

Washington County, Minnesota Ordinances

Ordinance No. ~~114~~_____
Washington County Solid Waste Management Ordinance No.
~~114~~_____.

Date Approved: ~~05/23/1995~~_____

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1.0 Purpose, Scope and Authority

This ordinance establishes standards for the regulation of solid waste management activities and facilities in Washington County, Minnesota. This ordinance requires that appropriate licenses be obtained from Washington County for the establishment and operation of solid waste management activities and facilities. This ordinance is intended to support and promote the health, welfare and safety of the public pursuant to Minnesota Statutes, Chapter 115A, 145A, 375, 400 and 473. This ordinance incorporates and makes a part of its provisions previous amendments #110 and #112.

2.0 Definitions:

words used in the present tense include the past and future tense; the singular number includes the plural and the plural includes the singular; the words “shall” and “must” are mandatory and the words “may” and “should” permissive. In addition to the terms set forth in Section 2.0 herein, this ordinance incorporates by reference terms defined in the Waste Management Act, Minnesota Statute 115A.01 et seq..

2.1 Acceptable Waste

means waste which is acceptable at the designated facility. Acceptable waste shall include garbage, refuse, and other municipal solid waste from residential, commercial, industrial and community activities which is generated and collected in aggregate, and which is not otherwise defined herein as unacceptable waste. No amount of hazardous waste or infectious waste that is regulated by law is acceptable at the designated facility.

Acceptable waste shall also include acceptable household quantities and acceptable non-household waste, as defined herein. All household waste is acceptable waste unless it is otherwise regulated or prohibited by law.

2.2 Acceptable Household Quantities

means waste which is otherwise unacceptable waste, but which is contained in garbage, refuse, and municipal solid waste from normal household activities. For the purpose of this definition, “household” includes any residential dwelling unit or place of transient residence.

2.3 Acceptable Non-Household Waste

means waste which is otherwise unacceptable waste, but which is contained in garbage, refuse, and municipal solid waste generated from commercial, industrial, or community activities, where the quantity of such unacceptable waste contained in any load delivered to the designated facility does not constitute a significant portion of such load. No amount of hazardous waste that is regulated by law is acceptable waste.

2.4 2.4 Acre Foot

means a unit of volume equal to the volume of one foot high with a base one acre in area = 43,560 cubic feet.

2.5 Adequate Turf

means a live ground cover mat of native perennial grasses, or other suitable vegetation free of noxious weeds, which provides sufficient ground cover to effectively prevent loss or damage of final cover.

2.16 Counties

means the counties participating in the Regional Hauler Licensing Program and includes: Anoka, Carver, Dakota, Hennepin, Ramsey, Scott and Washington Counties.

2.17 County

means Washington County.

2.18 County Board

means the Washington County Board of Commissioners.

2.19 Department

means the Washington County [Department of Public Health, and Environment and Land Management Department](#).

~~2.20 Designated Facility means the Ramsey/Washington County Resource Recovery Facility located on Maxwell Avenue in Newport, Minnesota to which acceptable waste is required to be delivered under Section 10.1 herein.~~

2.20 2.21 Designation

means the requirement contained in Section 10.1 herein, that all or any portion of the acceptable waste that is generated within the County’s boundaries or any service area thereof be delivered to the Designated Facility.

2.21 2.22 Designation Area

means the County of Washington, Minnesota.

2.23 Designation Plan

~~means that document entitled “Joint Designation Plan” which detailed the County’s proposal for the designation of waste, and which was approved by the Metropolitan Council on December 13, 1984, pursuant to the statutory designation procedures contained in Minnesota Statutes Section 115A.80 et seq. (1984).~~

2.22 2.24 Disposal or Dispose

means the discharge, deposit, injection, dumping, spilling, leaking, or placing of any waste into or on any land or water so that the waste or any constituent thereof may enter the environment or be emitted into the air, or discharged into any waters, including ground waters.

2.23 2.25 Disposal Facility

means a waste facility licensed by the Department that is designed and 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.

2.24 2.26 Financial Assurance

means monetary mechanisms which are used to assure proper closure, post closure care, and contingency action at a site or facility.

2.25 2.27 Generate

means the act or process of producing waste, including the production or aggregation of waste occurring at an intermediate disposal facility.

2.26 ~~2.28~~ **Generator**

means any person who generates solid waste.

2.27 ~~2.29~~ **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. Hauler does not mean a person hauling his or her own residential household waste.

2.28 ~~2.30~~ **Hazardous Waste**

shall have the meaning ascribed to it in the Washington County Hazardous Waste Management Ordinance.

2.29 ~~2.31~~ **Herbaceous**

means any nonwoody plant.

2.32 **Holidays**

~~means those holidays when the designated facility is closed. Initially the holidays are Christmas Day, New Years Day, Memorial Day, July 4th, Labor Day, and Thanksgiving Day. These holidays may be changed by resolution of the County Board.~~

2.30 ~~2.33~~ **Incineration**

means the process by which solid wastes are burned for the purpose of volume and weight reduction in facilities designed for such use.

