SOLID WASTE
ORDINANCE

COUNTY OF POPE

POPE COUNTY, MINNESOTA

ADOPTED BY POPE COUNTY BOARD OF COMMISSIONERS ON
_____,

TABLE OF CONTENTS

ARTICLE I. PURPOSE, AUTHORITY, & POLICY 1
- **SECTION 1.0 PURPOSE & AUTHORITY 1**
- **SECTION 2.0 POLICY 1**

ARTICLE II. DEFINITIONS RULES & WORD USAGE 1
- **SECTION 1.0 DEFINITIONS 1**
- **SECTION 2.0 RULES, WORD USAGE 16**

ARTICLE III. GENERAL PROVISIONS ..... 17~~17~~16
- **SECTION 1.0 DEPARTMENT POWERS AND DUTIES ..... 17~~17~~16**
- **SECTION 2.0 BOUNDARIES OF SERVICE AREA 17**
- **SECTION 3.0 HIGHEST STANDARDS PREVAIL 17**
- **SECTION 4.0 JURISDICTION OF THE SOLID WASTE MANAGEMENT PLAN ..... 18~~18~~17**

ARTICLE IV. WASTE ABATEMENT, STORAGE, COLLECTION, RECYCLING, PROCESSING, & DISPOSAL 19
- **SECTION 1.0 WASTE ABATEMENT 19**
- **SECTION 2.0 STORAGE & COLLECTION 20**
- **SECTION 3.0 MIXED RECYCLABLES AND ORGANIC MATERIAL 22**
- **SECTION 4.0 PROCESSING & DISPOSAL 33**

ARTICLE V. SOLID WASTE MANAGEMENT SERVICE CHARGES 35
- **SECTION 1.0 PURPOSE AND AUTHORITY 35**
- **SECTION 2.0 GENERAL SERVICE CHARGE PROVISIONS ..... 36~~36~~35**
- **SECTION 3.0 PER PARCEL SERVICE CHARGE COLLECTION 36**
- **SECTION 4.0 HAULER-COLLECTED SERVICE CHARGE AND REMITTANCE 37**

ARTICLE VI. HAULER LICENSING PROVISIONS 40
- **SECTION 1.0 LICENSE REQUIRED 40**
- **SECTION 2.0 LICENSE REQUIREMENTS ..... 41~~41~~40**
- **SECTION 3.0 INSURANCE REQUIREMENTS ..... 42~~42~~41**
- **SECTION 4.0 EQUIPMENT & OPERATIONS REQUIREMENTS 44**
- **SECTION 5.0 REPORTING REQUIRED ..... 47~~47~~46**
- **SECTION 6.0 ADDITIONAL RECYCLABLE MATERIALS REPORTING REQUIREMENTS 47**
- **SECTION 7.0 WASTE DEPOSIT DISCLOSURE ..... 48~~48~~47**

ARTICLE VII. SOLID WASTE DESIGNATION ORDINANCE ..... 49~~49~~48
- **SECTION 1.0 PURPOSE ..... 49~~49~~48**
- **SECTION 2.0 FINDINGS 49**

SECTION 3.0 TITLE AND PURPOSE AND DEFINITIONS.....505049
SECTION 4.0 APPLICATION OF ORDINANCE 50
SECTION 5.0 DESIGNATION.....50
SECTION 6.0 UNACCEPTABLE WASTE.....50
SECTION 7.0 MATERIALS NOT SUBJECT TO DESIGNATION 515150
SECTION 8.0 SUSPENSION OF DESIGNATION REQUIREMENT.....51
SECTION 9.0 RATES AND CHARGES.....525251
SECTION 10.0 TITLE TO DESIGNATED WASTE.....52
SECTION 11.0 DELIVERY OF DESIGNATED WASTE.....52
SECTION 12.0 DUTY TO ACCEPT DESIGNATED WASTE; TEMPORARY INABILITY TO ACCEPT DESIGNATED WASTE.....53
SECTION 13.0 DESIGNATION RECORDS; INSPECTION 545453
SECTION 14.0 VIOLATIONS AND PENALTIES.....555554
SECTION 15.0 GENERAL TERMS.....565655

ARTICLE VIII. FACILITY REQUIREMENTS AND LICENSES 575756
SECTION 1.0 LICENSES REQUIRED.....575756
SECTION 2.0 FACILITY LICENSE FEES 585857
SECTION 3.0 LICENSE REQUIREMENTS.....585857
SECTION 4.0 REVIEW OF FACILITY LICENSE APPLICATION.....59
SECTION 5.0 TERM OF FACILITY LICENSE; RENEWAL; LICENSE NOT TRANSFERABLE.....606059
SECTION 6.0 INSURANCE REQUIREMENTS.....616160
SECTION 7.0 FACILITY RECORDS 63
SECTION 8.0 GENERAL REQUIREMENTS FOR ALL FACILITIES656564
SECTION 9.0 MIXED MUNICIPAL SOLID WASTE LAND DISPOSAL FACILITIES 66
SECTION 10.0 CONSTRUCTION AND DEMOLITION DEBRIS LAND DISPOSAL FACILITIES LICENSE.....69
SECTION 11.0 INDUSTRIAL SOLID WASTE LAND DISPOSAL FACILITIES 727271
SECTION 12.0 TRANSFER STATIONS.....747473
SECTION 13.0 SOLID WASTE PROCESSING FACILITIES 767675
SECTION 14.0 WASTE TIRE FACILITIES.....77

ARTICLE IX. INSPECTIONS, VIOLATIONS AND ENFORCEMENT808079
SECTION 1.0 INSPECTIONS 808079
SECTION 2.0 ACTION AUTHORIZED.....81
SECTION 3.0 HEARINGS.....888887

ARTICLE I. PURPOSE, AUTHORITY, & POLICY

SECTION 1.0 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.

Commented [DG1]: I'm not sure about this reference

SECTION 2.0 POLICY

The policy of _____Pope 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.

ARTICLE II. DEFINITIONS RULES & WORD USAGE

SECTION 1.0 DEFINITIONS

Unless the context clearly indicates otherwise, the following words and phrases shall have the meanings ascribed to them in this 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.

Commented [DG2]: This should be 115A.03

Acceptable Waste: means garbage, refuse and other Solid Waste from residential, commercial, industrial, and community activities that the Generator aggregates for collection and that meets the acceptance requirements of the Designated Facility, but specifically excludes Unacceptable Waste.

Agency: means the Minnesota Pollution Control Agency.

Agreements: means the Waste Delivery Agreements between the Joint Board and Haulers requiring the delivery of Acceptable Waste to the Designated Facility.

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

Air Contaminant:

Commented [DG3]: Consider definition for Air Contaminant: means that the presence in the outdoor atmosphere of any dust, fumes, mist, smoke, vapor, gas or other gaseous fluid, or particulate substance differing in composition from or exceeding in concentration the natural components of atmosphere.

Anaerobic Digestion: means the process during which microorganisms break down Organic Material in the absence of oxygen in an enclosed vessel to produce energy and beneficial soil or agricultural supplements.

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

Back-of-House: means the kitchen, food preparation, dishwashing, and storage areas of a commercial establishment that are not accessed by customers or the public.

Backyard Compost Site:

Beneficial Use: means an activity that serves to reuse nutrients through processing of Organic Material, such as consumption by humans or animals, Composting, Anaerobic Digestion, and additional methods as designated by the Department in collaboration with local facilities that manage Organic Material and further defined in Article ___.

Bin: means any receptacle including but not limited to a barrel or cart that is used for the Collection, storage, or transport of Waste to a Collection Container serviced by a Hauler for transport to a Disposal Facility, Organic Material Management Facility, or Materials Recovery Facility.

Bulky Items: means those items that are not included in regular Collection Service by a Hauler and include large items like mattresses and furniture that cannot fit into Collection Containers.

Business:

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.

Collection Container: means the receptacle that is provided, designated, and serviced by the Hauler for the Collection of any Waste, including but not limited to barrels, carts, dumpsters, roll-off containers, or compactors.

Collection Service: means a service providing scheduled Collection of any Waste.

Commented [DG4]: Consider definition for Backyard Compost Site: a site used to compost food scraps, weeds, lawn cuttings, leaves and pruning from a single family or household.

Commented [DG5]: Not sure where this is

Commented [DG6]: Consider definition for Business: means an operation, location or property where an activity other than residential or an activity in conjunction with a residence takes place for the purpose of selling a product, service, or commodity or recreational activity is either advertised or known to be for sale.

Commercial Composting Facility: means a site used to compost Organic Material, including Food Scraps, which have been Source Separated as defined in Minnesota Rules, part 7035.0300, Subpart 105b, and which meets applicable State and local requirements for composting Organic Material.

Commercial Generator: means an entity that is neither housing with Curbside Collection nor Multifamily Housing.

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: means the product resulting from the controlled biological decomposition of Organic Material that has been sanitized through the generation of heat during the composting process and stabilized to the point that it is beneficial to plant growth and can be used as a soil amendment without further processing.

Compostable: means that a material or product will biodegrade without leaving a residue or any toxicity in the soil. Any compostable plastics or lined papers must meet ASTM D6400 and ASTM D6868, respectively, as certified by the Biodegradable Products Institute or other similar independent certification bodies.

Composting: means the controlled biological decomposition of Organic Material through an aerobic method of accelerating natural decomposition.

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

Construction and Demolition Debris: means Solid Waste resulting from construction, remodeling, repair, erection and demolition of buildings, roads and other artificial structures, including: concrete, brick, bituminous concrete, untreated wood, masonry, glass, trees, rock, plastic building parts, plumbing fixtures, roofing materials, wallboard, and built-in cabinetry. Construction and Demolition Debris does not include: asbestos waste; auto glass; wood treated with chemical preservatives; furniture; lighting equipment; vermiculite; contaminated soil; firebrick; food waste; machinery; engine parts; liquid paints; paint thinners or solvents; varnishes; street sweepings; tar; carpet/padding if not affixed to a structure; mattresses; adhesives, caulking, sealants and applicators, brushes, containers, tubes, filters contaminated with these materials; sandblasting materials; agricultural chemicals or containers (including empty pesticide, herbicide, and insecticide containers); chemical containers; animal carcasses, parts, or rendering and slaughterhouse wastes; appliances (including white goods and brown goods); ashes or hot wastes that could spontaneously combust or ignite other wastes due

to high temperatures; ash from incinerators, resource recovery facilities and power plants; batteries; carbon filters; fluorescent tubes and ballasts; high-intensity discharge lamps; foundry wastes; Hazardous Waste; household Refuse or garbage; infectious waste; liquids (any type), liquid non-hazardous materials; medical waste; mercury containing wastes (thermostats, switches); PCB contaminated wastes; petroleum products and their containers or filters (including oil, grease or fuel); radioactive waste (unless natural materials at normal background levels); septic tank pumpings; sludges (including ink, lime, wood, sewage or paper); live coal tar (including applicators, containers, and tubes); Waste Tires; vehicles; Yard Waste; and packaging materials, including cardboard, paper, shrink-wrap and styrofoam. Mixtures of Construction and Demolition Debris with other Solid Waste is not Construction and Demolition Debris.

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 Pope County, Minnesota.

County Board: means the Pope County Board of Commissioners.

Covered Electronic Devices:

Covered Generators: are any Commercial Generators of Organic Material that must comply with this Ordinance as stated in Article ___.

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.

Daily Cover:

Department: means the Pope County ~~Solid Waste~~ Land and Resource Management Department.

Designated Area: means the geographical boundaries of Pope County.

Designated Facility: means the Pope/Douglas Resource Recovery Facility located at 2115 Jefferson Street, Alexandria, Minnesota 56308.

Designated Waste: means Acceptable Waste that is generated in the Designated Area and which is not otherwise exempted in Article VII of this Ordinance.

Designation: means the process authorized by Minn. Stat. §§ 115A.80 to 115A.893.

Designation Ordinance: means Article VII of this Ordinance.

Commented [DG7]: Consider definition for Covered Electronic Devices: computers, including tablet and laptop computers, peripherals, facsimile machines, DVD players, video cassette recorders, and video display devices that are sold toa a household by means of retail, wholesale, or electronic commerce.

Commented [DG8]: Consider definition for Daily Cover: soil cover material, or Agency approved alternative daily cover, that is spread or applied on the top and side slopes of compacted solid waste at least at the end of each operating day in order to control vectors, fire, infiltration, litter, and erosion and to assure an aesthetic appearance.

Commented [DG9]:

Disposal or Dispose: means the discharge, deposit, injection, ~~D~~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.

Disposal Facility: means a Waste facility permitted by the Minnesota Pollution Control Agency (MPCA) that is designed or operated for the purpose of disposing of Waste on or in the land together with any appurtenant facilities needed to process Waste for disposal or transfer to another Waste facility.

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 Collection Container or at a Solid Waste Management Facility during hours of operation.

Effective Date: means the date that the Designation Ordinance shall be in full force and effect which shall not be less than sixty (60) days after adoption of the Designation Ordinance by the County.

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.

Food Scraps: means all material resulting from the production, storage, preparation, processing, cooking, handling, selling, or serving of food for human or animal consumption, including but not limited to, meats, grains, dairy, fish, fruits, and vegetables.

Food-to-Animal Programs: means all Food-to-Animal-Feed Processing and Food-to-Livestock programs.

Food-to-Animal Feed Processing: means the process of using grains, cereals, vegetable and animal by-products to create a feed for animals.

