

Amendment to Dodge County Solid Waste Ordinance Number 2 (Solid Waste Designation Ordinance for Dodge County)

(Note: The amendment is to Section II, Subsections 1 and 2 on Page 2.)

**SOLID WASTE
ORDINANCE, NUMBER 2
SOLID WASTE DESIGNATION ORDINANCE FOR DODGE COUNTY**

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**SOLID WASTE
ORDINANCE NO. 2
SOLID WASTE DESIGNATION ORDINANCE FOR DODGE COUNTY**

An ordinance regulating the transportation and delivery of solid waste in Dodge County, Minnesota; defining the geographic area and the types and quantities of solid waste subject to designation; specifying the point or points of delivery of the solid waste; requiring that the designated solid waste be delivered to the specified point or points of delivery; establishing procedures and principles to be followed by the County in establishing and amending rates and charges at the designated facility; excepting from the ordinance certain materials; and stating additional regulations governing waste collectors and other matters.

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

**SECTION I.
DEFINITIONS**

The terms defined in the Section shall, for all purposes of this Ordinance, have the meanings herein specified, unless the context clearly otherwise requires:

Subsection 1. “Acceptable Waste” means materials generally referred to as household or commercial garbage or Municipal Solid Waste, and which are not Unacceptable Waste.

Subsection 2. “County” shall mean Dodge County, Minnesota.

Subsection 3. “Designated Waste” shall mean all Municipal Solid Waste which is not exempt or excepted from Designation and is not Unacceptable Waste.

Subsection 4. “Designation” shall mean the requirement contained in Section II herein, that all or any portion of the Designated Waste that is generated within the County’s boundaries be delivered to the Facility.

Subsection 5. “Designation Plan” shall mean that document entitled “Dodge County Designation Plan” as adopted and amended by the Dodge County Board of Commissioners which detailed the County’s proposal for the Designation of waste, and which was approved by the Minnesota Waste Management Board of March 14, 1985, pursuant to the statutory designation procedures contained in Minnesota Statutes, Section 115A.80 to 115A.89.

Subsection 6. “Effective Date” shall mean the date from and after which Designated Waste must be delivered to the Facility, as specified in Section VII, subsection 7 hereof.

Subsection 7. “Facility” shall mean the transfer station, structures, machinery, equipment, improvements and ancillary facilities, for the receiving of solid waste to be constructed and operated in the County.

Subsection 8. “Hauler” shall mean a collector or transporter of Solid Waste licensed under the Solid Waste Ordinance.

Subsection 9. “Hazardous Waste” shall have the meaning as defined in Minnesota Statutes, Section 116.06, Subd. 13 and in 42 U.S.C. Section 6903(5) and in regulations promulgated pursuant to either of the foregoing as the same may be amended or supplemented from time to time.

Subsection 10. “Municipal Solid Waste” means garbage, refuse, and other solid waste from residential, commercial, industrial, and community activities which is generated and collected in aggregate, but does not include auto hulks, street sweepings, ash, construction debris, mining waste, sludges, tree and agricultural wastes, tires, and other materials collected, processed and disposed of as a separate waste stream.

Subsection 11. “OWEF” shall mean the Olmsted County Waste-to-Energy Facility.

Subsection 12. “Person” shall mean any individual, corporation, partnership, joint venture, association, trust, unincorporated association, or government or any agency or political subdivision thereof, including, without limitation, landfill operators, solid waste generators and Haulers in the County.

Subsection 13. “Solid Waste Ordinance” means the Dodge County Solid Waste Management Ordinance as adopted, amended and supplemented from time to time.

Subsection 14. “Tipping Fee” shall mean the charge payable to the County by a Person under Section V of this Ordinance.

Subsection 15. “Unacceptable Waste” means waste as defined by resolution of the Dodge County Board of Commissioners. Such Unacceptable Waste may be accepted at the Facility in limited quantities at the discretion of the Facility operator.

SECTION II. DESIGNATION

Subsection 1. Application of Ordinance. This Ordinance shall govern the transportation and disposal of all Designated Waste generated or disposed of within the County, ~~unless deposited outside the State of Minnesota,~~ and all Persons engaged in transportation of Designated Waste within the County.

