of the premises of the prohibited articles in the container and the reason for non-Collection. If a Hauler chooses to collect prohibited articles that Hauler must transport those articles to a place providing legal Disposal.

4.09 Scavenging. Without the consent of the Owner/Operator of that Facility or container, it shall be unlawful for a Person to remove waste materials, including Mixed Municipal Solid Waste, Recyclable Materials, scrap metals, appliances, Tires, Construction and Demolition Debris, or other waste materials, from any Solid Waste Facility or from any privately or publicly owned Solid Waste or recycling container. This prohibition shall not apply to materials removed from waste facilities by contract, or through a managed salvaging program.

4.10 Spills. Vehicles or containers used for the Transportation of any Solid Waste must be loaded and moved in a manner that does not allow the contents to fall, leak, or spill therefrom, and must be covered when necessary to prevent blowing of material. Where spillage does occur, the material and any contaminated soils must be picked up immediately by the transporter and returned to the vehicle or container and the area properly cleaned.

4.11 Prohibited Disposal Facilities. The County prohibits development of Disposal facilities for the following types of waste:

- A. Regulated infectious waste land Disposal facilities.
- B. Hazardous Waste land disposal and Hazardous Waste Incineration
- C. Radioactive waste Disposal facilities.
- D. Solid Waste Management Facilities that impede or conflict with the goals, objectives and actions established in the County Solid Waste Management Plan.

Section 5: Solid Waste Management Facilities

5.01 No Person shall use, cause, permit, or allow land or property under their control to be used for Solid Waste Management purposes, except at an Operation for which a permit has been generated by the Agency and local government authority , unless otherwise provided by County Ordinance and State law.

Section 6: Solid Waste Storage

6.01 Storage of Waste.

- A. The Owner and occupant of any premises, Business establishment, or industry is responsible for the satisfactory storage of all Solid Waste accumulated at that premises, Business establishment, or industry in compliance with this ordinance, Minnesota Rules and any local ordinances.
- B. Only a Person who is permitted by the State as a Tire Collector or Tire Processor may accumulate more than fifty (50) waste passenger Tires or equivalent weight of other Waste Tires on the Person's premises, unless such Person is a retail Tire seller, Tire-retreading Business, or vehicle repair Business subject to the requirements of County Ordinance. Exceptions may be allowed when Waste Tires are utilized outside of a building for agricultural purposes where they comply with the requirements of other applicable laws or County Ordinance.
- C. A Person may not Dispose of major appliances in or on the land.
- D. A Person may not store Solid Waste in a manner that could cause pollution of the air, water, or soils, or that could cause harm to other's health or well-being.

6.02 **Solid Waste Accumulations.** Except as otherwise allowed by County Ordinance, Owners, occupants or managers of every property shall be responsible for maintaining all open areas free of improperly stored Solid Waste accumulations. Solid Waste accumulations include, but are not limited to: (a) appliances and fixtures damaged, deteriorated or in obsolete condition as to have no substantial value and can be reasonably considered to be Solid Waste; (b) tin cans, broken glass, broken furniture, boxes, crates, and other debris, (c) any other form of Solid Waste or Mixed Municipal Solid Waste which is in a condition of disrepair such as to have no immediate useful purpose.

6.03 **Storage Facilities and Containers Required.** Every property shall be supplied with adequate Solid Waste Storage facilities or containers. Such facilities or containers shall be provided by the Owner or manager of the property or by contract with a commercial Hauler.

6.04 **Provided Facilities Required to be Used.** Property Owners or occupants shall store waste for removal in the solid waste storage facilities or containers. The property Owner or occupant shall not permit Solid Waste to be placed in locations or in a manner that the Solid Waste can be scattered by water, wind, animals or insects.

6.05 **Frequency of Container Service.** Every property Owner or occupant shall cause the Solid Waste to be removed and deposited at a place allowed by County Ordinance, at

least once a month. Non-putrescible waste suitable and sorted for Recycling may be retained if stored in an aesthetically acceptable manner that avoids unacceptable health risk or nuisances, and otherwise complies with County Ordinance.

