

**SOLID WASTE
ORDINANCE**

HOUSTON COUNTY, MINNESOTA

Adopted by Board of Commissioners of Houston County on December 21, 2010.

TABLE OF CONTENTS

| | <u>Page</u> |
|---|-------------|
| ARTICLE I PURPOSE, AUTHORITY, & POLICY | 1 |
| Section 1.1 Purpose & Authority | 1 |
| Section 1.2 Policy | 1 |
| Section 1.3 Abrogation | 1 |
| ARTICLE II DEFINITIONS RULES & WORD USAGE | 2 |
| Section 2.1 Definitions..... | 2 |
| Section 2.2 Rules, Word Usage | 14 |
| ARTICLE III General Provisions | 15 |
| Section 3.1 Solid Waste Officer Powers and Duties..... | 15 |
| Section 3.2 Boundaries of Service Area | 15 |
| Section 3.3 Highest Standards Prevail | 15 |
| Section 3.4 Jurisdiction of the Solid Waste Management Plan | 16 |
| Section 3.5 Planning & Zoning Approval..... | 16 |
| Section 3.6 Waivers or Modifications | 16 |
| Section 3.7 Agency Approval | 16 |
| Section 3.8 Indemnification | 16 |
| Section 3.9 Financial Assurance | 16 |
| Section 3.10 No Consent..... | 17 |
| Section 3.11 False Information | 17 |
| Section 3.12 Data Privacy..... | 17 |
| Section 3.13 Severability | 17 |
| Section 3.14 Collection and drop-off Availability..... | 17 |
| ARTICLE IV WASTE ABATEMENT, STORAGE, COLLECTION, PROCESSING, & DISPOSAL..... | 18 |
| Section 4.1 Waste Abatement..... | 18 |
| Section 4.2 Storage & Collection..... | 19 |
| Section 4.3 Processing & Disposal | 20 |
| ARTICLE V ARTICLE V SOLID WASTE MANAGEMENT SERVICE CHARGES | 23 |
| Section 5.1 Purpose and Authority | 23 |
| Section 5.2 General Service Charge Provisions | 23 |

Section 5.3 Per Household Service Charge Collection..... 24

Section 5.4 Hauler-Collected Service Charge and Remittance 24

ARTICLE VI HAULER LICENSING PROVISIONS..... 28

Section 6.1 License Required 28

Section 6.2 License Requirements..... 28

Section 6.3 Insurance Requirements..... 29

Section 6.4 Equipment & Operations Requirements 31

Section 6.5 Reporting Required..... 32

Section 6.6 Additional Recyclable Materials Reporting Requirements 33

ARTICLE VII FACILITY REQUIREMENTS AND LICENSES 34

Section 7.1 Licenses Required..... 34

Section 7.2 Facility License Fees..... 34

Section 7.3 License Requirements..... 34

ARTICLE VIII REVIEW OF FACILITY LICENSE APPLICATION 36

Section 8.2 Term of Facility License; Renewal; License Not Transferable 36

Section 8.3 Insurance Requirements..... 37

Section 8.4 Facility Records 37

Section 8.5 General Requirements for all Facilities 39

Section 8.6 Mixed Municipal Solid Waste Land Disposal Facilities 40

Section 8.7 Construction and Demolition Debris Land Disposal Facilities License 40

Section 8.8 Industrial Solid Waste Land Disposal Facilities..... 41

Section 8.9 Transfer Stations..... 41

Section 8.10 Solid Waste Processing Facilities 43

Section 8.11 Waste Tire Facilities 43

ARTICLE IX INSPECTIONS, VIOLATIONS AND ENFORCEMENT..... 44

Section 9.1 Inspections 44

Section 9.2 Action Authorized..... 45

Section 9.3 Hearings 51

ARTICLE I PURPOSE, AUTHORITY, & POLICY

SECTION 1.1 PURPOSE & AUTHORITY

An Ordinance establishing standards and procedures governing Solid Waste Management; establishing Solid Waste Management Charges and programs; requiring licenses and license fees; establishing penalties for lack of compliance; all in order to promote the health, welfare and safety of the public, and to protect the environment. This Ordinance is enacted pursuant to Minn. Stat. Chapters 400, 145, 115A and 116.

SECTION 1.2 POLICY

The policy of Houston County is to provide for the management of Solid Waste in a manner that will protect the public health, welfare and safety, prevent the spread of disease, prevent the creation of nuisances, conserve natural resources, and protect the State's water, air and land resources. It is also the policy of the County to conform to the purposes outlined in Minn. Stat. §115A.02 and to establish and implement a County Solid Waste Management Plan pursuant to Minn. Stat. §115A.46.

SECTION 1.3 ABROGATION

This ordinance supersedes and replaces the prior Houston County Solid Waste Ordinance that was enacted in 1985, and periodically amended.

ARTICLE II DEFINITIONS RULES & WORD USAGE

SECTION 2.1 DEFINITIONS

Unless the context clearly indicates otherwise, the following words and phrases shall have the meanings ascribed to them in this Article. Unless specifically defined herein, terms used in this Ordinance shall have the same definition as provided in the Waste Management Act, Minn. Stat. § 115A.01 et seq. and if not defined there, shall have common usage meaning. For purposes of this Ordinance, the words “must” and “shall” are mandatory and not permissive.

Acceptable Waste: means all Solid Waste generated and collected in the Service Area except that Acceptable Waste shall not include Unacceptable Waste and Non-Processible Waste.

Agency: means the Minnesota Pollution Control Agency (MPCA).

Agricultural Site: means land zoned and/or operated for agricultural purposes, but excludes the Residential Site on said premises.

Authorized Representative: means an employee or agent of the County Solid Waste Department.

Certificate of Need (CON): an issuance from the State of Minnesota to certify needed Disposal capacity.

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

Charge: means a Solid Waste Management Charge.

Closure: means actions to prevent or minimize the threat to public health and the environment posed by a closed Facility including removing contaminated soil and equipment, removing liners, applying final cover, grading and seeding final cover, installing monitoring devices, constructing ground water and surface water diversion structures, and installing gas control systems, as necessary.

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

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

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

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

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

Construction and Demolition Debris Land Disposal Facility: means a site used to Dispose of Construction and Demolition Debris.

Construction Site: means a place where the erection of buildings, roads or other improvements to real property is occurring.

County: means Houston County, Minnesota.

County Board: means the Houston County Board of Commissioners.

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

Department: means the Houston County Solid Waste Department.

Disposal or Dispose: means the discharge, deposit, injection, Dumping, spilling, leaking, or placing of any waste into or on any land or water so that the waste or any constituent thereof may

enter the environment or be emitted into the air, or discharged into any waters, including ground waters.

Dumping: means the illegal placement of any Solid Waste, including Construction and Demolition Debris, Hazardous Waste, Industrial Solid Waste, Mixed Municipal Solid Waste, or Recyclable Materials, anywhere other than in an approved container or at a Solid Waste Management Facility during hours of operation.

Financial Assurance: means monetary mechanisms that are used to assure proper Closure, post Closure care, and contingency action at a Site or Solid Waste Management Facility.

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

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

Hauler Services: means the Mixed Municipal Solid Waste Services provided by a Hauler or Self-Hauler. For purposes of a Hauler-Collected Service Charge, Mixed Municipal Solid Waste Services provided by a Hauler shall also include such services for Construction and Demolition Debris.

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

- A. Cause or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible illness; or
- B. Pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or Disposed of, or otherwise managed. Categories of Hazardous Waste materials include, but are not limited to: explosives, flammables, oxidizers, poisons, irritants, and corrosives. Hazardous Waste does not include source, special nuclear, or by-product material as defined by the Atomic Energy Act of 1954, as amended.

Household: means a Residential Building, or an individual dwelling unit in a Residential Building that is not a single-family home or mobile home.

Imminent Hazard: means an actual or potential immediate threat to the health, safety, or well being of humans or livestock, or that may cause environmental degradation.

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.

Industrial Solid Waste Land Disposal Facility: means a site used to Dispose of Industrial Solid Waste in or on the land.

La Crosse Facility: means the Refuse-derived fuel facility operated by Xcel Energy in La Crosse, Wisconsin.

Leachate: means liquid that has contacted or percolated through Solid Waste and has extracted, dissolved, or suspended materials from it.

Leachate Management System: means the structures constructed and operated to contain, transport, and treat Leachate, including liners, collection pipes, detection systems, holding areas, and treatment Facilities.

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

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

Major Appliance: means clothes washers and dryers, dishwashers, hot water heaters, heat pumps, furnaces, garbage disposals, trash compactors, conventional and microwave ovens, ranges and stoves, air conditioners, dehumidifiers, refrigerators, freezers and other appliances designated by State law or this Ordinance.

Medical Waste: means biological waste originating from the diagnosis, care, or treatment of a Person or animal, or waste resulting from biological research, whether or not the waste has been rendered non-infectious.

Mixed Municipal Solid Waste: 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 and agricultural wastes, Waste Tires, lead acid batteries, motor and vehicle fluids and filters, and other materials collected, processed, and Disposed of as separate waste streams.

Mixed Municipal Solid Waste Fee: means a fee established by the County Board and paid by Generators to the County for Solid Waste Management Services.

Mixed Municipal Solid Waste Land Disposal Facility: means a Solid Waste Disposal Facility used for Mixed Municipal Solid Waste.

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.

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

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

Non-Processible Waste: means Solid Waste generated and collected in the Service Area that cannot be processed by the La Crosse Facility due to its physical characteristics or harmful impact on the La Crosse Facility, including: steel banding; baling wire; tree trunks or logs or other bulky Waste greater than 6 inches in diameter, or 4 feet in length, or weighing over 100 pounds; propane tanks of any size; aerosol cans in quantity; pressurized tanks; fencing materials; plastics in significant quantity; major parts of motor vehicles, trailers, agricultural equipment, marine vessels or similar items; farm or other large machinery; asbestos or asbestos containing materials; contaminated soil; Construction and Demolition Debris; and Waste, except paper products, from the following establishments: service stations, auto paint shops, chemical plants, plastic processing plants and textile plants.

Nonresidential Accounts: means Solid Waste Management Services provided to any nonresidential Building or parcel.

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

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

Notice of Violation: means a formal written notice issued by the County to notify a party that he or she is in violation of this Ordinance. This Notice will inform the party of the alleged violations, the nature and extent of the violations, and the required corrective actions.

Officer: means the Solid Waste Officer.

Open Area: means areas outside of a building or structure.

Open Burning: means burning any Solid Waste whereby the resultant combustion products are emitted directly to the open atmosphere.

Operating License: means the license required by this Ordinance.

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

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

Person: means any human being, any municipality or other governmental or political subdivision or other public agency, any public or private corporation, any partnership, firm, association, or other organization, any receiver, trustee, assignee, agent, or other legal representative of any of the foregoing, or any other legal entity, unless exempted by statute or rule.

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

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

Public Entity: means the State, an office, agency, or institution of the State; the courts; the County; a statutory or home rule charter city, a town, a school district, another special taxing district, or any contractor acting pursuant to a contract with a Public Entity.

