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BENTON COUNTY MINNESOTA  
CHERYL L. KANTOR  
COUNTY RECORDER

By: BS  
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## BENTON COUNTY ORDINANCE NO. 471

### ORDINANCE RELATING TO SOLID WASTE

**WHEREAS**, it was determined that Ordinances No. 162 and No. 252 were not cohesive with Benton County Development Code Ordinance No. 185 and failed to meet certain aspects of Minnesota State Statute; and,

**WHEREAS**, the Benton County Board of Commissioners instituted proceedings to amend Benton County Solid Waste Ordinance 162 and Solid Waste Service Fee Ordinance No. 252; and,

**WHEREAS**, on February 19 and February 23, 2019, Notice of Public Hearing and intent to repeal and replace Benton County Ordinances No. 162 and No. 252 was published in the official newspapers of the county; and,

**WHEREAS**, on March 5, 2019, the Benton County Board of Commissioners conducted a public hearing to consider the adoption of an ordinance relating to the repeal and replacement of Benton County Ordinances No. 162 and No. 252; and,

**WHEREAS**, the Benton County Board of Commissioners voted to enact the proposed Ordinance;

**NOW, THEREFORE, THE COUNTY BOARD OF BENTON COUNTY ORDAINS** that Benton County Ordinance No. 471 read as follows:

Benton Co DOD  
no fee

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## SECTION 1. STATUTORY AUTHORIZATION AND PURPOSE

- 1.1 Statutory Authorization. This Ordinance is adopted pursuant to and incorporates by reference Minn. Stat. §375.51; Minn. Stat. §375.18; Minn. Stat. Ch. 115A; Minn. Stat. Ch. 116; Minn. Stat. §§145A.01 through 145.08 Minn. Stat. Ch. 400; Minn. Stat. §561.01; Minn. Stat. §609.74; or successor statutes and as amended.
- 1.2 This Ordinance incorporates by reference Minnesota Rules Chapters 7001, 7011, 7035 and 7048 as may be amended from time to time.
- 1.3 Purpose. The purpose of this Ordinance is to promote and protect the health, welfare, and safety of the public and protect Benton County's water, land and air resources by establishing standards for and regulating Solid Waste and Solid Waste Management operations within the County. This Ordinance will also establish authority for a Benton County Solid Waste Service Fee to fund qualifying environmental programs. This ordinance is to provide for the orderly implementation of Solid Waste Management practices and services to ensure that residents have access to Waste Management services and to ensure Waste Management services are consistent with County and State plans and policies.

## SECTION 2. DEFINITIONS

Words or phrases used in this Ordinance shall be interpreted in a manner consistent with Minnesota Statutes or Rules that have been or hereafter may be adopted. Words or phrases not specifically defined in this Ordinance, Minnesota Laws, or Rules shall be interpreted so as to give them the same meaning as in common usage.

- 2.1 "Agency" means the Minnesota Pollution Control Agency, its agent or representative.
- 2.2 "Ash" means the incombustible material that remains after a fuel or solid waste is combusted.
- 2.3 "Board" means the Benton County Board of Commissioners.
- 2.4 "Compost" means the controlled microbial process that converts organic and plant materials to a usable organic soil amendment mulch.
- 2.5 "Construction and Demolition Debris" means solid waste resulting from construction, remodeling, repair, erection and demolition of buildings, roads and other artificial structures, including: discarded waste building materials, packaging, rubble, concrete, brick, bituminous concrete, untreated wood, masonry, glass, plastic building parts, plumbing fixtures, roofing materials, wallboard, built-in cabinetry and earthen fill, trees boulders and rocks comingled with other types of construction and demolition debris.

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

- 2.6 "County" means any department or representative of Benton County authorized by the Ordinance or otherwise by the Benton County Board of Commissioners to represent the County of Benton in the enforcement or administration of this Ordinance.
- 2.7 "Cover Material" means material approved by the Agency that is used to cover compacted solid waste in a land disposal site. Important general characteristics of good cover material are low permeability, uniform texture, cohesiveness, and compactibility.
- 2.8 "Department" means the Department of Development.
- 2.9 "Demolition Facility Class I" A Demolition Debris disposal facility which is designed to hold, and does hold less than 500 cubic yards of Construction and Demolition Debris.
- 2.10 "Demolition Facility Class II" A Demolition Debris disposal facility which is designed to hold, or does hold 500 or more cubic yards of Construction and Demolition Debris.
- 2.11 "Demolition Facility Class III" A Demolition Debris disposal facility are lined and designed to hold, or does hold 500 or more cubic yards of Construction and Demolition Debris.
- 2.12 "Director" means the Benton County Director of Department of Development.
- 2.13 "Disposal" or "Dispose" means the delivery, deposit or dumping of Solid Waste.
- 2.14 "Facility" means the land, structures, monitoring devices, and other improvements on the land used for monitoring, treating, processing, storing, or disposing of Solid Waste, source separated organics, Construction and Demolition Debris, leachate, or residuals from Solid Waste processing.

- 2.15 "Final Disposal" means the terminal disposal of Solid Waste at a Solid Waste Landfill.
- 2.16 "Generate" means the act or process of producing Waste, including the production or aggregation of Waste occurring at an Intermediate Disposal Facility.
- 2.17 "Generator" means any person who generates Waste.
- 2.18 "Garbage" means discarded material resulting from the handling, processing, storage, preparation, serving and consumption of food.
- 2.19 "Hazardous Waste" means any refuse, sludge, or other waste material or combinations of Refuse, Sludge or other Waste materials in solid, semisolid, liquid, or contained gaseous form which because of its quantity, concentration, or chemical, physical, or infectious characteristics may (a) cause or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible illness; or (b) pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of, or otherwise managed. Categories of Hazardous Waste materials include, but are not limited to: explosives, flammables, oxidizers, poisons, irritants, and corrosives. Hazardous Waste does not include source, special nuclear, or by-product material as defined by the Atomic Energy Act of 1954, as amended.
- 2.20 "Household" means a single detached dwelling unit or a single unit of a multiple dwelling unit and appurtenant structures.
- 2.21 "Household Hazardous Waste" means waste generated from household activity that exhibits the characteristics of or that is listed as hazardous waste under Agency rules, but does not include waste from commercial activities that is generated, stored, or present in a household.
- 2.22 "Illegal Disposal" means the discharge, deposit, injection, dumping, spilling, burning, leaking or placing of any Solid Waste into or on any land or water at any place other than a permitted Solid Waste disposal facility and in a manner which allows the waste or any constituent thereof to enter the environment or be emitted into the air, or discharged into any waters, including ground water.
- 2.23 "Incineration" means the process by which Solid Wastes are burned for the purpose of volume and weight reduction in facilities designed for such use prior to Final Disposal.
- 2.24 "Industrial Solid Waste" means Solid Waste resulting from an industrial, manufacturing, service or commercial activity.
- 2.25 "Industrial Waste Incinerator" means an incinerator that burns industrial Solid Waste.
- 2.26 "Intermediate Disposal Facility" means a Solid Waste Management Facility for the reduction or processing of Solid Waste prior to Final Disposal.
- 2.27 "Land Pollution" means the presence in or on the land of any waste in such quantity, of such nature and duration, and under such conditions as would affect injuriously the waters of the state, create air contaminants or cause air pollution.

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

2.29 "License" means express written permission as granted by the County Board to engage in Solid Waste Management activities.

2.30 "Licensee" means a person who has been issued a license by the County Board for Solid Waste Management purposes pursuant to this Ordinance.

