

**DOUGLAS
COUNTY**

**SOLID WASTE
ORDINANCE**

**DOUGLAS COUNTY
MINNESOTA**

**SOLID WASTE DISPOSAL ORDINANCE
FOR DOUGLAS COUNTY MINNESOTA**

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SOLID WASTE DISPOSAL ORDINANCE FOR DOUGLAS COUNTY MINNESOTA

An ordinance establishing standards for and regulating solid waste storage, transportation, collection, processing and disposal, and the operation of solid waste management facilities in Douglas County, Minnesota; requiring a license for the establishment and operation of solid waste management facilities; providing for license fees, performance bonds and penalties for lack of compliance with these provisions; promoting the health, welfare and safety of the public.

The County Board of Douglas County, Minnesota, does ordain:

SECTION I DEFINITIONS Words and phrases, when used in this ordinance shall have the following meanings, unless the context clearly indicates otherwise:

Subsection 1. "Collection", when referring to solid waste, means the aggregation of solid waste from the place at which it is generated and includes all activities up to the time the waste is delivered to a waste facility.

Subsection 2. "County Board" is defined as the Douglas County Board of Commissioners.

Subsection 3. "County" means Douglas County, Minnesota.

Subsection 4. "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.

Subsection 5. "Demolition Debris" means 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.

Subsection 6. "Demolition Debris Land Disposal Facility" means a site used to dispose of demolition debris.

Subsection 7. "Disposal" means the discharge, deposit, injection, dumping, spilling, leaking or placing of waste into or on any land or water.

Subsection 8. "Facility" means the land, structures, monitoring devices, and other improvements on the land used for monitoring, treating, processing, storing, or disposing of solid waste, leachate, or residuals from solid waste processing.

Subsection 9. "Garbage" is defined as discarded material resulting from the handling, processing, storage, preparation, serving and consumption of food.

Subsection 10. "Hazardous Waste" means any refuse or discarded material or combination of refuse or discarded material in solid, semi-solid, liquid or gaseous form which cannot be handled by routine waste management techniques because they pose a substantial present or potential hazard to human health or other living organisms because of their chemical, biological, or physical properties. Categories of hazardous waste materials include but are not limited to: explosives, flammable, oxidizers, poisons, irritants and corrosives.

Subsection 11. "Industrial Solid Waste" means all solid waste generated from an industrial or manufacturing process and solid waste generated from nonmanufacturing activities such as service and commercial establishments. Industrial solid waste does not include office materials, restaurant and food preparation waste, discarded machinery, demolition debris, municipal solid waste combustor ash, or household refuse.

Subsection 12. "Industrial Solid Waste Land Disposal Facility" means a site used to dispose of industrial solid waste in or on the land.

Subsection 13. "Land Disposal Facility" means any tract or parcel of land, including any constructed facility, at which solid waste is disposed of in or on the land.

Subsection 14. "Licensee" is defined as the person who has been given authority by the County Board to establish, operate and maintain a solid waste management facility.

Subsection 15. "MPCA" means the Minnesota Pollution Control Agency, its agents or representatives.

Subsection 16. "Mixed Municipal Solid Waste" means garbage, refuse, and other solid waste from residential, commercial, industrial, and community activities which is generated and collected in aggregate, but does not include auto hulks, street sweepings, ash, construction debris, mining waste, sludges, tree and agricultural wastes, tires, and other materials collected, processed, and disposed of as separate waste streams.

Subsection 17. "Mixed Municipal Solid Waste Land Disposal Facility" means a site used for the disposal of mixed municipal solid waste in or on the land.

Subsection 18. "Municipal Solid Waste Combustor Ash Land Disposal Facility" means a facility used to dispose of municipal solid waste combustor ash in or on the land.

Subsection 19. "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, but does not include the County.

Subsection 20. "Pope/Douglas Joint Solid Waste Board" means the joint powers board created by Pope and Douglas Counties to own and operate an integrated solid waste management system in the Counties.

Subsection 21. "Processing", when referring to solid waste, means the treatment of solid waste after collection, and includes all activities after the time the waste is delivered to a waste facility. Processing includes but is not limited to disposal, storage, containment, separation, exchange, resource recovery, physical or chemical modification, and transfer from one waste facility to another.

Subsection 22. "Putrescible Material" is defined as solid waste which is capable of becoming rotten and which may reach a foul state of decay or decomposition.

Subsection 23. "Recycling Facility" means a site used to collect, process, and repair recyclable materials and reuse them in their original form or use them in manufacturing processes.

Subsection 24. "Recycling Materials" means 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.

Subsection 25. "Refuse" means putrescible and nonputrescible solid wastes, including garbage, rubbish, ashes, incinerator ash, incinerator residue, waste combustor ash, street cleanings, and market and industrial solid wastes, and including municipal treatment wastes which do not contain free moisture.

Subsection 26. "'Shoreland" is defined as land located within the following distances from the ordinary high water elevation of public waters: (a) land within 1,000 feet from the normal high watermark of a lake, pond, reservoir, impoundment or flowage; and (b) land within 300 feet of a river or stream or the landward side of flood plain delineated by ordinance on such a river or stream whichever is greater.