Food-to-Livestock: means the process of re-using and recycling food and Food Scraps as feed for livestock, subject to regulation in Minnesota Statutes, sections 35.751 and 35.76.

Generation: means the act or process of producing Waste. "Generator" means any Person who generates Waste.

Generator: means any Person who produces Waste in the Designated Area.

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.

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.

Holidays: means New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day.

Household Hazardous Waste: means materials generated in a residential household, which includes any dwelling from a single unit to Multifamily Housing properties, that are in solid, semi-solid, liquid, or contained gaseous form that, because of 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 substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed of, or otherwise managed. Categories of hazardous waste materials include, but are not limited to, explosives, flammables, oxidizers, poisons, irritants, and corrosives. Household Hazardous Waste does not include source, special nuclear, or M by-product materials as defined by the Atomic Energy Act of 1954, as amended.

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.

Joint Designation Plan: means the Joint Board's Joint Designation Plan as approved by the Agency on August 20, 2020.

Land Disposal Site:

Commented [DG10]: Consider definition for Land Disposal Site: any tract or parcel of land , including any construction facility, at which solid waste is disposed of in or on the land.

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.

Commented [DG11]: Should we delete the adjective "Major"?

Materials Recovery Facility: means a permitted facility where Mixed Recyclables are received to be prepared for reuse in their original form or for use in manufacturing processes that do not cause the destruction of the materials in a manner that precludes further use. It does not include a manufacturer using recyclable materials as feedstock. This includes a transfer station where Mixed Recyclables are delivered, temporarily stored and sent to a facility where it is processed for Recycling.

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, but does include Source-Separated Compostable Materials.

Member County: means Pope or Douglas County.

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.

Mixed Paper: means white paperboard (white dry foods/material boxes), brown paperboard (cereal boxes), white and colored non-standard office paper (construction paper, cardstock), standard office paper, newspapers, magazines, discarded mail, which is free of all contaminants including, but not limited to, food residuals, plastic, foam waste, tissue paper, paper towels, and metals.

Mixed Recyclables: means materials that are separated from Waste for the purpose of Recycling, whether or not these materials are commingled for Collection.

Multifamily Housing: means an apartment building, a condominium, a townhouse, a cooperative housing unit, or any other property where a property manager or association coordinates Collection Service for residents of the housing.

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

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

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.

Nuisance:

Commented [DG12]: Consider definition for Nuisance: a condition which unreasonably annoys, injures, or endangers the safety, health, morals or repose of the neighborhood or any considerable number of members of the public. Also see Public Health Nuisance

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.

Organic Material: means the portion of Waste that is Source Separated for the purpose of Beneficial Use, and may include food, Food Scraps and other materials as designated by the Department in collaboration with local Organic Material Management Facilities. For the purpose of this Ordinance, Organic Material excludes Yard Waste regulated in Minnesota Statute, section 115A.931.

Organic Material Drop-off Site: is a site that accepts Organic Material self-hauled by residents for the purpose of collection and transport to an approved facility for Beneficial Use. The site may be a stand-alone site or be co-located at an existing Disposal Facility, Materials Recovery Facility, or transfer station.

Organic Material Management Facility: means a facility where Organic Material is received and processed for Beneficial Use. This includes a transfer station where Organic Material is delivered, temporarily stored and sent to a facility where it is processed for Beneficial Use.

Owner and **Occupant**: mean the person(s) or entity(s) which hold legal or beneficial title to a property and the person(s) or entity(s) which have or exercise possession or occupancy of a property, respectively.

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.

Pollutant:

Post Closure:

Commented [DG13]: Consider definition for Pollutant: has the meaning given in Minnesota Statutes, chapter 115A

Commented [DG14]: Consider the definition for Post Closure: the period after closure during which the long-term care, maintenance and monitoring of al site or facility takes place

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

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

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.

C. Real Property does not include;

(i) Tools, implements, machinery, and equipment attached to or installed in Real Property for use in the business or production activity conducted thereon, regardless of size, weight or method of attachment, and mine shafts, tunnels, and other underground openings used to extract ores and minerals taxed under chapter 298 together with steel, concrete, and other materials used to support such openings.

(ii) The exclusion provided in clause (i) shall not apply to machinery and equipment includable as real estate by paragraphs (a) and (b) even though such machinery and equipment is used in the business or production activity conducted on the Real Property if and to the extent such business or production activity consists of furnishing services or products to other buildings or structures which are subject to taxation under this chapter.

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

of Real Property even if it also has special functions distinct from that of a building.

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

Recycling: 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 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 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.

Commented [DG15]: These do not apply

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.

Resource Recovery: defined in Minn. Stat. Section 115A.03, subd. 27 as the reclamation for sale, use, or reuse of materials, substances, energy, or other products contained within or derived from waste.

Resource Recovery Facility: defined in Minn. Stat. Section 115A.03, subd. 28 as a "waste facility established and used primarily for resource recovery, including related and appurtenant facilities, such as transmission facilities and Transfer Stations primarily serving the resource recovery facility".

Responsible Party: means the owner of their designee of a commercial property or business including any Multifamily Housing building or complex covered under this Ordinance.

Rubbish:

Commented [DG16]: Consider definition for Rubbish: means nonputrescible solid waste, including ashes, consisting of both combustible and noncombustible waste, such as paper, cardboard, tin cans, yard clippings, wood, glass, bedding, crockery, or litter of any kind.

Self-Hauler: means a generator who does not contract with a commercial hauler, but instead collects and transports its own Solid Waste. A self-hauler shall not provide collection and transportation services to someone else for compensation.

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

Shoreland:

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

Sludge:

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

Solid Waste Collection:

Solid Waste Department or Department: means the _____ County Solid Waste 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

Commented [DG17]: Consider definition for Shoreland: means land located within the following distances from the ordinary high water elevation of public waters: (a) land within one thousand (1000) feet of lake, pond, reservoir, impoundment or flowage; and (b) land with three hundred (300) feet of a river or stream or the landward extent of a flood plain designated by ordinance on such river or stream, whichever is greater.

Commented [DG18]: Consider definition for Sludge: means any solid, semi-solid, or liquid waste generated from a municipal, commercial or industrial waste water treatment plant, water supply treatment plant, or air contaminant treatment facility, or any other waste having similar characteristics and effects.

Commented [DG19]: Consider definition for Solid Waste Collection: the gathering of solid waste from public or private places

Commented [DG20]: I am not aware or this specific designation being used in Pope County. Otherwise identify Land & Resource Management department or delete this definition

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

Solid Waste Management Services: means all activities provided by the County, by Persons under contract with the County, or by other Persons that support the waste management responsibilities described in Minn. Stat. Chapters 115A, 116, and 400, including, but not limited to, waste 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 Ordinance or Ordinance: means the Solid Waste Ordinance adopted by ~~_____~~Pope 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.

Solid Waste Transportation:

Commented [DG21]: Consider definition for Solid Waste Transportation: the conveying of solid waste from one place to another, by means of vehicle, rail, car, water vessel, conveyor, or other means.

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 Administrator has determined that no other person is willing to accept the paper for recycling; and

D. Is delivered to a Facility to undergo controlled microbial degradation to yield a humus-like product meeting the Agency's class I or class II, or equivalent, Compost standards and where process residues do not exceed 15 percent by weight of the total material delivered to the Facility.

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

Source Separation: means the separation of Mixed Recyclables and Organic Material from Trash at the source of Generation.

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.

Tipping Fee: means the fee at a waste facility for waste delivered to that facility based upon the weight, volume, character, or type of waste.

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.

Trash: means non-recyclable material that is designated for landfill or incinerator disposal by the Hauler. The term "Trash" does not include hazardous waste as defined in Minnesota Statutes, section 116.06, subdivision 11, or construction debris as defined in Minnesota Statutes, section 115A.03, subdivision 7.

Unacceptable Waste: means those Solid Wastes that cannot be accepted for processing or disposal as determined by the Designated Facility.

Waste: means all Trash, Mixed Recyclables, and Organic Material from residential commercial, industrial, and community activities.

Waste Reduction: or "Source Reduction" means an activity that prevents Generation of Waste or the inclusion of toxic materials in Waste, including reusing a product in its original form; increasing the life span of a product; reducing amount of material or the toxicity of material used in production or packaging; or changing procurement, consumption, or Waste Generation habits to result in smaller quantities or lower toxicity of Waste generated as defined in Minnesota Statutes, section 115A.03, subsection 36b.

Waste Stream: means the process or system by which waste is moved from the point of generation to the point of disposal by a Hauler or Person.

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.

Wetland:

Yard Waste: means plant materials including grass clippings, leaves, weeds, garden plants, and brush and branches under four inches in diameter and four feet in length.

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 2.0 RULES, WORD USAGE

The masculine gender includes the feminine and neuter genders.

Words used in the singular include the plural, and the plural includes the singular.

Commented [DG22]: Consider definition for Wetland: means a natural marsh where water stands near, at or above the soil surface during a significant portion of most years, and which is eligible for classification as a inland fresh water wetland type 3, 4 or 5 under United States Department of Interior classification.

Commented [DG23]: Need to edit and combine these definitions

Words used in the present tense include the future.

ARTICLE III. GENERAL PROVISIONS

SECTION 1.0 DEPARTMENT POWERS AND DUTIES

The Department shall be responsible for the administration of this Ordinance. The Department's duties shall include, but shall not be limited to, the following:

1.01 To implement this Ordinance and review and consider all initial license applications submitted to the Department for approval by the County Board for performance of Solid Waste Management Activities within the County, and after due consideration, the Department shall recommend in writing, with documentation to the County Board, that a license be granted or denied.

1.02 To review and consider renewal license applications, except as otherwise provided in this Ordinance.

1.03 To inspect Solid Waste Management Activities as herein provided, to investigate complaints, and to identify violations of this Ordinance.

1.04 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.

1.05 To encourage and conduct studies, investigations and research relating to aspects of Solid Waste Management such as methodology, chemical and physical considerations, and engineering.

1.06 To advise, consult, and cooperate with other governmental agencies in the furtherance of the purposes of this Ordinance.

SECTION 2.0 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 3.0 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.

Commented [DG24]: Optional Language: As defined, Department means the Pope County Land and Resource Management Department for which the Board may appoint a Solid Waste Administrator (Administrator) with sufficient personnel to discharge the duties of this department. The Administrator shall have all necessary authority to implement and carry out the provisions of this Ordinance including, but not limited to, the following:

Commented [DG25]: Staff training needed

Commented [DG26]: Staff training needed or consultants hired

SECTION 4.0 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.

Commented [DG27]: Does the county have jurisdiction that extends within municipal boundaries?

Commented [DG28R27]: Verified text of MN Stat 115A.46 subd. 5

SECTION 5.0 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~~ of the Pope County Land Use Controls ~~O~~rdinance, or the requirements of applicable municipal land use ordinances.

SECTION 6.0 WAIVERS OR MODIFICATIONS

Due to the great variability in the types of Solid Waste and their existing and potential management methods, the Solid Waste Administrator 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 Administrator, 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 Department 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.

Commented [DG29]: Discretionary Powers
Is there a conflict with MN Statute 394.27 where such powers are reserved only for the Board of Adjustment?

SECTION 7.0 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 Agency.

SECTION 8.0 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 9.0 FINANCIAL ASSURANCE

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

Commented [DG30]: Is this required for Hauler Licensing?

SECTION 10.0 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 Solid Waste Management Activity prior to issuance of a license, when a license is required hereunder.

SECTION 11.0 FALSE INFORMATION

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

SECTION 12.0 DATA PRIVACY

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

SECTION 13.0 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.

ARTICLE IV. WASTE ABATEMENT, STORAGE, COLLECTION, RECYCLING, PROCESSING, & DISPOSAL

SECTION 1.0 WASTE ABATEMENT

1.01 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.

1.02 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 Collection Containers that are easily distinguishable from Mixed Municipal Solid Waste Collection 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:

1. Mulching it and spreading it on the ground,

2. Composting it on-site; or

3. Transporting it to a permitted Yard Waste Facility, either by Self-Hauling or by contract with a licensed Hauler.

B. 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 2.0 STORAGE & COLLECTION

2.01 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, Recyclable Materials, and Organic Material. This section also governs Curbside Collection and all Persons collecting and transporting Solid Waste within the County.

2.02 Storage

Property owners and managers shall maintain their Open Areas free of Solid Waste accumulations unless the Solid Waste is stored in an acceptable Collection 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; 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; 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.

Commented [DG31]: What is the enforcement mechanism for this standard?

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.

Commented [DG32]: What is the enforcement mechanism for this standard?

C. Agricultural Sites

No Person shall place or store upon the Open Areas of any Agricultural 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, unless such activity is otherwise permitted by the County.

Commented [DG33]: What is the enforcement mechanism for this standard?

D. Construction Sites

Any Solid Waste generated at Construction Sites shall be placed in acceptable containers as specified in this Ordinance. No burning, burying or dumping of Solid Waste generated at Construction Sites shall occur at locations other than licensed Solid Waste Management Facilities, including brush and tree waste. Generators of Solid Waste at Construction Sites must ensure the separation of Mixed Municipal Solid Waste and Recyclable Materials either on-site or through the use of a service provider offering such separation.

E. 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 Collection Containers that are rust, impact, vermin, and leak resistant. When aggregated for Collection, Yard Waste, Recyclable Materials, and Organic Material shall be placed in Collection Containers that are easily distinguishable from Mixed Municipal Solid Waste Collection Containers. Plastic 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.