- 6.06 Storage Container Maintenance. Solid Waste containers shall be maintained and kept in a neat, clean, sanitary, and leak-resistant condition by the container's Owners so as to prevent insect breeding, nuisances, and unsightly conditions.
- 6.07 Container Location. No containers shall be placed out for Collection of Mixed Municipal Solid Waste or Garbage more than twenty-four (24) hours prior to the normal Collection route time, unless said container is constructed resistant to rodent, insect or small animal entry. Containers shall be secured so as to minimize or eliminate spillage. No Hauler shall provide Collection service that encourages its customers to place containers out at any Collection point except at times corresponding to twenty-four (24) hours prior to the normal route services.
- 6.10 Unauthorized Transfer of Solid Waste. Except as permitted by County Ordinance, Solid Waste shall not be transferred to another property or another property's waste storage Facility except with the consent of the property Owner.

Section 7: (this Section is reserved for future use)

Section 8: Standards for Collection and Transportation of Solid Waste

- 8.01 All Solid Waste collected and removed from every premises, Business or industry shall be transported to the appropriate Facility Licensed and designated for that purpose, pursuant to the laws of the State and County Ordinance.
- 8.03 Vehicles and containers for Solid Waste Transportation shall be enclosed, covered, Leakproof, durable, and of easily cleanable construction. Suitable equipment shall be provided on each vehicle for the purpose of collecting spilled materials.
- 8.04 All Solid Waste shall be loaded and moved in such a manner that it will not escape from its container. Where spillage does occur, the material shall be picked up immediately by the Hauler, Self-Hauler, or solid waste transporter and returned to the vehicle or container, and the area properly cleaned.
- 8.05 Transporter, Hauler, or Self-Hauler shall notify the Department and the appropriate law enforcement Agency if a load or partial load of Solid Waste is Dumped or spilled except where allowed by County Ordinance, and clean the area as instructed by the authorities.
- 8.06 No Person shall collect or transport Solid Waste that is smoking, smoldering, or burning except in a container designed and approved by the State Fire Marshal and the Department.

- 8.07 Mixed Municipal Solid Waste or Garbage shall not be allowed to remain or be stored in any Collection or Transportation vehicle in excess of seventy-two (72) hours, except in the event of an emergency.
- 8.08 Vehicles and containers for Solid Waste Transportation shall be constructed, loaded, transported, and unloaded in a safe, sanitary and nuisance-free manner. They shall be cleaned to prevent nuisance, pollution or insect breeding, and shall be maintained in good repair.
- 8.09 Hauler Business sites, including sites for equipment and material storage, must obtain required land use and operating permits and maintain compliance with permits at all times.

Section 9: Routes, Districts, and Time for Solid Waste Collection & Transportation

- 9.01 The County Board, by resolution, may adopt designated routes for transporting Solid Waste to Solid Waste Management facilities in the County. Vehicles transporting Solid Waste to these facilities must use the designated routes.
- 9.02 Nothing in this section shall prevent any Municipality from establishing Solid Waste Collection districts or routes within their jurisdiction, except that such districts or routes shall not interfere with the implementation of the County Solid Waste Management Plan.

Section 10: Permits and Licenses for Solid Waste Collection or Transportation

- 10.01 State Rules. The Collection and Transportation of Solid Waste shall be performed in accordance with all applicable laws and rules in addition to the requirements of County Ordinance.
- 10.02 Licenses and Vehicle Permits Required. Any Person, firm, Hauler, corporation or Commercial Hauler that transports Mixed Municipal Solid Waste (MMSW) in the County must annually obtain a Solid Waste Collection and Transportation License and a permit for each vehicle used.
 - A. The following vehicles are exempt from this vehicle permit requirement:
 - 1. Vehicles transporting MMSW owned or operated by Self-Haulers.
 - 2. Vehicles owned and operated by the County are not required to obtain vehicle permits, but are required to follow all of the requirements of County Ordinance.
 - 3. Vehicles transporting MMSW from another county provided the

following conditions are met:

- (a) The vehicles are properly licensed and insured in the county from which they originate.
- (b) The vehicles are not collecting Mixed Municipal Solid Waste generated in the County.
- (c) The vehicles and Operators comply with all other requirements of County Ordinance.

B. Applications for Licenses and vehicle permits shall be made upon forms provided by the Department and shall be filed with the appropriate fee at the Department. The applicant shall have in force at all times and furnish with the application proof of required comprehensive automobile liability insurance (owned, non-owned, hired) for bodily injury and property damage (combined limited).