2.31 "Mixed Municipal Solid Waste (MSW)" means Garbage, Rubbish, Refuse, and other Solid Waste from residential, commercial, industrial, and community activities that the Generator of the waste aggregates for collection. MSW does not include auto hulks, street sweepings, Ash, Construction and Demolition Debris, mining Waste, Sludges, tree and agricultural Wastes, Tires, lead acid batteries, motor and vehicle fluids and filters, and other materials collected, processed, and disposed of as separate waste streams, and source-separated compostable materials.

2.32 "Operation" means any site, facility, or activity related to the business of Solid Waste Management.

2.33 "Party" means the owner or partial owner, licensee, lessee, tenant, occupant, agent, manager, employee or contractor of any land, facility, premises, business establishment or industry.

2.34 "Person" means any human being, any municipality or other governmental or political subdivision or public agency, any public or private corporation, any partnership, firm, association or other organization, any receiver, trustee, assignee, agent or other legal representative of any of the foregoing, or any other legal entity, but does not include the Minnesota Pollution Control Agency.

2.35 "Pharmaceutical Waste" means pharmaceutical consisting of expired drugs, an individual's personal medications, water materials containing excess drugs (syringes, IV bags, tubing, vials, etc.), open drugs that cannot be used, containers that held drugs, drugs and drugs that are intended to be discarded.

2.36 "Putrescible Material" means Solid Waste that is capable of becoming rotten or which may reach a foul state of decay or decomposition.

2.37 "Recyclables" or "Recyclable Material" means materials that are separated from Solid Waste for the purpose of recycling, including paper, glass, plastics, metals, automobile oil and batteries. Refuse-derived fuel or other material that is destroyed by incineration is not a recyclable material.

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

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

2.40 "Recycling Hauler" means any person in the business of the collection and transportation of Recyclable Material.

2.41 "Refuse" means Putrescible and non-Putrescible Solid Wastes, including Garbage, Rubbish, ashes, incinerator Ash, incinerator residue, street cleanings, market and Industrial Solid Wastes, and sewage treatment wastes which are in a dry form.

2.42 "Rubbish" means non-Putrescible Solid Wastes, including ashes, consisting of both combustible and non-combustible wastes, such as paper, cardboard, tin cans, yard clippings, glass, bedding, crockery, or litter of any kind.

2.43 "Self Hauler" means a Person who hauls Solid Waste and/or Construction and Demolition Debris" generated by that Person to a Solid Waste Management Facility in a personal or company vehicle for which a license for Solid Waste collection and transportation is not required.

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

2.45 "Solid Waste" means Garbage, Refuse, Rubbish, Construction and 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 residential, industrial, commercial, mining, and agricultural operations, and from community activities, but does not include hazardous waste, wood chips, animal waste used as fertilizer; earthen fill, boulders, rock; sewage sludge; solid or dissolved material in domestic sewage or other common pollutants in water resources, such as silt dissolved or suspended solids in industrial waste water effluents or discharges which are point sources subject to permits under Section 402 of the Federal Water Pollution Control Act, as amended, dissolved materials in irrigation return flows; or source, special nuclear, or by-product material as defined by The Atomic Energy Act of 1954, as amended.

2.46 "Solid Waste Facility Licensee" means any person who has been issued a license by the County Board for Solid Waste Management purposes pursuant to this Ordinance.

2.47 "Solid Waste Hauler" means any person in the business of the collection and transportation of Solid Waste and/or Construction and Demolition Debris.

2.48 "Solid Waste Hauler Licensee" means a person who has been issued a license by the Director for Solid Waste and/or Construction and Demolition Debris collection and transportation pursuant to this Ordinance.

2.49 "Solid Waste Landfill" means an area of land, which is or could be used for the Final Disposal of Solid Waste in a manner that minimizes environmental hazards by spreading the solid waste in thin layers, compacting the solid waste into the smallest particle volume, and applying Cover Material at the end of each operating day, or at intervals as may be required by the Agency.

2.50 "Solid Waste Management" means the Storage, collection and removal of Solid Waste from public and private property, its transportation to Recycling, Intermediate or Final Disposal Facilities and its Disposal by approved methods.

2.51 "Solid Waste Management Service Area" means the area encompassed within the geographical boundaries of Benton County.

2.52 "Solid Waste Management Facility" means a facility for the collection, transportation, processing, conversion, or Disposal of Solid Waste.

2.53 "Solid Waste Management Plan" means the Solid Waste Management Plan for Benton County, Minnesota as amended or replaced from time to time.

2.54 "Solid Waste Service Fee" means a fee charged on Solid Waste generated in the county.

2.55 "Source Separated Materials" means materials that are separated from solid waste by the generator. Source separated materials include, but are not limited to, recyclable materials, vegetative materials recovered from composting, and organic waste.

2.56 "Source Separated Organic Materials" means material that: a) are separated at the source by waste generators for the purpose of preparing them as compost or other processing; b) are collected separately from mixed municipal solid waste; and c) are comprised of organic waste, including but not limited to: food wastes, fish and animal waste, plant materials, diapers, sanitary products, and paper.

2.57 "Test-Well Monitoring Closure and Post-Closure Contingency Fund" means a fund established by the County Board for funds contributed to the county by sanitary landfill and demolition landfill owners and operators. The County Board shall control all disbursements from the fund for the purposes of (a) monitoring test water wells [§12.2], (b) closure of the affected landfill by placement of earthen, cover, grading, establishing vegetation, installation of gas and leachate collection and monitoring systems, and (c) post-closure and contingency expenditures, including but not limited to, cost of ongoing monitoring of gas, leachate and the ground water as well as maintenance of the landfill cover, and other activities to protect the environment, health and safety of the public. (Ord.#183, adopted 4/5/88)

2.58 "Tire" means a pneumatic tire or solid tire for motor vehicles as defined in Minnesota Statutes 169.01.

2.59 "Tire Collector" means a person who owns or operates a site used for storage, collection, or deposit of more than 50 waste tires.

2.60 "Tire Dump" means an establishment, site, or place of business without a required tire collector or tire processor permit that is maintained, operated, used or allowed to be used for the temporary storing, keeping, or depositing of tires until transported to a Final Disposal or Processing Facility.

2.61 "Tire Processing" means a person engaged in the processing of Waste Tires.

2.62 "Toxic or Hazardous Waste" means a substance, whether in liquid, gaseous, or solid form, which when collected, stored, transported or disposed of, may be acutely toxic to humans, animals or plant life, or be directly damaging to property including, but not limited to, pesticides, acids, caustics, pathological wastes, radioactive materials, flammable or explosive materials, and similar noxious substances, which require special handling.

2.63 "Transfer Station" means a Solid Waste Management Facility in which Solid Waste collected from any source is temporarily deposited to await transportation to another recycling, intermediate or Final Disposal Facility.

2.64 "Waste" means Solid Waste, sewage Sludge, and Hazardous Waste.

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

2.66 "Waste Management" means activities which are intended to affect or control the generation of waste and activities which provide for or control the collection, processing and Disposal of Waste.

2.67 "Waste Tire" means a tire that is no longer suitable for its original intended purpose because of wear, damage or defect.

2.68 "Working Face" means that portion of the Solid Waste Landfill or Demolition Facility where Solid Waste or Construction and Demolition Debris is discharged and is spread and compacted prior to the placement of Cover Material.

### **SECTION 3. GENERAL PROVISIONS – SOLID WASTE AND/OR CONSTRUCTION AND DEMOLITION DEBRIS MANAGEMENT**

3.1 No landowner or other Person shall cause, permit or allow their land or property, public or private, to be used for Disposal of any Solid Waste and/or Construction and Demolition Debris except at an Operation that meets the following requirements:

- the Operation is licensed by the Benton County Board of Commissioners,
- the Operation is in full compliance with Federal Law, State Statutes and Rules and this Ordinance, and
- the Operation conforms to the Benton County Solid Waste Management Plan.

