

**McLEOD COUNTY  
SOLID WASTE MANAGEMENT ORDINANCE**

**1. TITLE**

This Ordinance should be known and titled as the "McLeod County Solid Waste Management Ordinance"; when referred to herein, it shall be known as the "Ordinance".

**2. PURPOSE AND COMPLIANCE**

An ordinance authorizing and providing for County Solid Waste Management; establishing powers and duties in connection therewith; establishing standards and requirements for solid waste management operations within the incorporated and unincorporated areas of the County of McLeod; requiring licenses and permits for storage, collection, transportation, processing, and disposal of solid waste in accordance with the McLeod County Solid Waste Management Plan; embodying and supplementing the minimum standards and requirements established by rules of the Minnesota Pollution Control Agency; providing for enforcement of said requirements; requiring performance bonds and insurance and imposing penalties for failure to comply with these provisions. Further, the purpose and objective thereof is to promote health, welfare and safety of the public and protect resources of land, water and air.

The County Board of McLeod County, Minnesota does ordain:

**3. LEGAL AUTHORITY**

This Ordinance is enacted pursuant to Minnesota Statutes, Chapters 115, 115A, 115B, 116, 375, and 400.

- 3.1. This Ordinance supersedes all provisions of any McLeod County ordinance that relates to control and collection of solid waste.
- 3.2. The governing body of any town or local unit of government may continue to exercise the authority to plan solid waste management, but after the adoption of official controls for a county by the County Board of Commissioners, no local unit of government shall enact official controls inconsistent with the standards prescribed in this Ordinance. Nothing in this Section will limit any local governmental unit to exercise a more restrictive ordinance than provided in the controls adopted by the County.
- 3.3. It is not otherwise intended by this Ordinance to repeal, abrogate or impair any existing restrictions or ordinances other than solid waste ordinances to the extent specified above. Where the conditions imposed by any provisions of this Ordinance are either more restrictive than comparable conditions imposed by any other provisions of this Ordinance or any other applicable law, ordinance, rule and

regulation, the provision which established the higher standards for the promotion and protection of the public health, safety and general welfare shall prevail.

The McLeod County Solid Waste Ordinance passed May 7, 1974, all amendments thereof and supplemental thereto, are hereby repealed.

#### 4. DEFINITIONS

The following words and phrases used in this Ordinance, unless the context clearly indicates otherwise, shall have the meaning ascribed to them in this Section.

- 4.01. **"Air contaminant"** means the presence in the outdoor atmosphere of any dust, fumes, mist, vapor, gas or gaseous fluid or particular substance differing in composition from or exceeding in concentration, the natural components of the atmosphere.
- 4.02. **"Air pollutant"** means the presence in the outdoor atmosphere of any air contaminant or combination thereof, in such quantity, of such nature and duration and under such conditions as would be injurious to human health or welfare, to animal or plant life, to property or to interfere unreasonable with the enjoyment of life and property.
- 4.03. **"Composting"** is defined as the controlled biological decomposition and management of selected waste to produce an innocuous, humus-like material which can be used as a soil conditioner.
- 4.04. **"Construction and Demolition landfill"** is defined as an area of land used for the disposal of construction and demolition waste without creating nuisances or hazards to the environment, public health and safety and is operated in compliance with the provisions of this Ordinance.
- 4.05. **"Construction and Demolition waste"** is defined as material normally found in buildings to be demolished or constructed such as, but not limited to, bricks, stone facing, concrete, cement blocks, stucco, plaster, wall boards, glass, pipe, wire, metal, plastic and any inert materials as may be approved by the Solid Waste Officer.
- 4.06. **"County"** means any department or representative of McLeod County who is authorized by the Ordinance, or otherwise by the County Board of Commissioners, to represent McLeod County in the enforcement and administration of this Ordinance.
- 4.07. **"County Board"** is the McLeod County Board of Commissioners.
- 4.08. **"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.

- 4.09. **"Cubic yard"** is defined as a cubic yard of solid waste as received at the entrance of a waste facility. Waste facilities and haulers weighing and reporting tons of solid waste received at the entrance shall use the conversion factor of 3.33 yd<sup>3</sup> per ton of solid waste when required or authorized by this Ordinance.
- 4.10. **"Garbage"** means materials resulting from handling, processing, storage, preparation, serving and consumption of food and various food by-products.
- 4.11. **"Generator"** means any person or entity whose actions or process produces solid waste.
- 4.12. **"Household hazardous waste (HHW)"** means any waste generated from household activity that exhibits the characteristics of, or that is listed as, hazardous waste under MPCA rules, but does not include waste from commercial activities that is generated, stored or present in a household. Household hazardous waste includes, but is not limited to paints, solvents, cleaners, pesticides, herbicides, paint thinner, drain openers, varnishes, stains and adhesives.
- 4.13. **"I/C/I"** means any institutional, commercial and industrial solid waste entity.
- 4.14. **"Incineration"** means the process by which solid waste is burned for the purpose of volume and weight reduction in facilities designed for such use.
- 4.15. **"Land disposal facility"** means any tract or parcel of land, including any constructed facility, at which solid waste is disposed of in or on the land.
- 4.16. **"Land pollution"** means the presence in or on the land of any solid waste in such quantity, nature or duration, and under such conditions as would affect injuriously any waters of the state, create air contaminants or cause air pollution.
- 4.17. **"Mixed municipal solid waste (MMSW)"** is defined as garbage, refuse and other solid waste from residential, commercial, industrial, institutional and community activities which is generated and collected in aggregate, but does not include auto hulks, street sweepings, ash, demolition waste, mining debris, sludges, tree and agricultural waste, tires, pesticides, hazardous waste and other materials collected, processed and disposed of as separate waste streams.
- 4.18. **"MPCA"** means the Minnesota Pollution Control Agency.
- 4.19. **"Notice of Violation"** is defined as a formal written notice issued by County staff to notify a party that he or she is in violation of a County Ordinance. This notice will inform the party of the alleged violation(s), the nature and extent of the violation(s), and the required corrective actions. The notice of Violation shall also specify additional actions that will be taken by the County, such as the inclusion of Notice of Violation 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.