2.31 ~~2.34~~ **Industrial Solid Waste**

means all solid waste generated from an industrial or manufacturing process and solid waste generated from nonmanufacturing activities such as service and commercial establishments. Industrial solid waste does not include office materials, restaurant and food preparation waste, discarded machinery, demolition debris, or household refuse.

2.32 ~~2.35~~ **Inert Material**

means a material that displays either no chemical activity or chemical activity only under special or extreme conditions, to include the uncompostable material remaining in a compost system after decomposition.

2.33 ~~2.36~~ **Intermediate Disposal**

means the preliminary or incomplete disposal of solid waste including, but not limited to, transfer station operations, open burning, incomplete land disposal, incineration, composting, reduction, shredding, compression, recycling, processing, resource recovery, and any other management or handling of waste short of final disposal.

2.34 ~~2.37~~ **Land Pollution**

means the presence in or on the land of any waste in such quantity, of such nature and duration, and under such condition as would affect injuriously any waters of the state, create air contaminants or cause air pollution.

2.35 ~~2.38~~ **Landspreading/Land Application**

means the placement of waste or waste by-products on or incorporated into the soil surface.

2.36 ~~2.39~~ Landspreading/Land Application Site

means any land used for the purpose of landspreading or the land application of waste or waste by-products.

2.37 ~~2.40~~ Leachate

means liquid that has percolated through solid waste and has extracted, dissolved, or suspended materials from it.

2.38 ~~2.41~~ Licensee

means the landowner, owner, operator, or other person or persons given authority by the Department to establish, operate, and maintain a solid waste management activity, disposal site or facility.

2.39 ~~2.42~~ Market

means any person which accepts and recycles recyclable materials.

2.40 ~~2.43~~ Marketed

means delivery of recyclable materials to and acceptance by a market.

2.41 ~~2.44~~ Medical Waste

includes infectious waste, as defined in the Infectious Waste Control Act of 1989, Minn. Stat. section 116.76, subdivision 12 (Supp. 1989), as amended, and 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 decontaminated.

2.42 ~~2.45~~ Mixed Municipal Solid Waste

means garbage, refuse, and other solid waste from residential, commercial, industrial, and community activities that the generator of the waste aggregates for collection, but does not include auto hulks, street sweepings, ash, construction debris, mining waste, sludges, tree and agricultural wastes, tires, lead acid batteries, used oil, and other materials collected, processed, and disposed of as separate waste streams.

2.43 ~~2.46~~ MPCA

means the Minnesota Pollution Control Agency.

2.44 ~~2.47~~ Open Dump

means a land disposal site at which solid waste is disposed of in a manner that does not protect the environment, is susceptible to open burning and is exposed to the elements, flies, rodents, and scavengers.

2.45 ~~2.48~~ Operating County

includes only those Counties in which the hauler collects or transports mixed municipal solid waste.

2.46 ~~2.49~~ Operating License

means the license required of the Hauler in order to collect or transport mixed municipal solid waste in an Operating County. If the Hauler collects or transports mixed municipal solid waste in its Base County, it must also obtain an Operating License.

2.47 ~~2.50~~ Operator

means the person or persons responsible for the operation of a solid waste facility.

2.48 ~~2.51~~ Owner or Solid Waste Facility Owner

means the person or persons who own a solid waste facility or part of a solid waste facility.

2.49 ~~2.52~~ 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 and with respect to acts prohibited or required herein, shall include employees or licensees.

2.50 ~~2.53~~ Processing

means the treatment of solid waste after collection, including all activities after the time the waste is delivered to a waste facility. Processing includes but is not limited to disposal, storage, containment, separation, exchange, resource recovery, physical or chemical modification, and transfer from one waste facility to another. For the purpose of requirements for Resource Recovery Certification, processing shall not include storage, exchange or transfer of waste.

2.51 ~~2.54~~ Prohibited Materials

means solid waste which is unacceptable for collection, processing, or disposal due to the physical or chemical nature of the material or due to a facility's inability to properly manage the waste.

2.52 ~~2.55~~ Recovered Materials

means materials that have been separated from the solid waste stream for reuse and are, or will be, processed, modified, or converted to a raw material that may be beneficially used.

2.53 ~~2.56~~ Recyclable Materials

means materials that are separated from mixed municipal solid waste for the purpose of recycling or composting, including paper, glass, plastics, metals, automobile oil, ~~and batteries~~, source-separated compostable materials, and sole source food waste streams that are managed through biodegradative processes. Refuse -derived fuel or other material that is destroyed by incineration is not a recyclable material.

2.54 ~~2.57~~ 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.

2.55 ~~2.58~~ Regional Hauler Licensing Program

means the hauler licensing program established by joint powers agreement of February 1, 1995, among Anoka, Carver, Dakota, Hennepin, Ramsey, Scott and Washington Counties.

2.56 ~~2.59~~ Rejected Waste

means unacceptable waste which is rejected at the designated facility pursuant to Section 10.5.1, herein.