3.2 No landowner or other Person shall cause, permit or allow open burning of Solid Waste or Demolition Debris unless otherwise allowed by State Statutes or Rules.

3.3 No landowner or other Person shall cause, permit or allow their land to be used for burial of Solid Waste or Demolition Debris except in a facility permitted by the State and licensed by the Benton County Board of Commissioners pursuant to this Ordinance unless otherwise allowed by State Statutes or Rules.

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

3.5 Insurance Requirements. No licensee or any contractor operating under contract or agreement with a licensee shall commence operation until the licensee or contractor has obtained, at their own cost and expense, all insurance required herein. All insurance coverage is subject to the approval of the County and shall be maintained by the licensee for the term of the license. All insurance shall be on an occurrence basis only, and not on a claims made basis. The licensee or contractor is responsible for any deductible or self-insured retention. Any Solid Waste collection and transportation license and vehicle permit issued hereunder are immediately suspended or revoked upon cancellation of the insurance coverage of the licensee, or its contractor. The coverages at a minimum will meet the requirements of Minn. Stat. Ch. 466 as amended from time to time.

a. *Insurance Coverage.*

1. Auto Liability.
  - a) A combined single limit policy with minimum limits established by resolution of the County Board.
  - b) The auto coverage must also include the following: any auto, hired and non-owned auto.
2. Commercial General Liability. Coverage with minimum limits established by resolution of the County Board for:
  - a) each occurrence;
  - b) general aggregate;
  - c) products and completed operations aggregate;
  - d) personal injury and advertising injury;
  - e) fire damage; and
  - f) medical expense.
3. Workers' Compensation and Employer's Liability.
  - a) Workers' compensation coverage at minimum limits per applicable State and Federal statutory law.
  - b) Employers liability coverage shall include bodily injury by accident; bodily injury by disease (each employee); and bodily injury by disease (policy limit) with minimum limits as established by resolution of the County Board.

- b. *Proof of Insurance.* Insurance certificates evidencing that the above insurance is in force with companies acceptable to the County and in the amounts required shall be submitted to the Department for examination along with an application for license and vehicle permits. If the insurance policy expires during the term of the license, a new certificate must be received by the Department at least 10 days' prior to the expiration date. The County shall be listed as an additional insured, except for workers compensation coverage. The insurance certificates shall specifically provide that a certificate will not be modified except upon thirty (30) days' prior written notice to the Department. Neither the Department's failure to require or insist upon certificates or other evidence of insurance, nor the Department's acceptance of a certificate or other coverage, changes the licensee's responsibility to comply with the insurance specifications.
- c. All terms used above to specify the required insurance are to be interpreted according to the ordinary usage of the insurance industry.

## **SECTION 4. SOLID WASTE ORDINANCE ADMINISTRATION**

The Department of Development shall have all necessary authority to implement and carry out the provisions of this Ordinance, including but not limited to the following:

- 4.1 To review and consider all license applications and supporting materials for regulated Solid Waste activities within the County and after consideration, to recommend in writing with supporting documentation, to the Benton County Board that a license may be granted or denied.
- 4.2 To inspect Operations to determine compliance with this Ordinance, including audit of licensed collector's records of charges collected and the amount of Waste collected, and to investigate complaints about violations of this Ordinance.
- 4.3 To recommend to the Benton County Attorney that legal proceedings be initiated to compel compliance with the provisions of this Ordinance.
- 4.4 To encourage and conduct studies, investigations and research relating to all aspects of Solid Waste Management.
- 4.5 To advise, consult and cooperate with the public and other governmental agencies in furtherance of the purpose of this Ordinance.

## **SECTION 5. SOLID WASTE AND/OR CONSTRUCTION DEMOLITION DEBRIS STORAGE**

- 5.1 No Party shall store or allow Solid Waste and/or Construction Demolition Debris to be stored on his or her property or premises except in compliance with this Ordinance and in accordance with the Benton County Development Code.
- 5.2 Putrescible Waste, including but not limited to Garbage shall be stored in:
  - a. durable, rust-resistant, non-absorbent, water-tight, rodent-proof, and easily cleanable containers, with close-fitting, fly-tight covers having adequate handles to facilitate handling, or
  - b. other types of containers that comply with Agency rules.

5.3 All other Solid Waste shall be stored in durable, water-tight, rodent proof containers.

5.4 Storage Containers Required. Every residential dwelling, commercial, industrial or institutional site, shall be supplied with appropriate Waste storage containers. Such containers shall be provided by the owner of the property.

5.5 Where Putrescible Wastes are stored in combination with non-Putrescible Wastes, all containers used for the storage of the mixture shall meet requirements for Putrescible Waste containers.

5.6 Waste Accumulations. Except as otherwise allowed by this Ordinance, owners, or occupants of every property shall be responsible for maintaining all open areas free of improperly stored Waste accumulations. Waste accumulations may include; but not limited to auto/machinery hulks, Construction and Demolition Debris, Garbage, Hazardous Waste, household Hazardous Waste, major appliances, Mixed Municipal Solid Waste, Recyclable Materials, Refuse, Rubbish, Solid Waste, Yard Waste, any other form of Waste which is in a condition of disrepair such as to have no immediate useful purpose.

5.7 Solid Waste and/or Construction Demolition Debris shall:

- not be stored for more than thirty (30) days',
- be stored in a nuisance free and pollution free manner,
- be stored for recycling in an acceptable manner that avoids risk to public safety and otherwise complies with this Ordinance,
- be stored and managed in compliance with all applicable State and Federal Laws if they are Toxic or Hazardous Wastes, and
- be stored in a manner which is pollution-free, nuisance-free and that avoids risk to public safety and health when Solid Waste objects or materials are too large or otherwise unsuitable for storage containers.

5.8 Upsetting of Containers Prohibited. No person shall willfully turn over or upset any vessel or container used for sorting or storing Solid Waste, Recyclable Materials, compost or other Waste, resulting in spilling the contents or any portion thereof on any roadway, waterway, or on any public or private property.

5.9 Using Containers of Another Prohibited. No person shall place Solid Waste or any other materials in a Solid Waste container of another person without the express consent of the person. This prohibition shall not apply to containers placed for public convenience along streets or sidewalks and in buildings of public accommodation or containers within commercial establishments designed for public Disposal.

5.10 Containment of Solid Waste or Source Separated Materials. No person shall discharge or allow the discharge of liquid, Solid Waste, or source separated materials from any container or vehicle containing Solid Waste or any other Waste, or permit such vehicle to stand, be stored or kept in such manner or for such length of time that it will be or constitute a nuisance.

5.11 Improper Disposal. Pursuant to Minnesota Statutes Chapters 115A, 116 and 400 and the County's Solid Waste Management Plan, the County has implemented a system of Solid Waste Management that includes readily accessible Solid Waste collection and Disposal services. Such services are available county-wide through a system of licensed private haulers as well as through readily accessible Solid Waste transfer facilities.

5.12 Scavenging. Without the consent of the owner/operator of that facility or container, it shall be unlawful for a person to remove Waste materials, including Mixed Municipal Solid Waste, Recyclable Materials, scrap metals, appliances, Tires, Construction and Demolition Debris, or other Waste materials, from any Solid Waste Facility or from any privately or publicly owned Solid Waste or recycling container. This prohibition shall not apply to materials removed from Waste facilities by contract, or through a managed salvaging program.

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

## **SECTION 6. COLLECTION AND TRANSPORTATION OF SOLID WASTE AND/OR CONSTRUCTION DEMOLITION DEBRIS**

6.1 No Person shall collect, transport or dispose of Solid Waste and/or Construction Demolition Debris generated in the County, except in compliance with this Ordinance, the Benton County Solid Waste Management Plan and in accordance with the Benton County Development Code.

