

St. Louis County Solid Waste Ordinance No. 45

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ARTICLE I TITLE

Solid Waste Ordinance for St. Louis County, Minnesota, otherwise known as Ordinance Number 45.

ARTICLE II REPEAL OF PRIOR REGULATIONS

Ordinance Number 8, Solid Waste Ordinance of St. Louis County, and Ordinance 32A, An Ordinance Creating Service Charges For Solid Waste Management Services Provided By St. Louis County Or Others Under Contract With St. Louis County, and any amendments thereto, are hereby repealed.

ARTICLE III STATEMENT OF PURPOSE, SCOPE AND AUTHORITY

The purpose of this Ordinance is to protect the health, welfare and safety of the public and to protect the environment of St. Louis County pursuant to Minnesota Statutes, Chapters 115A and 400, by establishing standards for regulating Solid Waste Management; providing for application, license and surcharge procedures; establishing fees and service charges; and providing penalties for lack of compliance with these provisions.

The policy of St. Louis County is to provide for the management of Solid Waste in a manner which will protect the health, welfare and safety of the public, prevent the spread of disease, prevent the creation of nuisances, conserve natural resources, and maintain the beauty and quality of the environment. It is also the policy of St. Louis County to conform with the purposes outlined in Minnesota Statutes §115A.02

ARTICLE IV DEFINITIONS

For the purpose of this Ordinance, capitalized words have the following definitions.

The singular number includes the plural and the plural includes the singular.

Attorney: The County Attorney of St. Louis County, Minnesota, or authorized representative.

Auditor: The County Auditor of St. Louis County, Minnesota, or authorized representative.

Certificate of Need (CON): an issuance from the State of Minnesota to certify needed Municipal Solid Waste Disposal capacity.(Minn. Stat. §115A.917.)

City: a statutory and home rule charter city or town located within the County. (Minn. Stat. §115A.03.)

Collection: the aggregation of waste from the place at which it is Generated and includes all activities up to the time the waste is delivered to a Solid Waste Facility.

Construction Debris: waste building materials, packaging, and rubble resulting from construction, remodeling, repair and demolition of buildings and roads.

County: the County of St. Louis, Minnesota, including any Department or representative of St. Louis County who is authorized by this Ordinance or otherwise by the County Board to represent St. Louis County in the enforcement or administration of this Ordinance.

County Board: the Board of Commissioners of St. Louis County, Minnesota

Demolition Debris: Solid Waste resulting from the demolition of buildings, roads, and other structures including concrete, brick, bituminous concrete, untreated wood, masonry, glass, trees, rock, and plastic building parts. Demolition Debris does not include asbestos wastes.

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

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

Dumping: the illegal placement of any Solid Waste, including Demolition Debris, hazardous waste, Industrial Waste, mixed Solid Waste, or Recyclable Materials, anywhere other than an approved container or a Waste Facility during hours of operation, or in a manner that does not protect the environment, is susceptible to open burning, and is exposed to the elements, flies, rodents, and scavengers.

Energy Recovery Facility: a facility used to capture the heat value of solid waste for conversion to steam, electricity, or immediate heat by direct combustion or by first converting it into an intermediate fuel product.

Environmental Services Department or Department: the St. Louis County Environmental Services Department.

Environmental Services Director: the individual assigned by the County to oversee and direct the activities of the Solid Waste Program.

Facility: See Waste Facility

Generation: the act or process of producing Solid Waste.

Generator: any Person generating Solid Waste.

Hauler: any Person collecting or transporting Solid Waste or Recyclable Material, not including a Self-Hauler.

Hazardous Waste: 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. Hazardous waste shall also include all materials designated as hazardous and regulated by State or Federal laws.

Household: a single detached dwelling unit or a single unit of a Multiple Dwelling Unit and appurtenant structures.

Household Hazardous Waste: waste Generated from household activity that exhibits the characteristics of or that is listed as Hazardous Waste under Minnesota Pollution Control Agency rules, but does not include waste from commercial, or non-profit activities that is Generated, stored, or present in a household.

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

Infectious Waste: Waste originating from the diagnosis, care, or treatment of a person or animal that has been or may have been exposed to a contagious or infectious disease. Unless the materials have been rendered noninfectious by procedures approved the state commissioner of health, infectious waste includes: a.) all waste originating from persons or animals placed in isolation for control and treatment of an infectious disease; b.) bandages, dressings, casts, catheters, tubing, and similar disposable items which have been in contact with wounds, burns, anatomical tracts, or surgical incisions, and which are suspect of being or have been medically verified as infectious; c.) all infectious anatomical waste, including human and animal parts or tissues; d.) infectious sharps and needles; e.) laboratory and pathology waste of an infectious nature; or f.) any other waste, as defined by the state commissioner of health, which, because of its infectious nature requires handling and disposal in a manner prescribed for items a to e.

Licensee: the Person given permission by the County to carry out any of the activities or services for which a license is required under the provisions of this Ordinance.

Major Appliance: 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, and freezers.

Mixed Municipal Solid Waste: (a) garbage, Refuse, rubbish and other Solid Waste from residential, commercial, industrial, and community activities that the Generator of the waste aggregates for Collection, except as provided in paragraph (b).

(b) Mixed Municipal Solid Waste does not include auto hulks, street sweepings, ash, construction debris, mining waste, sludges, tree and agricultural wastes, tires, lead acid batteries, motor and vehicle fluids and filters, and other materials collected, processed, and Disposed of as separate waste streams, but does include source-separated compostable materials.

MPCA: the Minnesota Pollution Control Agency.

Multiple Dwelling Unit: A residence designed for or occupied by three or more families, including a mobile home park, with separate housekeeping and cooking facilities for each.

Open Burning: burning any matter whereby the resultant combustion products are emitted directly to the open atmosphere without passing through an adequate stack, duct, or chimney.

Operator: the Person responsible for the operation of a Waste Facility.

Owner or Waste Facility Owner: the Facility or legal entity owning a Waste Facility or part of a Waste Facility.

