

Washington County, Minnesota Ordinances

Ordinance No. 166 Hazardous Waste Management Ordinance

Date Approved: 08/26/2003

Date Published: 08/29/2003

Resolution No. 2003-139

Adoption of Ordinance No. 166 Hazardous Waste Management

Whereas,

Minnesota Statutes Chaps. 145A and 473 authorizes the County to regulate hazardous waste activities in the county; and

Whereas,

Washington County first adopted an ordinance regulating hazardous waste since 1984; and

Whereas,

the most recent version of this ordinance is Washington County Ordinance No. 119, Hazardous Waste Management, adopted by the County Board on November 7, 1995; and

Whereas,

the Washington County Board of Commissioners determines it is in the best interests of the county to update the hazardous waste ordinance; and

Whereas,

a workshop with the Department of Public Health and Environment was held by the County Board on August 5, 2003 to review proposed changes to the Ordinance; and

Whereas,

an officially noticed Public Hearing was held by the County Board on August 26, 2003 to receive comments from the community or other interested parties and to consider the proposed changes; and

Whereas,

the Washington County Public Health Advisory Committee, the Minnesota Pollution Control Agency, licensed hazardous waste generators and facilities, cities and townships in Washington County, and other

metropolitan counties were notified of the revisions and asked to provide comments or state their concerns.

Now, Therefore, be it Resolved

that the Washington County Board of Commissioners hereby adopts Washington County Hazardous Waste Management Ordinance No. 166 to take effect upon the passage of this resolution and its publication according to law.

Now, Therefore, Be it Further Resolved,

that Washington County Ordinance No. 119 is hereby repealed, said repeal to take effect on the date Washington County Ordinance No. 166 becomes effective.

Attest:

James R. Schug, County Administrator

Dennis C. Hegberg, Chairman, County Board

Hegberg - X - Yes

Kriesel - X - Yes

Peterson - X - Yes

Pulkrabek - Absent

Stafford - X - Yes

**Washington County, Minnesota
Ordinance No. 166**

Repeal of Hazardous Waste Management Ordinance No. 119 and Adoption of New Hazardous Waste Management Ordinance No. 166

An ordinance establishing standards to protect the health, safety and general welfare of the people of Washington County relating to hazardous waste management: Repeals Washington County Hazardous Waste Management Ordinance #119, adopted on November 7, 1995, and adopts new Hazardous Waste Management Ordinance #166.

The Washington County Hazardous Waste Management Ordinance is being revised in accordance with Minnesota Statute 473.811, subd. 5b. The ordinance establishes the standards relating to (1) the identification of hazardous waste, (2) the labeling and classification of hazardous waste, (3) the collection, storage, transportation, processing, and disposal of hazardous waste, and (4) other matters necessary for the public health, welfare and safety. In addition the ordinance sets forth the requirement for permits or licenses for the generation, collection, processing, and disposal of hazardous waste, establishes the prohibitions when dealing with hazardous waste and establishes the penalties for violation of the ordinance.

This ordinance shall be in full force and effect from and after its passage and publication according to law. The full text of the ordinance is on file at the offices of the Auditor-Treasurer, Administrator of Washington County and the Washington County Department of Public Health and Environment and is available for

inspection by any person during regular office hours.

Entered by the Board of County Commissioners of Washington County, Minnesota, this 26th day of August, 2003.

Attest:

Dennis C. Hegberg, Chairman
Board of Commissioners

James R. Schug
County Administrator

Approved as to form:

George Kuprian
Assistant County Attorney

Washington County Hazardous Waste Management Ordinance No. 166

Table of Contents

- | | |
|---|--|
| <ul style="list-style-type: none">▪ Section 1 - Purpose and Authority▪ Section 2 - Scope▪ Section 3 - Definitions▪ Section 4 - Standards for Health, Safety and Environmental Preservation<ul style="list-style-type: none">▪ 4.1 - Standards Adopted:▪ 4.2 - Standards Amended:▪ Section 5 - Administration▪ Section 6 - Licensing▪ Section 7 - Waste Management, Abandonment or Termination of Operation | <ul style="list-style-type: none">▪ Section 8 - Inspections▪ Section 9 - Bonding▪ Section 10 - Insurance▪ Section 11 - Modification of Requirements▪ Section 12 - Violations and Enforcement▪ Section 13 - Provisions Cumulative▪ Section 14 - Severability▪ Section 15 - Repeal of Washington County Hazardous Management Ordinance #119▪ Section 16 - Effective Date |
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Hazardous Waste Management Ordinance #166 For Washington County

Section 1 Purpose and Authority

1.1

The purpose of this Ordinance is to establish rules, regulations and standards for Hazardous Waste management in Washington County, Minnesota pursuant to authority granted to the County under Minnesota Statutes Chapters 145A and 473.