6.2 This Section does not restrict or prevent:

- the transportation through this County of Solid Waste, Recyclables, and/or Construction and Demolition Debris that is not generated in the County, or
- the transportation and Disposal and/or Final Disposal outside of the State of Minnesota of Solid Waste, Recyclables, and/or Construction and Demolition Debris generated within Benton County.

6.3 No Person shall collect, transport, or dispose and /or final dispose of Solid Waste and/or Construction Demolition Debris generated or accumulated in Benton County at any location other than:

- a licensed Benton County Solid Waste Management Facility,
- a Disposal or Final Disposal facility outside the State of Minnesota,
- a Disposal or Final Disposal facility to Pope/Douglas Solid Waste Management Facility,
- a Minnesota Pollution Control Agency permitted Disposal or Final Disposal facility within the State of Minnesota.

6.4 No Person shall use a vehicle or container for the collection or transportation of Solid Waste or Construction Demolition Debris unless the vehicle:

- is covered with metal, canvas, or a fish net type of material made for this purpose,
- is leak proof, durable and easily cleanable,

- c. is regularly cleaned to prevent nuisances, pollution or insect breeding,
- d. is maintained in good repair, and
- e. is loaded and moved in such a manner that the contents will not fall, leak, spill or become airborne.

6.5 A Solid Waste Hauler doing business in Benton County must:

- a. be licensed as a Solid Waste Hauler by Benton County,
- b. certify that he/she is managing Solid Waste in compliance with the Ordinance and the Benton County Solid Waste Management Plan,
- c. certify that billing for Solid Waste Hauler services is based on volume,
- d. certify that recycling is offered or otherwise available to the hauler's customers,
- e. provide annual data on the materials, volumes and types of recycled items hauled,
- f. provide documentation that all vehicles used for Solid Waste collection, transportation, and Disposal have been State certified or are exempt from such certification,
- g. disclose all locations for Disposal and/or Final Disposal of Solid Waste,
- h. provide proof of insurance and bond in amounts as set by the Benton County Board, and,
- i. complete and comply with all requirements of the State's Waste Haulers Exemption Certificate, Form SWMT-10.

6.6 No Solid Waste Hauler may operate a vehicle or conveyance in the business of collection and transportation of Solid Waste and/or Construction Demolition Debris unless:

- a. A list of vehicle make, model, year, type and plates are provided on an application provided and issued by the Department,
- b. all license plates are readily visible and legible at all times.

6.7 If a Solid Waste Hauler finds it necessary to use a vehicle other than the vehicles identified in its original or amended license application, the hauler must notify the Department by telephone or by writing on the first business day after the vehicle is put into use.

6.8 A Solid Waste Hauler shall:

- a. Notify law enforcement and/or the DNR Conservation Officer in the event of an emergency spill of Solid Waste, or Construction and Demolition Debris,
- b. clean up any Solid Waste and/or Construction Demolition Debris dumped in an emergency,
- c. clean up any litter or Solid Waste and/or Construction Demolition Debris discharged onto roadways, ditches or waterways during transit.

6.9 If the Solid Waste Hauler fails to clean up Solid Waste and/or Construction Demolition Debris dumped in an emergency or discharged onto roadways, ditches or waterways, the County may clean up the discharge and charge such Solid Waste Hauler the entire cost of the removal and Disposal of the Solid Waste and/or Construction Demolition Debris.

6.10 No Person shall dump Solid Waste and/or Construction Demolition Debris on the Working Face of a Solid Waste and/or Construction Demolition Debris Landfill within Benton County unless the Person has complied with the Benton County Solid Waste Management Facility policies regarding Working Face deliveries.

6.11 All licenses issued pursuant to this section shall expire on March 5, of the year following the date of issuance of the license.

6.12 Improper Transportation: It shall be unlawful for any person to:

- a. collect and transport, for compensation, Solid Waste or source separated materials into the service area, without having obtained a license to do so, or when such a license has been revoked or suspended, unless as transported by a self-hauler.
- b. collect or transport Solid Waste or source separated materials within the County in such a way as to violate any requirements of any County Ordinance, Development Code, State or Federal law.
- c. fail to correct any condition or method of operation which violates any County Ordinance or rules applicable to the collection or transportation of Solid Waste or source separated materials after being ordered to do so by the County.

## **SECTION 7. COLLECTION AND TRANSPORTATION OF RECYCLABLES & WASTE TIRES**

7.1 No Person shall be engaged in the business of collecting and transporting Recyclable Material in Benton County except in compliance with this Ordinance and in accordance with the Benton County Development Code.

7.2 A Recycling Hauler doing business in Benton County shall:

- a. be licensed as a Recycling Hauler by Benton County,
- b. provide documentation that all vehicles used for recyclable collection and transportation have been Minnesota Department of Transportation certified or are exempt from such certification,
- c. provide proof of insurance, and bond in amounts set annually by the Benton County Board,
- d. provide annual data as to types and weights of recycled materials hauled in compliance with the following:
  1. the weight of Recyclable Materials collected in Benton County from residential and/or commercial accounts for each of the following Recyclable Materials: newsprint, corrugated cardboard, mixed paper, magazines, metal cans, glass containers, plastic containers, yard Waste, major appliances, scrap metal, telephone books and additional materials as from time to time may be requested by the County Board,
  2. the location(s) where each type of Recyclable Material was delivered, deposited, processed or marketed, and
  3. other information as requested by the Department.

7.3 Waste Tire Collection. No person who is not permitted by the State as a Tire Collector or Tire processor may accumulate more than fifty (50) Waste Tires or equivalent weight of other Waste Tires on the person's premises, unless such person is a retail Tire seller, Tire-retreading business, or vehicle repair business subject to the requirements of the Benton County Development Code. Exceptions may be allowed when Waste Tires are utilized outside of a building for agricultural purposes where they comply with the requirements of other applicable laws or sections of this ordinance.

7.4 Waste Tire Collector and Processors. Those engaged in lawfully permitted Waste Tire collection and processing shall:

- a. meet the requirements of State laws and rules governed by the Agency,

- b. ensure that Waste Tires are stored in a manner that shall not create a nuisance, blight, health hazard or fire hazard,
- c. ensure that Waste Tires shall not be placed within 1,000 feet of any residence or managed in a manner that prevent water from being retained in the Tires,
- d. ensure that Waste Tires shall not be placed, stored or disposed of in or at any non-permitted area. Examples of non-permitted areas include but are not limited to: lakes, streams, waterways, drainage ditches, wetlands, ravines, gullies, gravel pits, floodplains, shorelands, groves, rights-of-way, unoccupied and occupied sites, facilities, or structures.

## SECTION 8. SOLID WASTE SERVICE FEE

- 8.1 A Solid Waste Service Fee shall be imposed on all Solid Waste generated within the County. The purpose of this section is to establish methods of collection of service charged to fund certain Solid Waste Management services intended to protect the public health and welfare and the environment pursuant to State mandates governing Solid Waste Management.
- 8.2 The charges will be billed and collected as a fee on the applicable Benton County tax statements as determined by the Unit Value Assignment Rate Schedule as adopted by the Benton County Board.
- 8.3 Special Assessments. On or before October 15 in each year, the county board may certify to the county auditor all unpaid outstanding charges, and a description of the lands against which the charges arose. It shall be the duty of the county auditor, upon order of the county board, to extend the assessments, with interest not to exceed the interest rate provided for in Section 279.03, subdivision 1, upon the tax rolls of the county for the taxes of the year in which the assessment is filed. For each year ending October 15 the assessment with interest shall be carried into the tax becoming due and payable in January of the following year and shall be enforced and collected in the manner provided for the enforcement and collection of real property taxes in accordance with the provisions of the laws of the state. The charges, if not paid, shall become delinquent and be subject to the same penalties and the same rate of interest as the taxes under the general laws of the state.
- 8.4 The Unit Value Assignment Rate Schedule for Solid Waste Management services shall be adopted by resolution. The resolution shall state the effective date for the imposition of or subsequent amendments to the Solid Waste Service Fee.
- 8.5 Any property owner who believes that the service charge imposed upon his/her property is incorrect, may appeal the charge to the Benton County Board of Commissioners. An appeal form may be obtained through the County Auditor-Treasurer and, shall be filed within 30 days' of receipt of the appeal, schedule a hearing before the County Board to review the appeal request. The appellant shall be notified by U.S. mail as to the time, date and location of the hearing.
- 8.6 This section is enacted pursuant to Minn. Stat. §400.08 which grants Benton County the authority to establish and determine the boundaries of Solid Waste Management service areas in the County. The area within boundaries of Benton County shall constitute the boundaries of the Solid Waste Management Service Area.

