

**TITLE V: ENVIRONMENTAL SERVICES**

Chapter

**50. SOLID WASTE MANAGEMENT**

**51. HAZARDOUS WASTE MANAGEMENT**

**52. SEWAGE TREATMENT SYSTEM**

**53. OPEN BURNING**

**54. FEEDLOT MANAGEMENT**

Archived Copy

## CHAPTER 50: SOLID WASTE MANAGEMENT

### Section

#### *General Provisions*

- 50.001 Purpose, scope and authority
- 50.002 Definitions
- 50.003 Adopted standards
- 50.004 Amended standards
- 50.005 Department rights and responsibilities
- 50.006 Licensee responsibilities
- 50.007 Service fees
- 50.008 Solid waste storage
- 50.009 Disposal requirements

#### *Hauling Requirements*

- 50.020 Operating and equipment standards
- 50.021 Recyclable material collection
- 50.022 Opportunity to recycle
- 50.023 Anti-scavenging
- 50.024 Residential recycling; mandatory
- 50.025 Commercial recycling; mandatory
- 50.026 Licensing and reporting requirements; collection
- 50.027 Base license
- 50.028 Operating license
- 50.029 Delivery requirements
- 50.030 Collection and transportation fees
- 50.031 Illicit collection
- 50.032 Licensing and reporting requirements; construction
- 50.033 Construction/demolition debris license

#### *Solid Waste Facilities*

- 50.045 Facilities covered
- 50.046 Exemptions
- 50.047 Licensing requirements

- 50.048 Preliminary application
- 50.049 Final application
- 50.050 Land disposal facilities
- 50.051 Waste combustors
- 50.052 MMSW compost facilities
- 50.053 Refuse derived fuel (RDF) facilities
- 50.054 Transfer stations and canister systems
- 50.055 Recycling facilities
- 50.056 Household hazardous waste temporary storage facilities
- 50.057 Waste tire transfer and storage facilities
- 50.058 Waste tire processing facilities
- 50.059 Yard waste composting facilities
- 50.060 Final application review process

***Special Wastes***

- 50.070 Yard wastes
- 50.071 Demolition debris
- 50.072 Waste tires
- 50.073 Household hazardous wastes
- 50.074 Major appliances
- 50.075 Infectious wastes
- 50.076 Industrial wastes
- 50.077 Batteries

***Administration and Enforcement***

- 50.090 Modifications
- 50.091 Citation authority
- 50.092 Suspension
- 50.093 Summary suspension
- 50.094 Suspension reinspection
- 50.095 Revocation
- 50.096 Hearings
- 50.999 Penalty

## **GENERAL PROVISIONS**

### **§ 50.001 PURPOSE, SCOPE AND AUTHORITY.**

(A) This chapter regulates the storage, transportation and disposal of solid waste materials in the county. If a local requirement is more restrictive than the requirement found in this chapter, the local requirement will supersede the county requirement. This chapter has been adopted by the Board of Commissioners to protect the public's health and prevent nuisance; to protect air and ground water resources; to minimize reliance upon land disposal capacity by promoting waste abatement such as recycling and composting; and to supplement and support the county's and state's controls over solid waste management activities.

(B) (1) This chapter establishes standards for the regulation of solid waste management activities and facilities in the county. This chapter requires that appropriate licenses be obtained from the county for the establishment and operation of solid waste management activities and facilities. This chapter is intended to support and promote the health, welfare and safety of the public pursuant to M.S. Chapters 115A, 145A, 375, 400 and 473, as they may be amended from time to time.

(2) This chapter incorporates and makes a part of its provisions previous amendments.

(C) These ordinances will be referenced as appropriate in this chapter.

(D) The county has the authority to adopt this chapter under M.S. § 145A.05, as it may be amended from time to time.  
(Ord. 4C, passed 11-14-00)

### **§ 50.002 DEFINITIONS.**

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**AGENCY.** The Minnesota Pollution Control Agency or MPCA.

**APPLIANCE.** The same meaning as **MAJOR APPLIANCE**.

**BASE COUNTY.** The metropolitan county in which a hauler's office, records and vehicles are primarily located. If differing parts of the hauler's business are located in more than one metropolitan county, the **BASE COUNTY** shall be the metropolitan county in which most of the vehicles are kept as determined by the Department. The **BASE COUNTY** for haulers based in a county not participating in the regional licensing program shall be an adjacent metropolitan county, as determined by the Department.

**BASE LICENSE.** The license obtained by the hauler from the base county, as a precondition to obtaining an operating license from the county or other counties.

**BRUSH DISPOSAL FACILITY.** A site used exclusively for disposal in or on the land of trees and tree parts including stumps, branches and their attached leaves. The disposal may include open burning and burial of the resulting ash and unburned tree parts.

**CANISTER SYSTEM.** A facility, usually to serve the public, where solid waste is deposited in mechanically serviced containers as an intermediate step of congregating municipal solid waste from several properties for periodic removal of the accumulated waste by a commercial hauler.

**CLOSURE.** Action to prevent or minimize the threat to public health and the environment posed by a facility that no longer accepts the solid waste for which it operated or was permitted, including the removal of contaminated equipment, the removal of liners, applying final cover, grading and seeding final cover, installation of monitoring devices, construction of ground and surface water diversion structures and gas control systems as necessary.

**COMMERCIAL HAULER.** Any person who owns, operates or leases vehicles for the purpose of contracting to collect or transport solid waste from residential, commercial or industrial properties.

**COMPOST FACILITY.** 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.

**COMPOSTING.** The controlled microbial degradation of organic waste to yield a humus-like product.

**CONSTRUCTION DEBRIS.** Waste building material, packaging and rubble resulting from construction, remodeling and repair.

**COUNTIES.** Anoka, Carver, Dakota, Hennepin, Ramsey and Washington Counties or, if one or more of the counties withdraws from the regional hauler licensing program, the remaining counties.

**COUNTY.** The County of Carver, Minnesota, or any department or representative of the county who is authorized by this chapter or otherwise by the County Board to represent the county in the administration or enforcement of this chapter.

**COUNTY BOARD.** The elected officers composing the Board of Commissioners.

**DEMOLITION DEBRIS.** Solid waste resulting from the demolition of buildings, roads and other manmade structures, including but not limited to materials such as concrete, brick, bituminous concrete, untreated wood, masonry, glass, rock and plastic building parts. **DEMOLITION DEBRIS** does not include asbestos wastes.

**DEMOLITION LAND DISPOSAL FACILITY.** An area of land used for the disposal of demolition debris.

**DEPARTMENT.** The County Department of Environmental Services or a designee of the Environmental Services Department. **DEPARTMENT** shall also mean the county agency assigned the responsibility to administer the regional hauler licensing program in the county.

**DISPOSAL.** The meaning given it in M.S. § 115A.03(10), as it may be amended from time to time.

**DUMPING.** The discharge, deposit, injection, spilling, leaking or placing of any solid 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 water, including ground water.

**END MARKET.** A facility or business which utilizes source separated recyclable materials to generate new products or materials.

**FACILITY.** All contiguous land, structures, monitoring devices and other improvements on the land used for monitoring, processing, storing or disposing of solid waste, leachate or residuals from solid waste processing.

**FARM.** A parcel of land that is at least ten acres in size used for the production of livestock, dairy animals, dairy products, poultry and poultry products, fur bearing animals, horticultural and nursery stock which is under M.S. §§ 18.44 to 18.61, as they may be amended from time to time, fruit of all kinds, vegetables, forage, grains, bees and apiary products.

**FIRE MARSHAL.** The State Fire Marshal or the Chief of the Fire Department in a municipality that has adopted the Uniform Fire Code of the state.

**FLOODPLAIN.** Any land that is subject to a 1% or greater chance of flooding in any given year from any source.

**GARBAGE.** Discarded material resulting from the handling, processing, storage, preparation, serving and consumption of food.

**GROUND WATER.** The meaning given in Minn. Rules Part 7035.0300, as it may be amended from time to time.

**HAULER.** Any person, firm, corporation, association, partnership or other entity, other than an individual resident hauling his or her household waste, who collects or transports mixed municipal solid waste that is generated in the counties.

***HAZARDOUS WASTE.***

(1) As defined in M.S. § 116.06, as it may be amended from time to time, any refuse, sludge or other waste material or combinations or refuse, sludge or other waste materials in solid, semi-solid, 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.

(2) Categories of hazardous waste material 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.

***INCINERATION.*** The process of burning wastes for the purpose of volume and weight reduction in facilities designed for the use.

***INDUSTRIAL SOLID WASTE.*** All solid waste generated from an industrial or manufacturing process and solid waste generated from an industrial or manufacturing process and solid waste generated from non-manufacturing activities such as service and commercial establishments. ***INDUSTRIAL SOLID WASTE*** does not include office materials, restaurant and food preparation waste, discarded machinery, demolition debris or household refuse.

***LEACHATE.*** Liquid that has percolated through solid waste and may have extracted dissolved or suspended materials from it.

***LICENSE.*** Express written permission as granted by the County Board to engage in solid waste management activities.

***LICENSEE.*** A person who has been issued a license by the County Board for solid waste management purposes pursuant to this chapter.

***MAJOR APPLIANCE.*** Clothes washers and dryers, dishwashers, hot water heaters, residential furnaces, garbage disposals, trash compactors, conventional and microwave ovens, ranges and stoves, air conditioners, dehumidifiers, refrigerators, freezers and other devices that may be added to the definition consistent with changes in M.S. § 115A.03, as it may be amended from time to time.

***MIXED MUNICIPAL SOLID WASTE*** or ***MMSW.*** Garbage, refuse and other solid waste from residential, commercial, industrial and community activities that the generator aggregates for collection,

but does not include auto hulks, street sweepings, ash, construction debris, mining waste, sludges, tree and agricultural wastes, tires, lead acid batteries, used oil and other materials, collected, processed and disposed of as separate waste streams.

**MIXED MUNICIPAL SOLID WASTE LAND DISPOSAL FACILITY.** A sanitary landfill used for the disposal of mixed municipal solid waste in or on the land.

**MUNICIPALITY.** A city, village, borough, county, town, sanitary district, school district or other governmental subdivision or public corporation, or agency created by the legislature.

**NOTICE OF VIOLATION.** A formal written notice issued by the Department to notify a party that he or she 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 Department, such as the inclusion of NOV orders into a final order or consent order and/or the issuance of a citation, as well as specific timeframes in which these actions will be completed.

**NUISANCE.** A use of property or course of conduct that interferes with the legal rights of others by causing damage, annoyance or inconvenience.

**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.

**OPERATING COUNTY.** Any of the counties, including the base county, in which the hauler collects or transports mixed municipal solid waste.

**OPERATING LICENSE.** The license issued by an operating county to operate within each operating county, including the base county, in which the hauler collects or transports mixed municipal solid waste and which may contain specific conditions imposed by the issuing county.

**OPERATOR.** The person responsible for the overall operation of a 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.

**PERSONNEL or FACILITY PERSONNEL.** All persons who work at or oversee the operation of a solid waste facility, and whose actions or failure to act may result in noncompliance with the requirements of this chapter.

**POST-CLOSURE and POST-CLOSURE CARE.** Actions taken for the care, maintenance and monitoring of a facility after closure that will prevent, mitigate or minimize the threat to public health and environment posed by the closed facility.

**PUTRESCIBLE MATERIAL.** Solid waste which is capable of being rotten or which may reach a foul state of decay or decomposition.

***RECYCLABLE MATERIALS.***

(1) Materials that are separated from mixed municipal solid waste for the purpose of recycling, including, but not limited to paper, glass, plastics, tin, aluminum, cardboard, magazines, high grade paper, metals, automobile oil and batteries.

(2) Refuse derived fuel or other material that is destroyed by incineration is not a ***RECYCLABLE MATERIAL.***

***RECYCLING FACILITY.*** A site used to separate, process, modify, convert or otherwise prepare solid waste so that component materials or substances may be beneficially used or reused as raw materials.

***REFUSE.*** Putrescible and non-putrescible solid wastes, including garbage, rubbish, ashes, incinerator ash, incinerator residue, street cleanings and market and industrial solid wastes, and including municipal treatment wastes which do not contain free moisture.

***REGIONAL HAULER LICENSING PROGRAM.*** The cooperative hauler licensing program established by joint powers agreement of February 1, 1995, by and between Anoka, Carver, Dakota, Hennepin, Ramsey and Washington Counties.

***RESIDENCE.*** Any building or portion thereof used as a dwelling or sleeping area for people.

***RESOURCE RECOVERY FACILITY.*** A waste facility established and used primarily for the reclamation for sale, use or reuse of materials, substances, energy or other products contained within or derived from waste.

***SALVAGE YARD.*** An open area where waste, stored or secondhand materials are bought, sold, exchanged, stored, baled, packed, disassembled or handled, including but not limited to: scrap iron and other metals, paper, rags, rubber, tires and bottles. A ***SALVAGE YARD*** includes an auto wrecking yard but does not include uses established entirely within enclosed buildings.

***SANITARY LANDFILL.*** A land disposal facility employing any engineering method of disposing of solid waste on land in a manner that minimizes environmental hazards by spreading the solid waste in thin layers, compacting the solid waste into the smallest practical volume and applying cover material at the end of each operating day, or at intervals as may be required by the Agency.

***SEWAGE SLUDGE.*** The meaning given it in M.S. § 115A.03(29), as it may be amended from time to time.

**SLUDGE.** Any solid, semi-solid or liquid waste generated from a municipal, commercial or industrial waste water treatment plant, water supply treatment plant or air contaminant treatment facility, or any other waste having similar characteristics and effects.

**SOLID WASTE.** Garbage, refuse, demolition debris, 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. Except where specified otherwise, it includes elements of a waste stream which have been source separated for recycling purposes. It does not include hazardous waste, animal waste used as fertilizer, earthen fill, boulders, rock, sewage sludge, solids or dissolved material in domestic sewage or dissolved materials in irrigation return flows or other common pollutants in water resources, such as silt. It does not include dissolved or suspended solids in industrial waste water effluents or discharges which are point sources subject to permits under Section 402 of the Federal Waste Pollution Control Act, as amended. It also does not include source, special nuclear or by-product materials as defined by the Atomic Energy Act of 1954, as amended.

**SOLID 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 waste. It includes but is not limited to the storage, collection, transportation, processing and reuse, conversion or disposal of solid waste in a safe, environmentally sound manner.

**SOLID WASTE MANAGEMENT COORDINATING BOARD** or **SWMCB.** The joint powers board established by the agreement of the counties for the coordination of solid waste management issues in the metropolitan area.

**SOLID WASTE MASTER PLAN.** The solid waste master plan for the county, as generated and implemented in accordance with M.S. § 473.803, as it may be amended from time to time.

**SOLID WASTE TRANSPORTATION.** The conveying of solid waste from one place to another, by means of vehicle, rail car, water vessel, conveyor or other means.

**SOURCE SEPARATED RECYCLABLE MATERIALS.** Those elements of a waste stream which are separated by the generator for reuse in their original form or for use in manufacturing processes.

**STATE.** The State of Minnesota.

**TIRE.** A pneumatic tire or solid tire for motor vehicles as defined in M.S. § 169.01, as it may be amended from time to time.

**TIRE PROCESSING.** Producing or manufacturing usable materials, including fuel, from waste tires including necessary incidental temporary storage activity.

**TRANSFER STATION.** A facility in which solid waste from collection vehicles is concentrated for subsequent transport. A **TRANSFER FACILITY** may be fixed or mobile.

**UNPROCESSABLE MIXED MUNICIPAL SOLID WASTE.** Mixed municipal waste which can not be processed at a given resource recovery facility as documented by the operator of the resource

recovery facility.

**UNPROCESSED MIXED MUNICIPAL SOLID WASTE.** Mixed municipal solid waste which, between collection and land disposal, has not been delivered to and managed by a resource recovery facility.

**WARNING LETTER.** A written notice issued by the Department to notify a party that he or she is in violation of a county ordinance. If a **WARNING LETTER** is issued, it shall be utilized as the initial county notification of alleged violations, except in cases of imminent threat to the public health and safety or the environment. The **WARNING LETTER** will inform the party of the alleged violations, the nature and extent of the violations, and the required corrective actions.

**WASTE INCINERATOR.** A facility in which solid waste is burned for the purpose of volume and weight reduction.

**WASTE TIRE.** The meaning assigned by M.S. § 115A.90, as it may be amended from time to time.

**WASTE TIRE PROCESSING FACILITY.** A licensed waste facility used for the shredding, slicing or producing or manufacturing usable materials from waste tires, and may include temporary storage activity at the facility. Processing does not include the retreading of waste tires.

**WASTE TIRE STORAGE FACILITY.** A facility permitted by the Agency to store up to 500,000 waste passenger tires or the equivalent weight of other waste tires.

**WASTE TIRE TRANSFER FACILITY.** A facility permitted by the Agency to store up to 10,000 waste passenger tires or the equivalent weight of other waste tires.

**YARD WASTE.** The garden wastes, leaves, lawn cuttings, weeds and prunings generated at residential or commercial properties.  
(Ord. 4C, passed 11-14-00)

### **§ 50.003 ADOPTED STANDARDS.**

Minn. Rules Parts 7035.0300 to 7035.2875, 9220.0200 to 9220.0300 and 9220.0450 to 9220.0510 inclusive, relating to solid waste and waste tire management, respectively, as they may be amended from time to time, are hereby adopted by reference and made a part of this chapter, as amended.  
(Ord. 4C, passed 11-14-00)

**§ 50.004 AMENDED STANDARDS.**

The above adopted rules are hereby amended as follows:

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

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

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

(D) The terms “Minnesota” or “State of Minnesota” shall be held to mean “Carver County.”

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

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

(Ord. 4C, passed 11-14-00)

**§ 50.005 DEPARTMENT RIGHTS AND RESPONSIBILITIES.**

(A) The Department shall have the right to administer this chapter.

(B) The Department’s rights shall include, but shall not be limited to those described in this section:

(1) Routine inspection and evaluation of solid waste management activities, sites or facilities shall be made by the Department. An applicant and the licensee shall allow free access to the Department; provided that the entrance and activity is undertaken after reasonable notice and during normal business hours as provided in M.S. § 115A.882, as it may be amended from time to time, for the purpose of making the inspections as may be necessary to determine compliance with the requirements of this chapter, or any other applicable statute, or for the purpose of making written and documented notice of any deficiencies or recommendations for their correction and the date by which corrections shall be accomplished.

(2) It will be the responsibility of Department staff to receive complaints from county residents regarding solid waste issues. Department staff shall have the right to investigate these complaints and pursue the necessary enforcement activities which may include, but are not limited to: issue orders to suspend or stop actions which constitute a violation of this chapter; recommend that legal proceedings

be initiated by the county to compel compliance with the provisions of this chapter; and advise, consult and cooperate with the public, the Board of Commissioners and other governmental agencies in the furtherance of this chapter.

(3) The Department shall have the right to recommend, when necessary, to the County Attorney's Office, that legal proceedings be initiated against a certain solid waste management activity, or facility.

(4) The Department shall have the right to encourage and conduct studies, investigations and research relating to aspects of solid waste management, such as methodology, chemical and physical considerations and engineering.

(5) The Department shall have the right to advise, consult and cooperate with other governmental agencies in the furtherance of the purposes of this chapter.

(6) The Department shall have the right to prepare and negotiate agreements with responsible parties to address the closure and post-closure requirements for licensed and unlicensed solid waste facilities.

(C) It will be the responsibility of Department staff to perform solid waste planning activities. These activities will include the following: meeting Metropolitan Council and state reporting and planning requirements, working with other counties to evaluate and/or plan regional facilities and/or operations, planning and/or evaluating facilities and/or operations within the county. The primary issues to be addressed in planning activities are waste reduction, MMSW processing/disposal, source separation/recycling, yard waste composting, household hazardous waste management and waste education.

(D) (1) The Department has the right to license solid waste haulers and solid waste processing facilities, as established in M.S. § 473.811, as it may be amended from time to time. Department staff shall have the right to perform or oversee work to license solid waste haulers and solid waste facilities. Department staff shall have the right to enforce compliance with solid waste licenses issued by the county. Department staff shall have right to pursue actions required to enforce compliance with solid waste licenses issued by the county.

(2) The Department shall have the right to issue or deny solid waste licenses and to impose solid waste management activity, site or facility specific conditions on the licenses.

(E) It will be the responsibility of Department staff to administer county solid waste programs. These programs encompass the following activities: waste reduction, source separation/recycling, yard waste composting, household hazardous waste management and waste education.

(F) It will be the responsibility of Department staff to perform and/or oversee activities pertaining to the processing and/or disposal of solid waste generated within the county. These activities shall also include negotiation and execution of contracts with solid waste management facilities.

(G) It will be the responsibility of Department staff to provide recommendations to the Board regarding the following: planning issues, facility development, solid waste program development, solid waste processing/disposal, budgeting allocation, licensing and vendor selection.

(Ord. 4C, passed 11-14-00)

**§ 50.006 LICENSEE RESPONSIBILITIES.**

(A) The licensee's responsibilities shall include, but shall not be limited to those described in this section.

(B) The licensee shall be responsible for compliance with all of the provisions of this chapter and all applicable state and federal statutes and rules promulgated thereunder.

(C) The licensee shall allow the Department free access to the solid waste management activity, site or facility, provided the entrance and activity is undertaken after reasonable notice and during normal business hours, except as provided in M.S. Chapter 115A, as it may be amended from time to time. For the purpose of making inspections as may be necessary to determine compliance with the requirements of this chapter or any other applicable statute, ordinance or regulation.

(D) The licensee shall allow the Department and the County Board and their designees access to records required under M.S. § 115A.882, as it may be amended from time to time, MPCA Solid Waste Management Rules Parts 7001.3500(3)(A) and 7035 concerning the operation of a solid waste management activity or facility.