Person: 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. With respect to acts prohibited or required herein, Person shall include employees or Licensees, but does not include the Minnesota Pollution Control Agency or the Minnesota Office of Environmental Assistance.

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

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

Recyclable Materials: materials that are separated from Mixed Municipal 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.

Recycling: 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.

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

Salvaging: the controlled and authorized removal of reusable waste materials from St. Louis County Solid Waste Facilities for personal reuse, not for sale or redemption.

Scavenging: the unauthorized removal of waste or Recyclable Materials from St. Louis County Solid Waste Facilities or containers, or from facilities or containers owned by another Person.

Self-Hauler: Person who collects Mixed Municipal Solid Waste which the Person has Generated and transported to a Solid Waste Facility.

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

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

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

Solid Waste: garbage, Refuse, rubbish, sludge from a water supply treatment plant or air contaminant treatment facility, and other discarded waste materials and sludges, in solid, semi-solid, liquid, or contained gaseous form, resulting from industrial, commercial, mining and agricultural operations, and from community activities, not including 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 effluent 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. (Minn. Stat. §116.06)

Solid Waste Hauler: See Hauler.

Solid Waste Management Activity: an activity related to the Generation, storage, Collection, Transportation, Processing or reuse, conversion, or Disposal of Solid Waste.

Solid Waste Management Area: that portion of St. Louis County outside of the Western Lake Superior Sanitary District area created pursuant to Minnesota Statutes Chapter 458D.

Solid Waste Management Plan: the County Solid Waste management master plan developed, adopted, and approved under Minn. Stat. §115A.46. The current Solid Waste Management Plan is available by contacting the Environmental Services Director.

Solid Waste Program: The County's program for Solid Waste services and facilities, including without limitation, waste Collection, Transportation, Processing and Disposal of Mixed Municipal Solid Waste; licensing of Solid Waste activities and facilities; and the establishment of Service Areas, service rates and charges, and other fees for the operation of the Program within the jurisdictional boundaries of St. Louis County, excluding the jurisdictional area governed by WLSSD.

Solid Waste Service Fee: an annual service charge to be applied to all owners, lessors, or occupants having improved properties served by the Solid Waste Program pursuant to Minnesota Statutes Chapter 400.

Special Waste: a non-hazardous, Solid Waste, that is not Mixed Municipal Solid Waste and requires management other than that normally required for Mixed Municipal Solid Waste.

Tipping Fee: the fee charged at a Waste Facility for waste delivered to that facility based upon weight or volume, character, and type of Solid Waste.

Transfer Facility: an intermediate Disposal facility in which Solid Waste from any source is temporarily stored, concentrated or deposited to await Transportation to another Solid Waste Facility. A Transfer Facility can be fixed or mobile and can consolidate waste by means of a trailer or other containers approved for temporary storage of Solid Waste materials.

Transportation: the conveying of Solid Waste or Recyclable Materials from one place to another.

Waste Facility: all property, real or personal, including negative and positive easements and water and air rights, which is or may be needed or useful for the Processing or Disposal of Solid Waste, except property for the Collection of the waste and property used primarily for the manufacture of scrap metal or paper. Solid Waste Facility includes but is not limited to Transfer Facilities, Processing facilities, intermittent Disposal, and Disposal Sites and facilities.

Waste Management: activities which are intended to affect or control the Generation of waste and activities which provide for or control the Collection, Processing, and Disposal of waste.

Western Lake Superior Sanitary District (WLSSD): authority created pursuant to Minnesota Statutes Chapter 458D to provide Solid Waste Management services, including waste water treatment, to the southern portion of the County and to parts of Carlton, and Lake Counties.

Waste Reduction: an activity that prevents Generation of waste or the inclusion of toxic materials in waste, including:

- 1 reusing a product in its original form;
- 2 increasing the life span of a product;
- 3 reducing material or the toxicity of material used in production or packaging;

or

- 4 changing procurement, consumption, or waste Generation habits to result in smaller quantities or lower toxicity of waste Generated.

Yard Waste: garden wastes, leaves, lawn cuttings, weeds, shrub and tree waste, and prunings.

ARTICLE V ADMINISTRATION OF ORDINANCE

The Environmental Services Director or designee shall administer this Ordinance. The Director's rights and duties shall include, but shall not be limited to, those described in this section:

- 1 To identify the Solid Waste Management needs of the County and to develop and implement plans to meet those needs.
- 2 To advise, consult, and cooperate with other governmental agencies in the furtherance of the purposes of this Ordinance.
- 3 To investigate complaints of violations of this Ordinance and to make recommendations for enforcement or legal actions.
- 4 To negotiate legal agreements for the operation of the Solid Waste Program and such other agreements as are necessary to comply with federal, state and local laws.
- 5 To encourage and conduct studies, investigations, and research relating to aspects of Solid Waste Management including waste reduction.
- 6 To inspect public and private property, in conformance with the law, to determine compliance with the requirements of this Ordinance, or any other applicable statute, or for the purpose of making written notice of any deficiencies or recommendations for their correction and the date by which corrections shall be accomplished.
- 7 To review and grant or deny all license applications submitted under the requirements of this Ordinance.

ARTICLE VI UNLAWFUL ACTIVITIES

Section 1. Improper Transportation.

It shall be unlawful for any Person:

- 1.1 To collect and transport, for a fee, Mixed Municipal Solid Waste or Recyclable Material within the jurisdictional boundaries of the Solid Waste Program, without having obtained a license to do so, or when such license has been revoked or suspended, unless as transported by a Self Hauler.
- 1.2 To collect or transport Solid Waste within St. Louis County in such a way as to violate any requirement of any St. Louis County Ordinance, State or Federal law.
- 1.3 To fail to correct any condition or method of operation which violates any St. Louis County Ordinance or rule applicable to the Collection or Transportation of Mixed Municipal Solid Waste or Recyclable Material after being ordered to do so by St. Louis County.