Subsection 27. "Solid Waste Combustor" means any stationary source, emissions unit, or emission facility where solid waste or refuse-derived fuel is combusted, and includes incinerators, energy recovery facilities, or other combustion devices.

Subsection 28. "Solid Waste Land Disposal Facility" means a facility used to dispose of solid waste in or on the land.

Subsection 29. "Solid Waste Management Facility" means a facility for the storage, collection, transportation, processing or reuse, conversion or disposal of solid waste, including solid waste land disposal, compost, recycling and transfer facilities.

Subsection 30. "Solid Waste Storage" means the holding of solid waste for more than 48 hours in quantities equal to or greater than ten cubic yards.

Subsection 31. "Solid Waste Transportation" means the conveying of solid waste from one place to another, by means of vehicle, rail car, water vessel, conveyor, or other means.

Subsection 32. "Transfer Facility" means a facility in which solid waste from collection vehicles is compacted or rearranged for subsequent transport. A transfer facility may be fixed or mobile.

Subsection 33. "Used Tires" means any tires that are not new.

SECTION II GENERAL PROVISIONS

Subsection 1. License Requirements. A person shall be in violation of this ordinance if they allow property, equipment, or land under their control in the County to be used for intermediate or final storage, collection, transportation, processing or reuse, conversion or disposal of any solid waste unless a solid waste management facility license for such purpose has been granted by the County Board and unless otherwise provided by this ordinance. It is a violation of this ordinance for any person to dispose, process, store, collect, transport or conversion any solid waste on any property in the County unless such property has been granted a solid waste management facility license unless otherwise provided by this ordinance.

Subsection 2. License Application and Collection, Processing, Transportation, Reuse or Conversion Fees. Any site or facility in the County to be used for any method of storage, collection, transportation, processing or reuse, conversion or disposal of solid waste identified in this ordinance and those not specifically provided for in this ordinance must obtain a solid waste management facility license from the County Board and, if applicable, a permit from the MPCA before beginning operations. The license application shall include 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 Board, all as prepared by a registered professional engineer of Minnesota. The license application shall also include a copy of the permit application and plans and specifications submitted to the MPCA and required for MPCA approval. An application fee, license fee and other required fees shall accompany the application in an amount to be determined by the County Board. The applicant shall obtain and provide with the application a proper zoning permit as required by applicable County zoning ordinances.

Subsection 3. Issuance or Denial of License. After receiving a complete application for a license to operate a solid waste management facility, the County Board shall have 90 days to either grant or deny the license application. A license may be granted which is contingent upon compliance with special conditions specified in the license. Such conditions, if any, shall be designed to promote the health, welfare and safety of the public. Licenses issued to partnerships and corporations shall be issued in the name of the corporation or partnership and to the authorized officer of such corporation or partnership. If an applicant is not granted a license, they shall be notified in writing of the reasons for the denial by the County Board. A denial shall be without prejudice to the applicant's right to appear before the County Board or for filing an amended application after revisions are made to meet the concerns specified as reasons for the denial.

Subsection 4. Bonds and Insurance. Unless otherwise provided by the County Board, issuance of any license pursuant to the provisions of this ordinance shall be contingent upon the applicant furnishing to the County a bond in an amount to be set by the County Board and naming the County as obligee with sureties duly licensed and authorized to transact corporate surety business in the State of Minnesota as sureties. The condition of such bond shall be that if the principal fails to obey any of the requirements or do any of the acts required by this ordinance in the operation of the solid waste management facility, or if, for any reason, ceases to operate or abandons the solid waste management facility, and the County is required to expend any monies or expend any labor or material to restore the facility to the condition and requirements as provided by the ordinance, the obligor and the sureties on its bond shall reimburse the County for any and all expenses incurred to remedy the failure of the principal to comply with the terms of the ordinance, and the obligor and its sureties will indemnify and save the County harmless from all losses, costs and charges that the County may occur because of any default of the obligor under the terms of their license to operate in compliance with the ordinances of the County. The performance bond shall be non-cancelable without the County's written consent. The performance bond shall be for the lifetime of the license and an additional five (5) years.

Subsection 5. Insurance and Letter of Credit.

- A. Insurance. Unless otherwise provided by the County Board, issuance of a license under this ordinance shall be contingent upon the licensee furnishing to the County certificates of insurance issued by insurers duly licensed within the State of Minnesota evidencing the following insurance coverages and amounts:
1. General liability coverage with a comprehensive broad form endorsement (including coverage for premises and operations, products and completed operations and independent contractors); a broad form property damage endorsement; and a personal and bodily injury endorsement. Coverage shall be in an amount of at least one million dollars for total injuries and/or damages arising from a single occurrence, including a two million dollar aggregate limit.
 2. Auto liability coverage including all owned, non-owned and hired autos. Coverage provided should be in an amount of at least one million dollars for injury to or death of any one claimant and one million dollars for total injuries and/or damages arising from a single occurrence, or a Combined Single Limit of one million dollars.

The certificate of insurance shall require that at least thirty (30) days notice be given to the County of cancellation of any insurance coverage specified therein.