2.57 ~~2.60~~ Resource Recovery

means the reclamation for sale, use, or reuse of materials, substances, energy or other products contained within or derived from waste.

2.58 ~~2.61~~ Resource Recovery Facility

means 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.

2.59 ~~2.62~~ Salvaging

means the controlled and authorized removal of waste materials from a licensed solid waste facility.

2.60 ~~2.63~~ Satellite Vehicle

means a vehicle used to collect solid waste for subsequent transfer into another, usually larger, vehicle or container for transport to a solid waste management facility.

2.61 ~~2.64~~ Scavenging

means the removal of waste materials from a licensed solid waste facility, which has not been authorized by the Department.

2.62 ~~2.65~~ Shoreland

means land located within the following distances from the ordinary high water elevation of public waters: (a) land within 1,000 feet from the normal high watermark a lake, pond, reservoir, impoundment, or flowage; and (b) land within 300 feet of a river or stream or the landward side of a flood plain delineated by ordinance on such a river or stream, whichever is greater.

2.63 ~~2.66~~ Shrub

means a perennial woody plant of relatively low stature, typically with several stems arising from or near the ground.

2.64 ~~2.67~~ Site

means the spatial location of a proposed or actual solid waste management activity or facility.

2.65 ~~2.68~~ Sludge

means any solid, semisolid, or liquid waste generated from a municipal, commercial, or industrial wastewater treatment plant, water supply treatment plant, or air contaminant treatment facility, or any waste having similar characteristics and effects.

2.66 ~~2.69~~ 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, semi-solid, liquid, or contained gaseous form, resulting from industrial, commercial, mining and agricultural operations, 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.

2.67 ~~2.70~~ Solid Waste Collection

means the gathering of solid waste from public or private places.

2.68 ~~2.71~~ Solid Waste Hauler

means any person or persons who collects or transports any solid waste; except, an individual resident hauling his or her own household waste is not a solid waste hauler.

2.69 ~~2.72~~ Solid Waste Management Coordinating Board or SWMCB

means the joint powers board established by agreement of the Counties for the coordination of solid waste management issues in the metropolitan area.

2.70 ~~2.73~~ Solid Waste Storage

means the holding of solid waste in quantities equal to or greater than ten cubic yards for more than 48 hours.

2.71 ~~2.74~~ Solid Waste Transportation

means the conveying of solid waste from one place to another, by means of vehicle, rail car, water vessel, conveyer, or other means.

2.72 ~~2.75~~ Solid Waste Management

means activities which are intended to affect or control the generation of solid waste and activities which provide for or control the collection, processing, and disposal of waste.

2.73 ~~2.76~~ Source Separation

means the separation of recyclable materials from waste by the generator prior to collection for recycling.

2.74 ~~2.77~~ Tipping Fee

means the fee charged to haulers and citizens for waste delivered to the designated facility.

2.75 ~~2.78~~ Tree

means a perennial woody plant, generally with a single stem (trunk).

2.76 ~~2.79~~ Unacceptable Waste

means solid waste ~~which~~that is not acceptable at the designated facility. Unacceptable waste shall include waste which would likely pose a threat to health or safety, or which may cause damage to, or materially adversely affect the operation of the designated facility including but not limited to: explosives; medical waste; commercial, industrial, and community hazardous waste, as regulated by federal, state and local ~~laws~~law; chemicals and radioactive materials; oil sludges; asbestos in identifiable quantities; cesspool, domestic sewage or other sewage sludge; human or animal remains; street sweepings; ash; mining waste; sludges; demolition ~~debris~~waste; construction debris; waste in liquid state; hazardous refuse of any kind, such as cleaning fluids, used crank case oils, cutting oils, paints, acids, caustics, poisons, drugs; and any other materials that the designated facility ~~owner/operator and the Counties shall agree~~identifies; or that MPCA or any other governmental ~~agency or~~ unit having appropriate jurisdiction shall determine, is harmful or of a toxic or dangerous nature.

2.77 ~~2.80~~ Waste Facility

means all property, real or personal, including negative and positive easements and water and air rights, which is or may be needed or useful for the processing or disposal of waste, except property for the collection of the waste and property used primarily for the manufacture of scrap metal or paper. Waste facility includes but is not limited to transfer stations, processing facilities, and disposal facilities.

2.78 ~~2.81~~ Wetland

means a surface water feature classified as a wetland in the publication entitled “Classification of Wetlands and Deep Water Habitats of the United States,” written and published by the United States Fish and Wildlife Service Biological Services Program FWS 035-71/31, December 1979, which is incorporated by reference. The publication is not subject to frequent change. In addition, the Department may use the 1987 Corps of Engineers Wetland Delineation Manual to identify wetlands. The Department will incorporate by reference and utilize the January 1989 Federal Manual for Identifying and Delineating Jurisdictional Wetlands when revisions to this document are finalized.

2.79 ~~2.82~~ Yard Waste

means garden wastes, leaves, lawn cuttings, weeds, shrub and tree waste, and prunings.