## SECTION 9. GENERAL PROVISIONS – SOLID WASTE MANAGEMENT FACILITIES

9.1 No Person may construct, maintain or operate a Solid Waste Management Facility without first obtaining a Solid Waste permit from the Agency, a permit pursuant to the Benton County Development Code and a Solid Waste Management Facility license from Benton County. Solid Waste Management Facilities include but are not limited to: Solid Waste Landfills; Incinerators; Intermediate Solid Waste Disposal Facilities; Transfer Stations; Recycling Facilities; Composting, Source Separated Organics and Demolition Facilities Class I and II. All Solid Waste Management Facilities shall comply with the provisions of this Section and Section 3 of this Ordinance.

9.2 The Solid Waste Management Facility license application shall include:

- a. the location, size and ownership of land upon which the Operation will be situated,
- b. a minimum of three (3) sets of construction plans and specifications, prepared by a registered engineer of Minnesota to serve as a basis for construction of facilities adequate of complying with this Ordinance and Agency rules. A current map or aerial photograph of the area showing land use and zoning, if applicable, within one-fourth (1/4) mile of the site or facility. The map or aerial photograph shall be of sufficient scale to show all homes, buildings, lakes, ponds, watercourses, wetlands, roads and other general applicable details as determined by the Department and, shall include the general topography with contours and drainage patterns. United States Geological Survey data shall be included and a north arrow drawn. A location insert map shall be included. The construction plans and specifications shall include a plot plan including a legal description of the site and adjacent area showing dimensions, location of soil borings, present and planned pertinent features including, but not limited to; roads, fencing, screening, cover stockpiles and monitoring points if planned for, and show land use, zoning and the location, type and height of all buildings within 1,200 feet of the proposed installation. An ultimate land use plan of the site including stages identifying the total and complete land use, and showing finished contour lines and elevations. The scale of the plot plan shall not be greater than 200 feet per inch,
- c. written proof that the applicable unit of local government has been given at least six (6) months notice of the pendency of the application for a license,
- d. a plan outlining how compliance with applicable air, water and odor standards as established by the Environmental Protection Agency and the Minnesota Pollution Control Agency will be monitored, evaluated and maintained,
- e. the names and address of the landowner and of persons responsible for actual operation and maintenance of the Operation, intended operating procedures and provisions proposed to be made for periodic training and re-training of operating and maintenance personnel,
- f. A report indicating:
  1. The geographical areas expected to be served by the Facility, current population of the area, and projected population figure for the period of the expected life of the Facility.
  2. The anticipated type, quantity and source of material to be managed at the site.
  3. The type of amount of equipment to be provided at the site for Waste handling.
  4. The area of the site in acres.
  5. The intended operating procedures.
  6. The expected schedule of fees to be imposed at the Facility.

7. An estimate of the number of vehicles using the Facility each day and the volume of Wastes deposited daily.
8. The layout and construction of the Facility.
  - a) submission of the fee charged for the review of an application of a Solid Waste Management Facility in an amount to be set by the Benton County Board of Commissioners, and
  - b) additional information as requested by the County.

9.3 After reviewing an application for a license, the Department of Development shall make a recommendation to the Benton County Board to grant or deny the license. If the recommendation is to deny the license, the applicant shall be notified in writing of the reasons for the denial. A denial does not prejudice the applicant's right to appear before the Benton County Board or the right to file further applications after revisions are made to satisfy objections specified as reasons for the denial.

9.4 An applicant for a Solid Waste Management Facility license must:

- a. be current on all State and County fees and taxes,
- b. provide a household Hazardous Waste abatement plan approved by the Department,
- c. provide a mercury abatement plan approved by the Department, and
- d. provide a Leachate management plan approved by the Department.

9.5 A licensee shall follow, at a minimum, the following operational procedures:

- a. provide on-site sanitary facilities for employees,
- b. provide on-site shelter facilities for employees, maintenance and storage for equipment,
- c. provide on-site electrical service for operations and repairs,
- d. provide on-site fire-fighting facilities to ensure the safety of employees and adjacent property owners,
- e. provide on-site emergency first aid equipment adequate to provide treatment for persons injured in accidents while at the Operation,
- f. provide a potable water supply for employees,
- g. provide communication facilities for employees,
- h. provide litter control devices,
- i. provide an all-weather haul road to the unloading area at the site,
- j. provide a suitable delivery area for individuals who wish to self-haul their Solid Waste,
- k. prohibit open burning of Solid Waste,
- l. control flies, rodents, insects and other vermin,
- m. arrange with the local fire protection agency to provide fire-fighting forces in an emergency,
- n. maintain the premises, entrances and exits in a clean, neat and orderly manner at all times,
- o. provide for orderly and safe ingress and egress and control all incoming and outgoing traffic, and
- p. conduct all unloading of Solid Waste from contributing vehicles in such a manner as to eliminate odor and litter outside the Operation,
- q. post a sign at each entrance of the Operation stating the name of the Licensee, the schedule of days and hours upon which the Operation is open to the public, the procedures for use of the Operation, the Agency permit number, and the penalty for violation of this Ordinance,
- r. fence the property and provide a gate which is kept locked when an attendant is not on duty,

- s. maintain monthly reports for inspection and submit yearly or upon request to the Department of Development or the County's designee describing the types and quantities of all Wastes which are Disposed or Final Disposed of at or passing through the Operation, and
- t. have an attendant on duty at all times when the Operation is open for public use.

9.6 The Benton County Board shall not issue a Solid Waste Management Facility license for any Operation that does not follow the Benton County Solid Waste Management Plan, comply with Benton County Development Code, other local Ordinances, State Laws and Federal laws, or Agency rules.

9.7 All licensees shall furnish to the County Certificates of Insurance issued by insurers duly licensed within the State of Minnesota covering public liability insurance, including general liability, automobile liability, loading and unloading, bodily injury liability, property damage liability as identified in Section 3.5 of this Ordinance. The limits of insurance coverage shall be set by the Benton County Board of Commissioners. Solid Waste Management Facilities owned and operated by the County, Federal or State government shall be exempt from this provision.

9.8 All licensees shall furnish to the County, an assurance in the form of a bond of which the limits shall be set by the Benton County Board of Commissioners. Solid Waste Management Facilities owned and operated by the County, Federal or State government shall be exempt from this provision. Issuance of any license pursuant to the provisions of this Ordinance shall be contingent upon the applicant furnishing to the County a bond in the amount to be set by the County Board.

The 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 such bond shall include: That if the licensee fails to comply with any of the requirements of County ordinances, or fails to perform any of the acts required or ceases to operate, and the County is required to expend any moneys, or expend any labor or material to restore the Operation to a condition in compliance with this Ordinance, 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 County ordinances, and the bond holder and its sureties shall indemnify and hold 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 its permit to operate in compliance with the terms of this ordinances of the County.