Public Health Nuisance: means the creation of conditions or acts that unreasonably annoy, injure, or endanger the safety, health, comfort, or repose of any number of members of the public.

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

Radioactive Waste Management Facility: means a geographic site, including buildings, structures, and equipment in or upon which radioactive waste is retrievably or irretrievably Disposed by burial in soil or permanently stored. An independent spent-fuel storage installation located on the site of a Minnesota nuclear Generation Facility for dry cask storage of spent nuclear fuel Generated solely by that Facility is not a Radioactive Waste Management Facility.

Real Property:

- A. For the purposes of taxation, "Real Property" includes the land itself, rails, ties, and other track materials annexed to the land, and all buildings, structures, and improvements or other fixtures on it, bridges of bridge companies, and all rights and privileges belonging or appertaining to the land, and all mines, iron ore and taconite minerals not otherwise exempt, quarries, fossils, and trees on or under it.

- B. A building or structure shall include the building or structure itself, together with all improvements or fixtures annexed to the building or structure, which are integrated with and of permanent benefit to the building or structure, regardless of the present use of the building, and which cannot be removed without substantial damage to itself or to the building or structure.

Real Property does not include;

- C. Tools, implements, machinery, and equipment attached to or installed in Real Property for use in the business or production activity conducted thereon, regardless of size, weight or method of attachment, and mine shafts, tunnels, and other underground openings used to extract ores and minerals taxed under chapter 298 together with steel, concrete, and other materials used to support such openings.
- D. The exclusion provided in clause (C) shall not apply to machinery and equipment includable as real estate by paragraphs (A) and (B) even though such machinery and equipment is used in the business or production activity conducted on the Real Property if and to the extent such business or production activity consists of furnishing services or products to other buildings or structures which are subject to taxation under this chapter.
- E. The exclusion provided in clause (C) does not apply to the exterior shell of a structure, which constitutes walls, ceilings, roofs, or floors if the shell of the structure has structural, insulation, or temperature control functions or provides protection from the elements. Such an exterior shell is included in the definition of Real Property even if it also has special functions distinct from that of a building.
- F. The term Real Property does not include tools, implements, machinery, equipment, poles, lines, cables, wires, conduit, and station connections which are part of a telephone communications system, regardless of attachment to or installation in Real Property and regardless of size, weight, or method of attachment or installation. (Minn. Statute § 272.03, subdivision 1)

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

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

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

Recycling Opportunities: An opportunity to recycle must include:

- A. A local Recycling center in the County and sites for collecting Recyclable Materials that are located in areas convenient for Persons to use them;
- B. Curbside pickup, centralized drop-off, or a local Recycling center for at least four broad types of Recyclable Materials in cities with a population of 5,000 or more Persons; or
- C. Monthly pickup of at least four broad types of Recyclable Materials in cities of the first and second class and cities with 5,000 or more population in the metropolitan area.

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

Release: means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, Dumping, or Disposing into the environment which occurred at a point in time or which continues to occur.

Release does not include:

- A. Emissions from the engine exhaust of a motor vehicle, rolling stock, aircraft, watercraft, or pipeline pumping station engine;
- B. Release of source, by-product, or special nuclear material from a nuclear incident, as those terms are defined in the Atomic Energy Act of 1954, under United States Code, title 42, section 2014, if the Release is subject to requirements with respect to financial protection established by the federal Nuclear Regulatory Commission under United States Code, title 42, section 2210;
- C. Release of source, by-product or special nuclear material from any Processing site designated pursuant to the Uranium Mill Tailings Radiation Control Act of 1978, under United States Code, title 42, section 7912(a)(1) or 7942(a); or
- D. Any Release resulting from the application of fertilizer or agricultural or silvicultural chemicals, or Disposal of emptied pesticide containers or residues from a pesticide as defined in section 18B.01, subdivision 18.

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

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

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

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

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

Service Area: means a geographical area within the County, established by resolution of the County Board, to receive Solid Waste Management Services.

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

Solid Waste: means garbage, Refuse, sludge from a water supply treatment plant or air contaminant treatment facility, and other discarded waste materials and sludges, in solid, semisolid, liquid, or contained gaseous form, resulting from industrial, mining, and agricultural operations and from Nonresidential Property, and from community activities, but does not include Hazardous Waste; animal waste used as fertilizer; earthen fill, boulders, rock; sewage sludge; solid or dissolved material in domestic sewage or other common pollutants in water resources, such as silt, dissolved or suspended solids in industrial waste water effluents or discharges which are point sources subject to permits under Section 402 of the federal Water Pollution Control Act, as amended; dissolved materials in irrigation return flows; or source, special nuclear, or by-product material as defined by the Atomic Energy Act of 1954, as amended.

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

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

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

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

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

Solid Waste Management Facility Fee: means the fee imposed on a Person who pays for Mixed Municipal Solid Waste Services of a Solid Waste Management Facility.

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

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, 400 and 473, including, but not limited to, 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.

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

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

Solid Waste Ordinance or Ordinance: means the Solid Waste Ordinance adopted by Houston County.

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

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

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

Solid Waste Subcommittee: means a group of County Board members, authorized by the County Board to accomplish a specific Solid Waste Management objective.

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

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

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

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

State: means the State of Minnesota.

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

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

Unacceptable Waste: means Solid Waste that is generated and collected in the Service Area that may cause damage to or materially adversely affect the operation of the La Crosse Facility and/or the Landfill as determined by the La Crosse Facility, La Crosse County and Houston County, including, but not limited to:

- A. Cleaning fluids, crank case oils, cutting oils, paints, acids, caustics, poisons or drugs.
- B. Any Hazardous Waste or Waste defined as hazardous in 40 C.F.R. Section 261.3 (as amended) or by the U.S. Environmental Protection Agency, or classified as a toxic substance or toxic waste, or prohibited for incineration by any local, state or federal agency having jurisdiction over the Facility.

- C. Radioactive Waste or materials or hazardous waste regulated under 52 U.S.C. Section 6921-6925 and regulations adopted thereunder, or any other Federal, state or local law.
- D. "Hazardous substances" defined in 42 U.S.C. 6901 et seq. and any regulations promulgated thereunder.
- E. Wastes requiring special handling to comply with applicable local, state or Federal law, including (i) pathological, biological, infectious, or explosive materials; (ii) oil sludges; (iii) cesspool or human Waste; (iv) human or animal remains or Waste.
- F. Waste with excess moisture and any type of Waste either smoldering or on fire or at its kindling point or in the process of initiating combustion.
- G. Other materials that may be established as Unacceptable from time-to-time by La Crosse County, Houston County or the La Crosse Facility.

Waste: means any type of waste material.

Waste Delivery Agreement: means an agreement prepared by the County governing collection and management of solid waste generated in Houston County.

Waste Tire: means a pneumatic tire or solid tire for motor vehicles that has been discarded or that can no longer be used for its original intended purpose because of wear, damage, or defect.

Waste Tire Collection Site: means a County-licensed and Agency permitted site or a site exempt from such license or permit, used for the Collection and storage of Waste Tires.

Waste Tire Dump: means an unlicensed, unpermitted Site being maintained, operated, used, or allowed to be used for the Collection, storage, keeping, or depositing of unprocessed Waste Tires.

Waste Tire Facility: means a Site where more than fifty (50) Waste Tires or an equivalent amount of tire derived products are Collected, deposited, stored, or Processed. The incidental storage of tire-derived products at the site of final use does not make the site a Waste Tire Facility.

Waste Tire Processing Facility: means a licensed Solid Waste Management Facility used for the shredding, slicing, producing, or manufacturing of usable materials, including fuel, from Waste Tires including incidental temporary storage activity. Processing does not include the retreading of Waste Tires.

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

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

SECTION 2.2 RULES, WORD USAGE

Masculine and Feminine Gender: The masculine gender includes the feminine and neuter genders.

Normal Work Days: The days that County Departments are open to the public for business.

Singular and Plural: Words used in the singular include the plural, and the plural includes the singular.

Tenses: Words used in the present tense include the future.

ARTICLE III GENERAL PROVISIONS**SECTION 3.1 SOLID WASTE OFFICER POWERS AND DUTIES**

The Houston County Solid Waste Officer (Officer) shall be responsible for the administration of this Ordinance. The Officer's duties shall include, but shall not be limited to, the following:

3.1.1. Solid Waste Officer Duties.

- A. To implement this Ordinance and review and consider all initial license applications submitted to the Officer for approval by the County Board for performance of Solid Waste Management Activities within the County, and after due consideration, the Officer shall recommend in writing, with documentation to the County Board, that a license be granted or denied.
- B. To review and consider renewal license applications, except as otherwise provided in this Ordinance.
- C. To inspect Solid Waste Management Activities as herein provided, to investigate complaints, and to identify violations of this Ordinance.
- D. To recommend, when necessary, to the County Attorney's Office, that legal proceedings be initiated against a certain Person or Solid Waste Management Activity to compel compliance with the provisions of this Ordinance or to terminate the operation of the same.
- E. To encourage and conduct studies, investigations and research relating to aspects of Solid Waste Management such as methodology, chemical and physical considerations, and engineering.
- F. To advise, consult, and cooperate with other governmental agencies in the furtherance of the purposes of this Ordinance.

SECTION 3.2 BOUNDARIES OF SERVICE AREA

Pursuant to Minn. Stat. § 400.08, subd. 2, the County establishes one Solid Waste Management Service Area, with its boundaries being coterminous with the boundaries of the County.

SECTION 3.3 HIGHEST STANDARDS PREVAIL

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

SECTION 3.4 JURISDICTION OF THE SOLID WASTE MANAGEMENT PLAN

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. Further, the County shall not contract with a Hauler for Solid Waste Management Services pertaining to Solid Waste generated by a Public Entity, including Solid Waste generated by the County, unless such Hauler has a Waste Delivery Agreement with the County.

SECTION 3.5 PLANNING & ZONING APPROVAL

Any use of land for Solid Waste Management Activities within the County shall comply with the applicable Zoning requirements of the County Zoning Ordinance, or the requirements of applicable municipal land use ordinances.

SECTION 3.6 WAIVERS OR MODIFICATIONS

Due to the great variability in the types of Solid Waste and their existing and potential management methods, the Solid Waste Officer may in a written approval waive or modify the strict application of the provisions of this Ordinance by reducing or waiving certain requirements when, in the discretion of the Solid Waste Officer, such requirements are unnecessary or impractical, provided such a waiver or modification will not endanger the health, safety, and welfare of the public, or the environment. The Officer may impose additional requirements through specific license conditions on a Solid Waste Management Activity when deemed necessary to protect the health, safety, and welfare of the public, or the environment.

SECTION 3.7 AGENCY APPROVAL

No modification or waiver may be granted if it would result in noncompliance with State and federal laws, unless such modification or waiver has been granted a variance by the Minnesota Pollution Control Agency.

SECTION 3.8 INDEMNIFICATION

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 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 3.9 FINANCIAL ASSURANCE

A performance bond, letter of credit or other financial assurance consistent with County policy may be required prior to issuances of any Licenses to engage in Solid Waste Management Activity.