Subsection 2. Designation. On and after the Effective Date, all Designated Waste generated within the County, ~~unless deposited outside the State of Minnesota,~~ must be delivered to the Facility at the Dodge County Landfill, and may not be delivered to any other disposal site except as provided in subsections 3, 4 and 5 herein.

Subsection 3. Exemptions. The following materials shall be excluded from Designation:

- a) Materials that are separated from Municipal Solid Waste and recovered for reuse in their original form or for use in manufacturing processes, as provided in Minnesota Statutes, Section 115A.83.
- b) Materials processed at another resource recovery facility, provided that:
 - 1. Such facility was in operation at the time of approval by the Minnesota Waste Management Board of the County's Designation Plan, on March 14, 1985;
 - 2. Such materials shall be exempt only at the processing capacity of such other facility in operation at the time of approval of the Designation Plan, unless additional processing capacity is approved in writing by the County;
 - 3. The owner of such facility shall provide documentation to the County within 30 days following a written request to do so by the County, substantiating the following: the existence of the facility at the time of Designation Plan approval; the amount of materials processed at the facility at that time; that the facility remains in operation; and such other information as the County may require.

Subsection 4. Exceptions. The following materials shall be excepted from Designation:

- a) Materials otherwise subject to Designation for which negotiated contractual arrangements with the County exist that will require and effect the delivery of the waste to the Facility for the term of the contract; provided that this exception shall apply only during the term of such contract and only while there is no default thereunder.

Subsection 5. Additional Exceptions. The following materials shall be excepted from Designation:

- a) Materials which the County determines on a case-by-case basis should be exempt for reasons of public health and safety, under such conditions as the County may specify. The County shall make its determination based upon written application. At its option, the County may convene an informal hearing with the applicant to consider the application.

Subsection 6. Suspension of Designation Requirement. The County, by resolution of the County Board, may suspend the Designation requirement of subsection 2 of this Section at any time. If the County suspends the Designation requirement of subsection 2 of this Section, no Person may deliver any waste to the Facility unless in accordance with the resolution of the County Board or until such time as the County reinstates the Designation requirement. This

provision does not relieve any Person of any obligation to comply with all other applicable federal, state or local laws or ordinances. The County will provide reasonable notice of any suspension and subsequent reinstatement of the Designation requirement to Haulers, municipalities, and citizens in the county.

SECTION III. DELIVERY OF WASTE BY HAULERS

Subsection 1. Licenses Required. Pursuant to the Solid Waste Ordinance, each Person engaged in the business of collecting or transporting waste within the County must have a valid license issued by the County. In addition to all requirements of the Solid Waste Ordinance, it shall be a condition of the license that the Hauler complies with all requirements set forth in subsections 2 through 12 hereof.

Subsection 2. Improper Equipment. The County may reject any delivery of waste delivered by equipment in violation of the Solid Waste Ordinance. In the event of such a rejection a sum equal to the Tipping Fee provided in Section V as adjusted, shall be charged to each Hauler for each ton of waste delivered by such Hauler and rejected by the County. Each Hauler shall maintain with the County such information concerning equipment of such Hauler as may be requested from time to time by the County or required by the Solid Waste Ordinance.

Subsection 3. Title to Designated Waste. Each Hauler shall have title (ownership) to all Designated Waste delivered to the Facility pursuant to this Ordinance and will defend, indemnify and hold the County harmless from any and all claims of ownership brought against the County with respect to said Designated Waste which may affect the clear title of the County to said Designated Waste at the time of its acceptance by the County. Each Hauler shall retain all rights, title (ownership) and responsibility with respect to Designated Waste until such time as the Designated Waste is delivered to the Facility, tipped into or (as provided below) adjacent to the receiving trailers of the Facility and accepted by the County. The County may, for purposes of inspection, require that the Designated Waste be deposited near the receiving trailers for transfer to the trailers by the County. When the Designated Waste is deposited at the Facility and accepted by the County as Acceptable Waste all rights and title (ownership) with respect thereto shall thereupon be transferred from the Hauler to the County, except to the extent the County subsequently rejects previously accepted waste as Unacceptable Waste as provided in subsection 7.