3.0 Standards Adopted:

Minn. Rule Parts 7035.0300 to 7035.2875 and 9220.0200 to 9220.0300 and 9220.0450 to 9220.0510 inclusive, relating to solid waste and waste tire management, respectively, which are in effect as of the date of adoption of this ordinance, are hereby adopted by reference and made a part of this ordinance, as amended.

4.0 Standards Amended:

The above adopted rules are hereby amended as follows:

4.1

Wherever the term “Minnesota Pollution Control Agency,” or “agency” appears in these adopted rules, it shall be held to mean the “Department.”

4.2

Wherever the “Commissioner” appears in these adopted rules, it shall be held to mean “Department.”

4.3

Wherever the term “permit,” “permittee,” “permitting,” or “permitted” appears in these adopted rules, it shall mean “license,” “licensee,” “licensing,” or “licensed.”

4.4

The terms “Minnesota” or “State of Minnesota” shall be held to mean “Washington County.”

4.5

Wherever the term “Minnesota Waste Management Board,” or “Board” appears in these adopted rules, it shall be held to mean the “Department.”

4.6

Wherever the term “Chair” appears in these adopted rules, it shall be held to mean “Department.”

Establish and maintain final grade between 2% and 25% to promote surface water run-off without excessive erosion.

9.2.2.9

Establish vegetative cover consisting of shallow rooted perennials or other suitable vegetation.

9.2.2.10

The owner of the property on which the open dump is located shall place on record an instrument with the Washington County Recorder, in a form prescribed by the Department placing the public on notice of the existence and location of the open dump and of the obligations placed upon parties holding an interest in the property and the restrictions which may affect the use of the property.

10.0 Designation

10.1 Designation.

All acceptable waste generated within the County must be delivered to the designated facility, and may not be delivered to any other solid waste ~~management~~ facility except as provided in ~~subsection 10.4 and 10.7~~ subsections 10.4, 10.7, 10.9, and 10.10, herein. The County may from time to time designate additional solid waste ~~management~~ facilities. This provision is binding on all persons in the County, including without limitation, political subdivisions, solid waste ~~management operations, solid waste~~ disposal facilities, generators, ~~and solid waste~~ haulers, and self-haulers.

10.2 Definitions

For purposes of this Section, the terms used herein shall have the following meaning unless the context clearly indicates otherwise.

10.2.1 Designated Facility: means the Ramsey/Washington County Recycling & Energy Center (R&E Center) located on 100 Red Rock Road in Newport, Minnesota to which acceptable waste is required to be delivered.

10.2.2 Designation Plan: means that document entitled “Joint Waste Designation Plan” which detailed the Ramsey and Washington County proposal for the designation of waste, and which was approved by the Commissioner of the MPCA on November 22, 2016, pursuant to the statutory designation procedures contained in Minn. Stat. § 115A.80, et. seq.

10.2.3 Processing Facility: means a solid waste facility used for the processing, as that term is defined in Section 2.50 of this Ordinance, of solid waste.

10.2.4 R&E Board: means the Ramsey/Washington Recycling & Energy Board, a joint powers board comprised of the Ramsey and Washington Counties.

10.2.5 Recycling Facility: means a solid waste facility used to collect, process, and repair recyclable materials and reuse them in their original form or use them in manufacturing processes.

10.2.6 Self-Hauler: means a person who transports its own waste for processing or disposal.

10.2.7 **Solid Waste Facility:** means all property, real or personal, including easements and water and air rights, which is or may be used for the processing or disposal of solid waste. A license is required under the provisions of this Ordinance for all solid waste facilities, except property used for the collection of the solid waste at the generation site and property used primarily for the manufacture of scrap metal or paper. A solid waste facility includes but is not limited to transfer stations, solid waste facilities related to processing, and disposal facilities.

10.2.8 **Transfer Station:** means an intermediate solid waste facility in which solid waste collected from any source is temporarily deposited to await transportation to another solid waste facility.

10.3 **Delivery to Transfer Stations Permitted**

Haulers that enter into a waste delivery agreement with the R&E Board may comply with designation by delivering acceptable waste to a transfer station that has entered into a transload agreement with the R&E Board, provided such an agreement allows delivery to such a Transfer Station.

10.4 **Waste Delivered Pursuant to a Waste Delivery Agreement**

Waste subject to designation, but that is delivered to the designated facility pursuant to waste delivery

agreements between haulers or authorized self-haulers and the R&E Board, is excepted from the

requirement of Section 10.1, for the term of such agreements.

10.5 ~~10.2~~ Acceptance Requirement.

The designated facility must accept all acceptable waste delivered to the designated facility, unless the County has declared an interruption of designation as ~~defined in subsection 10.4 herein.~~ outlined in Section 10.7 herein. Notwithstanding the foregoing, all deliveries to the designated facility shall be in accordance with the terms and conditions of this Ordinance and in compliance with delivery instructions and procedures set forth by the R&E Board.