SECTION 3.10 NO CONSENT

Nothing contained in this Ordinance shall be deemed to be a consent, license, or permit to locate, construct, operate, or maintain any Solid Waste Management Activity, or to carry on any Activity prior to issuance of a license, when a license is required hereunder.

SECTION 3.11 FALSE INFORMATION

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

SECTION 3.12 DATA PRIVACY

The Officer shall require that any data received by the Officer or any entity acting on behalf of the Officer shall be maintained in accordance with the provisions of the Minnesota Government Data Practices Act, Minn. Stat. Ch. 13.

SECTION 3.13 SEVERABILITY

It is hereby declared to be the intention of the County Board that the sections, paragraphs, sentences, clauses and phrases of this Ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this Ordinance shall be declared unconstitutional, invalid or unenforceable, such unconstitutionality, invalidity or unenforceability shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Ordinance.

SECTION 3.14 COLLECTION AND DROP-OFF AVAILABILITY

The County Board finds that this Ordinance and the available Haulers provide for reasonably available, regularly scheduled pickup and drop-off site availability for Mixed Municipal Solid Waste and Recyclable Materials throughout the County.

ARTICLE IV WASTE ABATEMENT, STORAGE, COLLECTION, PROCESSING, & DISPOSAL**SECTION 4.1 WASTE ABATEMENT**

4.1.1. Purpose. The purpose of this section is to abate the need for land disposal of Solid Waste by requiring the source-separation of Yard Waste to create a beneficial Compost product and for recovery of Recyclable Materials to conserve natural resources and meet the State-mandated Recycling goal. This section also requires the delivery of Recyclable Materials to a Recycling Facility and Yard Waste to a Yard Waste Facility when on-site composting is not practiced.

4.1.2. Prohibition of Yard Waste and Recyclable Materials from the Mixed Municipal Solid Waste Stream; Management of Yard Waste and Recyclable Materials. Yard Waste and Recyclable Materials shall not be placed in Mixed Municipal Solid Waste. When aggregated for Collection, Yard Waste and Recyclable Materials shall be placed in storage containers that are easily distinguishable from Mixed Municipal Solid Waste storage containers. Once source-separated, Yard Waste and Recyclable Materials shall not be recombined with Mixed Municipal Solid Waste.

- A. **Yard Waste Management.** Generators must manage Yard Waste by one of the following methods:
- (i) Mulching it and spreading it on the ground;
 - (ii) Composting it on-site; or
 - (iii) Transporting it to a permitted Yard Waste Facility, either by Self-Hauling or by contract with a licensed Hauler.
- B. **Recycling.** The recycling requirements of this Ordinance represent the minimum responsibility of Generators and do not limit the type or quantity of Recyclable Materials accepted by Recycling Facilities and Haulers. Generators are encouraged to recycle additional items to achieve and surpass the Recycling goal.
- C. **Residential Building Recycling.** All Generators in Residential Buildings must segregate and deliver the following Recyclable Materials to a Recycling Facility, either by Self-Hauling or by contract with a licensed Hauler: newsprint; clear, green and brown glass containers; corrugated cardboard; #1 and #2 plastic containers; magazines; office paper; tin and aluminum cans. Owners and/or managers of multi-unit Residential Buildings who provide for collection of Mixed Municipal Solid Waste must provide central collection locations for Recyclable Materials generated on their premises and must deliver the above listed Recyclable Materials to a Recycling Facility either by Self-Hauling or by contract with a licensed Hauler.
- D. **Nonresidential Property Recycling.** Owners and/or managers of Nonresidential Property must provide central collection locations for, at a minimum, the

following Recyclable Materials generated on their premises: newsprint; clear, green and brown glass containers; corrugated cardboard; #1 and #2 plastic containers; magazines; office paper; tin and aluminum cans. Owners and/or managers of Nonresidential Property shall ensure delivery of these Recyclable Materials to a Recycling Facility, either by Self-Hauling or by contract with a licensed Hauler.

- E. Ownership of Yard Waste and Recyclable Materials. All Yard Waste and Recyclable Materials aggregated and offered for Collection shall remain the property and responsibility of the Generator until collected by a licensed Hauler or self-hauled to a Yard Waste Facility or Recycling Facility, at which time they shall become the property of the licensed Hauler, Yard Waste Facility or Recycling Facility, respectively. No Person, other than the Generator or the designated licensed Hauler, shall take said materials after aggregated for collection.

SECTION 4.2 STORAGE & COLLECTION

4.2.1. Purpose. This section governs the storage, Collection, and Transportation of Solid Waste generated within the County, including but not limited to Mixed Municipal Solid Waste, Yard Waste and Recyclable Materials. This section also governs Curbside Collection and all Persons collecting and transporting Solid Waste within the County.

4.2.2. Storage. Property owners and managers shall maintain their Open Areas free of Solid Waste accumulations unless the Solid Waste is stored in an acceptable container as specified in this Ordinance, or unless otherwise specified by this Ordinance. Solid Waste shall be stored in a manner to prevent the loss of Solid Waste to the environment and to preclude the development of vector, odor, and Public Health Nuisance problems.

- A. Residential Sites. No Person shall place or store in Open Areas of any Residential Site dead or downed trees and brush; motor vehicles that do not display current State of Minnesota registration, machinery, appliances, fixtures or equipment so damaged, deteriorated or obsolete such that there is no substantial potential further use consistent with usual function or reasonable reuse; lumber piles and building materials not being used in actual construction on the premises; and Mixed Municipal Solid Waste including, but not limited to, Recyclable Materials, broken furniture, Tires and other debris.
- B. Commercial Sites. No Person shall place or store upon the Open Areas of any Commercial Site inoperable motor vehicles, machinery, appliances, fixtures or equipment so damaged, deteriorated or obsolete such that there is no substantial potential further use consistent with usual function or reasonable reuse. Nothing in this section is designed to restrict activities of automobile, scrap iron, and metal Recycling or salvage businesses that are operating in accordance with State, County, and municipal or township laws, rules and regulations.

- C. Solid Waste Storage Containers. While being accumulated and stored for Collection and Transportation to a licensed Solid Waste Management Facility, Solid Waste shall be stored in reusable, covered containers (e.g., cans, dumpsters, compactors, roll-off containers, etc.) that are rust, impact, vermin, and leak resistant. When aggregated for Collection, Yard Waste and Recyclable Materials shall be placed in storage containers that are easily distinguishable from Mixed Municipal Solid Waste storage containers. Bags designed for containing manageable quantities of Solid Waste shall only be used for temporary storage and may only be placed outdoors for Collection no sooner than the evening prior to the scheduled Collection day.
 - D. Mixed Municipal Solid Waste Storage in Vehicles. Mixed Municipal Solid Waste shall be removed from Hauler Collection or Transportation vehicles at least every forty-eight (48) hours, except when allowed by the Solid Waste Officer.
- 4.2.3. Collection.** Every Commercial and Residential Site in the County, except Self-Haulers, shall engage a licensed Hauler for the Collection of Mixed Municipal Solid Waste.
- A. Collection Charges. Haulers shall establish charges for the Collection of Mixed Municipal Solid Waste on a volume basis to provide Generators the financial incentive to reduce their production of Mixed Municipal Solid Waste.
 - B. Curbside Collection. Haulers must provide curbside services for the Collection and Transportation of Mixed Municipal Solid Waste, Recyclables and Yard Waste to those Generators wishing to contract for such services. Generators utilizing the services of a Hauler may place acceptable containers of Mixed Municipal Solid Waste, Recyclable Materials or Yard Waste at the curb or Collection site no sooner than the evening prior to scheduled Collection and Generators must remove the empty containers the same day as Collection.
 - C. Secure all Loads. A Person who collects or transports Solid Waste must do so in a safe and sanitary manner and must secure all loads so as to prevent escape of any waste material.
 - D. Collection Frequency. Solid Waste aggregated for Collection must be collected regularly to preclude the development of odor, vector and Public Health Nuisance problems. Putrescible Materials must be collected, at a minimum, every two weeks.
 - E. Title to Non-Hazardous Mixed Municipal Solid Waste. Title to non-hazardous Mixed Municipal Solid Waste shall remain with the Generator until released to a licensed Hauler or by Self-Hauling to a licensed Facility. In cases where a Generator chooses not to utilize a licensed Solid Waste Management Facility, title to the non-hazardous Mixed Municipal Solid Waste and its associated environmental liability shall remain with the Generator.

SECTION 4.3 PROCESSING & DISPOSAL

- 4.3.1. Purpose.** This section governs the processing and disposal of Solid Waste and regulates Solid Waste accumulations within the County.
- 4.3.2. Yard Waste.**
- A. On-Site Yard Waste Composting. On-site Compost Sites are allowed if the site is managed in such a manner to prevent annoying odors, Public Health Nuisances, or unsafe conditions. Compostable organic materials suitable for backyard Compost Sites include: Yard Waste, straw, vegetable and fruit scraps, coffee grounds and filters, and eggshells. The County accepts the methods and guidelines published by the University of Minnesota Extension Service as suitable for on-site composting. On-site composting that does not comply with these methods and guidelines is not permitted.
 - B. Permitted Yard Waste Facilities. Yard Waste Facilities located in the County, except on-site Compost Sites, shall comply with the License requirements in this Ordinance.
- 4.3.3. Recyclable Materials.** Recycling Facilities must comply with the requirements of Minnesota Rules Part 7035.2845, as amended from time to time, and a License for Recycling Facilities is required by this Ordinance. Recycling Facilities must operate in accordance with the provisions outlined in this Ordinance and Minnesota statutes and regulations.
- 4.3.4. Mixed Municipal Solid Waste.** Generators shall dispose of Mixed Municipal Solid Waste at a permitted Solid Waste Management Facility and if the Facility is within the County, licensed by the County. Generators shall either utilize the Collection services of a licensed Hauler or Self-Haul their own Mixed Municipal Solid Waste to a licensed and permitted Solid Waste Management Facility. Persons who Self-Haul their own Mixed Municipal Solid Waste must retain the current calendar quarter's receipts from the Solid Waste Management Facility utilized.
- 4.3.5. Industrial Solid Waste.** Generators are responsible for identifying, characterizing and properly managing the Industrial Solid Waste that they produce.
- 4.3.6. Unacceptable Waste, Problem Materials and Special Waste.** State and federal laws or regulations prohibit the Processing and/or Disposal of some types of Solid Waste. Regulations also restrict the Processing of other materials or waste types because they may present an operational hazard to a Solid Waste Management Facility. Each Solid Waste Management Facility shall identify its own list of Unacceptable Wastes, Problem Materials and Special Wastes. This list shall identify which waste types cannot be accepted under any circumstances, as well as those waste types that may require special handling and/or need approval prior to delivery. This list shall be posted at the Facility and a copy provided to the County. Generators are responsible for identifying any Unacceptable Waste, Problem Materials, and/or Special Wastes, that they produce and for adhering to Facility-specific requirements for disposal.

