

BOARD OF COUNTY COMMISSIONERS
WASHINGTON COUNTY, MINNESOTA

RESOLUTION NO 2008-142

DATE	<u>October 28, 2008</u>	DEPARTMENT	<u>Public Health & Environment</u>
MOTION BY COMMISSIONER	<u>Kriesel</u>	SECONDED BY COMMISSIONER	<u>Peterson</u>

REPEAL OF ORDINANCE #167 AND REPLACEMENT BY SOLID WASTE MANAGEMENT
ORDINANCE #178

WHEREAS, Washington County desires to continue to protect and ensure the public health, safety, welfare and environment of the County's residents and businesses through sound management of solid waste generated in the County; and

WHEREAS, the Waste Management Act imposes various mandates upon counties, was created out of concern for the protection of water, air and land resources, as well as protection of public health; and

WHEREAS, pursuant to State law Washington County has adopted and received Minnesota Pollution Control Agency approval for its Solid Waste Management Master Plan, which acknowledges the State's preferential order for waste management, which plans for the implementation of an integrated waste management system in order to protect public health and the environment; and

WHEREAS, in order to discharge the mandate imposed upon counties by the Minnesota Waste Management Act to manage mixed municipal solid waste in a more environmentally sound manner than land disposal, Washington County provides or arranges with others to provide various solid waste management services for residents; and

WHEREAS, the Washington County Board of Commissioners adopted the Washington County Solid Waste Management Ordinance #167 on November 18, 2003; and

WHEREAS, Minnesota Statutes, sections 400.08, and 473.811, Subd 3a, authorize Washington County to establish and collect a service charge for the solid waste management services provided by the County or others under contract with Washington County.

NOW, THEREFORE BE IT RESOLVED, That the Washington County Board of Commissioners adopts Washington County Solid Waste Management Ordinance #178 to take effect on January 1, 2009.

BE IT FURTHER RESOLVED, That the Washington County Ordinance #167 is hereby repealed, said repeal to take effect on the date Washington County Ordinance #178 becomes effective.

ATTEST:

COUNTY ADMINISTRATOR

CHAIRMAN, COUNTY BOARD

	YES	NO
HEGBERG	<u>X</u>	_____
KRIESEL	<u>X</u>	_____
PETERSON	<u>X</u>	_____
PULKRABEK	<u>Absent</u>	_____
STAFFORD	<u>X</u>	_____

WASHINGTON COUNTY ORDINANCE # 178

AN ORDINANCE REPEALING THE
WASHINGTON COUNTY
SOLID WASTE MANAGEMENT ORDINANCE #167 AND REPLACING IT WITH ORDINANCE #178

The Board of Commissioners of Washington County ordains:

SUBSECTION 1:

The Washington County Solid Waste Management Ordinance #167 is hereby repealed and replaced by Ordinance #178.

13.0 Service Charge

13.01 Purpose and Authority: Pursuant to Laws 1984, Chapter 644, Section 80, and Minn. Stat. Sections 400.08 and 473.811, Subd. 3A, the County hereby imposes on all generators, owners, lessees or occupants of property, including properties owned, leased or used by the State or a political subdivision of the State a service charge. The intent of the service charge is to provide for solid waste management services by the County or by those under contract with the County.

13.02 Service Charge Components

The service charge shall be comprised of the Property Based Waste Management Service Charge as set forth in Section 13 of this ordinance and the County Environmental Charge as set forth in Section 14 of this ordinance.

13.1 Property Based Waste Management Service Charge

13.1.2 Definitions: For the purpose of this section, the terms used herein shall have the following meaning unless the context clearly indicates otherwise.

13.1.3 Residential Property is any property which is a single family residence, personal property mobile home, residential apartment building or any property classified as residential by the County Assessor.

13.1.4 Non-Residential Property is all improved real property in Washington County classified by the County Assessor as commercial, industrial, institutional, utility, tax exempt or other non-residential property.