Subsection 4. Insurance. Each Hauler shall obtain and furnish to the County evidence of all insurance required under the Solid Waste Ordinance, covering all vehicles to be used and all operations to be performed by the hauler, its subcontractors and independent contractors under this Ordinance. Such insurance may be provided by the hauler and separately by the individual subcontractors and independent contractors; or, in the alternative, the Hauler may furnish evidence of such insurance covering itself as well as all of its subcontractors and independent contractors as additional insureds.

Subsection 5. Reports. In addition to information required for licensing, the County may from time to time require Haulers to provide to the County information addressing matters relating to this Ordinance.

Subsection 6. Delivery of Designated Waste. Each Hauler shall deliver to the County at the Facility, in accordance with the terms of this Ordinance and the Solid Waste Ordinance and with such delivery instructions and procedures as the County may from time to time prescribe, commencing on the effective Date, the total quantity of Designated Waste generated in the County which is collected by or comes under the control of the Hauler, subject to the terms and conditions of this Ordinance.

Subsection 7. Delivery of Unacceptable Waste. Each Hauler shall use its best efforts to deliver only Acceptable Waste to the Facility. The County shall not be required to accept any waste which does not constitute Acceptable Waste. The County shall have the right, but not the obligation, to inspect all vehicles delivering waste to the Facility. The obligation of each Hauler not to deliver Unacceptable Waste to the Facility shall not be limited by any inspection of such Hauler's vehicle by the County. If the County in the exercise of its reasonable judgment determines that a vehicle contains any Unacceptable Waste, the County may reject the entire delivery from the Facility for proper disposal at a specified landfill or elsewhere. All costs of such removal and disposal shall be borne by the Hauler. In addition, a sum equal to the Tipping Fee provided in Section V and as adjusted, together with all costs incurred by the County shall be charged to a Hauler for each ton of waste delivered by such Hauler and rejected by the County.

Each Hauler shall have the sole responsibility to remove from the Facility Unacceptable Waste it has delivered and to pay the resulting cost, notwithstanding any prior acceptance of such waste as Acceptable Waste by the County. Such removal shall be accomplished within four hours after notice, verbal or written, is received by the Hauler from the County that any waste previously delivered by the Hauler, is Unacceptable Waste. However, either before or after such notice to the Hauler, the County may remove and dispose of the Unacceptable Waste and charge the costs of such removal and disposal to the Hauler on the next monthly invoice to the Hauler.

Subsection 8. Delivery Conditions. All Designated Waste shall be delivered to the Facility in accordance with the following terms and conditions:

- a) **Hours and Days of Delivery.** The County shall accept deliveries at the Facility during operating hours and days as set by resolution of the County Board.
- b) **Form of Designated Waste.** All Designated Waste shall be in substantially the same form and consistency as when it came under the control of the Hauler, except that such Designated Waste may be compacted when compaction is desirable for transportation.
- c) **Transportation to Facility.** Each Hauler or other Person delivering Designated Waste to the Facility shall be solely responsible for the provision, at its expense, of all personnel and equipment necessary to conduct and transport all Designated

Waste to be delivered under this Ordinance and to deliver the same to the Facility for disposal in accordance with such regulations relating to the manner of delivery as the County may from time to time establish.

- d) Facility Rules. Each Hauler or other Person delivering Designated Waste pursuant to this Ordinance will comply with all rules and regulations posted at the Facility.

Subsection 9. Monthly Invoices to Haulers; Payments. The County shall, within ten (10) days following the last day of each month subsequent to Effective Date, submit to each Hauler a statement of the total tonnage of all waste delivered to the Facility during the preceding month or other applicable period and the amount which each Hauler is required to pay to the County pursuant to this Ordinance. The Tipping Fees for each month shall be computed on the basis of the applicable rate of payment times the total tonnage of all waste delivered by each Hauler to the Facility during such month or part of any month. The monthly invoice shall include the total Tipping Fee due and any other charges due and owing to the County pursuant to this Ordinance.

Invoices for each month's deliveries shall be paid to the County or its order on or before the twenty-fifth (25th) day after the date of the invoice. Invoices not paid when due shall incur daily interest until paid at an annual rate equal to twelve percent (12%), or the maximum interest rate permitted by applicable law if less than said interest rate, or such other interest rate as is determined by resolution of the County Board. Provisions in this Ordinance regarding monthly invoices for amounts due shall also apply to separate invoices.