Section 2. Upsetting of Containers Prohibited

No Person shall willfully turn over or upset any vessel or container used for storing Solid Waste, recyclables, compost or other waste, resulting in spilling the contents or any portion thereof on any roadway, waterway, or on any public or private property.

Section 3. Using Containers of Another Prohibited.

No Person shall place Solid Waste or any other material in a Solid Waste container of another Person without the expressed or implicit consent of that Person. This prohibition shall not apply to trash containers placed for public convenience along streets or sidewalks and in buildings of public accommodation.

Section 4. Containment of Solid Waste and Recyclable Materials.

No Person shall discharge or allow the discharge of liquid, Solid Waste, or Recyclable Materials from any container or vehicle containing Solid Waste or any other waste, or permit such vehicle to stand, be stored or kept in such manner or for such length of time that it will be or constitute a Public Nuisance.

Section 5. Improper Disposal.

There are opportunities for proper Disposal of Solid Waste throughout St. Louis County.

5.1 Except as provided in this Ordinance, no Person shall Dump, throw or in any manner deposit or Dispose of Solid Waste upon or in any roadway, waterway, body of water, public or private property, or at any MPCA-permitted Waste Facility other than during the facility's operating hours and in a manner consistent with Disposal of Solid Waste at the Waste Facility.

5.2 No Person shall conduct Open Burning of: discarded material resulting from the handling, processing, storage, preparation, serving, or consumption of food; rubber; plastics; chemically treated materials; Hazardous Waste; Industrial Wastes; Demolition Debris; motor vehicles; Solid Waste that is Generated from the resident's household or business; or other materials which produce excessive or noxious smoke including, but not limited to, tires, railroad ties, chemically treated lumber, composite shingles, tar paper, insulation, composition board, sheetrock, wiring, paint, or paint filters. Burning of waste and debris shall be allowed only in compliance with Minnesota Statute § 88.171.

5.3 Except as specifically allowed by Minn. Stat. §17.135, no Person shall bury Solid Waste Generated from the Person's household or business operation.

5.4 No Person shall place or cause to be placed in any Solid Waste Collection container any material not specifically allowed in that container.

Section 6. Storage of Waste.

6.1 The owner and occupant of any premises, business establishment, or industry is responsible for the satisfactory storage of all Solid Waste accumulated at that premises, business establishment, or industry in compliance with Minnesota Rule 7035.0700 or local ordinances if more restrictive.

6.2 No Person who is not permitted by the State as a tire collector or processor may accumulate more than 50 waste passenger tires or equivalent weight of other waste tires on that Person's premises.

6.3 A Person may not Dispose of Major Appliances in or on the land.

6.4 A Person may not store waste materials in a manner that could cause pollution of the air, water, or soils, or that could cause harm to other's health or well-being.

Section 7. Duty to Provide Collection, Transportation and Disposal of Solid Waste.

It shall be the duty of the Person, which specifically includes the owner, lessee or occupant, having properties within the St. Louis County Solid Waste Management Area to provide for the lawful Collection, Transportation, and Disposal of all Solid Waste Generated on such properties.

Section 8. Items Prohibited For Collection Or Placement With Mixed Municipal Solid Waste.

8.1 No Person or legal entity shall place in containers for Collection by a Hauler or for Disposal in a Solid Waste Facility any of the following materials: manure, Household Hazardous Waste, Hazardous Waste, pathological waste or Infectious Waste as these wastes are defined by state and federal regulations, materials separated for Recycling, tires, used motor oil, lead acid batteries, rechargeable or button batteries, Yard Waste, mercury or a thermostat, thermometer, electric switch, appliance or a medical or scientific instrument from which the mercury has not been removed for reuse or Recycling, or any other item specifically barred from the waste stream under Minnesota law. These items shall be otherwise Disposed of by a Person or legal entity in accordance with programs administered by the Environmental Services Department and with Minnesota law.

8.2 When any Hauler finds any of the above-mentioned prohibited articles in Solid Waste containers to be collected, the Hauler may, at its option, refuse to collect the contents of the container. The Hauler shall notify the occupant of the premises of the prohibited articles in the container and the reason for non-collection. If a Hauler chooses to collect prohibited articles the Hauler must transport those articles to a place providing proper Disposal.

Section 9. Scavenging.

It shall be unlawful for any Person to remove waste materials, including mixed Solid Waste, Recyclable Materials, scrap metal, appliances, tires, Demolition Material, or other waste materials, from any Solid Waste Facility at any time or from any privately or

publicly owned Solid Waste or Recycling container without the express consent of the Operator of that facility or container. This prohibition shall not apply to materials removed from Waste Facilities by contract, or through a managed Salvaging program.

Section 10. Spills.

Vehicles or containers used for the Transportation of any Solid Waste must be loaded and moved in a manner that does not allow the contents to fall, leak, or spill therefrom, and must be covered when necessary to prevent blowing of material. Where spillage does occur, the material and any contaminated soils must be picked up immediately by the transporter and returned to the vehicle or container and the area properly cleaned.

ARTICLE VII LICENSING PROVISIONS

Section 1. General Licensing Provisions.

The following general provisions shall apply to all licenses issued by St. Louis County relating to any Solid Waste activities, services or facilities within the jurisdiction of the Solid Waste Management Area.

- 1.1 Non-transferable.** Any license obtained under this Ordinance shall be non-transferable. Licenses issued to corporations, partnerships or associations shall be valid only so long as there is no change in the ownership. Corporations, partnerships or associations holding licenses shall submit written notice to the Environmental Services Department of any such changes in ownership on or before thirty (30) days prior to the effective date of any such change. In the case of a corporation, the Licensee shall notify the Environmental Services Department when a Person or entity not listed in the application acquires an interest, and shall give all information about such Person as is required pursuant to the provisions of this Article.
- 1.2 License Application Requirements and Term.** An application for a license or license renewal shall be made to the Environmental Services Department on forms furnished by the Department. The application shall not be considered complete until the Department has received all information, materials, plans, financial assurance, certificates of insurance, and fees required under this Ordinance. Each license granted pursuant to the provisions of this Ordinance shall expire annually, unless sooner revoked.

