

**SOLID WASTE
ORDINANCE**

COUNTY OF NICOLLET

Adopted by Nicollet County Board of Commissioners on November 22, 2016.

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ARTICLE I PURPOSE & AUTHORITY, POLICY, & REPEALS

SECTION 1.0 PURPOSE & AUTHORITY

An ordinance establishing standards and procedures governing solid waste management; establishing solid waste management charges and programs; requiring licenses and license fees; establishing penalties for lack of compliance; all in order to promote the health, welfare and safety of the public, and to protect the environment. This ordinance is enacted pursuant to Minnesota Statutes Chapters 400, 145, 115A and 116.

SECTION 2.0 POLICY

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

SECTION 3.0 REPEALS

The existing Nicollet County Solid Waste Ordinance adopted, as amended, is hereby repealed. The adoption of this Ordinance, however, shall not effect nor prevent any pending or future prosecution of, or action to abate, any existing violation of the previous said Nicollet County Solid Waste Ordinance if the violation is also a violation of this Ordinance.

ARTICLE II DEFINITIONS, RULES, & WORD USAGE

SECTION 1.0 DEFINITIONS

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

Acceptable Waste: means those solid wastes that are not prohibited from processing or disposal as defined by a solid waste management facility pursuant to local, state and federal laws and the requirements of the facility.

Agency: means the Minnesota Pollution Control Agency

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

Authorized Representative: means an employee or agent of Nicollet County.

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

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

Closure: means the physical act of securing, covering, and otherwise closing a terminated licensed solid waste facility operation or nonconforming site in accordance with the requirements of this ordinance to mitigate and abate environmental impacts and public health and safety hazards, and nuisances, as well as to anticipate and resolve potential future problems.

Collection or Collects: means the aggregation of solid waste from the place at which it is generated and includes all activities up to the time the solid waste is delivered to a solid waste management facility.

Commercial Building: means any permanent or temporary building used for other than residential purposes.

Composting: means the controlled biological decomposition and management of selected solid waste to produce an innocuous, humus-like material, which can be used as a soil conditioner.

Compost Facility: means a site used to compost or co-compost solid waste, including all structures or processing equipment used to control drainage, collect and treat leachate, and

storage areas for the incoming waste, the final product, and residuals resulting from the composting process.

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

Construction and Demolition Debris Land Disposal Facility: means a site used to dispose of construction and demolition debris.

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

County: means Nicollet County, Minnesota.

County Board: means the Nicollet County Board of Commissioners.

Curbside Collection: means a mixed municipal solid waste, yard waste, and/or recyclable materials collection system whereby the generators set solid waste containers at the curb adjacent to a roadway or, where this is not practical, in locations easily accessible for collection by a hauler.

Department: means the County department or unit designated by the County Board to conduct solid waste regulatory activities within the County, its staff, and designated agents.

Disposal or Dispose: means the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste or constituent thereof that may enter the environment or be emitted into the air, or discharged into any waters, including ground waters.

Dumping: means the illegal placement of any solid waste, including construction debris, demolition debris, hazardous waste, industrial solid waste, mixed municipal solid waste, or recyclable materials, anywhere other than in an approved container or at a solid waste management facility during hours of operation.

Financial Assurance: means monetary mechanisms that are used to assure proper closure, post closure care, and contingency action at a site or solid waste management facility.

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

Generator: means any person whose actions or process(es) produce solid waste.

Hauler: means any person, other than an individual resident hauling his or her own household waste, who collects or transports solid waste, recyclable materials, or yard waste.

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

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

Incinerator: means any emissions unit, emission facility, furnace, or other device used primarily for the purpose of combusting solid waste.

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

Industrial Solid Waste: means solid waste generated from an industrial or manufacturing process and solid waste generated from non-manufacturing activities that is collected, processed, or disposed of as a separate waste stream. Industrial solid waste does not include

office materials, restaurant and food preparation waste, discarded machinery, construction and demolition debris, mixed municipal solid waste, or mixed municipal solid waste combustor ash.

Industrial Solid Waste Land Disposal Facility: means a site used to dispose of industrial solid waste in or on the land.

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

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

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

Licensee: means the person(s) who has been granted a license by the County Board to establish, operate, and maintain a solid waste facility or to collect and transport solid waste, pursuant to this ordinance.

Machinery: see Motor Vehicles and Machinery

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

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

Mixed Municipal Solid Waste: means, 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 and demolition debris, mining waste, sludges, tree and agricultural wastes, waste tires, lead acid batteries, motor and vehicle fluids and filters, and other materials collected, processed, and disposed of as separate waste streams.

Mixed Municipal Solid Waste Land Disposal Facility: means a solid waste disposal facility used for mixed municipal solid waste.

Mixed Municipal Solid Waste Services: means collection, transportation, processing, or disposal of mixed municipal solid waste generated in Nicollet County, including but not limited to regularly scheduled service, on-call service, one-time service, rental and other use of

equipment such as solid waste containers, compactors, compactor boxes, and the like, and any other service that involves or facilitates collection, transportation, processing, or disposal of solid waste materials as mixed municipal solid waste. It does not include the sale of equipment used for the collection, transportation, processing, or disposal of mixed municipal solid waste. It does not include collection, transportation, or management of recyclable materials, yard waste, food waste, source separated compostable materials, problem materials, or other waste materials when these materials are segregated by the generator for the purpose of recycling or composting and are delivered to a recycling facility or compost facility, or the sale, rental, or other use of equipment necessary to facilitate collection, transportation, or management of these materials.

Motor Vehicles and Machinery: means solid waste when motor vehicles or parts of motor vehicles and machinery or parts of machinery are either not operable (inoperable) or not equipped with current license plates and/or tabs issued to the vehicle (unlicensed) and are one or more of the following:

- A. Container for other solid waste,
- B. Abandoned or disposed, or
- C. Stored or outside of a fully enclosed building except as permitted in this ordinance.

Municipality: means an incorporated city or township within the boundaries Nicollet County, Minnesota, or a combination thereof, that are included in an agreement for purposes of solid waste management.

Non-Residential Accounts: means solid waste management services provided to any non-residential building or parcel.

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

Non-Residential Rate: means the rate of the fee imposed on any person who pays for mixed municipal solid waste services for mixed municipal solid waste generated from any source in Nicollet County other than a residential building.

Nonconforming Sites: means real property used for final or intermediate disposal of solid waste for which no license was obtained from the County Board or that has not been closed in conformance with this ordinance.

Notice of Violation: means an administrative version of a judicial complaint that is issued by the department to a person. A notice of violation must contain the following sections:

- A. Findings of fact with corresponding conclusions of law, which describe the alleged violations and the corresponding ordinance section(s), statute(s), and /or rule(s) which are allegedly violated;

- B. Orders for corrective action, which describe specifically how each alleged violation must be corrected and the timeframes within which the corrections are required to be made; and
- C. Notice of further action, which describes in general terms, the additional administrative and judicial enforcement actions that could be pursued by the department, if the alleged violations are not satisfactorily corrected.

Open Area: means outside a building or structure.

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

Operating License: means the license issued by an operating County to operate within that County in which the hauler collects or transports mixed municipal solid waste and that may contain specific conditions imposed by the issuing County.

Operator: means the person(s) responsible managing the day-to-day physical handling of solid waste at a particular site or facility.

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

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

Problem Material: means a material that, when processed or disposed of with mixed municipal solid waste, contributes to one of the following results: 1) the release of a hazardous substance, or pollutant or contaminant; 2) pollution of water; 3) air pollution; or 4) a significant threat to the safe or efficient operation of a solid waste management facility.

Processing: when referring to solid waste, means the treatment of solid waste after collection and before disposal, and includes all activities after the time the waste is delivered to a processing facility. Processing includes but is not limited to: storage, reduction, containment, separation, exchange, resource recovery, physical, chemical, or biological modification, and subsequent transfer from one solid waste facility to another. The storage of solid waste, in and of itself, does not constitute the treatment of waste necessary to meet this definition.

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

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

Real Property:

- A. For the purposes of taxation, "real property" includes the land itself, rails, ties, and other track materials annexed to the land, and all buildings, structures, and improvements or other fixtures on it, bridges of bridge companies, and all rights and privileges belonging or appertaining to the land, and all mines, iron ore and taconite minerals not otherwise exempt, quarries, fossils, and trees on or under it.
- B. A building or structure shall include the building or structure itself, together with all improvements or fixtures annexed to the building or structure, which are integrated with and of permanent benefit to the building or structure, regardless of the present use of the building, and which cannot be removed without substantial damage to itself or to the building or structure.
- C. Real property does not include;
 - (i) Tools, implements, machinery, and equipment attached to or installed in real property for use in the business or production activity conducted thereon, regardless of size, weight or method of attachment, and mine shafts, tunnels, and other underground openings used to extract ores and minerals taxed under chapter 298 together with steel, concrete, and other materials used to support such openings.
 - (ii) The exclusion provided in clause (i) shall not apply to machinery and equipment includable as real estate by paragraphs (a) and (b) even though such machinery and equipment is used in the business or production activity conducted on the real property if and to the extent such business or production activity consists of furnishing services or products to other buildings or structures which are subject to taxation under this chapter.
 - (iii) The exclusion provided in clause (i) does not apply to the exterior shell of a structure, which constitutes walls, ceilings, roofs, or floors if the shell of the structure has structural, insulation, or temperature control functions or provides protection from the elements. Such an exterior shell is included in the definition of real property even if it also has special functions distinct from that of a building.
- D. The term real property does not include tools, implements, machinery, equipment, poles, lines, cables, wires, conduit, and station connections which are part of a telephone communications system, regardless of attachment to or installation in real property and regardless of size, weight, or method of attachment or installation. (Minn. Stat. § 272.03, Subd. 1)

Recyclable Materials: means marketable materials that are separated from solid waste for the purpose of recycling, including, but not limited to, paper, glass, plastics, metals, automobile oil, and batteries. Refuse-derived fuel or other material that is destroyed by incineration is not a recyclable material. Recyclable materials also refer to marketable materials separated from

industrial solid wastes and construction debris and demolition debris for the purpose of recycling.

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

Recycling Facility: means a site at which waste materials are prepared for reuse in their original form or for use in manufacturing processes that do not cause the destruction of materials in a manner that precludes further use.

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

Refuse-Derived Fuel: Means the product resulting from techniques or process used to prepare solid waste by shredding, sorting, or compacting for use as an energy source.

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

Release does not include:

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

Residential Building: means a single family home or building with residential units.

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

Residential Rate: means the rate of the fee imposed on a person who pays for mixed municipal solid waste services for mixed municipal solid waste generated from a residential property.

Residential Recycling: means a program targeted for collection of recyclable materials from residential or multi-unit residential buildings.

Residuals: means all solid waste remaining after processing or composting including ash residue or other solid waste that is not recovered or combusted.

Resource Recovery: means the reclamation for sale, use or reuse of materials, substances, energy, or other products contained within or derived from waste, including, but not limited to energy recovery, processing, and composting facilities.

Resource Recovery Facility: means a solid 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.

Sanitary Landfill: means a facility that employs a method for disposal on land, of solid waste, including mixed municipal solid waste, in accordance with a preconceived plan and without creating nuisances or hazards to public health or safety, by utilizing the principals of environmental planning and engineering to confine solid waste to the proper and smallest practical area, to reduce it to the smallest volume, and to cover it with an adequate layer of cover material at the conclusion of each day's operation, or at such more frequent intervals as may be required.

Scrap Yards: means an establishment, place of business, or place of storage or deposit, that is maintained, operated, or used for storing, keeping, buying, or selling scrap, junk, or waste metal, including, but not limited to, automobiles, trucks, tractors, farm equipment, industrial equipment, containers, and appliances, where the total scrap metal stored is greater than 20 tons or consists of more than five motor vehicles.

Self-Hauler: means a person who transports their own solid waste for solid waste management purposes.

Service Area: means a geographical area within the County, established by resolution of the County Board, to receive solid waste management services.

Solid Waste: means garbage, refuse, sludge from a water supply treatment plant or air contaminant treatment facility, and other discarded waste materials and sludges, in solid, semisolid, liquid, or contained gaseous form, resulting from industrial, 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.

Solid Waste Assessment Fee: means a fee established by the County Board pursuant to Minn. Stat. §400.08 and paid by generators to the County for solid waste management services.

Solid Waste Facility: means all property, real or personal, including negative and positive easements and water and air rights, that is used for processing, managing, or disposing of solid waste. The term solid waste facility includes solid waste landfills, transfer stations, incinerators, energy recovery facilities, special waste facilities, processing facilities, composting facilities, infectious waste facilities, and also includes any other intermediate and final solid waste disposal sites and facilities.

Solid Waste Management: means activities that are intended to affect or control the generation of solid waste and activities which provide for or control the collection, transportation, processing, treatment, and disposal of waste.

Solid Waste Management Activity: means an activity related to the generation, storage, collection, transportation, processing or reuse, conversion, or disposal of solid waste.

Solid Waste Management Plan: means the County solid waste management plan developed, adopted, and approved under Minn. Stat. §115A.46 or Minn. Stat. §473.149.

Solid Waste Management Services: means all activities provided by the County, by persons under contract with the County, or by other persons that support the waste management responsibilities described in Minnesota Statutes Chapter 115A, 116, 400, and 473, including, but not limited to, waste reduction and reuse; waste recycling; composting of yard waste and food waste; resource recovery through mixed municipal solid waste composting or incineration; land disposal; management of problem materials and household hazardous waste; collection, processing, and disposal of solid waste, closure and post-closure care of a solid waste management facility, and response, as defined in Minn. Stat. §115B.02, to releases from a solid waste management facility.

Solid Waste Ordinance or Ordinance: means the solid waste ordinance adopted by Nicollet County.

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

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

Source Separation: means the process whereby generators separate, from mixed municipal solid waste, materials that will be reused as substitutes for raw material in manufacturing process, or converted into usable soil amendment.

Source Separated Compostable Material: means material that:

- A. Are separated at the source by waste generators for the purpose of preparing them for use as compost;
- B. Are collected separately from other mixed municipal solid waste, and are governed by the licensing provisions of Minn. Stat. §115A.93;
- C. Are comprised of food wastes, fish and animal waste, plant materials, diapers, sanitary products, and paper that is not recyclable because the MPCA has determined that no other person is willing to accept the paper for recycling;
- D. Are delivered to a facility to undergo controlled microbial degradation to yield a humus-like product meeting the MPCA's class I or class II, or equivalent, compost standards and where process residues do not exceed 15% by weight of the total material delivered to the facility; and
- E. May be delivered to a transfer station, mixed municipal solid waste processing facility, or recycling facility only for the purposes of composting or transfer to a composting facility, unless the MPCA determines that no other person is willing to accept the materials.

Special Wastes: are nonhazardous solid wastes that have been prohibited from disposal with mixed municipal solid waste or have had other specific management requirements prescribed by statute.

Transfer Station: means a facility in which collected solid waste from any source is temporarily stored, concentrated or deposited to await subsequent transportation.

Transportation or Transports: means the conveying of solid waste from one place to another.

Tri-County Solid Waste: means the office that administers the Solid Waste Management Plan and provides public education and administration of contracts for recycling and household hazardous waste through Tri-County Solid Waste Joint Powers Agreement between Le Sueur, Nicollet, and Sibley Counties.

Unacceptable Waste: means those solid wastes that cannot be accepted for management at a solid waste management facility pursuant to local, state, and federal laws, and the practices of the solid waste management facility.