Notwithstanding any dispute regarding the amount due listed on the monthly invoice, each Hauler shall pay the disputed amount. If a disputed amount has been paid by a Hauler and the dispute is resolved in favor of such Hauler, the County shall reimburse the disputed amount plus daily interest on such disputed amount from the date such disputed amount was received by the County, at an annual rate equal to the applicable interest rate, as provided in the previous paragraph of this subsection 9.

If the County at any time determines the amount due listed on an invoice for a particular month was less than the actual amount due, the County may issue a separate invoice for the amount not previously billed or add the amount not previously billed to the next subsequent monthly invoice as a separate item with an accompanying explanation.

Subsection 10. Street Cleanup Charges. In the event that the County determines that Haulers are responsible for debris, leakage and other waste littering roadways leading to the Facility, the County may charge each Hauler with the costs of the removal and disposal of such debris and other waste littering roadways leading to the Facility on the basis of the amount of such monthly costs as determined by the County, multiplied by the percentage derived by dividing the total number of deliveries of waste of each Hauler to the Facility during the month by the total number of deliveries of waste to the Facility during such month; provided, however, that if in the sole judgment of the County a specific Hauler during any period of time is primarily responsible for all or a portion of waste littering roadways leading to the Facility, the County may charge such Hauler with the entire cost of the removal and disposal of such waste or such

portion of such waste. A charge to a Hauler for such removal and disposal shall be added to the next monthly invoice to the Hauler.

Subsection 11. Weighing at Facility. The County shall maintain at the Facility certified weighing scales. The tonnage of all waste delivered at the Facility shall be determined by the deduction of the tare weight of the vehicle from the total loaded weight of the vehicle. Notwithstanding that the tare weight of the vehicle has previously been determined, the County or a Hauler shall have the right at any time to reweigh any vehicle. The County shall provide to the driver of each vehicle making a delivery of waste to the Facility a receipt setting forth the gross weight, tare weight, date, time, truck identification, and total tonnage of all waste determined to have been delivered to the Facility by such vehicle. Whenever any waste is not accepted by the County, the outgoing vehicle shall be weighed and receipted in like manner.

Subsection 12. Duty to Accept Designated Waste; Failure to Accept Designated Waste at Facility. Notwithstanding anything in this Ordinance apparently to the contrary, the Facility will accept all Designated Waste to the extent required by applicable Minnesota Law. If at any time after the Effective Date the County is unable to receive all or any part of Designated Waste at the Facility, the County shall verbally notify each Hauler's truck dispatcher and any other responsible party designated by any Hauler for notification, such notification to be followed by written confirmation to each Hauler. In such event each Hauler shall be responsible for the transportation of waste to that landfill or to a licensed landfill or facility as each Hauler may choose. All costs of such transportation and disposal shall be borne by the Hauler.

SECTION IV. DELIVERY OF WASTE BY PERSONS OTHER THAN HAULERS

Subsection 1. Delivery of Designated Waste. On and after the Effective Date, the County shall accept at the Facility deliveries of Designated Waste by Persons other than Haulers, subject to the terms and conditions of this Ordinance and the Solid Waste Ordinance. All such deliveries shall comply, with the provisions of Section III, subsection 8. All loads shall be covered, and any Person determined to be responsible for debris and other litter on the roadways leading to the Facility shall be liable to the County for the costs of removal thereof. Any Person delivering Unacceptable Waste to the Facility pursuant to this Section shall remove such Unacceptable Waste from the Facility immediately for proper disposal elsewhere or shall pay to the County all costs of removal and proper disposal of such Unacceptable Waste incurred by the County.

Subsection 2. Limitations. Each Person other than a Hauler who delivers Designated Waste to the Facility pursuant to this Section IV shall pay to the County, in cash, the Tipping Fee prescribed in Section V of this Ordinance. The County may, by notice posted at the Facility, restrict delivery of Designated Waste pursuant to this Section IV to certain days and times or to certain portions of the Facility. The County may at any time require a Person delivering Designated Waste pursuant to this Section IV to postpone delivery of such Designated Waste in order to accommodate the schedules of Haulers delivering Designated Waste to the Facility.