1.2

This Ordinance establishes minimum standards for Hazardous Waste management in order to protect the health and safety of the public. These minimum standards:

- (1) Require identification, labeling, and classification of Hazardous Wastes;
 - (2) Establish rules for handling, collection, transportation, transfer and storage of Hazardous Waste;
 - (3) Establish rules for treatment, recycling, resource recovery, processing, and/or disposal of hazardous waste;
 - (4) Require the licensing of Hazardous Waste Generators and Hazardous Waste Facilities.
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Section 2 Scope

2.1

This Ordinance shall be applicable in all incorporated and unincorporated areas of Washington County.

2.2

This Ordinance shall be liberally construed so as to protect public health and safety of the public and the natural environment from Hazardous Waste contamination.

Section 3 Definitions

3.1

For the purpose of this Ordinance, the following terms or words shall be interpreted as follows:

(1) **Agency**

means the Minnesota Pollution Control Agency (MPCA).

(2) **County**

means Washington County, Minnesota.

(3) **County Board**

means the Washington County Board of Commissioners.

(4) **Department**

means the Washington County Department of Public Health and Environment.

(5) **Embargo**

means a written order issued by the Department prohibiting the use, sale, movement, treatment, or disposal of a material or item that the Department reasonably suspects is used or will be managed in violation of this Ordinance.

(6) **Facility**

has the meaning given in Minnesota Rules pt. 7045.0020. subp. 24. In addition, Facility shall mean any place

where activities include the treatment, storage, disposal, transfer, resource recovery, recycling, keeping, depositing, accumulating, reclaiming or other handling or processing of Hazardous Waste, or the recycling and processing of waste lamps containing mercury, used oil and used oil filters.

(7) Generator

has the meaning given in Minn. Rules pt 7045.0020 subp. 31.

In addition, Generator means any Person, whose activities on a site produce greater than 1000 mercury-containing lamps per year.

In addition any Person, who by site, collects from others and stores:

- a. Greater than 1000 mercury-containing lamps at a time.
- b. Spent lead-acid batteries
- c. Used oil, used oil filters or waste contaminated with used oil.

(8) 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 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.

(9) Household

has the meaning attributed to it in Minnesota Statutes, Section 115A.96 subd. 1 (a).

(10) Household Hazardous Waste

has the meaning attributed to it in Minnesota Statutes, Section 115A.96, subd 1 (b).

(11) License

shall mean any the whole or part of any License, certificate, approval, registration, or similar form of permission required by County Ordinance or State law administered by the County for the operation of any business, service or Facility.

(12) Licensee

shall mean the Person licensed by the Department who:

- (A) Is the owner, owner's agent, or other person legally responsible for the operations of the Facility or Generator; and

(B) Possesses a valid License to operate a Hazardous Waste Generator site or a Hazardous Waste Facility according to Minnesota Rules Chapter 7045 or this Ordinance.

(13) License Fee

means the all-inclusive fee due for an initial or renewal License application including the County application and License fee, MPCA statewide and program fees, and late penalty fees, if applicable.

(14) Notice of Violation

means an administrative complaint that is issued by the Department to a Person alleging violations of the Ordinance or Minnesota Statutes or Rules.

(15) Ordinance

means the Washington County Hazardous Waste Management Ordinance.

(16) 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.

(17) Public Health Hazard

has the meaning attributed in the Washington County Public Health Nuisance Ordinance #165. In addition, Public Health Hazard includes spills, releases and contamination from the storage, abandonment or handling of used oil, used oil filters, waste contaminated with used oil, waste mercury containing lamps and spent lead acid batteries.

(18) Risk Manager

means the Washington County Risk Manager.

(19) Structure

means a structure, building or other fixture upon real property.

(20) Terminate Operation

means the shut-down of a site or business which is then not operated or the relinquishment of a lease of or License in real property or the sale of an operation to a new Person.