4.3.7. Delivery of Acceptable Waste. Each Person shall deliver only Acceptable Waste to a Solid Waste Management Facility. A Facility shall not be required to accept any Solid Waste that constitutes Unacceptable Waste and may, at its discretion, inspect all vehicles delivering Solid Waste to determine whether or not the Solid Waste contains Unacceptable Waste. The obligation of each Person not to deliver Unacceptable Waste to a Facility shall not be removed or in any way limited by an inspection of such Person's Solid Waste. Notwithstanding any prior acceptance of such Solid Waste as Acceptable Waste by a Facility, if the Facility, in the exercise of its reasonable judgment, identifies the presence of Unacceptable Wastes, Problem Materials, and/or Special Wastes, the Facility may reject the Solid Waste and the Person shall remove the rejected materials for proper management and Disposal at a permitted Facility. All costs of such removal, management, and Disposal shall be borne by the Person. Furthermore, if the presence of Unacceptable Wastes, Problem Materials and/or Special Wastes poses immediate operational difficulties for a Facility or if the Person fails to respond to a removal request, the Facility may remove and Dispose of the Unacceptable Wastes, Problem Materials, and/or Special Wastes and charge the costs of such removal, Disposal and special handling to the Person.

4.3.8. Prohibitions.

- A. Solid Waste Burning. Open Burning of Solid Waste is prohibited by this Ordinance, except as the site, date and time of the fire is specifically authorized by the U.S. Forest Service or pursuant to Minn. Stat. Chapter 88.
- B. On-site Disposal of Solid Waste. It is a violation of this Ordinance for any Person to Dispose of Solid Waste, excluding Residential Yard Waste, on their property without a license and without an Agency Permit by Rule. The owner of any such Site shall prevent disposal of Solid Waste at the Site and if necessary take corrective actions to appropriately close and clean-up the Site, as determined by the County and/or the Agency.
- C. No person shall cause, permit or allow burying or open burning of Solid Waste in any portion of the county for which the County Board has determined by resolution that regularly scheduled pickup of solid waste is reasonably available.
- D. Unauthorized Container Use; Anti-Scavenging. It shall be illegal to use another Person's Solid Waste storage container, inspect its contents, or remove its contents unless provided prior authorization by the owner or lawful custodian of the container.

ARTICLE V ARTICLE V SOLID WASTE MANAGEMENT SERVICE CHARGES

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

SECTION 5.1 PURPOSE AND AUTHORITY

The purpose of this Article is to establish methods of collection of Service Charges to fund certain Solid Waste Management Services intended to protect the public health and welfare and the environment pursuant to State mandates governing Solid Waste Management.

SECTION 5.2 GENERAL SERVICE CHARGE PROVISIONS

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

5.2.2. Procedures for Establishing the Amount of Solid Waste Management Service Charges. The County Board may act to impose and establish the amount of the Solid Waste Management Service Charges, as well as the method or methods of collection, by resolution following a public hearing, and shall state the effective date of the Solid Waste Management Service Charges.

5.2.3. Procedures for Adjusting the Amount of Solid Waste Management Service Charges. The Board may adjust the amount and method or methods of collecting the Solid Waste Management Service Charge by resolution following a public hearing, and shall state the effective date of the adjusted Solid Waste Management Service Charge. There shall be a minimum thirty (30) day period prior to the effective date of such adjustment.

5.2.4. Methods of Billing and Collection. The County may use one or both of the following methods of billing and collecting the Solid Waste Management Service Charge:

- A. A per Household Service Charge collected by Municipalities;
- B. A Service Charge collected by licensed Haulers that is based on the amount of Solid Waste generated.

SECTION 5.3 PER HOUSEHOLD SERVICE CHARGE COLLECTION**5.3.1. Per Household Charges.**

- A. The County shall assess a solid waste management Service Charge on per Household basis to be collected by Municipalities.
- B. The Service Charge shall be a monthly charge in a per Household amount determined annually by the County Board by resolution.
- C. Municipalities shall collect the Service Charge from all Households within their jurisdiction and shall remit the proceeds to the County on a quarterly basis (no later than 30 days following the end of each quarter). The County shall annually determine the number of Households within each Municipality and notify each Municipality of the number of Households within their jurisdiction.

SECTION 5.4 HAULER-COLLECTED SERVICE CHARGE AND REMITTANCE**5.4.1. Service Charge Collection by Haulers.**

- A. If the County acts to impose a Hauler-Collected Service Charge by resolution following a public hearing, then, as a condition of maintaining its License, each Hauler shall bill the Service Charge to and collect the Service Charge from all Persons to whom they provide Hauler Services, according to the rates and provisions established herein. In the event a municipality contracts or otherwise arranges for Hauler Services on behalf of Generators and elects to bill the Service Charge to and collect the Service Charge from Persons who are billed for such services, and subsequently remits all Service Charges collected to the County, a Hauler is not required to bill the Service Charge to or collect the Service Charge from such Persons in such municipalities.
- B. The Hauler must collect and remit the Service Charge for any Hauler Services provided on or after the effective date of the Hauler-Collected Service Charge resolution, notwithstanding the fact that the Hauler may have billed or invoiced prior to the effective date. Each Hauler shall make reasonable efforts to collect the Service Charge.
- C. The Service Charge is imposed on the amount of Solid Waste generated and shall be collected by the Hauler as a percentage of the sales price of Hauler Services as incurred by any Person paying for Hauler Services. The County Board shall determine the Service Charge amounts shall by resolution and may establish different rates for Residential and Commercial Generators, as those terms are defined in Minn. Stat. Chapter 297H. If the sales price does not represent the fair market value of the Hauler Services, the Service Charge shall be calculated on the fair market value of those Hauler Services. Any sales tax or other tax or Service Charge imposed by a unit of government is not subject to the Service Charge.

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

5.4.2. Remittance.

- A. The Service Charge collected by Haulers must be remitted to the County or its designee. Failure to remit the Service Charge collected may result in the revocation of the Hauler's License by the County.
- B. If a Generator makes partial payment to a Hauler, the Hauler shall then apply payment to the Service Charge proportionally.
- C. Each Hauler shall remit the Service Charge by the last day of the month following the month in which the Service Charge was collected by a Hauler, or incurred by a Self-Hauler. The County, if requested in writing by a Hauler, may grant a variance from this 30 day payment requirement due to Hauler billing practices. The duration of the variance will be determined by the County.
- D. In the event a Hauler does not receive the full amount billed on a statement or invoice when the statement or invoice includes the Service Charge, all payments the Hauler actually receives shall be divided on a pro rata basis between the amount owed the Hauler and the Service Charge owed the County. The Hauler must remit the pro rata amount of the Service Charge to the County, or its designee.

5.4.3. Service Charge Itemized on Statements.

- A. Each Hauler shall separately itemize the Service Charge on any statement or invoice issued for payment of Hauler Services. The Service Charge must be identified as "County Solid Waste Service Charge" and no other name or description. Failure to separately itemize the Service Charge or to properly identify the Service Charge is a violation of this ordinance.
- B. Each Hauler is required to provide notification of the Service Charge to all Persons that are billed for Hauler Services. This notification is required through a letter jointly developed with the County. For any Person billed for Hauler Services that has not received such notification, each Hauler is required to provide a notification of the Service Charge through a letter jointly developed with the County at the time the Person receives the first statement or invoice on which the Service Charge is billed.

- 5.4.4. Service Charge Reports.** Each Hauler shall complete a Solid Waste Management Service Charge report in accordance with instructions and on forms provided by the County. The Service Charge report must accompany payment of Service. The Service

Charge Report must include, but not be limited to, total gross billings and receipts for all collection and disposal services performed within the Service Area, the number of residential and nonresidential Generators within the Service Area, the number of tons collected within the Service Area and disposed of within and outside of the Service Area, and such other information as requested by the County. Hauler has the ability to request nonpublic treatment of trade secret information pursuant to the Minnesota Data Practices Act. The Department shall promptly decide upon such requests.

- 5.4.5. Recalculation of Service Charge.** If the County determines, after review of the Service Charge report, or upon failure of a Hauler to submit the Service Charge report, that the Hauler has not supplied appropriate information, the County may recalculate the Service Charge in accordance with this subsection. If the County finds that the information supplied by the Hauler is inaccurate, incomplete or understated, the County may determine an appropriate amount for the Service Charge due from the Hauler. The County shall send the Hauler a notice, by U.S. Mail, setting forth the recalculated Service Charge amount. The notice shall include a statement of reasons why the Service Charge has been recalculated. The County may base the recalculation on information in County records or on any data currently or previously supplied by the Hauler. The written notice shall be deemed received by the Hauler three (3) days after the date of mailing.
- 5.4.6. Examination of Records.** The County or its duly authorized agents shall have the right to examine records, including access to computer records, maintained by a Hauler. The term "record" shall include, but is not limited to, all accounts of a Hauler. The County shall be allowed access at all reasonable times to inspect and copy at reasonable cost all business records related to a Hauler's Collection, Transportation, and/or Disposal of Solid Waste to the extent necessary to ensure that all Service Charges required to be collected or paid have been remitted to the County. Such records shall be maintained by the Hauler for no less than six (6) years. Hauler has the ability to request nonpublic treatment of trade secret information pursuant to the Minnesota Data Practices Act. The Department shall promptly decide upon such requests.
- 5.4.7. Late Payment.** A late payment penalty in the amount of one-half of one percent (0.5%) per month, or the maximum interest rate allowed by law, shall be imposed upon Service Charges collected from the Generator but not remitted by the Hauler to the County on or before the last day of the month following the Collection. If a Hauler fails to bill and collect the Service Charge from the Generator, the Hauler shall pay the Generator's Service Charge plus the late payment penalty. The late payment shall be calculated from the date the Service Charge should have been billed.
- 5.4.8. Collection Actions.** Exercise of any remedy under this subsection does not preclude exercise of other remedies.
- A. If a Generator fails to pay the Service Charge to a Hauler within ninety (90) days of the date of the invoice, the County shall use any available legal remedies to collect the overdue, unpaid Service Charges from the Generator, including, but not limited to, the process to collect the Service Charge via the property tax.

- B. If a Hauler has collected Service Charges and failed to remit them to the County in a timely manner, the County may use any available legal remedies to collect the Service Charges from the Hauler.
- C. If a Self-Hauler fails to pay the Service Charge to the County in a timely manner, the County may use any available legal remedies to collect the Service Charge from the Self-Hauler.
- D. Unpaid Service Charges may be collected from tax-exempt properties.

5.4.9. Right of Appeal. Any Person or Generator aggrieved by a decision of the County in accordance with the provisions of this Article shall have the right to appeal the decision by serving the County Board with a request for hearing. The request for hearing must be received within thirty (30) days after the Person or Generator receives written notice of the decision. If the Person or Generator fails to request a hearing within the time prescribed, the Person or Generator shall forfeit any right to a public hearing. Upon receipt of a written request for a hearing, the Board shall follow the hearing procedures set forth in Section 9.3.