- B. Letter of Credit. The County Board may approve an irrevocable letter of credit in lieu of insurance requirements set forth in this subsection. The aggregate amount of the letter of credit shall be in at least the amount specified in this subsection. If the irrevocable letter of credit is drawn on under its terms, it shall be fully reinstated to its original amount within thirty (30) calendar days.

The irrevocable letter of credit shall be approved by the County Attorney and shall be worded in a manner consistent with Minnesota Rules 7035.2805, subp. 5, except that it shall be in favor of the County and the County's signed statement shall read as follows: "I certify that the amount of the draft is payable pursuant to the Douglas County Solid Waste Ordinance, subsection 5." This irrevocable letter of credit shall be subject to the most recent edition of the Uniform Customs and Practice for Documentary Credits, published by the International Chamber of Commerce, or the Uniform Commercial Code published in Minnesota Statutes, Chapter 336.

Subsection 6. Indemnification. The licensee agrees to 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 bond and letter of credit coverage required by this ordinance.

Subsection 7. Expiration and License Renewal. Unless otherwise provided by the County Board, each license granted pursuant to the provisions of this ordinance shall expire on the last day of December of each year unless revoked earlier. Application for license renewal shall be made in writing to the County Board by December 15 of each year. Application for renewal shall contain a statement of any changes in the information submitted in support of the last approved license application. Failure to submit such information shall result in grounds for revocation or for not granting renewal of the license by the County Board. If there are no changes, it shall be so stated in the renewal application. If a renewal license is not granted, the applicant shall be notified in writing of the reasons therefore by the County Board.

The County Solid Waste Officer shall mail an annual license renewal notice to all licensees by December 1 of each license year. The renewal license fee, required insurance and appropriate bond shall be submitted to the County by December 15 of the current year. Failure to apply for a license renewal by December 15 of each license year shall serve as a notification of intent not to renew the license and intent to terminate the solid waste management facility at the end of the current license year.

Subsection 8. License Fees. License fees shall be determined by the County Board prior to the start of the license year. When the license fee is not set prior to the license year, the license fee in effect during the prior license year shall remain in effect.

Subsection 9. License Transfer. Any license obtained under this ordinance may not be transferred without written approval of the County Board. In the case of a transfer of ownership, the licensee shall notify the County Solid Waste Officer sixty (60) days in advance of the expected license transfer date.

Subsection 10. State Law and MPCA Rules. All solid waste related activities within the County must at a minimum comply with the standards and criteria under state law and rules as amended from time to time.

SECTION III SOLID WASTE MANAGEMENT FACILITIES

Subsection 1. Solid Waste Land Disposal Facility.

- A. It is a violation of this ordinance for any person to establish or operate or maintain a solid waste land disposal facility including an industrial solid waste mixed municipal solid waste or demolition debris land disposal facility without first obtaining a solid waste management facility license from the County Board. No person may establish, operate or maintain a solid waste land disposal facility that does not comply with the minimum requirements for the design, construction and operation for a solid waste land disposal facility required by state laws and MPCA rules as amended from time to time. The County Board may, at its discretion, issue a license for the operation of a solid waste land disposal facility after receipt of an application and the other documents and fees described in Section II of this ordinance.
- B. A limited license for a demolition debris land disposal facility may be issued by the Solid Waste Officer without submission of the application required in Section II, subsection 2, if the demolition debris will be covered with final cover within ten (10) consecutive days of disposal and consists of demolition debris waste, the demolition debris waste is generated from the demolition of farm buildings in place, is disposed of on property of origin and such land disposal facility will not endanger the health, safety and welfare of the public.
- C. The licensee shall charge a fee per cubic yard of solid waste accepted and disposed at the solid waste land disposal facility from each party who delivers solid waste to the facility as required under Minnesota Statutes, Section 115A.923. The fees collected pursuant to this subsection shall be remitted to the County pursuant to Minnesota Statutes, Section 115A.923.

Subsection 2. Transfer Facility. It is a violation of this ordinance for any person to establish, operate and maintain a transfer facility without first obtaining a solid waste management facility license from the County Board. The County Board may, at its discretion, issue a license for the operation of a transfer station after receipt of an application and the other documents and fees described in Section II of this ordinance. The facilities must meet the requirements for the design, construction and operation of these facilities as required by state laws and MPCA rules as amended from time to time and such other regulations as may be established by the County Board in order to protect the health, safety, and welfare of the public.

Subsection 3. Compost, Recycling and Waste Combustor Facilities. It is a violation of this ordinance for any person to establish, operate, and maintain a recycling, compost or waste combustor facility without first obtaining a solid waste management facility license from the County Board. The County Board may, at its discretion, issue a license for the operation of a recycling, compost or waste combustor facility after receipt of an application and the other documents and fees described in Section II of this ordinance. All such facilities must meet the requirements for the design, construction and operation of these facilities as required by state laws and MPCA rules as amended from time to time and such other regulations as may be established by the County Board in order to protect the health, safety, and welfare of the public.

Subsection 4. Used Tire Facility.