9.9 Routine inspection and evaluation of an Operation including the premises, records and equipment may be made by the Department of Development at such frequency as necessary to insure consistent compliance by the Operation with the provisions of this Ordinance. The licensee shall:

- a. be provided with a written inspection report containing a description of any deficiencies, recommendations for the correction(s) and the date by which the correction(s) shall be accomplished, and

- b. allow free access to authorized representatives of the County, the Agency, or to the authorized representatives of any other governmental agency at any reasonable time for the purpose of making such inspections as may be necessary to determine compliance with the requirements of this Ordinance, or any other applicable statute, ordinance, or rule.

9.10 The Benton County Board may in amounts set annually establish a Solid Waste Volume Fee. This fee shall apply to volumes of Solid Waste generated outside Benton County that is accepted at Operations established within the County. The revenue from this fee shall be credited to the Solid Waste Fund and shall be used for landfill abatement purposes, costs of closure, post-closure care and response actions or for purposes of mitigating and compensation for the local risks, costs and other adverse effects of facilities and Solid Waste administration.

Unless otherwise provided by the County Board, issuance of a Solid Waste Management Facility license pursuant to the provisions of this ordinance shall be contingent upon the applicant contributing to a Test-Well Monitoring, Closure and Post-Closure Contingency Fund commencing on the effective date of this ordinance, and furnishing to the County a bond in an amount established by County Board resolution, and naming the County obligee with sufficient sureties duly licensed and authorized to transact business in the State of Minnesota as sureties.

9.11 The condition of such bond shall be that if the principal fails to comply with any of the requirements or fails to perform any of the acts required by law and/or ordinance of an Operation or ceases to operate or abandons the Operation, and the County is required to expend any monies or expend any labor or material to restore the site and/or Operation to a condition in compliance with law or this ordinance, the obligor and the sureties on its bond shall reimburse the County for any and all expenses incurred to remedy failure of the principal to comply with the terms of the law or ordinance, and the obligor 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 obligor under the terms of the license to operate in compliance with the terms of the ordinances of the County and federal and state law.

9.12 The Test-Well Monitoring, Closure and Post-Closure Contingency Fund shall be supported with post-closure contingency fees collected and paid by the landfill owner and operator to the County. The County Board has established by resolution a post-closure contingency fee based on compacted cubic yards or tons of Waste received or a percentage of the tipping fee charged at the landfill, or a combination thereof. The County shall review the amount of the post-closure contingency fee established at six-month intervals for the purpose of accumulating a reasonable sum of monies to fulfill the purposes of the fund. Monthly reports specifying the volume of Waste received at the landfill shall be made to the County Solid Waste Officer by the last day of each month. The post-closure contingency fees set by the County Board shall be paid to the Solid Waste Officer with the monthly report.

The Test-Well Monitoring, Closure and Post-Closure Contingency Fund shall not relieve the owner and operator of any of the responsibility, including the cost, of compliance with closure and post-closure laws, rules and ordinances.

9.13 Unless otherwise provided by the County Board, each license granted pursuant to the provisions of this ordinance shall expire on April 1st of each year, unless sooner revoked pursuant to this ordinance. Application for license renewal shall be made in writing to the County Board by January 1st of each year. Applications for renewal shall contain a statement of any changes in the information submitted in the last approved license application. Failure to submit such information shall result in the denial of the license by the County Board. If there are no changes, it shall be so stated in the renewal application.

9.14 A public hearing before the County Board of Commissioners is required prior to the renewal of a License for a Solid Waste Management Facility.

- Notice of the time, place and project to be considered shall be given by publication in the official newspaper of the county at least ten (10) days' prior to the hearing.
- The applicant and all other interested parties shall be afforded the opportunity to be heard at the hearing.

9.15 The licensee shall allow authorized representatives of the County or the Agency access to the Facility at any reasonable time and upon presentation of appropriate credentials for the purpose of making such inspections as may be necessary to determine compliance with the requirements of county ordinances, and any other applicable statute, ordinance or rule.

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

9.17 Every license issued for a Solid Waste operation in the County shall be registered with the office of the Benton County Department of Development.

## SECTION 10. SOLID WASTE LANDFILLS

10.1 The licensee shall establish financial assurance for closure, post closure care and corrective action through the use of a trust fund and shall follow the mechanisms for establishing a trust fund in accordance with Minnesota Rule 7035.2705. Solid Waste Landfills owned and operated by the County, Federal or State government shall be exempt from this provision.

10.2 A Solid Waste Landfill Licensee shall comply with the following requirements in addition to the requirements of Sections 3 and 9:

- equipment sufficient for spreading, compacting and covering operations including sufficient reserve equipment or arrangements to immediately provide cover during periods of breakdown shall be provided at the site,
- a groundwater and surface water monitoring system acceptable to the Agency shall be provided at the expense of the Licensee and a report shall be submitted to the Department of Development and the Agency on a form and at a frequency prescribed by the Agency,
- visual screening of the Solid Waste Landfill operations, as approved by the Department, shall be provided by use of natural objects, trees, plants, seeded soil berms, fences or other suitable means,

- d. Solid Waste shall be deposited in such a manner as to prevent the pollution of ground or surface waters,
- e. dumping of Solid Waste shall be confined to as small an area as practicable and surrounded with appropriate facilities to confine possible wind-blown material within the area,
- f. surface water drainage shall be diverted around the landfill operating area,
- g. the Operation and adjacent property line shall be separated by a minimum distance of 50 feet and for each foot or fraction thereof that the finished surface of said Operation raises above adjacent property line, said distance shall be increased by four feet,
- h. within one month after final termination of a Solid Waste Landfill Operation, or a major part thereof, the area upon which Final Disposal was so terminated shall be covered with at least two feet of compacted earth material and adequately graded to allow surface runoff,
- i. the finished surface of the filled area shall be covered with:
  - 1. adequate top soil and seeded with native grasses or other suitable vegetation immediately,
  - 2. upon completion, or immediately in the spring on areas terminated during winter conditions,
- j. no Toxic and/or Hazardous Waste shall be deposited in a Solid Waste Landfill located in Benton County,
- k. a Solid Waste Landfill shall be closed in a manner so as to prevent the creation of air, water or land pollution, a public nuisance, or a threat to the public health, welfare and safety.

10.3 Any Industrial Solid Waste Landfill within Benton County shall meet all the requirements of this section and Sections 3 and 9.

## SECTION 11. INCINERATORS

- 11.1 No Person shall construct, establish, maintain or operate an Incinerator having a capacity greater than 2,000 pounds acceptable Solid Waste per hour without first obtaining a permit from the Agency and a license from the Board and appropriate permit from the Benton County Planning Commission.
- 11.2 The following information shall be submitted as part of the license application in addition to items outlined in Sections 3 and 9:
  - a. an engineering report including furnace design criteria and expected performance data, the present and future population and area to be served by the incinerator, and the characteristics, quantities and sources of Solid Waste to be incinerated,
  - b. plans for the Final Disposal of incinerator residue, and emergency Disposal and/or Final Disposal of Solid Waste in the event of major Incinerator plant breakdown, and
  - a. such additional information as may be requested by the Benton County Department of Development.
- 11.3 An Incinerator Licensee shall comply with the following requirements in addition to the requirements of Sections 3 and 9:
  - a. the Incinerator plant shall be so situated, equipped, operated and maintained as to minimize interference with other activities in the area,