ARTICLE VI HAULER LICENSING PROVISIONS**SECTION 6.1 LICENSE REQUIRED**

No Person may Collect, Transport or Dispose of Solid Waste generated within the County except in full compliance with this Ordinance after having obtained a license to do so by the Department as specified in this Article. This Article does not apply to Self-Haulers or to the Transportation of Solid Waste through the County.

SECTION 6.2 LICENSE REQUIREMENTS

Haulers shall comply with the following license requirements.

- 6.2.1. License Application.** The Hauler shall submit a completed application to the County on a form provided by the Department.
- 6.2.2. License Fees.** The Hauler shall pay all license fees to the County with the License application and the license renewal application. The amounts of such license fees and late fees for submittal of a late application shall be established each year by the County Board. No license fee shall be prorated for a portion of a year and no License fee shall be refunded.
- 6.2.3. Incomplete or Non-Conforming Application.** An application will be deemed incomplete if information is omitted, incomplete, inaccurate, or does not comply with the application requirements, or if the required fees do not accompany the application. If a License application is incomplete or otherwise does not conform to the requirements set forth in this Ordinance, the Department shall advise the applicant of the reasons for nonacceptance and may request that the applicant resubmit, modify, or otherwise alter the application.
- 6.2.4. License Term and Renewal.**
- A. Unless otherwise provided by the County Board, the term of a Hauler License granted pursuant to the provisions of this Ordinance shall be up to one year but shall expire on December 31 of the year the license is granted, unless sooner renewed, suspended or revoked.
 - B. License renewal applications must be submitted to the Department by November 1 of each year. License renewal applications received after that date shall be subject to a late fee.
- 6.2.5. License Non-Transferable.** Licenses granted by the Department under this Section are not transferable to other Persons.
- 6.2.6. Vehicles Licensed.** All vehicles used for the Collection and Transportation of Solid Waste in the County shall be listed on the license application. The applicant shall specify the make, model, year, and capacity, in cubic yards, as well as the tare weight of each

vehicle. If a vehicle is put into service during the license year, the Hauler shall submit the required information for the vehicle to the Department.

6.2.7. Limitations. Licenses granted under this section do not supersede licensing requirements imposed by municipalities within the County.

SECTION 6.3 INSURANCE REQUIREMENTS

The Hauler shall obtain, maintain, and submit with the License application certificates of insurance issued by insurers duly licensed by the State of Minnesota providing the following coverage, or a self-insurance plan certified by the Department of Commerce providing equivalent coverage.

6.3.1. Worker's Compensation Insurance.

- A. Worker's compensation insurance shall be in compliance with all applicable State Statutes.

6.3.2. General Liability.

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

the underlying comprehensive general liability policy become reduced or exhausted.

- 6.3.3. Automobile Liability.** Business Automobile liability insurance shall be obtained and shall cover liability for bodily injury and property damage arising out of the ownership, use, maintenance, or operation of all owned, non-owned and hired automobiles and other motor vehicles utilized by the Licensee in connection with performance under this license agreement. Such policy shall provide total liability limits for combined bodily injury and/or property damage in the amount of at least Two Million Dollars (\$2,000,000) per accident, which total limits may be satisfied by the limits afforded under such policy, or by such policy in combination with the limits afforded by an "Umbrella" or "Excess Liability" policy(ies), provided, that the coverage afforded under any such "Umbrella" or "Excess Liability" policy(ies) shall be at least as broad with respect to such business automobile liability insurance as that afforded by the underlying policy. Unless included within the scope of the Licensee's commercial general liability policy, such business automobile liability policy shall also include coverage for motor vehicle liability assumed under contract.
- 6.3.4. Additional Insurance.** The County may, at any time during the period of the license, require that Licensee secure any additional insurance, or additional feature to existing insurance, as is recommended by such evaluation as reasonably required for the protection of the County's interests or those of the public.
- 6.3.5. Evidence of Insurance.** A Licensee shall promptly provide the Department with evidence that the insurance coverage required hereunder is in full force and effect at least twenty (20) days prior to the granting of a license by the County Board. At least thirty (30) days prior to termination of any such coverage, Licensee shall provide the Department with evidence that such coverage will be renewed or replaced upon termination with insurance that complies with these provisions. Such evidence of insurance shall be in the form of a "Certificate of Insurance", or in such other form as the Department may reasonably request, and shall contain sufficient information to allow the Department to determine whether there is compliance with these provisions. At the request of the Department, the Licensee shall, in addition to providing such evidence of insurance, promptly furnish the Department with a complete (and if so requested, insurer-certified) copy of each insurance policy intended to provide coverage required hereunder. All such policies shall be endorsed to require that the insurer provide at least a sixty (60) day notice to the Department prior to the effective date of policy cancellation, non-renewal, or material adverse change in coverage terms. The Licensee's insurance agent shall certify on the certificate of insurance, that he/she has error and omissions coverage.
- 6.3.6. Insurer Policies.** All policies of insurance required by this Ordinance shall be issued by financially responsible insurers licensed to do business in the State of Minnesota, and all such insurers must be acceptable to the Department. Such acceptance shall not be unreasonably withheld or delayed. An insurer with a current A.M. Best Company rating of at least A: VII shall be conclusively deemed to be acceptable. In all other instances, the Department shall have twenty (20) business days from the date of receipt of a Licensee's evidence of insurance to advise the Licensee in writing of any insurer that is

not acceptable to the County. If the Department does not respond in writing within such twenty (20) day period, the Licensee's insurer(s) shall be deemed to be acceptable to the County.

- 6.3.7. Loss Information.** At the request of the Department, the Licensee shall promptly furnish loss information concerning all liability claims brought against a Licensee (or any other Insured under Licensee's required policies) that may affect the amount of liability insurance available for the benefit and protection of the County under this Ordinance. Such loss information shall include such specifics and be in such form as the Department may reasonably require.

SECTION 6.4 EQUIPMENT & OPERATIONS REQUIREMENTS

- 6.4.1. Equipment Requirements.** All Solid Waste Collection and Transportation vehicles shall be easily cleanable, leak-proof, and be covered with metal, canvas, or a fishnet type material while in transit.
- 6.4.2. Maintenance.** The Licensee shall maintain all Solid Waste Collection and Transportation vehicles in a safe and sanitary manner, and provide brooms and shovels on each vehicle for the purpose of cleaning up spilled material. All safety equipment including, but not limited to, horns, lights, and reflectors shall be operable.
- 6.4.3. Inspection.** The Department may inspect and approve all Solid Waste Collection and Transportation vehicles.
- 6.4.4. Storage.** The Licensee shall not allow Solid Waste to remain or be stored in any Collection or Transportation vehicle, including roll-offs and other detachable containers, in excess of forty-eight (48) hours, except in the event of an emergency such as inclement weather, equipment breakdown or accident. Any storage of Solid Waste in containers must be done with a water impermeable cover.
- 6.4.5. Protecting Private Property.** The Licensee shall take reasonable care to protect the property of customers being served. The Licensee shall be responsible for any damage or spillage of Solid Waste as a result of the Licensee or the Licensee's employees or agent's actions.
- 6.4.6. Smoking, Smoldering or Burning Solid Waste.** The Licensee may not collect or transport Solid Waste that are smoking, smoldering, or burning.
- 6.4.7. Dumping in an Emergency.** The Licensee shall be responsible for the cleanup of any Solid Waste that must be dumped in an emergency. The operator of the vehicle shall immediately notify the Department and the appropriate law enforcement agency and emergency service of such emergency dumping and clean up the area within a time limit set by the Department.
- 6.4.8. Hours of Operation.** The Licensee may not collect or transport Solid Waste from Residential Property or Residential Buildings before 6:00 a.m. or after 9:00 p.m.

6.4.9. Prohibited Wastes. Haulers shall not accept for Collection in the County any Mixed Municipal Solid Waste that contains Yard Waste, Christmas trees, dry cell batteries (as prohibited by Minn. Stat. § 115A.9 155), Solid Wastes containing mercury (as prohibited by Minn. Stat. § 115A.932), motor vehicle fluids and filters (as prohibited in Minn. Stat. § 115A.916), or any material that has been banned from Solid Waste or Mixed Municipal Solid Waste by any State statute. Banned items include, but are not limited to, Waste Tires, Major Appliances, telephone directories, and Medical Waste.

6.4.10. Mixing of Mixed Municipal Solid Waste and Recyclables Prohibited. Haulers shall not mix Source Separated Recyclable Materials with Mixed Municipal Solid Waste or handle Source-Separated Recyclable Materials in any way that reduces the reusability or marketability of the Source Separated Recyclable Materials.

6.4.11. Providing Recycling Opportunities. At least once each year licensed Haulers shall provide specific information concerning Recycling Opportunities available to their customers.

6.4.12. Hauler-Imposed Collection Fees.

- A. Hauler-imposed fees for the Collection of Mixed Municipal Solid Waste in the County shall increase with the volume or weight of the waste collected.
- B. Haulers of Mixed Municipal Solid Waste in the County are prohibited from imposing a greater Collection fee on residents who recycle than on residents, who do not recycle.
- C. Haulers shall offer a 38-gallon or less base container fee for Solid Waste generated at a Residential Building or at a Residential Property. Incremental container fee levels shall not increase by more than thirty-two (32) gallons per increment, with the exception for fees charged for bulky items. Containers shall not exceed ninety-six (96) gallons.
- D. If Collection of Yard Waste is provided, the Hauler-imposed fee for such Collection must be indicated as a separate line item on a customer's bill.

SECTION 6.5 REPORTING REQUIRED

A Hauler must keep records and report to the Department information relating to the Collection, Processing and Disposal of Solid Waste collected by the Hauler. The information shall be reported to the Department on at least a quarterly basis (no later than forty-five (45) days after the end of each quarter) on a form provided by the Department.

6.5.1. Solid Waste Records. A Hauler shall keep records of the following information for at least six (6) years. For purposes of this Ordinance, "origin" means a general geographic description that at a minimum names the local governmental unit within the County. "Type" means a best estimate of the percentage of each truckload that consists of residential, commercial, industrial, construction and demolition debris or any other general type of Solid Waste.

- A. Types and Quantities of Solid Waste. A Hauler shall maintain records regarding the volume or weight, type(s) and origin(s) of Solid Waste collected. For each vehicle, the Hauler shall keep a daily record of the origin(s), type(s), and weight of the waste collected that day, and the identity of the Solid Waste Management Facility at which collected waste is deposited. If the waste is measured by volume at the Solid Waste Facility at which it is deposited, the record may indicate the volume rather than the weight of the waste.
- B. Total Weight of Solid Waste. The Hauler shall maintain a record of the total weight of all Solid Waste collected from Residential accounts and Nonresidential accounts for each geographic region. The weight of the Solid Waste collected shall be reported and documented by scale or other County approved documentation method.
- C. Management of Solid Waste. The Hauler shall maintain a record of the location(s) where Solid Waste was delivered, deposited, processed, or marketed and the total amount of waste delivered to each Solid Waste Management Facility or other location.