C. Each vehicle permit issued shall be maintained in or on the vehicle and displayed as required by the County. Any License or vehicle permit may be suspended or revoked by the Department or the County Board for a violation of County Ordinance or other applicable State, County or local law or rules, in accordance with procedures identified in this ordinance. All Licenses and vehicle permits shall expire immediately upon transfer of Ownership of the vehicle or on at the end of the License term.

10.03 Insurance Requirements. No Licensee or any contractor operating under contract or agreement with a Licensee shall commence Operation until the Licensee or contractor has obtained, at their own cost and expense, all insurance required herein. All insurance coverage shall be maintained by the Licensee for the term of the License. All insurance shall be on an occurrence basis only, and not on a claims made basis. The Licensee or contractor is responsible for any deductible or self-insured retention. Any Solid Waste Collection and Transportation License and vehicle permit issued hereunder are immediately suspended or revoked upon cancellation of the insurance coverage of the Licensee, or its contractor.

A. *Insurance Coverage.*

1. Auto Liability.

- (a) A combined single limit policy with minimum limits established by resolution of the County Board.
- (b) The auto coverage must also include the following: any auto, hired and non-owned auto.

2. Commercial General Liability. Coverage with minimum limits established by resolution of the County Board for:

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

3. Workers' Compensation and Employer's Liability.

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

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

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

10.04 Application Requirements. All applications for a Solid Waste Collection and Transportation License and vehicle permits and subsequent annual renewals submitted to the Department shall include the following:

- A. The name and address of the applicant including contact Person and the location of the Business.
- B. A description of each vehicle to be used for Solid Waste Collection

including vehicle identification make, model, and capacity of the body and number of rollofs.

- C. The location and address describing the place where the applicant is storing equipment/vehicles.
- D. Current copy of certificate of insurance, indicating proper insurance coverage for the period of the License, including the name of the insurance carrier, its agent, policy number and effective dates.
- E. A description of the territory, cities, townships, counties, and the type and number of customers and the estimated weekly volume of MMSW collected by the applicant.
- F. A Statement by the applicant that shows that he or she has obtained needed approvals from municipalities the applicant services, and that he or she utilizes County designated routes, and that vehicle Operators possess proper Minnesota License.
- G. A Statement by the applicant that he or she is familiar with County Ordinance and is compliant with County Ordinance and all related State and federal regulations.
- I. Other information the County may reasonably require including but not limited to applicant's signature and appropriate fees for the License and permits.

10.05 Implied Consent.

- A. The application for, and acceptance of, a Solid Waste Collection and Transportation License in the County is evidence of the Licensee's intent to comply with County Ordinance and State and federal regulations applicable to the Collection, storage, Transportation and Disposal of Solid Waste and Source Separated Materials.
- B. By the application for, and acceptance of, a Solid Waste Collection and Transportation License, the Licensee consents to allow the County access to all Business Sites, equipment and material storage sites, and equipment used for Collection and Transportation for the purpose of inspections for compliance with County Ordinance. Such inspection may be with or without prior notice to the Licensee.

10.06 Additional Requirements.

- A. All Solid Waste Collection and Transportation License holders are responsible for the Collection of Solid Waste in a timely manner consistent with this Ordinance and for the proper Transportation and Disposal of the Solid Waste at the designated Facility.

- B. Each vehicle shall be inspected annually as required by rules of the Minnesota Department of Transportation to obtain a current safety sticker