~~10.3~~

~~10.4~~ ~~Interruption of Designation Requirement.~~

~~The Director of the Department or the Director's designee may choose to interrupt the designation requirement of Section 10.1 rather than invoke diversion. Interruption shall be for a period up to 72 hours. Any interruption greater than 72 hours shall require approval of the County Board. If the County Board or Department interrupts the designation requirement of Section 10.1, no person may deliver any solid waste to the designated facility until such time as the designation requirement has been reinstated. 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 Board or Department will provide reasonable notice of any suspension and subsequent reinstatement of the designation requirement to solid waste haulers, municipalities and solid waste management facility operators in the County.~~

10.6 ~~10.5~~ Delivery of Unacceptable Waste.

10.6.1 ~~10.5.1~~ Rejection of Unacceptable Waste.

No person may deposit unacceptable waste at the designated facility. The operator of the designated facility-~~operator~~ may reject by refusing to accept any load for which there is a reasonable basis to believe the load

contains unacceptable waste ~~by refusing to allow disposal of the load at the designated facility.~~ At the time of such rejection, the ~~designated facility~~ operator of the designated facility will provide the satellite vehicle operator with a ~~Certificate of Rejection~~certificate of rejection stating the reason or reasons therefor. ~~The designated facility operator shall transmit a copy of the Certificate of Rejection to the County in a timely manner.~~

10.6.2 ~~10.5.2~~ Mixing of Waste Prohibited.

No person shall mix acceptable waste with unacceptable waste.

10.6.3 ~~10.5.3~~ Disposal of Rejected Waste.

~~Waste rejected, pursuant to 10.5.1,~~Rejected waste must be disposed of in accordance with all applicable federal, state and local laws and regulations. A ~~Certificate of Rejection~~certificate of rejection must be presented to the operator of any alternate solid waste ~~management~~ facility used for ~~Rejected Waste~~rejected waste. No solid waste ~~management~~ facility may permit solid waste subject to designation to be deposited at such a solid waste ~~management~~ facility unless the person, hauler, or ~~solid waste self~~-hauler seeking deposit presents a ~~Certificate of Rejection~~certificate of rejection from the designated facility. Any person, hauler, or ~~solid waste self~~-hauler who deposits unacceptable waste at the designated facility must recover all such unacceptable waste, ~~except for hazardous waste,~~ immediately upon demand of the operator of the designated facility ~~operator~~. Such unacceptable waste shall be considered rejected waste, and must be disposed of in accordance with this ~~Ordinance~~ordinance and all applicable federal, state and local laws and regulations.

10.5.3.1 Receiving Hours.

~~Acceptable waste must be delivered to the designated facility between 6:00 AM and 6:00 PM Monday through Saturday, excluding holidays, or at such other times as the County may determine. The designated facility operator will not be required to allow delivery of acceptable waste at any times other than those specified herein.~~

10.7 Interruption of Designation Requirement.

The Director of the Department or the Director's designee may choose to interrupt the designation requirement of Section 10.1. If the Director of the Department or the Director's designee interrupts the designation requirement of Section 10.1, no person may deliver any solid waste to the designated facility until such time as the designation requirement has been reinstated. During such interruption, any solid waste that would otherwise be subject to designation may be delivered to an alternate, permitted solid waste facility. This provision does not relieve any person of any obligation to comply with all other applicable federal, state or local laws or ordinances. The Department will provide reasonable notice of any interruption and subsequent reinstatement of the designation requirement to haulers, municipalities, self-haulers, and solid waste disposal facility operators in the County.

10.8 ~~10.6~~ Tipping Fees

10.8.1 ~~10.6.1~~ Payment.

All persons must pay a tipping fee to the ~~designated facility operator~~R&E Board for solid waste accepted at the designated facility.

10.8.2 ~~10.6.2~~ Establishment of Fees.

10.8.2.1 10.6.2.1 Procedure:

The ~~County~~R&E Board ~~shall~~is delegated the authority to establish or amend the tipping fee by resolution. ~~The~~Any resolution establishing or amending the tipping fee shall state the effective date of the tipping fee, which shall be at least 90 days after the date of the resolution. All persons subject to designation shall be notified of an amendment to the tipping fee at least 90 days prior to the effective date of the amended tipping fee.

10.8.2.2 10.6.2.2 Principles:

The ~~County~~R&E Board shall set the tipping fee and any amendments thereto at a reasonable amount, taking into account any of the following factors:

- ~~a.~~a. the cost to the ~~County~~R&E Board of solid waste management services including those ~~provided by~~included in the ~~R&E Board's~~ designated facility budget and enterprise funds;
- ~~b.~~b. the cost ~~to~~ and savings ~~by the solid waste to haulers and self-haulers~~ of delivering waste to the designated facility;
- ~~c.~~c. the tipping fees charged at other solid waste ~~land disposal~~ facilities in the ~~metropolitan~~ area;
- ~~d.~~d. any economic incentive the County or R&E Board may provide;
- ~~e.~~e. the ~~County~~county of origin of waste processed or transferred by the designated facility; and
- ~~f.~~f. any other factors which the ~~County~~R&E Board may determine to have an impact on the reasonableness of the tipping fee at the designated facility.