1.3 Fees. The County Board shall, by resolution, establish licensing fees including fees for the annual license application, plan review, Site and equipment inspections, as well as late application fees and other fees as may be necessary for the administration of this Ordinance. The fees shall be paid to the County Auditor in the manner specified. No license fee shall be prorated for a portion of a year.

1.4 Financial Assurance.

1.4.1 Unless otherwise provided by the County Board, issuance of any hauler license pursuant to the provisions of this Ordinance shall be contingent upon the applicant furnishing to the County financial assurance in an amount and form designated by the County.

1.4.2 The County Board may determine that financial assurance is appropriate for those facilities listed in Article VII, Section 3.1 of this Ordinance, based on their size, operating life, past and existing operational practices, and types of waste accepted at the facility.

1.5 Insurance. Unless otherwise provided by the County Board, an applicant shall furnish to the County certificates of insurance issued by insurers duly licensed to do business within the State of Minnesota evidencing insurance coverages and amounts, as established by resolution of the County Board. Certificates of insurance shall require that at least thirty (30) days notice be given to the Environmental Services Director of cancellation of any insurance coverage specified therein.

1.6 Indemnity. A Licensee shall indemnify and save the County harmless from all losses, costs and charges that may be incurred by the County due to failure of the Licensee to comply with the provisions of this Ordinance and which are not otherwise payable from the insurance and bond coverage required by this Ordinance.

1.7 County Fees Waived. Any Solid Waste Facility, or Transportation vehicles owned and operated by St. Louis County shall fulfill all requirements of this Ordinance with the exception of payment of license fee requirements.

1.8 Issuance or Denial of License.

1.8.1 The Environmental Services Department shall have ninety (90) days after receipt of a complete application to issue or deny a license or renewal. Failure by the Department to issue or deny a license shall constitute a denial.

1.8.2 When an application for or renewal of a license is denied, the Environmental Services Department shall serve written notice of denial to the applicant stating the basis for its decision. A denial shall be without prejudice to the applicant's right to file a further application after revisions are made to satisfy objections specified as reasons for the denial. Denial of a license may be appealed as provided in Article VIII of this Ordinance.

1.8.3 The Environmental Services Department shall refuse to issue a license for any operation which does not comply with this and other St. Louis County Ordinances, MPCA and other state and federal rules and laws, or the County's Solid Waste Management Plan.

Section 2. Hauler Collection or Transportation licenses.

The following provisions shall apply to any Person owning, operating, or leasing vehicles for the purpose of collecting or transporting Mixed Municipal Solid Waste or within the jurisdiction of the Solid Waste Program. This section shall not apply to any Person licensed by a City to collect or transport Solid Waste solely within the jurisdictional boundaries of that City, or to any Person licensed to operate wholly within the jurisdiction of WLSSD, or to Self-Haulers.

2.1 Specific Licensing Requirements. In addition to the general requirements in Article VII, Section 1, an applicant seeking a Hauler's License shall submit the following information to the Environmental Services Department before vehicle may be used for hauling, and by November 15 for annual renewal:

2.1.1 Vehicle and route information including:

2.1.1.1 the make, model and year of each vehicle to be used for Solid Waste Collection and Transportation;

2.1.1.2 each vehicle's rated capacity, tare weight, license plate number, and state issued registration number; company vehicle number and County assigned number;

2.1.1.3 the geographical area served by Licensee;

2.1.1.4 the facility or facilities to which the vehicle ultimately transports waste.

2.1.1.5 certificate of insurance as required by the County.

2.1.1.6 additional information as requested by the Environmental Services Department.

2.2 Equipment and Operation Requirements.

2.2.1 A Licensee shall maintain all Solid Waste Collection or Transportation vehicles in a safe and sanitary manner. All vehicles shall be equipped with brooms and shovels which shall be used to clean spilled material. All safety equipment, including without limitation, horns, lights, and reflectors shall be in good working order. Each vehicle or conveyance shall be easily cleanable and leak-proof, shall be disinfected on a weekly basis, and shall be covered with metal, canvas, or a fish-net type material so as to prevent escape of Solid Waste or Recyclable Materials while in transit. Each vehicle shall be equipped with pollution control devices or other equipment required by state or federal law.

2.2.2 All Collection and Transportation vehicles owned by the Licensee shall display a County-issued license decal and vehicle number placed on each vehicle as specified by the Department. In the event that the Licensee must use a replacement vehicle not included in the license application, the Licensee must request a temporary vehicle approval from the Department prior to using the

vehicle. A temporary vehicle approval shall be valid for no longer than seven (7) calendar days per request.

- 2.2.3 The capacity of each vehicle and the business name, address and telephone number of a Licensee shall be displayed in legible characters on both sides of every vehicle, container, and conveyances used by the Licensee to store, collect, or transport Mixed Municipal Solid Waste or Recyclable Materials Generated within the County. Such characters shall be in the dimensions determined by the Department.
- 2.2.4 The Licensee shall not collect or Transport Solid Waste from residential sources before 6 a.m. or after 9 p.m.
- 2.2.5 The Licensee shall not allow Solid Waste to remain or be stored in any Collection or Transportation vehicle in excess of forty-eight (48) hours, except in the event of an emergency such as inclement weather, equipment breakdown, or accident.
- 2.2.6 The Licensee shall take reasonable care to protect the property of customers being served, or other property, and shall be responsible for any damage thereto. The Licensee shall be responsible for any damage or spillage of Solid Waste occurring as a result of its action or inaction.
- 2.2.7 The Licensee shall not collect or transport Solid Waste or Recyclable Material that is smoking, smoldering or burning, or that the internal load temperature exceeds 160° Fahrenheit.

2.2.8 The Licensee shall be responsible for the cleanup of any Solid Waste or Recyclable Material that must be off-loaded in an emergency. The vehicle Operator or Licensee shall immediately notify the Environmental Services Department and the appropriate law enforcement agency of such off-loading and shall clean the area within a time limit established by the County or other such law enforcement agency having appropriate jurisdiction.