SECTION 11. APPROVAL OR DENIAL OF LICENSE

- 11.01 Subsection 1. License applications shall be reviewed by the Department and must be approved or denied by the County Board. A License obtained pursuant to this ordinance shall not be transferable as to Person or place.
- 11.02 Subsection 2. The County Board may refuse to issue a License or permit for any applicant that is non-compliant with County Ordinance or related local State, or federal regulations. The County Board may refuse to issue a License or permit for any applicant providing Solid Waste Management that is not consistent with the County's Solid Waste Management Plan. The County Board may deny a License application if the Board finds that the Solid Waste Management activity or Operation may have an adverse environmental impact, create, or contribute to a nuisance, or cause or contribute to a reduction in real property values. Whenever the County Board denies a License or permit application it shall make contemporaneous findings of fact and conclusions of law to support its decision.
- 11.03 The County Board may suspend or revoke any License or permit granted under this ordinance at any time for noncompliance with the provisions of County Ordinance, Municipal and Township regulations, Agency regulations, and the County's Solid Waste Management Plan. The County Board may suspend or revoke any License or permit granted under this ordinance at any time for noncompliance with Enforcement requirements defined in Section 15; or whenever in the written opinion of the County Board, the Minnesota Department of Health or the Minnesota Pollution Control Agency, continued Operation would endanger the health, safety, or welfare of the public. Any License or permit granted under this ordinance may be suspended or revoked only following a public hearing. The County Board shall make written findings of fact and conclusions of law contemporaneous with any suspension or revocation of a License or permit.
- 11.04 Notwithstanding other subsections of this ordinance, the Department may order the immediate suspension of Operations at any Solid Waste Management activity Licensed under this ordinance, upon written order reciting the relevant facts for a finding that continued Operation would present an endangerment to the public health, safety, or welfare or that violations have occurred that justify issuance of a suspension order. The Owner or Operator of a site or Solid Waste Management Business whose Operations have been suspended by order of the Department shall have the right to request a public hearing to be held by the County Board within thirty (30) days of issuance of the order.

Section 12: Permits & Licenses for Solid Waste Facilities

- 12.01 No Solid Waste Facility for storage, transport, Processing, or Disposal is allowed in

the County unless permitted by the Agency, County Ordinance, and regulations of Municipalities in which the Facility is located.

- 12.02 As per Minnesota Statutes Chapters 400 and 115A, the County has adopted a comprehensive Solid Waste Management Plan. Any application for a permit or License to operate a Solid Waste Facility in the County will first be evaluated based on whether the need and location of the proposed Facility is consistent with the comprehensive Solid Waste Management Plan. No Solid Waste Facility for storage, transport, Processing, or Disposal is allowed in the County unless such Facility is consistent, and does not conflict, with the County Waste Management Plan
- 12.05 Storage of Recovered Materials from Demolition. Segregated Construction and Demolition Debris materials may be stockpiled for construction or recycling provided the Agency has authorized such storage. Use of such materials shall comply with other applicable County or State laws and rules.
- 12.06 Permit for Disposal of Selected Construction and Demolition Debris.
- A. Construction and Demolition Debris generated at an individual property may be buried on-site provided a permit is issued by the Agency. A record of such burial of waste shall be filed at the office of the County Land Records. Permit exemptions may apply if use of material is determined to be a Beneficial Use, or if it is a Recyclable Material, or is specifically allowed by State rule or law.
 - B. Placement of select Construction and Demolition Debris as fill for a specific land improvement projects may be allowed provided a permit for that debris at that site is obtained from the Agency. Type and area filled shall be filed at the office of the County Land Records. The County may limit the amount of Construction and Demolition Debris to be used as fill to an amount less than that allowed in the Agency permit, if needed to address public health and safety concerns. Permit exemptions may apply if material is determined to be a Beneficial Use, or if it is a Recyclable Material, or is specifically allowed by State rule or law.

Section 13: County Operated Facilities and Programs

- 13.01 The provisions of this ordinance allow the County, as an Owner or Operator, to participate in Solid Waste Management activities, operate Solid Waste Management facilities, and provide Solid Waste Management Services and programs without obtaining a License to do so from itself.
- 13.02 As an Operator of a Solid Waste Management Facility under the provisions of County Ordinance, the County Board may from time to time establish rates or charges for services provided. It may further utilize all of the provisions of County Ordinance to enforce the payment and Collection of those designated changes.

Section 14: Minnesota State Rules Regarding Solid Waste Management

- 14.01 Minnesota statutes and rules and federal regulations regarding Solid Waste Management shall apply in addition to the provisions provided in County Ordinance.

Section 15: Enforcement

- 15.01 Inspections. Inspection of Licensed or permitted Solid Waste Management activities, Facility and/or a Licensee's premises shall be made by the County in such frequency as to insure consistent compliance by the Licensee with this Ordinance.