10.9 10.7 Exemptions:

~~The following materials shall be exempt from designation; however, the exemptions in this section apply to only those materials separated from mixed municipal solid waste that are managed in a manner that is preferred over the primary management method of the designated facility under Minn. Stat. section 115A.02, paragraph (b):~~Designation shall not apply to the following:**10.7.1**

10.9.1 Materials that are separated from Mixed Municipal Solid Waste by the generator ~~from mixed municipal solid waste~~ and recovered for reuse in their original form or for use in manufacturing processes. ~~For~~ (for the purposepurposes of this ~~section~~Section, “manufacturing processes” does not include the treatment of waste after collection for the purpose of composting).

10.7.1.1

~~Recyclable materials that are commingled for recycling and then recycled. The residual materials remaining after the processing of commingled recyclable materials are exempt from designation if there is at least an 85 percent volume reduction in the material processed at the recycling facility and the residuals are managed as separate waste streams. Mixed municipal solid waste that remains after the processing of commingled recyclable materials is subject to designation if there is not at least an 85 percent volume reduction in the material processed at the recycling facility or the mixed municipal solid waste material is not managed as a separate waste stream, and shall be delivered to the Designated Facility. A person may request a variance from the designation requirement for the mixed municipal solid waste subject to designation, as described herein, resulting from the processing of commingled recyclable materials. The process for consideration of such a request shall be pursuant to the requirements of the Washington County Administrative Ordinance. The Department shall grant a variance if it finds that:~~

- ~~a. The mixed municipal solid waste resulting from commingling recyclable materials will be processed at a resource recovery facility;~~

- ~~b. The person requesting the variance has not been found in violation of the designation provision in the six months prior to filing for a variance; and~~
- ~~e. The person requesting the variance agrees to report and actually reports to the Department the quantities of materials, by categories to be specified by the Department, that are recycled from the processing of the commingled recyclable materials and the quantity of mixed municipal solid waste that are processed at a resource recovery facility.~~

~~10.9.2 Materials that have been separated for recycling that cannot be marketed, as determined by the person that owns the material, are no longer considered recyclable materials and are subject to designation requirement if they become mixed municipal solid waste.~~**10.7.2** Acceptable solid waste processed at another resource recovery facility, provided that:

~~10.7.2.1~~

~~Such facility was in operation at the time of approval by the Metropolitan Council of the Counties' Designation Plan, on December 13, 1984;~~**10.7.2.2** Such acceptable solid waste shall be exempt only at the processing capacity of such other facility in operation at the time of approval of the Designation Plan;
Materials that are processed at a resource recovery facility at the capacity in operation at the time that the designation plan was approved.

~~10.7.2.3~~

~~The owner of the resource recovery facility shall provide documentation to the Department within 30 days following a written request to do so by the Department, substantiating the following:~~

- ~~a. the existence of the resource recovery facility at the time of Designation Plan approval;~~
- ~~b. the amount and type of solid waste processed at the resource recovery facility at that time;~~
- ~~d. such other information as the Department may require.~~

~~10.7.3~~

~~Acceptable waste otherwise subject to designation for which negotiated contractual arrangements exist that requires the delivery of the solid waste to the facility for the term of the contract; provided that this exemption shall apply only during the term of such contract and only while the hauler is not in default thereunder.~~

~~10.7.4~~

~~Acceptable waste not otherwise exempt under the provision of 10.7, which the Department determines on a case-by-case basis should be exempt for reasons of public health and safety, under such conditions as the Department may specify. The Department shall make its determination based upon written application and following receipt of an application fee. At its option, the Department may convene an informal hearing with the applicant to consider the application. The Department will act upon the request within 30 days of receipt of the application. Failure of the Department to act upon the request within 30 days shall constitute a denial of the application, without prejudice to the applicant to reapply.~~

~~10.7.5~~

~~10.9.3~~ Materials that are separated at a transfer station ~~permitted by the MPCA and licensed by the Department and~~that has a license and is located within the County for the ~~purpose~~purposes of recycling the materials if:~~a-~~ (a) the transfer station was in operation on January 1, 1991; or~~b-~~ (b) the materials were not being separated for recycling at the ~~Facility~~designated facility at the time the transfer station began

separation of the materials. This exemption shall only apply if the materials that are separated at the transfer station are actually recycled.

10.9.4 Recyclable materials that are being recycled and residuals from 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.