(E) (1) No licensee shall operate any solid waste management activity or facility, or dispose of, or permit to be disposed, any solid wastes in a manner as to degrade the soil, air or waters or the county.

(2) Any licensee who causes any degradation of the soil, air or waters of the county shall undertake whatever action is necessary to correct the degradation and restore the soil, air or waters to its condition prior to its degradation.

(F) The licensee shall be responsible for facilitating all environmental monitoring, including but not limited to water, soil and landfill gases, which are required by this chapter or the license conditions for the applicable solid waste management activity or facility.

(G) 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 the negligent or intentional acts the licensee, its officers, agents or employees or the failure of the licensee to comply with the provisions of this chapter and which are not otherwise payable from the insurance and financial assurance required by this chapter.

(Ord. 4C, passed 11-14-00)

## **§ 50.007 SERVICE FEES.**

(A) (1) The purpose of the service fees shall be to raise funds for programs and efforts which protect environmental resources and which help the county ensure compliance with state law. State law establishes recycling and processing goals and mandates other waste management programs which counties have the responsibility of meeting and implementing.

(2) This section is enacted pursuant to M.S. §§ 473.811 and 400.08, as they may be amended from time to time, which grant the county the authority to establish and determine the boundaries of solid waste management service areas in the county and to charge properties within the service area a service fee. The boundaries of the county shall constitute the boundaries of the solid waste management service area.

(B) (1) The county shall impose a service charge for solid waste management services provided to the various parcels of land in the county, and the charges shall result in an assessment payable with the real estate taxes or other manners as determined by the County Board of Commissioners. The method of billing, the amount of the charge and the system of assessing the charge to the various parcels of land in the county shall be determined and adjusted by ordinance of the County Board Commissioners.

(2) On or before October 15 in each year, the County Board shall certify to the County Auditor all unpaid outstanding service fee 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 M.S. § 279.03(1), as it may be amended from time to time, upon the tax rolls of the county for the taxes of the year in which the assessment was 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.

(3) The County Board, by ordinance, may establish or revise the 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.

(4) In establishing or revising the rate schedule, the Board may take into account all factors relevant to solid waste management and disposal. The factors include, but are not limited to the character, kind and quality of service and of solid waste, the method of disposition, the number of people served at each place of collection and all other factors that enter into the cost of providing service including, but not limited to public education, solid waste planning, recycling programs, industrial waste management, solid waste management facilities, operating and debt service cost.

(5) Unpaid charges assessed to tax exempt properties may be collected in Small Claims Court or through other means as may be approved by the County Attorney.

(6) Any property owner who believes that the service charge imposed upon his or her property is incorrect, may appeal the charge. An appeal form may be obtained from the Environmental Services Department Office and shall be filed within 30 days of mailing the service charge statement by the county.

(7) The Environmental Services Director shall, within 30 days of receipt of the appeal, review the appeal and notify the appellant by U.S. mail whether an adjustment is due and how much, or whether the appeal is denied.

(8) An appellant whose appeal has been denied or who is unsatisfied with the decision of the Environmental Services Director, may request that the Carver County Board of Commissioners further review the appeal. The request for further review shall be submitted to the Environmental Services Department within 30 days of the notice of decision on the original appeal. A form for this request must be obtained from and filed with the Environmental Services Department.

(9) The County Board of Commissioners shall, within 30 days of receipt of the appeal, review the appeal and notify the appellant by U.S. mail of a decision on the appeal.

(C) As established in M.S. § 400.08(4)(c), as it may be amended from time to time, the county shall have the authority to impose an assessment upon waste collection fees which commercial haulers charge residents and businesses. This rate may be set by resolution by the Board and may be utilized to augment or replace the property assessment mechanism for the county.  
(Ord. 4C, passed 11-14-00)

#### **§ 50.008 SOLID WASTE STORAGE.**

(A) (1) Except as otherwise allowed by this chapter, owners and managers of every property shall be responsible for maintaining the property and any structures on the property free of improperly stored solid waste accumulations. This includes removal of: animal feces; animal carcasses; inoperable machines, appliances, fixtures; and equipment of damaged, deteriorated or obsolete condition; broken furniture, boxes, crates and other debris; any other form of solid waste.

(2) Nothing in this section is designed to restrict the commonly accepted activities of farms and salvage yard operations provided that materials and wastes are stored in a pollution and nuisance free manner and in compliance with other county ordinances and the regulations of federal, state and local governments and their regulatory agencies.

(B) (1) Every property must be supplied with adequate mixed municipal solid waste (MMSW) storage containers. These containers must be provided by the owner of the property or by contract with

a commercial hauler. The owner of the property will use the containers for MMSW storage. If the property owner does not occupy the property, he or she will cause the occupant or tenant to use the containers for MMSW storage.

(2) All MMSW storage containers shall be of sound construction resistant to insect or animal entry. Containers will be constructed with rust and impact resistant materials and will be equipped with tight-fitting covers. The property owner is responsible for maintaining containers in a neat, clean, sanitary and leak-resistant condition. If the container is supplied by a commercial hauler, the commercial hauler shall ensure that the container is leak resistant.

(3) For non-farm properties, the property owner shall cause the contents of all MMSW containers to be removed for processing/disposal no less frequently than once every 15 calendar days. Non-putrescible source-separated recyclable materials may be stored in containers without collection for longer than 15 calendar days on non-farm properties.

(4) For farm properties, the property owner shall cause the contents of all MMSW containers to be removed for processing/disposal no less frequently than once every 30 calendar days for MMSW provided that the storage does not result in nuisance or pollution problems. Non-putrescible source-separated materials may be stored in containers without collection for longer than 30 calendar days on farm properties.

(C) (1) If the location of storage is different than the location of set-out for collection, containers may not be set out for collection for more than 24 hours.

(2) For a resident with collection service in a rural area who sets out containers for collection on a public road, containers must be placed on the shoulder of the roadway.

(3) These containers must be placed on the edge of the shoulder furthest from the roadway.

(D) If a commercial hauler terminates service to an account due to delinquent payment, the commercial hauler shall notify the Department of this action within one month of the termination so that the Department may determine the potential for public health or pollution problems resulting from the lack of collection services at the property.

(Ord. 4C, passed 11-14-00)

#### **§ 50.009 DISPOSAL REQUIREMENTS.**

(A) (1) No person shall use or allow land under his or her ownership and/or control to be used for solid waste disposal purposes, except at an operation for which a license for disposal has been granted by the Board.

(2) All disposal of solid waste must be in accordance with applicable county ordinances and Agency rules. No person may dispose of a waste at an area or a facility which is not licensed for accepting that waste.

(3) Consistent with M.S. § 115A.99(1), as it may be amended from time to time, a person who unlawfully places any portion of solid waste in or on public or private lands, shorelands, roadways or waters is subject to a civil penalty of not less than twice nor more than five times the amount of cost incurred by a state agency or political subdivision to remove, process and dispose of the waste. A state agency or political subdivision that incurs cost as described in this section may bring an action to recover the civil penalty, related legal, administrative and court costs, and damages for injury to or pollution of the lands, shorelands, roadways or waters where the waste was placed if owned or managed by the entity bringing the action. Civil penalties collected under this subsection must be deposited in the general fund of the jurisdiction enforcing the penalties.

(4) A private person may join an action by the state or a political subdivision to recover a civil penalty to allow the person to recover damages for waste unlawfully placed on the person's property.

(5) A person may be subject to a civil penalty for each disposal offense. A separate offense shall be deemed committed for each day on which a violation occurs or for each day during which a violation continues.

(B) Yard waste cannot be disposed of in land disposal or MMSW processing, except composting, facilities unless that facility is specifically licensed or permitted to accept yard waste by the Agency and any local government having licensing jurisdiction. Yard waste can not be deposited at a transfer station unless there is a licensed compost area at the facility or the material will be transferred to a licensed facility.

(C) Lead acid batteries may not be disposed of in the MMSW stream. Used lead acid batteries must be accepted by retailers who sell new lead acid batteries.

(D) Dry cell batteries containing mercuric oxide, silver oxide or nickel cadmium are recyclable and may not be disposed of in the MMSW stream.

(E) Used motor oil may not be disposed of at any MMSW processing or land disposal facility.

(F) Major appliances may not be disposed of at land disposal facilities.

(G) No other waste or material banned from land disposal or MMSW processing facilities by state statute after the adoption date of this chapter may be disposed of or processed at these facilities.

(Ord. 4C, passed 11-14-00) Penalty, see § 50.999

## ***HAULING REQUIREMENTS***

### **§ 50.020 OPERATING AND EQUIPMENT STANDARDS.**

(A) (1) All solid waste which is hauled must be secured in covered, leak-proof vehicles or containers such that loads will not blow free or discharge liquids from the hauling vehicle.

(2) Where spillage does occur, the material will be picked up immediately by the hauler or solid waste transporter. Spillage that cannot be immediately and completely cleaned up must be reported to the Department.

(B) All vehicles or containers which are used to haul solid waste on a regular basis must be kept clean and free of residues of the waste material so as to minimize problems associated with odors, animals and insects.

(C) No one shall collect or transport solid waste that is smoking, smoldering or burning, except in a container designed and approved by the Fire Marshal and the Department for that purpose.

(D) (1) Not including non-putrescible source-separated recyclable materials, solid waste may not be stored in any type of collection or transportation vehicle for a period of more than 48 hours. This period may be extended up to 72 hours if the waste can not be disposed of or processed due to a legal holiday being celebrated on a Friday or Monday.

(2) Non-putrescible source-separated recyclable materials may be stored in collection and/or transportation vehicles for no longer than seven calendar days.

(E) No solid waste collection or transportation vehicle which is not thoroughly cleaned and free of waste residues may be parked outdoors within 500 feet of a commercial or residential structure not owned by the owner or the operator of the vehicle for more than two hours unless the Department has been notified and has approved a longer duration.

(F) All relevant Minnesota Department of Transportation (MNDOT) and Minnesota Department of Health (MDH) requirements regarding equipment, operations and inspections and all applicable local, state and federal regulations must be met.

(Ord. 4C, passed 11-14-00)

### **§ 50.021 RECYCLABLE MATERIAL COLLECTION.**

(A) The hauler must provide a service, either directly or through written subcontract with a person or company approved by the Department as a condition to the license, to collect four broad categories of recyclable materials and yard wastes from all single-family residential, all multiple-family residential

and commercial and industrial customers within incorporated areas. Paper and corrugated fiberboard must be collected from commercial, industrial and institutional customers when requested by the customer. Additional recyclable materials may be added to this by resolution of the Board after the effective date of this section. All licensed haulers shall be given 120 days' advance notice in writing of the proposed additional recyclable material and shall be notified in writing 15 calendar days in advance of the time and date of the County Board meeting at which time a decision will be rendered. Notice shall be deemed given by mail via general delivery, to the mailing address identified on the most recent license application or renewal form on file in the Department.

(B) The hauler may specify the type of container their customer must place the recyclables in. The containers must be provided by the hauler or already available to a customer at the time this chapter provision becomes effective.

(C) The hauler must specify the time and day of collection that their customers are to place their recyclables out on their property for pickup. The hauler must collect the recyclables within 12 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 other location mutually agreeable to the hauler and the customer.

(D) The hauler may specify how a customer is to place their recyclables out for collection and how the recyclables are to be prepared. The County Environmental Director reserves the right to review and modify the amount of preparation required by the hauler in consideration of local recyclable market requirements.

(E) The hauler must collect recyclables from each customer at least twice per month unless normal solid waste collection service is provided less frequently than weekly, in which case the frequency of recyclable collection shall be the same as refuse collection.

(F) The hauler is assumed to own the recyclables they have collected and may market them as they see fit. However, a hauler may not dispose of any recyclables in or on the land, nor through incineration unless given prior written approval to do so by the Environmental Director.

(G) (1) The hauler must submit an annual report to the Department, on or before January 31 of each year for the previous calendar year, identifying the weight in tons of all recyclables and all other disposable solid wastes collected from county customers. If tonnage is unavailable for disposable solid waste, cubic yards shall be reported.

(2) The annual report must identify the weight of each type of recyclable collected.

(H) The hauler must demonstrate to the Department at the time of license application and at time of annual license renewal how they will provide both an incentive to their customers to reduce the amount of waste generated and an incentive to recycle the materials designated by the County Board.

Examples of compliance with this section include, but are not limited to volume based collection fees and/or credit equal to the reduction in tip fee realized through removal of the amount a customer is recycling.

(I) Municipalities or townships within the county that contract with haulers must contract only with a hauler who is licensed by the county. Contracts must also be consistent with the provisions in this section.

(J) Solid waste haulers shall not mix source-separated materials with mixed municipal solid waste or handle source-separated materials in any way that reduces the reusability or marketability of the source-separated material.  
(Ord. 4C, passed 11-14-00)

#### **§ 50.022 OPPORTUNITY TO RECYCLE.**

(A) For all residential generators where the hauler contracts for services directly with the generator, the hauler shall provide to the generator the opportunity to recycle, as described in § 50.021.

(B) The owner/manager of multi-family residential units shall offer recycling services to their tenants including a convenient location to store recycled material.

(C) No mixed municipal solid waste collector shall impose a greater fee on a resident who recycles than on a resident who does not recycle.

(D) The licensed hauler shall provide for the collection of at least the following materials: newspaper; clear, brown and green glass containers; tin cans; and aluminum beverage cans, cardboard, plastics, magazines and high grade paper.

(E) The hauler must notify the customer if materials are contaminated or not sorted correctly. The notification must be in writing stating the violation and corrective measures and it must be presented at the time of collection.  
(Ord. 4C, passed 11-14-00)

#### **§ 50.023 ANTI-SCAVENGING.**

(A) (1) Ownership of the separated recyclable materials set out by a customer for collection by the hauler shall be vested in the hauler servicing the person who is recycling. It shall be unlawful and an offense against this chapter for any person other than the hauler or the owner, lessee or occupant of a residential dwelling or commercial/industrial business, to pick up the separated recyclable materials set out for collection.

(2) The person shall obtain written permission from the Department and from the hauler servicing the accounts where the recyclables are set out for collection.

(B) The Board of Commissioners may establish and require that additional types of recyclable materials be collected, that multi-family, commercial and industrial generators be provided collection services, that the frequency of collection from any type of generator be increased or decreased, and that recycling services be offered to generators in the unincorporated areas of the county. These additional requirements may be established by resolution of the County Board at the beginning of each license year.

(Ord. 4C, passed 11-14-00) Penalty, see § 50.999

#### **§ 50.024 RESIDENTIAL RECYCLING; MANDATORY.**

(A) This section shall be effective upon action by the County Board.

(B) It shall be unlawful for any owner or occupant of a residential or multi-unit residential building to generate and deposit for collection mixed municipal solid waste that contains any of the following recyclable materials:

- (1) Beverage containers;
- (2) Glass recyclables;
- (3) Newsprint; and

(4) Other materials that may be designated by the County Board unless the waste is directly delivered or collected for direct delivery to a facility that has been approved by the county for separation of recyclable material.

(Ord. 4C, passed 11-14-00) Penalty, see § 50.999

#### **§ 50.025 COMMERCIAL RECYCLING; MANDATORY.**

(A) This section shall be effective upon action by the County Board.

(B) It shall be unlawful for any owner or occupant of a commercial building to generate or deposit for collection mixed municipal solid waste that contains any of the following recyclable materials:

- (1) Beverage containers;
- (2) Glass recyclables;
- (3) Paper recyclables;

(4) Other material that may be designated by the County Board unless the waste is directly delivered or collected for direct delivery to a facility that has been approved by the county for separation of recyclable materials.  
(Ord. 4C, passed 11-14-00) Penalty, see § 50.999

#### **§ 50.026 LICENSING AND REPORTING REQUIREMENTS; COLLECTION.**

(A) (1) A person that collects construction debris, industrial waste or mixed municipal solid waste for transportation to a waste facility shall disclose to each waste generator from whom waste is collected the name, location and type of, and the number of the permit issued by the agency, or its counterpart in another state, if applicable, for the processing or disposal facility, excluding a transfer station, at which the waste will be deposited. The collector shall note both the primary facility at which the collector most often deposits waste and any alternative facilities regularly used by the collector.

(2) A collector shall make the disclosure to the waste generator in writing at least quarterly or on any written contract for collection service for that year. If an additional facility becomes either a primary facility or an alternative facility during the year, the collector shall make the disclosure within 30 days.

(3) Haulers shall also supply to the Department copies of any disclosure the hauler has provided to any generator under this section. The hauler shall also provide on a monthly basis a completed copy of the load reports for each load of mixed municipal solid waste collected within the county, as described herein.

(B) A person hauling source-separated recyclable materials shall document to the county the recycling facilities or end markets to which all materials are delivered. This documentation shall be submitted on forms to be provided or approved by the Department and shall include the presentation of weigh tickets or other documentation that specifies the weight or volume of materials accepted at the appropriate recycling facilities or end markets. Completed forms shall be submitted to the Department on a monthly basis.

(C) No hauler shall collect or transport mixed municipal solid waste generated in the county, unless the hauler has a valid base license and a valid county operating license. On the expiration date of the current license, any activity for which the license is required shall cease.

(D) The hauler shall submit a completed application to the base county on forms provided by the base county. The hauler shall submit to the base county all license application information necessary to obtain a base license and all operating licenses. Information necessary to obtain base and operating licenses shall be set forth on the application forms, as determined by the Department. Applications which are not complete may be returned to the hauler. An application will be deemed incomplete if information is omitted, incomplete, inaccurate or non-compliant, or if required fees do not accompany the application.

(E) If an application for a base or operating license is not complete or otherwise does not conform to the requirements set forth in this chapter, the Department shall notify the applicant, in writing, of the reasons for non-acceptance and may request that the applicant resubmit, modify or otherwise alter the application. The notification required in this section shall be served upon the applicant by first class mail sent to the address provided on the application form.

(F) The hauler shall pay to the base county all license fees for a base license and all operating licenses issued pursuant to the regional hauler licensing program. The license fees shall be established by the Solid Waste Management Coordinating Board. No license fee shall be prorated for a portion of a year and no license fee shall be refunded.

(G) Complete applications submitted after the due dates specified herein shall be subject to the following late fees:

- (1) One to seven days late: 25% late fee.
- (2) Eight to 30 days late: 50% late fee.
- (3) Thirty-one or more days late: 100% late fee.

(H) Payment of the license fee together with payment of any late payment penalty shall not bar other enforcement action by the county.

(I) Hauler license renewal applications must be submitted to the base county by April 30 each year. A hauler license renewal application received after April 30 shall be subject to a late fee.

(J) If the base county does not act on a license renewal application, which is complete and submitted by June 30, the current base license and operating licenses shall continue in force until the base county takes action on the application. A reapplication shall also be accompanied by the late fees imposed pursuant to division (H) above. If the Department fails to act within 60 days of receipt of a properly completed initial application or a renewal application that is received after the due date, the applicant may request a hearing on the application. The request for a hearing shall be governed hereby.

(K) If the Department denies a license to an applicant, the applicant shall be notified of the denial in writing. The writing shall be served personally or by certified mail upon the applicant at the address provided in the application. The writing shall state the basis for the denial and shall provide notice to the applicant that if an appeal is desired, a written request for a hearing must be received by the Department within 15 calendar, 5 county working, days following service of the denial, exclusive of the day of service. Upon receipt of a request for hearing, the Department shall set a time and place for the hearing. The hearing shall be conducted pursuant to the procedures set forth herein.

(L) All base licenses and operating licenses are nontransferable.

(M) The license year shall be July 1 through June 30.

(N) Base and operating licenses shall be issued by the Department consistent with this chapter.

(O) All persons collecting mixed municipal solid waste in the county must maintain records

regarding each load collected and/or delivered. The required information shall include but may not be limited to origin of waste, amount and type by percentage. The information shall be recorded on load report forms that are provided by the Department. The load reports shall be submitted to the Department by the seventh day of the following month.

(Ord. 4C, passed 11-14-00)

#### **§ 50.027 BASE LICENSE.**

(A) A hauler which collects mixed municipal solid waste generated in the county shall obtain and maintain a base license from the base county. A hauler which collects or transports mixed municipal solid waste generated in any of the counties shall obtain and maintain a base license from the county, if the county is the hauler's base county.

(B) All vehicles used by the hauler for the collection or transportation of mixed municipal solid waste generated within the counties shall be included in the hauler's base license application.

(C) Each vehicle used by a hauler for the collection or transportation of mixed municipal solid waste generated within the counties shall be identified by a license decal issued for that vehicle during the current license year. The hauler must affix the decal in a conspicuous place on the left side of the cab of the vehicle for which it was issued as directed by the Department. The hauler must maintain the license decal so that it is readily visible and legible at all times. Any vehicle not bearing the required decal shall be considered unlicensed. If a vehicle is put into service during the license year, the hauler shall submit the required information for this vehicle to the base county and shall not use the vehicle to collect or transport mixed municipal solid waste within the counties until a decal has been issued and affixed to the new vehicle.

(D) The hauler shall obtain and submit certificates of insurance issued by insurers duly licensed by the state providing the following coverage, or a self-insurance plan certified by the State Commissioner of Commerce for providing equivalent coverage.

(1) General liability coverage in the amount of \$1,000,000 for bodily injury per occurrence, \$300,000 for property damage per occurrence, or \$1,000,000 combined single limit; and

(2) Automobile liability coverage in the amounts of \$1,000,000 for property damage, \$300,000 for bodily injury per person and \$1,000,000 for bodily injury per accident, or \$1,000,000 combined single limit.

(3) Workers compensation insurance in accordance with M.S. Chapter 176, as it may be amended from time to time.

(E) (1) Nothing in this provision shall prohibit a hauler from providing insurance with limits higher than the limits provided herein.