2.2.9 A Licensee shall be responsible for cleaning up any litter, solid or liquid waste, or Recyclable Material discharged while in transit. If the Licensee fails to perform such a clean-up, the County may charge such Licensee with all costs of removal and Disposal of the spilled material.

2.2.10 The Licensee shall neither discharge nor allow the discharge of liquid waste from any Solid Waste Collection or Transportation vehicle or container, except as a part of a deposited load.

2.2.11 While on County property, the Licensee shall comply with all safety procedures as determined necessary by the Environmental Services Department or on-site representative.

2.3. Hauler Rates. As a condition of obtaining and maintaining a license, a Hauler shall impose charges on customers for the Collection of Mixed Municipal Solid Waste at rates based upon the volume or weight of the waste collected.

- 2.3.1 The County shall determine a volume base unit size for an average small quantity household Generator and establish or require a Licensee to establish a multiple unit pricing system that ensures that amounts of waste Generated in excess of the base unit amount are priced higher than the base unit price pursuant to Minn. Stat. §115A.93.
- 2.3.2 The Licensee shall annually provide all customers with written notice of the Hauler's volume or weight based fee structure.
- 2.3.3 The Licensee shall not impose a greater charge on residents who recycle than on residents who do not recycle.

2.4 Renewal. Application for license renewals shall be made in writing to the Environmental Services Department by November 15 each year.

Section 3. Waste Management Facility Licenses.

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 is consistent with the St. Louis County Solid Waste Management Plan and complies with all County Ordinances, regulations, local, state, and federal guidelines, statutes, rules and regulations. Waste Facilities within the Solid Waste Service Area shall:

- 1. comply with and maintain documentation of compliance with all state, federal and local regulations; and
- 2. meet the guidelines set out in this Ordinance, the Solid Waste Management Plan and, where applicable, Certificate of Need; and

3. report pertinent information in a timely manner so that the County can plan and maintain effective Solid Waste Management services throughout the County.

3.1 Facility License Application: The following types of facilities shall obtain a Waste Management Facility License from St. Louis County:

- 3.1A MSW Disposal
- 3.1B Construction Debris Disposal
- 3.1C Demolition Debris Disposal
- 3.1D Industrial Waste Disposal
- 3.1E Demolition Debris Permit-by-rule Facilities
- 3.1F MSW Composting
- 3.1G Solid Waste Transfer Facilities
- 3.1H Waste Incinerators

3.1.1 In addition to the general requirements in Article VII, Section 1, the application for initial license shall include:

- A. a complete copy of the facility permit granted by the MPCA including a set of complete plans, specifications, design data, and ultimate land use; and
- B. a land use permit as required by the County Zoning Ordinance or the zoning authority having jurisdiction over the proposed location; and

- C. a written statement of how the operation is consistent with the Solid Waste Management Plan and current County Certificate Of Need (CON), if applicable; and
 - D. a filing fee as established by the St. Louis County Board.
 - E. Certificate of Insurance as required by the County.
- 3.1.2 The County may require a liner and leachate collection and treatment system based on the composition of waste Disposed at any Land Disposal Facility.

3.2 Prohibited Disposal facilities: The County prohibits development of Disposal facilities for the following types of waste:

- 3.2A Regulated Infectious Waste land Disposal facilities
- 3.2B Hazardous Waste land Disposal or incineration facilities
- 3.2C Radioactive waste Disposal facilities
- 3.2D MSW land Disposal facilities unless need for those facilities has been established in the current County Solid Waste Management Plan.

3.3 Reporting and Renewal: It shall be the obligation of the Operator of a Solid Waste Facility in St. Louis 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 Environmental Services Department.

- 3.3.1 Accurate daily records of Site operations shall be maintained and made available upon request to County representatives including:
 - 3.3.1.1 Intake of Solid Waste in tons or cubic yards shall be recorded daily in a manner acceptable to the County.
 - 3.3.1.2 General areas in which a particular type of Solid Waste Disposal takes place within a landfill shall be recorded.
 - 3.3.1.3 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.
- 3.3.2 A complete report of materials and volumes Disposed at the facility as reported in the facility's annual report required by the MPCA shall be submitted to the St. Louis County Environmental Services Department by March 1 of each year.
- 3.3.3 The Licensee shall submit records of population and areas served by the facility on an annual basis.
- 3.3.4 Within 24 hours of an emergency incident which results in conditions which may be adverse to public or environmental health, the Licensee shall submit oral notification to the Director of the Environmental Services Department.

- 3.3.4.1 This report shall be followed with written notification within 48 hours of the incident.
- 3.3.4.2 When corrective actions are required by County, State or Federal agencies, a report of the incident and actions taken shall be submitted to the Director of the Environmental Services Department within 15 days of completion of the action.
- 3.3.5 A license renewal application fee in an amount established by the County Board along with an application form and all required reports shall be submitted by March 1st of each year.
- 3.3.6 At any time the Licensee submits application for renewal or modification of their MPCA facility permit a copy of that application must be submitted to the County and the process for initial license application for Waste Management Facility license shall be followed.

3.4 Continuation of Expired License. A Person who holds an expired Waste Management Facility License and who has submitted a timely and complete application for re-issuance of the permit may continue to conduct the permitted Solid Waste Management activity until the County takes final action on the application, if the Environmental Services Director determines that all of the following are true:

- 3.4.1 The Licensee is in compliance with the terms and conditions of the expired license, County Ordinances and other state and federal regulations, and the Solid Waste Management Plan; and

3.4.2 The Environmental Services Director, through no fault of the Licensee, has not taken action on the application on or before the expiration date of the license; and

3.4.3 The Licensee demonstrates that there is remaining permitted capacity.

3.5 Surcharges. The County Board may set surcharge fees pursuant to Minn. Stat. § 115A.919 on MSW or Construction 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.)