Warning Notice: means a written document issued by the County to a person and includes the following:

- A. A list of violations, including the ordinance sections(s), rule(s), or statute(s) violated, the factual basis for the violations and the date(s) of the violations;

- B. The specific actions required to be taken by the person to correct the violations and the timeframes within which the corrections are required to be made; and
- C. A description, in general terms, of the additional administrative and judicial enforcement actions that could be pursued by the County if the alleged violations are not satisfactorily corrected.

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

Waste Tire Dump: means an establishment, place of business, or site without a County license or approval that is maintained, operated, used, or allowed to be used for the collection, storage, or disposal of unprocessed waste tires that is in violation of this ordinance and is a public health and safety hazard or a public nuisance.

Yard Waste: means the garden wastes, leaves, lawn cuttings, weeds, shrubs and tree wastes, and prunings generated at residential, commercial, public properties.

Yard Waste Composting Facility: means a site facility established for the controlled biological degradation/decomposition of yard waste into a stable, humus-like end product.

ARTICLE III GENERAL PROVISIONS & ADMINISTRATIVE PROCEDURES

SECTION 1.0 DEPARTMENT POWERS AND DUTIES

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

1. To implement this ordinance and review and consider all initial license applications submitted to the department for approval by the County Board for performance of solid waste management activities within the County, and after due consideration, the department shall recommend in writing, with documentation to the County Board, that a license be granted or denied.
2. To review and consider renewal license applications, except as otherwise provided in this ordinance.
3. To inspect solid waste management activities as herein provided, to investigate complaints, and to identify violations of this ordinance.
4. To recommend, when necessary, to the County attorney's office, that legal proceedings be initiated against a certain person or solid waste management activity to compel compliance with the provisions of this ordinance or to terminate the operation of the same.
5. To encourage and conduct studies, investigations and research relating to aspects of solid waste management such as methodology, chemical and physical considerations, and engineering.
6. To advise, consult, and cooperate with other governmental agencies in the furtherance of the purposes of this ordinance.

SECTION 2.0 BOUNDARIES OF SERVICE AREA

Pursuant to Minn. Stat. §400.08, Subd. 2, the County establishes one solid waste management service area, with its boundaries being coterminous with the boundaries of the County outside of incorporated areas.

SECTION 3.0 HIGHEST STANDARDS PREVAIL

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

SECTION 4.0 JURISDICTION OF THE SOLID WASTE MANAGEMENT PLAN

Pursuant to Minn. Stat. §115A.46, Subd. 5, a public entity within the County may not enter into a binding agreement nor develop nor undertake a solid waste management activity that is inconsistent with the County solid waste management plan without the express consent of the County.

SECTION 5.0 PLANNING & ZONING APPROVAL

Any use of land for solid waste management activities within the County shall comply with the applicable zoning requirements of the County zoning ordinance, or the requirements of applicable municipal land use ordinances.

SECTION 6.0 WAIVERS OR MODIFICATIONS

Due to the great variability in the types of solid waste and their existing and potential management methods, an applicant may request, on a form to be provided by the department, that the County Board waive or modify the strict application of the provisions of this ordinance. Waivers or modifications may be approved in the discretion of the County Board, provided that the Board shall not approve any waiver or modification unless the Board finds that (1) the request is reasonable and meets the intent of this ordinance; (2) that such requirements are unnecessary or impractical in light of the applicant's proposed operation; (3) that the waiver or modification will not adversely impact human health or environment; and (4) that the request will not adversely affect the County's ability to monitor and enforce compliance with this ordinance and applicant's license. The County Board may, as a condition of approving a waiver or modification, impose reasonable additional requirements and conditions on the applicant's specific license that the Board considers necessary to protect human health or the environment, or the County's ability to administer and enforce this Ordinance.

SECTION 7.0 AGENCY APPROVAL

- 7.01** The design, engineering, and operations plans for a solid waste facility approved by the County Board as part of a solid waste facility license shall be consistent with the design, engineering, and operations plans approved in the facility's MPCA permit or concurrent application to the MPCA for a permit.
- 7.02** No modification or waiver may be granted if it would result in noncompliance with state and federal laws, unless such modification or waiver has been granted a variance by the Minnesota Pollution Control Agency.

SECTION 8.0 INDEMNIFICATION

To the fullest extent permitted by law, a licensee shall indemnify the County, its officers, employees, agents, and other acting on their behalf, to hold them harmless, and to defend and protect them, from and against any and all loss, damage, liability, cost and expense (specifically including attorneys' fees and other costs and expenses of defense), of any sort whatsoever, based upon, resulting from, or otherwise arising in connection with any actions, claims or proceedings (of any sort and from any source whatsoever) brought, or any loss, damage or injury of any type whatsoever sustained, by reason of any act or omission of a licensee, its officers, employees or agents, or any other person(s) or entity(ies) for whose acts or omissions a licensee may be legally responsible, in the performance of any of a licensee's obligations (whether expressed or implied) under this ordinance.

SECTION 9.0 FINANCIAL ASSURANCE

A performance bond, letter of credit or other financial assurance consistent with County policy shall be required prior to issuances of any licenses to engage in solid waste management activity.

SECTION 10.0 NO CONSENT

Nothing contained in this ordinance shall be deemed to be a consent, license, or permit to locate, construct, operate, or maintain any solid waste management activity, or to carry on any activity prior to issuance of a license, when a license is required hereunder.

SECTION 11.0 FALSE INFORMATION

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

SECTION 12.0 DATA PRIVACY

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

SECTION 13.0 SEVERABILITY

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

ARTICLE IV WASTE ABATEMENT, STORAGE, & DISPOSAL

SECTION 1.0 WASTE ABATEMENT

1.01 Purpose

The purpose of this section is to abate the need for land disposal of solid waste by requiring the source-separation of yard waste to create a beneficial compost product and for recovery of recyclable materials to conserve natural resources and meet the state-mandated recycling goal. This section also requires the delivery of recyclable materials to a recycling facility and yard waste to a yard waste facility when on-site composting is not practiced.

1.02 Prohibition of Yard Waste and Recyclable Materials from the Mixed Municipal Solid Waste Stream; Management of Yard Waste and Recyclable Materials

Yard waste and recyclable materials shall not be placed in mixed municipal solid waste. When aggregated for collection, yard waste and recyclable materials shall be placed in storage containers that are easily distinguishable from mixed municipal solid waste storage containers. Once source-separated, yard waste and recyclable materials shall not be recombined with mixed municipal solid waste.

A. Yard waste management

Generators must manage yard waste by one of the following methods:

1. Mulching it and spreading it on the ground,
2. Composting it on-site, or
3. Transporting it to a permitted yard waste facility, either by self-hauling or by contract with a licensed hauler.

B. Recycling

The recycling requirements of this ordinance represent the minimum responsibility of generators and do not limit the type or quantity of recyclable materials accepted by recycling facilities and haulers. Generators are encouraged to recycle additional items to achieve and surpass the recycling goal.

C. Residential building recycling

All generators in residential buildings must segregate and deliver the following recyclable materials to a recycling facility, either by self-hauling or by contract with a licensed hauler: newsprint, glass containers, corrugated cardboard, aluminum cans and aluminum scrap. Owners and/or managers of multi-unit residential buildings who provide for collection of mixed municipal solid waste must provide central collection locations for recyclable materials generated on its premises and must deliver the above listed recyclable materials to a recycling facility either by self-hauling or by contract with a licensed hauler.

D. Non-residential property recycling

Owners and/or managers of non-residential property must provide central collection locations for, at a minimum, the following recyclable materials generated on its premises: newsprint, glass containers, corrugated cardboard, aluminum cans and aluminum scrap. Owners and/or managers of non-residential property shall ensure

delivery of these recyclable materials to a recycling center, either by self-hauling or by contract with a licensed hauler.

E. **Ownership of yard waste and recyclable materials**

All yard waste and recyclable materials aggregated and offered for collection shall remain the property and responsibility of the generator until collected by a licensed hauler or self-hauled to a yard waste facility or recycling facility, at which time they become the property of the licensed hauler, yard waste facility, or recycling facility, respectively. No person, other than the generator or the designated licensed hauler, shall take said materials after aggregated for collection.

SECTION 2.0 STORAGE & COLLECTION

2.01 Purpose

This section governs the storage, collection, and transportation of solid waste generated within the County, including but not limited to mixed municipal solid waste, yard waste, and recyclable materials. This section also governs curbside collection and all persons collecting and transporting solid waste within the County.

2.02 Storage

Property owners and managers shall maintain their open areas free of solid waste accumulations unless the solid waste is stored in an acceptable container as specified in this ordinance or unless otherwise specified by this ordinance. Solid waste shall be stored in a manner to prevent the loss of solid waste to the environment and to preclude the development of vector, odor, and public health nuisance problems.

A. **Residential sites**

No person shall place or store in open areas of any residential site dead or downed trees and brush or no more than two (2) inoperable/unlicensed motor vehicles. In addition, there shall be no machinery, appliances, fixtures, nor equipment so damaged, deteriorated or obsolete such that there is no substantial potential further use consistent with its usual function or reasonable reuse; lumber piles and building materials not being used in actual construction on the premises; and mixed municipal solid waste including, but not limited to, recyclable materials, broken furniture, and other debris.

B. **Commercial sites**

No person shall place or store upon the open areas of any commercial site no more than two (2) inoperable/unlicensed motor vehicles nor machinery, appliances, fixtures or equipment so damaged, deteriorated or obsolete such that there is no substantial potential further use consistent with its usual function or reasonable reuse. Nothing in this section is designed to restrict activities of automobile, scrap iron, and metal recycling or salvage businesses that are operating in accordance with state, County, and municipal or township laws, rules and regulations.

C. **Agricultural sites**

No person shall place or store upon the open areas of any agricultural site no more than two (2) inoperable/unlicensed motor vehicles nor machinery, appliances, fixtures or equipment so damaged, deteriorated or obsolete such that there is no

substantial potential further use consistent with its usual function or reasonable reuse, unless such activity is otherwise permitted by the County.

D. Construction sites

Any solid waste generated at construction sites shall be placed in acceptable containers as specified in this ordinance. No burning, burying, or dumping of solid waste generated at construction sites shall occur at locations other than licensed solid waste management facilities, including brush and tree waste. Generators of solid waste at construction sites must ensure the separation of mixed municipal solid waste and recyclable materials either on-site or through the use of a service provider offering such separation.

E. Solid waste storage containers

While being accumulated and stored for collection and transportation to a licensed solid waste management facility, solid waste shall be stored in reusable, covered containers (e.g., cans, dumpsters, compactors, roll-off containers, etc.) that are rust, impact, vermin, and leak resistant. When aggregated for collection, yard waste and recyclable materials shall be placed in storage containers that are easily distinguishable from mixed municipal solid waste storage containers. Plastic bags designed for containing manageable quantities of solid waste shall only be used for temporary storage and may only be placed outdoors for collection no sooner than the evening prior to the scheduled collection day.

F. Mixed municipal solid waste storage in vehicles

Mixed municipal solid waste shall be removed from hauler collection or transportation vehicles at least every forty-eight (48) hours, except when allowed by the solid waste administrator.

G. Dumping

1. Unauthorized Dumping – It shall be a violation of this ordinance for any person to dispose of solid waste within the County at any place except at a site or facility authorized by this ordinance.
2. Unlicensed Open Dumps – It shall be a violation of this ordinance for any person to operate an open dump.

H. Waste tires

1. Land Disposal Prohibited – The disposal of waste tires in or on the land is prohibited. This does not prohibit the storage of unprocessed waste tires at a collection or a processing facility.
2. Waste Tire Storage Requirements
 - a. No more than five (5) waste tires may be stored outside within the boundaries of any lot except at a properly licensed solid waste facility. The allotted five (5) waste tires shall be stored consistent with the requirements of this Section.
 - b. Waste tires shall not be stored outside within 1,000 feet of intermittent or permanent wetlands, streams, ponds, and lakes, including shoreland and floodplain areas.
 - c. Waste tires within one thousand (1,000) feet of a residence shall be stored or utilized in a manner that prevents water from being retained in the tires.

- d. Waste tires shall not be placed, stored, left, or permitted to remain in a lake, stream, wetland, sink hole, gully, waterway, floodplain, or shoreland.

2.03 Collection

Every commercial and residential site in the County, except self-haulers, shall engage a licensed hauler for the collection of mixed municipal solid waste.

A. Collection charges

Haulers shall establish charges for the collection of mixed municipal solid waste on a volume or weight basis to provide generators the financial incentive to reduce their production of mixed municipal solid waste.

B. Curbside collection

Haulers must provide curbside services for the collection and transportation of mixed municipal solid waste, recyclables and yard waste to those generators wishing to contract for such services. Generators utilizing the services of a hauler may place acceptable containers of mixed municipal solid waste, recyclable materials or yard waste at the curb or collection site no sooner than the evening prior to scheduled collection and generators must remove the empty containers the same day as collection.

C. Secure all loads

A person who collects or transports solid waste must do so in a safe and sanitary manner and must secure all loads so as to prevent escape of any waste material.

D. Collection frequency

Solid waste aggregated for collection must be collected regularly to preclude the development of odor, vector and public health nuisance problems. Putrescible materials must be collected, at a minimum, every two weeks.

E. Title to non-hazardous mixed municipal solid waste

Title to non-hazardous mixed municipal solid waste shall remain with the generator until released to a licensed hauler or by self-hauling to a licensed facility. In cases where a generator chooses not to utilize a licensed solid waste management facility, title to the non-hazardous mixed municipal solid waste and its associated environmental liability will remain with the generator.

SECTION 3.0 PROCESSING & DISPOSAL

3.01 Purpose

This section governs the processing and disposal of solid waste and regulates solid waste accumulations within the County.

3.02 Yard Waste

A. On-site yard waste composting

On-site compost sites are allowed if the site is managed in such a manner to prevent annoying odors, public health nuisances, or unsafe conditions. Compostable organic materials suitable for backyard compost sites include: yard waste, straw, vegetable and fruit scraps, coffee grounds, eggshells, and filters. The County accepts the methods and guidelines published by the University of Minnesota Extension Services

as suitable for on-site composting. On-site composting which does not comply with these methods and guidelines is not permitted.

B. Permitted yard waste compost sites

Yard waste facilities located in County, except on-site compost sites, shall comply with the license requirements in the ordinance.

3.03 Recyclable Materials

Recycling facilities must comply with the requirements of Minnesota Rules Part 7035.2845, as amended from time to time and a license for. Recycling facilities is required by this ordinance. Recycling facilities must operate in accordance with provisions outlined this ordinance and Minnesota statutes and regulations.

3.04 Mixed Municipal Solid Waste

Generators shall dispose of mixed municipal solid waste at a permitted solid waste management facility and if the facility is within the County, licensed by the County. Generators shall either utilize the collection services of a licensed hauler or self-haul their own mixed municipal solid waste to a licensed and permitted solid waste management facility. Persons who self-haul their own mixed municipal solid waste must retain the current calendar quarter's receipts from the solid waste management facility utilized.

3.05 Industrial Solid Waste

Generators are responsible for identifying, characterizing, and properly managing the industrial solid waste that they produce.

3.06 Unacceptable Waste, Problem Materials and Special Waste

State and federal laws or regulations prohibit the processing and/or disposal of some types of solid waste. Regulations also restrict the processing of other materials or waste types because they may present an operational hazard to a solid waste management facility. Each solid waste management facility shall identify its own list of unacceptable wastes, problem materials, and special wastes. This list shall identify which waste types cannot be accepted under any circumstances, as well as those waste types that may require special handling and/or need approval prior to delivery. This list shall be posted at the facility and a copy provided to the County. Generators are responsible for identifying any unacceptable waste, problem materials, and/or special wastes, that they produce and for adhering to facility-specific requirements for disposal.