(2) All required policies shall name the Solid Waste Management Coordinating Board, Anoka, Carver, Dakota, Hennepin, Ramsey and Washington Counties as additional insured. Before the license shall be issued, the licensee shall agree to hold the additional insured harmless and shall agree to defend and indemnify the additional insured, and the additional insured's employees and agents, for any claims, damages, losses, and expenses related to the work under the license. The licensee's contract of insurance shall be the primary insurance for the additional insured and the licensee or insurance company shall provide a certificate of insurance which verifies the existence of the insurance required, including provisions to hold the additional insured harmless and defend and indemnify the additional insured. All policies and certificates shall be endorsed to require that the insurer provide at least a 60-day written notice to the county prior to the effective date of policy cancellation, non-renewal or material adverse change in coverage terms. The hauler shall maintain insurance in compliance with this paragraph throughout the term of the base license.  
(Ord. 4C, passed 11-14-00)

#### **§ 50.028 OPERATING LICENSE.**

(A) Any hauler which collects or transports mixed municipal solid waste in the county must obtain and maintain an operating license from the county. A hauler shall obtain and maintain a base license from the base county in order to be eligible for an operating license. Suspension or revocation of a hauler's base license by the base county shall result in the summary suspension of the hauler's operating license issued by the county. Revocation or suspension of the base license shall constitute sufficient basis for summary suspension of the county operating license in accordance herewith.

(B) All vehicles used by the hauler for the collection or transportation of mixed municipal solid waste within the county shall be included in the hauler's base license application to the base county. The hauler shall affix a decal as required by the base county in a conspicuous place on the left side of the cab of the vehicle for which it was issued as directly by the base county. The hauler must maintain the license decal so that it is readily visible and legible at all times. Any vehicle not bearing the required decal shall be considered unlicensed.

(C) The business name and telephone number of the hauler shall be printed or painted in legible characters on both sides of all vehicles or containers used by the hauler to store, collect or transport mixed municipal solid waste in the county. The characters shall be at least four inches in height for all vehicles and at least two inches in height for all containers. This provision shall not apply to containers owned and maintained by a solid waste generator.

(D) The issuance of an operating license shall be subject to the provision of county ordinances and any other conditions set forth in this chapter or established by the Board of Commissioners.  
(Ord. 4C, passed 11-14-00)

#### **§ 50.029 DELIVERY REQUIREMENTS.**

As established in M.S. § 473.848, as it may be amended from time to time, a person may not

dispose of unprocessed MMSW at land disposal facilities in the metropolitan area unless:

- (A) The waste has been certified as unprocessable by the county;
  - (B) The waste has been transferred to the disposal facility from a resource recovery facility;
  - (C) No resource recovery facility is capable of processing the waste; or
  - (D) The receiving resource recovery facility certifies the waste as unprocessable.
- (Ord. 4C, passed 11-14-00)

#### **§ 50.030 COLLECTION AND TRANSPORTATION FEES.**

(A) A commercial hauler shall submit proposed residential rates for Board approval at the time of his or her license issuance or annual re-issuance. Rates and charges shall be volume-based for all customers including residential customers. These rates must accurately reflect volume or weight based cost differentials to haulers for their tip fee costs at disposal or processing facilities.

(B) Commercial haulers must not impose greater charges on residents who recycle than on those who do not recycle.

(Ord. 4C, passed 11-14-00)

#### **§ 50.031 ILLICIT COLLECTION.**

No person other than the licensed hauler authorized to collect and haul source separated recyclable materials from a given property shall collect any materials from the property. The owner or resident of the property is exempt from this restriction.

(Ord. 4C, passed 11-14-00)

#### **§ 50.032 LICENSING AND REPORTING REQUIREMENTS; CONSTRUCTION.**

(A) Licensed haulers must comply with applicable local, state and federal regulations along with all relevant MNDOT and MDH requirements regarding equipment, operations and inspections.

(B) No hauler shall collect or transport construction/demolition waste generated in the county unless the hauler has a valid county construction/demolition operating license. On the expiration date of the current license, any activity for which the license is required shall cease.

(C) (1) The hauler shall submit to the county all license application information necessary to obtain a construction/demolition operating license. Information necessary to obtain a construction/demolition operating license shall be set forth on the application form as determined by the Department.

(2) Applications which are not complete may be returned to the hauler. An application will be deemed incomplete if information is omitted, incomplete, inaccurate or noncompliant, or if required fees do not accompany the application.

(D) If an application for a construction/demolition operating license is not complete or otherwise does not conform to the requirements set forth in this chapter, the Department shall notify the applicant, in writing, of the reasons for non-acceptance and may request that the applicant resubmit, modify or otherwise alter the application. The notification required in this section shall be served upon the applicant by first class mail sent to the address provided on the application form.

(E) The hauler shall pay to the county all license fees for a construction/demolition operating licenses. License fees will not be required for those trucks licensed under the regional mixed municipal solid waste collection and transportation program. No license fee shall be prorated for a portion of a year and no license fee shall be refunded.

(F) Payment of the license fee together with payment of any late payment penalty shall not bar other enforcement action by the county.

(G) Hauler license renewal applications must be submitted to the county by April 30 each year. A hauler license renewal application received after April 30 shall be subject to a late fee.

(H) If the county does not act on a license renewal application, which is complete and submitted by April 30, the current construction/demolition operating license shall continue in force until the county takes action on the application. A license renewal shall also be accompanied by the late fees imposed pursuant hereto. If the Department fails to act within 60 days of receipt of a properly completed initial application or a renewal application that is received after the due date, the applicant may request a hearing on the application. The request for a hearing shall be governed hereby.

(I) If the county denies a license to an applicant, the applicant shall be notified of the denial in writing. The writing shall be served personally or by certified mail upon the applicant at the address provided in the application. The writing shall state the basis for the denial and shall provide notice to the applicant that if an appeal is desired, a written request for a hearing must be received by the Department within 15 calendar days following service of the denial, exclusive of the day of service. Upon receipt of a request for hearing, the Department shall set a time and place for the hearing. The hearing shall be conducted pursuant to the procedures set forth herein.

(J) All construction/demolition operating licenses are nontransferable.

(K) The license year shall be July 1 through June 30.

(L) Construction/demolition operating licenses shall be issued by the Department consistent with this chapter.

(M) All persons collecting construction or demolition debris in the county must maintain records regarding each load collected and/or delivered. The required information shall include but may not be limited to origin of waste, amount and type by percentage. The information shall be recorded on load report forms that are provided by the Department. The load reports shall be submitted to the Department by the seventh day of the following month.  
(Ord. 4C, passed 11-14-00)

### **§ 50.033 CONSTRUCTION/DEMOLITION DEBRIS LICENSE.**

(A) A hauler which collects construction or demolition debris generated in the county shall obtain and maintain a construction/demolition license.

(B) All vehicles used by the hauler for the collection or transportation of construction or demolition waste generated within the county shall be included in the hauler's mixed municipal waste base license application or the construction/demolition license.

(C) Each vehicle used by a hauler for the collection or transportation of construction/demolition debris within the counties shall be identified by a license decal issued for that vehicle during the current license year. The hauler must affix the decal in a conspicuous place on the left side of the cab of the vehicle for which it was issued as directed by the Department. The hauler must maintain the license decal so that it is readily visible and legible at all times. Any vehicle not bearing the required decal shall be considered unlicensed. If a vehicle is put into service during the license year, the hauler shall submit the required information for this vehicle to the county and shall not use the vehicle to collect or transport construction/demolition debris within the county until a decal has been issued and affixed to the vehicle.

(D) The hauler shall obtain and submit certificates of insurance issued by insurers duly licensed by the state providing the following coverage, or a self-insurance plan certified by the State Commissioner of Commerce for providing equivalent coverage:

(1) General liability coverage in the amount of \$1,000,000 for bodily injury per occurrence, \$300,000 for property damage per occurrence, or \$1,000,000 combined single limit;

(2) Automobile liability coverage in the amounts of \$1,000,000 for property damage, \$300,000 for bodily injury per person and \$1,000,000 for bodily injury per accident, or \$1,000,000 combined single limit; and

(3) Workers compensation insurance, in accordance with M.S. Chapter 176, as it may be amended from time to time.

(E) Nothing in this provision shall prohibit a hauler from providing insurance with limits higher than the limits provided herein. The county shall be listed as additional insured. Before the license shall be issued, the licensee shall agree to hold the additional insured harmless and shall agree to defend and indemnify the additional insured, and the additional insured's employees and agents, for any claims, damages, losses, and expenses related to the work under the license. The licensee's contract of insurance shall be the primary insurance for the additional insured and the licensee or insurance company shall provide a certificate of insurance which verifies the existence of the insurance required, including provisions to hold the additional insured harmless and defend and indemnify the additional insured. All policies and certificates shall be endorsed to require that the insurer provide at least a 60-day written notice to the county prior to the effective date of policy cancellation, non-renewal or material adverse change in coverage terms. The hauler shall maintain insurance in compliance with this division throughout the term of the construction/demolition license.

(F) The issuance of an operating license shall be subject to the provision of county ordinances and any other conditions set forth in this chapter or established by the Board of Commissioners. (Ord. 4C, passed 11-14-00)

## ***SOLID WASTE FACILITIES***

### **§ 50.045 FACILITIES COVERED.**

(A) No person may operate one or more of the following types of facilities, except as licensed by the county:

- (1) Land disposal facilities:
  - (a) Mixed municipal solid waste;
  - (b) Demolition debris; and
  - (c) Industrial solid waste.
- (2) MMSW processing and resource recovery facilities:
  - (a) Waste incinerators;
  - (b) Compost facilities; and
  - (c) Refuse derived fuel facilities.
- (3) Transfer stations and canister systems;

- (4) Recycling facilities;
- (5) Household hazardous waste temporary storage facilities;
- (6) Waste tire transfer and storage facilities;
- (7) Waste tire processing facilities; and
- (8) Yard waste composting sites.

(B) Land application sites for sludge or liquid wastes from industrial processes, water supply treatment facilities or air treatment facilities shall be licensed by the county. The county licensing procedures and operating requirements for these types of sites are established herein.

(C) Solid waste management facilities not otherwise provided for in this chapter must be licensed by the Board of Commissioners. Application and license requirements shall be established by resolution of the Board of Commissioners.

(Ord. 4C, passed 11-14-00) Penalty, see § 50.999

#### **§ 50.046 EXEMPTIONS.**

The Board may, by resolution, waive any of the license requirements established in this chapter for publicly-owned facilities.

(Ord. 4C, passed 11-14-00)

#### **§ 50.047 LICENSING REQUIREMENTS.**

(A) The required sequence for a person wishing to attain a solid waste facility license from the Board is:

- (1) Local zoning approval;
- (2) Preliminary county approval through the procedure established in § 50.048;
- (3) Agency approval; and

(4) All agency technical standards will apply for the county licensing review and approval, except where requirements in this chapter are more restrictive.

(B) Issuance or renewal of any license pursuant to the provisions of this chapter shall be contingent upon the applicant furnishing to the county a bond in an amount to be set by the Board. This bond shall

name the county as obligee with sufficient sureties duly licensed and authorized to transact business in the state as sureties. The condition of the bond shall be that, if the licensee fails to comply with any requirements or fails to perform any of the acts required of a facility or ceases to operate a facility, any monies or expend any labor or material to restore the operation or facility to a condition in compliance with this chapter, the bond holder and the sureties on its bond shall reimburse the county for any and all expenses incurred by the county to remedy failure of the licensee to comply with the terms of this chapter, and the bond holder and its sureties shall indemnify and save the county harmless from all losses, costs and charges that may occur to the bond holder or its sureties because of any default of the licensee under the terms of the bond terms to operate in compliance with the terms of the ordinances of the county.

(C) Issuance or renewal of any license pursuant to the provisions of this chapter shall be contingent upon the applicant securing insurance, and furnishing to the county a copy of a certificate therefor, the following types of insurance issued to the licensee by insurers duly licensed within the state and in amounts to be set by the Board: general liability including, but not limited to, bodily injury, property damage, motor vehicle or other insurance such as workers compensation, required by state or county law. Before the license shall be issued, the licensee shall agree to hold the additional insured harmless and shall agree to defend and indemnify the additional insured, and the additional insured's employees and agents, for any claims, damages, losses and expenses related to the work under the license. The licensee's contract of insurance shall be the primary insurance for the additional insured and the licensee of insurance company shall provide a certificate of insurance which verifies the existence of the insurance required, including provisions to hold the additional insured harmless and defend and indemnify the additional insured. The general liability insurance shall be in at least the amount of \$300,000 per claim with a maximum amount of at least \$1,000,000 for any number of claims in a single occurrence.

(D) Issuance or renewal of any license pursuant to the provisions of this chapter shall be contingent upon the applicant paying the annual renewal fee for that license in the amount set by the Board by resolution.

(E) Renewal of any license pursuant to the provisions of this chapter shall be contingent upon the applicant submitting any information required in the license application that has changed since the previous submittal or additional information as may be required by the Department.

(F) Any license granted by the Board under the provisions of this chapter may be suspended or revoked by the Board at any time for noncompliance with the provisions of the license, this chapter or applicable state laws or rules, as provided hereby.

(G) Routine inspection and evaluation of an operation shall be made by the Department at a frequency as to ensure consistent compliance by the licensee with the provisions of this chapter. The licensee shall be provided with a written inspection report containing a precise description of any deficiencies, recommendations for the correction thereof and the date when the corrections shall be accomplished. Copies of the report shall be furnished to the agency. The licensee shall allow to

authorized representatives of the county or the agency access to the facility at any time for purpose of making inspections as may be necessary to determine compliance with the requirements of this chapter, and any other applicable statute, ordinance or rule.

(Ord. 4C, passed 11-14-00)

#### **§ 50.048 PRELIMINARY APPLICATION.**

(A) Any person wishing to submit an application for license of an MMSW facility in the county must first submit the following information as a preliminary application:

- (1) Name and address of the project proposer and site selected for the proposed project;
- (2) Geographic area and population to be served by the proposed project;
- (3) A description of the process and expected life of the facility;
- (4) The anticipated type, quantity and source of materials to be handled in the proposed facility;
- (5) A description of the residues or waste discharges from the proposed facility and the environmental safeguards which will be incorporated into the project;
- (6) The anticipated hours of operation of the proposed facility and the resulting truck traffic;
- (7) A description of the adequacy of existing roadways to support the proposed facility;
- (8) A description of the availability or lack thereof of similar facilities in the county or region and how the proposed facility will be compatible with the county solid waste master plan; and
- (9) Additional information as may be required by the Department.

(B) After receipt of a preliminary application, Department staff will review the information and give a non-binding recommendation to the Board concerning whether a final application should be made.

(C) If a negative determination is made, the applicant shall be notified in writing of the reasons by the Board denied approval of the preliminary application. A denial shall be without prejudice to the applicant's right to an appearance before the Board or to the applicant's right to file a further preliminary application after revisions are made to satisfy objections specified as reasons for the denial.  
(Ord. 4C, passed 11-14-00)

**§ 50.049 FINAL APPLICATION.**

(A) Once a proposed project has received preliminary approval through the preliminary application process described herein and has received approval from the agency, the applicant for licensure of a solid waste facility must submit three copies of the solid waste facility permit application documents prepared for the agency permit or permit by rule process to the Department.

(B) Along with the agency permit application, the proposer must submit the following items to the Department:

- (1) An operating schedule;
- (2) A schedule of fees to be charged at the facility;
- (3) A notarized affidavit, signed by the proposer, stating that the applicable local governments have been given at least 30 days' notice of the application for the facility license;
- (4) A certificate from the county zoning or relevant City Administrator that the proposed facility land use is in accordance with the established county or city zoning ordinance;
- (5) Sufficient documentation to enable the Board to determine whether the applicant is financially and operationally capable to properly process the projected waste types and amounts in the proposed facility;
- (6) Monthly reports, provided by the county, shall be submitted to the Department by the fifteenth day of the following month; and (The reports shall include but may not be limited to the following information: total yards of solid waste received, the tons of each solid waste component requiring disposal, the name and type of each disposal or processing facility receiving waste and the tons of recyclable materials collected and delivered to markets or other recycling facilities.)
- (7) Additional information as may be required by the Department.

(Ord. 4C, passed 11-14-00)

**§ 50.050 LAND DISPOSAL FACILITIES.**

All agency design and operating requirements as established in the applicable Minnesota Rules must be met for county licensing approval.

(Ord. 4C, passed 11-14-00)

**§ 50.051 WASTE COMBUSTORS.**

All agency design and operating requirements as established in the applicable Minnesota Rules must be met for county licensing approval.  
(Ord. 4C, passed 11-14-00)

**§ 50.052 MMSW COMPOST FACILITIES.**

All agency design and operating requirements as established in the applicable Minnesota Rules must be met for county licensing approval.  
(Ord. 4C, passed 11-14-00)

**§ 50.053 REFUSE DERIVED FUEL (RDF) FACILITIES.**

All agency design and operating requirements as established in the applicable Minnesota Rules must be met for county licensing approval.  
(Ord. 4C, passed 11-14-00)

**§ 50.054 TRANSFER STATIONS AND CANISTER SYSTEMS.**

(A) The following information must be part of the documents submitted with the final application for a transfer station facility:

- (1) Facility design and layout, including equipment configuration;
- (2) Storage capacity of the facility;
- (3) Final disposal point of waste managed at the facility;
- (4) On-site traffic patterns;
- (5) Operating plan; and
- (6) Recycling and composting areas and operations, if any.

(B) Transfer station and canister systems design and operations must comply with agency requirements, as established in Minn. Rules Part 7035.2865, as it may be amended from time to time.  
(Ord. 4C, passed 11-14-00)

**§ 50.055 RECYCLING FACILITIES.**

(A) All agency design and operating requirements as established in Minn. Rules Part 7035.2845, as it may be amended from time to time, must be met for county licensing approval.

(B) It will be a license requirement that the owner of a recycling facility submit monthly documentation of the tonnage of materials processed and marketed as part of that facility's operations. The owner of a recycling facility shall also submit the MPCA annual report for that facility to the Department within 30 calendar days of submittal to the MPCA.

(Ord. 4C, passed 11-14-00)

**§ 50.056 HOUSEHOLD HAZARDOUS WASTE TEMPORARY STORAGE FACILITIES.**

All household hazardous waste collection, storage and management activities must be in accordance with applicable agency rule requirements.

(Ord. 4C, passed 11-14-00)

**§ 50.057 WASTE TIRE TRANSFER AND STORAGE FACILITIES.**

(A) All applicable design and operating requirements as established in Minn. Rules Parts 9220.0440 through 9220.0510, as they may be amended from time to time, for waste tire transfer and storage facilities must be met for county licensing approval and renewal.

(B) Proposers of waste tire transfer and storage facilities must submit documentation which indicates the ultimate disposal points intended for the accumulated tires.

(Ord. 4C, passed 11-14-00)

**§ 50.058 WASTE TIRE PROCESSING FACILITIES.**

(A) All applicable design and operating requirements as established in Minn. Rules Parts 9220.0440 through 9220.0510, as they may be amended from time to time, for waste tire processing facilities must be met for county licensing approval and renewal.

(B) Proposers of waste tire processing facilities must submit documentation which indicates how the facility process product will be marketed and/or utilized.

(Ord. 4C, passed 11-14-00)

**§ 50.059 YARD WASTE COMPOSTING FACILITIES.**

(A) The following information must be part of the documents submitted with the final application for a yard waste composting facility:

- (1) Site location map indicating surrounding land use and contours;
- (2) Site layout, including compost areas, traffic patterns, storage areas and drainage;
- (3) Operations plan;
- (4) Compost product marketing plan; and
- (5) Operating hours and anticipated fees.

(B) All agency design and operating requirements must be met for licensing approval. Additional requirements are as follows:

(1) The compost site must have controlled access which will be closed during nonoperating hours.

(2) The site must be regularly managed in a manner as to minimize nuisance and odor problems.

(Ord. 4C, passed 11-14-00)

**§ 50.060 FINAL APPLICATION REVIEW PROCESS.**

(A) After receipt of a final application, the Department shall review the information and give their recommendation to the Board concerning whether a license should be issued.

(B) (1) A public hearing before the Board is required prior to the issuance of a license for a solid waste facility, and that proceeding is governed hereby.

(2) Notice of the time, place and proposed project shall be given by publication in the official newspaper of the county at least ten days before the hearing. Written notice shall be sent to property owners of record within 1/4-mile of the project site, or to the ten properties nearest to the project site, whichever would provide notice to the greatest number of property owners.

(3) Written notice shall also be given to the board of town supervisors where the site is located, and the council of any municipality and/or town of supervisors of another township within two miles of the proposed project site.

(C) The Board shall refuse to issue a license for any facility which does not comply with county ordinance, state laws and rules and the county's solid waste master plan, as provided for in state statutes. If a license application is denied, the applicant shall be notified in writing of the reasons for a determination. A denial shall be without prejudice to the applicant's right to an appearance before the Board or to the applicant's right to file a further final application after revisions are made to satisfy objections specified as reasons for the denial.

(D) The Board shall either approve or deny a license application within 60 calendar days of receipt of the complete final license application.  
(Ord. 4C, passed 11-14-00)

### ***SPECIAL WASTES***

#### **§ 50.070 YARD WASTES.**

(A) Yard waste may not be disposed of at a MMSW disposal or processing facility, unless that facility has a designated yard waste compost area which has been licensed by the county or has received an exemption from this requirement from the agency and the county.

(B) License and operating requirements for yard waste composting sites are established herein.

(C) Yard waste composting sites maintained by individual residents or businesses for wastes generated solely from the residence or business occupying the property the composting site is located on do not have to be licensed by the county. However, the following requirements must be met:

(1) Compost sites must be maintained in an orderly and nuisance-free manner.