- A. The applicant or Licensee shall allow free access to authorized representatives of the County at any reasonable time for the purpose of making such inspections as may be necessary to determine compliance with the requirements of County Ordinance, or State rules or statutes.
- B. Failure of the applicant or Licensee to permit such inspection shall be grounds for denial, suspension or revocation of a License. The Licensee shall be provided with written documentation of any deficiencies and the date by which the corrections shall be completed.
- C. Whenever necessary to enforce any provision of this ordinance, or whenever the County has reasonable cause to believe that a violation of this Ordinance exists, the County may enter premises or vehicles to inspect the same or to perform any duty incumbent upon the County, provided that if such premises or vehicle be occupied, the authorized representative shall first present proper credentials and request entry; and if such premises or vehicles are unoccupied, the County shall first make a reasonable effort to locate the Operator or other Persons having charge or control of the premises or vehicle and request entry. If such entry is refused, the County may order an emergency suspension, suspension or revocation of a License and shall have recourse to other remedies provided by law.
- D. Whenever the County or its authorized representatives shall find in any building, vehicle, or on any premises any material, condition or activity endangering the health, welfare or safety of the public, the County shall issue such orders as may be necessary for the enforcement of this or other applicable County ordinances governing and safeguarding the health, welfare and safety of the public.
- E. Repeated violations of County Ordinance or failure to comply with any order of the County shall be grounds for emergency suspension, suspension or revocation of a License.
- F. Any order or notice issued or served by the County shall be complied with by the Owner, Operator or other Persons responsible for the condition or

violation to which the order or notice pertains. Every order or notice shall set forth a time limit for compliance depending on the nature of and the danger created by the violation. In cases of extreme danger to health, welfare and safety of the public, immediate compliance shall be required.

- G. If a building, premises or vehicle is owned by one Person and occupied or operated by another, under lease or otherwise, and the order or notice requires immediate compliance for the health, welfare and safety of the public, such order or notice shall be served on the Owner, Operator or occupant and the Owner, Operator or occupant shall ensure compliance with the order or notice.

15.02 Re-Inspection. Upon written notification from the Licensee that all the violations for which a suspension or emergency suspension has been issued have been corrected, the County shall re-inspect the Solid Waste Management activity. If the County finds upon such re-inspection that the violation has been corrected, the County shall inform the Licensee of reinstatement of the License.

15.03 Action Authorized. For violations of this ordinance, the County may take the following action: issuance of a Warning Notice; issuance of a Notice of Violation; issuance of a Citation(s); issuance of revocation or suspension of a License issued under this ordinance; execution of a Stipulation Agreement; and/or commencement of other civil proceedings.

- A. *Warning Notice.* The County may issue a Warning Notice as defined in this ordinance to any Person alleged to have committed a violation of this ordinance. A Warning Notice shall serve to place the Person on notice that compliance with specified Ordinance requirements must occur to avoid additional enforcement actions. A Warning Notice may be in the form of an Inspection report for a Licensed Facility. A Warning Notice may be served in Person or by mail.
- B. *Notice of Violation (NOV).* The County may issue a Notice of Violation (NOV) as defined in this ordinance to any Person alleged to have committed a violation of this ordinance. A NOV shall serve to place the Person alleged to have committed a violation on notice that compliance with specified County Ordinance requirement must occur to avoid additional enforcement actions. The NOV shall be served by certified mail or by Personal service on the Person(s) alleged to have committed a violation of this Ordinance. If NOV cannot be served in the manner above, NOV notification will be served via US Postal Service first class mail.
- C. *Citations.* Any Person who fails to comply with the provisions of this ordinance is guilty of a misdemeanor, and upon conviction thereof, shall be punished as provided by law. A separate offense shall be deemed committed each day during or on which a violation occurs or continues. An authorized representative of the County shall have the power to issue

Citations for violation of this ordinance, but shall not be permitted to physically arrest or take into custody any violator except on a warrant duly issued by the Court.