SECTION V. TIPPING FEES

Subsection 1. Payment. Each Hauler or other Person who delivers waste to the Facility must pay a Tipping Fee to the County for waste disposed of and accepted at the Facility. Such Tipping Fee shall be based on the tonnage of waste delivered to the Facility or, with respect to waste the County determines to be impractical to weigh, on such other factors as the County Board may specify in the resolution establishing the Tipping Fee.

Subsection 2. Establishment of Fees.

- a) Procedure. The County Board of Commissioners shall establish or amend the Tipping Fee by resolution in accordance with this Ordinance enacted after hearing, and the same shall be on file with the County Clerk-Administrator. The resolution shall state the effective date of the Tipping Fee. Ninety days notice posted at the Facility shall be required for any change in the Tipping Fee. The Tipping Fee rate shall be reviewed at least annually. Any proposed change in the Tipping Fee shall be subject to a public hearing.
- b) Principles. The County shall set the Tipping Fee and any amendments thereto at a reasonable amount, taking into account any of the following factors:
1. the cost to the County of waste management services including those provided by the Facility including capital and operating and maintenance costs;
 2. the cost to and savings by Haulers of delivering waste to the Facility.
 3. the tipping fees charged at landfills in the area.
 4. any revenues from sale of materials or energy from the Facility; and
 5. any other factors which the County may determine to have an impact on the reasonableness of the Tipping Fee at the Facility.

SECTION VI. VIOLATIONS AND PENALTIES

Subsection 1. Misdemeanor. Any person who fails to comply with the provisions of this Ordinance is guilty of a misdemeanor. A separate offense shall be deemed committed upon each day during or on which a violation occurs or continues to occur.

Subsection 2. Injunctive Relief. In the event of a violation or a threat of violation of this Ordinance, the County may institute appropriate actions or proceedings, including application for injunctive relief, action to compel performance or other appropriate action to prevent, restrain, correct or abate such violations or threatened violations.

SECTION VII. GENERAL TERMS

Subsection 1. Each Person's Obligations Unconditional. All obligations of each Person to make Tipping Fee payments and other payments due to the County under this Ordinance shall be absolute and unconditional. No Person shall be entitled to any abatement, diminution, setoff, abrogation, waiver or modification thereof, nor to any termination of this Ordinance by any reason whatsoever, except as expressly provided herein, regardless of any rights of setoff, recoupment or counterclaim that each Person might otherwise have against the County or any other party or parties and regardless of any contingency, unforeseen circumstance, event or cause whatsoever and notwithstanding any circumstance or occurrence that may arise or take place before, during or after the Effective Date.

Subsection 2. Separability. It is hereby declared to be the intention of the Board of Commissioners of the County that the several provisions of this Ordinance are separable in accordance with the following:

- a) If any court of competent jurisdiction shall adjudge any provision of this Ordinance to be invalid, such judgment shall not affect any other provisions of this Ordinance not specifically included in said judgment.
- b) If any court of competent jurisdiction shall adjudge invalid the application of any provision of this Ordinance to a particular structure, site, facility or operation, such judgment shall not affect the application of said provision to any other structure, site, facility or operation not specifically included in said judgment.

Subsection 3. Provisions Are Accumulative. The provisions in this Ordinance are accumulative and additional limitations upon all other laws and ordinances heretofore passed or which may be passed hereafter, covering any subject matter in this Ordinance.

Subsection 4. No Consent. Nothing contained in this Ordinance shall be deemed to be a consent, license, or permit to locate, construct or maintain a site, facility or operation, or to carry on any activity.

Subsection 5. Non-Liability. 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, reinspection 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 Designated Waste or in connection with any other official duties.

Subsection 6. Reporting Requirements. The County shall prepare an annual report conforming to the requirements of Minnesota Statutes, Section 115A.89 and submit said report to the appropriate state authority. In addition to those items contained in Minnesota Statutes, Section 115A.89, the County shall summarize the results of all rate hearings held and submit the most recent costs and revenue statement for the Facility.

Subsection 7. Effective Date. This Ordinance shall be in full force and effect upon a date to be specified by resolution of the County Board at least sixty (60) days in advance of the Effective Date.

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