(2) A compost pile may not be located less than five feet from a property line of the property upon which the compost pile is operated. A compost pile may not be located closer to the primary residential structure a neighboring property than to the primary residential structure of the property upon which the compost pile is operated.

(Ord. 4C, passed 11-14-00)

#### **§ 50.071 DEMOLITION DEBRIS.**

Licensing, design and operating requirements for demolition land disposal facilities are established herein.

(Ord. 4C, passed 11-14-00)

**§ 50.072 WASTE TIRES.**

(A) All storage, transportation and processing of waste tires in the county must comply with agency requirements. License requirements for waste tire transfer and storage facilities are found herein. License requirements for tire processing facilities are found herein.

(B) Tires may not be disposed of in land disposal facilities.

(C) Retailers generating more than 100 waste tires per year must keep logs of amounts of tires generated and method used to dispose of those tires. Logs must be periodically submitted to the agency for review.

(D) All properties being used to store more than ten used passenger tires or the equivalent weight of other used tires must be permitted by the agency with the following exemptions:

- (1) Tire retail businesses which store no more than 500 waste tires on the business' premises;
- (2) Retreading businesses which store no more than 3,000 waste tires on the business' premises;
- (3) Businesses which routinely remove tires which store no more than 500 tires on the business' premises; and
- (4) Agency-permitted sanitary land disposal or transfer stations at which no more than 10,000 waste tires are stored.

(E) (1) A person using waste tires on an agricultural site for legitimate agricultural purposes may accumulate more than 10 used tires provided that specific approval is obtained from the county and that nuisance and pollution problems do not occur or threaten to occur as a result of the accumulation of these tires. Accumulation of more than 50 used tires shall require approval by the Board of Commissioners. A person requesting approval shall submit to the Department the reason for the accumulation, a description of agricultural practice the tires are needed for, the number of tires needed for the practice, a detailed description of the method and location that will be used to store the tires to prevent nuisance and pollution problems from occurring, and a plan for the proper management of the tires should the practice be discontinued.

(2) Any tires stored as part of an agricultural operation must be sliced to prevent collection of water or be stored in an enclosed structure.

(F) Any person who transports waste tires for hire is required to, have an agency waste tire identification number which authorizes him or her to perform this service. A transporter must submit quarterly reports to the agency documenting quantity, source and disposal point of all tire loads. The following are exempt from the requirement to have an agency identification number and submit quarterly reports:

- (1) A MMSW and/or source-separated recyclable materials hauler transporting incidental quantities of waste tires;

- (2) A person transporting ten or fewer waste tires;
- (3) A person transporting tire-derived products to a market;
- (4) A person transporting waste tires for agricultural purposes; and/or
- (5) A business that generates and transports its own waste tires.

(G) No more than ten waste tires may be stored on a non-farm residential lot. These tires must be stored in an enclosed structure.

(H) A business not directly related to tire sales or tire retreading may not store more than 100 waste tires on the business premises.

(I) The owner of a property which is in violation of the terms of this section must bring the property into compliance within one year of the effective date of this chapter.  
(Ord. 4C, passed 11-14-00)

#### **§ 50.073 HOUSEHOLD HAZARDOUS WASTES.**

(A) License requirements for household hazardous waste temporary storage facilities are found herein.

(B) (1) In accordance with M.S. § 116.07(4)(k), as it may be amended from time to time, the owner of an MMSW disposal or processing facility must generate a management plan for the separation of household hazardous waste from MMSW prior to disposal or processing and for the proper disposal of the waste.

(2) The agency will not grant or renew a permit for a facility which has not submitted a household hazardous waste management plan.

(3) This plan must include:

(a) Participation in public education activities on household hazardous waste entering the facility;

(b) A strategy for reduction of household hazardous waste entering the facility; and

(c) A plan for the storage and disposal of separated household hazardous waste.

(Ord. 4C, passed 11-14-00)

#### **§ 50.074 MAJOR APPLIANCES.**

(A) All handling, management and processing of major appliances must be in accordance with agency rules and other provisions of this chapter.

(B) A person may not place major appliances in mixed municipal waste or dispose of them in a

MMSW processing or disposal facility.

(C) The following are required to remove and recycle, destroy or properly dispose of chlorofluorocarbons or CFC's:

- (1) Processors of scrap refrigerators, central air conditioning units and freezers; and
- (2) Servicers of in-use refrigerators, central air conditioning units and freezers.

(D) A person who removes, stores or transports capacitors is considered a PCB generator and must obtain an EPA hazardous waste generator identification number.

(E) A person processing major appliances must be either be:

- (1) A salvage yard operator licensed under Chapter 151 of this code; and/or
- (2) A major appliance retailer and/or wholesaler.

(F) (1) No more than 50 scrap major appliances may be stockpiled per parcel of land for persons who process major appliances as a business operation. These stockpiles may not be visible from the nearest roadway.

(2) No more than five major appliances may be stockpiled per parcel of land for persons who do not process major appliances as a business operation. These stockpiles may not be visible from the nearest roadway and may not create public health or nuisance problems.

(Ord. 4C, passed 11-14-00)

#### **§ 50.075 INFECTIOUS WASTES.**

(A) All storage and handling of infectious waste materials must be in accordance with state requirements, as established in M.S. §§ 116.75 to 116.83 and Minn. Rules Parts 7035.9100 to 7035.9150, as they may be amended from time to time.

(B) Infectious waste generators must separate infectious waste from the rest of the waste stream and ensure that this infectious waste is properly containerized. Infectious waste generators must prepare infectious waste management plans to be submitted to the State Department of Health.

(C) Commercial haulers of infectious wastes must be licensed with MNDOT and the MDH. Commercial haulers of infectious waste must prepare infectious waste management plans to be submitted to the MDH.  
(Ord. 4C, passed 11-14-00)

**§ 50.076 INDUSTRIAL WASTES.**

As is required in Minn. Rules Part 7001.3300, as it may be amended from time to time, all MMSW processing, disposal and transfer facilities must have industrial waste management plans.  
(Ord. 4C, passed 11-14-00)

**§ 50.077 BATTERIES.**

(A) All storage, handling and disposal of batteries must be in accordance with state rules and statutes.

(B) (1) Lead acid batteries may not be disposed of in mixed municipal solid waste. Violation is a misdemeanor.

(2) Dry cell batteries containing mercuric oxide, silver oxide or nickel cadmium are recyclable and may not be disposed of in municipal solid waste.

(C) A retail establishment which sells lead acid batteries must accept used lead acid batteries from consumers at no charge. Consumers may not deliver more than five lead acid batteries to an establishment at one time.

(D) A consumer purchasing a lead acid battery without a used lead acid battery to return at the point of sale must pay a surcharge of \$5 as part of the purchase. This surcharge will be refunded to the consumer should the consumer return a used lead acid battery within 30 days of the initial purchase.

(E) A lead acid batteries retailer must recycle batteries collected from consumers. Any outlet failing to recycle these batteries is guilty of a misdemeanor.  
(Ord. 4C, passed 11-14-00)

## ***ADMINISTRATION AND ENFORCEMENT***

### **§ 50.090 MODIFICATIONS.**

(A) The Board may waive or modify the strict application of the provisions of this chapter by reducing or waiving certain requirements when the requirements are unnecessary or impractical, or by imposing additional requirements when the requirements necessary to reduce risk of harm to persons, property or the environment.

(B) No modification or waiver may be granted if it would result in noncompliance with Minn. Rules applicable to the operation of the facility or activity, unless the modification or waiver has been approved or granted by the agency.  
(Ord. 4C, passed 11-14-00)

### **§ 50.091 CITATION AUTHORITY.**

(A) A notice of violation or a warning letter, as defined, may be issued to a person alleged to have committed a violation hereof, prior to issuance of a citation.

(B) An authorized representative of the Department shall have the power to issue citations for violations of this chapter, but shall not be permitted to physically arrest or take into custody any violator, except on a warrant duly issued.

(1) Citations shall be issued to the person alleged to have committed the violation either by personal delivery or by registered or certified mail. In case of public, private or municipal corporation, the citation shall be issue to any officer or agent, expressly or impliedly authorized to accept the issuance.

(2) 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 Department; one copy shall be filled with the County Attorney's Office; one copy shall be filed with the District Court, First Judicial District.

(3) Citations shall be on forms as approved by the Department and shall contain at least the following:

(a) 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;

(b) The date and place of violation;

(c) A short description of the violation followed by reference to the section of this chapter violated;

(d) The name of person issuing the citation;

(e) The date and place at which the person receiving the citation shall appear and a notice that if the person does not respond, a warrant may be issued for the person's arrest;

(f) Other information, as the court may specify.

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

(a) Pay the fine assigned to the violation; or

(b) Schedule a court date for a hearing on the citation.

(5) 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.

(Ord. 4C, passed 11-14-00)

#### **§ 50.092 SUSPENSION.**

(A) Any license required under this chapter may be suspended by the Board for violation of any provision of this chapter. Upon written notice to the licensee the license may be suspended by the Board for a period not longer than 60 days or until the violation is corrected.

(B) The suspension shall not occur earlier than ten county working days after written notice of suspension has been served on the licensee or, if a hearing is requested, until written notice of the 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. The 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 a licensee desires to appeal, he or she must, within ten 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 Department by midnight of the tenth county working day following service. Following receipt of a request for a hearing, the Department shall set a time and place for the hearing.

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

(Ord. 4C, passed 11-14-00)

**§ 50.093 SUMMARY SUSPENSION.**

(A) (1) If the Department finds that the public health, safety or welfare imperatively requires emergency action, and incorporates a finding to that effect in its order, summary suspension of a license may be ordered by the Department upon notification of the County Attorney's Office and the Board, subject to Board ratification at its next meeting. Written notice of the summary suspension shall be served personally or by registered or certified mail to the licensee at the address designated in the license application.

(2) In addition, the Department may post copies of the notice of summary suspension of the license on the licensed facility or property being used for the licensed activity. The posting shall constitute the notice required under this section.

(B) The written notice in such cases shall state the effective date of the suspension, the nature of the violation or violations requiring emergency action, the facts which support the conclusion that a violation or violations has occurred and a statement that if the licensee desires a hearing that he or she must, within ten 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 Department by midnight of the tenth county working day following service. Following receipt of a request for an appeal, the Department shall set a time and a place for the hearing.

(C) The summary suspension shall not be stayed pending an appeal or informal review by the department head, but shall be subject to dismissal on a favorable reinspection by the Department.  
(Ord. 4C, passed 11-14-00)

**§ 50.094 SUSPENSION REINSPECTION.**

(A) Upon written notification from the licensee that all the violations for which a suspension or summary suspension was invoked have been corrected, the Department shall reinspect the facility or activity within a reasonable length of time, but in no case more than three county working days after receipt of the notice from the licensee.

(B) If the Department finds upon reinspection that the violations constituting the grounds for the suspension have been corrected, the Department shall immediately dismiss the suspension, subject to 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.  
(Ord. 4C, passed 11-14-00)

**§ 50.095 REVOCATION.**

(A) Any license granted pursuant to this chapter may be revoked by the Board for violation of any provision of this chapter.

(B) (1) Revocation shall not occur earlier than ten county working days from the time that written notice of the revocation is served on the licensee or, if a hearing is requested, until written notice of the 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. The 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 or she must within ten working days, exclusive of the day of service, file a request for a hearing.

(2) The hearing request shall be in writing stating the grounds for appeal and served personally or by registered or certified mail on the Department by midnight of the tenth county working day following service. Following receipt of a request for a hearing, the Department shall set a time and a place for the hearing.  
(Ord. 4C, passed 11-14-00)

### **§ 50.096 HEARINGS.**

(A) If any applicant or licensee properly requests a hearing on a denial, suspension or revocation of license, or denial of a variance, the hearing shall be held before the Board, or a hearing examiner as provided below, and shall be open to the public.

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

(C) The Board shall mail the notice of the hearing to the appellant and to the Department at least 15 working days prior to the hearing. The notice shall include:

(1) A statement of time, place and nature of the hearing;

(2) A statement of the legal authority and jurisdiction under which the hearing is to be held;  
and

(3) A reference to the particular section of the ordinance and rules involved.

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

(E) The applicant or licensee may be represented by counsel. The Department, the licensee or applicant, 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 Board or hearing examiner may also examine witnesses.

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

(G) All evidence which 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 which 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 suspension, summary of suspension or termination or in the appellants written request for a hearing.

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

- (1) Clarify the issues to be determined at the hearing;

- (2) Provide an opportunity for discovery of all relevant documentary, photographic or other demonstrative evidence in the possession of each party; and (The hearing examiner or Board's representative may require each party to supply a reasonable number of copies of relevant evidence capable of reproduction.)

- (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 in issue.

(I) If a pre-hearing conference is held, evidence not divulged as provided above shall be excluded at the hearing unless the party advancing the evidence took all reasonable steps to divulge it to the adverse party prior to the hearing and:

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

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

(J) If the applicant or licensee fails to appear at the hearing, he or she shall forfeit any right to a public hearing before the Board or hearing examiner.  
(Ord. 4C, passed 11-14-00)

**§ 50.999 PENALTY.**

(A) Except as where separately provided for in this chapter or state statutes, any person who fails to comply with the provisions of this chapter is guilty of a misdemeanor. A separate offense shall be deemed committed upon each day during or on which a violation occurs or continues.

(B) In the event of a violation or a threat of violation of this chapter, the county may institute appropriate actions or proceedings, including injunctive relief to prevent, restrain, correct or abate the violations or threatened violations. The county may recover costs incurred for corrective action in a civil action in any court of competent jurisdiction or, at the discretion of the County Board, the costs may be certified to the County Auditor as a special tax against the real property.

(Ord. 4C, passed 11-14-00)

Archived Copy

## CHAPTER 51: HAZARDOUS WASTE MANAGEMENT

### Section

#### *General Provisions*

- 51.01 Purpose
- 51.02 Authority
- 51.03 Definitions
- 51.04 Compliance
- 51.05 General conditions
- 51.06 False information
- 51.07 Waste classification
- 51.08 Right of entry
- 51.09 Standards for preservation

#### *Licensing Requirements*

- 51.20 License required
- 51.21 Licensing not exclusive
- 51.22 Fees
- 51.23 Minimal generators
- 51.24 License term
- 51.25 License application
- 51.26 Termination of operation

#### *Administration and Enforcement*

- 51.40 Modifications
- 51.41 Duties of the Department
- 51.42 Inspection
- 51.43 Orders and notices
- 51.44 Compliance
- 51.45 Citation authority
- 51.46 Suspension of license
- 51.47 Summary suspension
- 51.48 Suspension reinspections

- 51.49 Revocation of license
- 51.50 Hearings
  
- 51.99 Penalty

## **GENERAL PROVISIONS**

### **§ 51.01 PURPOSE.**

It is the purpose and intent of this chapter to establish rules, regulations and standards for hazardous waste management in the county for the identification, labeling and classification of hazardous wastes; the handling, collection, transportation and storage of hazardous waste; the treatment, processing and/or disposal of hazardous waste; the requirement of licensing of hazardous waste generators and hazardous waste facilities; the payment of license fees; the penalties for failure to comply with the provisions of this chapter; the issuing, denying, modifying, imposing conditions upon, suspending, revoking licenses and other matters as determined to be necessary for the health, welfare and safety of the public. Further, this chapter shall be liberally construed so as to protect the natural environment from hazardous waste contamination.  
(Ord. 28F, passed 10-31-00)

### **§ 51.02 AUTHORITY.**

This chapter is adopted pursuant to M.S. Chapters 145A and 473, as they may be amended from time to time.  
(Ord. 28F, passed 10-31-00)

### **§ 51.03 DEFINITIONS.**

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**AGENCY.** The Minnesota Pollution Control Agency or MPCA.

**COUNTY BOARD.** The Carver County Board of Commissioners.

**DEPARTMENT.** The Carver County Environmental Services Department.

**EMBARGO.** An order by the Department prohibiting the movement, removal, transport, use, treatment or disposal of a material which is, or is suspected to be, a hazardous waste and which is being mismanaged, or which the Department has reason to suspect is being, or will be managed in violation of this chapter.

**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 cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness or 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.

**MINIMAL GENERATOR.** Any very small quantity generator who generates one or more of only the following wastes:

- (1) Ten gallons or less per year of hazardous waste that is not acutely toxic, as defined by Minn. Rules Part 7045.0020(3)(a), as it may be amended from time to time;
- (2) Any amount of used oil, used oil contaminated absorbents or used oil filters;
- (3) Any amount of lead acid batteries;
- (4) Any number of mercury bearing lamps, such as fluorescent or high intensity discharge lamps;
- (5) Special hazardous wastes included in the MPCA's pilot project, as allowed by Board resolution;
- (6) Any amount of photographic fixer solution and x-ray film which is shipped off-site for recycling;
- (7) Any amount of photographic fixer solution if treated to remove 80% of the hazardous constituents;
- (8) Any amount of fuel/water mixtures and fuel tank filters that are not stored or accumulated on site; or
- (9) Any amount of waste amalgam from dental operations.

**NOTICE OF VIOLATION.** A formal written notice issued by the Department to notify a party that he or she is in violation of a county chapter. 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 Department, such as the inclusion of NOV orders into a final order or consent order and/or the issuance of a citation, as well as specific time frames in which these actions will be completed.

**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.

**SPENT BATTERY COLLECTION SITE.** A site where spent batteries are collected and/or stored before recycling or transportation to another facility for recycling.

**USED OIL COLLECTION SITE.** A site where used oil is collected and/or stored before recycling or transportation to another site for recycling.

**USED OIL FILTER COLLECTION SITE.** A site where used oil filters are collected and/or stored before recycling or transportation to another site for recycling.

**WARNING LETTER.** A written notice issued by the Department to notify a party that he or she is in violation of a county chapter. If a **WARNING LETTER** is issued, it shall be utilized as the initial county notification of alleged violations, except in cases of imminent threat to the public health and safety of the environment. The **WARNING LETTER** will inform the party of the alleged violations, the nature and extent of the violations, and the required corrective actions.  
(Ord. 28F, passed 10-31-00)

#### **§ 51.04 COMPLIANCE.**

No person shall cause or permit the generation, transportation, disposal or processing of hazardous waste or the construction or operation of hazardous waste facilities, except in full compliance with the provisions of this chapter, including, but not limited to all provisions requiring full disclosure of information regarding the generation, transportation, disposal or processing.  
(Ord. 28F, passed 10-31-00)

#### **§ 51.05 GENERAL CONDITIONS.**

Violation of any condition imposed by the county on a license, permit or variance shall be deemed a violation of this chapter.  
(Ord. 28F, passed 10-31-00)

#### **§ 51.06 FALSE INFORMATION.**

Omission of any information or submission of false information may be deemed a violation of this

chapter or may be deemed a violation of state statutes.  
(Ord. 28F, passed 10-31-00)

#### **§ 51.07 WASTE CLASSIFICATION.**

In the event the agency modifies the lists of wastes by listing or delisting, or classifies a waste as hazardous, the Board may, by resolution, amend the lists of wastes set forth in this chapter, or classify certain wastes as hazardous, to incorporate agency action.  
(Ord. 28F, passed 10-31-00)

#### **§ 51.08 RIGHT OF ENTRY.**

(A) Whenever necessary to perform an inspection, to enforce any of the provisions of this chapter, or whenever the Department has reasonable cause to believe that hazardous waste exists in any building or upon any premises, the Department or its authorized agent may enter the building or premises at all reasonable times to inspect the same or to perform any duty imposed upon the Department by this chapter, provided that if the building or premises be occupied, the authorized agent shall first present proper credentials and demand entry; and if the building or premises be unoccupied, the Department shall first make a reasonable effort to locate the owner or other persons having charge or control of the building or premises and demand entry.

(B) If the entry is refused, the Department shall have recourse to every remedy provided by law to secure entry including administrative search warrants.  
(Ord. 28F, passed 10-31-00)

#### **§ 51.09 STANDARDS FOR PRESERVATION.**

(A) Minn. Rules Chapter 7045, except for Minn. Rules Parts 7045.1000 through 7045.1030 inclusive, as it may be amended from time to time, relating to hazardous waste, which were in effect on July 1, 1999, are hereby adopted by reference and made a part of this chapter.

(B) Any amendments, modifications or deletions are hereby adopted by reference and incorporated as if set in full herein.

(C) (1) Minimal generators must manage their hazardous waste according to all applicable rules and regulations of the state and county.

(2) (a) Minimal generators who fail to comply with the waste management requirements of this chapter may, at the discretion of the Department, lose their minimal generator status.

(b) The Department will notify the minimal generator of the status change.

(3) Minimal generators whose rate of generation exceeds that defined herein shall lose their minimal generator status.

(4) Minimal generators that exceed 55 gallons of accumulated hazardous waste lose minimal generator status. The generation of used oil, used oil contaminated absorbents, used oil filters, lead acid batteries, mercury bearing lamps, special hazardous waste included in the MPCA's pilot project as allowed by County Board resolution, feedstock, by-product or dental amalgam waste is not counted towards this accumulation limit.

(5) (a) Hazardous waste must be placed in a container or tank that is compatible with the waste and that contains no material or residue that may react with the waste. Hazardous waste must not be placed in a container that previously held an incompatible material unless the incompatible material has been entirely removed.

(b) Hazardous waste must be adequately separated from another container or tank holding an incompatible material.

(c) Containers and tanks must be kept closed, unless adding or removing wastes. Containers and tanks must be maintained in good condition with no rust, corrosion or damage that may result in a leak or a release. If the container or tank is rusted, corroded or damaged, it must be repaired or the waste must be moved to a sound container or tank.

(d) Containers and tanks must be labeled with the words "hazardous waste" and a clearly understandable description of the type of waste in the container or tank.

(6) (a) Storage of liquid hazardous waste indoors or outdoors must be done on a surface impermeable to the hazardous waste.