- 4.20. **"Open burning"** is burning any matter whereby the resultant combustion products are emitted directly to open atmosphere without passing through an adequate stack, duct or chimney.
- 4.21. **"Open dump"** is a land disposal site at which solid waste is disposed of in a manner that does not protect the environment, is susceptible to open burning and is exposed to the elements, insects, rodents and scavengers.
- 4.22. **"Operation"** means any site, facility or activity relating to solid waste management.
- 4.23. **"Packer truck"** means a truck with a solid waste container that compacts refuse by hydraulic method or other mechanical means.
- 4.24. **"Person"** means any human being; municipality, public subdivision or other governmental or public agency; public or private corporation; partnership, firm or association; other organization; receiver, trustee, assignee, agent; other legal representative of any of the foregoing; or other legal entity.
- 4.25. **"Putrescible material or garbage"** means solid waste which is capable of becoming rotten or which may reach a foul state of decay or decomposition.
- 4.26. **"Recyclables"** means those materials found within MMSW that have been designated by the Solid Waste Officer as subject to source separation and recycling.
- 4.27. **"Recyclables Hauler"** means any person who owns, operates or leases vehicles for the purpose of collection and transportation of materials that have been designated by the Solid Waste Officer as subject to source separation and recycling.
- 4.28. **"Recycler"** means any business established to collect, transport, process, store, redeem or dispose of recyclables.
- 4.29. **"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.
- 4.30. **"Recycling facility"** is defined as a site used only to collect and prepare recyclables for reuse in their original form, or for use in a manufacturing process.
- 4.31. **"Shoreland"** is defined as land located within the following distances from the ordinary high water mark of public waters: (a) land within 1,000 feet from the normal high water mark of a lake, pond, reservoir impoundment or

flowage; and (b) land within 300 feet of a river or stream or the landward side of a flood plain delineated by ordinance on such a river or stream, whichever is greater.

- 4.32. **"Site or facility"** is defined as all real or personal property which is, or may be, used for the utilization, processing or final disposal of solid waste and which requires a license for disposal therein under the provision of this Ordinance. Solid waste site or facility includes, but is not limited to, transfer stations, special waste processing facilities, compost facilities, infectious waste facilities, and waste-to-energy facilities.
- 4.33. **"Solid waste"** is defined as garbage, refuse, demolition waste, sludge from a water supply treatment plant or air contaminant treatment facility and other discarded solid waste materials and sludges in solid, semi-solid, liquid or contained gaseous form, but does not include hazardous waste, animal waste used as fertilizer, earthen fill, boulders, rock, sewage sludge, solids or dissolved material in domestic sewage or other pollutants in water resources, such as silt, dissolved or suspended solids in industrial waste water effluents or discharges or other common water pollutants.
- 4.34. **"Solid Waste Advisory Committee (SWAC)"** is defined as the representative body from city and County government, local business and industry, waste haulers and the general public from within McLeod County designated the responsibility of monitoring and reviewing all solid waste abatement and recycling programs; initiating new solid waste action plans; deciding upon disbursement of bonds and grants for all solid waste abatement and recycling programs; reviewing and recommending County fee authority options on all solid waste generated within and outside the County; and recommending solid waste action plans to the County Board.
- 4.35. **"Solid waste hauler"** means any person who owns, operates or leases vehicles for the purpose of collection and transportation of any type of solid waste, including recyclables and yard waste, and is under contract or other agreement with the solid waste generator.
- 4.36. **"Solid waste management"** means the storage, collection and removal of solid waste from public and private property, its transportation to intermediate or final disposal facilities and its disposal by approved methods; the management of a recycling program, solid waste education and other solid waste operations or services.
- 4.37. **"Source separation"** means the separation by the generator of any material for the purposes of preventing its introduction into the MMSW stream.
- 4.38. **"State"** means the State of Minnesota.
- 4.39. **"Tipping fee"** is defined as the fee charged to haulers or other persons for waste delivered to a designated site or facility, exclusive of any separate charges imposed by local, state or federal government.

- 4.40. **"Toxic and hazardous waste/hazardous substance"** shall have meanings given it in Minnesota Statutes 115B.02, Subdivisions 8 and 9.
- 4.41. **"Transfer station"** is defined as an intermediate solid waste facility in which solid waste collected from any source is temporarily deposited to await transportation to the final disposal site or facility.
- 4.42. **"Waste tire"** is defined as solid waste which consists of the rubber or other resilient material product which is used on a vehicle or other equipment wheel to provide tread which is discarded or which cannot be used for its original purpose because it is used, damaged or defective.
- 4.43. **"Water pollution"** means the contamination of any waters of the State so as to create a nuisance or enter such waters as unclean or impure; and to be actually or potentially harmful or detrimental or injurious to public health, safety or welfare, to domestic, commercial or industrial use or to animals, birds, fish or other aquatic life.
- 4.44. **"Waters of the State"** means all lakes, streams, ponds, marshes, water courses, water ways, wells, springs, reservoirs, aquifers, irrigation systems and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through or border upon the State or any portion thereof.
- 4.45. **"White Goods"** means major appliances. Major appliances include, but are not limited to, clothes washers and dryers, dishwashers, hot water heaters, garbage disposals, microwave ovens, trash compactors, conventional ovens, ranges and stoves, humidifiers and dehumidifiers, air conditioners, refrigerators, freezers, furnaces and other as defined in Minnesota Statutes 115A.03, Subdivision 17a.
- 4.46. **"Yard waste"** means garden waste, leaves, lawn cuttings, weeds and prunings generated on residential or commercial properties. For this definition, prunings are defined as the green stemmed portion of plants and does not include tree trimmings.
- 4.47. **"Yard waste hauler"** means any person who owns, operates, or leases vehicles for the purpose of collection and transportation of any type of garden waste, leaves, lawn cuttings, weeds, and prunings generated on residential or commercial properties. For this definition, prunings are defined as the green stemmed portion of plants and does not include tree trimmings.

## **5. ADMINISTRATION**

### **5.1. Solid Waste Officer**

There shall be appointed by the McLeod County Board of Commissioners a Solid Waste Officer who shall be responsible for the administration of this Ordinance.

## **5.2. Duties**

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

- 5.2.1. To review and consider all applications and supporting materials which are referred to the Solid Waste Officer for operations within the County, and after such review and consideration, to recommend in writing, with documentation, to the County Board whether a license should be granted or denied.
- 5.2.2. To enter upon premises and into buildings to inspect operations to determine compliance and to investigate complaints about violations of this Ordinance, subject to the specific authority granted and limitations thereof set forth hereinafter.
- 5.2.3. To recommend to the County Attorney that legal proceedings be initiated against a person or group of persons to compel compliance with the provisions of this Ordinance or to terminate or control an operation not in compliance with this Ordinance.
- 5.2.4. To encourage and conduct studies, investigations and research relating to aspects of solid waste management as directed by the SWAC or County Board, including, but not limited to, methodology, chemical and physical considerations and engineering.
- 5.2.5. To advise, consult and cooperate with the public and other governmental agencies in furtherance of the purpose of this Ordinance.
- 5.2.6. To plan, implement and administer all County operated solid waste management facilities.

## **5.3 Solid Waste Advisory Committee**

### **5.3.1. Duties**

There shall serve a representative body from City and County government, local business and industry, waste haulers and the general public from within the County designated the responsibility, but not limited to, monitoring and reviewing all solid waste management programs, including source reduction, recycling, composting, and landfilling, and will recommend solid waste action plans to the County Board.

## **6. GENERAL PROVISIONS**

- 6.1. No person shall cause, permit or allow his land or property under his control to be used for solid waste management purposes, and no solid waste shall be deposited or otherwise disposed of within the County of McLeod, except at the county sanitary landfill or at an operation for which a license has been granted by the County Board. A license shall not be required under this Ordinance for any site used for the disposal

of solid waste from only a single family or household, a member of which is the owner, occupant or lessee of the property, but such site shall be operated and maintained in a nuisance-free and aesthetic manner consistent with the intent of this Ordinance.