- b. all incoming Solid Waste to be incinerated at the Operation shall be confined to the unloading area. Adequate holding bin-capacity shall be provided to accommodate all incoming Solid Waste,
- c. facilities shall be designed to provide for dust control in the unloading and
  - 1. charging areas, and dust control measures shall be employed throughout the
  - 2. Operation to prevent avoidable amounts of particulate from becoming airborne,
- d. the Incinerator Operation shall have weighing facilities available,
- e. permanent records shall be maintained and submitted monthly to the Department of Development and the Agency on a form prescribed by the Agency and shall including the following information:
  - 1) the total weight of material incinerated,
  - 2) the total quantity or resulting residue,
  - 3) the total hours of Incinerator operation, and
  - 4) the means employed for Final Disposal of residue.
- f. equipment shall be provided in the storage and charging areas and elsewhere as necessary to allow cleaning after each day of operation and to maintain the Operation in a sanitary condition,
- g. a continuously recording pyrometer shall be provided in order to maintain continuous records of temperature in the combustion chambers and such records shall be submitted to the Department of Development on a monthly basis,
- h. all residue removed from the Incinerator Operation shall be Final Disposed of in a Solid Waste Landfill permitted to accept Ash. Residue containing Toxic or Hazardous Wastes shall be analyzed to determine its chemical composition, identified to the satisfaction of the Department of Development and Final Disposed of in accord with all applicable State and Federal Hazardous Waste laws and rules,
- i. A report covering the results of any required performance tests shall be prepared by the design engineer of the project and submitted to the Department of Development with a copy of all supporting data, and
- j. upon construction completion of the plant and prior to initial operation, the Public Works Department and the Agency shall be notified to allow their personnel to inspect the plant both prior to and during the performance tests.

11.4 Any Industrial Waste Incinerators within Benton County shall meet all the requirements of this section and Sections 3 and 9.

## **SECTION 12. INTERMEDIATE SOLID WASTE DISPOSAL FACILITIES**

- 12.1 No Person shall construct, maintain or operate a Recycling Facility or Intermediate Solid Waste Disposal Facilities without first obtaining a permit from the Agency and a License from the Board and appropriate permit from the Benton County Planning Commission.
- 12.2 Any Industrial Solid Waste Intermediate Disposal Facility within Benton County shall meet all the requirements of this section and Sections 3 and 9.

## **SECTION 13. TRANSFER STATIONS**

- 13.1 No Person shall construct, establish, maintain or operate a Transfer Station without first obtaining a permit from the Agency and a License from the Board and appropriate permit from the Benton County Planning Commission.

- 13.2 In addition to the requirements of Sections 3 and 9, when stated in and as a part of the License, the Licensee shall take away all Solid Waste, wash, clean and disinfect the station at the end of each day of use.
- 13.3 Any Transfer Station within Benton County permitted by the Agency to accept Industrial Solid Waste shall meet all the requirements of this section and Sections 3 and 9.

## SECTION 14. RECYCLING FACILITIES

- 14.1 No Person shall construct, maintain or operate a Recycling Facility without first obtaining a permit from the Agency and a License from the Board and appropriate permit from the Benton County Planning Commission.
- 14.2 A Recycling Facility includes facilities that process Compost and Source Separated Organics.
- 14.3 The following information shall be submitted as part of the License application:
  - a. materials to be accepted,
  - b. description of the operation and procedures to be followed,
  - c. storage capacity on site,
  - d. litter management plan, and
  - e. written proof that the applicable local unit of government has been given at least six (6) months notification of the pendency of the application for a License,
- 14.4 All Recycling Facilities established within Benton County shall:
  - a. submit annually information to the Department including types of material accepted at the Facility, weight of each material, end markets for materials and additional information as requested by the Department,
  - b. post a sign at each entrance of the Operation stating the name of the Licensee, the schedule of days and hours upon which the Operation is open to the public, the procedures for use of the Operation, and any applicable Agency permit number,
  - c. provide a gate which is kept locked when an attendant is not on duty, and
  - d. have an attendant on duty at all times when the Operation is open for public use.
- 14.5 Routine inspection and evaluation of a Recycling Facility may be made by the Department of Development at such frequency as necessary to insure consistent compliance by the Facility with the provisions of this Ordinance. The Licensee shall:
  - a. be provided with a written inspection report containing a description of any deficiencies, recommendations for the correction(s) and the date by which the correction(s) shall be accomplished, and
  - b. allow free access to authorized representatives of the County, the Agency, or to the authorized representatives of any other governmental agency at any reasonable time for the purpose of making such inspections as may be necessary to determine compliance with the requirements of this Ordinance, or any other applicable statute, ordinance, or rule.
- 14.6 If the Recycling Facility is providing pick up of Recyclable Material within Benton County, the Recycling Facility shall be subject to the requirements set forth in Sections 3 and 9 of this Ordinance.

## SECTION 15. DEMOLITION FACILITY – CLASS I

- 15.1 No Person shall construct, maintain or operate a Demolition Facility without first obtaining a permit from the Agency and a License from the Board and appropriate permit from the Benton County Planning Commission.
- 15.2 No Person shall establish, operate or maintain a Class I Demolition Facility without complying with the following provisions:
  - a. material disposed of at the Facility shall be determined by the Agency and the Board,
  - b. a Class I Demolition Facility must be established on at least a ten-acre site,
  - c. a Department of Development evaluation must be completed prior to commencement of the Facility,
  - d. all applicable Agency Rules and notifications must be met prior to commencement of the Facility,
  - e. prior to demolition of structures to be received at a Class I Demolition Facility, an asbestos inspection conducted by a Minnesota Department of Health certified inspector must be completed,
  - f. an asbestos inspection exemption may be issued by the Department if the structure to be demolished meets at least one of the following requirements:
    - 1. the structure is an outbuilding consisting only of wood,
    - 2. the structure is entirely composed of block and/or concrete, or
    - 3. the structure is entirely composed of sheet metal.
- 15.3 Acceptable material shall only include Construction and Demolition Debris as defined or as determined by the State and shall exclude Industrial Waste.

## SECTION 16. DEMOLITION FACILITY – CLASS II

- 16.1 No Person shall construct, maintain or operate a Demolition Facility without first obtaining a permit from the Agency and a License from the Board and appropriate permit from the Benton County Planning Commission.
- 16.2 The Class II Demolition Facility License application shall include:
  - a. the location, size and ownership of land upon which the Facility will be situated,
  - b. a minimum of three (3) sets of construction plans and specifications, prepared by a registered engineer of Minnesota to serve as a basis for construction of facilities adequate of complying with this Ordinance and Agency Rules. The construction plans and specifications shall include a plot plan showing land use, zoning and the location, type and height of all buildings within 1200 feet of the proposed installation,
  - c. written proof that the applicable unit of local government has been given at least six (6) months' notice of the pendency of the application for a License,
  - d. the names of persons responsible for actual operation and maintenance of the Facility, intended operating procedures and provisions proposed to be made for periodic training and re-training of operating and maintenance personnel,
  - e. submission of the fee charged for the review of an application of a Class II Demolition Facility in an amount to be set by the Benton County Board of Commissioners, and
  - f. additional information as requested by the County.
- 16.3 Class II Demolition Facilities established and in operation prior to the adoption of this Ordinance shall be exempt from the fee charged for the review of the License application.