(b) Outdoor storage areas must have secondary containment to prevent release to soil or water. If ignitable wastes are stored outdoors, the waste must be shaded from the sun.

(c) Storage areas for hazardous wastes must have protection from damage including vehicular accidents and vandalism.

(d) All generators must comply with the state fire code and local regulations.

(e) Hazardous waste containers must be stored in a way that there is adequate aisle space to allow for unobstructed movement of personnel and equipment in an emergency.

(7) (a) Any spills or leaks of hazardous waste or material must be cleaned up immediately. Upon discovering a leak or a spill of hazardous waste or material, the generator must notify the State Duty Officer.

(b) When reporting the spill or release, the generator must be prepared to describe the location, type of material, amount and the cleanup activities. The generator must have the proper equipment and materials on hand to completely clean up any spills that occur and respond to any other emergencies that occur.

(8) The generator must comply with all Department of Transportation regulations when shipping hazardous waste.

(9) Hazardous wastes must be disposed of by one of the following methods:

(a) Treat on-site by a method acceptable to the Minnesota Pollution Control Agency or the county;

(b) Ship to a licensed or permitted hazardous waste facility using a hazardous waste manifest and hazardous waste transporter;

(c) Ship to a very small quantity generator collections site in compliance with State Department of Transportation regulations;

(d) Ship pilot project waste, used oil, used oil filters, used oil contaminated absorbents, spent lead acid batteries, silver only photographic fixer solution or fluorescent lamps to a recycler or consolidation site in compliance with State Department of Transportation requirements; or

(e) Sewer with the approval of local publicly owned treatment works.

(10) A licensed generator may transport hazardous waste to another location owned by the same generator, and approved by the county, for the purpose of consolidating small amounts of hazardous waste if the shipment is made in accordance with State Department of Transportation regulations.

(11) The following actions are prohibited by minimal generators:

(a) Abandoning or relinquishing control of hazardous waste if the generator has reason to believe that the hazardous waste will not be properly managed or the treatment, storage or disposal facility cannot legally take the waste;

(b) Relinquishing control of manifested waste to a transporter who is not licensed or permitted by the State Department of Transportation as a hazardous waste transporter;

(c) Placing used oil in or on the ground; or

(d) Evaporating hazardous waste, except to evaporate water to reduce volume of the hazardous waste.

(12) All hazardous waste management records, including manifest copies, receipts, shipping papers or bills of lading must be kept on-site for three years from the date of shipment.  
(Ord. 28F, passed 10-31-00)

## ***LICENSING REQUIREMENTS***

### **§ 51.20 LICENSE REQUIRED.**

Unless otherwise provided by this chapter, no person shall, within the county, make or allow property under his, her or its control to be used for any activity which generates hazardous waste, except at an individual generation site for which a hazardous waste generator license has been granted by the Department. Unless otherwise provided by this chapter, no person shall, within the county, store, deposit, keep, accumulate, process, treat, reclaim, dispose of or otherwise handle, process or cause to be transported, hazardous waste except at a site or facility for which a license has been granted by the Department. Unless otherwise provided by this chapter, no person shall operate a used oil collection site, a used oil filter collection site or a spent battery collection site, except at an individual site for which a hazardous waste license has been granted by the county.

(Ord. 28F, passed 10-31-00)

### **§ 51.21 LICENSING NOT EXCLUSIVE.**

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

(Ord. 28F, passed 10-31-00)

### **§ 51.22 FEES.**

(A) The Board shall, by ordinance, establish fees, including fees for the initial license, initial application and plan review and renewal of licenses.

(B) The Board may, by ordinance, establish other fees as may be necessary for the administration of this chapter.

(C) Fees for new licenses are due 30 days after the billing date. Fees for renewal of licenses are due 30 days prior to the expiration of the current license. As used herein, fees include license fees, MPCA statewide program fees, application fees, late penalty fees and other fees as may be prescribed by the Board.

(D) Fees for license renewal shall be based on the past year's rate of generation. If the license is for new waste generation, the fee shall be based on an estimated rate of generation, which is acceptable to the Department.

(Ord. 28F, passed 10-31-00)

### **§ 51.23 MINIMAL GENERATORS.**

Minimal generators shall comply with the following registration requirements in place of the license and fee requirements of §§ 51.20 and 51.22:

(A) Minimal generators shall register with the Department within 75 days of first generating hazardous waste.

(B) All currently licensed generators that meet the definition of a minimal generator will be converted by the county to registered status.

(C) Registration will be effective as long as the generator meets the minimal generator definition.

(D) Minimal generators shall notify the Department within 30 days before or after whenever any of the following events occurs:

(1) The business closes;

(2) The business is sold or otherwise changes ownership;

(3) The business moves to a new location;

(4) The business assumes a new name; or

(5) The generator's rate of generation no longer meets the minimal generator definition listed herein.

(E) Any generator who loses minimal generator status, pursuant to § 51.09(C) shall be subject to the full generator licensing standards of this chapter. The generator will not be eligible to regain minimal generator status for a period of two license years.

(F) To regain minimal generator status, the generator must be in compliance with the minimal standards defined in this chapter. An inspection by the Department may be required to confirm compliance with these standards.

(G) Any minimal generator may, by making written request to the Department, remain regulated as a very small quantity generator in lieu of the minimal generator requirements.  
(Ord. 28F, passed 10-31-00)

#### **§ 51.24 LICENSE TERM.**

(A) Unless otherwise provided by the County Board, each license granted pursuant to the provisions of this chapter shall be nontransferable and shall be for a period of not more than one year, except that initial licenses may be issued for a period of up to 15 months, unless earlier suspended or revoked.

(B) The license year for hazardous waste facilities shall be from July 1 through June 30. The license year for hazardous waste generators shall be from April 1 through March 31.  
(Ord. 28F, passed 10-31-00)

#### **§ 51.25 LICENSE APPLICATION.**

(A) (1) Applications for license or license renewal shall be submitted to the Department on forms provided by the Department. Applicants shall provide information as may be needed for the administration of this chapter.

(2) The information shall include, but not necessarily be limited to the information specified in Minn. Rules Parts 7045.0230 or 7045.0248, as they may be amended from time to time, as applicable. Each application or renewal application for a hazardous waste generator license shall include the parcel identification number (PIN) of the generator site. Applicants for a facility license shall submit to the Department, on request, all of the documents and supporting information required by the agency in its permitting procedures.

(3) Applications for a generator license received more than 75 days after commencement of operation, or applications for license renewal received after January 31, shall be considered late and subject to a late application penalty. Applications for license modification shall be deemed late, and subject to a late application penalty, if received later than as set forth in Minn. Rules Part 7045.0243(3)(G), as it may be amended from time to time.

(4) Unless interim operating approval has been granted hereunder, applicants for a facility license shall not commence any construction or operation until the license application has been approved by the Department, nor shall they commence any operation until a license is issued. A facility license shall not be issued until the facility construction has been completed in compliance with this chapter and the approved plans, and has been approved by the Department.

(B) (1) If an application for a generator license or license renewal is not complete or otherwise does not conform with the requirements set forth in this chapter, the Department shall advise the

applicant within 60 days of application receipt, in writing, of the reasons for non-acceptance and may request that the applicant resubmit, modify or otherwise alter the application. The applicant shall comply with the requests within the time specified by the Department.

(2) If an application for a facility license or license renewal is not complete or otherwise does not conform with the requirements set forth in this chapter, the Department shall advise the applicant within 120 days of application receipt, in writing, of the reasons for non-acceptance and may request that the applicant resubmit, modify or otherwise alter the application. The applicant shall comply with the requests within the time specified by the Department.

(C) (1) Generator applications for license renewal shall be received by the Department no later than January 31. Applications for license renewal must be accompanied by a statement of any change in information submitted in the last approved license or in the license renewal application. If there are no changes, it shall be so stated in the license renewal application. If the Department does not act on a generator license renewal application, which is complete and submitted on time, the current license shall continue in force until action is taken.

(2) Facility applications for license renewal shall be received by the Department no later than February 28. Applications for license renewal must be accompanied by a statement of any change in information submitted in the last approved license or in the license renewal application. If there are no changes, it shall be so stated in the license renewal application. If the Department or County Board does not act on a facility license renewal application, which is complete and submitted on time, the current license shall continue in force until action is taken.

(D) (1) Failure by the Department to act on an initial generator license application within 60 days from the date of receipt of a completed application shall constitute grounds for the applicant to request a hearing. The request for a hearing shall be governed hereby. Failure to act shall be construed as denial without prejudice.

(2) Except as provided herein, failure by the Department or County Board to act on an initial facility license application within 120 days from the date of receipt of a completed application, shall constitute grounds for the applicant to request a hearing. The request for a hearing shall be governed hereby. Failure to act shall be construed as denial without prejudice.

(E) (1) For licensing purposes, the Department may consider on-site treatment by the generator, of on-site generated hazardous waste, as part of the generator's licensure and may exempt such on-site treatment from facility licensing requirements. The exemption shall be limited to the following types of treatment: the specific treatment activities allowed in Minn. Rules Parts 7045.0450(3)(K); 7045.0652; 7045.0665; and 7045.0855(3), as they may be amended from time to time; and/or recovery of reusable solvents by distillation. The treatment must be described in the generator license application and approved by the Department. The Department may require generators, who do on-site treatment as

identified above, to comply with the requirements of Minn. Rules Parts 7045.0558; 7045.0562(1) and (2); and 7045.0566 through 7045.0576, as they may be amended from time to time, or may impose license conditions as may be deemed necessary to monitor the treatment operation and ensure public health and safety.

(2) Generators utilizing any sewer system for the disposal of hazardous wastes shall comply with all of the requirements of this chapter. They shall maintain on site, a copy of any permits or reports required by the Metropolitan Council Environmental Services, other publicly owned treatment works or as a condition of a national pollutant discharge elimination system or state disposal system permit concerning the character, concentration and quantity of the sewerage hazardous waste for inspection by the Department. These reports shall be maintained for a period of three years from the report date. Generators shall obtain written authorization from the Department before treating or discharging hazardous wastes to Class V injection wells as defined by 40 C.F.R. Part 144.6.

(F) (1) Unless otherwise provided by the County Board and/or Department, issuance of a hazardous waste transfer, storage, resource recovery, disposal, treatment or other handling or processing site or facility license, pursuant to the provisions of this chapter, shall be contingent upon the applicant furnishing to the Department a bond or letter of credit acceptable to the Department naming the county as the obligee with sufficient sureties duly licensed and authorized to transact corporate surety business in the state as sureties. The condition of the bond or letter of credit shall be that if the principal fails to obey any of the requirements or do any of the acts required by this chapter an order or notice issued by the Department or conditions of the license in the operation of the site or facility, or if, for any reason, the applicant ceases to operate or abandons the site or facility, and the county is required to expend monies or expend any labor or material to restore the site or facility to the condition and requirements as provided by the ordinance, notice, order or license, the principal and the sureties on its bond 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, notice, order or license, and that the principal and its sureties will indemnify and save the county harmless from all losses, costs and charges that may occur to the county because of any default of the principal under terms of his or her license to operate and the ordinance of the county. In lieu of the above, for facilities permitted or granted interim status by the agency, the license applicant shall submit, in a form acceptable to the Department, satisfactory evidence of compliance with the agency's financial assurance requirements.

(2) Unless otherwise provided by the County Board and/or Department, issuance of a hazardous waste transfer, storage, resource recovery, disposal, treatment or other handling or processing site or facility license which requires an agency permit or is operating under interim status pursuant to Minn. Rules Parts 7045.0552 through 7045.0648, as they may be amended from time to time, pursuant to the provisions of this chapter, shall be contingent upon the applicant furnishing to the Department satisfactory evidence of compliance with Minn. Rules, Parts 7045.0518 and 7045.0620, as they may be amended from time to time. The Department shall be notified 30 days prior to the effective date of a cancellation or change of insurance. Under interim operating approval, the required insurance shall be specified by the County Board.

(3) No change shall be made in the operation of a hazardous waste facility, unless the change is first approved by the County Board.

(4) In order to operate a hazardous waste facility during interim period prior to license approval by the Department, a person must obtain interim operating approval from the Department and comply with conditions set by the Department. Interim operating approval shall require the person to operate the hazardous waste facility in conformance with Minn. Rules Parts 7045.0552 through 7045.0606 and 7045.0626 through 7045.0642, as it may be amended from time to time, if operating as a treatment, storage or disposal facility, or in conformance with Minn. Rules Part 7045.0365, as it may be amended from time to time, if operating as a transfer facility or in conformance with Minn. Rules Part 7045.0125, as it may be amended from time to time, if operating as a recycling facility. Additionally, the Department may impose conditions as deemed necessary to monitor the operation and ensure public health and safety, and will require compliance with the insurance requirements specified herein. The requirements under interim operating approval shall remain in force until the Department acts to grant or deny the license. If the county finds that the hazardous waste site facility is not being operated in compliance with the requirements of interim operating approval, the approval shall be terminated. Any person operating in full compliance with this division shall be considered to be in compliance herewith until the Department acts to grant or deny the license. Any person who, on an interim basis, in compliance with this section, owns or operates a hazardous waste transfer, storage, disposal, resource recovery, treatment or other handling or processing facility shall apply for a hazardous waste facility license within 120 days of commencement of operation.

(5) Nothing in this item is intended to allow facilities to operate without permits, licenses or compliance agreements required by the agency.  
(Ord. 28F, passed 10-31-00)

#### **§ 51.26 TERMINATION OF OPERATION.**

Any person who, for any reason, terminates operations at a regulated site, must remove all hazardous waste and materials contaminated with hazardous waste prior to termination of operations. Termination of operations may include the sale of an operation to a new entity, or the simple shutdown of a business or site, which is then not operated, or the relinquishing of lease or rental rights to a property. This removal from the site must be accomplished in full compliance with this chapter and Minn. Rules Chapter 7045. Materials remaining on the site of a terminated operation shall be considered waste materials. The continued storage of hazardous wastes on the site of a terminated operation shall be done in compliance with the hazardous waste storage facility rules in Minn. Rules Chapter 7045 and 7001 and this chapter.  
(Ord. 28F, passed 10-31-00)

## ***ADMINISTRATION AND ENFORCEMENT***

### **§ 51.40 MODIFICATIONS.**

(A) The County Board may waive or modify the strict application of the provisions of this chapter by reducing or waiving certain requirements when the requirements are unnecessary or impractical, or by imposing additional requirements necessary to reduce risk of harm to persons, property or the environment.

(B) No modification or waiver may be granted if it would result in noncompliance with Minn. Rules Chapter 7045, as it may be amended from time to time, unless the modification or waiver has been approved or granted by the agency.

(C) For facilities permitted or granted interim status by the agency, amendments to the facility closure/post-closure plans and extensions to the closure/post-closure period shall be granted by the Department only where the amendments or extensions have been approved by the agency.  
(Ord. 28F, passed 10-31-00)

### **§ 51.41 DUTIES OF THE DEPARTMENT.**

The Department shall be responsible for the administration and enforcement of this chapter. The Department's duties shall include, but not be limited to the following:

(A) Receive and review applications and issue and review hazardous waste generator licenses pursuant to this chapter;

(B) Receive, review and recommend action on hazardous waste facility licenses pursuant to this chapter;

(C) Receive and review applications for and issue renewal licenses for a hazardous waste facility under this chapter when no changes in conditions or information from when initial license was issued are identified by the licensee or come to the attention of the Department;

(D) Inspect hazardous waste facilities and generators, as provided in this chapter, and investigate complaints of violations of this chapter;

(E) Recommend that legal proceedings be initiated by the county to compel compliance with the provisions of this chapter; and

(F) Advise, consult and cooperate with other governmental agencies in the furtherance of this chapter.

(Ord. 28F, passed 10-31-00)

### **§ 51.42 INSPECTION.**

(A) Inspection and evaluation of hazardous waste facilities, including transfer, short-term storage, transportation, storage, disposal, resource recovery, treatment or other handling or processing sites or facilities, or generators may be made by the Department to insure compliance with the provisions of this chapter. The facility owner and/or operator or generator shall be provided with written notice of any deficiencies, recommendations for their correction, and the date by which the corrections shall be accomplished.

(B) The facility owner and/or operator or generator shall allow the county's authorized agents access for the purposes of making inspections as may be necessary to determine compliance with the requirements of this chapter. At the Department's election, the owner and/or operator shall provide free of charge or shall allow the Department or its agents to collect samples of waste, soils, surface waters, ground waters, air, raw materials, sewage discharges or other materials or residues present at or emanating from the site for testing. The owner and/or operator shall allow free access at all reasonable times to inspect and copy, at a reasonable cost, all business records related to an owner's and/or operator's generation, collection, processing and transportation of waste.

(C) The owner and/or operator shall allow the Department to record and document its findings in any reasonable and appropriate manner including, but not limited to notes, photographs, photocopies, readouts from analytical instruments, videotapes, audio recordings and computer storage systems or other electronic media. When requested by the Department, photocopies of records shall be provided at a reasonable cost.

(Ord. 28F, passed 10-31-00)

#### **§ 51.43 ORDERS AND NOTICES.**

Whenever the Department or its authorized representatives shall find in any building or on any premises, hazardous waste whether at a site or facility for which a license has been granted by the county or where no license has been issued, the Department shall issue orders as may be necessary for the enforcement of this chapter governing and safeguarding the health, welfare and safety of the public.

(Ord. 28F, passed 10-31-00)

#### **§ 51.44 COMPLIANCE.**

(A) Any person within the county who shall generate, store, deposit, keep, accumulate, process, treat, reclaim, dispose of or otherwise handle, process or cause to be transported hazardous waste, in violation of this chapter, or who shall permit the hazardous waste to exist on the premises under his or her control or who shall fail to take immediate action to abate the existence of the hazardous waste when ordered or notified to do so by the Department shall be guilty of a misdemeanor.

(B) Any order or notice issued or served by the Department shall be complied with by the owner, operator, occupant or other person deemed by the Department to be 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 upon the nature of the hazardous waste and the danger created by the violation. In cases of extreme danger to the health, welfare and safety of the public, immediate compliance shall be required. If the building or other premises is owned by one person and occupied by another, under lease or otherwise, and the order or notice requires immediate compliance for the health, welfare and safety of the public, the order or notice shall be complied with by the owner, unless the owner and occupant have otherwise agreed between themselves, in which event the occupant shall comply. (Ord. 28F, passed 10-31-00)

#### **§ 51.45 CITATION AUTHORITY.**

(A) A notice of violation or a warning letter, as defined, may be issued to a person alleged to have committed a violation of this chapter, prior to issuance of a citation.

(B) An authorized representative of the Department shall have the power to issue citations for violations of this chapter, but shall not be permitted to physically arrest or take into custody any violator, except on a warrant duly issued.

(1) Citations shall be issued to the person alleged to have committed the violation either by personal delivery or by registered or certified mail. In case of public, private or municipal corporation, the citation shall be issued to any officer or agent, expressly or impliedly authorized to accept the issuance.

(2) 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 Department; one copy shall be filed with the County Attorney's Office; one copy shall be filed with the District Court, First Judicial District.

(3) Citations shall be on forms as approved by the Department and shall contain at least the following:

(a) 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;

(b) The date and place of violation;

(c) A short description of the violation followed by reference to the section of this chapter violated;

(d) The name of person issuing the citation;

(e) The date and place at which the person receiving the citation shall appear and a notice that if the person does not respond, a warrant may be issued for the person's arrest; and

(f) Other information as the Court may specify.

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

(a) Pay the fine assigned to the violation; or

(b) Schedule a court date for a hearing on the citation.

(5) 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.  
(Ord. 28F, passed 10-31-00)

#### **§ 51.46 SUSPENSION OF LICENSE.**

(A) Any license required under this chapter may be suspended by the County Board for violation of any provision of this chapter. Upon written notice to the licensee the license may be suspended by the County Board for a period not longer than 60 days or until the violation is corrected.

(B) (1) The suspension shall not occur earlier than ten county 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.

(2) The 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 a licensee desires to appeal, he or she must within ten county working days, exclusive of the day of service, file a request for a hearing.

(3) The hearing request shall be in writing stating the grounds for appeal and served personally or by registered or certified mail on the Department by midnight of the tenth county working day following service. Following receipt of a request for a hearing, the Department shall set a time and place for the hearing.

(C) If the suspension is upheld and the licensee has not demonstrated within the 60-day period that the provisions of this chapter have been complied with, the County Board may serve notice of continued suspension for up to 60 days or initiate revocation procedures.  
(Ord. 28F, passed 10-31-00)

#### **§ 51.47 SUMMARY SUSPENSION.**

(A) (1) If the Department finds that the public health, safety or welfare imperatively requires

emergency action, and incorporates a finding to that effect in its order, summary suspension of a license may be ordered by the Department upon notification of the County Attorney's Office and the County Board, subject to County Board ratification at its next meeting. Written notice of the summary suspension shall be served personally or by registered or certified mail to the licensee at the address designated in the license application.

(2) In addition, the Department may post copies of the notice of summary suspension of the license on the licensed facility or property being used for the licensed activity. The posting shall constitute the notice required under this section.

(B) The written notice in such cases shall state the effective date of the suspension, the nature of the violation or violations requiring emergency action, the facts which support the conclusion that a violation or violations has occurred and a statement that if the licensee desires a hearing that he must, within ten 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 Department by midnight of the tenth county working day following service. Following receipt of a request for an appeal, the Department shall set a time and a place for the hearing.

(C) The summary suspension shall not be stayed pending an appeal or informal review by the Department head, but shall be subject to dismissal on a favorable reinspection by the Department. (Ord. 28F, passed 10-31-00)

#### **§ 51.48 SUSPENSION REINSPECTIONS.**

Upon written notification from the licensee that all the violations for which a suspension or summary suspension was revoked have been corrected, the Department shall reinspect the facility or activity within a reasonable length of time, but in no case more than three county working days after receipt of the notice from the licensee. If the Department finds upon the reinspection that the violations constituting the grounds for the suspension have been corrected, the Department shall immediately dismiss the suspension, subject to County Board ratification at its next meeting, by written notice to the licensee, served personally or by registered or certified mail at the address designated in the license application.