10.10 Exclusions

10.10.1 Materials excluded pursuant to Minn. Stat. § 115A.84, subd. 4.

~~10.7.6~~

10.10.2 Subject to approval by the ~~Metropolitan Council~~, Commissioner of the MPCA, recyclable materials that the County determines will be separated for recycling at a transfer station located outside of the County if:

10.10.2.1 ~~a. the~~The residual materials left after separation of the recyclable materials are delivered to the designated facility; and

10.10.2.2 ~~b. each solid waste~~Each hauler ~~who~~ and self-hauler that would otherwise be subject to ~~the~~ designation ~~ordinance~~ and ~~who~~ that delivers waste to the transfer station or other solid waste facility has not been found in violation of the ~~Section 10 of this ordinance~~ designation provision in the six months prior to filing for an exclusion; and

10.10.2.3 ~~e. the~~The recyclable materials separated at the transfer station are delivered to a recycler and are actually recycled; and

10.10.2.4 ~~d. the~~The owner or operator of the transfer station or other solid waste facility agrees to report and actually reports to the County R&E Board the quantities of materials, by categories to be specified by the County R&E Board, that are recycled by the transfer station or other solid waste facility that otherwise would have been subject to the designation provision.

~~10.7.6.1~~

10.10.2.5 In order to qualify for ~~the~~an exclusion under ~~10.7.6~~, this Section, the owner of a transfer station or other solid waste facility shall file with the County a written description of the transfer station or other solid waste facility, its operation, location, and ~~solid~~ waste supply sources, the quantity of ~~solid~~ waste delivered to the transfer station or other solid waste facility by the owner of the transfer station or other solid waste facility, the market for the recyclable materials separated for recycling, where the recyclable materials are delivered for recycling, and other information the County may reasonably require. as well as a filing review fee. Information received by the County Department is nonpublic data as defined in Minn. Stat. ~~Section 13.02, subd. 9.~~ § 13.02, subd. 9. Within 10 business days following receipt of the filing the County, in consultation with the R&E Board, shall determine whether the application is complete, and indicate to the applicant in writing the information needed to make the application complete if the application is incomplete. In the event the application is incomplete, the applicant must resubmit a complete application in order to be considered. At its option, the County may convene an informal hearing with the applicant to gather additional information and to consider the application. The County shall act upon the request with 60 days of receipt of the completed application. Notice of the County's decision shall be made in writing, and shall be delivered by certified mail to the applicant.

10.10.2.6 The exclusion shall not be effective until the County has received written notice from the Commissioner of the MPCA that it has approved the exclusion, and the County has issued written notice to proceed with the exclusion.

10.7.6.2

10.10.2.7 The County may revoke ~~a granted~~an exclusion ~~if any~~granted under this Section if:

10.10.2.7.1 Any of the conditions of ~~10.7.6 (a) through (d)~~this Subsection 10.10.2 are not being met;

10.10.2.7.2 Recyclable materials that are being recycled and the residuals from recycling do not have at least an 85 percent volume reduction in the solid waste processed at a recycling facility; or

10.10.2.7.3 Residuals are not being managed as separate waste streams.

10.10.3 Petition for Exclusion

10.8

10.10.3.1 Any person proposing to own or operate a ~~resource recovery~~processing facility using solid waste materials subject to ~~this Section~~designation, may petition the County for exclusion of the materials from ~~the this Ordinance~~designation. In order to qualify for the exclusion of materials under this ~~paragraph~~Section, the petitioner ~~must~~shall submit with the petition, ~~a petition review fee, if applicable,~~ a written description of the proposed processing facility, its intended location, its solid waste supply sources, purchasers of its products, its design capacity, and other information that the County may reasonably require. The petitioners shall pay a petition review fee to the County pursuant to Minn. Stat. § 375.41.

10.10.3.2 The County, after appropriate notice and hearing, shall issue a written decision with ~~the~~ findings of fact and conclusions on all material issues. The County shall grant the petition if it determines that:

10.10.3.2.1 ~~a-~~the ~~solid waste~~ materials will be processed at another ~~solid waste management~~resource recovery facility, and

10.10.3.2.2 ~~b-~~the exclusion can be implemented without impairing the financial viability of the designated facility or impairing the contractual obligations or preventing the performance of contracts by the ~~designated facility owner or operator~~R&E Board, the County; or users of the designated facility.

10.8.1

10.10.3.3 Any person aggrieved by the decision of the County may appeal to the ~~Metropolitan Council~~Commissioner of the MPCA. The review is confined to the record. The decision of the ~~Metropolitan Council~~Commissioner of the MPCA must be based on the standards stated in this Section-10.7. ~~If the petition is approved by the Metropolitan Council, this ordinance shall be amended to conform with the decision of the Metropolitan Council. The petitioner and the County may agree to amend the petition at any time during the procedure outlined in this subsection.~~

10.9 Penalties.

~~The County may impose civil and misdemeanor penalties for violation of this Section, pursuant Minn. Stat. Section 115A.86, Subd. 6.~~

10.10.3.4 If the Commissioner of the MPCA approves the petition, the designation provisions must be amended in conformance with the decision of the Commissioner of the MPCA. The petition may be amended during the proceedings by agreement between the petitioner and the County.

10.11 Recordkeeping; Inspection

All self-haulers, haulers, and owners or operators of solid waste facilities must comply with the recordkeeping and inspection requirements of Minn. Stat. § 115A.882, as amended.