Any operation to be used for any method of solid waste management not otherwise provided for in this Ordinance must be licensed by the County Board before operation may commence. The license application shall include sets of complete plans, specifications, design data, ultimate land use plan, if applicable, and proposed operating procedures prepared by a registered professional engineer of the State of Minnesota. Where applicable, the applicant shall procure and include with the application a conditional use permit if required by the County Zoning Ordinance.

- 6.2. A permit shall not be required from a state agency, except under Minnesota Statutes 88.16, 88.17, and 88.22 for a person who owns or operates land used for farming that buries, or burns and buries, solid waste generated from the person's household or as part of the person's farming operation if the burying is done in a nuisance-free, pollution free, and aesthetic manner on the land used for farming. This exception however does not apply if there is regularly scheduled pickup of solid waste as determined by resolution of the McLeod County Board.
- 6.3 Pursuant to Minnesota Statute 17.135, the above exemption in Section 6.2 does not apply to burning tires or plastics, except baling twine, or waste as defined in Minnesota Statute 115A.96, Subdivision 1; appliances, including but not limited to, major appliances as defined in Minnesota Statute 115A.03, Subdivision 17A; household batteries, used motor oil; and lead acid batteries from motor vehicles.
- 6.4. Owners and managers of every property shall be responsible for maintaining all open areas free of improperly stored solid waste accumulations. For purposes of this Ordinance this shall include: (1) animal feces, brush piles, inoperable machines, appliances, fixtures and equipment that have no substantial value and can be reasonably considered solid waste; (b) lumber piles and building materials, unless being actively used by a business or construction requiring use of such lumber and materials; (c) tin cans, broken glass, broken furniture, boxes, crates and other debris; and (d) other forms of MMSW. Nothing in this Section is designed to restrict the commonly accepted activities of agricultural farms and duly established and licensed automobile, scrap iron, metal recyclers and salvage operations.
- 6.5. After receiving an application for an operation, the County Board shall refer such application to the County Solid Waste Officer who shall give his recommendation to the County Board concerning whether it should issue or deny the license. Per Section 9.12, the County Board has 30 days to either grant or deny the license. If an applicant is denied a license, he shall be notified in writing of the reasons therefore by the County Board. A denial shall be without prejudice to the applicant's right to an appearance before the County Board or to his right to file a further application after revisions are made to satisfy objections specified as reasons for the dismissal.
- 6.6. The County Board shall refuse to issue a license for any operation which does not comply with this Ordinance, Agency regulations and the County's solid waste



management plan, or for any operation which the County Board feels may be detrimental to the citizens of the County as a whole.

- 6.7. Unless otherwise provided by the County Board, issuance of any license pursuant to the provisions of this Ordinance shall be contingent upon the applicant furnishing to the County a bond in an amount to be set by the County Board and naming the County as obligee with sufficient sureties duly licensed and authorized to transact business in the State of Minnesota as sureties. 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 of an operation or ceases to operate or abandons the operation, 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 obligor and the sureties on its bond shall reimburse the County for any and all expenses incurred to remedy failure to the principal to comply with the terms of the Ordinance, and the obligor and its sureties will indemnify and hold 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 and Ordinances of the County. The performance bond shall be subject to cancellation by the surety at any time only upon giving one hundred twenty (120) days prior written notice of cancellation to the County. In lieu of part or all of said bond, the licensee may provide evidence of financial assurance in a form acceptable to the County Board to be used to bring the facility or activity into compliance with said requirements.
- 6.8. The licensee shall furnish to the County certificates of insurance issued by insurers, duly licensed within the State, covering public liability insurance, including general liability, automobile liability, completed operations liability and bodily injury liability in amounts to be set by the County Board. In addition, the licensee shall provide evidence of worker's compensation coverage in the required statutory amounts.
- 6.9. The County Board shall, by resolution, establish fees, including fees for the application, initial license, renewal of license and such other fees as may be necessary for the administration of this Ordinance. The County Board may waive fees for any political subdivision applying for a solid waste license.
- 6.10. Any license granted by the County Board under the provisions of this Ordinance may be suspended at any time for noncompliance with the provisions of this Ordinance or applicable state laws and regulations, or upon written notification by the Solid Waste Officer or by an authorized representative of the Agency, that the continued use of the operation may endanger the health, welfare or safety of the public or may cause pollution or impairment of the environment. The notice of suspension may be served upon the licensee personally or by leaving the same at the licensed premises with the person in charge thereof. A copy thereof shall be provided to the County Board. A license may be revoked only after the County Board has held a public hearing at which the licensee and other persons wishing to be heard concerning use of the operations shall have the right to be heard. The date of the hearing for license revocation shall be set by the County Board and shall not be held earlier than ten (10) calendar days after notice of said hearing was mailed to the licensee. Evidence may be presented and received in a manner consistent with the rules of evidence applied in

civil cases. A transcript thereof shall be made by tape recording or other suitable technique approved by the County Board. If, pursuant to said hearing, the County Board shall determine that the operation has been conducted in violation of this Ordinance, the Board may revoke the license or continue such suspension in effect until the operator has demonstrated that full compliance with the ordinance has been attained and that such compliance will be continued in the foreseeable future.

- 6.11. Routine inspection and evaluation of an operation shall be made by the Solid Waste Officer at such frequency as to insure compliance by the operation consistent with the provisions of this Ordinance. The licensee shall be provided with a written inspection report containing a precise description of any deficiencies, recommendations for the correction and the date when the correction shall be accomplished.
- 6.12. Where the conditions imposed by any provision of this Ordinance are either more restrictive or less restrictive than comparable conditions imposed by any other provisions of this Ordinance, or any other applicable law, ordinance, rule or regulation, the provision which establishes the higher standards for the promotion of the public health, safety and general welfare shall prevail.

## **7. SOLID WASTE STORAGE AND CONTAINERS**

- 7.1. The owner, lessee and occupant of any single or multi-family dwelling, business establishment, industry and all other premises shall be responsible for the satisfactory storage of all solid waste accumulated at that premises, business establishment or industry. No building, structure, area, or premises shall be constructed or maintained for occupancy, use or assembly without adequate facilities for sanitary and safe storage, collection, transportation, and disposal of all solid wastes.
- 7.2. Property owners shall cause occupants and employees to store waste for removal in the solid waste storage facilities and containers provided. The property owner shall not knowingly permit solid waste to be placed in locations or in a manner that the solid waste can be scattered by water, wind, animals or insects.
- 7.3. Every property shall be supplied with adequate solid waste storage facilities and containers. Such facilities and containers shall be supplied by the owner of the property or by contract with a commercial hauler.
- 7.4. Putrescible waste, including, but not limited to, garbage shall be stored and maintained in: (a) durable, rust-resistant, non-absorbent, water-tight, rodent-proof, and easily cleanable containers, with close-fitting, fly-tight covers preventing insect breeding and having adequate handles to facilitate handling; or (b) other types of containers which are acceptable to the solid waste collections services, comply with Agency regulations, and are approved by the Solid Waste Officer. The size and allowable weight-to-volume of the containers may be determined by the solid waste collection service as approved by the Solid Waste Officer.