(Ord. 28F, passed 10-31-00)

#### **§ 51.49 REVOCATION OF LICENSE.**

(A) Any license granted pursuant to this chapter may be revoked by the County Board for violation of any provision of this chapter.

(B) Revocation shall not occur earlier than ten county working days from the time that written notice of the 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. The 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 or she must within ten 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 Department by midnight of the tenth county working day following service. Following receipt of a request for a hearing, the Department shall set a time and a place for the hearing. (Ord. 28F, passed 10-31-00)

### **§ 51.50 HEARINGS.**

(A) If any applicant or licensee properly requests a hearing on a denial, suspension or revocation of a license, or denial of a variance, the hearing shall be held before the County Board, or a hearing examiner as provided below, and shall be open to the public.

(B) 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 45 calendar days after the date of service of request for a hearing, exclusive of the date of the service. In any event, the hearing shall be held no later than 90 calendar days after the date of service of request for a hearing, exclusive of the date of the service.

(C) The County Board shall mail the notice of the hearing to the appellant and to the Department at least 15 working days prior to the hearing. The notice shall include:

- (1) A statement of time, place, and nature of the hearing;
- (2) A statement of the legal authority and jurisdiction under which the hearing is to be held;
- (3) A reference to the particular section of this chapter and rules involved.

and

(D) The County Board may by resolution appoint an individual, 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.

(E) The applicant or licensee may be represented by counsel. The Department, the licensee or applicant 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.

(F) The Department shall have the burden of proving its position by 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.

(G) All evidence, which 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, which 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 suspension, summary of suspension or termination or in the appellant's written request for a hearing.

(H) At the written request of any party, or upon motion of the County Board or hearing examiner, a pre-hearing conference shall be held. The hearing examiner shall conduct the pre-hearing conference, if the 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 county working days before the hearing. The purpose of the pre-hearing conference is to:

(1) Clarify the issues to be determined at the hearing;

(2) Provide an opportunity for discovery of all relevant documentary, photographic or other demonstrative evidence in the possession of each party; and (The hearing examiner or Board's representative may require each party to supply a reasonable number of copies of relevant evidence capable of reproduction.)

(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 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 in issue.

(I) If a pre-hearing conference is held, evidence not divulged as provided above shall be excluded at the hearing, unless the party advancing the evidence took all reasonable steps to divulge it to the adverse party prior to the hearing and:

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

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

(J) If the applicant or licensee fails to appear at the hearing, he or she shall forfeit any right to a public hearing before the County Board or hearing examiner.  
(Ord. 28F, passed 10-31-00)

**§ 51.99 PENALTY.**

(A) Any person who willfully or negligently fails to comply with the provisions of this chapter is guilty of a misdemeanor. A separate offense shall be deemed committed upon each day during or on which a violation occurs or continues.

(B) In the event of a violation or a threat of violation of this chapter, the county may institute appropriate civil actions or proceedings, including requesting injunctive relief to prevent, restrain, correct or abate violations or threatened violations.

(C) If a person fails to comply with the provisions of this chapter, the county may recover costs incurred for corrective action in a civil action in any court of competent jurisdiction, or at the discretion of the County Board, the costs may be certified to the County Auditor as a special tax against the real property.

(D) The penalty for late initial license application, late license renewal application or late license fee payment shall be as follows:

- (1) One to fourteen calendar days late: \$25 penalty.
- (2) Fifteen to 30 calendar days late: \$50 penalty.
- (3) Thirty-one calendar days or more late: \$100 penalty.

(E) The Department may embargo and forbid the removal, transport, disposal, treatment or use of any material which is or is suspected of being a hazardous waste and which is being mismanaged, or which the Department has reason to suspect is being or will be managed in violation of this chapter. The Department shall place a tag to indicate the embargo on the suspect material. No person shall remove the tag or remove, transport, dispose, treat or use embargoed material, except as authorized by the Department. The action by the Department shall not be considered to impute ownership or management responsibility upon the county.

(Ord. 28F, passed 10-31-00)

Archived Copy

## CHAPTER 52: SEWAGE TREATMENT SYSTEM

### Section

#### *General Provisions*

- 52.001 Purpose
- 52.002 Authority
- 52.003 Definitions
- 52.004 Compliance
- 52.005 Conditions
- 52.006 False information

#### *Standards for Health, Safety and Environmental Preservation*

- 52.020 Standards adopted
- 52.021 Standards amended

#### *Permits*

- 52.030 Permit required
- 52.031 Permit application requirements
- 52.032 Permit fees
- 52.033 Relation to other permits
- 52.034 Permit denied
- 52.035 Permit revoked

#### *Inspections and Licensed Installer Requirements*

- 52.045 Applicability
- 52.046 Construction, repair, or replacement
- 52.047 Compliance inspection

#### *Property Transactions*

- 52.055 Standards

### ***Exempt Transactions***

- 52.065 Exempt transactions
- 52.066 Transactions occurring between December 1 and April 1

### ***Failing and Non-Complying Systems***

- 52.075 Time frames
- 52.076 Restoration

### ***Maintenance, Pumping and Disposal***

- 52.085 Pumping of septic tanks
- 52.086 Septic tank access
- 52.087 Licensed pumper requirements
- 52.088 Disposal of septage
- 52.089 Septage application and utilization
- 52.090 Other septage disposal methods and regulations

### ***Abandonment of ISTS and Connections to Community Sewer Services***

- 52.105 Abandonment
- 52.106 Connection

### ***Licensed Designer Responsibilities***

- 52.115 Design and site requirements

### ***Variances***

- 52.125 Applicability

### ***Administration and Enforcement***

- 52.135 Duties of the department
- 52.136 Administrative hearing
- 52.137 Hearings
  
- 52.999 Penalties

## **GENERAL PROVISIONS**

### **§ 52.001 PURPOSE.**

The Carver County Individual Sewage Treatment Ordinance embodies the standards and requirements set forth in the Minnesota Pollution Control Agency (MPCA) ISTS Program Rules. This chapter establishes the rules and regulations for: design, location, installation, construction, alteration, extension, repair, use, monitoring, and maintenance of ISTS; requiring permits for ISTS; payment of fees; providing for inspection; penalties for failure to comply; issuing, denying, modifying, imposing conditions upon, suspending or revoking permits; and other matter as determined to be necessary for the protection of the health, welfare and safety of the public and preservation of the environment. (Ord. 21F, passed 4-17-01)

### **§ 52.002 AUTHORITY.**

This chapter is adopted pursuant to M.S. §§ 115.55 and 115.56 and M.S. Chapter 145A, as they may be amended from time to time. Minn. Rules Chapter 7080, as it may be amended from time to time, is hereby incorporated by reference, except as amended herein. (Ord. 21F, passed 4-17-01)

### **§ 52.003 DEFINITIONS.**

The following words and phrases, when used in this chapter, shall have the meanings ascribed to them in this section in addition to those definitions contained in Minn. Rules Part 7080.0020 of the Minn. Rules Chapter 7080, as it may be amended from time to time.

**ANIMAL CONFINEMENT AREA.** An enclosure for animals including, but not limited to, dogs, game birds, horses, livestock, fur-bearing mammals, and domestic pets.

**COUNTY BOARD.** The Carver County Board of Commissioners.

**DEPARTMENT.** The Carver County Environmental Services Department.

**FALLOW LAND.** Land that is uncropped and kept cultivated throughout a growing season. Vegetative cover is less than 25%. Any land that is uncropped and cultivated during the months of September through May where a crop will be grown the following season is not considered fallow land.

**IMMINENT THREAT TO PUBLIC HEALTH OR SAFETY (IPHT).** Situations with the potential to immediately and adversely affect or threaten public health or safety. At a minimum, this includes ground surface or surface water discharges and sewage backup into a dwelling or other establishment.

**INCORPORATION.** The mixing of septage with the topsoil by means such as disking, moldboard plowing, or chisel plowing, to a minimum depth of six inches.

**INDIVIDUAL SEWAGE TREATMENT SYSTEM (ISTS).** A sewage treatment system, or part thereof, serving a dwelling, or other establishment, or group thereof, and using sewage tanks or advanced treatment followed by soil treatment and disposal.

**INJECTION.** The process of directing the flow of septage under the surface of the soil. Septage shall flow from the storage container or tank directly into the soil profile and shall not be spread on the soil surface.

**INSPECTOR.** The person or persons employed or engaged by Carver County and assigned the responsibility for the administration and implementation of this chapter.

**LAND SPREADING.** The placement, incorporation, or injection of septage onto or beneath the soil surface.

**LAND SPREADING LOCATION.** Any land used for septage land spreading.

**LOCAL PERMITTING AUTHORITY.** Any local unit of government or authorized representative who administers or enforces ordinances, laws, or rules through permits.

**OTHER SYSTEMS.** Systems described in Minn. Rules Part 7080.0178, as it may be amended from time to time, that do not meet technical standards and criteria and rely on soil treatment and disposal.

**PERFORMANCE SYSTEMS.** An ISTS described in Minn. Rules Part 7080.0179, as it may be amended from time to time, designed to adequately protect the public health and the environment and to provide long-term performance.

**PERSON.** Any human being, any governmental or political subdivision or public agency any private corporation, any partnership, any firm, association or other organization, any receiver, trustee, assignee, agent, or other legal representative of any of the foregoing or any other legal entity.

**REPAIR.** The act or process of restoring or replacing a defective element of an ISTS to approximately its original function without altering its original location, capacity or operating characteristics. Only repairs or replacements performed downstream of the inlet of the distribution device or replacement of the septic tank, pump tank, or dosing chamber shall be considered repairs requiring a permit under this chapter.

**SATURATED SOIL.** The highest elevation in the soil where periodically depleted oxygen levels occur because of soil voids being filled with water. Saturated soil is evidenced by the presence of soil mottling or other information.

**SEPTAGE.** Solids and liquids removed during periodic maintenance of an ISTS, or solids and liquids which are removed from toilet waste treatment devices or a holding tank.

**STANDARD SYSTEM.** An individual sewage treatment system specified in Minn. Rules Parts 7080.0065 to 7080.0170, and 7080.0600, as they may be amended from time to time, and as designated by the Commissioner under Minn. Rules Part 7080.0400, subpart 4, as it may be amended from time to time.

**WATER TABLE.** The highest elevation in the soil where all the voids are filled with water, as evidenced by the presence of water or soil mottling or other evidence.

**WETLAND.** A natural marsh where waters stand near, at, or above, the soil surface during a significant portion of most years and which is eligible for classification as inland fresh water as wetland types 3, 4, or 5 under U.S. Department of Interior classification.  
(Ord. 21F, passed 4-17-01)

#### **§ 52.004 COMPLIANCE.**

(A) No person shall inspect, design, locate, install, construct, alter, extend, repair, use, monitor, maintain or perform site evaluations for any ISTS except in full compliance with this chapter and standards adopted herein.

(B) No person shall allow effluent from any septic tank, holding tank, soil treatment system or any ISTS to be discharged to the ground surface, abandoned well, or bodies of surface water, or into any rock or soil formation the structure of which is not conducive to purification of water by filtration, or into any well, agricultural tile, or other excavations in the ground.

(C) No person shall discharge products containing hazardous waste and/or hazardous substances to an ISTS other than normal amounts of household products and cleaners designed for household use.  
(Ord. 21F, passed 4-17-01)

#### **§ 52.005 CONDITIONS.**

Violation of any condition imposed by the county on a permit, or variance shall be deemed a violation of this chapter.  
(Ord. 21F, passed 4-17-01)

**§ 52.006 FALSE INFORMATION.**

Omission or falsification of any information may constitute grounds for the denial of the permit or variance applied for, or the suspension or revocation of an issued permit or variance and be deemed a violation of this chapter and/or may be deemed a violation of Minnesota Statutes. (Ord. 21F, passed 4-17-01)

***STANDARDS FOR HEALTH, SAFETY AND ENVIRONMENTAL PRESERVATION***

**§ 52.020 STANDARDS ADOPTED.**

Minn. Rules Chapter 7080, Parts 7080.0020, 7080.0060, 7080.0065, 7080.0110, 7080.0115, 7080.0120, 7080.0125, 7080.0130, 7080.0150, 7080.0160, 7080.0170, 7080.0172, 7080.0175, 7080.0176, 7080.0178, 7080.0179, 7080.0305, 7080.0310, 7080.0315, 7080.0600, and 7080.0700, as they may be amended from time to time, relating to ISTS are hereby adopted by reference and made a part of this chapter as if fully set forth herein. (Ord. 21F, passed 4-17-01)

**§ 52.021 STANDARDS AMENDED.**

The above adopted rules are hereby amended as follows:

(A) Minn. Rules Part 7080.0060 Compliance Criteria, subpart 3(A), as it may be amended from time to time, is amended to read “If conflicting Compliance Inspection reports are submitted for the same piece of property, the Department will determine the compliance status of the system. A Certificate of Compliance, if applicable, will not be issued until the conflict is resolved to the satisfaction of the Department.”

(B) (1) Minn. Rules 7080.0130, subpart 3A, as it may be amended from time to time, is amended to read as follows: “All new systems shall require a multiple compartment septic tank or multiple tanks in series.”

(2) Minn. Rules Part 7080.0130, subpart 3A, Table II, “liquid capacity of septic tanks,” as it may be amended from time to time, is amended as follows:

<i>Number of Bedrooms</i>	<i>Tank Size</i>	<i>With Garbage Disposal</i>	<i>With Lift in Basement and Garbage Disposal</i>
2 or less	1,500	2,250	3,000
3 or 4	2,000	3,000	4,000
5 or 6	2,250	3,375	4,500
7, 8, or 9	3,000	4,500	6,000

To increase tank liquid capacity, two or more separate tanks in series are permitted.

For ten or more bedrooms, the septic tanks shall be sized as an “other establishment” as defined in Minn. Rules Part 7080.0020, subpart 25, as it may be amended from time to time. Multiple septic tanks are required consistent with the above Table II. The Department may require a water-monitoring device be installed.

(C) Minn. Rules Part 7080.0150, Part C, subpart 3, Table III, as it may be amended from time to time, is amended as follows: Maximum Allowable Number of One-Fourth Inch Diameter, or Smaller, Perforations Per Lateral Pipe Diameter, Nominal and Inside Perforation

Spacing in Feet	10 1.049	1¼O 1.380	1½O 1.610	20 2.067
2.5	8	14	18	28
3.0	8	13	17	26
3.3	7	12	16	25
4.0	7	11	15	23

Minn. Rules Part 7080.0150, subpart 3F, as it may be amended from time to time, is amended to read: Laterals must be spaced no further than 60 inches apart in seepage beds and mound rock beds and no further than 30 inches from the outside edge of a drainfield rock layer. A mound drainfield with a 10N wide rockbed shall contain a minimum of three (3) laterals.

(D) Minn. Rules Part 7080.0170, subpart 2.C.(1)1, as it may be amended from time to time, is amended to read as follows: If there is a discrepancy between the soil texture and the percolation rate in Table V, the larger soil sizing factor shall be used, or a justification for a smaller sizing, acceptable to the Department, shall be submitted in the design report.

Subpart 2 C(2) is amended to read: Gravelless drainfield pipe media: Sizing shall be based upon 12O of drainfield rock except no reduction shall be allowed. The resulting size calculation shall be increased by 20%

1. The use of gravelless pipe in sandy soils is prohibited, unless evidence satisfactory to the Department proving no risk of failure is submitted to and approved by the Department.

(E) Holding tanks shall not be used as an ISTS for new residential construction or for improvements greater than 50% of the assessed value of the structure at the time of the application for the improvement.

(F) Septic tanks shall be allowed as temporary holding tanks for new residential construction completed during the winter months, when the ground is frozen to where installation of the drainfield is not possible, or an Imminent Public Health Threat (IPHT) exists. A pumping agreement, signed by the homeowner and the licensed pumper, must be filed with the Department.

(G) Permanent holding tanks shall only be allowed for pre-existing dwellings where a standard, alternative, other, or performance system cannot be reasonably installed.

(H) Undeveloped lots of record on which a holding tank is the only practical means of sewage disposal are deemed unsuitable for residential use.

(I) Holding tanks shall not be installed on undeveloped lots of records for recreational use.

(J) Performance systems shall be allowed only to correct an IPHT or a failing system on sites with limited capacity to upgrade with standard technology, or to allow development on an existing lot of record that has limited capacity for the use of standard technology. Performance systems are not an option for the primary site on lots established since February 24, 1998 unless the alternate site can support a standard septic system.

(K) Individual sewage treatment systems shall be designed and located as to comply with the following minimum setback distances:

<i>Feature</i>	<i>Septic Tank</i>	<i>Soil Treatment Area</i>
Water supply well less than 50 feet and not encountering at least 10 feet of impervious material	50	100
Any other water supply well or buried water suction pipe	50	50
Buried pipe distributing water under pressure	10	10
Buildings	10	20
Property lines	10	10

The ordinary high water mark of: Natural environment lakes and streams	150	150
Recreational development lakes and streams	75	75
General development lakes, rivers and protected waters	50	50
Swimming pools	10	10
Slopes of 20% or more	20	20
Interceptor drains		10*
* 20 feet in shoreland areas		

(L) Alternative, other, or performance ISTS as defined in Minn. Rules Parts 7080.0172, 7080.0178, and 7080.0179, as they may be amended from time to time, may be used only for the repair or replacement of existing nonconforming systems, on existing lots of record, or as a new system if approved by the Department with the following conditions:

- (1) When a standard ISTS, as defined in Minn. Rules Parts 7080.0065 to 7080.0170 and 7080.0600 and as designated by the commissioner under Minn. Rules Part 7080.0400, subpart 4, as they may be amended from time to time, cannot be installed on the property;
- (2) Reasonable assurance of performance of such system is presented to the Department. The Department may require financial assurance including but not limited to escrow funds, letters of credit or liens on property in amounts sufficient to assure correction of a failing alternative, other or performance system;
- (3) The design of such system is first approved by the Department;
- (4) Treatment and disposal of waste is in such a manner so as to protect the public health and general welfare;
- (5) Monitoring will be required by the Department through installation of Department-approved monitoring devices at the time of initial construction, or upon any alternation, repair, or extension of the system.
  - (a) Responsibility and liability for the cost of installing monitoring equipment and subsequent laboratory analysis shall be with the property owner;
  - (b) Property owner must permit reasonable access by the Department for the purpose of monitoring the system;
  - (c) The Department, upon request, shall make the monitoring data available to the property owner;
- (6) Such systems comply with all applicable requirements of these standards and with all

local codes and ordinances.

(M) It shall be the responsibility of any person utilizing an alternative, other or performance ISTS to report to the Department all discharges from a malfunctioning alternative, other or performance ISTS as soon as possible, but no later than 24 hours upon knowledge of such discharge; and further abate such discharge as soon as possible, but no later than 48 hours from the time the discharge was discovered.

(N) Where conditions prevent the construction, replacement, alteration and/or repair of an ISTS on an existing developed parcel of real property, the Department may reduce property line and building setbacks and system sizing requirements provided said reduction does not endanger or unreasonably infringe on adjacent properties and with the concurrence of the affected properties.

(O) Not more than one dwelling, commercial, business, institutional, or industrial unit shall be connected to an existing ISTS unless such multiple connection has been approved by permit.

(P) No additions, installation of mechanical equipment, enlargements, improvements, or remodeling involving 50% or more of the original structure, or alterations that would effect the water use, such as a bedroom, a bathroom, or additions to living space excluding such areas as screen porches entry ways, decks, attics, patios and nonhabitable space shall be allowed until the ISTS has been determined to be both adequate and conforming or a permit for a new treatment system has first been issued.

(Q) State license required. A state license applicable to the type of work being performed is required for any person, business, firm or corporation that conducts site evaluations, design, installation, alteration, repair, maintenance, pumping or inspections on all or part of a sewage treatment system in Carver County. A license is not required for an individual who:

(1) Is a qualified employee performing work as directed by the state or local government employer;

(2) Performs labor or services under a licensee; or

(3) A property owner who personally gathers information, evaluates, or investigates the sewage treatment system on or serving the property to provide a disclosure as defined under Minn. Rules Part 7080.0020, subpart 12b, as it may be amended from time to time.

(Ord. 21F, passed 4-17-01)

## ***PERMITS***

### **§ 52.030 PERMIT REQUIRED.**

No person, business, firm, or corporation shall install, alter, extend, or repair an ISTS in Carver County without first obtaining a permit from the Department or local permitting authority for each specific installation, construction, alteration, extension, or repair. Such permits shall be valid for a period of 12 months from the date of issuance.

(Ord. 21F, passed 4-17-01)

### **§ 52.031 PERMIT APPLICATION REQUIREMENTS.**

(A) No construction shall be allowed until the permit required for the ISTS has been issued.

(B) Application for permits shall be made in writing on forms furnished by the Department or local permitting authority and shall be signed by the applicant or the licensed installer.

(1) Each application shall contain:

- (a) Legal description of the property;
- (b) Location description of the property;
- (c) Name, mailing address, and phone number of the property owners;
- (d) Name, mailing address and phone number of the licensed installer;
- (e) Maximum number of bedrooms;
- (f) Estimated water usage if the building is not a dwelling unit;
- (g) List of water using appliances;
- (h) Estimated depth of well, if known.