(21) Transfer Facility

means as defined in Minn. Rules pt 7045.0020 Subp. 93 and a Facility which stores Hazardous Waste on- or off-vehicle for more than 24 hours and for no more than 10 days.

(22) Warning Letter

means a written document issued by the Department to a Person giving notice of violation of the Ordinance, Minnesota Statutes or Rules.

Section 4 Standards for Health, Safety and Environmental Preservation

4.1

Standards Adopted:

Minn. Rules Ch. 7045, except for Minn. Rules pts. 7045.1000 through 7045.1030, relating to hazardous waste, which were in effect on August 26, 2003, are hereby adopted by reference and made a part of this Ordinance.

4.2

Standards Amended:

This Ordinance hereby amends the following application of rules adopted by reference in Section 4.1 as they pertain to this Ordinance:

(1) Wherever the term "Minnesota Pollution Control Agency", or "Agency", appears in these adopted rules, it shall mean the "Department", except in Minn. Rules pts.: 7045.0020 subp. 4, 9C and 73H; 7045.0070; 7045.0075; 7045.0080; 7045.0129; 7045.0133; 7045.0135, subp. 1, paragraph 3; 7045.0139; 7045.0218; 7045.0243, subp. 3, item D; 7045.0261, subp. 5, item B and subp. 6; 7045.0275 subp. 2; 7045.0302; 7045.0361; 7045.0395; 7045.0397; 7045.0450, subp. 1; 7045.0452, subp. 2; 7045.0468, subp. 2; 7045.0498 through 7045.0524; 7045.0552, subp. 3, item A; 7045.0554; 7045.0556, subp. 2; 7045.0574, subp. 2; 7045.0608 through 7045.0624; 7045.0655, subp. 1; and where used with "Environmental Protection Agency", or "federal or state agency", where they shall remain unchanged.

(2) Wherever the term "commissioner" appears in these adopted rules, it shall mean "Department" except in Minn. Rules pts.: 7045.0020, subp. 6a, item B, subp. 9c, subp. 13a, subp. 43b, subp. 73h; 7045.0075; 7045.0080; 7045.0129; 7045.131, and 7; 7045.0218; 7045.0261, subp. 9; 7045.0265; 7045.294, subp. 1a, item B; 7045.0302; 7045.0310, subp. 3, items B, C and D subp. 5, item C; and subp. 6, item D (second occurrence only); 7045.0320, subps. 9 and 10; 7045.0395, subp. 5, item B; 7045.0474; 7045.0476, subp. 3, item A; 7045.0498 through 7045.0524; 7045.0528, subp. 4, item D(4); and subp. 8, item D(1); 7045.0545 subp. 1-7; 7045.0546; 7045.0558, subp. 2; 7045.0580; 7045.0582, subp. 3, item A; 7045.0608 through 7045.0624; 7045.0628, subp. 4, item D(4); and 7045.0652, subp. 2, item B.; 7045.0665; 7045.0686; 7045.0845, 7045 .0875 Subp. 8B; 7045.0990 subp 4; 7045.1309; 7045.1315, subp. 2, item G; and 7045.1360, where it shall remain unchanged.

(3) Wherever the term "permit", "permittee", "permitting" or "permitted" appears in these adopted rules, it shall mean "License", "licensee", "licensing" or "licensed" except in Minn. Rules pts.: 7045.0020, subp. 10 item B; subp. 15, item A(4), subp. 23 item A; subp 24 item B and subp. 58 item A; 7045.0121, subp. 2 item D; 7045.0208 subp. 2 item C; 7045.0210; 7045.0261, subps. 2, 5 and 6; 7045.0310, subp. 6 item D; 7045.0320, subp. 9, item C; 7045.0397; 7045.0450, subp. 1; 7045.0498 through 7045.0524; 7045.0546; 7045.0552, subp. 2; 7045.0554, subp. 1; 7045.0608 through 7045.0624; 7045.1380, subp. 1, item A, and where used with "National Pollutant Discharge Elimination System Permit", "NPDES Permit", "permit-by-rule", "State Disposal System Permit", "Emission Facility Operating Permit", or "air quality permit", where they shall remain unchanged.