3.07 Delivery of Acceptable Waste

Each person shall deliver only acceptable waste to a solid waste management facility. A facility shall not be required to accept any solid waste that constitutes unacceptable waste and may, at its discretion, inspect all vehicles delivering solid waste to determine whether or not the solid waste contains unacceptable waste. The obligation of each person not to deliver unacceptable waste to a facility shall not be removed or in any way limited by an inspection of such person's solid waste. Notwithstanding any prior acceptance of such solid waste as acceptable waste by a facility, if the facility, in the exercise of its reasonable judgment, identifies the presence of unacceptable wastes, problem materials, and/or special wastes, the facility may reject the solid waste and the person shall remove the rejected materials for proper management and disposal at a permitted facility. All costs of such removal, management, and disposal shall be borne

by the person. Furthermore, if the presence of unacceptable wastes, problem materials and/or special wastes poses immediate operational difficulties for a facility or if the person fails to respond to a removal request, the facility may remove and dispose of the unacceptable wastes, problem materials, and/or special wastes and charge the costs of such removal, disposal and special handling to the person.

3.08 Prohibitions

A. Burning solid waste

1. Open burning of solid waste is prohibited by this ordinance.
2. Burning of natural vegetative materials shall be allowed if authorized pursuant to U.S. Forest Service or Minn Stat. Chapter 88 as well as Nicollet County ordinances.

B. On-site disposal of solid waste

It is a violation of this ordinance for any person to dispose of solid waste, excluding residential yard waste, on their property without a license. The owner of any such site shall prevent disposal of solid waste at the site and if necessary take corrective actions to appropriately close and clean-up the site, as determined by County and/or the agency. The existence of an unlicensed solid waste site shall be reported to the solid waste administrator upon discovery.

C. Unauthorized container use

It shall be illegal to use another person's solid waste storage container, inspect its contents, or remove its contents unless provided prior authorization by the owner or lawful custodian of the container.

ARTICLE V SOLID WASTE ASSESSMENT FEE

The following provisions are enacted pursuant to Minn. Stat. § 400.08, which authorizes the County to create and to impose fees within the County's jurisdiction for solid waste management services.

SECTION 1.0 PURPOSE AND AUTHORITY

The purpose of this article is to establish methods of collection of fees to fund certain solid waste management services intended to protect the public health and welfare and the environment pursuant to state mandates governing solid waste management.

SECTION 2.0 GENERAL ASSESSMENT FEE PROVISION

2.01 Solid Waste Assessment Fee

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

2.02 Procedures for Establishing the Amount of Solid Waste Assessment Fee

The County Board shall act to impose and establish the amount of the solid waste assessment fee, as well as the method or methods of collection, by ordinance following a public hearing, and shall state the effective date of the solid waste assessment fee.

2.03 Procedures for Adjusting the Amount of Solid Waste Assessment Fee

The Board may adjust the amount and method or methods of collecting the solid waste assessment fee by ordinance following a public hearing, and shall state the effective date of the adjusted solid waste assessment fee. There shall be a minimum thirty (30) day period prior to the effective date of such adjustment.

2.04 Methods of Billing and Collection

The County shall use a per parcel service charge collected through an assessment payable with the real estate taxes for billing and collecting the solid waste assessment fee.

SECTION 3.0 PER PARCEL ASSESSMENT FEE COLLECTION

3.01 Per Parcel Charges

The County auditor shall each year assess a solid waste assessment fee per parcel payable with real estate taxes. The solid waste assessment fee rate schedule is provided in Appendix A. On or before October 15th of each year, the County Board shall certify to the County auditor all unpaid outstanding per parcel fee and a description of the lands against which the fees arose. It shall be the duty of the County auditor, upon order of the County Board, to extend the assessments with interest rate provided for in Minn. Stat. §279.03, Subd. 1, upon the tax rolls of the County for the taxes of the year in which the assessment is filled. For each year ending October 15th, the assessment with interest shall be carried into the tax becoming due and payable in January of the following year, and shall be enforced and collected in the manner provided for the enforcement and collection of real property taxes in accordance with the provisions of the state of Minnesota. The fees, if not paid, shall become delinquent and be subject to the same penalties and the same rate of interest as the taxes under the general laws of the state. Unpaid fees on tax exempt properties may be collected in small claims court or through such other means as may be approved by the County attorney.

3.02 Unpaid Solid Waste Assessment Fees

A. Taxable properties

On or before October 15 in each year, the County Board may certify to the County auditor any unpaid outstanding solid waste assessment fees and a description of the lands which were serviced and against which the solid waste fees arose.

A property owner may prepay the outstanding solid waste assessment fee before the fees are extended to the tax rolls of the County by remitting to the County, in full, plus interest not to exceed the interest rate provided in Minn. Stat. § 279.03 Subd. 1 calculated from the date the solid waste assessment fees are reported to the County as unpaid to December 31 of the year in which said prepayment is made. Such prepayment must occur on or before the date provided in Minn. Stat. § 429.061 for prepayment of special assessments in order to prevent the solid waste assessment fee from being extended to the tax rolls of the County.

If the solid waste assessment fees are not prepaid as provided in this section, the County auditor shall extend solid waste assessment fee upon the tax rolls of the County, with interest not to exceed the interest rate provided in Minn. Stat. § 279.03, Subd. 1 calculated from the date the solid waste assessment fees are reported to the County as unpaid to December 31 of the year that the solid waste assessment fees appear. The solid waste assessment fees with interest shall be carried into the property 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 solid waste assessment fees, if not paid on time as part of the property tax, shall become delinquent and be subject to the same penalties and the same rate of interest as real property taxes under the general laws of the state.

B. Tax-exempt properties

Unpaid solid waste assessment fees may be collected as otherwise provided in this article.

C. Civil action

In addition to each and every other remedy available to the County, unpaid solid waste assessment fees, penalties, and interest may be recovered in a civil action against a property owner, lessee, or occupant or a generator, hauler, self-hauler, or solid waste management facility.

3.08 Mixed Municipal Solid Waste Fee Appeals

Any person or generator aggrieved by a decision of the County in accordance with the provisions of this article shall have the right to appeal the decision by serving the County Board with a request for hearing. The request for hearing must be received within thirty (30) days after the person or generator receives written notice of the decision. If the person or generator fails to request a hearing within the time prescribed, the person or generator shall forfeit any right to a public hearing. Upon receipt of a written request for a hearing, the Board shall follow the hearing procedures set forth in Article VIII, Section 3.

SECTION 4.0 PROCEDURE FOR REVISING THE SOLID WASTE ASSESSMENT FEE

The County Board may revise the solid waste assessment fee by amendment of this ordinance (resolution) following a public hearing, and shall state the effective date for the enactment of the revised solid waste assessment fee.

ARTICLE VI HAULER LICENSING PROVISIONS

SECTION 1.0 LICENSE REQUIRED

No person may collect, transport, or dispose of solid waste generated within the County except in full compliance with this ordinance after having obtained a license to do so by the department as specified in this article. This article does not apply to self-haulers or to the transportation of solid waste through the County.

SECTION 2.0 LICENSE REQUIREMENTS

Haulers shall comply with the following license requirements.

2.01 License Application

The hauler shall submit a completed application to the County on a form provided by the department.

2.02 License Fees

The hauler shall pay all license fees to the County with the license application and the license renewal application. The amounts of such license fees and late fees for submittal of a late application shall be established no later than October of each year by the County Board. No license fee shall be prorated for a portion of a year and no license fee shall be refunded.

2.03 Incomplete or Non-Conforming Application

An application will be deemed incomplete if information is omitted, incomplete, inaccurate, or does not comply with the application requirements, or if the required fees do not accompany the application. If a license application is incomplete or otherwise does not conform to the requirements set forth in this ordinance, the department shall advise the applicant of the reasons for non-acceptance and may request that the applicant resubmit, modify, or otherwise alter the application.

2.04 License Term and Renewal

- A. Unless otherwise provided by the County Board, the term of a hauler license granted pursuant to the provisions of this ordinance shall be up to one year but shall expire on December 31 of the year the license is granted, unless sooner renewed, suspended or revoked.
- B. License renewal applications must be submitted to the department by December 1 of each year. License renewal applications received after that date shall be subject to a late fee.

2.05 License Non-Transferable

Licenses granted by the department under this section are not transferable to other persons.

2.06 Vehicles Licensed

All vehicles used for the collection and transportation of solid waste in the County shall be listed on the license application. The applicant shall specify the make, model, year, and capacity, in cubic yards, as well as the tare weight of each vehicle. If a vehicle is put

into service during the license year, the hauler shall submit the required information for the vehicle to the department and shall not use the vehicle until the department has issued a card, which is to be kept in the vehicle.

2.07 Late Fee

Complete applications received after the due date established in Section 2.04 (B) shall be subject to the following late fees in addition to the license fee:

- A. One to seven days late – Twenty-five percent (25%) of the license fee
- B. Eight to thirty days late – Fifty percent (50%) of the license fee
- C. More than thirty days late – One hundred percent (100%) of the license fee

SECTION 3.0 INSURANCE REQUIREMENTS

The hauler shall obtain, maintain, and submit with the license application certificates of insurance issued by insurers duly licensed by the State of Minnesota providing the following coverage, or a self-insurance plan certified by the Department of Commerce providing equivalent coverage. Nothing in this provision shall prohibit a hauler from providing insurance with limits higher than limits provided herein. All such policies shall name Nicollet County as an additional insured and certificate holder. The hauler shall maintain insurance in compliance with this paragraph throughout the term of the license.

3.01 Worker's Compensation

- A. Worker's compensation insurance shall be in compliance with all applicable State Statutes. Such policy shall include employer's liability coverage in at least such amount(s) as are customarily issued in Minnesota and an All States or Universal Endorsement, if applicable.
- B. In the event a licensee is a sole proprietor and has elected not to provide workers' compensation insurance, the licensee shall be required to execute and submit to the department an affidavit of sole proprietorship in a form acceptable to the department.

3.02 General Liability Insurance

- A. Minimum limits:
 - Personal/Bodily Injury: \$500,000 each occurrence
 - Property Damage: \$250,000 each occurrence
\$100,000 aggregate

3.03 Automobile Liability

- A. Coverage shall be provided for hired, owned, and non-owned auto.
- B. Minimum limits:
 - Property Damage: \$500,000
 - Bodily Injury: \$250,000 each person
\$500,000 each accident
 - Combined Single Unit: \$500,000
- C. If hauling hazardous waste, the policy will be endorsed with form MCS-90 Motor Carrier Polices of Insurance for Public Liability.

3.04 Additional Insurance

The County may require a licensee to undertake an annual insurance evaluation, conducted by an independent evaluator selected by the County, which evaluator shall be reasonably acceptable to licensee. The County may, at any time during the period of the license, require that licensee secure any additional insurance, or additional feature to existing insurance, as is recommended by such evaluation as reasonably required for the protection of the County's interests or those of the public. In such event licensee shall proceed with due diligence to make every good faith effort to promptly comply with such additional requirement(s).

3.05 Evidence of Insurance

A licensee shall promptly provide the department with evidence that the insurance coverage required hereunder is in full force and effect at least twenty (20) days prior to the granting of a license by the County Board. At least thirty (30) days prior to termination of any such coverage, licensee shall provide the department with evidence that such coverage will be renewed or replaced upon termination with insurance that complies with these provisions. Such evidence of insurance shall be in the form of a "Certificate of Insurance", or in such other form as the department may reasonably request, and shall contain sufficient information to allow the department to determine whether there is compliance with these provisions. At the request of the department, the licensee shall, in addition to providing such evidence of insurance, promptly furnish the department with a complete (and if so requested, insurer-certified) copy of each insurance policy intended to provide coverage required hereunder. All such policies shall be endorsed to require that the insurer provide at least a sixty (60) day notice to the department prior to the effective date of policy cancellation, non-renewal, or material adverse change in coverage terms. The licensee's insurance agent shall certify on the certificate of insurance, that he/she has error and omissions coverage.

3.06 Insurer Policies

All policies of insurance required by this ordinance shall be issued by financially responsible insurers licensed to do business in the State of Minnesota, and all such insurers must be acceptable to the department. Such acceptance shall not be unreasonably withheld or delayed. An insurer with a current A.M. Best Company rating of at least A: VII shall be conclusively deemed to be acceptable. In all other instances, the department shall have twenty (20) business days from the date of receipt of a licensee's evidence of insurance to advise the licensee in writing of any insurer that is not acceptable to the County. If the department does not respond in writing within such twenty (20) day period, the licensee's insurer(s) shall be deemed to be acceptable to the County.

3.07 Loss Information

At the request of the department, the licensee shall promptly furnish loss information concerning all liability claims brought against a licensee (or any other insured under licensee's required policies) that may affect the amount of liability insurance available for the benefit and protection of the County under this ordinance. Such loss information shall include such specifics and be in such form as the department may reasonably require.

SECTION 4.0 EQUIPMENT & OPERATIONS REQUIREMENTS

4.01 Equipment Requirements

All solid waste collection and transportation vehicles shall be easily cleanable, leak-proof, and be covered with metal, canvas, or a fishnet type material to prevent escape of solid waste while in transit.

4.02 Maintenance

The licensee shall maintain all solid waste collection and transportation vehicles in a safe and sanitary manner, and provide brooms and shovels on each vehicle for the purpose of cleaning up spilled material. All safety equipment including, but not limited to, horns, lights, and reflectors shall be operable.

4.03 Labeling

Each vehicle used by a hauler for the collection or transportation of solid waste shall be identified by a license decal, card, or some similar marker issued by the department for that vehicle for the current license year. The hauler must be able to produce the license decal or card at all times. Any vehicle not being able to show the required decal or card shall be considered unlicensed. Vehicles used exclusively for collecting source separated recyclable materials or hauling processed recyclable materials to market need not have a license decal, but the hauler must be licensed by the department.

In addition, the business name and telephone number of the licensee shall be easily visible and be printed or painted in legible characters on both sides of all vehicles, containers, and conveyances used by the hauler to store, collect, or transport waste generated within the County.

4.04 Inspection

The department may inspect and approve all solid waste collection and transportation vehicles.

4.05 Storage

The licensee shall not allow solid waste to remain or be stored in any collection or transportation vehicle, including roll-offs and other detachable containers, in excess of forty-eight (48) hours, except in the event of an emergency such as inclement weather, equipment breakdown or accident. Any storage of solid waste in containers must be done with a water impermeable cover.

4.06 Protecting Private Property

The licensee shall take reasonable care to protect the property of customers being served. The licensee shall be responsible for any damage or spillage of solid waste as a result of the licensee or the licensee's employees or agent's actions.

4.07 Smoking, Smoldering or Burning Solid Waste

The licensee may not collect or transport solid waste that is smoking, smoldering, or burning.

4.08 Dumping in an Emergency

The licensee shall be responsible for the cleanup of any solid waste that must be dumped in an emergency. In addition, the licensed hauler shall be responsible for

cleaning up any litter or solid waste knowingly discharged onto roadways and or properties while in transit. Should the responsible hauler fail to clean up solid waste knowingly dumped in an emergency or knowingly discharged onto roadways and or properties while in transit, the County may charge such hauler the entire cost incurred of the removal and disposal of the solid waste.

4.09 Hours of Operation

The licensee may not collect or transport solid waste from residential property or residential buildings before 6:00 a.m. or after 9:00 p.m.