1. Issuance of the Citation. Citations shall be issued to the Person alleged to have committed the violation either by Personal delivery or by certified mail. In the case of a public, private or municipal corporation, the Citation shall be issued to any officer or agent with express or implied authorization to accept such issuance.
 2. Notice of Citation. Citations shall be made out in quadruplicate (4). One copy shall be issued to the Person alleged to have committed the violation; one copy shall be filed with the County; one copy shall be filed with the County Attorney's Office; and one copy shall be filed with the District Court.
 3. Form of Citation. Citations shall be on such form(s) as approved by the County and shall contain at least the following:
 - (a) The name and address of the Person charged with a violation.
 - (b) The date and place of the violation.
 - (c) A short description of the violation followed by the section of the County Ordinance violated with reference made to all other pertinent County Ordinance provisions.
 - (d) The date and place at which the Person receiving the citation shall appear and a notice that if such Person does not respond a warrant may be issued for such Person's arrest.
 4. Complaint.
 - (a) If the Person issued the Citation and charged with the violation fails to appear as required by the Citation, the Citation may be referred to the County Attorney's Office for issuance of a summons and complaint.
 - (b) At their discretion, the County Attorney's Office may issue a summons and complaint initially.
- D. *Abatement.* In the event of an emergency abatement by the County as described below or if a property Owner does not complete corrective actions within the timeline given in a NOV, a Stipulation Agreement or a Court Order, the County may abate the violation and the County has the authority to enter the property and perform the corrective actions and recover the costs of the same from the property Owner through the following procedures:

1. Abatement Notice.

- (a) Contents of Abatement Notice. An Abatement Notice shall include the following:
- i. Notice that the property Owner has not completed the Corrective Actions within the time period required in the attached NOV(s), Stipulation Agreement or Court Order;
 - ii. Notice that the County or its agent intends to enter the property and commence abatement of the conditions on the property that violate this Ordinance in thirty days;
 - iii. Notice that the property Owner must correct the violation(s) before thirty days to avoid any civil liability for the costs of inspection and abatement that the County may incur; and
 - iv. A Statement that if the property Owner desires to appeal, the property Owner must file a request for an appeal hearing with the County Auditor or County Board Chair with a copy sent to the Department pursuant to Minnesota Statutes 373.07 that meets the requirements of the sections below on the County within ten (10) County working days, exclusive of the day of service.

2. Service. The Abatement Notice must be served on a property Owner by certified mail or Personal service. Service by certified mail shall be deemed complete upon mailing. If the property Owner is unknown or absent and has no known representative upon who the Abatement Notice can be served, the County shall post the Abatement Notice at the property. The County must send a copy of the Abatement Notice to the County Attorney's Office.

3. Right to Appeal the Abatement Notice.

- (a) Request for Hearing. The property Owner's request for a hearing must be in writing and must State the grounds for appeal and be served by certified mail on the County Board, with a copy to the County by the close of the tenth County working day following service of the Abatement Notice. Following receipt of a request for a hearing, the County Board shall set a time and place for the hearing to be held pursuant to Section 15.04.
- (b) Stay of Notice. Pending the appeal hearing and final

determination by the County Board, the County shall take no further action on the Abatement Notice.

4. Abatement by the County. In the event a property Owner does not abate the Ordinance violation or does not appeal the Abatement Notice within the applicable time period, the County may expend funds necessary to abate the violation(s) in accordance with applicable County policies and procedures.

5. Recovery of Abatement Costs.

- (a) The County may pursue recovery of all costs, including enforcement costs, from the property Owner for abatement incurred by the County, by any means allowable by law. The cost of any enforcement action may be assessed and charged against the real property on which the violations are located.
- (b) The County shall keep a record of the costs of abatements done under this Ordinance and report all work done for which assessments are to be made, stating and certifying the description of the land, lots or parcels involved and the amount assessable to each of the County Auditor by September 1 of each year.
- (c) On or before October 1 of each year, the County Auditor shall list the total unpaid charges for each abatement made against each separate lot or parcel to which they are attributable under this ordinance to the County Board.
- (d) The County Board may then spread the charges or any portion thereof against the property involved as a special assessment, for certification to the County Auditor and for Collection the following year along with current taxes.

6. Emergency Abatement by County. Notwithstanding the requirements of Section 15.03(D), in the event of an imminent threat to the public's health, welfare and safety, the County shall have the authority to immediately enter property and abate the violations and recover the costs as set out in Section 15.03(D)(5). The County shall attempt to give verbal notice to the property Owner immediately, if possible, and in writing within 10 work days. The property Owner shall have the right to appeal the assessment of costs of the County Board pursuant to Section 3 of this Article.