- A. **General Prohibition and Requirements.** The generation, collection, storage, transportation, processing, reuse, recycling, incineration and/or disposal of used tires, either whole or in part shall be conducted in compliance with this ordinance regardless of number. The disposal of used tires on land is prohibited. The storage, collection or recycling of more than ten (10) used tires on a residential lot is prohibited.
- B. **Management Plan Required.** Any person who collects, stores, or deposits 50 to 100 used tires shall submit a tire management plan to the County for review and approval prior to conducting such activity.
- C. **License Required.** A property which accumulates at any one time more than 100 used tires shall first obtain a solid waste management facility license from the County Board. Facilities which may require solid waste management facility licenses include retail service centers, tire retreading businesses, motor vehicle service stations, vehicle salvage yards, tire shredding facilities, transfer and storage facilities, incinerators, intermediate disposal sites, and final disposal facilities. Persons using used tires for agricultural, recreational, or other beneficial reuse purposes may be exempt from the license requirement under this Subsection 4 pending review and approval by the County Board.
- D. **Construction and Operation.** A solid waste management facility for used tire management shall be constructed, operated, maintained and closed in conformance with the provisions of this ordinance. Plans and specifications and an operations plan shall be reviewed and approved by the County prior to licensure. Issuance of a license by the County Board shall be conditioned upon compliance with vector and pest control, fire prevention, zoning, and other requirements. Used tires that are collected

and stored shall be removed for processing, reuse and recycling, incineration and/or disposal on a regular basis and in no case shall the total used tire volume exceed the designated approved capacity in the license or become a public health and safety hazard or nuisance. Complete and accurate records of used tire management shall be maintained and submitted to the County with an annual operational report in a form determined by the County.

E. Used Tire Storage Requirements:

1. Used tires shall not be stored within 1,000 feet of intermittent or permanent wetlands, streams, ponds, and lakes, including shoreland and floodplain areas;
2. Used tires shall not be stored within 1,000 feet of wooded areas and other areas on which trees, tree stumps, and brush are located, which could harbor mosquito populations;
3. Used tires shall not be stored within one-half mile of a known or suspected endemic area of mosquito-borne viral encephalitis or other diseases;
4. Used tires shall not be stored within one-half mile of susceptible persons, which shall be defined to include private residences, day care centers, schools, parks, and recreational facilities;
5. Used tires shall not be stored within an area having a water table within five (5) feet of the lowest tire accumulation elevation;
6. Used tires shall not be stored within an area which is unsuitable with respect to topography, geology, hydrology, soils, land use, or other public health and safety concerns;
7. Used tires shall be confined to as small an area as practicable, with individual piles not more than 2,500 feet in area and twenty (20) feet in height;
8. A minimum twelve (12) foot separation distances shall be provided between piles of used tires to allow for truck and emergency vehicle access;
9. Adequate measures shall be provided to minimize the potential for tire fires;

10. Used tires shall be piled so as to minimize the accumulation of stagnant water;
 11. Used tires shall be stored a minimum of fifty (50) feet from the adjacent property line;
 12. Surface water drainage shall be diverted around and away from used tire storage areas;
 13. Adequate visual screening of used tire storage areas from housing or public right-of-ways shall be provided by use of natural objects, such as trees, berms, fences, or other means deemed acceptable by the County.
- F. Abatement of Used Tire Dumps. Used tire dumps shall be promptly terminated and properly closed within 60 days after receipt of a Notice of Violation issued by the County requiring termination and closure as corrective action. All used tires shall be removed from the property and shall be delivered to an approved processing facility for processing.
- G. Upon cessation of a used tire processing operation, the licensee shall be responsible for removal of all used tires and tire products from the site.
- H. Used tire processing facilities shall be subject to both the used tire storage requirements and recycling facility requirements of this ordinance.

Subsection 5. Collection and Transportation Facilities.

- A. License Requirements and Application. It is a violation of this ordinance to collect or transport solid waste within the County without first obtaining a license from the County Board. This section shall not apply to persons who collect and transport their own household solid waste. The County Board may, at its discretion, issue a license for the operation of such facilities after receipt of an application and other documents and fees all as described in Section II of this ordinance including the following:
1. The application shall include a list of all vehicles to be used for solid waste collection and transportation. The list shall specify the make, model and year each vehicle was built and the volume of solid waste which each vehicle can collect and transport.

2. The application shall include a general description of the route(s) to be followed by the applicant's vehicles when collecting and transporting solid waste.
3. The application shall include information regarding the applicant's accounts, routes, type and quantities of solid wastes to be collected and transported, and such additional information as the County may require.
4. In addition to the insurance requirements in Section II, Subsection 5, the issuance and renewal of a license is contingent upon the collector or transporter providing insurance certificates evidencing worker's compensation insurance and employer's liability insurance as required by state law for the term of the license.