F. 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 Administrator.

2.03 Collection

Unless the Owner is engaging in Self-Hauling, every Commercial and Residential Site in the County 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 or weight basis to provide Generators the financial incentive to reduce their production of Mixed Municipal Solid Waste.

Commented [DG34]: Are we dictating that a private contract must be established

B. Curbside Collection

Haulers must provide curbside services for the Collection and Transportation of Mixed Municipal Solid Waste, Yard Waste, Recyclable Materials, and Organic Material to those Generators wishing to contract for such services. Generators utilizing the services of a Hauler may place acceptable Collection Containers of Mixed Municipal Solid Waste, Yard Waste, Recyclable Materials, or Organic Material at the curb or Collection site no sooner than the evening prior to scheduled Collection and Generators must remove the empty Collection 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 3.0 MIXED RECYCLABLES AND ORGANIC MATERIAL

Commented [DG35]: Is this optional or mandatory? Is Pope County committed to this standard? There are burdens placed upon cities with this text and burdens upon the county in the event that cities do not comply

3.01 Collection Requirements

A. Recyclable Materials Collection Requirements

1. 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.

2. Residential Building Recycling

Haulers that provide Hauler Services to Generators located in Residential Buildings and Multi Unit Residential Buildings in the County must also provide Curbside Collection of at least four (4) categories of Recyclable Materials at the same Residential Buildings and Multi Unit Residential Buildings at least twice per month.

3. Nonresidential Property Recycling

All Nonresidential Properties that are listed in Sectors 42 to 81 of the North American Industrial Clarification System (NAICS) located in the County must also obtain Collection of at least four (4) categories of Recyclable Materials at the same Nonresidential Properties at least twice per month.

4. Education

Twice per year each Hauler shall provide each Generator it serves with information about the Recycling requirements of this Ordinance.

B. Organic Material Collection requirements for Residences

1. Curbside Collection of Organic Material

By _____, Cities shall provide the opportunity to participate in Curbside Collection of Organic Material to residential households that are single family through fourplex and other residential households where each household has its own Collection Container for Mixed Recyclables. Curbside Collection of Organic Material must be provided year round on a bi-weekly basis. A City may adjust Collection Service frequency with prior approval by the Department.

Commented [DG36]: Proclamation, ordinance, resolution…?

Commented [DG37R36]: Maybe this is intended to be filled in as a date

Cities shall make Curbside Collection of Organic Material available by contracting for citywide service or by requiring Haulers to provide the service. If a City does not provide Curbside Collection of Organic Material by contracting for citywide service, the City shall require Haulers to provide it. Haulers shall provide Curbside Collection of Organic Material upon request to households that have Curbside Collection for Mixed Recyclables.

Cities shall require Haulers to provide the following information annually, to the City:

- A description of how Organic Material will be collected.
- A communications plan that includes the method(s) and frequency of communications that notify residents of the availability of Curbside Collection of Organic Material.
- Instructions on how residents sign up for the Curbside Collection of Organic Material.
- A Curbside Collection schedule or calendar.
- Instructions on how residents should prepare Organic Material for Curbside Collection.
- The number of participants and tonnage collected.
- The Organic Material Management Facility where Organic Material is delivered.
- The contact information of a representative who works for the Hauler who can respond to inquiries related to the requirements of this Ordinance.

Cities shall share this information with the County as required by the reporting requirements in Section II, Subsection 4 of this Ordinance.

2. Curbside Collection exemption for Cities of the fourth class

If a City of the fourth class, as defined in Minnesota Statutes, section 410.01, chooses not to meet Section II, Subsection 2A of this Ordinance, it must provide at least one Organic Material Drop-off Site within its geographic boundaries by _____. A City of the fourth class may partner with nearby Cities to meet this requirement with prior approval by the Department.

Commented [DG38]: Date?

3. Education Requirements

Cities shall:

- Use County terminology on promotional materials when describing Organic Material guidelines, including the description of materials accepted and not accepted, as well as preparation guidelines.
- Use images approved by the County if using images of Mixed Recyclables and Organic Material.
- Provide information on the City's website, including materials accepted and not accepted, a Curbside Collection calendar, and links to County resources on waste management.
- Provide a guide on Mixed Recyclables and Organic Material to residents

each year. The guide shall contain information on Curbside Collection, materials accepted and not accepted, and a Curbside Collection calendar.

- Complete two educational activities each year to promote Curbside Collection. The County will provide a list of activities to city recycling coordinators.

4. City Reporting Requirements to the Department

Each City shall report all information relating to Waste Generation, Collection, and disposal within its boundaries to the Department. Such information shall include data on tonnage of Waste generated in the City, licensing and contract information, a description of Waste management programs, financial information, and any additional information as requested by the Department. Such information shall be provided on an annual basis by or on February 15th of each year or as otherwise directed by the Department.

Commented [DG39]: Should be directed by the Board

5. Failure to Meet Requirements

a. Compliance

It is the responsibility of each City to meet the requirements of this Ordinance. The implementation of the County requirements for Cities shall be the responsibility of each respective City. Nothing in this Ordinance shall preclude the Collection of Yard Waste, although Yard Waste Collection alone is not sufficient for a City to be compliant with the Ordinance

b. County Enforcement

If any City fails to establish or implement any or all of the requirements of this Ordinance, the County Board may implement any of the requirements of this Ordinance within the boundaries of the City. The County Board, to the extent that it has assumed the responsibilities that the City has failed to assume, may seek reimbursement from a City for all costs, expenses, and expenditures that the County has incurred incident to the adoption, implementation, administration, and enforcement of this Ordinance within the boundaries of a City through any means available under Minnesota law.

Commented [DG40]: This might be challenging

3.02 General Provisions for Multifamily Housing

A. Mixed Recyclables Collection requirement

Upon execution, Cities shall have an ordinance that requires property owners of Multifamily Housing to provide Collection Service for lessees. Mixed Recyclables Collection Service must be available at all Multifamily Housing buildings within the County. It is the responsibility of each City to enforce its ordinance(s) relating to the Collection of Mixed Recyclables from Multifamily Housing within the boundaries of the City.

Responsible Parties must enter into an agreement with a Hauler or arrange service through a City contract to provide Collection Service to collect Mixed Recyclables from each building.

The agreement between the Responsible Party and Hauler must also provide for the Collection and delivery of these materials to a Materials Recovery Facility. Mixed Recyclables must go to a Materials Recovery Facility, and if Organic Material Collection Service is provided, Organic Material must be delivered to an Organic Material Management Facility.

B. Education requirements

The Responsible Party must distribute written information about the Collection Service to each occupied building unit at the time of leasing and at least annually thereafter. If Collection Service for Organic Material is available, this information must include details pertaining to that program.

Educational material and instructions may be provided in print or electronic form and shall include, but not be limited to:

- Reasons to properly manage Mixed Recyclables, Organic Materials, and adopt practices that result in Waste Reduction.
- Mixed Recyclables and Organic Material guidelines, including the description of materials accepted and not accepted, as well as preparation guidelines.
- Disposal options for Household Hazardous Waste and Bulky Items.
- Location of Collection Containers for lessees to use.
- Contact information for the City or County for additional information.

Educational materials are available from the County. The County has the authority to request verification of annual education practices. A record must be kept to meet the self- inspection requirement in Section V, Subsection 3.A of this Ordinance.

C. Bin and labeling requirement

Responsible Parties must make Collection for Mixed Recyclables convenient for lessees. Responsible Parties shall:

- Provide separate Bins for the disposal of Mixed Recyclables where Trash is also being collected in common areas, including, but not limited to laundry rooms, mail pickup area, and community rooms.

- Conveniently locate sufficiently sized Bins for the amount or volume of Waste generated.

- Affix a label on each Bin to indicate which Waste type should be placed inside the Bin. Replace label if it becomes damaged, faded, illegible, or when images or text conflict with the acceptable materials.

Labels on Bins must:

- Clearly and legibly state a Waste type and show images of acceptable materials for Mixed Recyclables and Organic Material.

- Be color-coded to differentiate the material being collected. The color blue must be used for Mixed Recyclables; green for Organic Material for Composting or Anaerobic Digestion; and red, gray or black for Trash.

- Include standardized and relevant terminology.

- Include preparation instructions where applicable.

This Ordinance incorporates by reference the obligations placed on public entities, commercial buildings and sports facilities in Minnesota Statutes, section 115A.151, and all subsequent codifications.

D. Organic Material Collection Requirement for Commercial Generators

In addition to the obligations in Minnesota Statutes, section 115A.151, Covered Generators must implement a Collection program to divert food and Food Scraps from Back-of-House for Beneficial Use by January 1, 2020.

Commented [DG41]: update

1. Covered Generators

Commercial Generators covered under this Ordinance are the business types identified in Sectors 42 to 81 of the NAICS. The County Board may annually designate by resolution additional business classifications. Obligations under this Ordinance will become effective for all added businesses one year after the County Board's resolution. The County will maintain a list of Covered Generators on its website.

Commented [DG42]: Who generates the initial list of generators?

2. Beneficial Use

For the purpose of this Ordinance, Beneficial Use of Organic Material includes the following:

- Donation of edible food for human consumption (must be done in combination with other management methods)

- Collection of food and Food Scraps for Food-to-Animal Programs (this may

include either Food-to-Livestock or Food-to-Animal-Feed Processing).

- Collection of food, Food Scraps and other Compostable materials for Composting at a Commercial Composting Facility.
- Collection of food, Food Scraps, and other Compostable materials accepted for Anaerobic Digestion at an Anaerobic Digestion facility.
- Additional methods may be included but must be reviewed and approved by the Department.

Nothing in this Ordinance shall preclude a Covered Generator or other licensed food establishment from donating leftover or unsold food that is fit for human consumption to a food shelf, food bank, shelter, or other food reuse program, or from implementing Source Reduction strategies to reduce their Generation of excess food and Food Scraps. In fact, the Department considers these management options of food to be of highest priority. However, unless the Covered Generator requests and receives a Variance in writing and signed by the Department, these actions alone shall not be considered sufficient compliance with this Ordinance.

3. Collection requirements

Food and Food Scraps must be Source Separated from other Waste in all Back-of-House areas where Organic Material is Generated and Collected. The Covered Generator shall abide by the following requirements:

- Provide sufficiently sized Bins for the amount or volume of Organic Material generated in any Back of House area.
- Conveniently locate each Bin in a manner to promote its use. Bins must be readily accessible to employees any time there is access to Bins for Trash.
- Affix a label on each Bin to indicate only Organic Material may be placed in the Bin. Replace label if it becomes damaged, faded, illegible or when images or text conflict with the acceptable materials.

Covered Generators must either obtain the proper license to self-haul or contract with a Hauler or service provider to collect and deliver all of a Covered Generator's food and Food Scraps to one or more Organic Material Management Facilities.

Commented [DG43]: So a generator that self-hauls will need a haulers license?

Where a building owner rents, leases, or lets space to a business that is a Covered Generator, the building owner is responsible to either provide a Collection system on behalf of the tenant or to facilitate and allow the tenant to set up their own Collection Service for Organic Material.

The building owner and Covered Generator shall not contaminate or commingle Organic Material that has been Source Separated in a manner that would make it unfit for an Organic Material Management Facility.

A Covered Generator may collect other Compostable material in addition to food and Food Scraps provided that the collected materials are appropriate for the intended Organic Material Management Facility.

4. Education requirements

Covered Generators shall post instructions on the separation requirements for Organic Materials in an area where such instructions will be visible to employees who are disposing of Organic Materials. The instructions shall state that Organic Material is required to be Source Separated and shall explain which materials must be Source Separated according to the intended Beneficial Use. The Department will post guidelines on accepted materials on the County website and regularly update such information.

Covered Generators shall provide training opportunities to all new employees and subcontractors performing work regulated by this Ordinance and review Collection procedures of Organic Materials with all employees and such subcontractors at least once per year. A record of trainings must be kept to meet the self-inspection requirement in this Ordinance.

E. Bin and labeling requirements

Responsible parties shall:

- Provide sufficiently sized Bins for the amount or volume of Mixed Recyclables generated if Bins for Trash are also provided.
- Conveniently locate sufficiently sized Bins for the amount or volume of Waste generated.
- Affix a label on each Bin to indicate which Waste type should be placed inside the Bin. Replace label if it becomes damaged, faded, illegible, or when images or text conflict with the acceptable materials.

Labels on Bins must:

- Clearly and legibly state a Waste type and show images of acceptable materials for Mixed Recyclables and Organic Material.
- Be color-coded to differentiate the material being collected. The color blue must be used for Mixed Recyclables; green for Organic Material for Composting or Anaerobic Digestion; and red, gray or black for Trash.

- Include standardized and relevant terminology.
- Include preparation instructions where applicable.

Labels and signs that meet these requirements are available from the County.

1. Variances

A Covered Generator or Responsible Party may seek a waiver from the Department of all or portions of this Ordinance if one or all of the following special circumstances apply:

- Lack of adequate storage space for Bins and Collection Containers.
- Generation of Organic Material has been eliminated or substantially eliminated.
- Determination by a local health authority that Collection of Organic Material would conflict with MN Rules 4626 (Food Code) or other applicable state or federal food regulations.

The applicant must submit a form specified by the Department and include a signed affidavit. This form and guidelines will be supplied by the Department upon request.

When a Covered Generator requests a variance from this Ordinance the Department will issue a written determination regarding that variance request within 30 working days.