- 7.5. Solid waste shall be stored in durable containers or as otherwise provided in this Ordinance. Where putrescible wastes are stored in combination with non-putrescible wastes, containers for the storage of the mixture shall meet requirements for putrescible waste containers.
- 7.6. Solid waste objects or materials too large or otherwise unsuitable for storage containers shall be stored in a manner which is pollution-free, nuisance-free and satisfactory to the Solid Waste Officer.
- 7.7. Toxic/hazardous waste shall be stored in durable, leak-proof containers and shall be "painted and marked" so as to easily identify the container as toxic or hazardous waste consistent with federal and state regulations. All previous lettering and numbering will be obliterated from the container. The container will be marked in an easily identified area using a permanent marker to provide a description of the waste and the start date. Such waste shall be stored in a safe location and be in compliance with MPCA regulations and the Ordinance. In any case, a generator of hazardous waste must comply with all federal and state laws and regulations applicable to the generation, storage, transportation, processing and disposal of hazardous waste (whichever laws and regulations are more stringent).
- 7.8. Solid wastes shall not be stored on public or private property for more than two (2) weeks without the written approval of the Solid Waste Officer.
- 7.9. Non-putrescible waste, suitable and sorted for recycling, may be contained for more than ten (10) days if it is stored in an aesthetically acceptable manner that avoids unacceptable health risk or nuisances, and otherwise complies with this Ordinance.
- 7.10. Any hauler finding solid waste containers in use that appear not to be in compliance with this Ordinance shall report the non-compliance to the owner and Solid Waste Officer. If correction is not made within a reasonable amount of time the hauler may refuse to empty the container(s).
- 7.11. **Recyclable Materials**
- 7.11.1. The recyclables hauler, per approval by the Solid Waste Officer, may specify the type of container their customers must place the recyclables in. The containers must be provided by the recyclables hauler or already available to their customers at the time this Ordinance provision becomes effective.
- 7.11.2. The recyclables hauler may specify how a customer is to place their recyclables out for collection and how the recyclables are to be prepared. The Solid Waste Officer reserves the right to review and modify the amount of preparation required by the recyclables hauler in consideration of local recyclable market requirements.
- 7.12. **Yard Waste**
- 7.12.1 Plastic bags of any type are prohibited from use to dispose of yard waste at solid waste disposal facilities or composting facilities. Unless otherwise

indicated, plastic bags of any type may be used to transport yard waste to a solid waste disposal facility or composting facility but may not be disposed of at the facility.

## **8. COLLECTION AND TRANSPORTATION OF SOLID WASTES**

- 8.1. It shall be unlawful for any hauler to collect or transport solid waste, including recyclable materials, within McLeod County without securing a license to do so from the Solid Waste Officer . This section does not apply to persons who collect and transport their own household solid waste.
- 8.2. Except as permitted by this Ordinance, solid waste shall not be transferred to another property or another property's waste storage facility or container, except with the written consent of the property owner receiving solid waste.

### 8.3. Solid Waste Hauler Requirements

8.3.1. The McLeod County Solid Waste Officer, with approval from the County Board may issue a license for the commercial hauling of solid waste if the following information is submitted as part of the solid waste licensing requirements:

- (a) Filing of an application for a solid waste hauling license upon a form provided by the County Board and available from the Solid Waste Officer.
- (b) Filing proof of comprehensive general liability insurance covering bodily injury and property damage (combined limit) in the amount of \$200,000 per person and \$600,000 per occurrence and personal injury in the amount of \$200,000 per person and \$600,000 per occurrence.
- (c) Filing proof of comprehensive automobile liability insurance including owned, non-owned and hired automobiles in the amount of \$200,000 per person and \$600,000 per occurrence.
- (d) Filing proof of a performance bond with sufficient sureties in the penal sum of \$2,000 which bond shall be conditioned upon the applicant's full compliance with this Ordinance, said bond to be subject to the approval of the County Board and the County Attorney.
- (e) The type, number and capacity of solid waste hauling vehicles used in McLeod County for solid waste collection and/or transportation. Such vehicles shall have leak-proof bodies of easily cleanable construction completely covered with metal or heavy canvas. Vehicles used for the collection and transportation of any solid waste must be loaded and transported in such a manner that the contents will not fall, leak, or spill. Where spillage does occur, the material shall be picked up immediately by the hauler and returned to the vehicle or container and the area properly cleaned.
- (f) Vehicles and containers used for the collection and transportation of toxic or hazardous wastes shall be durable, enclosed and leak proof and shall be constructed, loaded, transported and unloaded in a safe, sanitary and nuisance-free manner and consistent with Section 7.7.
- (g) Submission of a general description of the route to be followed by all solid waste hauling vehicles between the area(s) of collection and the solid waste disposal/processing facility.
- (h) Payment of an annual license fee set by resolution of the County Board. The Solid Waste Officer may, by resolution of the County Board, implement a license fee structure based on an annual per business solid waste collector's fee and a per vehicle fee based on the

number of solid waste hauling vehicles operated by the individual solid waste hauler. Non-payment of the annual per business solid waste collector's fee and the per vehicle fee shall be grounds for denial of license renewal. However, payment of the license fee may be waived by the County Board if the applicant is a governmental agency.

- (i) Commercial haulers of solid waste serving residential customers must charge for collection on the basis of the volume or weight of waste collected. For single family customers, the hauler must offer a minimum 1 can/bag/tag rate. The failure to offer volume/weight rates shall be grounds for license termination or denial of license renewal. A brief description of how the commercial solid waste hauler will comply with this rule shall be submitted with the license application and such additional information as the Solid Waste Officer may require.
- 8.3.2. All vehicles owned and operated by the Licensee shall display a license decal provided by the Solid Waste Officer visible on the driver's side of each vehicle. Vehicles used only for collecting source separated recyclables or hauling processed recyclables to market need not have a license decal, but the business must be licensed. In addition, the Licensee shall display the capacity of each vehicle, and the name, address, and telephone number of the Licensee on each side of the vehicle. Letters and numbers shall be visible and easily read.
- 8.3.3. The solid waste hauler shall provide customers or local units of government with a collection schedule specifying the day of collection that their customers are to place their solid waste out on their property for collection.
- 8.3.4. A hauler shall not accept for collection any solid waste within McLeod County the hauler knows or has reason to know contains:
- (a) Any of the recyclable materials as per agreement.
  - (b) Any of the problem/banned materials listed in Section 12.
- 8.3.5. A solid waste hauler may collect and dispose of recyclable materials at a licensed facility only if such materials have been contaminated to the extent that contamination precludes its reuse, as defined in the recycling definition in Minnesota Statutes 115.03, Subdivisions 25a and 25b. Written permission to do as such however must be granted by the McLeod County Solid Waste Officer.
- 8.3.6. Municipalities or townships within McLeod County that contract with solid waste/recyclables haulers must contract with a hauler who is licensed by McLeod County. Contracts shall be consistent with the provisions in this Subsection.