B. Equipment and operations requirements.

1. **Equipment Requirements.** All solid waste collection and transportation vehicles shall be durable, easily cleanable, leakproof, covered with metal, canvas, or a fish-net type material so as to prevent escape of solid waste while in transit and be designed for the safe collection, containment and transportation of solid waste.
2. **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 spilled material. All safety equipment including but not limited to horns, lights, and reflectors shall be operable.
3. **Labeling.** The licensee shall display the capacity of each vehicle, and the name, address, and telephone number of the licensee on each side of the vehicle. Letters and numbers shall be at least (3) inches high.
4. **Inspection.** The County Solid Waste Officer may inspect and approve all solid waste collection and transportation vehicles including the content of solid waste in the vehicle.
5. **Storage in Vehicles.** The licensee shall not allow solid waste to remain or be stored in any collection or transportation vehicle in excess of 48 hours, except in the event of an emergency such as

inclement weather, equipment breakdown or accident.

6. **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 their actions.
 7. **Smoking, Smoldering or Burning Waste.** The licensee may not collect and transport solid waste materials that are smoking, smoldering or burning.
 8. **Dumping in an Emergency.** The licensee shall be responsible for the cleanup of any solid waste that must be dumped in an emergency. The operator of the vehicle shall immediately notify the County Solid Waste Officer and the appropriate law enforcement agency and emergency service of such a dumping and clean the area within a time limit set by the County.
- C. **Disposal of Solid Waste by an Unlicensed Solid Waste Vehicle.** A solid waste management facility licensed by the County Board shall not accept solid waste for disposal or storage from any solid waste collection and transportation vehicle required to be licensed pursuant to this ordinance, unless said vehicle has been licensed pursuant to this ordinance.
- D. **Volume-Based Collection Fees and Services.** Charges for the collection of mixed municipal solid waste in the County shall vary with the volume or weight of the solid waste collected. Refuse haulers in the County are prohibited from imposing a greater charge on residents who recycle than on residents who do not recycle.
- E. **Recycling and Yardwaste Services.** Refuse haulers must provide recycling and yard waste service, either directly or through written subcontract with a person or company approved by County, as a condition to receiving a license. A refuse hauler must furnish curbside collection of designated recyclables and yard waste as identified by resolution of the Pope/Douglas Joint Solid Waste Board. The refuse hauler must furnish curbside recycling to the areas designated by the Pope/Douglas Joint Solid Waste Board. All refuse haulers in the County shall provide such curbside or site collection upon notice by the County. Such notice shall be in writing and shall specify the date by which the recyclables pickup service must be provided. In addition:
1. The refuse hauler, in cooperation with the Pope/Douglas Joint

Solid Waste Board, must specify the day of collection that their customers are to place their recyclables out on their property for pickup.

2. The refuse hauler must collect the recyclables within 24 hours of the designated time. The collection location must be on the customer's property in a location at or near the regular solid waste collection site or such other location mutually agreeable to the hauler and the customer.
3. The refuse hauler may specify how a customer is to place their recyclables out for collection and how the recyclables are to be prepared. The Pope/Douglas Joint Solid Waste Board reserves the right to review and modify the amount of preparation required by the refuse hauler in consideration of local recyclable market requirements.
4. The refuse hauler must collect recyclables from each customer at least once a month unless normal solid waste collection service is provided less frequently than monthly.
5. The refuse hauler is assumed to own the recyclables they have collected and may market them as they see fit. However, a refuse hauler may not dispose of any recyclables at a solid waste land disposal facility or a waste combustor unless given prior written approval to do so by the Pope/Douglas Joint Solid Waste Board.

SECTION IV SOLID WASTE STORAGE.

- A. **General Provisions.** All property owners or persons who have control over property within the County shall keep the property free and unless kept in an enclosed building or screened of waste accumulations of solid waste except as otherwise authorized by this ordinance. All property owners and persons who have control over property shall promptly remove accumulations of: (a) animal feces, inoperable machines, appliances, fixtures, and equipment so damaged, deteriorated or obsolete as to have no substantial value; (b) lumber piles and building materials unless being actively used by a business or for construction requiring the use of such lumber and materials; (c) tin cans, broken glass, broken furniture, boxes, crates, and other debris; (d) abandoned motor vehicles, any inoperative or unlicensed automobile, truck or other machinery shall be kept in an enclosed building or screened in such manner as not to be visible from any public road or street or adjacent

property; (e) any other form of mixed municipal solid waste. Nothing in this section is designed to restrict the commonly accepted activities of farms and duly established and licensed automobile, scrap iron, metal recyclers and salvage operations.

- B. **Storage Facilities and Containers Required.** Every non-farm property shall be supplied with adequate solid waste storage facilities and containers. Such facilities and containers shall be supplied by a commercial hauler.
- C. **Provided Facilities Required To Be Used.** Property owners shall cause occupants and employees to store solid waste in an enclosed building or screened in such manner as not to be visible from any public road or street or adjacent properties in the solid waste storage facilities and containers provided. The property owner shall not permit solid waste to be placed in locations or in a manner that the solid waste can be scattered by water, wind, animals, or insects. It is a violation of this ordinance to dispose of nonrecyclable solid waste in recycling containers.

SECTION V SOLID WASTE BURNING

It is a violation of this ordinance for any person to burn solid waste. The burning of household garbage in an open area or open container is absolutely prohibited except for farm households where regularly scheduled garbage pickup is not available at the farm.