(4) The terms "Minnesota" or "State of Minnesota" shall mean "County of Washington" in Minn. Rules pts.: 7045.0210; 7045.0212; 7045.0214; 7045.0240; 7045.0261, subp. 5 and 6 (except the phrases "Specific Minnesota" and "in Minnesota" which shall remain unchanged); 7045.0302, subp. 1; 7045.0351, subp. 1; 7045.0355 and 7045.0361.

(5) Minn. Rules pt. 7045.0020, subp. 66, is deleted in its entirety.

(6) Minn. Rules pt. 7045.0060 is amended to read as follows: "No variance may be granted if granting the variance would result in noncompliance with EPA (Environmental Protection Agency) regulations and MPCA (Minnesota Pollution Control Agency) rules for the generation, storage, processing, treatment, transportation, or disposal of hazardous waste or the operation of hazardous waste facilities."

(7) Minn. Rule 7045.0125 subp. 9 is deleted in its entirety.

(8) Minn. Rules pt. 7045.0225, subp. 1 is amended by deleting the last two sentences of the Rule in their entirety.

(9) In Minn. Rules pt. 7045.0230 subp. 1 the term, "commissioner" means Department.

(10) Minn. Rules pt. 7045.0230, subp. 1a is deleted in its entirety.

(11) Minn. Rules pt. 7045.0240 is amended by the deletion of the second sentence in subp. 3.

(12) Minn. Rules pt. 7045.0243 is amended by the deletion of subp. 1 and subp. 3, item C.

(13) The first and second sentences of Minn. Rules pt. 7045.0248, subp. 1 are amended to read as follows: "A licensed generator must submit a License renewal application to the Department on forms provided by the Department. A generator must submit the application and report by the January 31 preceding the expiration of the generator License."

(14) Minn. Rules pt. 7045.0248, subp. 1, item B is deleted in its entirety.

(15) Minn. Rules pt. 7045.0250 is deleted in its entirety.

(16) Minn. Rules pt. 7045.0261, subp. 5 is amended to read as follows:

"Subp. 5 Permitted facilities. The facilities shall be licensed or permitted by:

A. the agency if the hazardous waste facility is located in Minnesota; or

B. the state agency with a hazardous waste program authorized by the Environmental Protection Agency pursuant to Code of Federal Regulations, title 40, part 271 (1983); or

C. the Environmental Protection Agency;

D. having interim status."

(17) Minn. Rules pt. 7045.0292 Subp. 1, 5, 6 and 8, the phrase "without a permit" is amended to read "without a facility License or permit." The word "permit" in these references remains unchanged.

(18) In the first paragraph of Minn. Rules pt. 7045.0302, subp. 2 the word "commissioner" means commissioner and Department.

(19) Minn. Rules pt. 7045.0460, subp. 1, item A is amended to read as follows: "Procedures are in effect which will cause the waste to be removed safely before flood waters can reach the facility to a location where

the wastes will not be vulnerable to floodwaters. The location to which wastes are moved must be a facility which is either licensed by this Department, or permitted by the Environmental Protection Agency, or by a state with a hazardous waste management program authorized by the Environmental Protection Agency, or which has interim status."

(20) Wherever Minn. Rule Ch. 7045 refers to Chapters 7001 and 7046, reference shall not be applicable in this Ordinance.

Section 5 Administration

5.1

This Ordinance shall be administered by the Department.

5.2

All of the provisions of the Washington County Administrative Ordinance shall apply as if fully set forth herein.

5.3

In order to for a License applicant to obtain or maintain a Hazardous Waste Generator or Facility License, the Generator or Facility site must be properly zoned or a conditional use permit or other similar permit must be secured from the city or township in which the regulated activity is to be located or the applicant must present evidence a conditional use permit or other similar permit is not needed. Failure to provide evidence of the applicant having obtained the required city or township permit or that a conditional use permit is not needed is considered grounds for denial, suspension or revocation of the Hazardous Waste Generator License or Hazardous Waste Facility License in accordance with the Washington County Administrative Ordinance.

5.4

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 any Generator or Facility activity or Public Health Hazard exists in any building or upon any premises, the Department or its authorized agent may enter such building or premises at all reasonable times to inspect the same or to perform any duty imposed upon the Department by this Ordinance.

(1) If the building or premises is occupied, the Department shall first present proper credentials and request entry.

(2) If such building or premises is unoccupied, the Department shall first make a reasonable effort to locate the owner or other persons having charge or control of the building or premises and request entry.