4.10 Yard Waste Collection

Solid waste haulers shall only accept for collection, yard waste that meets the following criteria:

- A. That has been placed in paper bags or other containers that will decompose within the time period it takes to produce a finished compost product out of the material held by the container; or
- B. That is in a container that is not collected with the yard waste; or
- C. That is not containerized.

4.11 Prohibited Wastes

Solid waste haulers shall not accept for collection any mixed municipal solid waste that contains yard waste, Christmas trees, dry cell batteries (as prohibited by Minn. Stat. § 115A.9155), Solid wastes containing mercury (as prohibited by Minn. Stat. § 115A.932), motor vehicle fluids and filters (as prohibited in Minn. Stat. § 115A.916), or any material that has been banned from solid waste or mixed municipal solid waste by any state statute. Banned items include, but are not limited to, waste tires, major appliances, telephone directories, and medical waste.

4.12 Secure all Loads

A person who collects or transports solid waste must do so in a safe and sanitary manner and must secure all loads so as to prevent escape of any solid waste. Failure to do so is a violation of this ordinance.

4.13 Mixing of Mixed Municipal Solid Waste and Recyclables Prohibited

Haulers shall not mix source separated recyclable materials with mixed municipal solid waste or handle source separated recyclable materials in any way that reduces the reusability or marketability of the source separated recyclable materials.

4.14 Providing Recycling Opportunities

At least once each year haulers collecting mixed municipal solid waste shall provide specific information concerning recycling opportunities available to their customers.

4.15 Collection Fees

- A. Charges for the collection of mixed municipal solid waste shall increase with the volume or weight of the waste collected,
- B. Haulers of mixed municipal solid waste are prohibited from imposing a greater charge on residents who recycle than on residents, who do not recycle,
- C. Haulers shall offer a 38-gallon or less base unit fee for solid waste generated at a residential building or at a residential property. Incremental service levels shall not increase by more than 30 gallons, with the exception for fees charged for bulky items,

- D. Fees for services that are not based on volume or weight are prohibited by this ordinance; and
- E. If collection of yard waste is provided; charges must be indicated as a separate line item on a customer's bill.

SECTION 5.0 REPORTING REQUIREMENTS

5.01 Annual Report

All MSW haulers shall keep records and report annually to Tri-County Solid Waste or the department, as appropriate, information relating to the collection, processing, and disposal of solid waste and recyclable materials collected by the hauler as required by Section 5.0 of this ordinance. The information shall be reported to the department no later than January 15 of each year. The department shall provide the hauler with the proper form for such reporting purposes

5.02 Records

For the purposes of Section 5.0 of this ordinance, “type” means a best estimate using the best available data of the percentage of each truckload that consists of residential, non-residential (i.e., commercial, industrial, construction/demolition debris or any other type of solid waste). All MSW haulers shall keep records of the following information for a minimum of six (6) years:

A. Types and quantities of solid waste

A hauler shall maintain records regarding the volume or weight, type(s), and origin(s) of waste collected. For each solid waste vehicle, the hauler shall keep a daily record of the origin(s), type(s), and weight of the waste collected that day, and the identity of the solid waste management facility at which collected waste is deposited. If the waste is measured by volume at the solid waste management facility at which it is deposited, the record may indicate the volume rather than the weight of the waste.

B. Number of residential and non-residential accounts

The hauler shall maintain a record of the number of residential and non-residential accounts serviced in each geographic origin. For reporting purposes, units in multi-unit residential buildings shall be considered residential accounts, and each individual unit shall be reported as a separate account.

C. Total weight of solid waste

The hauler shall maintain a record of the total weight of all solid waste collected from residential accounts and non-residential accounts for each geographic region. The weight of the solid waste collected shall be reported and documented by a state certified scale or other County approved documentation method.

D. Management of solid waste

The hauler shall maintain a record of the location(s) where solid waste was delivered, deposited, processed, or marketed and the total amount of waste delivered to each solid waste management facility or other location.

SECTION 6.0 WASTE DEPOSIT DISCLOSURE

6.01 Disclosure Required

- A. A hauler that collects construction and demolition debris, industrial solid waste, or mixed municipal solid waste for transportation to a solid waste facility shall, between January 1 and March 31 of every year, disclose to each waste generator from whom waste is collected, the name, location, and type of, and the number of the permit issued by the MPCA, or its counterpart in another State, if applicable, for the processing or disposal facility or facilities, excluding a transfer station, at which the waste will be deposited. The hauler shall state the approximate percentage of waste deposited at each of the facilities used for the type of waste collected from the generator in the County and any alternative facilities regularly used by the hauler for the type of waste collected from the generator in Nicollet County.
- B. All disclosures shall be in writing and include the following statement: "You may be responsible for any liability that results from contamination at a facility where your waste has been deposited. Minnesota believes that its waste management system provides substantially more financial and environmental protection than depositing waste in landfills in other states. Managing your waste in Minnesota may minimize your potential liability."
- C. If any of the primary or alternative disposal facilities identified by the hauler are not located in Minnesota, the disclosure must also state "The landfill to which your waste may be sent during the current calendar year is not a Minnesota landfill."

6.02 Form of Disclosure

- A. A hauler shall make the disclosure to the generator in writing at least once a year between January 1 and March 31 and on any written contract for collection services for that year. The written disclosure must include all of the information described in Section 6.01.
- B. The disclosure is not required with regard to the collection of mixed municipal solid waste if the city or County within which the waste is generated selects the collector that may provide collection services to the generator; in such case the city or County shall make the require disclosure.
- C. If a hauler provides one-time or occasional service to a waste generator, the hauler shall orally provide the generator with the required disclosure at the time the generator agrees to purchase the collection service. The hauler shall then provide written disclosure to the generator within 45 days from the date of request for services.
- D. If an additional facility becomes either a primary facility or an alternative facility during the year, the hauler shall make the disclosure set forth in Section 7.01 within thirty (30) days. A local government unit that collects solid waste without direct charges to generators shall make the disclosure on any statement that includes an amount for waste management, provided that, at a minimum, disclosure to generators must be made at least twice annually in a form likely to be available to all generators.

6.03 Hauling to Transfer Stations

If a hauler deposits waste at a transfer station, the hauler need not disclose the name and location of the transfer station to the generator but shall disclose the disposal site that receives the waste when it leaves the transfer station.

SECTION 7.0 MANDATORY COLLECTION OF RECYCLABLES

7.01 Mandatory Collection

Haulers licensed pursuant to Article VI of this ordinance shall provide recycling services to all residential, commercial, and industrial customers in Nicollet County.

7.02 Materials Collected

At a minimum, the following materials shall be collected: aluminum and steel cans, newspaper, clear, brown, and green glass, plastics, corrugated cardboard and office paper.

7.03 Applicability

This section shall apply to all persons seeking a license under the provisions of this ordinance to collect and transport municipal solid waste, at the point of generation or that transfer or otherwise transport solid waste to a disposal or processing facility.

7.04 County Audit

The County may conduct an audit to verify the accuracy of the data submitted, pursuant to the provision of this ordinance.

ARTICLE VII FACILITY LICENSING PROVISIONS

SECTION 1.0 GENERAL LICENSING PROVISIONS

The following general provisions shall apply to all licenses issued by Nicollet County relating to any solid waste activities, services or facilities within the jurisdiction of the solid waste management service area.

1.01 License Required

- A. Unless otherwise provided in this ordinance, any solid waste facility to be established, operated, or maintained for intermediate or final disposal or processing of solid waste shall be licensed by the County and, if applicable, permitted by the MPCA before any operation may commence.
- B. Solid waste facilities not specifically provided for in this ordinance shall not be permitted, unless otherwise licensed or exempted from licensure by the County Board prior to construction and operation.
- C. The receipt of a solid waste facility license shall not be deemed to exclude the necessity of obtaining other applicable licenses, permits and approvals, except as expressly provided herein. Compliance with the provisions of this ordinance shall not relieve any person or entity of the need to comply with any and all other applicable rules, regulations, and laws.

SECTION 2.0 SOLID WASTE FACILITY LICENSE REQUIREMENTS

It is unlawful for any person to establish, operate, or maintain a solid waste management facility without a license from the County and in compliance with the requirements of this article and any license conditions imposed by the County. No person shall cause, permit, or allow land or property under that person's control to be used for solid waste processing or disposal purposes, except at a site which complies with all County ordinances, regulations, local, state, and federal guidelines, statutes, rules and regulations. Solid waste facilities within the County shall:

2.01 Application for a License

Solid waste facility license applications shall be submitted to the department on forms proved by the department for solid waste land disposal facilities, demolition debris land disposal facilities, industrial solid waste land disposal facilities, transfer stations, solid waste processing facilities, and waste tire facilities. The applicant shall include with its license application two sets of complete plans, specifications, design data, ultimate land use plan if applicable, proposed operating procedures and such other information as may be required by the County. In addition, applicants shall provide all information required in this section and subsequent sections of this ordinance, including the following:

- A. Land use approvals and permit(s) required by the County zoning ordinance or the zoning authority having jurisdiction over the proposed site.

- B. A complete copy of the permit application submitted to the MPCA, including a set of complete plans, specifications, design data, and ultimate land use proposals.
- C. A written statement of how the proposed facility is consistent with the County solid waste management plan and a current MPCA Certificate of Need, if applicable.
- D. Application fee as established by the County Board.
- E. A topographic map that shows the proposed solid waste facility and the area surrounding it for a distance of at least one mile in all directions. The map shall be of sufficient scale to show all homes, buildings, lakes, ponds, watercourses, wetlands, dry runs, rock outcroppings, road areas for retention of surface water runoff, and other applicable details as may be required by the department. Wells shall also be identified on the map.
- F. A copy of any environmental assessment worksheet or environmental impact statement prepared or required pursuant to this ordinance, Minn. Rules, Chap. 4410, as amended, or other applicable regulations.
- G. A list of all types of waste the applicant intends to accept at the facility.

2.02 License Holder

A license shall be issued jointly to the landowner, facility owner, and facility operator and/or other persons responsible for compliance with the requirements of this ordinance.

2.03 License Fees

The annual fee and all other required fees in the amounts established by the County Board shall be paid by the date specified Section 8.0 of this ordinance.

2.04 Incomplete or Non-Conforming Application

If the department determines that an application for a solid waste facility license, license modification, license renewal, and/or closure license is not complete or otherwise does not conform with the requirements set for in this ordinance, the department shall advise the applicant in writing within sixty (60) days of receiving the application that the application is incomplete and shall identify what information is missing. The applicant shall provide the requested information in a timely manner. Failure to submit the requested information within 30 days, shall be deemed to be a withdrawal of the application.

2.05 Multiple Operation Facilities

The County Board, at its discretion, may issue one license to a person who operates or proposes to operate two or more solid waste facilities within the same site boundary. This multiple operation license may be approved when the Board determines that the combined operation of two or more solid waste facilities is such that administration and enforcement of this ordinance and license conditions are most efficiently or appropriately served by one license. Each solid waste facility licensed under the multiple operation license shall comply with all of the requirements of this ordinance that apply to solid waste facilities of that type, including the payment of application and

license fees. The department shall work with a person operating or proposing to operate under a multiple operation license to avoid unnecessary duplication and efforts in license application, record keeping, and reporting processes. The issuance of a multiple operation license shall be based on recommendation by the department to the County Board or request by the facility and approval by the County Board. Renewals of a multiple operation license may be issued by the department if originally issued by the County Board.

2.06 Duty to Comply with License Conditions

The licensee shall comply with the operational conditions stated in the solid waste facility license as approved by the County. Failure of the licensee to comply with such operational conditions, including any license modifications, is a violation of this ordinance and the licensee is subject to the penalties provided herein.

2.07 License Modifications

- A. Major modifications to a license shall require prior approval of the County Board. The following, without limitation, shall be considered major modifications to a license:
 - 1. When the department determines that a modification, or change to the operation or conditions of a solid waste facility create the potential for significant environmental or public health impact.
 - 2. Any change in the type(s) or quantity(ies) of waste accepted.
 - 3. Any change in the waste management method or addition of a new waste management method used at a site or solid waste facility or change to the closure plan.
 - 4. Expansion of the solid waste landfill.
- B. Notwithstanding these criteria, a major modification does not include changes or modifications that:
 - 1. Are disclosed in the license application and operations plan and approved by the County Board as part of the license;
 - 2. Are in conformance with the current license and do not create the potential for significant environmental or public health impact; and
 - 3. Will not reduce the department's ability to monitor compliance with the license and this ordinance.

SECTION 3.0 LICENSE TERM, RENEWAL, TRANSFER, AND CONTINUATION

3.01 License Term

- A. Unless otherwise provided by the County Board, the initial term of a solid waste facility license granted pursuant to the provisions of this ordinance shall be for a period of not more than one (1) year but shall expire on December 31 of the year the license is granted, unless earlier suspended or revoked.
- B. Except as otherwise provided by the County Board, the term of a solid waste facility license that is renewed pursuant to the provisions of this ordinance shall be five (5)

years and shall expire on December 31 of the fifth year, unless sooner suspended or revoked.

- C. Unless otherwise provided by the County Board, the term of a solid waste landfill closure license shall be for the duration of the post-closure period.

3.02 License Renewal

An applicant for renewal of a solid waste facility license shall be made on a form provided by the department by October 1 of the expiration year and shall be signed by an individual authorized to act on behalf of and bind the license with the submission of the following information:

- A. A statement indicating any changes at the facility since the last approved solid waste facility license application or proposed changes for the forthcoming license period, and;
- B. The licensee shall submit to the department financial assurance information including the financial assurance mechanism used, the amount of bond or letter of credit, cash on deposit, amount in a depository account or trust account. Failure to submit such information is grounds for revocation or for not granting renewal of the solid waste facility license by the County Board. If there are no changes in financial assurance, it shall be so stated in the solid waste facility license renewal application.

3.03 Continuation of Expired License

A person who holds an expired license and who has submitted a timely and complete application for re-issuance of the license as required by Section 3.02 may continue to conduct the licensed solid waste facility under the terms and conditions of the expiring license until the County takes final action on the application, so long as the department determines that both of the following are true:

- A. The licensee is in full compliance with the terms and operational and special conditions of the expired license and this ordinance; and
- B. The department, through no fault of the licensee, has not taken final action of the application on or before the expiration date of the license.

3.04 Transfer of License

A licensee shall not voluntarily or involuntarily, by operation of law or otherwise, sell, assign, transfer or otherwise dispose of, in whole or in part, a license issued under this ordinance without the County's prior written consent.

- A. For the purpose of determining whether to grant such consent, the County's inquiry shall be limited to determining to the County's satisfaction that the transferee possesses the technical and financial qualifications to operate and maintain the licensed solid waste facility. The licensee shall be responsible for ensuring that the transferee completes an application for approval of the transfer and for establishing, to the County's satisfaction, the transferee's qualifications to hold the license. Applications for approval of the transfer shall be reviewed within a reasonable time and the County's consent shall not be unreasonably withheld.
- B. In addition to any other sale, assignment, transfer or disposal, this Section shall apply to a change of ownership or control that includes, without limitation: (a) sale of all or substantially all of the company assets, except those sales of assets in the normal course of business; (b) sale or acquisition of four percent (4%) of the

- controlling interest (voting) stock if the stock is publicly traded; (c) sale of more than fifty-one percent (51%) of voting stock if it is a closely held corporation; (d) execution of a management agreement by which control of the corporation is transferred; or, (e) if the company is a closely held corporation, the death of the Chief Executive Officer or the majority stockholder.
- C. The licensee shall notify the County in writing of any foreclosure or other judicial sale of all or substantially part of the property and assets comprising the licensed facility. Such notice shall be considered notice that a change in ownership has taken place and the provisions for obtaining County consent pursuant to this Section shall apply.
 - D. The granting of a security interest or mortgage in all or part of the licensed solid waste facility shall not require the consent of the County.
 - E. Any attempt to transfer a license or any or all of the licensee's obligations under a license without the County's consent shall be grounds for suspension or revocation of the license and other remedies available to the County, including, without limitation, grounds for drawing on the financial assurance provided pursuant to Section 6.0.