SECTION VI SERVICE CHARGE

Subsection 1. Service Charge Purpose. The County may impose reasonable charges for solid waste management and disposal within its service area pursuant to its authority under Minnesota Statutes, Section 400.08.

Subsection 2. Method of Billing and Collecting Service Charge. The charges will be billed and collected as a fee on the applicable County tax statements in an amount determined by the rate schedule.

Subsection 3. Rate Schedule and Charges. The County Board, upon recommendation of the Pope/Douglas Joint Solid Waste Board, may establish or revise charges based on a rate schedule for solid waste management services. All rates and charges shall be uniform in their application to use and service of the same character and quantity. A copy of the current rate schedule shall be kept on file in the Office of

the County Auditor. If no new rate schedule for solid waste management services is adopted in any year, the rate schedule for the previous year shall remain in effect.

In establishing or revising the rate schedule, the County Board may take into account all factors relevant to solid waste management and disposal. 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 service, including but not limited to depreciation and payment of principal and interest on money borrowed by the County for the acquisition or betterment of facilities.

Subsection 4. Appeals. Any property owner may appeal the charge if they believe the service charge imposed upon their property is incorrect. An appeal form may be obtained from the County Solid Waste Officer. The County Solid Waste Officer shall, within 30 days of receipt of the appeal, review the appeal and, after consultation with the County Board, notify the appellant by U.S. mail whether an adjustment is due and how much or whether the appeal is denied.

Subsection 5. Unpaid Charges. On or before October 15 in each year, the County Board shall certify to the County Auditor all unpaid outstanding charges and a description of the lands against which the charges 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 Minnesota Statutes, Section 279.03, subdivision 1, upon the tax rolls of the County for the taxes of the year in which the assessment is filed. For each year ending October 15, the assessment with interest shall be carried into the tax becoming due and payable in January of the following year, and shall be enforced and collected in the manner provided for the enforcement and collection of real property taxes in accordance with the provisions of the laws of the State. The charges, if not paid, shall become delinquent and be subject to the same penalties and the same rate of interest as the taxes under the general laws of the State.

Subsection 6. Service Area. The boundaries of the County shall constitute the boundaries of the solid waste management service area which are subject to the solid waste service charge.

SECTION VII ENFORCEMENT, INSPECTION AND ADMINISTRATION

Subsection 1. The County may inspect solid waste management facilities or any other property at any time to insure compliance with the provisions of this ordinance. A licensee shall be provided with written and documented notice of any deficiencies, recommendations for their correction and the date by which the corrections shall be accomplished. The licensee shall be required to allow free access to authorized representatives of the County, MPCA, or to authorized representatives

of any other governmental agency at any time for the purpose of making such inspections as may be necessary to determine compliance with the requirements of this ordinance, or any other applicable statute, ordinance or regulation.

Subsection 2. Warning Letter and Notice of Violation. A warning letter or a notice of violation, may be issued to the person alleged to have committed a violation of this ordinance prior to issuance of a citation under Subsection 3. A warning letter and a notice of violation shall serve to place the person alleged to have committed a violation on notice that compliance with specified County ordinance requirements must occur to avoid additional enforcement actions.

A written letter of warning may be issued by the County Solid Waste Officer to notify a party that it is in violation of a County ordinance. The warning letter will inform the party of the alleged violations, the nature and extent of the violations and the required corrective actions. The warning letter shall be utilized as the initial County notification of alleged violations, except in cases of imminent threat to public health and safety and the environment or repeated violations.

A formal written notice of violation may be issued by the County Solid Waste Officer to notify a party that it is in violation of a County ordinance. This notice will inform the party of the alleged violations, the nature and extent of the violations and the required corrective actions. The notice of violation shall also specify additional actions that will be taken by the County, as well as specific time frames in which these actions will be completed. The notice of violation may require persons to remove solid waste which was disposed without authorization and if not removed, provide for the removal of such solid waste at the property owner's or occupant's expense. The costs incurred by the County to remove the solid waste shall be a lien on the property and collected as a special assessment pursuant to Minnesota Statutes Section 351.18, Subd. 14.

Subsection 3. Citations. An authorized representative of the County through the County Solid Waste Officer 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.

- A. Issuance. Citations shall be issued to the person alleged to have committed the violation either by personal delivery or by registered or certified mail. In the case of a public, private or municipal corporation, the citation shall be issued to any officer or agent, expressly or impliedly authorized to accept such citation. Citations shall be made out in quadruplicate. One copy shall be issued to the person alleged to have committed the violation; one copy shall be filed with the County Solid Waste Officer; one copy shall be filed with the County Attorney's Office; one copy shall be filed with the District Court.

- B. Form. Citations shall be on such form(s) as approved by the County 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 occurs.
 2. The date 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 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 County District Court may specify.
- C. Appearance. The person charged with the violation shall appear at the place and on or before the date specified in the citation and either:
1. Pay the fine assigned to the violation ; or
 2. Schedule a court date for a hearing on the citation.
- D. Complaint. If the person charged with the violation fails to appear as required by the citation, the citation shall be referred to the County Attorney's Office for issuance of a summons and complaint.