To be effective, the variance must be in writing and signed by the Department or its designee. A variance may be revoked if one or more of the factors justifying the exemption no longer exist, or other changes in circumstances warrant revocation. Unless earlier revoked, a variance shall be effective for a period of three years from the date it was granted.

Commented [DG44]: Horizon Public Health

Commented [DG45]: That we create?

Commented [DG46]: Is the standard for authority and basis the same as in 394 where variances are the purview of the BOA?

3.03 Shared Provisions for Multifamily Housing and Commercial Generators

A. Collection requirements

1. Collection Container and Collection Service requirements:

The Responsible Party shall ensure that Collection Containers for Mixed Recyclables and Organic Material are as conveniently located for tenants and lessees to access as are Collection Containers for Trash. Collection Containers must be located in an accessible room or area, having appropriate aisle space that allows unobstructed access for the user. Access to Collection Containers for Mixed Recyclables and Organic Material must be allowed any time there is access to a Collection Container for Trash.

The Responsible Party shall ensure Collection Service is adequate for the Mixed Recyclables and Organic Material generated onsite. In the event that Mixed Recyclables

or Organic Material are overflowing Collection Containers and subsequently being discarded as Trash, hauling frequency or Collection Container size must be adjusted within 30 days to accommodate the material being generated.

Collection Containers provided by contracted Haulers shall be maintained in clean and sanitary condition in accordance with all pertinent health statutes, ordinances, rules, and regulations. Collection Containers must be located in such a manner to prevent them from being overturned or from obstructing pedestrian or motor vehicle traffic or be in violation of any statute, ordinance, rule, or regulation.

2. Labeling requirements

Collection Containers must be labeled by Haulers to designate the type of material to be placed therein and must meet the following requirements. Labels must:

- Be visible from all points of access for the user.
- Clearly and legibly state a Waste type and show images of acceptable materials for Mixed Recyclables and Organic Material.
- Be color-coded to differentiate the material collected. The color blue must be used for Mixed Recyclables; green for Organic Material for Composting or Anaerobic Digestion; and red, gray or black for Trash.
- Include standardized and relevant terminology.
- Include preparation instructions where applicable.
- Be sized a minimum of 8 ½ inches by 11 inches and include Waste type in letters at least one inch high for Collection Containers that are barrels or carts.
- Be sized a minimum of 11 inches by 17 inches and include Waste type in letters at least one inch high for Collection Containers other than barrels or carts that are up to four yards in volume.
- Be sized a minimum of 18 inches by 24 inches and include Waste type in letters at least two inches high for Collection Containers larger than four yards in volume.
- Be replaced if damaged, faded, illegible or when images or text on the label conflict with materials accepted in Collection of Mixed Recyclables and Organic Material.

Labels and signs that meet these requirements are available from the County. Further specifications relating to Collection Containers may be designated by the Department and will be posted on the County's website.

B. Implementation

1. Self-inspection program

Every Responsible Party shall arrange for and maintain a program for self-inspection. The self-inspection program shall include confirmation acceptable to the Department that requirements listed under Section III; Section IV; and Section V, Subsection 1 are met.

The Department may establish a self-reporting form to be completed within a regular interval no more frequent than annually, which may include, but is not limited to, program description, proof of hauling or other Waste management contract information, Waste Collection Service volumes and frequency, training plan, and financial information related to all Waste.

Commented [DG47]: Another form

2. Department Inspection

Inspection and evaluation listed in Section V, Subsection 2 and Section V, Subsection 3 shall be completed in such a frequency to ensure consistent compliance by Responsible Parties and Haulers with Section III, Section IV, and Section V of this Ordinance. The Department shall provide the Responsible Party with written notice of any deficiencies, corrections, and the date by which the corrections shall be accomplished. At the Department's election, the Responsible Party shall allow the authorized representative of the Department to collect samples of Waste to evaluate contamination levels. The Responsible Party shall allow free access at all reasonable times to inspect and copy all business records related to Waste collection. The Responsible Party shall report to the County upon request information such as the business name, address, and telephone number of each contracted Hauler, as well as the day(s) of pickup and days which Disposal Facility, Materials Recovery Facility or Organic Material Management Facility is receiving the material. The Responsible Party shall allow the authorized representative from the Department to record and document their findings in any reasonable and appropriate manner including, but not limited to, notes, photographs, photocopies, video recordings, audio recordings, and computer storage systems or other electronic media.

Commented [DG48]: We do not have staff trained for this task

When requested by an authorized representative of the Department, the Responsible Party shall provide photocopies or electronic copies of records including scans, electronic image files, or other electronic files of records.

3. Right of entry

Whenever necessary to perform an inspection to enforce any of the provisions of this Ordinance or whenever the Department has reasonable cause to believe that a Responsible Party is not compliant, the authorized representative of the Department may enter such building or premises during business hours to inspect to ensure compliance with this Ordinance. If such building or premises is occupied, the authorized representative shall first present proper credentials and demand entry. Advanced notice is not required. If such entry is refused or cannot be obtained, the Department shall have recourse to every remedy provided by law to secure entry including administrative search

warrants. If the Responsible Party or other Person having control of the premises has previously stated that they will refuse to allow the authorized representative of the Department entry for inspections, then the Department shall have the authority to obtain an administrative search warrant in advance of an inspection at that premises, without first being denied entry.

Commented [DG49]: From a judge?

3.04 Violations

It shall be unlawful for any Person other than Haulers to distribute, collect, remove or dispose of Mixed Recyclables after said materials have been placed or deposited for Collection Service.

Pursuant to Minnesota Statutes, sections 115A.95 and 115A.553, it shall be unlawful for a Hauler to dispose of any Source Separated Mixed Recyclables or Source Separated Organic Material at a waste-to-energy facility or landfill.

Nothing in this Ordinance shall abridge the right of any Person to give or sell their Mixed Recyclables or Organic Material to any Recycling program lawfully operated for profit, non-profit or charitable purposes.

Nothing in this Ordinance shall abridge the right of any authorized Recycling program to lawfully operate within the County, subject to such other licenses or other regulations as may be required by law.

SECTION 4.0 PROCESSING & DISPOSAL

4.01 Purpose

This section governs the processing and disposal of Solid Waste and regulates Solid Waste accumulations within the County.

4.02 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.

Commented [DG50]: Are cities required to be licensed?

4.03 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.

4.04 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.

Commented [DG51]: Does this refer to individual property owners?

4.05 Industrial Solid Waste

Generators are responsible for identifying, characterizing and properly managing the Industrial Solid Waste that they produce.

4.06 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.

4.07 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.

4.08 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. The owner of any such Site shall prevent disposal of Solid Waste at the Site and if ~~necessary~~necessary, take corrective actions to appropriately close and clean-up the Site, as determined by the County and/or the Agency. The existence of an unlicensed Solid Waste Site shall be reported to the Solid Waste Administrator upon discovery.

Commented [DG52]: …except in conformance with MN Statute 17.135

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.

Commented [DG53]: Except as permittable in 4.08 above

D. Unauthorized Container Use

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. SOLID WASTE MANAGEMENT SERVICE CHARGES

The following provisions are enacted pursuant to Minn. Stat. §400.08 ~~(Metro Counties cite Minn. Stat. §473.811, subd. 3a)~~, which authorizes the County to create and to impose Service Charges within the County's jurisdiction for Solid Waste Management Services.

Commented [DG54]: No metro counties here

SECTION 1.0 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 2.0 GENERAL SERVICE CHARGE PROVISIONS

2.01 Solid Waste Management Service Charge

A Solid Waste Management Service Charge 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.

Commented [DG55]: Discretional?

2.02 Procedures for Establishing the Amount of Solid Waste Management Service Charge

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

Procedures for Adjusting the Amount of Solid Waste Management Service Charge

The Board may adjust the amount and method or methods of collecting the Solid Waste Management Service Charge by ordinance 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.

2.04 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:

Commented [DG56]: Shouldn't we pick one or the other but not both?

A. A per parcel Service Charge collected through an assessment payable with the real estate taxes;

B. A Service Charge collected by licensed Haulers that is based on the amount of Solid Waste generated.

Per Parcel Option:

SECTION 3.0 PER PARCEL SERVICE CHARGE COLLECTION

3.01 Per Parcel Charges

The County Auditor shall each year assess a solid waste management service charge per parcel payable with real estate taxes. The service charge shall be _____ Dollars ($_____) for Residential parcels and _____ Dollars ($_____) for Nonresidential parcels. On or before October 15th of each year, the County Board shall certify to the County Auditor all unpaid outstanding per parcel charges and a description of the lands against which the charges arose. It shall be the duty of the County Auditor, upon order of the County Board, to extend the assessments with interest rate provided for in Minn. Stat. §279.03, subd. 1, upon the tax rolls of the County for the taxes of the year in which the assessment is filed. For each year ending October 15th, the assessment with interest shall be carried into the tax becoming due and payable in January of the following year, and shall be enforced and collected in the manner provided for the enforcement and collection of real property taxes in accordance with the provisions of the State of Minnesota. The charges, if not paid, shall become delinquent and be subject to the same penalties and the same rate of interest as the taxes under the general laws of the state. Unpaid charges on tax exempt properties may be collected in Small Claims Court or through such other means as may be approved by the County Attorney.

Commented [DG57]: Optional Language: The Board shall establish by resolution act to establish the amount or rate of the solid waste management service charges, as well as the method or methods of collection, following a public hearing, and shall state the effective date of the solid waste management service fee/charge(s). The County Auditor shall each year assess the solid waste management service charge per parcel payable with real estate taxes.

Hauler-Collected Option:

SECTION 4.0 HAULER-COLLECTED SERVICE CHARGE AND REMITTANCE

4.01 Service Charge Collection by Haulers

A. As a condition of maintaining its License, each Hauler shall bill the Service Charge to and collect the Service Charge from all Persons to whom they provide Hauler Services, according to the rates and provisions established herein. In the event a municipality contracts or otherwise arranges for Hauler Services on behalf of Generators and elects to bill the Service Charge to and collect the Service Charge from Persons who are billed for such services, and subsequently remits all Service Charges collected to the County, a Hauler is not required to bill the Service Charge to or collect the Service Charge from such Persons in such municipalities.

B. The Hauler must collect and remit the Service Charge for any Hauler Services provided on or after _____, notwithstanding the fact that the Hauler may have billed or invoiced prior to _____. Each Hauler shall make reasonable efforts to collect the Service Charge.

Percentage of Sales Price Option:

C. The Service Charge is imposed on the amount of Solid Waste generated and shall be collected by the Hauler on the sales price of Hauler Services as incurred by any Person paying for Hauler Services. The Service Charge shall be ____ percent (____%) for Residential Persons and ____ percent (____%) for Nonresidential Persons. If the sales price does not represent the fair market value of the Hauler Services, the Service Charge shall be calculated on the fair market value of those Hauler Services. Any sales

tax or other tax or Service Charge imposed by a unit of government is not subject to the Service Charge.

OR

Weight or Container-Based Option:

C. The Service Charge is imposed on the amount of Solid Waste generated and shall be collected by the Hauler according to the following method:

1. _____ Dollars ($_____) per ton of Solid Waste generated by the Person if the Person generated amounts that can be measured in tons, or

2. _____ Dollars ($_____) per _____ gallon container, and _____ Dollars ($_____) per _____ gallon container, and _____ Dollars ($_____) per _____ gallon container.

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.

4.02 Remittance

A. The Service Charge collected by Haulers must be remitted to the County or its designee. Failure to remit the Service Charge collected may result in the revocation of the Hauler's License by the County.

B. 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.

Commented [DG58]: Board of Commissioners or Board of Adjustment?

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.

4.03 Service Charge Itemized on Statements

A. Each Hauler shall separately itemize the Service Charge on any statement or invoice issued for payment of Hauler Services. The Service Charge must be identified as "County 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.

4.04 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.

Commented [DG59]: Another form

4.05 Recalculation of Service Charge

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

4.06 Examination of Records

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

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

4.07 Late Payment

A late payment penalty in the amount of one-half of one percent (0.5%) per month, or the maximum interest rate allowed by law, shall be imposed upon Service Charges collected from the Generator but not remitted by the Hauler to the County on or before the last day of the month following the 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.

4.08 Collection Actions

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

A. If a Generator fails to pay the Service Charge to a Hauler in a timely manner, the County may use any available legal remedies to collect the overdue, unpaid Service Charges from the Generator, including, but not limited to, the process to collect the Service Charge via the property tax pursuant to 3.01, above.

Commented [DG60]: Are we enforcing a contract between two private parties?

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 as otherwise provided in this Ordinance.

4.09 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 Article VIII, Section 3.

ARTICLE VI. HAULER LICENSING PROVISIONS

SECTION 1.0 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.

Commented [DG61]: Does this conflict with Article iv Section 3, 3.02 D.3.?

SECTION 2.0 LICENSE REQUIREMENTS

Haulers shall comply with the following license requirements.

2.01 License Application

The Hauler shall submit a completed application to the County on a form provided by the Department.

Commented [DG62]: Another form

2.02 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 by _____ of 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.

2.03 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.

2.04 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 15th of each year. License renewal applications received after that date shall be subject to a late fee.

Commented [DG63]: Currently, license renewal is by December 15 of each year. So, to present application to the Board in time for their December meetings, a November application deadline seems appropriate.

2.05 License Non-Transferable

Licenses granted by the Department under this Section are not transferable to other Persons.

2.06 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 and shall not use the vehicle until the Department has issued a decal and the decal has been affixed to the vehicle.

Commented [DG64]: ? what is this?