- 8.3.7. The solid waste collection service will indemnify, defend and hold harmless the County Board, their agents, elected officials and employees from all claims, damages, losses, liabilities, costs, expenses and lawsuits, whatsoever, arising out of any act or omission on the part of the hauler or its contractors, agents, servants or employees in the performance of, or in relation to, any of the work or services to be performed or furnished by the hauler under the terms of this Ordinance.
- 8.3.8. The solid waste hauler and the vehicles used in collecting and transporting solid waste/designated recyclable materials within McLeod County must comply with all state and local laws and vehicle safety regulations. Solid waste hauling vehicles may be subject to approval and periodic inspection as required by the Minnesota Department of Transportation.

#### **8.4. Recyclables Hauler Requirements**

The McLeod County Solid Waste Officer, upon approval by the County Board, may issue a license for the commercial hauling of recyclable materials if the following information is submitted as part of the licensing requirements:

- 8.4.1. Fulfilling the requirements of Sections 8.1 and 8.2
- 8.4.2. Fulfilling the requirements of Section 8.3.1 - 8.3.8
- 8.4.3. For the purposes of this Section, in Sections 8.1, 8.2 and 8.3, the term "recyclables" shall replace the term "solid waste", "recyclables processing facility" shall replace "solid waste disposal facility" and "recyclables hauler" shall replace "solid waste hauler". These terms shall have meaning as defined in Section 8.

## **8.5. Quantity Reporting Requirements**

### **8.5.1. MMSW Hauler Reporting Requirements**

The MMSW hauler must submit an annual quantity report of all solid waste collected in McLeod County to the Solid Waste Officer within fourteen (14) days after the December 31 reporting period. The quantity report form, available from the Solid Waste Officer, will include a format to identify the weight in tons of all MMSW collected from McLeod County and delivered to in- and out-of-County disposal and processing facilities, as well as MMSW collected outside of McLeod County and transported to disposal and processing facilities located in McLeod County.

### **8.5.2. Recyclable Materials Hauler Reporting Requirements**

The recyclables hauler must submit a quarterly quantity report of the recyclables collected from McLeod County to the Environmental Office within fourteen (14) days after the quarter-ending reporting period using a calendar year. The quantity report form, available from the Solid Waste Officer, will include a format to identify the weight in tons of all recyclable materials collected from McLeod County and delivered to in- and out-of-County recyclables processing facilities.

### **8.5.3. Yard Waste Hauler Reporting Requirements**

Any hauler commercially collecting and transporting yard waste from McLeod County to an in- or out-of-County processing facility must submit an annual quantity report to the Environmental Office within fourteen (14) days after the December 31 reporting period. The quantity report form, available from the Solid Waste Officer, will include a format to identify the quantity, by volume, of yard waste collected and transported for processing.

## **9. SOLID WASTE MANAGEMENT AND ABATEMENT FACILITIES**

### **9.1. Solid Waste Management and Abatement**

Unless otherwise provided by this Ordinance, no person shall cause, permit or allow real or personal property under their control to be used for solid waste management purposes, except at an operation for which a license has been granted by the County Board. For the purposes of this Ordinance, solid waste management includes the following specific activities set forth herein. In addition to other requirements listed herein, applicants for licenses must meet all requirements of the stated rules and statutes:

9.1.1. Operation of MSW Land Disposal Facilities, Minnesota Rules 7035.

9.1.2. Operation of Construction and Demolition Land Disposal Facilities, Minnesota Rules 7001.3425.



9.1.3. Operation of Composting and Co-Composting Facilities, Minnesota Rules 7035.

9.1.4. Operation of Recycling Facilities, Minnesota Rules 7035.

9.1.5. Operation of Transfer Station Facilities, Minnesota Rules 7035.

9.1.6. Solid Waste Storage, Minnesota Rules 7035.

9.1.7. Waste Tires, Minnesota Rules 7035 and 9220 and Minnesota Statutes 115A.

9.1.8. Collection and Transportation of Solid Waste, Minnesota Rules 7035.

## **9.2. Commencement of Operations**

Applicants for a license shall not commence any operation until the license application has been reviewed by the Solid Waste Officer and approved by the County Board. A solid waste facility operating license shall not be issued until the facility construction has been completed in compliance with this Ordinance and the approved plans and have been reviewed by the Solid Waste Officer and approved by the County Board. The County Board, may at its discretion, require additional information as outlined in this Ordinance.

## **9.3. License Requirement and Non-Transferability**

A license issued by the County Board shall be required for any solid waste operation. This license shall not be transferable under any condition without the express approval and written consent of the County Board.

## **9.4. Licensing**

Unless otherwise provided by the County Board, the license year for solid waste operations shall be from July 1 through June 30.

Solid waste licenses' fees shall be paid annually as a condition for license renewal. Application for renewal of solid waste licenses shall be made in writing to the Solid Waste Officer by April 30th of each year. The application for renewal shall contain a statement of any changes in the information submitted in the last approved license application. Licenses may be purchased for less than one year, but the license fee shall not be prorated. Fees shall be paid to the County prior to issuance of license. Licenses shall not be transferred except by approval of the County Board.

## **9.5. Plans/Specifications/Reports Submittal**

For facilities requiring an MPCA permit for a solid waste operation, the applicant for a license or license renewal may, upon request, be required to submit a complete set of plans, specifications and/or reports to the Solid Waste Officer.

## **9.6 Permit-by-Rule Sites**

The owner or operator of a solid waste facility is deemed to have obtained a solid waste management facility permit without making application for it, if the Minnesota Pollution Control Agency commissioner finds that the facility meets the requirements set forth in Minnesota Rules 7001.3050, including notifying in writing the Solid Waste Officer, and the owner/operator of the facility obtains a conditional use permit, if required under the County Zoning Ordinance.

**9.7. Non-Profit Recycling Permits**

Civic or non-profit organizations, school groups, service clubs or others who collect recyclable materials to support their organizations or to provide a community service will not be required to obtain a license. All submittals, as required by an applicable MPCA permit, shall also be submitted to the Solid Waste Officer .

**9.8. Consent of Governing Body**

The applicant must submit to the Solid Waste Officer written proof that the municipal or township governing body, in which solid waste operations are located, has considered the establishment of solid waste operations with respect to zoning and other applicable regulations and the position, recommendation or other position of said governing body to the proposed activity.

**9.9. Conditional Use Order**

In accordance with the provisions of Section 25 of the McLeod County Zoning Ordinance and by resolution of the County Board, a Conditional Use Permit may be granted for proposed and/or operating solid waste facilities. Plans of such buildings and supporting infrastructure shall be reviewed by the Solid Waste Advisory Committee and upon a formal public hearing conducted by the McLeod County Planning Commission, a conditional use order may be granted. If a Conditional Use Permit is granted, an updated annual plan of operation must be kept on file with the County . As part of any future Conditional Use Permit, the County Board may require an environmental assessment worksheet ("EAW") or other such environmental review as directed by the McLeod County Board.