SECTION 4.0 GENERAL REQUIREMENTS FOR ALL FACILITIES

The following items shall be established, constructed, or provided for at all solid waste management facilities, unless specifically exempted by the department:

4.01 Design and Construction

- A. Sanitary facilities and shelter shall be available for site.
- B. Effective litter control devices such as portable fences.
- C. Electrical service, as necessary for operations and repairs.
- D. Firefighting facilities on site adequate to insure the safety of employees.
- E. A contingency action plan identifying procedures and actions to be taken in the event of fire, spill, chemical release, physical injury, or other emergency situations at the facility.
- E. Emergency first aid equipment to provide adequate treatment for all accidents.
- F. A potable water supply for site personnel.
- G. Shelter for maintenance and storage of site equipment.
- H. Adequate facilities to ensure that no vehicle desiring entry into the site may have to wait outside the perimeter of the site.
- I. Adequate communication facilities shall be provided for emergency purposes.
- J. The site shall be fenced or secured to prevent unauthorized entry and a gate shall be provided at the entrance to the site and kept locked when an attendant is not on duty.
- K. An all-weather haul road to the unloading area.
- L. Visual screening of the site, as approved by the department, shall be provided by use of natural objects, trees, plants, seeded soil berms, fences, or other suitable means.

M. An area designated to inspect and store solid waste to determine whether or not unacceptable waste is contained in the solid waste deposited at the site.

4.02 Operating Records

All solid waste facilities shall maintain accurate operational daily records with regard to all aspects of the facility, including but not limited to the quantity and the types of materials received, and the disposition of all materials received. Records shall be available during normal business hours for the on-site review and inspection by the department's or MPCA's designated agent.

4.03 Quarterly Operating Reports

Each quarter, the licensee shall submit an operating report to the department on a form prescribed by the department. Quarterly reports shall be due on the 15th day of April, July, October, and January and include information concerning the quantity and types of material received for each of the three preceding months.

4.04 Compliance with Minnesota Rules

Applicants, owners, and operators of licensed solid waste facilities shall comply with applicable State solid waste rules, including Minn. Rules Ch. 7035, as amended.

4.05 Compliance with Ordinance

The licensee shall be responsible for compliance with all of the provisions of this ordinance.

4.06 Air, Soil, and Waters of the County

No licensee shall operate any solid waste facility, or dispose of, or permit to be disposed of, any solid wastes in a manner so as to degrade the soil, air, or waters of the County. Any licensee who causes any degradation of the soil, air, or waters of the County shall undertake whatever action is necessary to correct the degradation and restore soil, air, or waters to its condition prior

4.07 Environmental Monitoring

The licensee shall be responsible for facilitating all environmental monitoring, including but not limited to water, soil, and landfill gases, which are required by this ordinance, the license, or the MPCA permit for the applicable solid waste facility.

4.08 Unacceptable Waste

A licensee shall maintain a contingency plan for the proper temporary storage, treatment, and/or disposal of unacceptable waste received at the facility. Unacceptable waste shall be any waste not identified by the licensee in its application as acceptable waste, pursuant to Section 3(2.01)(7), and approved as part of the license by the County Board. The contingency plan shall include a written list of the nearest suitable facilities where the unacceptable waste can be disposed or received from the public. Unacceptable waste shall be transported only to solid waste or hazardous waste facilities operating with appropriate license for disposal, treatment, conversion, or recycling.

SECTION 5.0 CLOSURE REQUIREMENTS FOR ALL FACILITIES

In addition to closure procedures required by the MPCA, the operator shall submit a detailed map to the department upon closure of a disposal facility. The map shall include the location of

fill areas, buildings, roads, wells, hydro-geologic information, elevations, scales, and any other features of the site.

- A. Documents submitted must show the nature and location of the waste disposed at the facility.
 - 1. Complete location details of any regulated wastes such as asbestos shall be submitted to the department and recorded on the property deed.
 - 2. A complete list of industrial solid waste customers and associated waste characterization data and disposal location shall be submitted.
- B. Documents submitted must show the property lines of the facility and all adjacent property ownership at the time of closure.
- C. A letter from the operator shall be sent to all adjacent property owners notifying them of the closure requirements and the ultimate use of the land on which the disposal facility is located. This letter must be sent by certified mail within 30 days of the completion of closure requirements with a copy sent to the solid waste administrator at the same time.

SECTION 6.0 FINANCIAL ASSURANCE

6.01 License Contingent on Financial Assurance

Issuance of any solid waste facility license pursuant to the provisions of this ordinance shall be contingent upon the applicant furnishing to the department, financial assurance for pre-closure/operational, closure, post-closure periods, in an amount and form to be set by the County Board, and naming the County as obligee. The County Board may waive this requirement if the board determines, based on the type of and associated conditions surrounding the proposed facility, that the financial assurance is not necessary to secure the licensee's performance of its obligations under the license, and is not necessary to protect public health and safety. The financial assurance shall be maintained throughout the term of each operational and closure license, unless the amount or form of the financial assurance is modified by the County Board based on the conditions and information present at the time of a renewal or violation of the license.

6.02 Conditions

Conditions of financial assurance shall include:

- A. If the licensee fails to obey any of the requirements or do any of the acts required by this ordinance or the license in the operation pre-closure/operational, closure and post-closure periods of the solid waste facility, or if, for any reason, ceases to operate or abandons the solid waste facility, and the County determines that it is necessary to expend any monies or expend and labor or material to remediate conditions at or caused by the solid waste facility or restore the facility to the condition and requirements as provided by this ordinance, the obliger and the sureties on the financial assurance shall promptly remit to the County the amounts demanded.
- B. The obliger 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 defaults of

the obliger under the terms of their license to operate and the ordinances of the County.

- C. The financial assurance shall be subject to cancellation by the surety at any time only upon giving 120 days prior written notice of cancellation to the Department.
- D. If any financial assurance requirements continue to apply to a solid waste facility, failure to provide the County with replacement financial assurance in the form and amount required by the ordinance and the County Board at least thirty (30) days prior to the cancellation date, shall constitute a violation of the ordinance and shall be grounds for a claim against the current financial assurance in the full amount.
- E. The specific financial assurance mechanism(s) and amount(s) utilized by a licensee for closure and post-closure care shall be identified in the closure license and shall comply with Sections 6.03.

6.03 Requirements for Financial Assurance Mechanisms

- A. Post-Closure/Operational Period Financial Assurance – Licensee shall provide pre-closure/operational period financial assurance through one or a combination of the following mechanisms:
 - 1. Single Access Cash Account – A single access cash account at a financial institution that is acceptable to the Nicollet County Attorney’s Office. The funds in this account may only be withdrawn by or with the consent of Nicollet County. The department shall notify the licensee when financial assurance funds are being withdrawn, and shall state the reasons for such withdrawal.
 - 2. Letter of Credit – An irrevocable letter of credit from a financial institution that is acceptable to the Nicollet County Attorney’s Office.
 - 3. Bond – A surety bond in a form and from a financial institution that is acceptable to the Nicollet County Attorney’s Office. In general, the surety bond shall be for purposes and in an amount set by resolution of the County Board and shall name the County of Nicollet as the obligee. Acceptable surety companies include those companies that are licensed and authorized to transact corporate surety business in the State of Minnesota and that are listed as acceptable sureties on federal bonds in Circular 570, issued by the United States Department of the Treasury, as published annually in the federal Register on July 1.
 - 4. Trust – A trust in a form acceptable by the Nicollet County Attorney’s Office.
 - 5. MPCA Financial Assurance Plan – In addition to the financial assurance required by this Section, the licensee shall maintain separate financial assurance as may be required by the MPCA for an operational permit. Failure to maintain MPCA-required financial assurance shall be grounds for modifying the form and amount of financial assurance required by this Ordinance, pursuant to Section 6.01.
 - 6. Release – The pre-closure/operational period financial assurance shall be released by the County by notifying the obligor/surety in writing after the department determines that the licensee has fully complied with the terms and obligations of the operational license, the license has been granted a closure license and has provided the required closure period financial assurance, and any pre-closure/operational period violation of the ordinance have been corrected to the satisfaction of the department.

- B. Closure Period Financial Assurance – A licensee shall provide closure period financial assurance through one or a combination of the following mechanisms:
1. Single Access Cash Account – A single access cash account at a financial institution that is acceptable to the Nicollet County Attorney’s Office. The funds in this account may only be withdrawn by or with the consent of Nicollet County. The department shall notify the licensee when financial assurance funds are being withdrawn, and shall state the reasons for such withdrawal.
 2. Letter of Credit – An irrevocable letter of credit from a financial institution that is acceptable to the Nicollet County Attorney’s Office.
 3. Bond – A surety bond in a form and from a financial institution that is acceptable to the Nicollet County Attorney’s Office. In general, the surety bond shall be for purposes and in an amount set by resolution of the County Board and shall name the County of Nicollet as the obligee. Acceptable surety companies include those companies that are licensed and authorized to transact corporate surety business in the State of Minnesota and that are listed as acceptable sureties on federal bonds in Circular 570, issued by the United States Department of the Treasury, as published annually in the federal Register on July 1.
 4. Trust – A trust in a form acceptable by the Nicollet County Attorney’s Office.
 5. MPCA Financial Assurance Plan – In addition to the financial assurance required by this Section, the licensee shall maintain separate financial assurance as may be required by the MPCA pursuant to a closure plan approved by the MPCA. Failure to maintain MPCA-required financial assurance shall be grounds for modifying the form and amount of financial assurance required by this Ordinance, pursuant to Section 6.01.
 6. Release – The closure period financial assurance shall be released by the County by notifying the obligor/surety in writing after the department determines that the licensee has fully complied with the terms and obligations of the closure license, that any closure period violations of the ordinance have been corrected to the satisfaction of the department, and that the licensee has provided the required post-closure financial assurance.
- C. Post-Closure Period Financial Assurance – Licensees that have post-closure period obligations at a site shall provide post-closure period financial assurance through one or a combination of the following mechanisms:
1. Single Access Cash Account – A single access cash account at a financial institution that is acceptable to the Nicollet County Attorney’s Office. The funds in this account may only be withdrawn by or with the consent of Nicollet County. The department shall notify the licensee when financial assurance funds are being withdrawn, and shall state the reasons for such withdrawal.
 2. Letter of Credit – An irrevocable letter of credit acceptable to the Nicollet County Attorney’s Office may be used to supplement the mechanisms stated above in Sections 6.03 (C) until certification of closure is submitted to the department and approved by the County Board.
 3. Bond – A surety bond in a form and from a financial institution that is acceptable to the Nicollet County Attorney’s Office. In general, the surety bond shall be for

purposes and in an amount set by resolution of the County Board and shall name the County of Nicollet as the obligee. Acceptable surety companies include those companies that are licensed and authorized to transact corporate surety business in the State of Minnesota and that are listed as acceptable sureties on federal bonds in Circular 570, issued by the United States Department of the Treasury, as published annually in the federal Register on July 1.

4. Trust – A trust in a form acceptable by the Nicollet County Attorney’s Office.
 5. MPCA Financial Assurance Plan – In addition to the financial assurance required by this Section, the licensee shall maintain separate financial assurance as may be required by the MPCA for post-closure care. Failure to maintain MPCA-required financial assurance shall be grounds for modifying the form and amount of financial assurance required by this Ordinance, pursuant to Section 6.01.
 6. Release – The closure period financial assurance shall be released by the County by notifying the obligor/surety in writing after the department determines that the licensee has fully complied with the terms and obligations of the closure license, that any closure period violations of the ordinance have been corrected to the satisfaction of the department, and that the licensee has provided the required post-closure financial assurance.
- D. Annual Review and Adjustment – The form and amount of financial assurance shall be subject to annual review by the department. Adjustments shall be based on published economic indicators deemed relevant by the Nicollet County Attorney’s Office and/or modifications to the solid waste facility specifications, operations, and/or closure plan or post-closure care standards. No adjustment shall be effective unless approved by the County Board.

SECTION 7.0 INSURANCE REQUIREMENTS

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

7.01 Workers Compensation Insurance

- A. Worker’s compensation insurance shall be in compliance with all applicable state statutes. Such policy shall include employer’s liability coverage in at least such amount(s) as are customarily issued in Minnesota and All States or Universal Endorsement, if applicable.
- B. In the event a licensee is a sole proprietor and has elected not to provide workers’ compensation insurance, the licensee shall be required to execute and submit to the department an affidavit of sole proprietorship in a form acceptable to the department.

7.02 General Liability

- A. Commercial General Liability Coverage (Insurance Services Office form title), providing coverage on an “occurrence”, rather than on a “claims made” basis, which policy shall include, but shall not be limited to, coverage for bodily injury, property damage, personal injury, contractual liability (applying to this contract), independent licensees, “XC&U” and products-completed operations liability (if applicable). Such coverage may be provided under an equivalent policy form (or forms), so long as such equivalent form (or forms) affords coverage that is at least as broad. An Insurance Services Office “Comprehensive General Liability” policy that includes a “Broad Form Endorsement”, GL 0404 (Insurance Services Office designation) shall be considered to be an acceptable equivalent policy form.
- B. The licensee shall maintain at all times during the period of a license a total combined general liability policy limit of at least \$1,000,000 for each occurrence and \$2,000,000 aggregate, applying to liability for bodily injury, personal injury, and property damage, which total limit may be satisfied by the limit afforded under its “Commercial General Liability” policy, or equivalent policy, or by such policy in combination with the limits afforded by an “Umbrella” or “Excess Liability” policy (or policies), provided, that the coverage afforded under any such “Umbrella” or “Excess Liability” policy is at least as broad as that afforded by the underlying “Commercial General Liability” policy (or equivalent underlying policy).
- C. Such commercial general liability policy and “Umbrella” or “Excess Liability” policy (or policies) may provide aggregate limits for some or all of the coverage afforded there under, so long as such aggregate limits have not, as of the beginning of the term or at any time during the term, been reduced to less than the total required limits state above, and further, that the “Umbrella” or “Excess Liability” policy provides coverage from the point that such aggregate limits in the underlying comprehensive general liability policy become reduced or exhausted.

7.03 Automobile Liability

Business Automobile liability insurance shall be obtained and shall cover liability for bodily injury and property damage arising out of the ownership, use, maintenance, or operation of all owned, non-owned, and hired automobiles and other mobile vehicles utilized by the licensee in connection with the operation of the licensed solid waste facility. Such policy shall provide total liability limits for combined bodily injury and/or property damage in the amount of at least \$1,500,000 per accident, which total limits may be satisfied by the limits afforded under such policy, or by such policy in combination with the limits afforded by an “Umbrella” or “Excess Liability” policy(ies), provided, that the coverage afforded under any such “Umbrella” or “Excess Liability” policy(ies) shall be at least as broad with respect to such business automobile liability insurance as that afforded by the underlying policy. Unless included within the scope of the licensee’s commercial general liability policy, such business automobile liability policy shall also include coverage for motor vehicle liability assumed under contract.