Commented [DG65]: Where are we getting these decals from and what do they say?

SECTION 3.0 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:

3.01 Worker's Compensation Insurance

A. Worker's compensation insurance shall be in compliance with all applicable State Statutes. Such policy shall include Employer's liability coverage in at least such amount(s) as are customarily issued in Minnesota and an All States or Universal Endorsement, if applicable.

B. In the event a Licensee is a sole proprietor and has elected not to provide workers' compensation insurance, the Licensee shall be required to execute and submit to the Department an affidavit of sole proprietorship in a form acceptable to the Department.

3.02 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).

Commented [DG66]: Someone needs to verify if these coverages are current and appropriate

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.

3.03 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 $1,000,000 per accident, which total limits may be satisfied by the limits afforded under such policy, or by such policy in combination with the limits afforded by an "Umbrella" or "Excess Liability" policy(ies), provided, that the coverage afforded under any such "Umbrella" or "Excess Liability" policy(ies) shall be at least as broad with respect to such business automobile liability insurance as that afforded by the underlying policy. Unless included within the scope of the Licensee's commercial general liability policy, such business automobile liability policy shall also include coverage for motor vehicle liability assumed under contract.

3.04 Additional Insurance

The County may require a Licensee to undertake an annual insurance evaluation, conducted by an independent evaluator selected by the County, which evaluator shall be reasonably acceptable to Licensee. The County may, at any time during the period of the license, require that Licensee secure any additional insurance, or additional feature to existing insurance, as is recommended by such evaluation as reasonably required for the protection of the County's interests or those of the public.

3.05 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.

3.06 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.

3.07 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 4.0 EQUIPMENT & OPERATIONS REQUIREMENTS

4.01 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.

4.02 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.

4.03 Labeling

Each vehicle used by a Hauler for the Collection or Transportation of Solid Waste shall be identified by a license decal issued by the Department for that vehicle for the current license year. The Hauler must permanently affix the decal in a conspicuous place on the left side of the cab of the vehicle for which it was issued. The Hauler must maintain the license decal so that it is readily visible and legible at all times. Any vehicle not bearing

Commented [DG67]: Another form

the required decal shall be considered unlicensed. Vehicles used exclusively for collecting Source Separated Recyclable Materials or hauling processed Recyclable Materials to market need not have a license decal, but the Hauler must be licensed by the Department.

The Hauler shall also print or paint in legible characters the capacity of each vehicle, and the name, address, and telephone number of the Hauler on each side of all vehicles or containers used by the Hauler to store, collect or transport Solid Waste in the County. Letters and numbers shall be at least four (4) inches high for all vehicles and at least two (2) inches high for all containers. This provision shall not apply to containers owned and maintained by a Solid Waste Generator.

4.04 Inspection

The Department may inspect and approve all Solid Waste Collection and transportation vehicles.

Commented [DG68]: What are we inspecting for? Safety? Whether it is road worthy or not? Etc...

4.05 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.

4.06 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.

4.07 Smoking, Smoldering or Burning Solid Waste

The Licensee may not collect or transport Solid Waste that are smoking, smoldering, or burning.

4.08 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.

4.09 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.

4.10 Yard Waste Collection

Haulers shall only accept for Collection Yard Waste that meets the following criteria:

A. Has been placed in paper bags or other containers that will decompose within the time period it takes to produce a finished Compost product out of the material held by the container; or

B. Is in a container that is not collected with the Yard Waste.

4.11 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.9l6), 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.

4.12 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.

4.13 Providing Recycling Opportunities

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

Commented [DG69]: Is this to be enforced by staff?

4.14 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 30 gallons per increment, with the exception for fees charged for bulky items.

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 5.0 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 45 days after the end of each quarter) on a form provided by the Department.

Commented [DG70]: Another form

5.01 Solid Waste Records

A Hauler shall keep records of the following information for at least __ years. For purposes of this Ordinance, "origin" means a general geographic description that at a ~~minimum names~~minimum name 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.

Commented [DG71]: Other County governments have indicated a term of up to 3 years for this item

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. Number of Residential and Nonresidential Accounts

The Hauler shall maintain a record of the number of Residential and Nonresidential accounts serviced in each geographic origin. For reporting purposes, units in Multi-Unit Residential Buildings shall be considered residential accounts, and each individual unit shall be reported as a separate account.

C. 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.

D. 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 6.0 ADDITIONAL RECYCLABLE MATERIALS REPORTING REQUIREMENTS

In addition to the Solid Waste reporting requirements in Section 5.0, the Collection of Recyclable Materials are subject to the following requirements.

6.01 Weight of Individual Recyclable Materials

The Hauler shall maintain a record of the weight of Recyclable Materials collected in each _____ geographic origin, from residential and nonresidential accounts, for each of the following Recyclable Materials: newsprint, corrugated cardboard, mixed paper, magazines, metal 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.

Commented [DG72]: I'm not sure of what this is

SECTION 7.0 WASTE DEPOSIT DISCLOSURE

7.01 Disclosure Required

A. At least annually between January 1 and March 31, a Hauler who collects Construction and Demolition Debris, Industrial Solid Waste, or Mixed Municipal Solid Waste Generated in the County for transportation to a Solid Waste Management Facility shall disclose in writing to each Generator from whom such waste is collected the name, location, and type of, and the number of the permit issued by the Minnesota Pollution Control Agency, or its counterpart in another State, if applicable, for the Solid Waste Management Facility, excluding Transfer Stations, at which the waste will be deposited. The Hauler shall state the approximate percentage of waste deposited at each of the two primary facilities used for the type of Solid Waste collected from the Generator in the County and any alternative Solid Waste Management Facility regularly used by the Hauler for the type of Solid Waste collected from the Generator in the County.

Commented [DG73]: What if we end up with another C&D site, we would have to amend this ordinance.

B. All disclosures must include the following statement: "You may be responsible for any liability that results from contamination at a facility where your waste has been deposited. Minnesota believes that its waste management system provides substantially more financial and environmental protection than depositing waste in landfills in other states. Managing your waste in Minnesota may minimize your potential liability."

7.02 Form of Disclosure

A. A Hauler shall make the disclosure to the Generator in writing at least once a year between January 1 and March 31 and on any written contract for Collection services for that year. The written disclosure must include all of the information described in Section 7.01.

B. If an additional facility becomes either a primary facility or an alternative facility during the year, the Hauler shall make the disclosure set forth in Section 6.01 within thirty (30) days. A Municipality that collects Solid Waste without direct charges to

Generators shall make the disclosure on any statement that includes a Solid Waste Management Charge for Solid Waste Management Services, provided that, at a minimum, disclosure to Generators must be made at least once annually in writing.

7.03 Hauling to Transfer Stations

If a Hauler deposits Solid Waste at a Transfer Station, the Hauler need not disclose the name and location of the Transfer Station to the Generator but must disclose the disposal site that receives the waste when it leaves the Transfer Station.

ARTICLE VII. SOLID WASTE DESIGNATION ORDINANCE

Commented [DG74]: There was a Solid Waste Designation Ordinance adopted in 2023 by Resolution 202310. Should that just be inserted here?

SECTION 1.0 PURPOSE

An ordinance regulating the transportation and delivery of Solid Waste generated within _____ County, Minnesota; defining the geographic area and the types and quantities of Solid Waste subject to designation; specifying the points of delivery of the Designated Waste; requiring that Designated Waste be delivered to a Designated Facility; excepting from the ordinance certain waste materials; and stating additional regulations governing Haulers; and other matters.

The County Board of _____ County ("County"), Minnesota does ordain:

SECTION 2.0 FINDINGS

The County Board hereby finds, determines and declares as follows:

Pursuant to a Joint Powers Agreement originally executed in 1983 and as amended in 1997 and 2003 (the "**Joint Powers Agreement**"), Pope and Douglas Counties (the "**Counties**") established the Pope/Douglas Joint Solid Waste Management Board ("**Joint Board**") pursuant to Minnesota Statutes §471.59 to provide for the joint ownership, management and operation of the Pope/Douglas Resource Recovery Facility ("**Designated Facility**") and to provide for the cooperation on other Solid Waste management activities among the two counties.

The County has approved and adopted the Joint Board's Joint Designation Plan, consistent with Minnesota Statutes §§115A.80 to 115A.893. The Joint Designation Plan was approved by the Commissioner of the Minnesota Pollution Control Agency on August 20, 2020, as required by Minnesota Statutes §115A.84.

The Joint Designation Plan contemplates the adoption of this Designation Ordinance in _____ County and a similar designation ordinance in _____ County to ensure that all Designated Waste is delivered to the Designated Facility.

In accordance with Minn. Stat. §115A.85, subd. 2, the County conducted a public hearing on designation in the County on November 17, 2020, after providing the notice required by Minn. Stat. §115A.85, subd. 2.

Pursuant to Minn. Stat. §115A.85, subd. 3, during the 90-day minimum period following the hearing in Subsection 2.5, the Joint Board negotiated with persons entitled to written notice under Minn. Stat. §115A.85, subd. 2, for the purpose of developing contractual agreements between the Joint Board, Haulers, and Self-Haulers for the use of the Designated Facility.

This Designation Ordinance is necessary to assure the delivery of Acceptable Waste to the Designated Facility to ensure proper management of Solid Waste in the County and the financial success of the Designated Facility. This Designation Ordinance will further the purposes and policies set forth in Minnesota Statutes, Sections 400.01 and 115A.02, specifically, the reduction of Solid Waste generated, separation and recovery of energy and materials from Solid Waste, reduction in indiscriminate dependence on land disposal of Solid Waste, coordination of Solid Waste management among political subdivisions, and the orderly and deliberate development and financial security of Solid Waste facilities.

SECTION 3.0 TITLE AND PURPOSE AND DEFINITIONS

The Title of this Ordinance is the _____ County Solid Waste Designation Ordinance.

The purpose of this Ordinance is to assure that Designated Waste is managed in an environmentally sound manner in order to protect the public health and welfare, environment and investments in the integrated Solid Waste management system of the Counties made pursuant to State mandates governing Solid Waste management.

SECTION 4.0 APPLICATION OF ORDINANCE

This Designation Ordinance shall govern all Persons who generate, transport or dispose of Designated Waste or contract for transportation or disposal of Designated Waste generated within the Designated Area.

SECTION 5.0 DESIGNATION

Except as otherwise provided herein, on and after the Effective Date, all Designated Waste generated within the Designated Area must be delivered to the Designated Facility, as detailed below, and may not be delivered to any other site or facility for final disposal. This requirement is binding on all Persons.

Designated Facility: Pope/Douglas Resource Recovery Facility
2115 Jefferson Street
Alexandria, MN 56308

SECTION 6.0 UNACCEPTABLE WASTE

_____ County hereby reserves the right to reject Unacceptable Waste delivered to the Designated Facility. If at any time the County or a Designated Facility decides that certain substances previously classified as Acceptable Waste are harmful to

the operation of a Designated Facility, or to public health and safety, the County or Designated Facility as applicable may reclassify such substances as Unacceptable Waste, and shall notify all Persons subject to Designation.

SECTION 7.0 MATERIALS NOT SUBJECT TO DESIGNATION

Designation does not apply to:

Materials that are separated from Solid Waste and recovered for reuse in their original form or for use in manufacturing processes. For the purposes of this section, "manufacturing processes" does not include the treatment of waste after collection for the purpose of composting.

Materials that are processed at a Resource Recovery Facility, other than the Designated Facility, at the capacity in operation at the time the Joint Designation Plan was approved by the Agency.

Materials that are separated at a permitted transfer station located within the boundaries of _____ County for the purpose of recycling the materials if:

The transfer station was in operation on January 1, 1991; or

The materials were not being separated for recycling at the Designated Facility at the time the transfer station began separation of the materials.

Recyclable Materials that are:

Generated in _____ County that are being recycled, and residuals from the recycling if there is at least an 85 percent volume reduction in the Solid Waste processed at the recycling facility and the residuals are managed as separate waste streams; or

Separated for recycling at a transfer station located outside the Designated Area, that meet the volume reduction and residual management criteria in Section 7(4)(a) above, and that have been excluded from Designation pursuant to the process set forth in Minn. Stat. § 115A.84, subd. 5.

Acceptable Waste that is delivered to a Designated Facility pursuant to a Waste Delivery Agreement with the Joint Board for the term of the Agreement, and any mutually agreed upon renewals of any such Agreement.

Unacceptable Waste.

Any waste materials excluded pursuant to Minn. Stat. § 115A.84, subd. 4, or the petition process provided in Minn. Stat. § 115A.893.

SECTION 8.0 SUSPENSION OF DESIGNATION REQUIREMENT

The County, by resolution of the County Board, may suspend the Designation requirement at any time. Reasons the County may suspend the Designation requirement include, but are not limited to, the following: natural disaster, or damage to or closure of part or all of the Designated Facility. If the County suspends the Designation requirement, no Person may deliver any waste to the Designated Facility unless in accordance with the resolution of the County Board or until such time as the County reinstates the Designation requirement. This provision does not relieve any Person of any obligation to comply with all other applicable federal, state or local laws or ordinances. The County will provide reasonable notice of any suspension and subsequent reinstatement of the Designation requirement to Haulers and other Persons in the County.

SECTION 9.0 RATES AND CHARGES

Persons delivering waste to a Designated Facility shall pay the Joint Board a tipping fee for each ton of waste delivered. The tipping fee shall be posted by the Joint Board at the Designated Facility, on the Joint Board's web page, and may be amended from time to time pursuant to the procedures of the Joint Board.