(3) If entry is refused, the Department shall have recourse to every remedy provided by law to secure entry including, but not limited to, administrative search warrants.

5.5

The County Board shall, by resolution, establish fees for licenses issued under this Ordinance and may establish such other fees as may be necessary for the administration and enforcement of this Ordinance.

Section 6 Licensing

6.1

Unless otherwise provided by this Ordinance, no Person shall make or allow property under their control to be used for any Generator activity except at an individual site for which a Hazardous Waste Generator License has been issued by the Department.

6.2

Unless otherwise provided by this Ordinance, no Person shall make or allow property under their control to be used for any Facility activity; and no Person shall process or recycle used oil, used oil filters or waste mercury-containing lamps, except at a site or Facility for which a License has been issued by the Department.

6.3

Prior to the issuance of a Hazardous Waste transfer, storage, resource recovery, recycling, disposal, treatment or other handling or processing site or Facility License, pursuant to the provisions of this Ordinance, the License applicant shall furnish the County with a bond or letter of credit in an amount determined pursuant to section 9.2 and naming Washington County as the obligee.

6.4

A Household and Household Hazardous Waste are exempt from the requirements of Sections 6.1 and 6.2 of this Ordinance.

6.5

Applications for Licenses shall be submitted to the Department on forms provided by the Department. Applications shall provide such information as may be needed for the administration of this Ordinance. Such information shall include, but not be limited to, the information specified in Minn. Rules pts. 7045.0230 or 7045.0248, as applicable. Applicants for a facility License shall submit to the Department, on request, all of the documents and supporting information required by the Agency in its permitting procedures.

6.6

If an application for a License is not complete or otherwise does not conform with the requirements set forth in this Ordinance, the Department shall advise the applicant within sixty (60) days of receipt of the application. Such notification shall be in writing and will include the reasons for non-acceptance of the application. The applicant shall comply with the Department's request for additional information, re-submittal or modification within the timeframe specified by the Department. Failure to comply with the Department's request shall constitute basis for denial of the License.

6.7

Applications for an initial or renewal Generator License will be acted upon by the Department within sixty (60) calendar days of receipt of a complete application.

6.8

Application for an initial or renewal Facility License will be acted upon by the Department within one hundred twenty (120) calendar days of receipt of a complete application.

6.9

Applications for an initial or renewal License shall be received in the timeframe established by the Department. Applications received after the timeframe established by the Department are considered late and subject to the penalty schedule outlined in section 6.14. Applications for License renewal must be accompanied by a statement of any change in information since submittal of the last approved License or License renewal. If there are no changes, it shall be so stated in the License renewal application.

6.10

Applicants for a Facility License shall not commence any construction or operation until the License application has been approved by the Department. A Facility License shall not be issued by the Department until the Facility construction has been completed in compliance with this Ordinance and the approved plans.

6.11

Application for a Generator License which is received more than seventy-five (75) days after commencement of operation shall be considered late and subject to a late application penalty. Application for Generator License modification shall be deemed late if received later than as set forth in Minn. Rules pts. 7045.0243, subp 3, item G.

6.12

A renewal application form received after the expiration of the current License year shall be considered an initial License application and shall be assessed fees as if it was an initial, new application plus a fifty (50%) penalty. The activity for which the License is required shall cease until such time as a new License is granted.

6.13

License Fees are due within thirty (30) days of the billing date. All License fees must be received at least thirty (30) days prior to the expiration of the current License.

6.14

Section 6.1(4) of the Washington County Administrative Ordinance #149, shall not apply. Rather, the schedule for late penalty fees for a late License application, late License renewal application and late License fee payment shall be as follows:

- (1) One [1] to fourteen [14] calendar days late, a fifteen percent [15%] or twenty-five dollar [\$25.00] penalty, whichever is higher.
- (2) Fifteen [15] to thirty [30] calendar days late, a twenty-five percent [25%] or fifty dollar [\$50.00] penalty, whichever is higher.
- (3) Thirty-one [31] calendar days late to forty-five [45] calendar days late, a fifty percent [50%] or one hundred dollar penalty, whichever is higher.
- (4) Over forty-five [45] calendar days late, all activity of the Generator or Facility must immediately cease. Operation cannot resume until a new License application has been submitted and all applicable License fees and penalties are paid in full. The penalty shall be the percentage of the License fee for the forthcoming year. The penalties in items one (1) to three (3) above shall be assessed in addition to the License fee and to any other penalties which may have been incurred.