7.04 Additional Insurance

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

7.05 Evidence of Insurance

A licensee shall promptly provide the department with evidence that the insurance coverage required hereunder is in full force and effect at least twenty (20) days prior to the granting of a license by the County Board. At least thirty (30) days prior to termination of any such coverage, the licensee shall provide the department with evidence that such coverage will be renewed or replaced upon termination with insurance that complies with these provisions. Such evidence of insurance shall be in the form of a "Certificate of Insurance", or in such other form as the department may request, and shall contain sufficient information to allow the department to determine whether there is compliance with these provisions. At the request of the department, the licensee shall, in addition to providing such evidence of insurance, promptly furnish the department with a complete (and if so requested, insurer-certified) copy of each insurance policy intended to provide coverage required hereunder. All such policies shall be endorsed to require that the insurer provide at least sixty (60) day notice to the department prior to the effective date of policy cancellation, non-renewal, or material adverse change in coverage terms. The licensee's insurance agent shall certify on the certificate of insurance, that there is error and omissions coverage.

7.06 Insurer Policies

All policies of insurance required by this ordinance shall be issued by financially responsible insurers licensed to do business in the State of Minnesota, and all such insurers shall be acceptable to the department. Such acceptance shall not be reasonably withheld or delayed. An insurer with a current A.M. Best Company rating of at least A: VII shall be conclusively deemed to be acceptable. In all other instances, the Department shall have twenty (20) business days from the date of receipt of a licensee's evidence of insurance to advise the licensee in writing of any insurer that is not acceptable to the County. If the department does not respond in writing within such twenty (20) day period, the licensee's insurer(s) shall be deemed to be acceptable to the County.

7.07 Loss Information

At the request of the department, the licensee shall promptly furnish loss information concerning all liability claims brought against a licensee (or any other insured under licensee's required policies) that may affect the amount of liability insurance available for the benefit and protection of the County under this ordinance. Such loss information shall include such specifics and be in such form as the department may reasonably require.

SECTION 8.0 SOLID WASTE FACILITY FEES AND DEPOSITS

8.01 Facility License Fees

- A. An application fee shall be submitted with all applications for a solid waste facility license, expansion of a solid waste facility, license renewal involving a major modification or appeal of solid waste landfill fees and deposits. The application fees shall be in an amount set forth in the County's fee schedule. An application that does not include the required application fee shall not be considered complete.
- B. In addition to the application fees, there shall be a facility license fees for each type of solid waste facility. The facility license fees shall be set forth in the County's fee schedule and shall be reviewed annually by the County Board. The initial solid waste facility license fee shall be paid prior to issuance of the license renewal. Annual license fees shall terminate once the County Board has approved a certification of closure pursuant to pertinent sections in this ordinance. Non-payment of the facility license fees shall be grounds for denial of a license application, modification or renewal, or revocation of an existing license, and may also be enforced as provided in Article VIII of this ordinance.
- C. There shall be no fee for renewal of a license, provided that there are no major modifications to the license, as determined by the department pursuant to Section 2.07. A license renewal that includes a major modification shall pay an application fee as required in Section 8.01(A).

8.02 Solid Waste Landfill Fees and Deposits

- A. Pursuant to Minnesota Statutes Chapters 115A and 400, the County hereby establishes a system fees and other financial security to compensate the County for and protect the County against the costs, expenses and risks associated with locating a solid waste landfill within the County, including, without limitation, administrative costs, landfill abatement, response actions (both on and off-site), impacts to County infrastructure, and the closure costs, post-closure care and perpetual care of solid waste landfills. For purposes of this Section, perpetual care shall mean those activities and costs associated with landfills located within the County that will continue beyond the post-closure care period prescribed by the MPCA and this ordinance, and include, without limitation: (1) continual site maintenance, including fencing, building care, inspection of equipment and inspection and repair of slumping associated with steep-sided landfills; (2) monitoring of gas and ground water; (3) monitoring leachate collection; and (4) maintaining cover integrity and preventing uncontrolled stormwater and snow melt from entering a closed waste cell. Perpetual care may also include remediation or response activities that may not be undertaken by a responsible party, facility operator or other state or federal agency and that may be necessary to protect the public health and the environment. It is the express intent of this Section that the costs and risks associated with hosting a solid waste landfill are not borne directly or indirectly by Nicollet County residents.
- B. MSW Fees:
 - 1. Base Fee – all solid waste landfills in Nicollet County that accept and dispose of MSW shall pay a fee for each ton of MSW accepted and disposed of at the

- facility. The amount of the MSW Base Fee shall be established by the County Board and may be reviewed and revised annually.
2. Out-of-County Fee – in addition to the Base Fee, all solid waste landfills in Nicollet County that accept and dispose of MSW shall pay a fee for each ton of MSW generated outside of Nicollet County, that is accepted and disposed of at the facility. The amount of the Out-of-County Fee shall be established by the County Board and may be reviewed and revised annually.
- C. Construction and Demolition Waste Fee – All solid waste landfills in Nicollet County that accept and dispose of demolition waste and construction debris shall pay a fee for each ton of demolition waste and construction debris accepted and disposed of at the facility. The amount of the fee shall be established by the County Board and may be reviewed and revised annually.
- D. Payment of Fees – the fees established in this Section shall be charged to facility owners and shall be paid in the following manner:
1. Monthly returns shall be on a reporting form prescribed by the department.
 2. The return shall be signed by the facility operator or a person authorized by the facility operator to do so.
 3. A check for the full amount of the fee and made out to the County shall accompany the return form.
 4. The return shall be filed with the department on or before the last day of the month immediately following the month in which the fee was incurred.
- E. Exemption from Base Fee and Out-of-County Fee – if a solid waste facility achieves 85% or greater reduction in weight of solid waste that is managed through recycling, composting, or processing, the following solid waste materials shall then be exempt from Base Fees and Out-of-County Fees:
1. All Residuals or Residue.
 2. All Non-Processible Waste
- F. Non-Payment of Fees – Non-payment of fees, deposits, or other financial security required shall be grounds for denial of a license application, modification, or renewal, or suspension or revocation of an existing license, and may also be enforced as provided in Article VIII of this ordinance.
- G. Fees to be Uniform – Appeal Process
1. The County Board shall establish the amount of fees for each waste stream in a manner to be applied uniformly to solid waste landfills located within the County. A solid waste landfill may appeal the amount of the fees established by this Section for the waste stream(s) applicable to that facility if the facility believes that, because of the unique characteristics of the facility, the amount of the fees or deposits should be reduced. Any such appeal must be submitted on a form to be provided by the department with the facility's timely application for a solid waste facility license or renewal or modification of an existing license. No appeal will be accepted after a license, renewal or modification application has been submitted or, in connection with a license renewal application, after the time by which such application is required to be submitted pursuant to Section 3.02 of this ordinance. An appeal submitted in connection with an application to

modify an existing license shall be limited to the fees or deposits applicable to the proposed modification. The requirement that a facility submit an appeal under this Section at the time the facility applies for a license renewal or modification shall not apply in the event the County Board increases the amount of the fees or deposits applicable to the facility's waste stream during the term of an existing license. In that case, an appeal must be submitted within sixty (60) days after the date on which the County Board approves the fee or deposit increase and the appeal shall be limited to the amount of the increase only.

2. The appeal shall be considered by the County Board at the same time as the board considers the facility's application for a license, renewal, or modification. In those cases where an appeal is submitted in connection with a fee or deposit increase during the term of an existing license, the appeal shall be considered by the County Board within sixty (60) days after the department determines a facility's appeal application is complete. It shall be the facility's burden to conclusively establish that the uniform fees and/or deposits applicable to the facility's waste stream exceed the direct and indirect costs, expenses and potential risks associated with the facility's landfill. A facility's request for reduction of fees or deposits shall include, without limitation, a detailed explanation of the unique attributes of the facility and its operations, including the facility property and the property and natural resources in the surrounding area, demonstrating that the potential costs, expenses and risks associated with the facility are substantially different than those presented by other facilities located within the County and accepting the same waste stream(s). The County Board may employ the use of a qualified individual to serve as a factfinder to assist the County Board in considering an appeal under this Section. The fees and expenses of the factfinder shall be shared equally by the applicant and the County. An appeal shall not relieve the facility of its obligation to make timely payments in the amounts established by the County. If an appeal is granted and the amount of the fee is reduced, the County shall refund to the facility the difference between the amounts paid and the amounts that would have been due based on the reduced fee, calculated from the date the appeal application was accepted as complete by the County. The County Board may require, as a condition of reducing the applicable fee or deposit, that the facility enter into an agreement with the County providing for the payment of the reduced fee or deposit and establishing a procedure for monitoring the unique conditions or characteristics of the facility that were accepted as the basis for reducing the applicable fee.

8.03 Other Fees, Rates, and Service Charges

Other fees, rates, and charges pursuant to this ordinance and applicable law shall be established by the County Board and set forth in the County's fee schedule. Such other fees, rates, and charges pursuant to this ordinance may be billed in a manner determined by the County and payment enforced in the same manner as other fees required by this Section.

SECTION 9.0 SOLID WASTE LAND DISPOSAL FACILITIES

This section applies to solid waste facilities designed, constructed, maintained, or operated as a solid waste land disposal facility.

9.01 State Rule Adopted

The design, construction, and operation of solid waste land disposal facilities shall be in accordance with MPCA Solid Waste Management Rules Part 7035.2815 which is hereby adopted by reference as part of this ordinance.

9.02 License Required

It is unlawful for any person to establish, operate, or maintain a mixed municipal solid waste land disposal facility without first being licensed to do so by the department. The department may, at its discretion, issue a license for the operation of a mixed municipal solid waste land disposal facility when the following materials prepared by a registered professional engineer of Minnesota are submitted to the department for consideration.

A. Licensing requirements

The following information shall be submitted to the department as part of the application process for a mixed municipal solid waste land disposal facility license.

1. Application and fees

An applicant for a mixed municipal solid waste land disposal facility license shall complete and submit to the department an application on a form provided by the department. The application shall not be considered complete until the department receives the signed and dated application form, all applicable fees, and all materials required by this article.

2. Existing conditions plan

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

3. Plot plan

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

4. Land use plan

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

5. Report

A report shall accompany the plans indicating:

- a. Population and areas expected to be served by the proposed site.
- b. Anticipated type, quantity and source of material to be disposed of at the site.
- c. Geological formations and ground water elevations to a depth of at least ten (10) feet below proposed excavation and lowest elevation of the site, including the high-water table. Such data shall be obtained by soil borings or other appropriate means.
- d. Source and characteristic of cover material and method for protecting cover material for winter operation.
- e. Type and amount of equipment to be provided at the site for excavating, earth moving, spreading, compacting and other needs.
- f. Area of site in acres.
- g. Owner of site.
- h. Persons responsible for actual operation and maintenance of the site and intended operating procedures.

9.03 Surcharges

The County Board may set surcharge fees pursuant to Minn. Stat. § 115A.919 on mixed municipal solid waste disposed at facilities located within the County in addition to other taxes and landfill clean up fees imposed by the State (Minn. Stat. §115A.923.). Non-payment of surcharge fees shall be grounds for denial of a license application or renewal.

- A. Expenditure of funds collected under this section shall comply with Minn. Stat. § 115A.919.
- B. Any facility operator subject to the fees imposed by this provision shall file a surcharge fee monthly return in the following manner:
 1. Monthly returns shall be on a reporting form prescribed by the department.
 2. The return shall be signed by the facility operator or a person authorized by the facility operator to do so.
 3. A check for the full amount of the surcharge fee and made out to the Nicollet County Auditor must accompany the return form.
 4. The return shall be filed with the department on or before the last day of the month immediately following the month in which the fee was incurred by the facility.
- C. The County or its authorized representative shall have the right to examine and/or copy records required by this ordinance.

9.04 General Design and Construction Requirements

The following items shall be established, constructed, maintained, or provided for at the site, in addition to the requirements as set forth in this ordinance and in the MPCA Rules Part 7035.2815:

- A. Equipment sufficient for spreading, compacting, and covering operations to include sufficient reserve equipment or arrangements to provide for all operations within 24 hours of equipment breakdown.
- B. At each entrance to the site the licensee shall erect and maintain a sign stating the name of the solid waste management facility, the schedule of days and hours the solid waste management facility is open to the public, prices for use of the solid waste management facility, the types of waste accepted, and MPCA permit number and penalty for nonconforming dumping. Plans and specifications for the sign wordage and its proposed placement shall be submitted to the department for its approval prior to the sign's installation. Any changes to the sign after initial installation are also subject to approval by the department.
- C. Suitable accommodations shall be provided for individuals who wish to transport and dispose of their own solid waste provided said solid waste has been determined by the department to be acceptable at the facility.

9.05 General Operating Procedures

Any person who has been granted a license by the department to operate a mixed municipal solid waste land disposal facility shall comply with the following operation regulations, in addition to the requirements in the MPCA Rules Part 7035.2815:

- A. Open burning, animal feeding, and scavenging
Open burning of mixed municipal solid waste is prohibited. No scavenging shall be allowed. Salvaging shall be allowed only upon conditions approved in writing by the department. Animal feeding within the site is prohibited.
- B. Wind-blown material
Unloading of mixed municipal solid waste shall be confined to as small an area as practicable and surrounded with appropriate materials to prevent wind-blown material within the area. At the conclusion of each day of operation, all wind-blown material resulting from the operation shall be collected and returned to the designated area by the owner or operator.
- C. Cover and compaction of putrescible material
Putrescible material, which has reached a foul State of decay or decomposition, shall be immediately covered and compacted.
- D. Public nuisance control
Control of vectors, such as rodents and flies, and of odors, dust, wind-blown material and other potential public nuisances shall be sufficient to prevent or eliminate any public nuisance. Should the department so prescribe, an exterminator or pest control agent, at the licensee's expense, shall be engaged to inspect the solid waste land disposal facility on at least a monthly basis. a copy of each inspection report shall be sent to the department immediately upon its receipt by the licensee.

SECTION 10.0 CONSTRUCTION AND DEMOLITION DEBRIS LAND DISPOSAL FACILITIES LICENSE

This section applies to all solid waste facilities designed, constructed, or operated for the land disposal of demolition and construction debris, regardless of size or duration of operation.

10.01 State Rule Adopted

The design, construction, and operation of demolition debris land disposal facilities shall be in accordance with MPCA Solid Waste Management Rules Part 7035.2825 which is hereby adopted by reference as part of this ordinance.

10.02 License Required

It is unlawful for any person to establish, operate, or maintain a demolition debris land disposal facility without first being licensed to do so by the department.

A. Licensing requirements

The following information shall be submitted to the department as part of the application process for a demolition debris land disposal facility license.

1. Application and fees

An applicant for a demolition debris land disposal facility license shall complete and submit to the department an application on a form provided by the department. The application shall not be considered complete until the department receives the signed and dated application form, all applicable fees and all materials required by this section.

2. Existing Conditions Plan

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

3. Plot plan

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

4. Land use plan

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

5. Report

A report shall accompany the plans indicating:

- a. Population and areas expected to be served by the proposed site.
- b. Anticipated type, quantity and source of material to be disposed of at the site.

- c. Geological formations and ground water elevations to a depth of at least ten (10) feet below proposed excavation and lowest elevation of the site, including the high-water table. Such data shall be obtained by soil borings or other appropriate means.
- d. Source and characteristic of cover material and method for protecting cover material for winter operation.
- e. Type and amount of equipment to be provided at the site for excavating, earth moving, spreading, compacting and other needs.
- f. Area of site in acres.
- g. Owner of site.
- h. Persons responsible for actual operation and maintenance of the site and intended operating procedures.