3.5.1 Expenditure of funds collected under this section shall comply with Minn. Stat. § 115A.919.

3.5.2 Any facility Operator subject to the fees imposed by this provision shall file a surcharge fee monthly return in the following manner:

3.5.2.1 Monthly returns shall be on a reporting form prescribed by the Environmental Services Department.

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

3.5.2.3 A check for the full amount of the surcharge fee and made out to the St. Louis County Auditor must accompany the return form.

3.5.2.4 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.

3.5.3 The County or its designated agent shall have the right to examine and/or copy records required by this Ordinance.

3.5.4 Non-payment of surcharge fees shall be grounds for denial of a license application or renewal.

3.6 Closure Requirements: In addition to closure procedures required by the MPCA, the Operator shall submit a detailed map to the Environmental Services Department upon closure of a Disposal facility.

3.6.1 Documents submitted must show the nature and location of the waste Disposed at the facility.

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

3.6.1.2 A complete list of Industrial Waste customers and associated waste characterization data and Disposal location shall be submitted.

3.6.2 Documents submitted must show the property lines of the facility and all adjacent property ownership at the time of closure.

3.6.3 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 Environmental Services Director at the same time.

3.7 Jurisdiction of the Solid Waste Management Plan. A public entity within St. Louis County may not enter into a binding agreement nor develop nor implement a Solid Waste Management activity that is not consistent with the Solid Waste Management Plan without the express consent of the County.

ARTICLE VIII SOLID WASTE MANAGEMENT FEES

The following provisions are enacted pursuant to Chapter 400 of the Minnesota Statutes which authorizes the County to create and to impose charges within the County's jurisdiction for Solid Waste Management services and may levy a tax on all property in that jurisdiction, or may designate any combination of taxes and service charge methods.

Section 1. Establishment of Charges.

A Solid Waste Management Fee shall be imposed for Solid Waste Management Services provided by the County within a Service Area. Generators (owners, lessees, or occupants, or property in the Solid Waste Management Area, or any or all of them) shall pay charges other than a tax levy, designated as the Solid Waste Management Fee and Tipping Fees imposed in the manner set forth herein in amounts as established by the County Board.

In establishing charges the County Board shall, in its discretion, take into account the costs of: Solid Waste Program administration; economic incentives; financial assurance for Solid Waste Facilities, transporting waste between or from County Solid Waste Facilities; Hazardous Waste Collections; Solid Waste Service Fee management; and Recycling. The County may also consider volume or tonnage of Solid Waste

delivered to facilities; the character and kind of Solid Waste delivered to facilities, the method of Disposition, and Solid Waste Facilities' costs. Charges may also include facilities' replacement funding, reserves funding, and funding for landfill closure costs and any other factors which the County may determine have an impact on the cost of Solid Waste Management in the County.

Section 2. Charging Methods.

2.1 Solid Waste Service Fees. The County Board may, in its discretion, establish a fee to be charged to all improved properties served by the St. Louis County Solid Waste Program. When so established, Persons who are owners, lessees or occupants of all properties located within Service Areas, or any or all of them, shall be obligated to pay Solid Waste service fees for services so provided for their properties and, if unpaid, the charges shall become a lien on the properties.

In those Cities having mandatory Solid Waste Collection, the Solid Waste Service Fee shall be billed to each City in an amount equal to the total charges for all properties owned, leased or occupied by Persons or legal entities within the City as verified annually by the City. In the discretion of the County such billing may be done on a quarterly basis.

2.2 Tipping Fees. The County Board may, by resolution, designate an amount and method of payment for Tipping Fees, which shall be a charge to users for services provided at County Solid Waste Facilities. The Environmental Services Director may, under contract approved by the County Board, apply reduced Tipping Fees to local units of government which contract for Disposal at County-owned facilities.

Section 3. Billing and Collection.

The method of billing, the system of assessing service fees, and Collection of service fees shall be determined by resolution of the County Board. The following procedures shall apply to the billing and collection of Solid Waste Service Fees.

- 3.1 Real Estate Including Exempt Property.** On or before October 15 of each year, the County Board shall certify to the County Auditor Solid Waste Service Fees and a description of the lands against which the charges arise. It shall be the duty of the County Auditor, upon order of the County Board, to extend the charges upon the tax rolls of the County for the taxes of the year in which the charge is filed 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 of Minnesota. The charges, if not paid, shall become delinquent and be subject to the same penalties and the same rate of interest as the taxes under the general laws of the state.
- 3.2 Structures on Government Leased Land.** Charges for structures on government leased land will be billed directly to the lessee and shall be paid by October 15 of each year. Unpaid charges will be subject to the same penalties as unpaid personal property taxes. Unpaid charges and penalties may be collected in a civil action or through such other means as may be approved by the St. Louis County Board.

- 3.3 Multiple Family Dwelling Unit Properties.** Charges for Solid Waste services for Multiple Family Dwelling Unit properties shall be billed to the owner of the property, real or personal, in accordance with Section 3.1.
- 3.4 Manufactured Homes.**
- 3.4.1** Charges for Solid Waste services to manufactured homes, which are taxed pursuant to Minn. Stat. §274.19, subd. 7 and not located in a manufactured home park shall be billed to the owner of the real property on which the manufactured home is located pursuant to the procedures in Section 3.1.
- 3.4.2** Charges for Solid Waste services to manufactured homes which are valued and assessed as an improvement to real property shall be billed and collected pursuant to the procedures in Section 3.1.
- 3.4.3** Unpaid charges and penalties will be collected in the same manner as delinquent charges under Section 3.1 or may be collected in a civil action or through such other means as may be approved by the St. Louis County Board.
- 3.5 Charges to Cities.** If a City, as defined in Section 2.1, does not pay the balance due on the Solid Waste Service Fee billed for properties located within the City by October 15 of any year, the County shall proceed to apply the unpaid Solid Waste Service Fee charges and penalties to all properties located within the boundaries of the City and will include these charges and penalties on property tax statements for the following year in the manner provided in Section 3.1.