13.2 Rates and Charges: Rates and charges imposed may take into account the character, kind and quality of the service and of the solid waste; the method of disposition including but not limited to activities such as recycling, composting, co-composting, resource recovery, the number of people served at each place of collection, and all other factors that enter into the cost of service, including but not limited to depreciation and payment of principal and interest on money borrowed by the County for the acquisition or betterment of solid waste facilities, the establishment of a reserve fund for payments of a fee to the Facility vendor for services to be provided at the Facility, and administrative costs associated with providing waste management services to County residents; and specifically may take into account as an additional cost of service, the amount of waste estimated to be generated by different classifications of solid waste generators, as determined by the County.

13.2.1 The rate of the solid waste management service charge for Residential Property shall be as follows:

- 1) \$3.00 per improved parcel for personal property mobile homes
- 2) \$3.00 per improved parcel for single family residence with a building value over \$20,000
- 3) \$3.00 per improved parcel for buildings with 2 or 3 dwelling units and a building value over \$20,000
- 4) \$3.00 per dwelling unit for residential apartment buildings with 4 or more units and a building value over \$20,000.

13.2.2 The rate of the solid waste management service charge for non-residential property shall be as follows:

Category I Non-Residential Property	The solid waste management service charge shall be \$ 0 for each parcel with an estimated building value, as determined by the County Assessor, of \$20,000 but less than \$100,000.
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Category II Non-Residential Property	The solid waste management service charge shall be \$ 0 for each parcel with an estimated building value, as determined by the County Assessor, of \$100,000 but less than \$250,000.
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Category III Non-Residential Property	The solid waste management service charge shall be \$ 0 for each parcel with an estimated building value, as determined by the County Assessor, of \$250,000 but less than \$500,000.
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Category IV Non-Residential Property	The solid waste management service charge shall be \$ 0 for each parcel with an estimated building value, as determined by the County Assessor of \$500,000 but less than \$1,000,000.
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Category V Non-Residential Property

The solid waste management service charge shall be \$ 0 for each parcel with an estimated building value, as determined by the County Assessor, of \$1,000,000 or more.

13.3 Service charges under Section 13 shall be billed directly to every owner of property through the County property tax statements as a separate item and shall be due, payable and collected in the same manner as property taxes subject to the same penalties and interest as overdue real property taxes. In such instances, no charge shall become payable in any year unless first certified by the County Board to the County Auditor in the year prior to its being payable.

13.4 Unpaid Charges.

13.4.1 Taxable Properties: On or before October 15 in each year, the County Board shall certify to the County Auditor all unpaid outstanding charges for services hereunder, and a statement of the description of the lands which were serviced and against the charges arose. It shall be the duty of the County Auditor, upon order of the County Board, to extend the assessments with interest of six percent upon the tax rolls of the County of the taxes of the year in which the assessment is filed.

For each year ending October 15 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 laws of the state. 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.

13.4.2 Tax-Exempt Properties: Unpaid charges may be collected as otherwise provided in Section 13 of this ordinance.

13.5.1 Civil Action: In addition to each and every other remedy available to the County, unpaid solid waste management charges, penalties and interest may be recovered in a civil action against a property owner, lessee or occupant.

13.5.2 Administrative Appeal

13.5.3 A person assessed a service charge pursuant to Section 13 of this ordinance may appeal the amount of the charge before one year from date billed to the Department by requesting in writing an adjustment to the charge. If the Department denies the request for adjustment, the person may appeal the decision to the County Board.