6.15

A License may be issued with conditions imposed if necessary in the opinion of the Department to protect

public health and safety. The Department will consider the type of activity, types of substances and wastes, and the location of the Generator or Facility site when imposing such conditions.

6.16

No change in Facility or Generator operation relative to hazardous waste activity shall be made unless the Department is first informed of and approves such change.

6.17

The License year for a Hazardous Waste Facility shall be from July 1 to June 30; the License year for a Hazardous Waste Generator shall be from May 1 through April 30 unless otherwise designated by the Department.

6.18

The obtaining of a Hazardous Waste License shall not be deemed to exclude the necessity of obtaining other appropriate licenses or permits except as expressly provided herein. Compliance with the provisions of this Ordinance does not relieve any person of the need to comply with any and all other applicable rules, regulations and laws.

6.19

Omission of any information or submission of false information in association with a License application, renewal application, inspection, compliance, or enforcement action may be deemed a violation of this Ordinance.

6.20

Each License issued pursuant to the provisions of this Ordinance shall be nontransferable and shall be for a period of not more than one year, except that an initial License may be issued for a period of up to eighteen (18) months, unless earlier suspended or revoked.

6.21

A License obtained pursuant to this Ordinance shall not be transferable.

Section 7 Waste Management, Abandonment or Termination of Operation

7.1

For licensing purposes, the Department will consider on-site treatment by the Generator of on-site generated hazardous waste to be part of the Generator's licensure and will exempt such on-site treatment from Facility licensing requirements. Such exemption shall be limited to the following types of treatment: the specific treatment activities allowed in Minn. Rules 7045.0450, subp 3k; 7045.0652; 7045.0665, subp 1b; and 7045.0855, subp 3 and/or recovery of reusable solvents by either closed-loop or open-loop distillation. The treatment must be described in the Generator's License application and approved by the Department. The Department may impose such conditions to the License as deemed necessary to monitor the on-site treatment operation and assure public health and safety.

7.2

Generators utilizing any sewer system for the disposal or conveyance of Hazardous Wastes shall comply with all of the requirements of this Ordinance. They shall maintain, on site, for at least three (3) years, a copy of any

permits or reports required by the Metropolitan Council Environmental Services or other publicly owned treatment works, or as a condition of a National Pollutant Discharge Elimination System (NPDES) or State Disposal System (SDS) Permit, concerning the character, concentration, and quantity of the sewerage Hazardous Waste for inspection by the Department. The Department may require Generators of Hazardous Waste discharged to any sewer to comply with the requirements of 7045.0558; 7045.0562, subps. 1 and 2; and 7045.0566 through 7045.0576. The Department may impose such conditions to the License as deemed necessary to monitor the discharge operation and assure public health and safety.

7.3

Any Person who Terminates Operations at a site must remove all Hazardous Wastes, Used Oil or Used Oil Filters, Waste Lamps, and/or Waste Lead Acid Batteries and materials contaminated with Hazardous Waste, Used Oil, Mercury, or Lead Acid prior to termination of operations. This removal from the site must be accomplished in full compliance with this Ordinance and Minn. Rules Chapter 7045. Materials remaining on the site of a Terminated Operation shall be considered Hazardous Waste materials. The continued storage of Hazardous Waste on the site of a Terminated Operation shall be done in compliance with Minn. Rules Chapter 7001, 7045, and this Ordinance.

7.4

Any Person who owns property on which Hazardous Waste, used oil or used oil filters, waste contaminated with used oil, waste lamps, or spent lead acid batteries have been abandoned must remove all contaminated materials. This removal from the site must be accomplished in compliance with this Ordinance. Continued storage of abandoned Hazardous Waste, Used Oil or Used Oil Filters, Waste mercury containing lamps or Used Lead Acid Batteries on the abandonment site is prohibited.

7.5

Any unlicensed storage of used oil or used oil filters, waste contaminated with used oil, waste lamps, or spent lead acid batteries which results in contamination, spills or releases to the air, land, Structure, surface water or ground water shall be considered a Public Health Hazard and subject to the Washington County Public Health Nuisance Ordinance #165.

Section 8 Inspections

8.1

The Department may inspect Hazardous Waste Facilities, sites of Hazardous Waste Generators and other sites where the Department reasonably believes Hazardous Wastes may be located.