3.5.1 With respect to property classified as structures on government leased land within the boundaries of a City, if the City does not pay the Solid Waste Service Fee billed for such property by October 15 of any year, the County shall forthwith bill the owners, occupants and lessees of such properties directly for the unpaid fees and such fees shall be paid by December 31 of that year or the unpaid charge and interest may be collected in a civil action or through such other means as may be approved by the St. Louis County Board.

3.5.2 With respect to property classified as manufactured homes within the boundaries of a City, if the City does not pay the Solid Waste Service Fee billed for such property by October 15 of any year, the County shall bill the owner of the real property on which the manufactured home is located in accordance with Section 3.1.

Section 4. Fee Appeals.

Any property owner, lessee, or occupant may appeal a Solid Waste Service Fee charge only on the basis that the charge has been incorrectly applied to a specific property which has been mis-classified or if the property is vacant or uninhabited. The appeal must be made on a form provided by the Environmental Services Department on or before December 15 of the tax payable year.

The Environmental Services Department shall, within sixty (60) days of receipt of the appeal, review the appeal and notify the appellant in writing whether an adjustment is due and, if so, the amount of such adjustment, or whether the appeal is denied.

ARTICLE IX ENFORCEMENT OF ORDINANCE PROVISIONS

Section 1. Inspections.

Inspection of Solid Waste Management Activities, Facilities and/or a Licensee's premises shall be made by the Department in such frequency as to insure consistent compliance by the Licensee with this Ordinance.

- 1.1 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 all County Ordinances, or rule or statute.
- 1.2 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.
- 1.3 Whenever necessary to enforce any provision of this Ordinance, or whenever the County has reasonable cause to believe that a violation of this Ordinance exists, the County may enter premises or vehicles to inspect the same or to perform any duty incumbent upon the Department, provided that if such premises or vehicles be occupied, the Authorized Representative shall first present proper credentials and request entry; and if such premises or vehicles be unoccupied, the Department shall first make a reasonable effort to locate the Operator or other Persons having charge or control of the premises or vehicle and request entry. If such entry is refused, the Department may order an emergency suspension,

suspension or revocation of a license and shall have recourse to other remedies provided by law.

- 1.4 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.
- 1.5 Repeated violations of this Ordinance or failure to comply with any order of the Department, shall be grounds for emergency suspension, suspension or revocation of a license.
- 1.6 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.
- 1.7 If a building, premises or vehicle is owned by one Person and occupied or operated by another, under lease or otherwise, and the order or notice requires immediate compliance for the health, welfare and safety of the public, such order or notice shall be served on the Owner, Operator or occupant and the Owner, Operator or occupant shall ensure compliance with the order or notice.

Section 2. Re-inspections.

Upon written notification from the Licensee that all the violations for which a suspension or emergency suspension has been issued have been corrected, the Department shall re-inspect the Solid Waste Management Activity within 5 (five) County business days. If the Department finds upon such re-inspection that the violation has been corrected, the Department shall inform the Licensee of reinstatement of the License.

Section 3. 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 if authorized by law; emergency suspension, suspension or revocation of a license issued under this Ordinance; execution of a Stipulation Agreement; and/or commencement of other civil proceedings.

3.1 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.

3.2 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.

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

3.3.1 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.

3.3.2 Notice of Citation

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

the County Attorneys Office; and one copy shall be filed with the District Court.

3.3.3 Form of Citation

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

3.3.3.1 The name and address of the Person charged with a violation.

3.3.3.2 The date and place of the violation.

3.3.3.3 A short description of the violation followed by the sections of the Ordinance violated with reference made to all other pertinent Ordinance provisions.

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

3.3.4 Court Appearance

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

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

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

3.3.5 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.

3.3.6 Complaint

3.3.6.1 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.

3.3.6.2 At their discretion, the County Attorney's Office may issue a summons and complaint initially.

3.4 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:

3.4.1 Abatement Notice

3.4.1.1 Contents of Abatement Notice

An Abatement Notice shall include the following:

- a. Notice that the property owner has not completed the Corrective Actions within the

time period required in the attached NOV(s),
Stipulation Agreement or court order;

- b. Notice that the Department or its agent intends to enter the property and commence abatement of the conditions on the property that violate this Ordinance in thirty days;
- c. Notice that the property owner must correct the violation(s) before thirty days to avoid any civil liability for the costs of inspection and abatement that the County may incur; and
- d. A statement that if the property owner desires to appeal, the property owner must file a request for an appeal hearing with the County Auditor or County Board Chair with a copy sent to the Director pursuant to Minnesota Statute 373.07 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.

3.4.1.2 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.

3.4.2 Right to Appeal the Abatement Notice

3.4.2.1 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 the close 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.

3.4.2.2 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.

3.4.3 Abatement by the County

In the event a property owner does not abate the Ordinance violations or does not appeal the Abatement Notice within the applicable time period, the Department may expend funds necessary to abate the violation(s) in accordance with applicable County policies and procedures:

3.4.4 Recovery of Abatement Costs

3.4.4.1 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.

3.4.4.2 The Department shall keep a record of the costs of abatements done under this Ordinance and report all work done for which assessments are to be made, stating and certifying the description of the land, lots or parcels involved and the amount assessable to each to the County Auditor by September 1 of each year.

3.4.4.3 On or before October 1 of each year, the County Auditor shall list the total unpaid charges for each abatement made against each separate lot or parcel

to which they are attributable under this Ordinance to the County Board.

3.4.4.4 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.

3.4.5 Emergency Abatement by County

Notwithstanding the requirements of Section 1.0 of this Article, in the event of an imminent threat to the public's health, welfare and safety, the Department shall have the authority to immediately enter property and abate the violations and recover the costs as set out in Section 2.04(D) above. The Department shall attempt to give verbal notice to the property owner immediately, if possible, and writing within 10 work days. The property owner shall have the right to appeal the assessment of costs to the County Board pursuant to Section 3 of this Article.