**9.10. Submittals to the State**

All submittals to the State, during the state permitting and/or licensing process for solid waste operations, shall also be submitted to the Solid Waste Officer.

**9.11. Waivers**

The applicant shall provide such additional data as may be requested by the Solid Waste Officer or the County Board. The County Board may waive a requirement for submitting certain information if such a waiver will not endanger the health or safety of the public.

**9.12. Application Response**

After receiving a completed application for the operation of a solid waste operation, the County Board shall have 30 days to either grant or deny the license or license renewal or suspension or revocation of an issued license.

**9.13. Insurance Requirements**

The licensee shall furnish to the County certificates of insurance issued by insurers, duly licensed within the State, covering public liability insurance, including general liability, automobile liability, completed operations liability and bodily injury liability in amounts to be set by the County Board. In addition, the licensee shall provide evidence of worker's compensation coverage in the required statutory amounts.

**9.14. Financial Assurance**

To the extent not otherwise required by federal or state authorities and unless otherwise provided by the County, issuance or renewal of any license shall be contingent upon the owner of the operation, the operator or both, providing financial assurance for the closure, post-closure maintenance and monitoring of the site or facility. Use of this financial assurance shall be limited to the site or facility for which it was provided. Documentation submitted with the application for approval by the County Board shall include funding procedures, a description of the funding method, the value of the funding and an inflation adjusted cost estimate which assess that the closure and post-closure activities at the site or facility take place. The amount of the financial assurance shall be equal to or exceed the total estimated post-closure costs specified in the approved post-closure plan.

**9.15. Fees**

The County Board shall, by resolution, establish fees, including fees for the application, initial license, renewal of license and such other fees as may be necessary for the administration of this Ordinance. The County Board may waive fees for any political subdivision applying for a solid waste license.

**9.16. Solid Waste Facility Reporting Requirements**

All solid waste facility operators must submit a monthly quantity report of all solid waste received to the Solid Waste Officer within fourteen (14) days after the first of the following month and an annual quantity report no later than January 31 following the December 31 reporting period. The quantity report form, available from the Solid Waste Officer, will include a format to identify the weight in tons of all solid waste received from in- and out-of-the-County.

**9.17. Solid Waste Facility Closure**

9.17.1. Solid waste facility operations shall be terminated in accordance with state and federal law, and adhere to the following closure procedure so as to

prevent the creation of air, water or land pollution, a public nuisance, or a threat to the public health, welfare or safety.

The person or persons having the responsibility for the operation of the site must accomplish the closure of the site in accordance with Minnesota Statute 7035.2625 and shall also include the following procedures:

- (a) Designate a substitute site or facility which has been approved by the Agency and notify the local media and the general public of the closing and of the substitute site per Minnesota Statute 7035.2625.
- (b) Close access to the site and prohibit continued use of the site.
- (c) Eradicate rodents.
- (d) Provide any additional necessary measures to protect underground and surface water.
- (e) Record a detailed description, including a plat and other information of interest to potential land owners with the county register of deeds.
- (f) The County Solid Waste Officer shall properly complete the site closure record and submit it to the Agency.

## **10. INDUSTRIAL/COMMERCIAL/INSTITUTIONAL GENERATOR REPORTING REQUIREMENTS**

### **10.1 I/C/I Materials Recovery and Recycling Reporting Requirements**

To advance the goals and objectives of the McLeod County solid waste management efforts, the Solid Waste Officer will work cooperatively with industrial, commercial and institutional entities to establish annual solid waste materials recovery and recycling reporting requirements.

### **10.2 I/C/I Disposal Reporting Requirements**

To advance the goals and objectives of the McLeod County solid waste management efforts, the Solid Waste Officer will work cooperatively with industrial, commercial and institutional entities to establish annual solid waste disposal reporting requirements.

## **11. SOLID WASTE MANAGEMENT FACILITY FEES AND CHARGES**

The County may impose solid waste management disposal fees and charges pursuant to Minnesota Statute 115A.919.

### **11.1. County Landfill Surcharge/Fee**

Pursuant to Minnesota Statute 115A.919, Subdivision 1, the County may impose a fee, by cubic yard of waste or its equivalent, on operators of facilities for the disposal of mixed municipal solid waste or construction debris located within the County. The revenue from the fees shall be credited to the County general fund and shall be used only for landfill abatement purposes, or costs of closure, postclosure care, and response actions or for purposes of mitigating and compensating for the local risks, costs, and other adverse effects of facilities.

Fees for construction and demolition debris facilities may not exceed 50 cents per cubic yard. Revenues from the fees must offset any financial assurances required by the County for a construction and demolition debris facility. The maximum revenue that may be collected for a construction and demolition debris facility must be determined by multiplying the total permitted capacity of the facility by 15 cents per cubic yard. Once the maximum revenue has been collected for a facility, the fee may no longer be imposed. The limitation on these fees and fees pursuant to Minnesota Statute 115A.921, are not intended to alter the liability of the facility operator or the authority of the Agency to impose financial assurance requirements.

#### **11.2. Greater Minnesota Landfill Cleanup Fee**

Pursuant to Minnesota Statute 115A.923, Subdivision 1, the operator of a mixed municipal solid waste disposal facility outside of the metropolitan area shall charge a fee on solid waste accepted and disposed of at the facility and revenues from such fees shall be credited to the county general fund and shall be used only for landfill abatement purposes, i.e. costs of closure, post-closure care, and response actions or for purposes of mitigating and compensating for the local risks, costs and other adverse effects of facilities. Fees shall be charged according to the following:

- (a) A facility that weighs the waste that it accepts must charge a fee of \$6.66 per ton of waste accepted at the entrance of the facility.
- (b) A facility that does not weigh the waste but that measures the volume of the waste that it accepts must charge a fee of \$2 per cubic yard of waste accepted at the entrance of the facility.
- (c) Waste residue from recycling facilities at which recyclable materials are separated or processed for the purpose of recycling, or from energy and resource recovery facilities at which solid waste is processed for the purpose of extracting, reducing, converting to energy, or otherwise separating and preparing solid waste for reuse is exempt from the fee imposed by this subdivision if there is at least an 85% weight reduction in the solid waste processed. To qualify for this exemption, waste residue must be brought to a disposal facility separately. The Commissioner of the Minnesota Pollution Control Agency shall prescribe procedures for determining the amount of waste residue qualifying for exemption.

#### **11.3. Out-of-County Disposal Fee**

[reserved]

#### 11.4. **Service Fees**

[reserved]

## 12. **COLLECTION, STORAGE AND DISPOSAL OF PROBLEM/BANNED MATERIALS**

### 12.1. **Waste Tires**

12.1.1. **State Rules.** Minnesota Waste Tire Permit Rules 7001 and 9220 are hereby incorporated by reference, as amended.

12.1.2. **Land Disposal Prohibition.** The disposal of waste tires by burying in land is prohibited (Minnesota Statutes 115A.904).