8.2

A Facility Owner and/or Operator or a Generator shall allow the Department, or its authorized agent, access for the purposes of making such inspections.

8.3

A Facility Owner and/or Operator or a Generator shall provide free of charge or shall allow the Department, or its authorized agent, to collect samples of waste, soils, surface waters, ground waters, air, raw materials, sewage discharges or other materials or residues present at or emanating from Hazardous Waste or a suspected Hazardous Waste site for testing.

8.4

A Facility Owner and/or Operator or a Generator shall allow free access at all reasonable times during normal business hours for the Department to inspect and photocopy, at a reasonable cost, all business records related to the generation, collection, processing and transportation of Hazardous Waste.

8.5

The Facility Owner and/or Operator or a Generator shall allow the Department to record and document its findings in any reasonable manner including, but not limited to, inspection notes, photographs, photocopies, readouts from analytical instruments, videotapes, audio recordings, and computer storage systems or other electronic media.

8.6

At the conclusion of an inspection, the Facility Owner and/or Operator or the Generator will be provided with written notice of any deficiencies, orders for their correction and the date by which corrections shall be accomplished within thirty (30) days.

8.7

The Department may Embargo and forbid the removal, transport, disposal, treatment, or use of any material which is or is suspected to be a Hazardous Waste, Used Oil or Used Oil Filters, Waste Lamps or Waste Lead Acid Batteries and which is being mismanaged or which the Department has reason to suspect is being or will be managed in violation of this Ordinance. The Department shall place a tag to indicate the Embargo on the suspect material.

8.8

No Person may remove an Embargo tag or remove, transport, dispose, treat or use Embargoed material except as authorized by the Department.

8.9

Action to Embargo shall not be considered to impute ownership of or management responsibility for the material embargoed upon the Department or the County.

Section 9 Bonding

9.1

A bond required under section 6.3 of this Ordinance must be issued by a financial institution acceptable to the County Risk Manager.

9.2

The amount of the bond or letter of credit shall be set by the Department according to the following formula:

- (1) The estimated cost, submitted by the applicant, for a third party contractor to dispose of the maximum inventory of Hazardous Wastes that will be on site at any one time, plus;
- (2) the estimated cost to decontaminate the Facility and all equipment in the Facility, or dispose of any equipment that cannot be decontaminated, plus;
- (3) the cost to perform any other activities necessary to assure that the Facility does not pose a

threat to human health or the environment, plus;

(4) an additional thirty percent [30%] for unanticipated costs and administrative costs that the County might incur.

9.3

The bond or letter of credit shall state that, if the principal fails to obey any of the requirements or do any of the acts required by this Ordinance, fails to follow an order or notice issued by the Department, or fails to adhere to any conditions of the License for the operation of the site or Facility, and the Department determines that remediation or expending of any monies are required to restore the site or Facility to the condition and requirements as provided by the Ordinance, notice, order or License, the Principal and the sureties on its bond or the institution holding the letter of credit shall pay the Department upon demand for any and all expenses incurred by the Department.

9.4

The Principal and its sureties will indemnify and save the County harmless from all losses, costs, and charges that may occur to the County because of any default of the Principal under the terms of their License to operate and under the terms of this Ordinance.

9.5

Facilities permitted by the Agency shall submit, in a form acceptable to the Department, satisfactory evidence of compliance with the Agency's financial assurance requirements. Such financial assurance requirements may be accepted in lieu of a bond or letter of credit issued to the County if it meets the criteria set forth in section 9.3.

Section 10 Insurance

10.1

Issuance of a License to a Facility which requires an Agency permit shall be contingent upon the applicant furnishing satisfactory evidence to the Department of compliance with Minn. Rules pts. 7045.0518 and 7045.0620.

10.2

Issuance of a License to a Facility not required by the Agency to meet the liability requirements of Minn. Rules 7045.0518 or 7045.0620 shall be contingent upon the applicant furnishing to the Department a certificate of insurance showing that the applicant maintains the following minimum coverage:

(1) a commercial general liability policy covering all premises and operation with limits of not less than \$1,000,000 for personal injuries arising from one occurrence, \$1,000,000 for damages arising from death and/or total bodily injuries arising from one occurrence, and \$1,000,000 for property damage arising from one occurrence, or a combined single limit thereof, with a \$2,000,000 annual aggregate.