3.5 Stipulation Agreement. The Department and a Person alleged to have violated provision(s) of this Ordinance may voluntarily enter into a Stipulation Agreement, whereby the parties to the agreement: identify conditions on the property that require Corrective Action; agree on the Corrective Actions that must be performed by the Person; and agree on the timelines in which the Corrective Actions must be completed. If the timelines have not been met as agreed in the

Stipulation Agreement, the County may abate the violations in accordance with Section 2.04 above. The parties may seek compliance with the terms of the Stipulation Agreement through a court of competent jurisdiction.

3.6 Special Assessment for Removal of Unauthorized Deposit of Solid Waste.

In addition to the remedies set forth above in Sections 2 and 3, at the discretion of the County, all costs for removal of unauthorized deposits of Solid Waste or corrective action may be certified to the County Auditor as a special assessment against real property.

3.7 License Suspensions.

3.7.1 Any license required under this Ordinance may be suspended by the Director for violation of any provision of this Ordinance. Upon written notice to the Licensee a license may be suspended by the Director or designee for a period not longer than sixty (60) days or until the violation is corrected, whichever is shorter.

3.7.2 Such suspension shall not occur earlier than ten (10) County working days after written notice of suspension by the Director has been served on the Licensee or, if a hearing is requested, until written notice of the determination of the Director's action has been served on the Licensee. Notice to the Licensee shall be served personally or by registered or certified mail at the address designated in the license application. Such written notice of suspension shall contain the effective date of the suspension, the nature of the violation or violations constituting the basis for the suspension, the facts which support the conclusion that a violation

or violations has occurred, and a statement that if the Licensee desires to appeal, he must within ten (10) County working days, exclusive of the day of service, file a request for an appeal hearing with the County Board. The hearing request shall be in writing stating the grounds for appeal and served personally or by certified mail on the County Board, with a copy to the Department by the close of the 10th County working day following service. Following receipt of a request for a hearing, the County Board shall set a time and place for the hearing to be held pursuant to Section 3.0 below.

3.7.3 Continued Suspension

If said suspension is upheld and the Licensee has not demonstrated within the sixty (60) day period that the provisions of the Ordinance have been complied with, the County Board may serve notice of continued suspension for up to sixty (60) days or initiate revocation procedures.

3.8 **Emergency Suspension.**

3.8.1 If the Environmental Services Department finds that the health, safety or welfare of the public requires emergency action, the Department may order an emergency suspension of a license. Written notice of such emergency suspension shall be served on the Licensee, or shall be served by certified mail to said Licensee at the address designated in the license application.

3.8.2 The emergency suspension shall not be stayed pending an appeal to the County Board or an informal review by the Director, but shall be subject to

dismissal upon a favorable re-inspection by the Department or favorable appeal to the County Board.

3.9 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 five (5) 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 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.

3.10 License Revocation.

3.10.1 Any license granted pursuant to this Ordinance may be revoked by the Director for violation of any provision of this Ordinance.

3.10.2 Revocation shall not occur earlier than ten (10) County working days from the time that written notice of revocation from the Director 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 the close 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.

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

3.12 Commencement of a Civil Court Action. In the event of a violation or a threat of violation of this Ordinance, the County 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 4. 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. If a request for a hearing is not filed within the specified time period, the opportunity for a hearing is forfeited and the action of the Environmental Services Department becomes final and binding.

4.1 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.

4.2 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:

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

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

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

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

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

4.5 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.

4.6 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.

4.7 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:

4.7.1 Clarify the issues to be determined at the hearing.

4.7.2 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.

4.7.3 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.

4.7.4 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:

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

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

4.8 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.

4.9 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 X ADDITIONAL REQUIREMENTS AND PROVISIONS

Section 1. Waivers or Modifications.

Due to the great variability in the types of Solid Wastes and their existing and potential management methods, the Environmental Services Department may waive or modify the strict application of the provisions of this Ordinance by reducing or waiving certain requirements when, in the discretion of the Environmental Services Department, such requirements are unnecessary or impractical, provided such a waiver or modification will not endanger the health, safety, and welfare of the public, or the environment. The Department may impose additional requirements through solid waste management activity or facility specific license conditions when deemed necessary to protect the health, safety, and welfare of the public, or the environment.

Section 2. Agency Approval.

No modification or waiver may be granted if it would result in noncompliance with State and Federal laws, unless such modification or waiver has been granted by the Minnesota Pollution Control Agency.

Section 3. Planning and Zoning approval.

Any use of land for Solid Waste Management facilities within St. Louis County shall comply with the zoning requirements of Ordinance 46 or the zoning requirements of local authorities, if present.

Section 4. Promotion of Public Health, Safety, and Welfare.

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

Section 5. Indemnification.

This Ordinance shall not be construed to hold the Environmental Services Department, St. Louis County or any County officer or employee responsible for any damage to Persons or property by reason of the inspection or reinspection authorized herein; or by reason of the approval or disapproval of equipment or licensing herein; nor for any action in connection with the inspection or control of Solid Waste or in connection with any other official duties.

Section 6. No Consent.

Nothing contained in this Ordinance shall be deemed to be a consent, license, or permit to locate, construct, operate, or maintain any Solid Waste Facility, or to carry on any activity prior to issuance of a license hereunder.

Section 7. Severability.

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

Section 8. Effectuation.

This amendment to Ordinance No. 45 - Solid Waste Ordinance, shall take effect and be in full force on the 1st day of August, 2008, upon its adoption by the St. Louis County Board of Commissioners and its publication in the official newspaper(s) of St. Louis County as provided by Minnesota Statutes.

A public hearing was held by the St. Louis County Board of Commissioners on July 22, 2008.

Commissioner _____ moved the adoption of this Ordinance, and Commissioner _____ seconded the motion, and it was adopted on the following vote:

Yeas:

Nays:

Absent:

Mike Forsman, Chair
St. Louis County Board

Certified as a complete and accurate copy of Ordinance No. 45,

Donald Dicklich, County Auditor

ATTEST:

Paul Tynjala, Deputy Auditor
Clerk of the County Board