SECTION 6.6 ADDITIONAL RECYCLABLE MATERIALS REPORTING REQUIREMENTS

In addition to the Solid Waste reporting requirements in Section 6.5, the Collection of Recyclable Materials is subject to the following requirements.

- 6.6.1. Weight of Individual Recyclable Materials.** The Hauler shall maintain a record of the weight of Recyclable Materials collected from residential and nonresidential accounts, for each of the following Recyclable Materials: newsprint, corrugated cardboard, mixed paper, magazines, tin cans, aluminum cans, glass containers, plastic containers, boxboard, Major Appliances, scrap metal, telephone books, and additional materials as from time to time mandated by the County Board. The weight of each type of Recyclable Material collected may be estimated based upon the percentage of each material type recorded in previously documented Collections. The amount of Recyclable Materials collected from each geographic origin may be estimated based on the proportion of accounts in each community.

ARTICLE VII FACILITY REQUIREMENTS AND LICENSES**SECTION 7.1 LICENSES REQUIRED**

It is unlawful for any Person to establish, operate, or maintain a Solid Waste Management Facility without a license from the County. No Person shall cause, permit, or allow land or property under that Person's control to be used for Solid Waste Processing, Disposal or Transfer Station purposes, except at a Site that complies with all County ordinances, regulations, local, State, and federal guidelines, statutes, rules and regulations.

7.1.1. Disposal of Solid Waste. No Person shall make nor allow land or property under their control to be used for Disposal of any Solid Waste unless it is a Solid Waste Management Facility for which a license has been issued by the County Board or renewed by the Department, unless otherwise provided by this Ordinance. No Person shall dispose of any Solid Waste on any land or property, unless the County has issued a Solid Waste Management Facility license for that land or property, unless otherwise provided by this Ordinance.

7.1.2. Facility Licenses. The following types of Facilities shall obtain a Solid Waste Management Facility License from the County:

- A. Solid Waste Land Disposal Facilities
- B. Construction and Demolition Debris Land Disposal Facilities
- C. Industrial Solid Waste Land Disposal Facilities
- D. Transfer Stations
- E. Solid Waste Processing Facilities
- F. Waste Tire Facilities

SECTION 7.2 FACILITY LICENSE FEES

7.2.1. Application Fee. An application fee, the amount to be determined by the Officer and approved by the County Board, shall be established to process the Facility License application and review all plans and specifications and shall accompany the application.

7.2.2. Facility License Fees. Facility License fees shall be determined by the Officer and approved by the County Board. License fees shall be established each year for the subsequent calendar year. The Department shall collect license fees each year.

SECTION 7.3 LICENSE REQUIREMENTS

An application for a License or License renewal shall be made to the Department on forms furnished by the Department. The application shall not be considered complete until the Department has received all information, materials, plans, Financial Assurance, certificates of

insurance, and fees required under this Ordinance. Unless otherwise provided by the County Board, each License granted pursuant to the provisions of this Ordinance shall expire annually unless sooner revoked.

- 7.3.1. Financial Assurance.** The County Board may require Financial Assurance as appropriate for any or all of those Solid Waste Management Facilities listed in 7.2.2, based on their size, operating life, operational practices, and types of waste accepted.
- 7.3.2. Planning and Zoning Approval.** Any use of land for Solid Waste Management Facilities within the County shall comply with the applicable zoning requirements of the County Zoning Ordinance, or the zoning requirements of municipalities, if applicable.
- 7.3.3. Application Requirements.** The application for initial License shall include:
- A. A complete copy of the permit application submitted to the MPCA, including a set of complete plans, specifications, design data, and ultimate land use; and
 - B. A land use permit as required by the County Zoning Ordinance or the zoning authority having jurisdiction over the proposed site; and
 - C. A written statement of how the proposed facility is consistent with the County Solid Waste Management Plan and current Agency Certificate of Need (CON), if applicable; and
 - D. An application fee as established by the County Board; and
 - E. The License application shall include two sets of complete plans, specifications, design data, ultimate land use plan if applicable, proposed operating procedures and schedule, proposed fee schedules, documentation to demonstrate whether the applicant is sufficiently financially and operationally capable; and such other information as may be required by the County, all prepared by a professional engineer registered in Minnesota.
- 7.3.4. Licensed Facilities.** At any time the Licensee submits an application for renewal or modification of their Agency permit, a copy of that application and all supporting documentation must be submitted to the County and the process for License renewal shall be followed.
- 7.3.5. License Holder.** In each application for a Solid Waste Management Facility License, the Owner and Operator shall be named as the proposed Licensees. Co-Licensees are jointly and severally liable for Ordinance violations.

ARTICLE VIII REVIEW OF FACILITY LICENSE APPLICATION

After receiving a complete License application that includes all required information, the County shall have 60 days to either grant or deny the License. If any applicant is denied a License, the applicant shall be notified in writing by the County of the reasons for the denial of the License. A denial shall be without prejudice to the applicant's right to an appearance before the County Board or for filing a further application after revisions are made to meet objections specified as reasons for the denial.

- 8.1.1. Operational Conditions.** The Licensee shall comply with the operational conditions stated in the application as approved by the County. Failure of the Licensee to comply with such operational conditions is a violation of this Ordinance and the Licensee is subject to the penalties provided herein.
- 8.1.2. Contingent License/Special Conditions.** A License may be granted that is contingent upon compliance with special conditions specified in the License. Such conditions, if any, shall be designed to promote the health, welfare and safety of the public pursuant to this Ordinance. Failure of the Licensee to comply with such special conditions is a violation of this Ordinance and is subject to the penalties provided herein.
- 8.1.3. Sequencing.** No License application will be considered until written proof that the local governing body, if applicable, has considered the establishment of the Facility and the results of that consideration are provided to the Department.

SECTION 8.2 TERM OF FACILITY LICENSE; RENEWAL; LICENSE NOT TRANSFERABLE

The term and renewal of Solid Waste Management Facility Licenses are governed by this section.

- 8.2.1. Term of License.** Unless otherwise provided by the County Board, the term of a Solid Waste Management Facility License granted pursuant to the provisions of this Ordinance shall be for up to one year but shall expire on December 31 of the year the License is granted, unless sooner renewed, suspended or revoked.
- 8.2.2. Renewal of License.** Application for renewal of a License shall be made in writing to the Department by September 1 of the expiration year and shall be signed by an individual authorized to act on behalf of and bind the Licensee. Application for a License renewal shall contain a statement of any changes in the information submitted from the last approved License application. Application for a License renewal shall contain reports required by the Ordinance. If applicable, the Licensee shall submit Financial Assurance information including the Financial Assurance mechanism used, the amount of bond or letter of credit, cash on deposit, amount in a depository account or trust account and other information requested on a form provided by the Department. Failure to submit such information is grounds for revocation or for not granting renewal of the License by the County Board. If there are no changes in Financial Assurance, it shall be so stated in the renewal application.

8.2.3. License Not Transferable. Any license obtained under this Ordinance shall be nontransferable. Licenses issued to corporations, partnerships or associations shall be valid only so long as there is no change in the ownership. Corporations, partnerships or associations holding licenses shall submit written notice to the Department of any such changes in ownership on or before thirty (30) days prior to the effective date of any such change. In the case of a corporation, the Licensee shall notify the Department when a Person or entity not listed in the application acquires an interest, and shall give all information about such Person as is required pursuant to the provisions of this Article.

SECTION 8.3 INSURANCE REQUIREMENTS

A Solid Waste Management Facility Licensee shall provide and maintain at all times during the term of the License such insurance coverage as set forth in this Section, and otherwise comply with the provisions that follow. Such policy(ies) of insurance shall apply to the extent of, but not as a limitation upon or in satisfaction of, the license indemnity provisions. The provisions of this Section shall also apply to all subcontractors, and independent contractors engaged by the Licensee with respect to the license. The Licensee shall be entirely responsible for securing the compliance of all such Persons or parties with these provisions.

8.3.1. Worker's Compensation Insurance. Worker's compensation insurance shall be in compliance with all applicable State Statutes.

8.3.2. General Liability. Commercial General Liability Coverage (Insurance Services Office form title), providing coverages as provided in Section 6.3.2.

8.3.3. Automobile Liability. Business Automobile liability insurance shall be obtained and shall provide coverages as provided in Section 6.3.3.

8.3.4. Additional Insurance. The County may, at any time during the period of the license, require that Licensee secure any additional insurance, or additional features to existing insurance as is reasonably required for the protection of the County's interests or those of the public.

8.3.5. Evidence of Insurance. A Licensee shall promptly provide the Officer with evidence that the insurance coverage required hereunder is in full force and effect at least twenty (20) days prior to the granting of a license by the County Board. At least thirty (30) days prior to termination of any such coverage, Licensee shall provide the Department with evidence that such coverage will be renewed or replaced upon termination with insurance that complies with these provisions.

8.3.6. Insurer Policies. All policies of insurance required by this Ordinance shall be issued by financially responsible insurers licensed to do business in the State of Minnesota, and all such insurers must be acceptable to the Officer. Such acceptance shall not be unreasonably withheld or delayed.

SECTION 8.4 FACILITY RECORDS

It shall be the obligation of the Operator of a Solid Waste Facility to maintain accurate operation records. To be considered for renewal the Licensee must maintain the following records and submit reports as required by the Department.

8.4.1. Daily Records. Accurate daily records of Solid Waste Management Facility operations shall be maintained and made available upon request to the County or Authorized Representative including:

- A. Receipt of Solid Waste in tons and cubic yards shall be recorded daily in a manner acceptable to the County. This information shall provide statistics on the types and quantities of Solid Waste received including, but not limited to Residential Solid Waste, Nonresidential/Institutional waste, and Industrial Solid Waste.
- B. Detailed information on waste composition received at the Facility derived from actual measurements.
- C. Information that identifies the types and quantities of waste Released from the Site or transported to other Solid Waste Management Facilities. This information includes but is not limited to Solid Waste, ash, Leachate, and residual materials derived from waste Processing.
- D. Copies of reports and data related to environmental monitoring including but not limited to groundwater testing, Leachate analysis, methane monitoring, and air emission data.
- E. Disposal of Hazardous Waste is prohibited. All Hazardous Wastes Generated by the facility operation or delivered to the facility by other Persons must be recorded, and documentation of management in accordance with State and federal regulations and as set out in the facility's operations plan must be reported.

8.4.2. Facility's Annual Report. The Licensee shall submit a copy of the Licensed facility's annual report required by the Agency to the Department by March 1 of each year.

8.4.3. Facility Service Area. The Licensee shall submit records of population and areas served by the Licensed facility on an annual basis.

8.4.4. Emergency Incidents. Within two (2) hours of an emergency incident that results in conditions that may be adverse to public or environmental health, the Licensee shall submit oral notification to the Solid Waste Officer.

- A. This report shall be followed with written notification within 48 hours of the incident.
- B. When corrective actions are required by County, State or federal agencies, a report of the incident and actions taken shall be submitted to the Solid Waste Officer within 15 days of completion of the action.