12.1.3 **MMSW Prohibition.** The disposal of waste tires in MMSW is prohibited.

12.1.4. **Residential Storage Limits.** No more than ten (10) waste tires may be stored within the boundaries of any residential lot.

12.1.5. **Non-Residential Storage Limits.** No more than one hundred (100) waste tires may be stored on any non-residential lot except at a properly licensed solid waste facility.

12.1.6. **Exceptions.** Exceptions to Section 12.1.4. and 12.1.5. may be allowed when waste tires are utilized outside of a building for decorative, recreational, structural, construction or agricultural purposes provided they comply with the requirements of other applicable laws or Sections of this Ordinance.

12.1.7. **Water Retention Prevention.** Waste tires within one thousand (1000) feet of a residence shall be stored or utilized in a manner that prevents water from being retained in the tires.

12.1.8. **Waste Tire Placement.** Waste tires shall not be placed, stored, left or permitted to remain in a lake, stream, wetland, sinkhole, gully, waterway, flood plain or shoreland.

12.1.9. **Violation.** The owner of the land or premises upon which waste tires are located in violation of this Ordinance, shall be obligated to remove them to a licensed solid waste facility or obtain the license required by this Ordinance within one year of the effective date of this Ordinance, or such later date as approved by the County Board.

### 12.2. **White Goods**

12.2.1. **White Goods Prohibition.** Pursuant to Minnesota Statutes 115A.9561, no person shall place white goods in MMSW or dispose of them in or on the land or in a solid waste processing or disposal facility.

12.2.2. **Recycling Required.** White goods must be reused or recycled including; the removal of capacitors and ballasts that may contain PCBs, the removal of chlorofluorocarbon (CFC) refrigerant gases, and, the recycling or reuse of the metals, including mercury, in accordance with Minnesota Statutes 115A.9561, Subdivision 2 and 116.731.

12.2.3. **Storage Requirements.** Loading, unloading, transporting and storing of white goods must be done in such a manner as to minimize damage to the components of the unit during handling.

### 12.3. **Used Oil**

12.3.1. **Used Oil Prohibition.** A person may not place motor vehicle fluids or filters in MMSW or place such fluids in or on the land, unless approved by the MPCA (Minnesota Statutes 115A.916).

### 12.4. **Yard Waste**

#### 12.4.1. **Yard Waste Prohibition**

Yard waste including, but not limited to, garden waste, lawn cuttings, weeds or prunings, shall not be disposed of in MMSW in a land disposal facility or in a resource recovery facility, except for the purpose of composting or co-composting as per MPCA Rules 7035.2835, Subdivision 3, as amended (Minnesota Statutes 115A.931).

### 12.5. **Batteries**

#### 12.5.1. **Lead Acid Batteries**

A person may not dispose of a lead acid battery in MMSW or dispose of a lead acid battery (Minnesota Statutes 115A.915) in or on the land (Minnesota Statutes 17.135).

#### 12.5.2. **Transportation of Lead Acid Batteries**

A person who transports used lead acid batteries from a retailer must deliver the batteries to a recycling facility (Minnesota Statutes 115A.9152, Subdivision a).

#### 12.5.3. **Prohibition of Certain Dry Cell Batteries**

A person may not place in MMSW a dry cell containing mercuric oxide electrode, silver oxide electrode, nickel-cadmium or sealed lead acid that was purchased for use or used by a governmental agency or an industrial, communications or medical facility (Minnesota Statutes 115A.9155, Subdivision 1).

#### 12.5.4. **Prohibition of Nickel-Cadmium Batteries**

A person may not place in MMSW a rechargeable battery, rechargeable battery pack, product with a nonremovable rechargeable battery pack or product powered by rechargeable batteries or rechargeable battery pack, from which all batteries or battery packs have not been removed (Minnesota Statutes 115.9157, Subdivision 2).

#### **12.6. Household Hazardous Waste**

A person may not place any household hazardous waste (HHW) in MMSW or dispose of in or on the land (Minnesota Statutes 17.135). All HHW shall be deposited at the County's HHW facility.

### **13. ILLEGAL DUMPING/LITTERING**

#### **13.1. Violation**

It shall be a violation of this Ordinance for any person to dispose of solid waste within McLeod County at any place, except in the manner permitted by this Ordinance.

13.1.1. Whenever it is found that a violation of this Ordinance has occurred, the Solid Waste Officer shall issue a "Notice to Abate" to the person found to be in violation or non-compliance and specify such action as necessary with time specific to come into compliance with the provisions of this Ordinance. Said notice shall be in writing and shall be served by mail on said violator, or if a mailing address is unknown, then by posting said notice on the premises.

#### **13.2. Unauthorized Dumping**

It shall be a violation of this Ordinance for any person to operate an open dump; the owner of any dump, in existence at the time this Ordinance is enacted, shall cease operations and close the dump in accordance with the following provisions. The owner shall:

- (a) Close access to the site, prohibit the public from using the site, post signs indicating that dumping is not allowed;
- (b) Remove all chemical containers, tires, batteries, appliances, motor vehicle fluids and hazardous waste;
- (c) Eradicate rodents;
- (d) Conduct, at the discretion of the County Board, a water monitoring program pursuant to: "Procedures for Ground Water Monitoring: Minnesota Pollution Control Agency Guidelines" and obtain approval of the plans to protect ground and surface water by the Environmental Office prior to implementation;
- (e) Divert surface water drainage around and away from the disposal area;



- (f) Compact the solid waste and cover it with at least two (2) feet of compacted cover material;
- (g) Seed the cover material so that adequate turf is present;
- (h) Establish and maintain a final grade sufficient to promote water runoff without excessive erosion; and
- (i) Place on record, at the office of the McLeod County Recorder, an instrument, in a form prescribed by the Solid Waste Officer, placing the public on notice of the existence and location of the dump and of the obligations placed upon parties holding an interest in the property and the restrictions which may affect the use of the property.

OR;

- (j) Remove all refuse on the site which may cause pollution or endanger human health and the environment and transport it to an appropriate state or county licensed solid waste facility; and
- (k) Close the open dump in accordance with the provisions of this Ordinance and Minnesota Rules.

### **13.3. Litter**

Pursuant to Minnesota Statutes 115A.99, any 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 or political subdivision to remove, process and dispose of the waste.

### **13.4. Open Burning Prohibitions**

13.4.1. Open burning prohibitions specified in this Section are in effect at all times of the year, except where local town boards have issued burning permits pursuant to Minnesota Statutes.

13.4.2. No person shall conduct, cause or permit open burning of oils, rubber, plastics, chemically treated materials or other materials which produce excessive or noxious smoke including, but not limited to, tires, railroad ties, chemically treated lumber, composite shingles, tar paper, insulation, composition board, sheetrock, wiring, paint or paint filters.

13.4.3. No person shall conduct, cause or permit open burning of hazardous waste as defined in Minnesota Section 116.06, Subdivision 11 and applicable Department of Natural Resources' rules.