- E. *Stipulation Agreement.* The County and a Person alleged to have violated provision(s) of this Ordinance may voluntarily enter into a Stipulation

Agreement, whereby the parties to the agreement: identify conditions on the property that require Corrective Action; agree on the Corrective Actions that must be performed by the Person; and agree on the timelines in which the Corrective Actions must be completed. If the timelines have not been met as agreed in the Stipulation Agreement, the County may abate the violation in accordance with Section 15.03(D), above. The parties may seek compliance with the terms of the Stipulation Agreement through a court of competent jurisdiction.

F. *Special Assessment for Removal of Unauthorized Deposit of Solid Waste.* In addition to the remedies set forth above, at the discretion of the County, all costs for removal of unauthorized deposits of Solid Waste or corrective action maybe certified to the County Auditor as a special assessment against real property.

G. *License Suspensions.*

1. Any License required under this ordinance may be suspended by the County for violation of any provision of County Ordinance. Upon written notice to the Licensee a License may be suspended by the County or designee for a period not longer than sixty (60) days or until the violation is corrected, whichever is shorter.
2. Such suspension shall not occur earlier than ten (10) County working days after written notice of suspension by the County has been served on the Licensee or, if a hearing is requested, until written notice of the determination of the County's action has been served on the Licensee. Notice to the Licensee shall be served Personally or by registered or certified mail at the address designated in the License application. Such written notice of suspension shall contain the effective date of the suspension, the nature of the violation or violations constituting the basis for the suspension, the facts which support the conclusion that a violation or violations has occurred, and a Statement that if the Licensee desires to appeal, the Licensee must within ten (10) County working days, exclusive of the day of service, file a request for an appeal hearing with the County Board. The hearing request shall be in writing stating the grounds for appeal and served Personally or by certified mail on the County Board, with a copy to the County by the close of the tenth County working day following service. Following receipt of a request for a hearing, the County Board shall set a time and place for the hearing to be held pursuant to the section below.
3. Continued Suspension. If said suspension is upheld and the Licensee has not demonstrated within the sixty (60) day period that the provisions of the County Ordinance have been complied with, the County Board may serve notice of continued suspension

for up to sixty (60) days or initiate revocation procedures.

H. *Emergency Suspension.*

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

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

J. *License Revocation.*

1. Any License granted pursuant to this Ordinance may be revoked by the County for violation of any provision of County Ordinance.
2. Revocation shall not occur earlier than ten (10) County working days from the time that written notice or revocation from the County is served on the Licensee or, if an appeal hearing is requested, until written notice of the County Board's action has been served on the Licensee. Notice of revocation to the Licensee shall be served personally or by certified mail at the address designated in the License application. Such written notice of revocation shall contain the effective date of the revocation, the nature of the violation or violations constituting the basis for the revocation, the facts which support the conclusion that a violation or violations has occurred and a Statement that if the Licensee desires to appeal, the Licensee must within ten (10) County working days, exclusive of the day of service, file a request for a hearing with the County Board. The hearing request shall be in writing stating the grounds for appeal and served personally or by certified mail on the County Board, with a copy to the County and the County Attorney's Office, by the close of the tenth County

working day following service. Following receipt of a request for a hearing the County Board shall set a time and place for the hearing to be held to this section.

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

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

- A. *Timeframe for Hearing.* Unless an extension of time is requested by the appellant in writing directed to the Chair of the County Board and is granted, the hearing will be held no later than forty-five (45) calendar days after the date of service of request for a hearing, exclusive of the date of such service. In any event, such hearing shall be held no later than ninety (90) calendar days after the date of service of request for a hearing, exclusive of the date of such service.
- B. *Notice of Hearing.* The County Board shall mail notice of the hearing to the appellant, with a copy to the Department and the County Attorney's Office, at least fifteen (15) working days prior to the hearing. Such notice shall include:
 - 1. A Statement of time, place and nature of the hearing.
 - 2. A Statement of the legal authority and jurisdiction under which the hearing is to be held.
 - 3. A reference to the particular section of the Ordinance and Agency

rules, if any, involved.