SECTION 8.5 GENERAL REQUIREMENTS FOR ALL FACILITIES

The following items shall be established, constructed, or provided for at all Solid Waste Management Facilities, unless specifically exempted by the Department:

8.5.1. Design and Construction Requirements.

- A. Sanitary facilities and shelter shall be available at the Site.
- B. Effective litter control devices such as portable fences shall be utilized.
- C. Electrical service, as necessary for operations and repairs.
- D. Firefighting facilities on site adequate to insure the safety of employees.
- E. Emergency first aid equipment to provide adequate treatment for all accidents.
- F. Adequate facilities to ensure that no vehicle desiring entry into the Site may have to wait outside the perimeter of the Site.
- G. Adequate communication facilities shall be provided for emergency purposes.
- H. The Site shall be fenced or secured to prevent unauthorized entry and a gate shall be provided at the entrance to the Site and kept locked when an attendant is not on duty.
- I. An all-weather haul road to the unloading area.
- J. Visual screening of the Site, as approved by the Department, shall be provided by use of natural objects, trees, plants, seeded soil berms, fences, or other suitable means.
- K. An area shall be designated to inspect and store Solid Waste to determine whether or not Unacceptable Waste is contained in the Solid Waste deposited at the Site.

8.5.2. Closure Requirements. In addition to Closure procedures required by the Agency, the Licensee shall submit a detailed map to the Department upon Closure of the Licensed Solid Waste Land Disposal Facility. The map shall include the location of fill areas, buildings, roads, wells, hydro-geologic information, elevations, scales, and any other features of the site.

- A. Documents submitted must show the nature and location of the waste disposed at the facility.
 - (i) Complete location details of any regulated wastes such as asbestos shall be submitted to the Department and recorded on the property deed.
 - (ii) A complete list of Industrial Solid Waste customers and associated waste characterization data and disposal locations shall be submitted.

- B. Documents submitted must show the property lines of the facility and all adjacent property ownership at the time of Closure.
- C. A letter from the Licensee shall be sent to all adjacent property owners notifying them of the Closure requirements and the ultimate use of the land on which the Facility is located. This letter must be sent by certified mail within 30 days of the completion of Closure requirements with a copy sent to the Solid Waste Officer at the same time.

8.5.3. Facility Fee Authorized. The County Board may establish Solid Waste Land Disposal Facility fees pursuant to Minn. Stat. § 115A.919 and may utilize fees received pursuant to Minn. Stat. §115A.923.

- A. Any Solid Waste Management Facility subject to such fees shall file a monthly fee in the following manner:
 - (i) Monthly returns shall be on a reporting form prescribed by the Department.
 - (ii) The return shall be signed by the Facility Operator or a Person authorized by the Facility Operator to do so.
 - (iii) A check for the full amount of the fee and made out to the County Auditor must accompany the return form.
 - (iv) The return shall be filed with the Department on or before the last day of the month immediately following the month in which the fee was incurred.
- B. Non-payment of fees shall be grounds for denial of a license application or renewal.

SECTION 8.6 MIXED MUNICIPAL SOLID WASTE LAND DISPOSAL FACILITIES

This section applies to facilities designed, constructed, maintained, or operated as a Mixed Municipal Solid Waste Land Disposal Facility.

8.6.1. State Rule Adopted. In addition to the general requirements provided for in this Ordinance, the design, construction, and operation of Mixed Municipal Solid Waste Land Disposal Facilities shall be in accordance with Agency Solid Waste Management Rules (Minn. Rules Chapter 7035), which are hereby adopted by reference as part of this Ordinance.

SECTION 8.7 CONSTRUCTION AND DEMOLITION DEBRIS LAND DISPOSAL FACILITIES LICENSE

This section applies to all facilities designed, constructed, or operated for the land disposal of Construction and Demolition Debris, regardless of size or duration of operation.

8.7.1. State Rule Adopted. In addition to the general requirements provided in this Ordinance, the design, construction, and operation of Construction and Demolition Debris Land Disposal Facilities shall be in accordance with Agency regulations (Minn. Chap. 7035), which is hereby adopted by reference as part of this Ordinance.

SECTION 8.8 INDUSTRIAL SOLID WASTE LAND DISPOSAL FACILITIES

This section applies to all facilities designed, constructed, maintained, or operated as an Industrial Solid Waste Land Disposal Facility.

8.8.1. State Rule Adopted. In addition to the general requirements provided in this Ordinance, the design, construction, and operation of Industrial Solid Waste Land Disposal Facilities shall be in accordance with Agency regulations (Minn. Rules Chap. 7035), which are hereby adopted by reference as part of this Ordinance.

SECTION 8.9 TRANSFER STATIONS

This section applies to all facilities designed, constructed, established, maintained and operated as a Solid Waste Transfer Station, regardless of size or category.

8.9.1. State Rule Adopted. In addition to the general requirements of this Ordinance and the additional requirements of this Section, the design, construction, and operation of Solid Waste Transfer Stations shall be in accordance with Agency regulations (Minn. Rules Chapter 7035), which are hereby adopted by reference as part of this Ordinance.

8.9.2. License Required. It is unlawful for any Person to establish, operate, or maintain a Solid Waste Transfer Station without first being licensed to do so by the Department.

A. Licensing Requirements

The following information shall be submitted to the Department as part of the application process for a Solid Waste Transfer Station License:

- (i) Designation of the Transfer Station Category: All Solid Waste Transfer Stations shall be categorized as to type and amount of Solid Waste transferred at the facility. The following categories are established:
 - 1) Mixed Waste: This facility has an on-site throughput capacity of greater than 120 cubic yards per day and handles a variety of Solid Waste types, to include Mixed Municipal Solid Waste.
 - 2) Demolition Debris: This facility handles Construction and Demolition Debris only.
- (ii) Application and Fees: An applicant for a Solid Waste Transfer Station License shall complete and submit to the Department an application on a form provided by the Department. The application shall not be considered complete until the Department receives the signed and dated application

form, all applicable fees, and all materials required by this section, to include:

- 1) Location, size and ownership of the land upon which the Transfer Station will operate.
- 2) General description of property use in the immediate vicinity of the Transfer Station.
- 3) Complete plans and specifications and proposed operating procedures for the Transfer Station.
- 4) A fee schedule for the use of Transfer Station.
- 5) A statement of the ultimate Solid Waste Management Facility destination(s) of Solid Waste delivered to the Transfer Station.

8.9.3. Specific Design and Construction Requirements.

The following specific design and construction requirements shall apply:

A. Entrance Sign

At each entrance to the Site the Licensee shall erect and maintain a sign stating the name of the Transfer Station, the schedule of days and hours the Transfer Station is open to the public, prices for use of the facility and Agency permit number and penalty for nonconforming Dumping. Plans and specifications for the sign wordage and its proposed placement shall be submitted to the Department for approval prior to installation. Any changes to the sign after initial installation are also subject to approval by the Department.

B. Residential Disposal Facilities

For Transfer Stations open to the public, suitable facilities shall be provided for accepting Solid Waste from Self-Haulers.

C. Minimal Interference with Other Activities

The Transfer Station shall be so situated, equipped, operated, and maintained as to minimize interference with other activities in the area and not create a Public Nuisance.

8.9.4. Specific Operating Procedures

Any Person who has been granted a license by the Department to operate a Transfer Station shall comply with the following specific operational requirements:

A. Waste Removal and Clean-up

Unless stated otherwise as a part of the License, the Licensee shall remove all Solid Waste, clean, and maintain the Transfer Station at the end of each day of use.

B. Orderly Maintenance

The premises, entrances and exits shall be maintained in a clean, neat and orderly manner at all times.

C. Traffic Control

All incoming and outgoing traffic shall be controlled by the Licensee in such a manner as to provide orderly and safe ingress and egress.

D. Unloading

All unloading of Solid Waste from contributing vehicles shall be conducted in such a manner as to eliminate odor and litter outside the Transfer Station.

E. Liquids

All liquids shall be captured, contained, and treated without discharging to the environment.

SECTION 8.10 SOLID WASTE PROCESSING FACILITIES

This section applies to all facilities designed, constructed, established, maintained and operated as Solid Waste Processing Facilities.

8.10.1. State Rule Adopted. In addition to the general requirements of this Ordinance design, construction, and operation of Solid Waste Processing Facilities shall be in accordance with Agency regulations (Minn. Rules Chapter 7035), which are hereby adopted by reference as part of this Ordinance.

SECTION 8.11 WASTE TIRE FACILITIES

All Waste Tire Collection Sites and Processing Facilities shall be designed, constructed, maintained, and operated in accordance with the following provisions.

8.11.1. State Rule Adopted. In addition to the general requirements of this Ordinance, the design, construction, and operation of Waste Tire Collection Sites and Processing Facilities shall be in accordance Agency regulations (Minn. Rules Chapter 9220), which are hereby adopted by reference as part of this Ordinance.

ARTICLE IX INSPECTIONS, VIOLATIONS AND ENFORCEMENT

SECTION 9.1 INSPECTIONS

9.1.1. Inspections. Routine inspection of Solid Waste Management Activities, Facilities and/or a Licensee's premises shall be made by the Department 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 Department at any reasonable time for the purpose of making such inspections as may be necessary to determine compliance with the requirements of this Ordinance.
- 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 Department, provided that if such premises or vehicles be occupied, the Authorized Representative shall first present proper credentials and request entry; and if such premises or vehicles be unoccupied, the Department 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 Department may suspend or revoke a license and shall have recourse to other remedies provided by law.
- D. Whenever the Department 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 Department 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 this Ordinance, or failure to comply with any order of the Department, shall be grounds for summary suspension, suspension or revocation of a license.
- F. Any order or notice issued or served by the Department shall be complied with by the Owner, Operator or other Person 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.

9.1.2. Re-inspections.

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

SECTION 9.2 ACTION AUTHORIZED

For violations of this Ordinance, the County may take the following actions: issuance of a Warning Notice; issuance of a Notice of Violation; issuance of Citation(s); issuance of an Abatement Order; issuance an Embargo Order; issuance of an Administrative Penalty Order if authorized by law; suspension or revocation of a license issued under this Ordinance; execution of a Stipulation Agreement; and/or commencement of other civil proceedings. The County may also, at its discretion, assist Municipalities in enforcing violations of Municipal Solid Waste Ordinances.

- 9.2.1. Warning Notice.** The Department may issue a Warning Notice as defined in this Ordinance to any Person alleged to have committed a violation of this Ordinance. A Warning Notice shall serve to place the Person on notice that compliance with specified Ordinance requirements must occur to avoid additional enforcement actions. A Warning Notice may be in the form of an Inspection report for a Licensed facility. A Warning Notice may be served in person or by mail.
- 9.2.2. Notice of Violation (NOV).** The Department may issue a Notice of Violation (NOV) as defined in this Ordinance to any Person alleged to have committed a violation of this Ordinance. A NOV shall serve to place the Person alleged to have committed a violation on notice that compliance with specified Ordinance requirements must occur to avoid additional enforcement actions. The NOV shall be served by certified mail or by personal service on the Person(s) alleged to have committed a violation of this Ordinance.
- 9.2.3. Citations.** Any Person who fails to comply with the provisions of this Ordinance is guilty of a misdemeanor, and upon conviction thereof, shall be punished as provided by law. A separate offense shall be deemed committed each day during or on which a violation occurs or continues. An Authorized Representative of the Department shall have the power to issue Citations for violations of this Ordinance, but shall not be permitted to physically arrest or take into custody any violator except on a warrant duly issued by the Court.
- A. Issuance of the Citation

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

B. Notice of Citation

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

C. Form of Citation

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

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

D. Court Appearance

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

- (i) Plead guilty to the Citation and meet the requirements of the sentencing order issued by the court; or
- (ii) Plead not guilty to the Citation and schedule a court date for further hearing or trial on the Citation.