(2) Each application shall be accompanied by:

- (a) Two copies of a plot plan of the land drawn to scale showing:
  1. Boundary lines and setbacks;
  2. Proposed and/or existing buildings as well as tennis courts and swimming pools;
  3. Proposed and/or existing recreational structures, including but not limited to tennis courts, swimming pools, hot tubs;

4. Location of wells and water pipes;
5. Location of septic tanks and pump tanks;
6. Location of drainfield;
7. Location of building sewer;
8. Location of distribution boxes or drop boxes;
9. Location of any animal confinement areas within 50 feet of septic tank or drainfield;
10. Location of any water bodies or wetlands located within 200 feet of septic tank or drainfield;
11. Roads and driveway and parking areas;
12. Land elevations.

(b) Two copies of a complete, detailed, to-scale ISTS plan showing location, size and design of all parts of the system to be constructed, installed, altered, repaired or extended, and the location of percolation and soil borings performed for site evaluation.

(c) Soil test and percolation test data, dated within 12 months of the date of application, that verify suitable conditions for two complete soil treatment systems.

(d) Two copies of the results of the site evaluation report prepared by a licensed Designer I or Designer II.

1. The site evaluation report shall contain:
  - i. A description of the site characteristics;
  - ii. Soil evaluation based on borings and percolation tests;
  - iii. Location of borings and percolation tests;
  - iv. Elevation in relationship to a permanently fixed point.

2. There shall be a minimum of two percolation tests and two soil borings performed on each proposed site. One shall be placed in the site designated for the rockbed, the other on the furthest downslope edge of the drainfield area.

(e) Any additional information that may be required by the Department to assure compliance with this chapter and state rules.

(f) The design and/or evaluation report approved by the Department shall be valid for a period of 12 months from the date of approval by the Department.  
(Ord. 21F, passed 4-17-01)

### **§ 52.032 PERMIT FEES.**

(A) For construction completed without the appropriate permits, the permit fee shall be twice the current fee.

(B) The County Board shall, by resolution, establish fees including, but not limited to, fees for the type of system, permit renewal, and late fees.

(C) County Board may, by resolution, establish such other fees as may be necessary for the administration of this chapter.  
(Ord. 21F, passed 4-17-01)

### **§ 52.033 RELATION TO OTHER PERMITS.**

(A) No building permit will be issued until the ISTS permit, when required, is approved and issued.

(B) No occupancy permit will be issued until the ISTS has had final inspection approval.  
(Ord. 21F, passed 4-17-01)

### **§ 52.034 PERMIT DENIED.**

If an application for an ISTS permit or permit renewal is denied, notice of denial shall be served on the applicant by mail to the address set forth in the application. The notice shall state the reasons for denial and inform the applicant of his or her right to request a hearing as provided in §§ 52.135 *et seq.* of this chapter.

(Ord. 21F, passed 4-17-01)

**§ 52.035 PERMIT REVOKED.**

Permits issued under this chapter may be revoked upon written notice by the Department when such permit has been issued based upon erroneous or inaccurate data supplied by the applicant or designer or erroneous interpretation of the law by the Department or a building official.  
(Ord. 21F, passed 4-17-01)

***INSPECTIONS AND LICENSED INSTALLER REQUIREMENTS***

**§ 52.045 APPLICABILITY.**

(A) Inspections relating to the repair, replacement, or construction of a new individual ISTS shall be performed by the Department or its authorized agent.

(B) These inspections shall include, but are not limited to, the following:

(1) Site inspections to verify and evaluate soil and site conditions and to determine the suitability of soils and system design; and

(2) Necessary investigations to determine compliance of existing ISTS.  
(Ord. 21F, passed 4-17-01)

**§ 52.046 CONSTRUCTION, REPAIR, OR REPLACEMENT.**

For all new ISTS construction and the repair or replacement of existing systems:

(A) Mound and at-grade systems shall require a minimum of four construction inspections:

(1) When tanks are installed, including all pumps and piping;

(2) When the soil under the mound has been roughed or scarified, but prior to placement of the sand fill. Enough of the proposed sand fill must be present to be examined;

(3) After placement of rock and piping but prior to cover; and

(4) When the installation is completed, the installer is required to make an as-built sketch of the ISTS and keep this record for a minimum of three years.

(B) Rock, gravelless trench, chambered media, and pressurized bed systems shall require a minimum of three construction inspections:

(1) When tanks are installed, including all pumps, piping;

(2) After placement of the distribution medium but prior to cover; and

(3) When the installation is completed, the installer is required to make an as-built sketch of the ISTS and keep this record for a minimum of three years.

(C) Alternative, other, and performance systems require as many inspections as deemed necessary by the Department to verify conformity to the design and compliance with this chapter. Following completion, the installer is required to make an as-built sketch of the ISTS and keep this record for a minimum of three years.

(D) Installation inspections shall be made prior to any work having been covered by backfill. Work which is backfilled prior to required inspection may be ordered to be uncovered whenever necessary to determine compliance.

(E) The licensed installer shall be responsible to notify the Department before 4:00 p.m. the day before an inspection or re-inspection is requested.

(F) If upon inspection, any part of the system is determined not to be in compliance with this chapter, or state rule, written notice shall be provided by the Department or its authorized agent indicating the deficiency and the required correction. Noted deficiencies shall be properly corrected and reinspected before a Certificate of Compliance is issued.

(G) No system shall be placed or replaced in service until final inspection has been completed and the system installation has been approved.

(H) The owner or occupant of a property shall be responsible to provide access at a reasonable time to the Department or its agent for the purpose of performing inspections required under this chapter.

(I) Additional inspections or evaluations may be specified for the repair, replacement of an existing system, or construction a new system at the time the ISTS permit is issued. These requirements shall be provided by the Department to the permittee at the time the permit is issued.

(J) If the Department is unable to complete an inspection, it shall be the responsibility of the licensed installer to take photographs of each phase of the installation as outlined in division (B)(1) through (3) above and submit these photos to the Department for approval. A certificate of compliance will not be issued until the Department has reviewed and approved the installation photographs.

(K) The licensed installer shall provide, upon request from the Department, a copy of the final electrical report to the Department. The final certificate of compliance may be withheld if the electrical report is not received by the Department within ten working days of request.

(L) It shall be the responsibility of the licensed installer that the entire system is installed in strict accordance with the design as approved by the Department. If the system is not or cannot be constructed as designed, it shall be the responsibility of the licensed installer to inform the Designer and the Department. If proposed changes are approved by the Designer and the Department, it shall be the responsibility of the licensed installer to submit new or amended designs to the Department before completing construction.

(M) Violations of this chapter that necessitate follow-up inspection will be subject to a re-inspection fee. The re-inspection payment must be received by the Department within ten days following the re-inspection. A certificate of compliance will not be issued until the re-inspection payment is received by the Department.

(N) Failure of the county to inspect the system shall not relieve or lessen the responsibility or liability of any person owning, operating, controlling, monitoring, or installing any ISTS.  
(Ord. 21F, passed 4-17-01)

#### **§ 52.047 COMPLIANCE INSPECTION.**

If an inspection is conducted as part of a compliance inspection and/or the disclosure required by M.S. § 115.55, subd. 6, as it may be amended from time to time, such party must be licensed in accordance with MPCA rules and regulations and the notice of compliance or noncompliance provided to the property owner must also be provided to the Department within 30 calendar days of the inspection.

(Ord. 21F, passed 4-17-01)

### ***PROPERTY TRANSACTIONS***

#### **§ 52.055 STANDARDS.**

No owner of a tract of land upon which a dwelling is located, or a tract of land upon which a structure which is required to have an ISTS is located, shall sell or transfer to another party the tract of land, unless the following requirements are met:

(A) The sellers of any property having an Individual Sewage Treatment ISTS must have a State Licensed Inspector or Designer I complete the MPCA Sewage System Compliance Inspection.

(1) 201 systems located outside of city limits and not utilizing a drainfield shall require a septic tank inspection only;

(2) 201 systems located outside of city limits and utilizing a community or shared drainfield shall require a complete compliance inspection.

(B) The sellers must provide a copy of the completed property transfer system disclosure form and the compliance inspection form to any person who signs a purchase agreement. The disclosure form

and compliance inspection form must be provided to the buyers prior to the signing of the purchase agreement. The compliance inspection form shall include all requirements for bringing the system into compliance with this chapter.

(C) The sellers or buyers of a property containing an ISTS that is an IPHT must have the system repaired or replaced within ten months of the inspection date. If the system is not brought into compliance prior to the property transfer, funds sufficient to repair or replace the failing system shall be placed in escrow. The Department has the authority to require repair or replacement of an IPHT sooner than ten months of the inspection date.

(D) The sellers or buyers of a property containing a failing ISTS that is not an IPHT must have the sewage system upgraded to a complying system within three years of the date of the compliance inspection. If the system is not brought into compliance prior to the property transfer, funds sufficient to repair or replace the failing system shall be placed in escrow. The Department has the authority to require repair or replacement of a failing ISTS sooner than three years of the inspection date.

(E) The Sewage System Compliance Inspection form shall be filed with the County Auditor along with the Certificate of Real Estate Value. A copy of the inspection form must also be filed with the Department within 30 calendar days of the date of the inspection.  
(Ord. 21F, passed 4-17-01)

### ***EXEMPT TRANSACTIONS***

#### **§ 52.065 EXEMPT TRANSACTIONS.**

The compliance inspection need not be completed if the sale or transfer involves the following circumstances:

(A) Tract of land is without buildings or contains no dwellings or other buildings with plumbing fixtures;

(B) No certificate of real estate value need be filed with the County Auditor, as per M.S. § 272.115, as it may be amended from time to time;

(C) The sale or transfer is to the seller's spouse or ex-spouse only. The sale or transfer may be by deed, through a joint tenancy, of a testamentary nature or by trust document;

(D) The transfer is a foreclosure or tax forfeiture;

(E) A refinance of a property;

(F) The sale or transfer completes a contract for deed entered into prior to February 24, 1998. This division applies only to the original vendor and vendee on such a contract;

(G) All dwellings or other buildings with running water are connected to a municipal wastewater or treatment system;

(H) 201 systems which discharge directly to the Metropolitan Council Environmental Services interceptor/collector sewer and do not utilize a septic tank or a septic tank and soil treatment area. (Ord. 21F, passed 4-17-01)

#### **§ 52.066 TRANSACTIONS OCCURRING BETWEEN DECEMBER 1 AND APRIL 1.**

(A) If the transaction occurs between December 1 and the following April 1, and the compliance inspection cannot be completed, the compliance inspection shall be completed and filed with the Department and County Auditor by June 15 following the closing date.

(B) The responsibility for filing the completed compliance portion of the inspection form in this type of transaction shall be that of the buyer. (Ord. 21F, passed 4-17-01)

#### ***FAILING AND NON-COMPLYING SYSTEMS***

#### **§ 52.075 TIME FRAMES.**

(A) Any ISTS determined to be failing or non-complying by the Department or by a compliance inspection shall be repaired or replaced.

(B) A system determined to be failing or non-complying and an IPHT must be brought into compliance within ten months of the date of discovery by the Department or the date of the compliance inspection, whichever is the earlier date.

(C) A system determined to be failing or non-complying but not an IPHT must be brought into compliance within three years of the date of discovery by the Department or the date of the compliance inspection, whichever is the earlier date. The property owner of an ISTS having an existing curtain drain must, upon discovery by the Department, enroll in the ISTS Monitoring Program. (Ord. 21F, passed 4-17-01)

## **§ 52.076 RESTORATION.**

The Department may allow a failing system to be restored to its original design rather than being fully reconstructed in accordance with the standards set forth in §§ 52.020 *et seq.* if the Department determines such restoration will abate the system's failure and reasonably assure satisfactory performance of the system as defined by Minn. Rules Chapter 7080, as it may be amended from time to time, and this chapter.

(Ord. 21F, passed 4-17-01)

## ***MAINTENANCE, PUMPING AND DISPOSAL.***

### **§ 52.085 PUMPING OF SEPTIC TANKS.**

The owner of any ISTS shall properly clean the septic tank or tanks at least once every three years or sooner if necessary in order to prevent the sludge from reaching any point closer than 12 inches from the bottom of the outlet baffle or the scum from reaching a point closer than 3 inches above the bottom of the outlet baffle.

(Ord. 21F, passed 4-17-01)

### **§ 52.086 SEPTIC TANK ACCESS.**

The owner or owner's agent shall install maintenance holes in sewage tanks in accordance with Minn. Rules Part 7080.0130, subpart 2.M, as it may be amended from time to time, to allow for maintenance to take place through the maintenance hole.

(Ord. 21F, passed 4-17-01)

### **§ 52.087 LICENSED PUMPER REQUIREMENTS.**

(A) Pumpers shall have equipment capable of agitating septage sludge and thoroughly removing sludge and scum from the septic tanks or holding tanks.

(B) Septage sludge shall be removed through the septic tank maintenance hole and not through inspection pipes.

(1) If the property owner or owner's agent refuses to allow removal through the maintenance hole, the pumper must obtain a signed statement from the owner or owner's agent stating said parties were informed of correct removal procedures and the reason for refusal.

(2) A copy of this statement must be submitted to the Department.

(C) All septage removed from septic tanks or holding tanks shall be removed from the site in sealed containers and disposed of in accordance with § 52.088.

(D) The pumper shall submit monthly reports to the Department listing the total number of systems pumped, address of site, approximate volume pumped, method of septage disposal, and location of septage disposal.  
 (Ord. 21F, passed 4-17-01)

**§ 52.088 DISPOSAL OF SEPTAGE.**

All septage removed from septic tanks or holding tanks shall be removed from the site in sealed containers and shall be disposed of in accordance with state, federal, and local requirements. If the septage is to be disposed of into a municipally-controlled sewage facility or into a Metropolitan Waste Control Commission facility it shall be disposed of in a location and manner approved by said governmental authority.  
 (Ord. 21F, passed 4-17-01)

**§ 52.089 SEPTAGE APPLICATION AND UTILIZATION.**

(A) *Land spreading location.* The land spreading site location must be such that the minimum setback distance designated in Table I below are maintained. These minimum separation distances will be maintained subject to more stringent state and/or federal regulations.

<i>Setbacks</i>	
<i>Table I</i>	
<i>Feature</i>	<i>Minimum Required Separation Distance</i>
Private water wells	200 feet
Municipal well	1,000 feet
Public road right-of-way	100 feet
Occupied buildings	600 feet
Residential or commercial dev.	1,320 feet
Property lines	25 feet
Airport	5,000 feet

(B) *Land application requirements for septage.* Minnesota Pollution Control Agency Septage and Restaurant Grease Trap Waste Management Guidelines, Water/Wastewater-ISTS #4.20 dated January

2001, are hereby adopted as county ordinance. These requirements are only for land application of septage on areas referred to as non-public contact sites. These are agricultural, forest, and mine lands. Areas frequented by the public must meet the more detailed requirements of 40 C.F.R. Part 503 for sewage sludge. It is the pumper's responsibility to keep current on all rules and ordinances related to land application.

(Ord. 21F, passed 4-17-01)

#### **§ 52.090 OTHER SEPTAGE DISPOSAL METHODS AND REGULATIONS.**

Septage may be disposed of in a municipal sewage treatment plant only with the authorization of the plant operator. The governmental entity owning such a plant may also require a permit or other written authorization before disposal of septage at their facility.

(Ord. 21F, passed 4-17-01)

### ***ABANDONMENT OF ISTS AND CONNECTIONS TO COMMUNITY SEWER SERVICES***

#### **§ 52.105 ABANDONMENT.**

(A) When an ISTS is abandoned, all septic tanks, cesspools, and leaching pits shall be pumped to remove all liquid, sludge and scum. The covers to all septic tanks, cesspools and leaching pits shall be either collapsed or removed and tanks or cavities shall be filled with clean earth. The earth shall be adequately mounded to allow for settling.

(B) Sufficient documentation to describe the abandonment procedures shall be submitted to the Department by the licensed installer responsible for the abandonment procedures. This documentation must be submitted within 30 calendar days of the abandonment.

(Ord. 21F, passed 4-17-01)

#### **§ 52.106 CONNECTION.**

When sanitary sewer services are available all IPHT systems shall make connection to community sewer services within ten months from the date of inspection; failing systems shall make connection within three years from the date of inspection, unless earlier connection is deemed necessary by the Department.

(Ord. 21F, passed 4-17-01)

## ***LICENSED DESIGNER RESPONSIBILITIES***

### **§ 52.115 DESIGN AND SITE REQUIREMENTS.**

(A) All ISTS designs shall be in compliance with this chapter. Designs submitted to the Department shall be of sufficient detail and to scale so as to allow adequate review for compliance by the Department.

(B) Rockbed, upslope, and downslope berm corners must be staked for mound and at-grade systems. Rockbed area must be staked for trench and pressurized bed systems.

(C) All ISTS sites must be identified before construction activities begin and staked and fenced to prevent construction traffic from altering the soil conditions. If construction traffic results in alteration of the soils, a revised design and permit application proposing another site must be submitted to the Department along with the required fees.

(D) The primary ISTS site for an existing dwelling must be adequately marked and fenced to keep the area secure until the system is installed. If traffic results in alteration of the soils, a revised permit application proposing another site must be submitted to the Department along with the required soil data and fees.

(Ord. 21F, passed 4-17-01)

## ***VARIANCES***

### **§ 52.125 APPLICABILITY.**

In any case where, upon written application by an applicant or the permittee it appears that by reason of exceptional circumstances the strict enforcement of any provision of this chapter would cause undue hardship, or that strict conformity with the chapter would be unreasonable, impractical or not feasible under the circumstances, and in order to promote the effective and reasonable application and enforcement of the provisions of this chapter, the County Board may grant a variance from the provisions of this chapter upon such conditions as it may prescribe for ISTS management consistent with the general purpose and intent of this chapter, provided that:

(A) The condition causing the hardship is unique to that property;

(B) The granting of the variance will not be contrary to the public interest or be damaging to rights or property of others;

(C) Pursuant to Minn. Rules Part 7080.0305, as it may be amended from time to time, variances to decrease the three-foot of vertical separation required beneath the distribution medium and the

saturated soil or bedrock must be approved by the Commissioner of the Minnesota Pollution Control Agency in accordance with Minn. Rules Part 7080.0030, subp. 3, as it may be amended from time to time;

(D) Pursuant to Minn. Rules Chapters 4715 and 4725, as they may be amended from time to time, variances to decrease the required setbacks from buried water pipes and water supply wells must be approved by the Minnesota Department of Health.  
(Ord. 21F, passed 4-17-01)

### ***ADMINISTRATION AND ENFORCEMENT***

#### **§ 52.135 DUTIES OF THE DEPARTMENT.**

(A) The Department shall be responsible for the administration and enforcement of this chapter.

(B) The Department's duties shall include, but are not limited to, the following:

(1) Inspect new, repaired, or replaced ISTS and septage disposal sites located in the unincorporated areas of Carver County as provided in this chapter, issue certificates of compliance for new, repaired, or replaced systems, and investigate complaints of violations of this chapter.

(2) Recommend that legal proceedings be initiated by the County Attorney to compel compliance with the provisions of this chapter.

(3) Advise, consult and cooperate with the public and other governmental agencies in the furtherance of this chapter.

(4) Issue orders:

(a) To suspend or revoke permits issued under this chapter;

(b) To stop actions which constitute a violation of this chapter;

(c) To correct systems determined by the Department to be in a state of failure or determined to be otherwise in violation of this chapter;

(d) To cease and prevent from use any system which is operating in a manner creating hazard to public health, safety or welfare.

(5) Failure of the county to inspect the system shall not relieve or lessen the responsibility or liability of any person owning, operating, controlling or installing any ISTS.  
(Ord. 21F, passed 4-17-01)

#### **§ 52.136 ADMINISTRATIVE HEARING.**

(A) An applicant or permittee wishing to appeal a Departmental decision may request an Administrative hearing.

(B) The request shall be in writing stating the grounds for appeal and served personally or by registered or certified mail on the Department by 4:00 p.m. the fifth county working day following service of the Departmental decision in question.

(C) After receipt of an appeal request, the Department shall set a time and place for the hearing.

(D) The Department shall reply as soon as possible, not to exceed 5 county working days of the receipt of the request for hearing and identify a hearing time within 20 calendar days of the receipt of the request for hearing.

(E) If the Department fails to grant an administrative hearing or, if after the hearing the person wishes to appeal the decision reached as a result of the administrative hearing, they may request a formal hearing as identified in § 52.137.

(Ord. 21F, passed 4-17-01)

#### **§ 52.137 HEARINGS.**

(A) Any applicant or permittee may appeal a decision issued pursuant to § 52.136. Such hearing shall be held before the County Board, or a hearing examiner as provided below, and shall be open to the public.

(B) 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 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 90 calendar days after the date of service of request for a hearing, exclusive of the date of such service.

(C) The County Board shall mail the notice of the hearing to the appellant and to the Department at least fifteen working days prior to the hearing. Such notice shall include:

- (1) A statement of time, place, and nature of the hearing;
- (2) A statement of the legal authority and jurisdiction under which the hearing is to be held;
- (3) A reference to the particular section of the ordinance and rules involved.

(D) The County Board may by resolution appoint an individual, 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.

(E) The applicant or permittee may be represented by counsel. The Department, the applicant or permittee, 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.

(F) The Department shall have the burden of proving its position by 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.

(G) All evidence which 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 which 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 suspension, summary of suspension, or termination or in the appellant's written request for a hearing.

(H) At the written 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 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 county working days before the hearing. The purpose of the prehearing conference is to:

- (1) Clarify the issues to be determined at the hearing;
- (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 Board's representative may require each party to supply a reasonable number of copies of relevant evidence capable of reproduction; and
- (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 in issue.

(I) If a pre-hearing conference is held, evidence not divulged as provided above shall be excluded at the hearing unless the party advancing the evidence took all reasonable steps to divulge it to the adverse party prior to the hearing and:

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

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

(J) If the applicant or permittee fails to appear at the hearing, he or she shall forfeit any right to a public hearing before the County Board or hearing examiner.