SECTION 10.0 TITLE TO DESIGNATED WASTE

Generators, Haulers, and Self-Haulers retain all rights, title (ownership) and responsibilities with respect to all Designated Waste until the Designated Waste is delivered to the Designated Facility pursuant to this Ordinance, and is deemed by the Designated Facility to be Acceptable Waste. Once deemed as Acceptable Waste, the Joint Board shall obtain all rights, title (ownership) and responsibilities with respect to the Designated Waste. The Joint Board shall not obtain all rights, title (ownership) and responsibilities with respect to Designated Waste where the Designated Facility rejects delivered Waste as Unacceptable Waste. All Persons delivering Designated Waste will defend, indemnify and hold the County and the Joint Board harmless from any and all claims of ownership brought against the County and the Joint Board with respect to said Designated Waste which may affect the clear title of the Joint Board to said Designated Waste at the time of its acceptance by the Designated Facility.

Except as otherwise agreed in writing with the County, nothing in this Section shall be construed as the County agreeing to indemnify or hold harmless Generators, Haulers and Self-Haulers from any claims relating to the actions governed by this Designation Ordinance brought by any party under federal or state law, including but not limited to the Comprehensive Environmental Response, Compensation, and Liability Act; Hazardous Materials Transportation Act; Resource Conservation and Recovery Act; and Minnesota Environmental Response and Liability Act, each as amended.

SECTION 11.0 DELIVERY OF DESIGNATED WASTE

All deliveries to the Designated Facility shall be in accordance with the terms and conditions of the County's Solid Waste Ordinances and in compliance with delivery instructions and procedures set forth by the Designated Facility.

11.01 Delivery of Unacceptable Waste. Each Person shall use its best efforts to deliver only Acceptable Waste to the Designated Facility and will comply with the terms and conditions of _____ County Ordinances and policies and procedures pertaining to the Designated Facility. The Hauler, Self-Hauler, or Generator shall be responsible for removal and proper disposal of Unacceptable Waste delivered or caused to be delivered by the Hauler, Self-Hauler, or Generator to a Designated Facility but not detected prior to delivery. All costs of such removal and disposal shall be borne by the Hauler, Self-Hauler, or Generator. Such removal shall be accomplished promptly after notice, verbal or written, is received by the Hauler, Self-Hauler, or Generator from the Designated Facility that any Waste previously delivered is Unacceptable Waste. The Designated Facility, at its option, may remove and dispose of the Unacceptable Waste and charge the costs of such removal and disposal and the cost of any necessary repair or decontamination of the Designated Facility to the Hauler, Self-Hauler, or Generator.

11.02 Form of Acceptable Waste. All Designated Waste shall be in substantially the same form and consistency as when it came under the control of the Person transporting the waste except that such Designated Waste may be compacted when compaction is desirable for transportation. No person shall mix Acceptable Waste with Unacceptable Waste as a method of diverting Acceptable Waste from the Designated Facility or enabling the delivery of Unacceptable Waste to the Designated Facility. Waste generated within the Designated Area shall not be mixed with Waste generated outside the Designated Area, except as Hauler, Self-Hauler, or Generator has been given prior approval by the County to do so.

11.03 Equipment. All equipment used by the Hauler, Self-Hauler or Generator for collection and transportation of Acceptable Waste pursuant to this Ordinance shall comply with such equipment specifications as may be established or amended from time to time by the County, the Joint Board, or other regulatory agencies. Waste delivered by equipment in violation of the aforementioned equipment specifications may be rejected by the Designated Facility. The Hauler, Self-Hauler or Generator shall supply the County information concerning the Hauler's, Self-Hauler's, or Generator's equipment as may be requested from time to time by the County.

SECTION 12.0 DUTY TO ACCEPT DESIGNATED WASTE; TEMPORARY INABILITY TO ACCEPT DESIGNATED WASTE

Notwithstanding anything in this Designation Ordinance to the contrary, the Designated Facility will accept all Designated Waste to the extent required by applicable Minnesota Law. If at any time after the Effective Date the Designated Facility is temporarily unable to receive all or any part of Designated Waste, the Joint Board and/or County shall notify Persons via notice at the Designated Facility. In such event, each Person shall be responsible for the transportation of the Designated Waste to another permitted waste management facility. However, for the duration of the temporary period when the Designated Facility is unable to accept Designated Waste, the Joint Board or County may

direct Designated Waste to an alternate waste management facility or as otherwise required by contract with the Joint Board. All costs of such transportation and disposal shall be borne by the Hauler, Self-Hauler, or Generator.

SECTION 13.0 DESIGNATION RECORDS; INSPECTION

13.01 For the purposes of this section:

"Origin" means a general geographical description that at a minimum names the local governmental unit within _____ County from which Designated Waste was collected; and

"Type" means a best estimate of the percentage of each truck load that consists of residential, commercial, industrial, construction, or any other general type of waste.

13.02 Records; haulers; facilities. Each Person who collects Solid Waste including, but not limited to all Haulers and Self-Haulers, shall maintain records regarding the volume or weight, type, and origin of Waste collected or transported. Each day, a record of the origin, type, and weight of the Waste collected that day and the identity of the Waste facility at which that day's collected Waste is deposited must be kept on the Waste collection vehicle. Global Positioning System ("GPS") records may be used to assist in developing such information. If the Waste is measured by volume at the Waste facility at which it is deposited, the record may show the volume rather than the weight of the Waste.

The Designated Facility shall maintain records regarding the weight of the Waste, or the volume of the Waste if the Waste is measured by volume; the general type or types of Waste; the origin of the Waste delivered; the date and time of delivery; and the name of the Hauler or Self-Hauler that delivered the Waste.

13.03 Inspection. A Person authorized by _____ County, anywhere in the State, may:

Upon presentation of identification and without a search warrant, inspect or copy the records required to be kept on a Waste collection vehicle under subdivision 13.02, above, and inspect the Waste on the vehicle at the time of deposit of the Waste at a facility;

When reasonable notice under the circumstances has been given, upon presentation of identification and without a search warrant, inspect or copy the records of an owner or operator of a Solid Waste facility that are required to be maintained under subdivision 13.02, above;

Request, in writing, copies of records of a Hauler or Self-Hauler that indicate the type, origin, and weight or, if applicable, the volume of Waste collected, the identity of the facility at which the Waste was deposited, and the date of deposit at the facility; and

Upon presentation of identification and without a search warrant, inspect or copy that portion of the records of a Hauler or Self-Hauler necessary to comply with clause (3),

above, at the central record-keeping location of the Hauler or Self-Hauler only if the hauler fails to provide copies of the records within 15 days of receipt of a written request for them, unless the time has been extended by agreement of the parties.

Records or information received, inspected, or copied by the County under this section may be classified as nonpublic data as defined in Minn. Stat. § 13.02, subd. 9, and may be used by the County solely for enforcement of this Ordinance. A Hauler, Self-Hauler, or the owner or operator of a Waste facility shall maintain records needed to comply with this section for two years, or as may be required by contract with the County.

SECTION 14.0 VIOLATIONS AND PENALTIES

14.01 Criminal Enforcement.

Citations. Any person who fails to comply with the provisions of this Designation Ordinance is guilty of a misdemeanor, and upon conviction thereof, shall be punished as provided by law. A separate offense shall be deemed committed upon each day during or on which a violation occurs or continues. The issuance, form and process associated with such citations shall follow the procedures set forth in Section __ of the County's Solid Waste Ordinance.

Venue and Prosecution. The _____ County Attorney's Office shall have authority to prosecute violations of any provisions of this Designation Ordinance. Such prosecutions shall be venued in _____ County District Court.

14.02 Civil Enforcement; Venue.

_____ County may enforce this section by commencing an action in _____ County District Court. The court may compel performance in any manner deemed appropriate by the court, including, but not limited to, issuance of an order to show cause, a temporary restraining order, or an injunction for a violation or threatened violation of this Designation Ordinance. In addition, the court may order payment of damages, including interest, or a civil penalty, or both. In an action brought to enforce this section in which the County substantially prevails, the court may order payment by the defendant of the costs of mitigating any damages caused by the violation, and other County costs and disbursements, including reasonable attorney fees.

A Person who fails to comply with this Designation Ordinance is subject to penalties including, but not limited to, the following:

An order to compel performance or to restrain or enjoin any activity that interferes with the requirements of this Designation Ordinance to keep records in 13.02, above, or the requirement to allow timely entry and inspection in 13.03 above;

Damages caused by the failure to keep records or by refusal to allow timely entry or inspection;

A civil penalty for failure to comply with the requirements of this Designation Ordinance payable to the County of up to $10,000 per day for each day of violation; or

Any or all of the above.

SECTION 15.0 GENERAL TERMS

15.01 Each Person's Mandatory Obligations. All obligations to make payments due to the County under this Designation Ordinance shall be absolute and unconditional. No Person shall be entitled to any abatement, diminution, setoff, abrogation, waiver or modification thereof, nor to any termination of this Designation Ordinance regardless of any rights of setoff, recoupment or counterclaim that each Person might otherwise have against the County or any other party or parties and regardless of any contingency, unforeseen circumstance, or event, except upon written approval by the County for good cause shown through submission of a written application and, at the County's option, attendance at an informal meeting. The County shall set forth its determination on the application in a written decision.

15.02 Severability. It is hereby declared to be the intention of the Board of Commissioners of the County that the provisions of this Designation Ordinance are severable in accordance with the following:

If any court of competent jurisdiction shall adjudge any provision of this Designation Ordinance to be invalid, such judgment shall not affect any other provisions of this Designation Ordinance not specifically included in said judgment.

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

15.03 Provisions Are Cumulative. The provisions in this Designation Ordinance are separate, distinct, and cumulative. Any additional limitations heretofore passed, or which may be passed hereafter, covering any subject matter in this Designation Ordinance, shall not affect any other provisions of this Designation Ordinance not specifically included in said limitations.

15.04 No Consent. Nothing contained in this Designation Ordinance shall be deemed to be a consent, license, or permit to locate, construct or maintain a Solid Waste Management Facility, or to carry on any activity related to Solid Waste management.

15.05 Non-Liability. Neither the County, nor the Joint Board, nor any officer or employee thereof shall be held liable for any damage to Persons or property by reason of any investigation, reinvestigation, failure to investigate, inspection, reinspection or failure to inspect, or by reason of the approval or disapproval of equipment or the granting, not granting, suspending or revoking of any license,

nor for any action in connection with the inspection or control of Designated Waste or in connection with any other official duties.

15.06 Amendments. This Designation Ordinance may be amended pursuant to Minn. Stat. §115A.86, Subdivision 5.

15.07 Rights and Duties of Authority. The County may assign rights, duties and responsibilities to enforce, comply with, or perform the requirements of this Designation Ordinance to the Joint Board as authorized by Minn. Stat. §471.59 and the Joint Powers Agreement.

15.08 Publication. The Clerk shall cause this Designation Ordinance to be published and recorded as provided in Minn. Stat. §375.51 and Minn. Stat. §115A.86.

ARTICLE VIII. FACILITY REQUIREMENTS AND LICENSES

SECTION 1.0 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.

1.01 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.

1.02 Facility Licenses

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

Commented [DG75]: Should Northern Metal have a license issued by the County? It is located in the City of Glenwood.

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 2.0 FACILITY LICENSE FEES

2.01 Application Fee

An application fee, the amount to be determined by the Department 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.

2.02 Facility License Fees

Facility License fees shall be determined by the Department 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 3.0 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.

Commented [DG76]: Another form

Commented [DG77]: Lots of staff time to process and review

3.01 Financial Assurance

The County Board may require Financial Assurance as appropriate for any or all of those Solid Waste Management Facilities listed in Section 1.02, based on their size, operating life, operational practices, and types of waste accepted.

3.02 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.

3.03 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

Commented [DG78]: Pope County Land Use Controls Ordinance

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 such other information as may be required by the County, all prepared by a professional engineer registered in Minnesota.

3.04 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.

3.05 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.

SECTION 4.0 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.

4.01 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.

4.02 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.

4.03 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 5.0 TERM OF FACILITY LICENSE; RENEWAL; LICENSE NOT TRANSFERABLE

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

5.01 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.

5.02 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.

Commented [DG79]: How much?

Commented [DG80]: Another form

5.03 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 Solid Waste 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 6.0 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.

6.01 Worker's Compensation Insurance

A. Worker's compensation insurance shall be in compliance with all applicable State Statutes. Such policy shall include employer's liability coverage in at least such amount(s) as are customarily issued in Minnesota and an All States or Universal Endorsement, if applicable.

B. In the event a Licensee is a sole proprietor and has elected not to provide workers' compensation insurance, the Licensee shall be required to execute and submit to the Department an affidavit of sole proprietorship in a form acceptable to the Department.

6.02 General Liability

A. Commercial General Liability Coverage (Insurance Services Office form title), providing coverage on an "occurrence", rather than on a "claims made" basis, which policy shall include, but shall not be limited to, coverage for bodily injury, property damage, personal injury, contractual liability (applying to this contract), independent Licensees, "XC&U" and products-completed operations liability (if applicable). Such coverage may be provided under an equivalent policy form (or forms), so long as such equivalent form (or forms) affords coverage that is at least as broad. An Insurance Services Office "Comprehensive General Liability" policy that includes a "Broad Form Endorsement", GL 0404 (Insurance Services Office designation) shall be considered to be an acceptable equivalent policy form.

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.