E. Failure to Appear on the Citation

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

F. Complaint

If the Person issued the Citation and charged with the violation fails to appear as required by the Citation, the Citation may be referred to the County Attorney's Office for issuance of a summons and complaint.

9.2.4. Abatement. In the event of an emergency abatement by the County or if a property owner does not complete Corrective Actions within the timelines given in a NOV, a Stipulation Agreement or a court order, the Department may abate the violations and the Department has the authority to enter the property and perform the Corrective Actions and recover the costs of the same from the property owner.

A. Abatement Notice

(i) Contents of Abatement Notice

An Abatement Notice shall include the following:

- 1) Notice that the property owner has not completed the Corrective Actions within the time period required in the attached NOV(s), Stipulation Agreement or court order;
- 2) Notice that the Department or its agent intends to enter the property and commence abatement of the conditions on the property that violate this Ordinance in thirty days;
- 3) 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
- 4) A statement that if the property owner desires to appeal, the property owner must file a request for an appeal hearing with the County Board that meets the requirements of Section 2.04(B) below on the County within ten (10) County working days, exclusive of the day of service.

(ii) Service

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

B. Right to Appeal the Abatement Notice

(i) 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 Department by midnight of the 10th 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 3.0 below.

(ii) Stay of Notice

Pending the appeal hearing and final determination by the County Board the Department shall take no further action on the Abatement Notice.

C. Abatement by the County

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

D. Recovery of Abatement Costs

- (i) The Department 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.
- (ii) The Department 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 to the County Auditor by September 1 of each year.
- (iii) 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.
- (iv) 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.

E. Emergency Abatement by County

Notwithstanding the requirements of Section 1.0 of this Article, in the event of an imminent threat to the public's health, welfare and safety, the Department shall have the authority to immediately enter property and abate the violations and recover the costs as

set out in Section 2.4(D) above. The Department shall attempt to give verbal notice to the property owner immediately, if possible, and writing within 10 work days. The property owner shall have the right to appeal the assessment of costs to the County Board pursuant to Section 3 of this Article.

9.2.5. Stipulation Agreement.

The Department and a Person alleged to have violated provision(s) of this Ordinance may voluntarily enter into a Stipulation Agreement, whereby the parties to the agreement: identify conditions on the property that require Corrective Action; agree on the Corrective Actions that must be performed by the Person; and agree on the timelines in which the Corrective Actions must be completed. If the timelines have not been met as agreed in the Stipulation Agreement, the County may abate the violations in accordance with Section 2.4 above. The parties may seek compliance with the terms of the Stipulation Agreement through a court of competent jurisdiction.

9.2.6. License Suspensions.

- A. Any license required under this Ordinance may be suspended by the County Board for violation of any provision of this Ordinance. Upon written notice to the Licensee a license may be suspended by the County Board for a period not longer than sixty (60) days or until the violation is corrected, whichever is shorter.
- B. Such suspension shall not occur earlier than ten County working days after written notice of suspension by the County Board has been served on the Licensee or, if a hearing is requested, until written notice of the determination of the County Board action has been served on the Licensee. Notice to the Licensee shall be served personally or by registered or certified mail at the address designated in the license application. Such written notice of suspension shall contain the effective date of the suspension, the nature of the violation or violations constituting the basis for the suspension, the facts which support the conclusion that a violation or violations has occurred, and a statement that if the Licensee desires to appeal, he must within ten (10) County working days, exclusive of the day of service, file a request for an appeal hearing with the County Board. The hearing request shall be in writing stating the grounds for appeal and served personally or by certified mail on the County Board, with a copy to the Department by midnight of the 10th County working day following service. Following receipt of a request for a hearing, the County Board shall set a time and place for the hearing to be held pursuant to Section 3.0 below.
- C. Continued Suspension. If said suspension is upheld and the Licensee has not demonstrated within the sixty (60) day period that the provisions of the Ordinance have been complied with, the County Board may serve notice of continued suspension for up to sixty (60) days or initiate revocation procedures.

9.2.7. Emergency Suspension.

- A. If the Department finds that the public health, safety or welfare imperatively requires emergency action and incorporates a finding to that effect in its order, emergency suspension of a license may be ordered by the Department upon written notice to the facility, with a copy to the County Attorney's Office and the County Board. The County Board must make a determination if the emergency suspension should be ratified at its next board meeting. Written notice of such emergency suspension shall be personally served on the Licensee, or shall be served by certified mail to said Licensee at the address designated in the license application. In addition, the Department may post copies of the notice of emergency suspension of the license at the licensed facility or property being used for the licensed activity. Said posting shall constitute the notice required under this Section.
- B. The written notice in such cases shall state the effective date of the emergency suspension and the nature of the violation requiring emergency action, the facts which support the conclusion that a violation or violations has occurred and a statement that if the Licensee desires to appeal, the Licensee must, within ten (10) County working days, exclusive of the day of service, file a request for a hearing with the County Board. The hearing request shall be in writing stating the grounds for appeal and served personally or by certified mail on the County Board, with a copy to the Department and the County Attorney's Office, by midnight of the 10th County working day following service. Following receipt of a request for an appeal, the County Board shall set a time and a place for the hearing to be held pursuant to 9.3.8 below.
- C. The emergency suspension shall not be stayed pending an appeal to the County Board or an informal review by the Department Head, but shall be subject to dismissal upon a favorable re-inspection by the Department or favorable appeal to the County Board.

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

9.2.9. License Revocation.

- A. Any license granted pursuant to this Ordinance may be revoked by the County Board for violation of any provision of this Ordinance.
- B. Revocation shall not occur earlier than ten (10) County working days from the time that written notice of revocation from the County Board is served on the Licensee or, if an appeal hearing is requested, until written notice of the County Board's action has been served on the Licensee. Notice of revocation to the Licensee shall be served personally or by certified mail at the address designated in the license application. Such written notice of revocation shall contain the effective date of the revocation, the nature of the violation or violations constituting the basis for the revocation, the facts which support the conclusion that a violation or violations has occurred and a statement that if the Licensee desires to appeal, he must within ten (10) County working days, exclusive of the day of service, file a request for a hearing with the County Board. The hearing request shall be in writing stating the grounds for appeal and served personally or by certified mail on the County Board, with a copy to the Department and the County Attorney's Office, by midnight of the 10th County working day following service. Following receipt of a request for a hearing, the County Board shall set a time and a place for the hearing to be held pursuant to Section 3.0 below.

9.2.10. 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 Article.

9.2.11. Commencement of a Civil Court Action. In the event of a violation or a threat of violation of this Ordinance, the County Board may also institute other appropriate civil actions or proceedings in any court of competent jurisdiction, including requesting injunctive relief, to prevent, restrain, correct or abate such violations or threatened violations. The County may recover all costs, including reasonable attorney's fees, incurred for enforcement of this Ordinance through a civil action. If a property owner does not complete the Corrective Actions within the timelines in a court order, the Department may correct the violations and the Department has the authority to enter the property and perform the Corrective Actions. The Department may recover the costs of the same from the property owner through the court process or through the process set out in Section 2.4(D) above.

SECTION 9.3 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.

9.3.1. 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.

- 9.3.2. Notice of Hearing.** The County Board shall mail notice of the hearing to the appellant, with a copy to the Department and the County Attorney's Office, at least fifteen (15) working days prior to the hearing. Such notice shall include:
- A. A statement of time, place and nature of the hearing.
 - B. A statement of the legal authority and jurisdiction under which the hearing is to be held.
 - C. A reference to the particular Section of the Ordinance and Agency Rules, if any, involved.
- 9.3.3. Hearing Examiner.** The County Board may by resolution appoint an individual, to be known as the hearing examiner, to conduct the hearing and to make findings of fact, conclusions and recommendations to the County Board. The hearing examiner shall submit the findings of fact, conclusions and recommendations to the County Board in a written report, and the County Board may adopt, modify or reject the report.
- 9.3.4. Conduct of the Hearing.** The appellant and the Department may be represented by counsel. The Department, the appellant, and additional parties, as determined by the County Board or hearing examiner, in that order, shall present evidence. All testimony shall be sworn under oath. All parties shall have full opportunity to respond to and present evidence, cross-examine witnesses, and present argument. The County Board or hearing examiner may also examine witnesses.
- 9.3.5. Burden of Proof.** The Department shall have the burden of proving its position by a preponderance of the evidence, unless a different burden is provided by substantive law, and all findings of fact, conclusions, and decisions by the County Board shall be based on evidence presented and matters officially noticed.
- 9.3.6. Admission of Evidence.** All evidence that possesses probative value, including hearsay, may be admitted if it is the type of evidence on which prudent Persons are accustomed to rely in the conduct of their serious affairs. Evidence that is incompetent, irrelevant, immaterial or unduly repetitious may be excluded. The hearing shall be confined to matters raised in the Department's written notice of denial, suspension, emergency suspension, non-renewal or revocation of a license, denial of a variance, or Abatement Notice or in the appellant's written request for a hearing.
- 9.3.7. Pre-Hearing Conference.** At the request of any party, or upon motion of the County Board or hearing examiner, a pre-hearing conference shall be held. The pre-hearing conference shall be conducted by the hearing examiner, if the County Board has chosen to use one, or by a designated representative of the County Board. The pre-hearing

conference shall be held no later than five (5) County working days before the hearing. The purpose of the pre-hearing conference is to:

- A. Clarify the issues to be determined at the hearing.
- B. Provide an opportunity for discovery of all relevant documentary, photographic or other demonstrative evidence in the possession of each party. The hearing examiner or County Board's representative may require each party to supply a reasonable number of copies of relevant evidence capable of reproduction.
- C. Provide an opportunity for discovery of the full name and address of all witnesses who will be called at the hearing and a brief description of the facts and opinions to which each is expected to testify. If the names and addresses are not known, the party shall describe them thoroughly by job duties and involvement with the facts at issue.
- D. If a pre-hearing conference is held, evidence not divulged as provided above shall be excluded at the hearing unless the party advancing the evidence took all reasonable steps to divulge it to the adverse party prior to the hearing and:
 - (i) The evidence was not known to the party at the time of the pre-hearing conference; or
 - (ii) The evidence is in rebuttal to matters raised for the first time at or subsequent to the pre-hearing conference.

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

9.3.9. Appeal of County Board Decision. Any appellant aggrieved by the decision of the County Board may appeal that decision to any Court with appropriate jurisdiction.