Subsection 4. License Suspension.

- A. Suspension:
1. Any license issued under this ordinance may be suspended for violation of any provision of this ordinance. The license may be suspended by the County Board for a period not longer than sixty (60) days or until the violation is corrected.
 2. Such suspension shall not be effective earlier than ten (10) working days after written notice of suspension has been served on the licensee or, if a hearing is requested, until written notice 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, he must within ten (10) County working days, exclusive of the day of service, file a request for hearing.

If the licensee desires a hearing, the hearing request shall be in writing stating the grounds for appeal and served personally by registered or certified mail on the County by midnight of the 10th County working day following service. If the licensee fails to request a hearing within the above prescribed time, the licensee shall forfeit any right to a public hearing. Following receipt of a request for a hearing, the County Board shall set a time and place for the hearing. The hearing shall be conducted according to the procedures in Section VII, Subsection 6.

3. If, after the hearing, said suspension is upheld and the licensee has not demonstrated within the 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.

B. Summary Suspension:

1. If the County Solid Waste Officer finds that emergency action is required to avoid an imminent threat to the public health, safety or welfare and incorporates a finding to that effect in its order, summary suspension of license may be ordered by the County Solid Waste Officer upon notification of the County Attorney's Office and the County Board, subject to County Board ratification at its next meeting. Written notice of such summary suspension shall be personally served on the licensee, or shall be served by registered or certified mail to said licensee at the address designated in the license application. In addition, the County Solid Waste Officer may post copies of the notice of summary suspension of the license on the licensed facility or property being used for the licensed activity. Said posting shall constitute the notice required under this section.

2. The written notice in such cases shall state the effective date of the 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 he must, within ten (10) County working days, exclusive of the day of service, file a request for a hearing. The hearing request shall be in writing stating the grounds for appeal and served personally or by registered or certified mail on the County Board by midnight of the 10th County working day following service. Following receipt of a request for an appeal, the County shall set a time and a place for the hearing.
3. The summary suspension shall not be stayed pending an appeal, but shall be subject to dismissal upon a favorable reinspection by the County Solid Waste Officer subject to ratification by the County Board at its next meeting.

C. Reinspections and Dismissal of Suspension:

Upon written notification from the licensee that all violations for which a suspension or summary suspension was invoked have been corrected, the County Solid Waste Officer shall reinspect 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 County Solid Waste Officer finds upon such reinspection, that the violations constituting the grounds for the suspension have been corrected, the County Solid Waste Officer shall immediately dismiss the suspension subject to County Board ratification at its next meeting, by written notice to the licensee, served personally or by registered or certified mail at the address designated in the license application.

Subsection 5. License Revocation:

1. Any license granted pursuant to this ordinance may be revoked by the County Board for violation of any provision of this ordinance.
2. Revocation shall not occur earlier than ten (10) County working days from the time that written notice of revocation is served on the licensee or, if a hearing is requested, until written notice 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 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 have occurred and a statement that if the licensee desires to appeal, they must within ten (10) County working days, exclusive of the day of service, file a request for a hearing. If the licensee desires a hearing, the hearing request shall be in writing stating the grounds for appeal and served personally or by registered or certified mail on the County by midnight of the 10th County working day following service. If the licensee fails to request a hearing within the above prescribed time, the licensee shall forfeit any right to a public hearing. Following receipt of a request for a hearing, the County Board shall set a time and a place for the hearing. The hearing shall be conducted pursuant to the procedures in Section VII, Subsection 6.

Subsection 6. Hearings: Whenever a hearing is requested in regard to an application, renewal, suspension or revocation of a license, the hearing shall be governed by the following procedures:

- A. **Hearing Officer.** The County Board shall have the power to conduct public hearings pursuant to this subsection. By resolution, the County Board may appoint a hearing officer to assist the County Board. If a hearing officer conducts hearings on behalf of the County Board, the hearing officer shall submit to the County Board, in writing, findings of fact, conclusions of law and recommendations, and the County Board may base its decisions on this report.
- B. **Notice of Decisions.** The County Board shall notify the applicant or licensee in writing as to its decision within five (5) working days after a decision is reached.
- C. **Procedure.** All hearings held shall be conducted in the following manner:
 - 1. The entire proceedings shall be recorded.
 - 2. All testimony shall be sworn under oath.
 - 3. The rules of evidence shall be informal. All relevant evidence may be received, subject to the County Board's or hearing officer's discretion.
 - 4. The County shall present evidence first, including all testimony, exhibits, pictures, experts, and other types of evidence.

5. The applicant or licensee, or his counsel, if represented, may cross-examine all witnesses testifying in the proceedings.
6. The attorney for the County Board may cross-examine all witnesses testifying in the proceedings.
7. At the conclusion of the hearing, the matter may be taken under advisement by the County Board or hearing officer, if any.
8. The decision of the County Board shall be based on the evidence presented at the hearing before the County Board taking into consideration the findings of fact, conclusion of law and recommendations of the hearing officer, if any.
9. If the applicant or licensee fails to appear at the hearing, he shall forfeit any right to a public hearing before the County Board or the hearing officer.
10. Any applicant or licensee aggrieved by a decision of the County Board shall have the right to appeal to the County District Court on questions of law and fact within 30 days of the date of the decision.