10.03 Surcharges

The County Board may set surcharge fees pursuant to Minn. Stat. § 115A.919 on construction and demolition debris disposed at facilities located within the County in addition to other taxes and landfill clean up fees imposed by the State (Minn. Stat. §115A.923.). Non-payment of surcharge fees shall be grounds for denial of a license application or renewal.

- A. Expenditure of funds collected under this section shall comply with Minn. Stat. § 115A.919.
- B. Any facility operator subject to the fees imposed by this provision shall file a surcharge fee monthly return in the following manner:
 - 1. Monthly returns shall be on a reporting form prescribed by the department.
 - 2. The return shall be signed by the facility operator or a person authorized by the facility operator to do so.
 - 3. A check for the full amount of the surcharge fee and made out to the Nicollet County Auditor must accompany the return form.
 - 4. The return shall be filed with the department on or before the last day of the month immediately following the month in which the fee was incurred by the facility.
- C. The County or its authorized representative shall have the right to examine and/or copy records required by this ordinance.

10.04 General Design and Construction Requirements

The general design and construction requirements shall be in accordance with this ordinance and the MPCA Rules Part 7035.2825:

- A. Equipment sufficient for spreading, compacting and covering operations to include sufficient reserve equipment or arrangements to provide for all operations within 24 hours of equipment breakdown.
- B. Specific requirements regarding liner requirements and waste screening shall be determined based upon the site conditions and the projected waste composition.

10.05 General Operating Procedures

In addition to the following requirements, the general operating procedures shall be in accordance with the MPCA Rules Part 7035.2825.

- A. Public use prohibited

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

B. Pest eradication

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

C. Prohibited wastes

No paper, plastic, cardboard, cans, bottles, waste tires, major appliances, vehicles, or other materials not specifically permitted by this ordinance shall be deposited. This prohibition includes: Chemicals, dead animals, small appliances, ashes, large pieces of carpet and padding, fluorescent lights, ballasts, food waste, high intensity discharge lamps, household refuse, liquids, machinery, medical waste, mercury containing waste, paint containers, brushes, oil, grease, fuels, uncured sealants, sludges, coal tar, tires, unrecognizable waste, yard waste, sandblasting waste, grit/bar screen residue, street sweepings, paper mill waste, lead paint waste, railroad ties, foundry waste, contaminated soil, regulated asbestos waste, and any Industrial Solid Waste.

SECTION 11.0 INDUSTRIAL SOLID WASTE LAND DISPOSAL FACILITIES

This section applies to all solid waste facilities designed, constructed, maintained, or operated as an industrial solid waste land disposal facility.

11.01 State Rule Adopted

The design, construction, and operation of industrial solid waste land disposal facilities shall be in accordance with MPCA Solid Waste Management Rules Parts 7035.1590 - 7035.2500 which are hereby adopted by reference as part of this ordinance.

11.02 License Required

It is unlawful for any person to establish, operate, or maintain an industrial solid waste land disposal facility without first being licensed to do so by the department.

A. Licensing requirements

The following information shall be submitted to the department as part of the application process for an industrial solid waste land disposal facility license.

1. Application and fees

An applicant for an industrial solid waste land disposal facility license shall complete and submit to the department an application on a form provided by the department. The application shall not be considered complete until the department receives the signed and dated application form, all applicable fees and all materials required by this section.

2. Existing conditions plan

A current map or aerial photograph of the area showing land use and zoning within 1/4 mile of the solid waste land disposal site. The map or aerial photography shall be of sufficient scale to show all homes, buildings, lakes, ponds, watercourses, wetlands, dry runs, rock outcroppings, roads, and other

applicable details and shall indicate the general topography with contours and drainage patterns. Wells shall be identified on the map or aerial photography, U.S. Geological Survey. datum shall be indicated, and a north arrow drawn. A location insert map shall be included.

3. Plot plan

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

4. Land use plan

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

5. Report

A report shall accompany the plans indicating:

- a. Population and areas expected to be served by the proposed site.
- b. Anticipated type, quantity and source of material to be disposed of at the site.
- c. Geological formations and ground water elevations to a depth of at least ten (10) feet below proposed excavation and lowest elevation of the site, including the high-water table. Such data shall be obtained by soil borings or other appropriate means.
- d. Source and characteristic of cover material and method for protecting cover material for winter operation.
- e. Type and amount of equipment to be provided at the site for excavating, earth moving, spreading, compacting and other needs.
- f. Area of site in acres.
- g. Owner of site.
- h. Persons responsible for actual operation and maintenance of the site and intended operating procedures.

11.03 General Design and Construction Requirements

The general design and construction requirements shall be in accordance with this ordinance and the MPCA Rules Part 7035.1590 - 7035.2500.

- A. Equipment sufficient for spreading, compacting and covering operations to include sufficient reserve equipment or arrangements to provide for all operations within 24 hours of equipment breakdown.
- B. Specific requirements regarding liner requirements and waste screening shall be determined based upon the site conditions and the projected waste composition.

11.04 General Operating Procedures

In addition to the following requirements, the general operating procedures shall be in accordance with the MPCA Rules Part 7035.1590 - 7035.2500, unless otherwise waived in writing by the Department:

A. Public use prohibited

No public usage will be allowed except where specifically approved.

B. Refuse prohibited

No paper, plastic, cardboard, cans, bottles, waste tires, major appliances, vehicles, or other materials not specifically permitted by this ordinance shall be deposited.

SECTION 12.0 TRANSFER STATIONS

This section applies to all Transfer Stations designed, constructed, established, maintained and operated in accordance with the following provisions, regardless of size or category.

12.01 State Rule Adopted

The design, construction, and operation of solid waste transfer stations shall be in accordance with MPCA Solid Waste Management Rules Part 7035.2870, as amended, which is hereby adopted by reference as part of this ordinance.

12.02 License Required

It is unlawful for any person to establish, operate, or maintain a solid waste transfer station without first being licensed to do so by the department.

A. Licensing requirements

The following information shall be submitted to the department as part of the application process for a solid waste transfer station license.

1. All solid waste transfer station shall be categorized as to type and amount of solid waste transferred at the facility. The following categories shall be established:
 - a. Large Mixed Waste: This facility has an on-site storage capacity of greater than 30 cubic yards and handles a variety of solid waste types, to include mixed municipal solid waste.
 - b. Small Mixed Waste: this facility has an on-site storage capacity of no more than 30 cubic yards and handles a variety of solid waste types, to include mixed municipal solid waste.
 - c. Demolition Debris: This facility handles demolition debris only.
2. Application and fees

An applicant for a solid waste transfer station license shall complete and submit to the department an application on a form provided by the department. The application shall not be considered complete until the department receives the signed and dated application form, all applicable fees, and all materials required by this section, to include:

- a. Location, size and ownership of the land upon which the transfer station will operate.

- b. General description of property use in the immediate vicinity of the transfer station.
- c. Complete plans and specifications and proposed operating procedures for the transfer station.
- d. Rates and charges for the use of transfer station.
- e. A statement of the ultimate destination of solid waste delivered to the transfer station and subsequently transported to another solid waste management facility.

12.03 General Design and Construction Requirements

The following general design and construction requirements shall be in accordance with this ordinance and the MPCA Rules Part 7035.2870, as amended:

A. Entrance sign

At each entrance to the site the licensee shall erect and maintain a sign stating the name of the facility, the schedule of days and hours the facility is open to the public, prices for use of the facility and MPCA permit number and penalty for nonconforming dumping. Plans and specifications for the sign wordage and its proposed placement shall be submitted to the department for its approval prior to the sign's installation. Any changes to the sign after initial installation are also subject to approval by the department.

B. Residential disposal facilities

For transfer stations open to the public, suitable disposal facilities shall be provided for individuals who wish to transport and dispose of their own solid waste.

C. Minimal interference with other activities

The transfer station shall be so situated, equipped, operated, and maintained as to minimize interference with other activities in the area.

12.04 General Operating Procedures

Any person who has been granted a license by the department to operate a transfer station shall comply with the following operation regulations, in addition to the requirements in the MPCA Rules Part 7035.2870, as amended:

A. Waste removal and clean-up

When stated in and as a part of the license, the licensee shall take away all solid waste, clean, and maintain the transfer station at the end of each day of use.

B. Orderly maintenance

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

C. Traffic control

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

D. Unloading

All unloading of solid waste from contributing vehicles shall be conducted in such a manner as to eliminate odor and litter outside the transfer station.

E. Liquids

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

SECTION 13.0 SOLID WASTE PROCESSING FACILITIES

This section applies to all solid waste processing facilities designed, constructed, established, maintained and operated in accordance with the following provisions.

13.01 State Rule Adopted

The design, construction, and operation of solid waste processing facilities shall be in accordance with MPCA Solid Waste Management Rules Parts 7035.2525 - 7035.2655, 7035.2835, 7035.2845, and 7035.2875 which are hereby adopted by reference as part of this ordinance.

13.02 License Required

It is unlawful for any person to establish, operate, or maintain a solid waste processing facility without first being licensed to do so by the department.

A. Licensing requirements

The following information shall be submitted to the department as part of the application process for a solid waste processing facility license.

B. Application and fees

An applicant for a solid waste processing facility license shall complete and submit to the department an application on a form provided by the department. The application shall not be considered complete until the department receives the signed and dated application form, all applicable fees, and all materials required by this section, to include:

1. Location, size, and ownership of the land the solid waste processing facility will operate on.
2. General description of property use in the immediate vicinity of the solid waste processing facility.
3. Complete plans and specifications and proposed operating procedures for the solid waste processing facility.

13.03 General Design and Construction Requirements

The following general design and construction requirements shall be in accordance with this ordinance and the MPCA Rules as listed in Subsection 12.01 of this section:

- A. The solid waste processing facility shall be so situated, equipped, operated, and maintained as to minimize interference with other activities in the area.
- B. Storage facilities for by-products, to include residuals and recyclables, shall be provided to prevent vector intrusion and aesthetic degradation.
- C. The site shall be sized, or a separate area provided, for a location for transportation vehicles to park while waiting to unload or load material without having to wait on a public thoroughfare.
- D. A solid waste delivery area shall be designated and all solid waste delivered to the solid waste management facility shall be confined to that area until incorporated into the processing system.
- E. If the processing facility is a solid waste composting facility, a leachate management system shall be provided for the compost facility and shall be designed and

constructed so to be able to handle any run-off or run-on water that has made contact with the composted waste, materials stored for composting or residual waste.

13.04 General Operating Procedures

Any person who has been granted a license by the department to operate a solid waste processing facility shall comply with the following operation regulations, in addition to the requirements in the MPCA Rules.

A. Quarterly reports

Quarterly reports shall be submitted to the division covering the following areas:

1. The source, quantity and characteristics of the solid waste being processed;
2. The source, quantity and characteristics of any other material added to the solid waste, such as bulking, catalyst, or nutrient agents,
3. A description of the process to reduce pathogens, if required by MPCA rules,
4. Records of daily temperature readings, chemical additions, retention times, or other information as may be required by the department,
5. Records of the quantity and classification of the processed solid waste,
6. Records of the quantity and type of by-products removed from the solid waste; and
7. A description of the end-product distribution and disposal system.

B. Orderly maintenance

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

C. Traffic control

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

D. Unloading

All unloading of solid waste from contributing vehicles shall be conducted in such a manner as to eliminate odor and litter outside the processing facility.

SECTION 14.0 WASTE TIRE FACILITIES

This section applies to all waste tire collection sites and processing facilities designed, constructed, maintained, and operated in accordance with the following provisions.

14.01 State Rule Adopted

The design, construction, and operation of solid waste tire facilities shall be in accordance with MPCA Solid Waste Management Rules Parts 9220.0220 – 9220.0520 which are hereby adopted by reference as part of this ordinance.

14.02 License Required

It is unlawful for any Person to establish, operate, or maintain a waste tire collection site and processing facility without first being licensed to do so by the department, except that a license shall not be required for the following:

- A. A retail tire seller for the retail selling site if no more than 500 waste tires are kept on the business premises.

- B. An owner or operator of a tire retreading business for the business site if no more than 3,000 waste tires are kept on the business premises.
- C. An owner or operator of a business who, in the ordinary course of business, removes tires from motor vehicles if no more than 500 waste tires are kept on the premises.
- D. A licensed and permitted solid waste management facility operator with less than 10,000 waste tires stored above ground at the licensed and permitted site.
- E. A Person using waste tires for agricultural purposes if the waste tires are kept on the site of use.

14.03 Licensing requirements

The following information shall be submitted to the department as part of the application process for a waste tire collection site and/or processing facility license.

A. Application and fees

An applicant for a waste tire collection site and/or processing facility license shall complete and submit to the department an application on a form provided by the department. The application shall not be considered complete until the department receives all applicable fees and all materials required by this section, to include:

1. Location, size and ownership of the land of the waste tire collection site and/or processing facility will operate.
2. General description of property use in the immediate vicinity of the waste tire collection site and/or processing facility.
3. Complete plans and specifications and proposed operating procedures for the waste tire collection site and/or processing facility.

14.04 General Design and Construction Requirements

The following general design and construction requirements shall be in accordance with this ordinance, in addition to the MPCA Rules Parts 9220.0200 – 920.0520:

- A. The licensee shall maintain a minimum separating distance of fifty (50) feet between the waste tire collection site or processing facility operations and the adjacent property line.
- B. The licensee shall divert surface water drainage around and away from the collection area.
- C. The licensee shall provide adequate visual screening to reduce visibility of above-grade operations from housing or public right-of-ways by use of natural objects, trees, plants, seeded soil berms, fences, or other means deemed suitable by the department.
- D. The waste tire collection site and/or processing facility shall be so situated, equipped, operated, and maintained as to minimize interference with other activities in the area.

14.05 General Operating Procedures

Any person who has been granted a license by the department to operate a waste tire collection site and/or processing facility shall comply with the following operation regulations, in addition to the requirements in the MPCA Rules Parts 9220.0200 – 92200520:

- A. The licensee shall accept only waste tires at the collection site.
- B. The licensee shall prohibit piling of waste tires within the following regions:

1. Shore land
 2. Regional flood plain for a 100-year flood.
 3. Wetlands
- C. The Licensee shall:
1. Confine waste tires to as small an area as practical with individual piles not more than 2500 square feet in area and 20 feet in height,
 2. Provide a minimum twelve (12) foot separation between the piles of waste tires to allow access for trucks and emergency vehicles,
 3. Provide trenching or other adequate measures to minimize the potential for fire spreading; and
 4. Construct piles of waste tires to minimize the accumulation of stagnant water.

14.06 Waste Tire Reduction

Waste tire collection sites, processing facilities, and waste tire dumps in existence prior to the effective date of this provision shall reduce the accumulation of waste tires by processing and/or marketing to amounts, and within time limits established by the department, and shall be approved by the local zoning authority.

14.07 Cessation of Operation

Upon cessation of waste tire processing facility operations, the licensee, owner, and operator shall be responsible for removing all waste tires and tire products from the site and ensure their proper management pursuant to this ordinance and Minn. Stat. §§ 115A.90 - 115A.914.

SECTION 15.0 REPORTING & RENEWAL

It shall be the obligation of the operator of a solid waste management facility in Nicollet County to maintain accurate operation records and to renew the license on an annual basis. To be considered for renewal the licensee must submit reports as required by the solid waste department

15.01 Daily Records

Accurate daily records of site operations shall be maintained and made available upon request to the County or authorized representatives including:

- A. Intake of solid waste in tons and cubic yards shall be recorded daily in a manner acceptable to the County. This information shall provide statistics on the types and quantities of solid waste received including, but not limited to residential solid waste, non-residential/institutional waste, and industrial solid waste.
- B. General areas in which a particular type of solid waste disposal takes place within a solid waste land disposal facility shall be recorded.
- C. Detailed information on waste composition received at the facility derived from actual measurements. The County may require a specific waste composition analysis for any waste materials that may contain hazardous chemicals or that may pose a risk to health and safety. Once information is general or specific composition analysis is approved by the County, they may be submitted with the annual report for a period of up to five years. If the composition of waste received by the facility

significantly changes, then the County may require an up to date composition analysis to be performed.