- C. *Hearing Examiner.* The County Board may by resolution appoint an individual or the Solid Waste Subcommittee, to be known as the hearing examiner, to conduct the hearing and to make findings of fact, conclusions and recommendations to the County Board. The hearing examiner shall submit the findings of fact, conclusions and recommendations to the County Board in a written report, and the County Board may adopt, modify or reject the report.
- D. *Conduct of the Hearing.* The appellant may be represented by counsel. The County may be represented by the County staff or by the County Attorney's Office. The County, the appellant, and additional parties, as determined by the County Board or hearing examiner, in that order, shall present evidence. All testimony shall be sworn under oath. All parties shall have full opportunity to respond to and present evidence, cross-examine witnesses, and present argument. The County Board or hearing examiner may also examine witnesses.
- E. *Burden of Proof.* The County shall have the burden of proving its position by a preponderance of the evidence, unless a different burden is provided by substantive law, and all findings of fact, conclusion, and decisions by the County Board shall be based on evidence presented and matters officially noticed.
- F. *Admission of Evidence.* All evidence that possesses probative value, including witness testimony, 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 confirmed to matters raised in the County's written notice of denial, suspension, emergency suspension, non-renewal or revocation of a License, denial of a variance, or Abatement Notice or in the appellant's written request for a hearing.
- G. *Pre-Hearing Conference.* At the request of any party, or upon motion of the County Board or hearing examiner, a pre-hearing conference shall be held. The pre-hearing conference shall be conducted by the hearing examiner, if the County Board has chosen to use one, or by a designated representative of the County Board. The pre-hearing conference shall be held no later than five (5) County working days before the hearing. The purpose of the pre-hearing conference is to:
 - 1. Clarify the issues to be determined at the hearing.
 - 2. Provide an opportunity for discovery of all relevant documentary, photographic or other demonstrative evidence in the possession of each party. The hearing examiner or County Board's

representative may require each party to supply a reasonable number of copies of relevant evidence capable of reproduction.

3. Provide an opportunity for discovery of a full name and address of all witnesses who will be called at the hearing and a brief description of the facts and opinions of which each is expected to testify. If the names and addresses are not known, the party shall describe them thoroughly by job duties and involvement with the facts at issue.
 4. If a pre-hearing conference is held, evidence not divulged as provided above shall be excluded at the hearing unless the party advancing the evidence took all reasonable steps to divulge it to the adverse party prior to the hearing and:
 - (a) The evidence was not known to the party at the time of the pre-hearing conference; or
 - (b) The evidence is in rebuttal to matters raised for the first time at or subsequent to the pre-hearing conference.
- H. *Failure to Appear.* If the appellant fails to appear at the hearing, they shall forfeit any right to a public hearing before the County Board or hearing examiner and their failure to appear shall be deemed their waiver of their right to appeal the decision made by the County and the decision made by the County will stand.

Section 16: Additional Requirements

- 16.01 The County Board may impose additional requirements consistent with the intent of this ordinance.
- 16.02 Unless specifically authorized in advance by the Owners of a Facility, it shall be a violation of this Ordinance for any Person or Persons to enter upon or remain on property permitted or authorized by this Ordinance at any time during which the Facility is not open, as indicated by the posted hours of Operation.

Section 17: Repealer

- 17.01 The Dodge County Solid Waste Ordinance No. 1, dated August 1, 1987 and amended June 27, 1989 to include Solid Waste Ordinance #3 is hereby repealed and replaced.

Section 18: Provisions Are Cumulative

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

Section 19: No Consent

- 19.01 Nothing contained in this Ordinance shall be deemed to be a consent, License, or permit to locate, construct or maintain a site, Facility or Operation, or to carry on any activity.

Section 20: Non-Liability

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

Section 21: Severability

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

Section 22: Reporting

- 22.01 The County may require information to be gathered by Solid Waste Generators, Solid Waste Management Facility Operators, Commercial Haulers, Haulers, and Self-Haulers regarding matters related to this ordinance. Such information may include, where applicable, customer names and locations, waste origins, waste types and amounts, and waste destinations for Reuse, recycling, resource recovery, or Disposal. Any such information gathered by the County will be managed subject to the Minnesota Data Practices Act or other applicable data management laws or agreements as amended from time to time. Failure to provide this information will be considered a violation of this ordinance.

Section 23: Effective Date

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

Dated: 6/28/16

DODGE COUNTY

ATTEST:

By: Steven Pham
Chair

Deputy Clerk Becky Lubala