- 16.4 All new and existing Class II Demolition Facilities shall be designed, operated, and maintained in accordance with Federal and State Statutes and Rules and local Ordinances.
- 16.5 All Class II Demolition Facilities shall be current on State and County fees in accordance with Minnesota Statutes, Rules and this Ordinance.
- 16.6 Acceptable material shall only include Construction and Demolition Debris as defined or as determined by the State and shall exclude Industrial Waste.
- 16.7 Routine inspection and evaluation of a Class II Demolition Facility may be made by the Department of Development at such frequency as necessary to insure consistent compliance by the Facility with the provisions of this Ordinance. The Licensee shall:
  - a. be provided with a written inspection report containing a description of any deficiencies, recommendations for the correction(s) and the date by which the correction(s) shall be accomplished, and
  - b. allow free access to authorized representatives of the County, the Agency, or to the authorized representatives of any other governmental agency at any reasonable time for the purpose of making such inspections as may be necessary to determine compliance with the requirements of this Ordinance, or any other applicable statute, ordinance, or rule.
- 16.8 No Person shall dump Demolition Debris on the Working Face of a Class II Demolition Facility within Benton County unless the Person has complied with Facility policies regarding Working Face deliveries.
- 16.9 The Licensee shall establish financial assurance for closure, post closure care and corrective action through the establishment of a trust fund and shall follow the mechanisms for establishing a trust fund in accordance with Minnesota Rule 7035.2705. State and Federal Class II Demolition Facilities shall be excluded from this provision.

## **SECTION 17. LICENSE FEES**

- 17.1 Final approval of Licenses under this Ordinance shall be contingent upon payment to the County of a License fee in the amount established by resolution of the Benton County Board, upon providing certification of proof of insurance, and upon furnishing a bond in compliance with Section 9.
- 17.2 License fees shall be paid annually on or before 1<sup>st</sup> of April as a condition for License renewal. Nonpayment shall be grounds for suspension of the License. Fees shall be paid to the Benton County Treasurer.

## **SECTION 18. ADDITIONAL REQUIREMENTS**

- 18.1 For the purpose of protecting public health, safety and welfare, the Benton County Board may impose additional requirements consistent with the intent of this Ordinance for the operation of Solid Waste Management Facilities.

## **SECTION 19. SEVERABILITY**

19.1 It is hereby declared to be the intention of the Benton County Board that the several provisions of this Ordinance be severable in accordance with the following:

- a. if any Court of competent jurisdiction shall adjudge any provision of this Ordinance to be invalid, such judgment shall not affect any other provisions of this Ordinance not specifically included in said judgment.
- b. if any Court of competent jurisdiction shall adjudge invalid the application of any provision of this Ordinance to a particular structure, site, Facility or Operation, such judgment shall not affect the application of said provision to any other structure, site, Facility or Operation not specifically included in said judgment.

## **SECTION 20. PROVISIONS ARE CUMULATIVE**

20.1 The provisions of this Ordinance are cumulative and additional limitations upon all other laws heretofore passed or which may be passed hereafter, covering any subject matter of this Ordinance.

## **SECTION 21. NO CONSENT**

21.1 Nothing contained in this Ordinance shall be deemed to be a consent, License, or permit to locate, construct, operate or maintain any Solid Waste site, Facility or Operation, or to carry on any other Solid Waste activity.

## **SECTION 22. ENFORCEMENT**

22.1 Any Person, firm or corporation who violates any of the provisions of this Ordinance, or who fails, neglects or refuses to comply with the provisions of this Ordinance, or who makes any false statement in any document required to be submitted under the provisions hereof, shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not to exceed \$1,000.00 or by imprisonment not to exceed 90 days', or both. Each day the violation continues shall constitute a separate offense.

22.2 In the event of a violation or a threatened violation of this Ordinance, the Department of Development, in addition to other remedies, may institute appropriate action or proceedings to prevent, prosecute, restrain or abate such violations or threatened violations, and it shall be the duty of the County Attorney to commence such action.

22.3 Pursuant to Minn. Stat. §375.18, subd. 14, the County may remove unauthorized deposits of accumulated Solid Waste at the landowner's expense and may order the expense to be a lien on the property and be collected as a special assessment. In addition, pursuant to Minn. Stat. §115A.99, the County may seek civil penalties and damages from the landowner and/or the Persons responsible for the unauthorized deposit of Solid Waste, and if such penalties are not paid, the County may impose the amount due as a lien on property owned by the landowner and/or responsible persons and may collect the amount as a special assessment.

22.4 A License granted by the County under this Ordinance may be revoked or suspended whenever the Licensee:

- a. Fails to allow free access to authorized representatives of the County at any reasonable time to determine compliance.
- b. fails to comply with a written notice requiring corrective action,

- c. violates the provisions of this ordinance, state or federal law, or
- d. operates in a manner which endangers the health, welfare or safety of the public or causes pollution or impairment of the environment.

22.5 Notice of suspension or revocation of a License shall be in writing and served on the Licensee by mail or by leaving a copy of the notice at the Licensed premises with the person in charge thereof.

22.6 The suspension or revocation will automatically take effect ten (10) days' from the date of the notice unless, within that time, the Licensee submits a written request for a hearing. The request for a hearing must contain a brief statement explaining the Licensee's defense to the action.

22.7 Notwithstanding other provisions of this ordinance, if the Department determines that continued operation by the Licensee constitutes a substantial hazard to public health or safety, the Department may, without notice or hearing, issue an immediate suspension of the License. Upon delivery of the Notice of Immediate Suspension to the Licensee or to the person in charge of the Licensed premises, the operation shall immediately cease operation and shall not operate again until authorized by the County.

22.8 A License may be revoked or immediately revoked for repeated violations of this ordinance or state or federal laws related to the accumulation, storage or Disposal of Solid Waste, or for acts which cause a substantial hazard to public health or safety.

## **SECTION 23. APPEALS**

23.1 Appeals of a notice of suspension or revocation shall be heard by the Benton County Board of Commissioners. The following process shall be used for all appeals under this ordinance:

- a. a Licensee must submit a written request for a hearing on the suspension or revocation of the person's License by delivering to the Department a written request for such hearing which meets the requirements of Section 22,
- b. the hearing shall be held not more than 14 days' after the date on which the request for hearing was delivered unless postponed for good cause or upon agreement of the parties,
- c. the County shall give 5 days' written notice to the Licensee of the time, date, and place for the hearing. This notice shall be made by personal service or by mail to the last known address of the Licensee,
- d. at the hearing the Department shall, by oral testimony explain the reason for the suspension or revocation. The Licensee shall be given the opportunity to be heard and show cause why the suspension or revocation should be modified or withdrawn. All witnesses shall be subject to cross examination,
- e. within 10 days' after the hearing, the County Board shall issue written findings and its decision sustaining, modifying or withdrawing the suspension or revocation. A copy of the findings and decision shall be served by mail on the Licensee. Any person aggrieved by the decision of the Board may seek relief in a court of competent jurisdiction as provided by law, and
- f. the appeal proceedings shall be recorded by an audio-visual recording. The findings and decisions of the County Board shall be a public record maintained by the Department.

## SECTION 24. OTHER ORDINANCES AND REGULATIONS

- 24.1 Nothing in this Ordinance shall preclude any local unit of government from adopting more restrictive standards than contained in this Ordinance.
- 24.2 Where the conditions imposed by any provision of this Ordinance differ from any other provision of this Ordinance, or any other applicable law, ordinance, rule or regulation, the provision that establishes the higher standards for the promotion of the public health, safety and general welfare shall prevail.

## SECTION 25. EFFECTIVE DATE

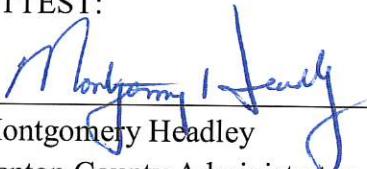
- 25.1 This Ordinance shall be in full force and effect from and after its passage.

## SECTION 26. REPEAL AND ENACTMENT

That Benton County Solid Waste Ordinance 162 and 252, as presently enacted, are hereby repealed.

Approved and adopted by the Benton County Board of Commissioners this 5th day of March in the year of 2019.

ATTEST:

  
Montgomery Headley  
Benton County Administrator

  
A. Jake Bauerly, Chair  
Benton County Board of Commissioners