(Ord. 21F, passed 4-17-01)

### **§ 52.999 PENALTIES.**

(A) *Responsibility.* It is the responsibility of the owner of a failing ISTS to notify the Department and submit a plan for the abatement of the failure to the Department.

(B) *Time frame.* When the Department becomes aware of a failing ISTS, the Department shall require the following:

(1) The owner of a failing ISTS shall respond to the Department within five working days of notification by the Department by submitting a plan for abating the discharge.

(2) The owner of a failing ISTS shall repair or replace the failing system consistent with this chapter and Minn. Rules Chapter 7080, as it may be amended from time to time.

(3) The Department may require that the owner pump the septic tank as an interim abatement measure if the Department determines that the failing system is an IPHT.

(C) *Misdemeanor.* Any person who fails to comply with the provisions of this chapter is guilty of a misdemeanor. A separate offense shall be deemed committed upon each day during or on which a violation occurs or continues.

(D) *Injunctive relief.* In the event of a violation or a threat of violation of this chapter the Department may institute appropriate actions or proceedings, including requesting injunctive relief to prevent, restrain, correct or abate such violations or threatened violations.

(E) *Civil action.* If a person fails to comply with the provisions of this chapter, the Department may recover cost or damages incurred in a civil action in any court of competent jurisdiction.

(Ord. 21F, passed 4-17-01)

## CHAPTER 53: OPEN BURNING

### Section

- 53.01 Purpose, scope and authority
- 53.02 General provisions
- 53.03 Standards adopted
- 53.04 Administration and enforcement
- 53.05 Permit holder responsibility
- 53.06 Prohibited materials
- 53.07 Permit required for open burning
- 53.08 Purposes allowed for open burning
- 53.09 Permit application for open burning and permit fees
- 53.10 Permit process for open burning
- 53.11 Revocation of open burning permit
- 53.12 Denial of open burning permit
- 53.13 Burning ban or air quality alert
  
- 53.99 Penalty

### § 53.01 PURPOSE, SCOPE AND AUTHORITY.

(A) This subchapter regulates the disposal, by the method of burning, of solid waste materials in Carver County. If a local requirement is more restrictive than the requirement found in this subchapter, the local requirement will supersede the county requirement. This subchapter has been adopted by the Carver County Board of Commissioners to protect the public's health and prevent nuisance; to protect air and ground water resources; to minimize reliance upon disposal by burning; to promote waste abatement such as recycling and composting; and to supplement and support Carver County and State of Minnesota controls over open burning.

(B) This subchapter establishes standards for the regulation of open burning activities in Carver County, Minnesota. This subchapter requires that appropriate permits be obtained from Carver County for the purpose of open burns.

(Ord. 5B, passed 6-26-01)

Archived Copy

Archived Copy

## § 53.02 GENERAL PROVISIONS.

(A) *Definitions.* The following words and phrases, when used in this subchapter, unless the context clearly indicates otherwise, shall have the meanings ascribed to them in this section.

**AGRICULTURAL FIRE.** Open burning for the purpose of disposing of materials generated on ten acres or larger parcels of land that is in “agricultural use” as defined in M.S. § 17.81, as it may be amended from time to time.

**BURNING BAN.** The Commissioner, by written order, may suspend the issuance of permits for open fires, revoke or suspend the operation of a permit previously issued and, to the extent he or she deems necessary, prohibit the burning of all or some kinds of open fires.

**BURNING RESTRICTION.** No permit may be issued in instances where there are alternatives to burning or burning can be delayed until after the restriction has been lifted. Variances may be given on a case by case basis. DNR Foresters will review variance applications and make recommendations to the local Fire Chief, who will have the final authority during the restriction period.

**COMMISSIONER.** The Commissioner of the Department of Natural Resources.

**CONSTRUCTION DEBRIS.** Waste building material, packaging and rubble resulting from construction, remodeling and repair.

**DEMOLITION DEBRIS.** Solid waste resulting from the demolition of buildings, roads, and other man-made structures, including but not limited to, materials such as concrete, brick, bituminous concrete, treated wood, masonry, glass, rock, and plastic building parts. Demolition debris does not include asbestos wastes.

**DEPARTMENT.** The Carver County Environmental Services Department.

**DESIGNATED LOCAL AUTHORITY (DLA).** A representative of a local unit of government, fire chief, fire marshal, or fire warden who has been trained and certified by the DNR. The Carver County Environmental Services Department shall be the local DLA in local governmental units who do not choose to designate a DLA.

**HAZARDOUS WASTE.** As defined in M.S. § 116.06, as it may be amended from time to time, means any refuse, sludge, or other waste material or combinations or refuse, sludge, or other waste materials in solid, semi-solid, 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 material 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.

**INDUSTRIAL SOLID WASTE.** All solid waste generated from an industrial or manufacturing process and solid waste generated from non-manufacturing activities such as service and commercial establishments. Industrial solid waste does not include office materials, restaurant and food preparation waste, discarded machinery, demolition debris, or household refuse.

**MIXED MUNICIPAL SOLID WASTE (MMSW).** Garbage, refuse, and other solid waste from residential, commercial, industrial, and community activities that the generator aggregates for disposal, but does not include auto hulks, street sweepings, ash, construction debris, mining waste, sludges, tree and agricultural wastes, tires, lead acid batteries, used oil, and other materials, collected, processed, and disposed of as separate waste streams.

**OPEN BURNING.** The burning of any matter if the resultant combustion products are emitted directly to the atmosphere without passing through a stack, duct or chimney, except a recreational fire as defined herein.

**RECREATIONAL FIRE.** A fire set with approved starter fuel, with the materials to be burned no more than 3 feet in diameter and 3 feet in height, using dry, clean wood; producing little detectable smoke, odor or soot beyond the property line; for recreational, ceremonial, food preparation or social purposes; extinguished completely before quitting the occasion; and respecting weather conditions, neighbors, burning bans, and air quality so that nuisance, health or safety hazards will not be created. Mobile cooking devices such as, charcoal grills, propane, and natural gas devices are not defined as recreational fires. Recreational fires shall not be located closer than 25 feet to any structure.

**RUNNING FIRE.** An open burn that is not confined to piled materials but is meant to consume materials over an unconfined area. Running fires include but are not limited to, open burning conducted to clear or maintain small areas of land surrounded by tilled agricultural land, open burning to maintain wildlife habitat in managed wildlife areas, and open burning conducted by a local government unit to maintain road rights-of-way. Permits for running fires of over five acres in size must be reviewed and approved by the county.

**STARTER FUELS.** Dry, untreated, unpainted kindling, branches, or cardboard, or charcoal fire starter. Paraffin candles and alcohols are permitted as starter fuels and as aids to ignition only. Only propane gas torches or other clean gas burning devices causing minimal pollution may be used to start an open burn.

**WOOD.** Dry, clean fuel only such as twigs, branches, limbs, “presto logs,” charcoal, cordwood or untreated dimensional lumber. **WOOD** does not include pallets, wood that is green, with leaves or needles, rotten, wet, oil soaked, or treated with paint, glue or preservatives. Clean pallets may be used for recreational fires when cut into three-foot lengths.

(B) *Compliance.* No person shall cause or permit open burning, except in full compliance with the provisions of this subchapter.

(C) *Conditions.* Violations of any condition, imposed by the Department or DLA on a permit, shall be deemed a violation of this subchapter.

(D) *False information.* Omission of any information or submission of false information may be deemed a violation of this subchapter or may be deemed a violation of state statute.

(E) *Right of entry.* Whenever necessary to perform an inspection, to enforce any of the provisions of this subchapter, or whenever the Department has reasonable cause to believe that prohibited materials are being burned upon the premises, the Department or its authorized agent may enter such premises at all reasonable times to inspect the same or to perform any duty imposed upon the Department by this subchapter, provided that if such premises be occupied, the authorized agent shall first present proper credentials and demand entry; and if such premises be unoccupied, the Department shall first make a reasonable effort to locate the owner or other persons having charge or control of the premises and demand entry. If such entry is refused, the Department shall have recourse to every remedy provided by law to secure entry including administrative search warrants.  
(Ord. 5B, passed 6-26-01)

### **§ 53.03 STANDARDS ADOPTED.**

“Open Burning,” as it may be amended from time to time, M.S. §§ 88.01 to 88.22, as they may be amended from time to time, and Minnesota Uniform Fire Code (where adopted), are hereby adopted by reference and made a part of this subchapter as if fully set forth at this point.  
(Ord. 5B, passed 6-26-01)

### **§ 53.04 ADMINISTRATION AND ENFORCEMENT.**

(A) *Duties of the Department.* The Department shall be responsible for the administration and enforcement of this subchapter. The Department’s duties shall include, but are not limited to, the following:

- (1) The Department shall maintain records of open burns within Carver County;
- (2) The Department shall review and issue open burn permits for local governments who do not designate a DLA;
- (3) The Department and its agents shall administer this subchapter, investigate complaints and violations related to it and enforce the provisions of this subchapter as provided in rules and statutes;
- (4) The Department shall assist the DNR in providing training to certify a DLA;

- (5) The Department shall recommend certification of the DLA to the DNR when appropriate;
- (6) The Department may decommission a DLA for failure to carry out the duties and responsibilities assigned to them;
- (7) The Department shall issue permits for all open burning related to demolished buildings.

(B) *Duties of local government.* The local government duties shall include, but are not be limited to the following:

(1) Local governmental unit may name one or more DLA as provided by this subchapter. The DLA must be trained and certified by the DNR. The local governmental unit shall provide the Department with the names and addresses of these persons. A DLA may not issue open burning permits before such notification is provided to the county.

(2) A local governmental unit may, by ordinance, require open burning regulations that are more stringent than the provisions of this subchapter.

(C) *Duties of designated local authority.* Referred to hereafter as DLA shall have the following duties:

(1) The DLA shall review applications and issue or deny permits according to the criteria established in this subchapter and the Minnesota Rules and Statutes incorporated herein by reference;

(2) The DLA shall report to the Department violations of this subchapter as they become aware of them;

(3) The DLA shall submit burn permits to the Department by the seventh day of the following month;

(4) The DLA shall issue burning permits in accordance with instructions received from the local forest officer;

(5) The DLA shall fill out the burning permit form;

(6) The DLA shall report all unauthorized fires through 911, the County Sheriff or local DNR Forestry Office and the Department;

(7) The DLA shall issue written burning permits only. Verbal permission by itself does not constitute a legal permit;

(8) The DLA shall report any problems or difficulties to the Department;

(9) At a minimum, 12 spot inspections shall be conducted in each township during the calendar year;

(10) The DLA shall attend an annual training meeting or an alternative meeting approved by the Department;

(11) A DLA who moves outside of their assigned commission area would not be authorized to continue writing permits. DLA who is no longer interested in working for the fire prevention program may simply request to be decommissioned. In addition, an individual may be decommissioned for failure to properly carry out the duties and responsibilities assigned to them;

(12) The DLA shall insure that the permit holder understands all the regulations associated with conducting an open burn.  
(Ord. 5B, passed 6-26-01)

#### **§ 53.05 PERMIT HOLDER RESPONSIBILITY.**

*(A) Responsibility.*

(1) The permit holder is responsible for compliance and implementation of all general conditions and special conditions as established in the permit issued.

(2) A person lighting or responsible for the lighting of an agricultural fire shall also carry out the duties and responsibilities of an open burn permit holder as per this section and shall be subject to the same costs and penalties.

*(B) Safeguard.*

(1) Open burning shall not be conducted within 100 feet of any structure.

(2) Open burning, excluding recreational fires and running fires, shall not be conducted within 50 feet of a stream, river, lake, or other water body.

(3) An open burn shall not be allowed to smolder with no flame present.

*(C) Notification.*

(1) The permit holder shall be responsible for calling the DNR Forestry Burn Permit Activation Line within one hour prior to burning in order to activate the permit.

(2) Prior to starting an open burn, the permit holder shall be responsible for calling the Carver County Open Burn Permit Activation Line within one hour prior to burning and provide the following information: name, address, permit number, phone number and general location of the burn.

(D) *Attendance.*

(1) Every open burn event shall be constantly attended by the permit holder or his or her competent representative.

(2) The open burn fire shall be completely extinguished before the permit holder or his or her representative leaves the site.

(E) *Inspections.*

(1) It is the responsibility of the permit holder to have a valid permit, on site and, available for inspection by the Department, the DLA, and/or DNR Forest Officer.

(2) The permit holder shall allow the Department and the DLA access on site for inspection prior to burning, while conducting the burn, as well as after the burn as referenced in division (E).

(F) *Costs and penalties.*

(1) The permit holder shall be responsible for all costs incurred as a result of the burn, including, but not limited to, fire suppression, tickets, citations and permit fees.

(2) Any person who violates any provisions of this subchapter, in addition to any penalties herein prescribed, shall also be liable in full damages to any and every person suffering loss or injury by reason of the violation, including liability to the county, cities, townships, and fire suppression and medical response teams, for all expenses incurred in fighting or preventing the spread of, or extinguishing any fire caused by, or resulting from, any violation of this subchapter. When a fire set by any person spreads to and damages or destroys property belonging to another, the setting of the fire shall be prima facie evidence of negligence in setting and allowing the same to spread.  
(Ord. 5B, passed 6-26-01)

**§ 53.06 PROHIBITED MATERIALS.**

(A) *Prohibition.* No person shall conduct, cause or permit the open burning of any material that was not generated at the site of the open burn.

(B) *Hazardous and solid waste.*

(1) No person shall conduct, cause or permit the open burning of leaves.

(2) No person shall conduct, cause or permit the open burning of oils, petrol fuels, rubber, plastics, plastic pesticide containers, plastic liners in seed, feed, or pesticide bags, chemically treated materials, or other materials which produce excessive or noxious smoke such as tires, railroad ties,

treated, painted or glued wood, composite shingles, tar paper, insulation, composition board, sheetrock, wiring, paint or paint filters, mixed municipal solid waste, hazardous waste, industrial waste, construction debris or demolition debris.

(3) No person shall conduct, cause or permit the open burning of hazardous waste, salvage operations, solid waste generated from an industrial or manufacturing process or from a service or commercial establishment, or building material generated from demolition of commercial or institutional structures.

(C) *Food waste.* No person shall conduct, cause or permit open burning of discarded material resulting from the handling, processing, storage, preparation, serving or consumption of food.

(D) *Wetlands, grasslands and farm fields.* No person shall conduct, cause, or permit the open burning of wetlands, grass lands, pastures, crop residue, or road rights-of-way except as provided in § 53.08.

(E) *Animal carcasses.* No person shall conduct, cause, or permit the open burning of any dead domestic animal without the approval of the Department. Such burning shall be permitted only to abate an immediate public health threat.  
(Ord. 5B, passed 6-26-01)

#### **§ 53.07 PERMIT REQUIRED FOR OPEN BURNING.**

(A) *Permit required.* No person shall start or allow any open burning on any property in the county without having obtained valid open burning permit.

(B) *Recreational fires.* Recreational fires, as defined in § 53.02, are exempt from this provision year round.  
(Ord. 5B, passed 6-26-01)

#### **§ 53.08 PURPOSES ALLOWED FOR OPEN BURNING.**

(A) When all alternative utilization methods for brush has been deemed not practicable, open burning will be permitted. This decision shall be made by the DLA, the Department, or the DNR Forest Officer.

(B) Open burn permits may be issued only for the following purposes:

(1) *Fire or health hazard.* Elimination of fire or health hazard that cannot be abated by other practical means.

(2) *Maintenance or construction.* Ground thawing for utility repair and construction.

(3) *Disposal.*

(a) Disposal of vegetative matter for managing forest, prairie or wildlife habitat, and in the development and maintenance of land and rights-of-way where chipping, composting, landspreading or other alternative methods are not practical.

(b) Disposal of diseased trees generated on site, diseased or infected nursery stock, and diseased bee hives.

(c) Disposal of unpainted, untreated, non-glued lumber and wood shakes where recycling, reuse, removal or other alternative disposal methods are not practical, and provided that the material was not generated by demolition of a commercial or institutional structure. A farm building is not a commercial structure.

(4) *Fire department training.*

(a) Permits can only be issued by the DNR.

(b) Prior to burning, all fire departments shall submit a current permit to the Department.

(c) Fire departments shall ensure that the property owner properly dispose of all debris following permitted burns. Receipts, showing proper disposal, shall be submitted to the county upon removal of the debris.

(Ord. 5B, passed 6-26-01)

**§ 53.09 PERMIT APPLICATION FOR OPEN BURNING AND PERMIT FEES.**

(A) *Application.* Open burning permits shall be obtained by making application on a form prescribed by the Department and adopted by the DNR. The permit application shall be presented in person to a DLA for reviewing and processing said applications.

(B) *Permit fee.*

(1) An open burning permit may require an application fee or permit fee. Application and permit fees for permits reviewed or issued by the Department shall be set by resolution of the Carver County Board of Commissioners. The Board of Commissioners may, at other times, amend its resolution setting the fees as it deems necessary. The fees established by the Board of Commissioners resolution shall continue to be the required fee until amended by a resolution.

(2) A DLA may require application or permit fees for permits issued in their jurisdiction. These fees may be set and amended by resolution by the DLA as it deems necessary.

(Ord. 5B, passed 6-26-01)

**§ 53.10 PERMIT PROCESS FOR OPEN BURNING.**

*(A) Review, approval and attached conditions.*

(1) Upon receipt of a completed open burning permit application, the Department or DLA shall review and approve or deny the application. The Department or the DLA may attach conditions to the permit consistent with Minnesota Pollution Control Agency (MPCA), DNR, Department, or local regulations and ordinances. The DLA may also attach reasonable special conditions to the permit due to site specific conditions which would or which may have the potential to create safety or pollution concerns or nuisance conditions.

(2) Permits for running fires of more than five acres must be reviewed by the Department. Permits for other permitted materials may be reviewed and issued by the DLA. A Department representative may inspect the proposed burn site and may deny the issuance of the permit based upon finding that a practical alternative method of disposal exists, or safety, pollution or nuisance conditions may result.

(3) A DLA must receive Department approval before issuing a permit for a series of closely spaced running fires of under five acres in size that have the effect of allowing for more than five acres of running fire at the burn site.

(4) A permit for a running fire may be issued for the purpose of maintaining wildlife habitat, establishing and/or maintaining a prairie, maintenance of road rights-of-way, and for maintenance of small areas of land surrounded by tilled agricultural land.

(5) Permits for running fires, set to maintain road rights-of-way, may be issued only to local governmental units.

*(B) Permit length.*

(1) The permit for any open burn may be issued for a period not to exceed 14 days. The duration of the burning permit shall be at the discretion of the DLA or the Department in consideration of the materials to be burned, weather conditions, or concern for safety, pollution, or nuisance conditions.

(2) If conditions arise that are beyond the control of the permit holder, a seven-day extension to the permit may be issued by the DLA.

*(C) Specific activity.* With prior Department approval, permits for periods of time longer than 14 days may be issued for specific activities or projects that would require a number of fires of a similar nature over a longer period of time. These activities or projects may include, but are not limited to, utility right-of-way maintenance and large public road construction projects.

(Ord. 5B, passed 6-26-01)

**§ 53.11 REVOCATION OF OPEN BURNING PERMIT.**

The open burning permit and the right to conduct an agricultural fire is subject to revocation at the discretion of a DNR Forest Officer, the Department, or a DLA. Reasons for revocation include, but are not limited to: discovery of inappropriate materials at an open burn site, a fire hazard existing or developing during the course of the burn, any of the conditions of the permit being violated during the course of the burn, pollution or nuisance conditions developed during the course of the burn, or a fire smoldering with no flame present.

(Ord. 5B, passed 6-26-01)

**§ 53.12 DENIAL OF OPEN BURNING PERMIT.**

The Department or a DLA may deny the open burning permit application based on the following circumstances:

- (A) If established criteria for the issuance of an open burning permit are not met during review of said application;
- (B) It is determined that a practical alternative method of disposal of the material exists;
- (C) A pollution or nuisance condition would result;
- (D) Inappropriate weather conditions; or
- (E) Any other condition as determined by the Department or DLA.

(Ord. 5B, passed 6-26-01)

**§ 53.13 BURNING BAN OR AIR QUALITY ALERT.**

No recreational fire, open burn or agricultural fires will be permitted when the Department or DNR has officially declared a burning ban due to potential hazardous fire conditions or when the Minnesota Pollution Control Agency (MPCA) has declared an Air Quality Alert.

(Ord. 5B, passed 6-26-01)

**§ 53.99 PENALTY.**

(A) *Misdemeanor.* Except as where separately provided for in §§ 53.01 through 53.13 or state statutes, any person who fails to comply with the provisions of §§ 53.01 through 53.13 is guilty of a misdemeanor. A separate offense shall be deemed committed upon each day during or on which a violation occurs or continues.

(B) *Civil actions and injunctive relief.* In the event of a violation or a threat of violation of §§ 53.01 through 53.13, the county may institute appropriate actions or proceedings, including injunctive relief to prevent, restrain, correct or abate such violations or threatened violations. The county may recover costs incurred for corrective action in a civil action in any court of competent jurisdiction or, at the discretion of the County Board, the costs may be certified to the County Auditor as a special tax against the real property.

(C) *Permit issuance and denial.* In the event that a violation of §§ 53.01 through 53.13 or any state or local ordinance occurs, the violator must apply for any future permits through the Department. (Ord. 5B, passed 6-26-01)

Archived Copy

## **CHAPTER 54: FEEDLOT MANAGEMENT**

### Section

54.01 Adopted by reference

### **§ 54.01 ADOPTION BY REFERENCE.**

The county's feedlot management provisions shall be those found in Ordinance 40 which is hereby adopted by reference as if set forth at length herein. A copy of Ordinance 40 is on file in the office of the County Clerk and available for inspection during normal business hours.

Archived Copy