Subsection 7. The County Solid Waste Officer shall be responsible for the administration and enforcement of this ordinance. The Officer's duties shall include, but not be limited to the following:

- A. To review and consider all license applications submitted to the County Board for operation of solid waste management facilities within the County and after consideration, to recommend to the County Board that a license be granted or denied.
- B. To issue renewal licenses when no changes in conditions or information from when the initial license was issued are identified by the licensee or come to the attention of the County Solid Waste Officer and the licensee is in full compliance with this ordinance.
- C. Inspect waste facilities and any other property as herein provided, and to investigate complaints of violations of this ordinance.

- D. To recommend, when necessary, to the County Attorney's Office that legal proceedings be initiated against a certain person, site or facility to compel compliance with the provisions of this ordinance or to terminate or abate operation of the same.
- E. To encourage and conduct studies, investigations and research relating to aspects of waste disposal such as methodology, chemical and physical considerations, and engineering.
- F. To advise, consult, and cooperate with other governmental agencies in the furtherance of the purposes of this ordinance.

SECTION VIII VIOLATIONS AND PENALTIES

Subsection 1. Misdemeanor: Any person who fails to comply with the provisions of this ordinance may be charged with 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.

Subsection 2. Equitable Relief: In the event of a violation or a threat of violation of this ordinance, the County Attorney may take appropriate action to enforce this ordinance including requesting injunctive relief, action to compel performance or other appropriate relief in County District Court, if necessary, to prevent, restrain, correct or abate such violations or threatened violations.

Subsection 3. Costs as Special Assessment: If a licensee, owner, or operator of a waste facility fails to comply with this ordinance, the County may take the necessary steps to correct such violations or terminate the facility. The County may recover all such costs incurred in taking corrective action in a civil action in any court of competent jurisdiction or such costs may be certified, at the discretion of the County Board, to the County Auditor as a special assessment against the real property pursuant to Minnesota Statutes. The assessment shall be enforced and collected in the manner provided for the enforcement and collection of real property taxes in accordance with state law. 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.

Subsection 4. Fees for Inspection and Investigation: The County Board may establish fees for inspection or investigation of properties to determine compliance with the terms of this ordinance. The fees established will take into account the County's cost to provide the service including personnel, data accumulation, administration and transportation.

SECTION IX VARIANCES

Upon written application, the County Board may grant variances from the requirements and standards prescribed by this ordinance in order to promote the effective and reasonable application and enforcement of the provisions of this ordinance.

SECTION X HAZARDOUS WASTE ORDINANCE: The provisions of this ordinance apply only to solid waste. The generation, storage, processing, treating, handling, transportation, or disposal of hazardous waste is governed by the provisions of the Minnesota Pollution Control Agency's Hazardous Waste Management.

SECTION XI RESTRICTIVE READING: 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 which establishes the more restrictive standards for the promotion and protection of the public health, safety and general welfare shall prevail.

SECTION XII ADDITIONAL REQUIREMENTS

For the purposes of protecting and providing for public health, safety and welfare, the County Board may impose additional requirements consistent with the intent of this ordinance for the operation of solid waste management facilities.

SECTION XIII SEPARABILITY

It is hereby declared to be the intention of the County Board that the several provisions of this ordinance are separable in accordance with the following:

Subsection 1. If any court of competent jurisdiction shall adjudge any provision of this ordinance to be invalid, such judgment shall not affect any other provisions of this ordinance not specifically included in said judgment.

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

SECTION XIV PROVISIONS ARE CUMULATIVE

The provisions in this ordinance are cumulative and are additional limitations upon all other laws and ordinances heretofore passed or which may be passed hereafter covering any subject matter in this ordinance.

SECTION XV NO CONSENT

Nothing contained in this ordinance shall be deemed to be a consent, license, or permit to locate, construct or maintain a site, facility or operation, or to carry on any activity except by strict adherence to the terms of the ordinance.

SECTION XVI CITY ORDINANCES

Nothing in this ordinance shall be construed to limit the authority of a city within the County to enforce the provisions of its own city ordinances within its jurisdiction at its own expense even if such ordinances are more restrictive than the County ordinance.

SECTION XVII EFFECTIVE DATE

This ordinance shall be in full force and effect from and after its passage and publication according to law.

SECTION XVIII REPEALER

The Douglas County Solid Waste Ordinance dated May 9, 1983, and its amendments are hereby repealed.

PASSED BY THE BOARD OF COUNTY COMMISSIONERS OF DOUGLAS COUNTY THIS 23 DAY OF October, 1996.

Paul Anderson
Chairman of the Douglas County Board

ATTEST:

Janice DeWitt
Douglas County Auditor

OFFICE OF COUNTY RECORDER } SS
County of Douglas, Minn.

I hereby certify that the within instrument was filed in this office for record on the 23rd day of Oct. A.D. 19 96 at 10:00 o'clock A. M. and was duly recorded as

Doc. No. 160423 MICROFILMED

County Recorder