14.0 County Environmental Charge

- 14.1 Purpose and Authority: Pursuant to Laws 1984, Chapter 644, Section 80, and Minn. Stat. Sections 400.08 and 473.811, Subd. 3A, the County hereby imposes on all generators, owners, lessees or occupants of property, including properties owned, leased or used by the State or a political subdivision of the State a service charge. The intent of the service charge is to provide for solid waste management services by the County or by those under contract with the County.
- 14.2. Definitions: For the purpose of this section, the terms used herein shall have the following meaning unless the context clearly indicates otherwise. Incorporated herein by reference are definitions from Solid Waste Ordinance #114 and Minn. Stat. 297H.01 unless the term is herein defined in which case to the extent there are any inconsistencies in definition, the definition in this section shall supercede any other.
- 14.2.1 Generator: Means any person who generates mixed municipal solid waste in Washington County.
- 14.2.2 Residential Generator: Means a Generator in a residential building including but not limited to a single family home, a duplex, a condominium, a townhouse, a cooperative housing unit, or a residential building on perma-lease.
- 14.2.3 Non-residential Generator: Means a Generator who does not qualify as a Residential Generator.
- 14.2.4 Hauler: Means any person, firm, corporation, association, partnership, or other entity, that collects or transports mixed municipal solid waste that is generated in the counties.
- 14.2.5 Self-hauler: Means a person, who transports mixed municipal solid waste generated by that person or another person without compensation.
- 14.2.6 Waste Management Services: Means collection, transportation, processing, or disposal of Mixed Municipal Solid Waste generated in the County, including but not limited to regular scheduled service, on-call service, one-time service, rental and other use of equipment such as waste containers, compactors, compactor boxes, and the like, and any other services that involves or facilitates the collection, transportation, processing or disposal of 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 or transportation of these materials.

14.3 Rates and Charges

14.3.1 Rates and Charges imposed may take into account the character, kind and quality of the service and of the solid waste; the method of disposition including but not limited to activities such as recycling, composting, co-composting, resource recovery, the number of people served at each place of collection, and all other factors that enter into the cost of service, including but not limited to depreciation and payment of principal and interest on money borrowed by the County for the acquisition or betterment of solid waste facilities, the establishment of a reserve fund for payments of a fee to the Facility vendor for services to be provided at the Facility, and administrative costs associated with providing waste management services to County residents; and specifically may take into account as an additional cost of service, the amount of waste estimated to be generated by solid waste generators, as determined by the County.

14.3.2 All Generators of mixed municipal solid waste shall pay the County Environmental Charge at a rate established herein by the County Board. The Charge shall be applied to all Waste Management Services except the charge shall not be applied to services related to materials source separated by the Generator for recycling or composting.

14.3.3 The Rate of the County Environmental Charge shall be 37.5% of the total charges for Waste Management Services for residential and non-residential mixed municipal solid waste generated in the County.

14.3.4 The Charge shall be placed on all Waste Management Services provided on or after January 1, 2009.

14.4 Billing and Collection

14.4.1 As a condition of its license, each Hauler shall bill and collect the County Environmental Charge from County Residential and Nonresidential Generators to whom they provide Waste Management Services, according to the rates established herein under Subsection 14.3 and in the manner described in Subsection 14.5. The Charge collected by Haulers must be remitted to the County.

14.4.2 In the event a municipality contracts or otherwise arranges for Waste Management Services on behalf of Residential Generators and elects to bill and collect the Charge, then a Hauler is not required to bill and collect the Charge from Residential Generators in that municipality.

14.4.3 The County may at its own discretion directly bill the Generator or use any other manner of billing or collection allowed by law

14.4.4 County Environmental Charge shall be a separate line item on each Waste Management Services bill or invoice.

14.4.5 All Haulers and Disposal Facilities shall make a reasonable effort to collect the County Environmental Charge.

- 14.4.6 As a condition of licensure any Person operating a solid waste transfer station, processing facility, or disposal facility and receiving mixed municipal solid waste shall bill for, collect, and remit to the Department, the County Environmental Charge from non-licensed Generators.
- 14.4.7 Licensed Self Haulers shall pay the Charge directly to the County, if not otherwise paid to a Hauler or a Transfer Station. The Charge shall be based on the status as a Residential or Non-Residential Generator, and the disposal portion of incurred costs of Waste Management Services., regardless of the location of the facility at which the waste is deposited.
- 14.5 Remittance
- 14.5.1 All County Environmental Charges collected shall be remitted to the Department of Public Health and Environment with a completed County Environmental Charge Report in accordance with Department procedures.
- 14.5.2 Licensed solid waste haulers, solid waste transfer facilities, and waste disposal facilities, shall maintain a record of all Waste Management Services provided in Washington County. The amount of County Environmental Charge collected and uncollected shall be recorded, but the record of each shall be kept separately.
- 14.5.3 In the event a Generator does not remit to the Hauler or Disposal Facility the full amount of a statement or invoice when the statement or invoice includes the Charge, the Hauler or Disposal Facility shall divide on a pro rata basis the amount actually received from the Generator and shall remit the pro rata share to the County.
- 14.5.4 A penalty shall be imposed on a Hauler or Disposal Facility for Reports or Charges, or penalties not remitted to the County on or before the due date established by the County. The penalty shall be in the amount calculated as follows: \$15 penalty for each Remittance Report plus 1.5% times the sum of the amount due and not remitted, including penalties, compounded monthly.
- 14.6 Examination of Records
- 14.6.1 The Department or its agent shall have the right to examine records, including access to electronic or computer records, of all Haulers and Disposal Facilities who operate in Washington County. The term record shall include, but is not limited to, all accounts of a Hauler and Disposal Facility. The Department or its agent shall be allowed access at all reasonable times to inspect and copy at a reasonable cost, all business records related to Waste Management Services provided to the extent necessary to ensure that all Charges required to be collected or paid have been remitted to the Department. Such records shall be maintained by the Hauler or Disposal Facility for no less than six (6) years.