6.03 Automobile Liability

Commented [DG81]: Is this something that we need to verify?

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 the operation of the licensed Solid Waste Management Facility. Such policy shall provide total liability limits for combined bodily injury and/or property damage in the amount of at least $1,000,000 per accident, which total limits may be satisfied by the limits afforded under such policy, or by such policy in combination with the limits afforded by an "Umbrella" or "Excess Liability" policy(ies), provided, that the coverage afforded under any such "Umbrella" or "Excess Liability" policy(ies) shall be at least as broad with respect to such business automobile liability insurance as that afforded by the underlying policy. Unless included within the scope of the Licensee's commercial general liability policy, such business automobile liability policy shall also include coverage for motor vehicle liability assumed under contract.

6.04 Additional Insurance

The County may require a Licensee to undertake an annual insurance evaluation, conducted by an independent evaluator selected by the County, which evaluator shall be reasonably acceptable to Licensee. The County may, at any time during the period of the license, require that Licensee secure any additional insurance, or additional feature to existing insurance, as is recommended by such evaluation as reasonably required for the protection of the County's interests or those of the public.

6.05 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.

6.06 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.

Commented [DG82]: Should this be the Board

6.07 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 7.0 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.

7.01 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. General areas in which a particular type of Solid Waste disposal takes place within a Solid Waste Land Disposal Facility shall be recorded.

C. Detailed information on waste composition received at the Facility derived from actual measurements. The County may require a specific waste composition analysis for any waste materials that may contain hazardous chemicals or that may pose a

risk to health and safety. Once information on general or specific composition analysis is approved by the County, such information must be submitted with the annual report for a period of up to five years. If the composition of waste received by the Facility significantly changes, then the County may require an up to date composition analysis to be performed.

D. 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.

E. Copies of reports and data related to environmental monitoring including but not limited to groundwater testing, Leachate analysis, methane monitoring, and air emission data.

F. 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.

7.02 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.

7.03 Facility Service Area

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

7.04 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 Administrator.

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 Administrator within 15 days of completion of the action.

SECTION 8.0 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:

8.01 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. A potable water supply for Site Personnel.

G. Shelter for maintenance and storage of Site equipment.

H. Adequate facilities to ensure that no vehicle desiring entry into the Site may have to wait outside the perimeter of the Site.

Commented [DG83]: I have witnessed a line up of vehicles on 200th Street at the TKI facility during their annual weekend clean up event.

I. Adequate communication facilities shall be provided for emergency purposes.

J. 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.

K. An all-weather haul road to the unloading area.

L. 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.

Commented [DG84]: Subjective

M. 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.

8.02 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.

1. Complete location details of any regulated wastes such as asbestos shall be submitted to the Department and recorded on the property deed.

2. 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 Administrator at the same time.

8.03 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:

1. Monthly returns shall be on a reporting form prescribed by the Department.

Commented [DG85]: Another form

2. The return shall be signed by the Facility Operator or a Person authorized by the Facility Operator to do so.

3. A check for the full amount of the fee and made out to the County Auditor must accompany the return form.

4. 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 9.0 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.

9.01 State Rule Adopted

In addition to the general requirements provided for in this Ordinance and the specific requirements of this Section, 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.

9.02 Licensing Requirements

The following additional information shall be submitted to the Department as part of the application process for a Mixed Municipal Solid Waste Land Disposal Facility License.

1. Application and Fees

An applicant for a Mixed Municipal Solid Waste Land Disposal Facility 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.

Commented [DG86]: Another form

2. Existing Conditions Plan

A current map or aerial photograph of the area showing land use and zoning within 1/4 mile of the Solid Waste Land Disposal Site. The map or aerial photography shall be of sufficient scale to show all homes, buildings, lakes, ponds, watercourses, wetlands, dry runs, rock outcroppings, roads, and other applicable details and shall indicate the general topography with contours and drainage patterns. Wells shall be identified on the map or aerial photography, U.S.G.S. datum shall be indicated, and a north arrow drawn. A location insert map shall be included.

3. Plot Plan

A plot plan that includes the legal description of the Site and immediate adjacent area showing dimensions, location of soil borings, present and planned pertinent features including but not limited to roads, fencing and cover stockpiles. The plan of development including any excavation, trenching and fill shall be shown progressively with time. Cross sections shall be included on the plot plan or on separate sheets showing progressively with time the original and proposed elevation of excavation, trenching and fill. The scale of the plot plan should not be greater than 200 feet per inch.

4. Land Use Plan

An ultimate land use plan, including intermediate stages, identifying the total and complete land use. The scale of the ultimate land use plan shall not be greater than 200 feet per inch.

5. Report

A report shall accompany the plans indicating:

a. Population and areas expected to be served by the proposed Site.

b. Anticipated type, quantity and source of material to be Disposed of at the Site.

c. Geological formations and ground water elevations to a depth of at least ten (10) feet below proposed excavation and lowest elevation of the Site, including the high-water table. Such data shall be obtained by soil borings or other appropriate means.

d. Source and characteristic of cover material and method for protecting cover material for winter operation.

e. Type and amount of equipment to be provided at the Site for excavating, earth moving, spreading, compacting and other needs.

f. Area of Site in acres.

g. Owner of the Site.

h. Persons responsible for actual operation and maintenance of the Site and operating procedures.

9.03 Specific Design and Construction Requirements

The following shall be established, constructed, maintained, or provided for at the Site:

A. Equipment sufficient for spreading, compacting, and covering operations to include sufficient reserve equipment or arrangements to provide for all operations within 24 hours of equipment breakdown.

B. At each entrance to the Site the Licensee shall erect and maintain a sign stating the name of the Solid Waste Management Facility, the schedule of days and hours the Mixed Municipal Solid Waste Management Facility is open to the public, prices for use of the Mixed Municipal Solid Waste Management Facility, the types of waste accepted, 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 its approval prior to the sign's installation. Any changes to the sign after initial installation are also subject to approval by the Department.

C. Suitable accommodations shall be provided for individuals who wish to Transport and Dispose of their own Mixed Municipal Solid Waste provided said Mixed Municipal Solid Waste has been determined by the Department to be acceptable at the Facility.

9.04 Specific Operating Procedures

Any Person who has been granted a License by the Department to operate a Mixed Municipal Solid Waste Land Disposal Facility shall comply with the following specific operational requirements:

A. Open Burning, Animal Feeding and Scavenging

Open Burning of Mixed Municipal Solid Waste is prohibited. No scavenging shall be allowed. Salvaging shall be allowed only upon conditions approved in writing by the Department. Animal feeding within the Site is prohibited.

B. Windblown Material

Unloading of Mixed Municipal Solid Waste shall be confined to as small an area as practicable and surrounded with appropriate materials to prevent windblown material within the area. At the conclusion of each day of operation, all windblown material resulting from the operation shall be collected and returned to the designated area by the Owner or Operator.

C. Cover and Compaction of Putrescible Material

Putrescible Material, which has reached a foul state of decay or decomposition, shall be immediately covered and compacted.

D. Public Nuisance Control

Control of vectors, such as rodents and flies, and of odors, dust, windblown material and other potential Public Nuisances shall be sufficient to prevent or eliminate any Public Nuisance. Should the Department so prescribe, an exterminator or pest control agent, at the Licensee's expense, shall be engaged to inspect the Mixed Municipal Solid Waste Land Disposal Facility on at least a monthly basis. A copy of each inspection report shall be sent to the Department immediately upon its receipt by the Licensee.

SECTION 10.0 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.

10.01 State Rule Adopted

In addition to the general requirements provided in this Ordinance and the specific requirements of this Section, 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.

10.02 Licensing Requirements

The following information shall be submitted to the Department as part of the application process for a Construction and Demolition Debris Land Disposal Facility License.

1. Application and Fees

An applicant for a Construction and Demolition Debris Land Disposal Facility 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.

Commented [DG87]: Another form

2. Existing Conditions Plan

A current map or aerial photograph of the area showing land use and zoning within 1/4 mile of the Site. The map or aerial photography shall be of sufficient scale to show all homes, buildings, lakes, ponds, watercourses, wetlands, dry runs, rock outcroppings, roads, and other applicable details and shall indicate the general topography with contours and drainage patterns. Wells shall be identified on the map or aerial photography, U.S.G.S. datum shall be indicated, and a north arrow drawn. A location insert map shall be included.

3. Plot Plan

A plot plan including the legal description of the Site and immediate adjacent area showing dimensions, location of soil borings, present and planned pertinent features including but not limited to roads, fencing and cover stockpiles. The plan of development including any excavation, trenching and fill shall be shown progressively with time. Cross sections shall be included on the plot plan or on separate sheets showing progressively with time the original and proposed elevation of excavation, trenching and fill. The scale of the plot plan should not be greater than 200 feet per inch.

4. Land Use Plan

An ultimate land use plan, including intermediate stages, identifying the total and complete land use. The scale of the ultimate land use plan shall not be greater than 200 feet per inch.

5. Report

A report shall accompany the plans indicating:

a. Population and areas expected to be served by the proposed Site.

b. Anticipated type, quantity and source of material to be disposed of at the Site.

c. Geological formations and ground water elevations to a depth of at least ten (10) feet below proposed excavation and lowest elevation of the Site,

including the high-water table. Such data shall be obtained by soil borings or other appropriate means.

d. Source and characteristic of cover material and method for protecting cover material for winter operation.

e. Type and amount of equipment to be provided at the Site for excavating, earth moving, spreading, compacting and other needs.

f. Area of the Site in acres.

g. Owner of the Site.

h. Persons responsible for actual operation and maintenance of the Site and intended operating procedures.

10.03 Specific Design and Construction Requirements

The following shall be established, constructed, maintained or provided for at the Site:

A. Equipment sufficient for spreading, compacting and covering operations to include sufficient reserve equipment or arrangements to provide for all operations within 24 hours of equipment breakdown.

B. Specific requirements regarding liner requirements and waste screening shall be determined based upon the Site conditions and the projected composition of the Demolition and Construction Debris.

10.04 Specific General Operating Procedures

Any person who has been granted a License to operate a Construction and Demolition Debris Land Disposal Facility shall comply with the following specific operational requirements:

A. Public Use Prohibited

No public usage will be allowed except where specifically approved by the Department.

B. Pest Eradication

Before any materials from demolished structures may be deposited, the Licensee must submit proof acceptable to the Department that the demolished structure has been subjected to satisfactory pest eradication prior to demolition.

C. Waste Acceptance and Prohibited Wastes

Types of Construction and Demolition Waste accepted at the facility shall be pursuant to the Agency's Generic Template Industrial Solid Waste Management Plan for Demolition and Construction Landfills which is available on the Agency website.

SECTION 11.0 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.

11.01 State Rule Adopted

In addition to the general requirements provided in this Ordinance and the specific requirements of this Section, 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.

11.02 Licensing Requirements

The following information shall be submitted to the Department as part of the application process for an Industrial Solid Waste Land Disposal Facility License.

1. Application and Fees

An applicant for an Industrial Solid Waste Land Disposal Facility 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.

Commented [DG88]: Another form

2. Existing Conditions Plan

A current map or aerial photograph of the area showing land use and zoning within 1/4 mile of the Site. The map or aerial photography shall be of sufficient scale to show all homes, buildings, lakes, ponds, watercourses, wetlands, dry runs, rock outcroppings, roads, and other applicable details and shall indicate the general topography with contours and drainage patterns. Wells shall be identified on the map or aerial photography, U.S.G.S. datum shall be indicated, and a north arrow drawn. A location insert map shall be included.

3. Plot Plan

A plot plan including legal description of the Site and immediate adjacent area showing dimensions, location of soil borings, present and planned pertinent features including but not limited to roads, fencing and cover stockpiles. The plan of development including any excavation, trenching and fill shall be shown progressively with time. Cross sections shall be included on the plot plan or on separate sheets showing progressively with time the original and proposed elevation of excavation, trenching and fill. The scale of the plot plan should not be greater than 200 feet per inch.

4. Land Use Plan

An ultimate land use plan, including intermediate stages, identifying the total and complete land use. The scale of the ultimate land use plan shall not be greater than 200 feet per inch.

5. Report

A report shall accompany the plans indicating:

a. Population and areas expected to be served by the proposed Site.

b. Anticipated type, quantity and source of material to be disposed of at the Site.

c. Geological formations and ground water elevations to a depth of at least ten (10) feet below proposed excavation and lowest elevation of the Site, including the high-water table. Such data shall be obtained by soil borings or other appropriate means.

d. Source and characteristic of cover material and method for protecting cover material for winter operation.

e. Type and amount of equipment to be provided at the Site for excavating, earth moving, spreading, compacting and other needs.

f. Area of the Site in acres.

g. Owner of the Site.

h. Persons responsible for actual operation and maintenance of the Site and intended operating procedures.

11.03 Specific Design and Construction Requirements

The following shall be established, constructed, maintained or provided for at the Site:

A. Equipment sufficient for spreading, compacting and covering operations to include sufficient reserve equipment or arrangements to provide for all operations within 24 hours of equipment breakdown.

B. Specific requirements regarding liner requirements and waste screening shall be determined based upon the Site conditions and the projected composition of the Industrial Solid Waste.

11.04 Specific Operating Procedures

Any person who has been granted a License to operate an Industrial Solid Waste Land Disposal Facility shall comply with the following specific operational requirements, unless otherwise waived in writing by the Department:

A. Public Use Prohibited

No public usage will be allowed, except where specifically approved.