11.0 Solid Waste Disposal Prohibition

11.1

No person may place, or transport for placement, solid waste that is generated in the County in a portion of a disposal facility that does not comply with the minimum requirements for design, construction, and operation of a new disposal facility for the type of solid waste being disposed. Pursuant to Minnesota Statute § 473.849, this provision is effective January 1, 1992, for disposal facilities located outside the metropolitan area and January 1, 1995, for all disposal facilities regardless of location.

11.2

~~The County shall enforce the prohibition contained in Subsection 11.1 and, pursuant to Minn. Stat. Section 115A.86, Subd. 6 (c), may impose penalties of up to \$10,000.00 per day of violation and recover attorney fees and court costs incurred by the County.~~

12.0 Enforcement

12.1 Licensed Solid Waste Management Activities or Facilities.

All provisions of this ordinance relating to licensing and licensed solid waste management activities, sites, or facilities shall be enforced pursuant to the Washington County Administrative Ordinance, or any or all of the remedies available under subsections 12.2 and 12.3.

12.2 Unlicensed Solid Waste Management Activities or Facilities.

Any provisions of this ordinance not enforced under the Washington County Administrative Ordinance shall be enforced according to this subsection.

12.2.1 Misdemeanor.

Any person within the County who violates this ordinance, except for an activity or at a site or facility for which a license has been granted, or who shall permit such a violation to exist on the premises under his control, or who shall fail to take action to abate the existence of the violation within the specified time period when ordered or notified to do so by the Department, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished therefore, as provided by law. A separate offense shall be deemed committed upon each day during or on which a violation occurs or continues.

12.2.2 Injunctive Relief.

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

12.2.3 Civil Action or Cost as Special Tax.

If a person fails to comply with the provisions of this ordinance, the County may recover cost 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 tax against the real property.

12.2.4 Citation.

The Department may issue citations for violations of this ordinance.

12.2.4.1

Citations shall have the form designated in the Washington County Administrative Ordinance, Section IV.

12.2.4.2

Whenever any representative of the Department discovers a violation of this ordinance, they may issue a citation to the person alleged to have committed the violation.

12.2.4.3

The citation shall be issued to the person charged with the violation, or in the case of a corporation or municipality, to any officer or agent expressly or implied authorized to accept such issuance. The citation shall be issued to the person charged by delivering a copy to them personally or by leaving it at their dwelling house or usual place of abode with some person of suitable age and discretion then residing therein or by sending it via registered mail to the person's last known address. A citation directed to a corporation shall be issued by registered mail addressed to the corporation at its principal place of business or delivered to an agent designated by the corporation to receive service of process.

12.3

The County may impose civil and misdemeanor penalties for failure to deliver mixed municipal solid waste to the Designated Resource Recovery Facility pursuant to Minn. Stat. Section 115A.86 .Subd. 6.

12.4

[The County may enforce Sections 10 and 11 of this Ordinance pursuant to Minn. Stat. § 115A.86, subd. 6. The civil penalties imposed by the County under this Subsection 12.4 may be up to \\$10,000 per day of violation plus attorney fees and court costs incurred by the County.](#)

13.0 Service Charge

13.1 Purpose and Authority:

Pursuant to Laws 1984, Chapter 644, Section 80, and Minn. Stat. Sections 400.03, 473.811, Subd. 3A, the County hereby imposes on all 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 for solid waste management services provided to their properties by the County or by those under contract with the County.

13.2 Definitions:

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

13.2.1 Residential Property

is all improved real property classified as residential class by the County Assessor.

14.5 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 facility, or to carry on any activity.

14.6 Severability.

If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, said invalidity does not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and for this purpose the provisions of the ordinance are severable.

14.7 Repeal and Enactment.

The enactment of this ordinance repeals and replaces Washington County Solid Waste Management Ordinance No. 42 adopted November 6, 1984 and amended by Washington County Ordinances No. 47, 49, and 63; Washington County Solid Waste Management Ordinance No. 105 adopted November 24, 1992 and amended by Ordinance No. 110 adopted March 22, 1994 and amended by Ordinance No. 112 adopted December 5, ~~1994.~~1994, and amended by Ordinance No. 114 adopted May 23, 1995.

14.8 Effective Date.

This ordinance shall be effective ~~30 days~~immediately after passage by the County Board and publication according to law. ~~provided however, that Section 10 shall be effective on January 1, 2018.~~

Passed by the Board of County Commissioners of Washington County, Minnesota, this ~~23rd~~ _____ day of ~~May~~ _____, ~~1995.~~2017.

~~Wally Abrahamson~~Lisa Weik, Chair
Board of County Commissioners

Attest:
~~James R. Schug~~Molly O'Rourke, County Administrator

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

Ordinance prepared by: Washington County
Department of ~~Public Health,~~and Environment ~~and Land Management~~
~~14900 61st~~14949 62nd Street North, ~~P.O.~~PO Box ~~38036~~
Stillwater, MN 55082-~~3803~~

Washington County, Minnesota – Ordinances

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