14.7 Joint Statements.

14.7.1 Each Hauler is required to provide Generators a notification of the Charge through a letter jointly developed with the County. This notification shall be provided prior to April 1, 2003, and annually thereafter prior to the effective date of any change in the Charge. Notification shall be provided to Generators at the time they receive the first invoice on which the Charge is billed, if the Generator would not have otherwise received notification from the Hauler.

14.8 Unpaid Charges.

14.8.1 Taxable Properties: On or before October 15 in each year, the County Board may certify to the County Auditor all unpaid outstanding Charges as reported by the Department, by Haulers and Disposal Facilities and a statement of the description of the lands which were serviced and against the Charges arose. It shall be the duty of the County Auditor, upon order of the County Board, to extend the assessments with interest provided for in Minn. Stat. Section 279.03 subd.1 upon the tax rolls of the County of the taxes of the year in which the assessment is filed.

For each year ending October 15 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 laws of the state. 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.

14.8.2 Civil Action. In addition to each and every other remedy available to the County, unpaid Solid Waste Management Charges, penalties, and interest may be recovered in a civil action against a property owner, lessee, or occupant.

14.8.3 Tax-Exempt Properties. Unpaid Charges may be collected as otherwise provided in this Section.

14.9 Imposition. The Charge is imposed on the sales price of Waste Management Services as incurred by the Generator. If the sales price billed to the Generator does not represent the fair market value of the Waste Management Services provided by the Hauler or Disposal Facility, the Charge shall be calculated on the fair market value of those Waste Management Services. Any sales tax or other tax or charge imposed by a unit of government is not subject to the Charge.

14.10 Enforcement

14.10.1 Failure of a Hauler or Disposal Facility to bill or remit the Charge collected shall result in being subject to the Enforcement provisions under Section 12 of the Solid Waste Management Ordinance #114.

14.10.2 Civil Action. In addition to each and every other remedy available the County may take any other civil action against a Hauler or Disposal Facility to collect unremitted Solid Waste Management Charges.

14.10.3 Administrative Appeal. A person assessed a service charge pursuant to Section 14 of this Ordinance may appeal the amount of the charge billed before one year from the date billed to the Department by requesting in writing an adjustment to the charge. If the Department denies the request for adjustment, the person may appeal the decision to the County Board.

SUBSECTION 2

The Director of the Washington County Department of Public Health and Environment is hereby directed to change the Washington County Solid Waste Management Ordinance #163 in accordance with the foregoing instrument.

SUBSECTION 3

Effective Date. This Ordinance shall be and is hereby declared to be in full force and effect on January 1, 2009.

Passed by the Board of County Commissioners of Washington County, Minnesota, this 28th day of October, 2008.

Dennis Hegberg, Chair
Board of County Commissioners

Attest:

Approved as to form and legality:

James R. Schug
Washington County Administrator

George Kuprian
Assistant Washington County Attorney

Ordinance prepared by:

Washington County
Department of Public Health and Environment
14949 62nd Street North
PO Box 6
Stillwater, MN 55082-0006