- D. Information that identifies the types and quantities of waste released from the site or transported to other solid waste facilities. This information includes but is not limited to solid waste, ash, leachate, and residual materials derived from waste processing.
- E. Copies of reports and data related to environmental monitoring including but not limited to groundwater testing, leachate analysis, methane monitoring, and air emission data.
- F. Disposal of hazardous waste is prohibited. All hazardous wastes generated by the facility operation or delivered to the facility by other persons must be recorded, and documentation of management in accordance with State of Minnesota and federal regulations and as set out in the facility's operations plan must be reported.

15.02 Facility's Annual Report

The licensee shall submit a copy of the facility's annual report required by the MPCA to Nicollet County by March 1 of each year.

15.03 Facility Service Area

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

15.04 Emergency Incidents

Within 24 hours of an emergency incident that results in conditions, which may be adverse to public or environmental health, the department.

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

ARTICLE VIII INSPECTIONS, VIOLATIONS, & ENFORCEMENT

SECTION 1.0 INSPECTIONS

1.01 Inspections

Routine inspection of solid waste facilities and/or a licensee's premises shall be made by the department in such frequency as to insure consistent compliance by the licensee with this ordinance.

- A. The applicant or licensee shall allow free access to authorized representatives of the department at any reasonable time for the purpose of making such inspections as may be necessary to determine compliance with the requirements of this ordinance.
- B. Failure of the applicant or licensee to permit such inspection shall be grounds for denial, suspension or revocation of a license. The licensee shall be provided with written documentation of any deficiencies and the date by which the corrections shall be completed.
- C. Whenever necessary to enforce any provision of this ordinance, or whenever the County has reasonable cause to believe that a violation of this ordinance exists, the County may enter premises or vehicles to inspect the same or to perform any duty incumbent upon the solid waste department, provided that if such building or premises be occupied, the authorized representative shall first present proper credentials and request entry; and if such building or premises be unoccupied, the department shall first make a reasonable effort to locate the operator or other persons having charge or control of the building or premises and request entry. If such entry is refused, the department may issue a summary suspension, suspension or revocation of a license and shall have recourse to other remedies provided by law.
- D. Whenever the department or its authorized representatives shall find in any building, vehicle, or on any premises any material, condition or activity endangering the health, welfare or safety of the public, the department shall issue such orders as may be necessary for the enforcement of this or other applicable County ordinances governing and safeguarding the health, welfare and safety of the public.
- E. Repeated violations of this ordinance or failure to comply with any order of the department shall be grounds for summary suspension, suspension or revocation of a license.
- F. Any order or notice issued or served by the department shall be complied with by the owner, operator or other person responsible for the condition or violation to which the order or notice pertains. Every order or notice shall set forth a time limit for compliance depending on the nature of and the danger created by the violation. in cases of extreme danger to health, welfare and safety of the public, immediate compliance shall be required.
- G. If a building or premises is owned by one person and occupied by another, under lease or otherwise, and the order or notice requires immediate compliance for the health, welfare and safety of the public, such order or notice shall be served on the owner, operator or occupant and the owner, operator or occupant shall ensure compliance with the order or notice.

1.02 Re-inspections

Upon written notification from the licensee that all the violations for which a suspension or summary suspension has been issued have been corrected, the solid waste department shall re-inspect the property or activity. If the department finds upon such re-inspection that the violation has been corrected, the department shall inform the licensee of reinstatement of the license.

SECTION 2.0 ACTION AUTHORIZED

For violations of this ordinance, the County may take the following actions: issuance of a warning notice; issuance of a notice of violation; issuance of citation(s); issuance of an abatement order; issuance an embargo order; execution of a stipulation agreement; suspension or revocation of a license issued under this ordinance; and/or commencement of other civil proceedings.

2.01 Warning Notice

The department may issue a warning notice as defined in this ordinance to any person alleged to have committed a violation of this ordinance. A warning notice shall serve to place the person on notice that compliance with specified ordinance requirements must occur to avoid additional enforcement actions. A warning notice may be in the form of an inspection report for a licensed facility. A warning notice may be served in person or by mail. The department is not required to issue a warning notice before the County proceeds with other enforcement action.

2.02 Notice of Violation (NOV)

The department may issue a notice of violation (NOV) as defined in this ordinance to any person alleged to have committed a violation of this ordinance. A NOV shall serve to place the person alleged to have committed a violation on notice that compliance with specified ordinance requirements must occur to avoid additional enforcement actions. The NOV shall be served by certified mail or by personal service on the person(s) alleged to have committed a violation of this ordinance. The department is not required to issue a NOV before the County proceeds with enforcement action.

2.03 Citations

Any person within the County who violates this ordinance or any license, or who shall permit such a violation to exist on the premises under that person's control, or who shall fail to take action to abate the existence of the violation, 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. An authorized representative of the Department or Law Enforcement Officers may issue citations for violations of this ordinance or any license. The citation shall be issued to the person charged with the violation, or in the case of a corporation or municipality, to the supervisor at the site of the violation or any officer or MPCA expressly implied authorized to accept such issuance.

A. Issuance of the Citation

Citations shall be issued to the person alleged to have committed the violation either by personal delivery or by certified mail. In the case of a public, private or

municipal corporation, the citation shall be issued to any officer or agent with express or implied authorization to accept such issuance.

B. Notice of Citation

Citations shall be made out in quadruplicate (4). One copy shall be issued to the person alleged to have committed the violation; one copy shall be filed with the department; one copy shall be filed with the County attorney's office; and one copy shall be filed with the district court, first judicial district.

C. Form of Citation

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

1. The name and address of the person alleged to have committed the violation and, when known, the owner or person in charge of the premises at which the violation occurred.
2. The date, time (if known) and place of violation.
3. A short description of the violation followed by reference to the section of this ordinance violated.
4. The name of person issuing the citation.
5. The date and place at which the person receiving the citation shall appear in court and a notice that if such person does not respond a warrant may be issued for such person's arrest.
6. Such other information as the court may specify.

D. Court Appearance

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

1. Plead guilty to the citation and meet the requirements of the sentencing order issued by the court; or
2. Plead not guilty to the citation and schedule a court date for further hearing or trial on the citation.

E. Failure to Appear on the Citation

If the person charged with the violation does not appear at the place and on the date specified on the citation a bench warrant may be issued by the court.

F. Complaint

If the person issued the citation and charged with the violation fails to appear as required by the citation, the citation may be referred to the County attorney's office for issuance of a summons and complaint.

2.04 Abatement

In the event of an emergency abatement by the County as described in Section 2.04 (E) below, or if a property owner does not complete corrective actions within the timelines given in a NOV, a stipulation agreement or a court order, the department may abate the violations and the department has the authority to enter the property and perform the corrective actions and recover the costs of the same from the property owner through the following procedures:

A. Abatement Notice

1. Contents of abatement notice

An abatement notice shall include the following:

- a. Notice that the property owner has not completed the corrective actions within the time period required in the attached NOV(s), stipulation agreement or court order, or other notice;
- b. Notice that the department or its agent intends to enter the property and commence abatement of the conditions on the property that violate this ordinance within a period specified in the notice;
- c. Notice that the property owner must correct the violation(s) before expiration of the specified period to avoid any civil liability for the costs of inspection and abatement that the County may incur; and
- d. A statement that if the property owner desires to appeal, the property owner must file a request for an appeal hearing with the County Board that meets the requirements of Section 2.04(B) below on the County within ten (10) County working days, exclusive of the day of service.

2. Service

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

B. Right to Appeal the Abatement Notice

1. Request for Hearing

The property owner's request for a hearing must be in writing and must state the grounds for appeal and be served by certified mail on the County Board, with a copy to the department by midnight of the 10th County working day following service of the abatement notice. Following receipt of a request for a hearing, the County Board shall set a time and place for the hearing to be held pursuant to Section 3.0 below.

2. Stay of Notice

Pending the appeal hearing and final determination by the County Board the department shall take no further action on the abatement notice.

C. Abatement by the County

In the event a property owner does not abate the ordinance violations or does not appeal the abatement notice within the applicable time period, the department may expend funds necessary to abate the violation(s) from the Solid Waste Revenue Account in accordance with the County bid grant and contracting policy with the following qualifications:

1. Department's authorization for payment of funds from the Solid Waste Revenue Account balance is subject to the approval of the director of the department and the monetary limits for approval of fund expenditures by department heads; and
2. The County Board must approve by resolution all abatement expenditures, regardless of the amount, with regard to tax forfeited property and public

owned property. Such expenditures will be reimbursed to the Solid Waste Revenue Account at the discretion of the County Board.

D. Recovery of Abatement Costs

1. The department may pursue recovery of all costs, including enforcement costs, from the property owner for abatement incurred by the County, by any means allowable by law. The cost of any enforcement action may be assessed and charged against the real property on which the violations are located.
2. The department shall keep a record of the costs of abatements done under this ordinance and report all work done for which assessments are to be made, stating and certifying the description of the land, lots or parcels involved and the amount assessable to each to the County administrator by September 1 of each year.
3. On or before October 1 of each year, the County administrator shall list the total unpaid charges for each abatement made against each separate lot or parcel to which they are attributable under this ordinance to the County Board.
4. The County Board may then spread the charges or any portion thereof against the property involved as a special assessment, for certification to the County auditor and for collection the following year along with current taxes.
5. The department's fund balance shall be reimbursed by the recovered costs. The County auditor shall give notice of such reimbursement to the designee.

E. Emergency Abatement by County

Notwithstanding the requirements of Section 1.0 of this Article, in the event of an imminent threat to the public's health, welfare and safety, the department shall have the authority to immediately enter property and abate the violations and recover the costs as set out in Section 2.04(D) above. The department shall attempt to give verbal notice to the property owner immediately, if possible, and writing as within ten (10) work days. The property owner shall have the right to appeal the assessment of costs to the County Board pursuant to Section 3.0 of this Article.

2.05 Embargo

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

2.06 Stipulation Agreement

Prior to the initiation of a civil court action the department and a person alleged to have violated provision(s) of this ordinance may voluntarily enter into a stipulation agreement, whereby the parties to the agreement: identify conditions on the property that require corrective action; agree on the corrective actions that must be performed by the person; and agree on the timelines in which the corrective actions must be completed. If the timelines have not been met as agreed in the stipulation agreement,

the County may abate the violations in accordance with Sections 2.04 above. The parties may seek compliance with the terms of the stipulation agreement through a court of competent jurisdiction.

2.07 License Suspensions and Revocations

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

2.08 Emergency Suspension

- A. If the department finds that the public health, safety or welfare imperatively requires emergency action and incorporates a finding to that effect in its order, emergency suspension of a license may be ordered by the department upon written notice to the facility, with a copy to the County attorney's office and the County Board. The County Board must make a determination if the emergency suspension should be ratified at its next board meeting. Written notice of such emergency suspension shall be personally served on the licensee, or shall be served by certified mail to said licensee at the address designated in the license application. In addition, the department may post copies of the notice of emergency suspension of the license at the licensed facility or property being used for the licensed activity. Said posting shall constitute the notice required under this Section.
- B. The written notice in such cases shall state the effective date of the emergency suspension and the nature of the violation requiring emergency action, the facts which support the conclusion that a violation or violations has occurred and a statement that if the licensee desires to appeal, the licensee must, within ten (10) County working days, exclusive of the day of service, file a request for a hearing with

the County Board. The hearing request shall be in writing stating the grounds for appeal and served personally or by certified mail on the County Board, with a copy to the department and the County attorney's office, by midnight of the 10th County working day following service. Following receipt of a request for an appeal, the County Board shall set a time and a place for the hearing to be held pursuant to Section 3.0 below.

- C. The emergency suspension shall not be stayed pending an appeal to the County Board or an informal review by the department head, but shall be subject to dismissal upon a favorable re-inspection by the department or favorable appeal to the County Board.

2.09 Suspension Re-Inspections

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

2.10 License Revocation

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

2.11 Status of Financial Assurance

Financial assurance issued for the facility shall remain in full force and effect during all periods of suspension, emergency suspension and revocation of the license and is subject to claim by the County in accordance with provisions of this article.

2.12 Commencement of a Civil Court Action

In the event of a violation or a threat of violation of this ordinance, the County Board may also institute other appropriate civil actions or proceedings in any court of competent jurisdiction, including requesting injunctive relief, to prevent, restrain, correct or abate such violations or threatened violations. The County may recover all costs, including reasonable attorney’s fees, incurred for enforcement of this ordinance through a civil action. If a property owner does not complete the corrective actions within the timelines in a court order, the department may correct the violations and the department has the authority to enter the property and perform the corrective actions. The department may recover the costs of the same from the property owner through the court process or through the process set out in Section 2.04(D) above.

SECTION 3.0 HEARINGS

A request for hearing on a denial, suspension, emergency suspension, non-renewal, or revocation of a license, or receipt of a notice of abatement shall be held before the County Board, or a hearing examiner as provided below, and shall be open to the public.

3.01 Timeframe for Hearing

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

3.02 Notice of Hearing

The County Board shall mail notice of the hearing to the appellant, with a copy to the department and the County attorney’s office, at least fifteen (15) working days prior to the hearing. Such notice shall include:

- A. A statement of time, place and nature of the hearing.
- B. A statement of the legal authority and jurisdiction under which the hearing is to be held.
- C. A reference to the particular section of the ordinance and agency rules, if any, involved.

3.03 Hearing Examiner

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

3.04 Conduct of the Hearing

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

3.05 Burden of Proof

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

3.06 Admission of Evidence

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

3.07 Pre-Hearing Conference

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

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

3.08 Failure to Appear

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

3.09 Appeal of County Board Decision

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

ARTICLE IX EFFECTIVE DATE

SECTION 1.0 EFFECTIVE DATE

This Ordinance shall be in full force and effect from and after November 22, 2016 of the date of its passage and publication according to law, whichever occurs first.

Dated this 22 day of November, 2016



James S. Stenson, Chair
Nicollet County Board of Commissioners

ATTEST:



Ryan Krosch
County Administer/Clerk to the Board

APPENDIX A

SOLID WASTE ASSESSMENT FEE

NICOLLET COUNTY
SOLID WASTE ASSESSMENT FEE

Assessment Class	Description	Units *
1a	Residential Homestead	1 per parcel for occupied residence
2a	Agricultural Homestead	1 per parcel for occupied residence
4b(1)	Residential Non Homestead 1-3 units	1 per parcel for occupied residence
4b(3)	Agricultural Non Homestead 2-3 units	1 per parcel for occupied residence
4bb	Residential Non-Homestead 1 unit on ag land Residential Non-Homestead 4+ units	1 per parcel for occupied residence
4a	(Apartments)	# of Apartments times 75%
4c(12)	SRR Non-Commercial (cabin)	.25 per cabin
4c(5)(i)	Manufactured Home Park	# of Occupied Pads times 75%
3a	Public Utilities	1.5 per company
3a	Commercial/Industrial with structure	
	Market Value 1-100,000	1.5 per parcel
	Market Value 100,001-250,000	3 per parcel
	Market Value 250,001-500,000	4.5 per parcel
	Market Value Over 500,000	6 per parcel

* Unit value established by Nicollet County Board of Commissioners