(2) Environmental impairment liability insurance coverage including remediation, cleanup and legal liability for \$1,000,000 per occurrence.

(3) An automobile liability insurance policy, if applicable, with limits of \$1,000,000 per accident for death, bodily injury and/or damages to any one person, \$1,000,000 for total bodily injuries and/or damages arising from one accident and with limits of not less than \$1,000,000 per accident for property damage.

(4) Workers Compensation coverage at the statutory limits or written confirmation that the applicant is a qualified self-insured or is otherwise exempt under MN Statutes section 176.041.

(5) For Facilities that transport Hazardous Waste as part of their activities, a commercial truckers insurance policy with an appropriate endorsement for cargo pollution coverage and a BUYBACK endorsement which deletes the exclusion caused by cargo as respects to bodily injury and property damage.

10.3

A financial test (i.e., self funding) for liability coverage may be substituted for the certificate of insurance required of recycling facilities upon approval of the Risk Manager

10.4

Insurance information must be submitted at the time of the License application and/or License renewal. Absence of all necessary insurance information shall constitute an incomplete application.

10.5

All insurance policies shall name Washington County as an additional insured party and as a Certificate Holder. Upon request of the County, a copy of the requested insurance policies shall be submitted to the County's Risk Manager.

10.6

The County shall be notified no less than sixty (60) days prior to the effective date of a cancellation or change in insurance.

Section 11 Modification of Requirements

11.1

The Department may waive or modify the strict application of the provisions of this Ordinance by reducing or waiving certain requirements in accordance with the Washington County Administrative Ordinance when such requirements are unnecessary or impractical.

11.2

Requests by an applicant or licensee for a variance to the requirements of this Ordinance must be made in writing to the Department in accordance with the Washington County Administrative Ordinance.

11.3

No variance shall be granted if it would result in noncompliance with Minn. Rules Chapter 7045 unless such modification or waiver has been approved or granted by the Agency.

11.4

For Facilities permitted or granted interim status by the Agency, amendments to the Facility closure/post-closure plans and extensions to the closure/post-closure period shall be granted by the Department only where said amendment has been approved by the Agency.

11.5

The Department may approve a variance that will carry over to each successive License renewal granted unless specifically rescinded by the Department.

Section 12 Violations and Enforcement

12.1

Failure by a Facility Owner and/or Operator, a Generator or a Licensee to comply with this Ordinance or failure to comply with orders for correction of deficiencies within the timeframe established by the Department shall be deemed a violation of this Ordinance.

12.2

Any Person who fails to comply with this Ordinance is guilty of a Misdemeanor. A separate offense shall be deemed committed upon each day during or on which a violation occurs or continues.

12.3

Citations may be issued by the Department pursuant to Section 5 of Washington County Administrative Ordinance #149.

12.4

In the event of a violation or a threat of a violation of this Ordinance, the County may institute appropriate civil actions or proceedings including requesting injunctive relief to prevent, restrain, correct or abate such violations or threatened violations.

12.5

If a Person fails to comply with the provisions of this Ordinance, the County may recover costs incurred for corrective action in a civil action in any court of competent jurisdiction, or at the discretion of the County Board, the costs may be certified to the County Auditor as a special assessment against the real property.

Section 13 Provisions Cumulative

The provisions of this Ordinance are cumulative to all other laws, ordinances and regulations heretofore passed, or which may be passed hereafter, covering any subject matter in this Ordinance.

Section 14 Severability

It is hereby declared to be the intention of the County Board that the provisions of this Ordinance shall be severable in accordance with the following:

(1) If any Court of competent jurisdiction shall adjudge any provision of the Ordinance to be invalid, such judgment shall not affect any of the provisions of this Ordinance not specifically included in such judgment.

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

Section 15 Repeal of Washington County Hazardous Management Ordinance #119

Washington County Hazardous Waste Management Ordinance #119 as adopted on November 7, 1995, is hereby repealed and superseded by this Ordinance.

Section 16 Effective Date

This Ordinance shall become effective immediately upon passage by the County Board and publication according to law.

Passed by the Board of County Commissioners of Washington County, Minnesota, this 26th day of August, 2003.

Dennis Hegberg, Chairman
Board of County Commissioners

Attest:
James R. Schug, County Administrator

Approved as to form and legality:
George Kuprian, Assistant County Attorney

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