13.4.4. No person shall conduct, cause or permit open burning of solid waste generated from an industrial or manufacturing process or from a service or commercial structure.

13.4.5. No person shall conduct, cause or permit open burning of burnable building material generated from demolition of commercial or institutional structures. A farm building is not a commercial structure.

13.4.6. No person shall conduct, cause or permit salvage operations by open burning.

13.4.7. No person shall conduct, cause or permit the processing of motor vehicles by open burning.

**13.4.8. Garbage**

13.4.8.1. No person shall conduct, cause, or permit open burning of discarded material resulting from the handling, processing, storage, preparation, serving or consumption of food, unless specifically allowed under Minnesota Statutes 17.135.

13.4.8.2. The County may allow a resident to conduct open burning of material described in Section 13.4.8.1 that is generated from the resident's household if the County Board by resolution determines that regularly scheduled pickup of the material is not reasonably available to the resident.

13.4.9. No person shall conduct, cause or permit open burning during a burning ban put into effect by a local authority, the County or a state department or agency.

13.4.10. Fires must not be allowed to smolder with no flame present, except when conducted for the purpose of managing forest, prairies or wildlife habitats.

**13.5. Legal Action**

Any cost that McLeod County may incur as described in this Section may result in action to recover the civil penalty; related legal, administrative and court costs; and damages for injury to, or pollution of, the lands, shoreland, roadways or waters where the waste was placed, if owned or managed by McLeod County.

**14. ANTI-SCAVENGING PROVISION**

Ownership of designated recyclable materials set out for curbside collection or placed at drop-off sites shall be vested in the hauler of recyclable materials recognized by the McLeod

County Board of Commissioners. It shall be unlawful for any person other than the hauler or its contractors, agents, servants or employees to remove the materials.

## **15. ANTI-RECYCLABLE DISPOSAL**

All recyclable materials collected as part of a recycling collection program shall not be deposited in a manner which precludes its reuse, as defined in the recycling definition in Minnesota Statutes 115A.03, Subdivisions 25a and 25b.

## **16. ENFORCEMENT**

### **16.1. General Authority**

It shall be the duty of the County Board, through the Solid Waste Officer or such other person as the Board may designate, to enforce the provisions of this Ordinance.

### **16.2. Specific Authority**

16.2.1. In addition to the other duties and authority contained elsewhere in this Ordinance, there shall be granted to the Solid Waste Officer the specific authority to do the following:

- (a) Upon reasonable basis to believe that a violation has occurred, the Solid Waste Officer may enter upon and inspect private or public premises to determine compliance with the provisions of this Ordinance. Unless consent is given by the occupant or owner of the premises, or unless otherwise authorized by law, the Solid Waste Officer shall be restricted from entering into any buildings unless sufficient probable cause exists of a health risk, or upon order of a Court.
- (b) The Solid Waste Officer may issue orders for abatement of non-complying practices.

16.2.2. It shall be a violation of this Ordinance to refuse to permit the Solid Waste Officer to inspect any premises when authorized by the specific authority granted to the Solid Waste Officer under the provisions of this Ordinance.

### **16.3. Enforcement Procedure**

If after service of notice, the person fails to terminate the illegal practices and to come into compliance with the terms of this Ordinance, the Solid Waste Officer may take such steps as are necessary to eliminate the non-compliance and to bring the activity or practice into compliance for the term of this Ordinance.

#### **16.3.1. Administrative Penalty Order**

In addition to other remedies identified in this ordinance, effective August 1, 1996, the McLeod County Board may issue Administrative Penalty Orders for violations of solid waste provisions adopted under Minnesota Statutes 400.16, 400.161, 473.811 and Chapter 115A.

The McLeod County Administrative Penalty Order guidelines and procedures are included as Appendix A of this Ordinance and contained herein.

#### **16.4 Failure to Terminate Illegal Practices**

If after service of notice to terminate illegal practices and other attempts by the Solid Waste Officer to bring the activity or practice into compliance for the term of the Ordinance are exhausted, the costs incurred by the County to eliminate the non-compliance and to bring the activity or practice into compliance, may be recovered by assessing the costs of the enforcement action against the real property upon which the illegal practice or activity has occurred. The Solid Waste Officer shall certify the amount to the County Auditor on or before October 15 of each year for collection in the same manner as taxes and special assessments.

### **17. PENALTIES**

#### **17.1. Violation of Ordinance Provisions**

Any person who shall violate any provision of this Ordinance or who shall fail to comply with any order made under the provisions of this Ordinance shall be guilty of a misdemeanor. A separate offense shall be deemed committed upon the separate date during or on which a violation occurs.

### **18. VARIANCES**

Upon written application by the applicant or operator, the County Board of Adjustment may grant variances from the provisions of this Ordinance in order to promote the effective and reasonable application and enforcement of the provisions of this Ordinance.

A variance may be granted by the County Board of Adjustment after a public hearing where the Solid Waste Advisory Committee determines that enforcement of this Ordinance would cause the applicant undue hardship, or that the Ordinance cannot be complied with due to technological impossibility or economic unreasonableness. Such a variance shall not be granted for a period in excess of two years, but may be renewed upon application of the applicant and after public hearing. A variance may be revoked by the County Board of Adjustment at the public hearing prior to expiration of the variance. An application for a variance shall be accompanied by a plan and time schedule for achieving compliance with the Ordinance. Prior to any public hearing held by the County Board of Adjustment under this provision, persons who may be adversely affected by the granting of the proposed variance shall be given at least thirty (30) days notice prior to said public hearing.

## **19. SEVERABILITY**

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

- 19.1. If any Court of competent jurisdiction shall adjudge any provision of this Ordinance to be invalid, such judgment shall not affect any other provision of this Ordinance not specifically included in said judgment.
- 19.2. If any Court of competent jurisdiction shall adjudge invalid the application of any provision of this Ordinance, to a particular structure, site, facility or operation, such judgment shall not affect the application of said provision to any other structure, site, facility or operation not specifically included in said judgment.

**20. EFFECTIVE DATE AND ADOPTION OF ORDINANCE**

This Ordinance shall become effective and be in force from and after its passage, approval, publication and recording in the Office of the County Recorder.

Passed and approved by the Board of County Commissioners, McLeod County, Minnesota, this 31 day of December, 2004.

\_\_\_\_\_  
Mel Dose, Chairman  
McLeod County Board of Commissioners

Attest:

Approved as to Execution/Date:

\_\_\_\_\_  
Nan Crary, County Administrator  
McLeod County

\_\_\_\_\_  
Michael Junge, County Attorney  
McLeod County

I, \_\_\_\_\_, do hereby certify that this is a true and correct copy of the McLeod County Solid Waste Management Ordinance as passed by the Board of County Commissioners on the 31 day of December, 2004.

\_\_\_\_\_  
Nan Crary, County Administrator  
McLeod County

Date of publication of Summary of Ordinance: December 5, 2004.

Filed in the Office of the County Recorder, McLeod County, Minnesota, this \_\_\_\_ day of \_\_\_\_\_, 2005.