B. Waste Acceptance and Prohibited Wastes

Types of Industrial Solid Waste accepted at the facility shall be pursuant to the Agency's Generic Template Industrial Solid Waste Management Plan which is available on the Agency website.

SECTION 12.0 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.

12.01 State Rule Adopted

In addition to the general requirements of this Ordinance and the specific 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.

12.02 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.

Commented [DG89]: Should this be by the "Board"?

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:

1. 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:

a. Mixed Waste: This facility has an on-site storage capacity of greater than 120 cubic yards per day and handles a variety of Solid Waste types, to include Mixed Municipal Solid Waste.

b. Demolition Debris: This facility handles Construction and Demolition Debris only.

2. 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:

Commented [DG90]: Another form

a. Location, size and ownership of the land upon which the Transfer Station will operate.

b. General description of property use in the immediate vicinity of the Transfer Station.

c. Complete plans and specifications and proposed operating procedures for the Transfer Station.

d. A fee schedule for the use of Transfer Station.

e. A statement of the ultimate Solid Waste Management Facility destination(s) of Solid Waste delivered to the Transfer Station.

12.03 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.

12.04 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 13.0 SOLID WASTE PROCESSING FACILITIES

Commented [DG91]: Is this not Pope Douglas Solid Waste Management Facility?

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

13.01 State Rule Adopted

In addition to the general requirements of this Ordinance and the specific requirements of this Section, the 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.

13.02 Licensing Requirements

The following information shall be submitted to the Department as part of the application process for a Solid Waste Processing Facility License.

A. Application and Fees

An applicant for a Solid Waste Processing Facility 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:

Commented [DG92]: Another form

1. Location, size, and ownership of the Site the Solid Waste Processing Facility will operate on.

2. General description of property use in the immediate vicinity of the Solid Waste Processing Facility.

3. Complete plans and specifications and proposed operating procedures for the Solid Waste Processing Facility.

13.03 Specific Design and Construction Requirements

The following shall be established, constructed, maintained or provided for at the Site:

A. The Solid Waste Processing Facility shall be so situated, equipped, operated, and maintained as to minimize interference with other activities in the area.

B. Storage facilities for by-products, to include residuals and recyclables, shall be provided to prevent vector intrusion.

C. The Site shall be sized, or a separate area provided, for a location for Transportation vehicles to park while waiting to unload or load material without having to wait on a public thoroughfare.

D. A Solid Waste delivery area shall be designated and all Solid Waste delivered to the Solid Waste Processing Facility shall be confined to that area until incorporated into the Processing system.

E. If the Processing Facility is a Solid Waste Composting Facility, a Leachate Management System shall be provided for the facility and shall be designed and constructed so to be able to handle any run-off or run-on water that has made contact with the composted waste, materials stored for Composting or residual waste.

13.04 Specific Operating Procedures

Any Person who has been granted a License by the Department to operate a Solid Waste Processing Facility shall comply with the following specific operational requirements.

A. Orderly Maintenance

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

B. 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.

C. Unloading

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

SECTION 14.0 WASTE TIRE FACILITIES

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

14.01 State Rule Adopted

In addition to the general requirements of this Ordinance and the specific requirements of this Section, 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.

14.02 Licensing Requirements

It is unlawful for any Person to establish, operate, or maintain a Waste Tire Collection Site or Processing Facility without first being licensed to do so by the Department, except that a License shall not be required for the following:

A. A retail tire seller if no more than 500 Waste Tires are kept on the business premises.

B. An Owner or Operator of a tire retreading business if no more than 3,000 Waste Tires are kept on the business premises.

C. An Owner or Operator of a business who, in the ordinary course of business, removes tires from motor vehicles if no more than 500 Waste Tires are kept on the premises.

D. A licensed and permitted Solid Waste Management Facility with less than 10,000 Waste Tires stored above ground at the licensed and permitted Site.

E. A Person using Waste Tires for agricultural purposes if the Waste Tires are kept on the premises of use.

The following information shall be submitted to the Department as part of the application process for a Waste Tire Collection Site and/or Processing Facility License.

A. Application and Fees

An applicant for a Waste Tire Collection Site and/or Processing Facility 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 all applicable fees and all materials required by this section, to include:

Commented [DG93]: Another form

1. Location, size and ownership of the site on which the Waste Tire Collection Site and/or Processing Facility will operate.

2. General description of property use in the immediate vicinity of the Waste Tire Collection Site and/or Processing Facility.

3. Complete plans and specifications and proposed operating procedures for the Waste Tire Collection Site and/or Processing Facility.

14.03 Specific Design and Construction Requirements

The following specific design and construction requirements shall be established, constructed, maintained or provided for at the Site:

A. The Licensee shall maintain a minimum distance of fifty (50) feet between the Waste Tire Collection Site or Processing Facility operations and the adjacent property line.

B. The Licensee shall divert surface water drainage around and away from the Collection area.

C. The Licensee shall provide adequate visual screening to reduce visibility of above-grade operations from housing or public right-of-ways by use of natural objects, trees, plants, seeded soil berms, fences, or other means deemed suitable by the Department.

D. The Waste Tire Collection Site and/or Processing Facility shall be so situated, equipped, operated, and maintained as to minimize interference with other activities in the area.

14.04 Specific Operating Procedures

Any Person who has been granted a License by the Department to operate a Waste Tire Collection Site and/or Processing Facility shall comply with the following specific operational requirements:

A. The Licensee shall accept only Waste Tires at the Collection Site and/or Processing Facility.

B. The Licensee shall prohibit piling of Waste Tires within the following regions:

1. Shore land;

2. Regional flood plain for a 100-year flood; and

3. Wetlands.

C. The Licensee shall:

1. Confine Waste Tires to as small an area as practical with individual piles not more than 2500 square feet in area and 20 feet in height,

2. Provide a minimum twelve (12) foot separation between the piles of Waste Tires to allow access for trucks and emergency vehicles,

3. Provide trenching or other adequate measures to minimize the potential for fire spreading; and

4. Construct piles of Waste Tires to minimize the accumulation of stagnant water.

14.05 Waste Tire Reduction

Waste Tire Collection Sites, Processing Facilities, and Waste Tire Dumps in existence prior to the effective date of this provision shall reduce the accumulation of Waste Tires by Processing and/or marketing such Waste Tires by an amount and within time limits established by the Department, and shall be approved by the local zoning authority.

14.06 Cessation of Operation

Upon cessation of Waste Tire Collection Site and/or Processing Facility operations, the Licensee, Owner, and Operator shall be responsible for removing all Waste Tires and tire products from the Site and ensure their proper management pursuant to this Ordinance and Minn. Stat. §§ 115A.90 to 115A.914.

ARTICLE IX. INSPECTIONS, VIOLATIONS AND ENFORCEMENT

Commented [DG94]: This will consume staff time including needing training

SECTION 1.0 INSPECTIONS

1.01 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.

1.02 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 within ___ business days. 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 2.0 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.

2.01 Warning Notice

The Department may issue a Warning Notice as defined in this Ordinance to any Person alleged to have committed a violation of this Ordinance. A Warning Notice shall serve to place the Person on notice that compliance with specified Ordinance requirements must

occur to avoid additional enforcement actions. A Warning Notice may be in the form of an Inspection report for a Licensed facility. A Warning Notice may be served in person or by mail.

2.02 Notice of Violation (NOV)

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

2.03 Citations

Any Person who fails to comply with the provisions of this Ordinance is guilty of a misdemeanor, and upon conviction thereof, shall be punished as provided by law. A separate offense shall be deemed committed each day during or on which a violation occurs or continues. An Authorized Representative of the Department shall have the power to issue Citations for violations of this Ordinance, but shall not be permitted to physically arrest or take into custody any violator except on a warrant duly issued by the Court.

Commented [DG95]: This seems to be a police power. If this is not a zoning ordinance, then where is this power derived from?

A. Issuance of the Citation

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

B. Notice of Citation

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

Commented [DG96]: Another form

1. The name and address of the Person alleged to have committed the violation and, when known, the owner or Person in charge of the premises or equipment involved in the violation.

2. The date, time (if known) and place of violation.

3. A short description of the violation followed by reference to the Section of this Ordinance violated.

4. The name of the Person issuing the Citation.

5. The date and place at which the Person receiving the Citation shall appear in Court and a notice that if such Person does not respond a warrant may be issued for such Person's arrest.

6. Such other information as the Court may specify.

D. Court Appearance

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

1. Plead guilty to the Citation and meet the requirements of the sentencing order issued by the court; or

2. Plead not guilty to the Citation and schedule a court date for further hearing or trial on the Citation.

E. Failure to Appear on the Citation

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

F. Complaint

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

2.04 Abatement

In the event of an emergency abatement by the County as described in Section 2.04(E) below, 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 through the following procedures:

A. Abatement Notice

1. Contents of Abatement Notice

An Abatement Notice shall include the following:

a. 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;

b. 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;

c. 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

d. 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.

2. Service

The Abatement Notice must be served on a property owner by certified mail or personal service. Service by certified mail shall be deemed complete upon mailing. If the property owner is unknown or absent and has no known representative upon 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

1. 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.

2. 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

1. 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.

2. 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.

3. 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.

4. 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 2.04(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.

2.05 Embargo

The Department may issue a written Embargo order prohibiting the use, sale, movement, treatment or disposal of a material or item that the Department determines is used without authorization or reasonably suspects is, or will be, managed in violation of this Ordinance. The Department shall place a tag to indicate the Embargo on the suspected material. No Person shall remove the tag or remove, transport, dispose, treat, or use such embargoed material except as authorized by the Department. Such action by the Department shall not be considered to impute ownership or management responsibility upon the County.

Commented [DG97]: We will need to develop/order a tag

2.06 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 2.04 above. The parties may seek compliance with the terms of the Stipulation Agreement through a court of competent jurisdiction.

2.07 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.

2.08 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.

Commented [DG98]: Seems like a lot of authority

B. The written notice in such cases shall state the effective date of the emergency suspension and the nature of the violation requiring emergency action, the facts which support the conclusion that a violation or violations has occurred and a statement that if the Licensee desires to appeal, the Licensee must, within ten (10) County working days, exclusive of the day of service, file a request for a hearing with the County Board. The hearing request shall be in writing stating the grounds for appeal and served personally or by certified mail on the County Board, with a copy to the Department and the County Attorney's Office, by midnight of the 10th County working day following service. Following receipt of a request for an appeal, the County Board shall set a time and a place for the hearing to be held pursuant to Section 3.18 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.

2.09 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.

2.10 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.

2.11 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.

2.12 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 2.04(D) above.

SECTION 3.0 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.

3.01 Timeframe for Hearing

Unless an extension of time is requested by the appellant in writing directed to the Chair of the County Board and is granted, the hearing will be held no later than forty-five (45) calendar days after the date of service of request for a hearing, exclusive of the date of such service. In any event, such hearing shall be held no later than ninety (90) calendar days after the date of service of request for a hearing, exclusive of the date of such service.

3.02 Notice of Hearing

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

A. A statement of time, place and nature of the hearing.

B. A statement of the legal authority and jurisdiction under which the hearing is to be held.

C. A reference to the particular Section of the Ordinance and Agency Rules, if any, involved.

3.03 Hearing Examiner

The County Board may by resolution appoint an individual, to be known as the hearing examiner, to conduct the hearing and to make findings of fact, conclusions and recommendations to the County Board. The hearing examiner shall submit the findings of fact, conclusions and recommendations to the County Board in a written report, and the County Board may adopt, modify or reject the report.

3.04 Conduct of the Hearing

The appellant and the Department may be represented by counsel. The Department, the appellant, and additional parties, as determined by the County Board or hearing examiner, in that order, shall present evidence. All testimony shall be sworn under oath. All parties shall have full opportunity to respond to and present evidence, cross-examine witnesses, and present argument. The County Board or hearing examiner may also examine witnesses.

3.05 Burden of Proof

The Department shall have the burden of proving its position by a preponderance of the evidence, unless a different burden is provided by substantive law, and all findings of fact, conclusions, and decisions by the County Board shall be based on evidence presented and matters officially noticed.

3.06 Admission of Evidence

All evidence that possesses probative value, including hearsay, may be admitted if it is the type of evidence on which prudent Persons are accustomed to rely in the conduct of their serious affairs. Evidence that is incompetent, irrelevant, immaterial or unduly repetitious may be excluded. The hearing shall be confined to matters raised in the Department's written notice of denial, suspension, emergency suspension, non-renewal or revocation of a license, denial of a variance, or Abatement Notice or in the appellant's written request for a hearing.

3.07 Pre-Hearing Conference

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

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

B. Provide an opportunity for discovery of all relevant documentary, photographic or other demonstrative evidence in the possession of each party. The hearing examiner or County Board's representative may require each party to supply a reasonable number of copies of relevant evidence capable of reproduction.

C. Provide an opportunity for discovery of the full name and address of all witnesses who will be called at the hearing and a brief description of the facts and opinions to which each is expected to testify. If the names and addresses are not known, the party shall describe them thoroughly by job duties and involvement with the facts at issue.

D. If a pre-hearing conference is held, evidence not divulged as provided above shall be excluded at the hearing unless the party advancing the evidence took all reasonable steps to divulge it to the adverse party prior to the hearing and:

1. The evidence was not known to the party at the time of the pre-hearing conference; or

2. The evidence is in rebuttal to matters raised for the first time at or subsequent to the pre-hearing conference.

3.08 Failure to Appear

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

3.09 Appeal of County Board Decision

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