

GOODHUE COUNTY
SOLID WASTE DESIGNATION ORDINANCE

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GOODHUE COUNTY

SOLID WASTE DESIGNATION ORDINANCE

(Effective October 19, 2020)

DECLARATION OF INTENT

An Ordinance regulating the collection, transportation and delivery of Solid Waste generated within Goodhue County, Minnesota; defining the geographic area and the types and quantities of Solid Waste subject to designation; specifying the point of delivery of the Solid Waste; requiring that Designated Waste be delivered to Designated Facility; excepting from the Ordinance certain materials; and stating additional regulations governing Generators, Commercial Haulers, Self-Haulers; and other matters. This Ordinance is intended to support and promote the health, welfare, and safety of the public.

The County Board of Goodhue County, Minnesota does ordain:

SECTION 1: TITLE AND PURPOSE

The Title of this Ordinance is the Solid Waste Designation Ordinance of Goodhue County, Minnesota.

The purpose of this Ordinance is to assure that Designated Waste is managed in an environmentally sound manner in order to protect the public health and welfare, and investments in the integrated solid waste management system of Goodhue County made pursuant to State of Minnesota mandates governing Solid Waste management, and pursuant to the requirements of Minn. Stat. Chapter 115A, Chapter 400 and Minnesota Pollution Control Agency (MPCA) regulatory requirements. Another purpose of this Ordinance is to comply with State law establishing specific conditions upon Goodhue County for transferring Goodhue County's Bench Street landfill into the MPCA Closed Landfill Program in order to hasten its environmental monitoring, long term care contingency actions, remediation of environmental impairment and costs from Goodhue County to the MPCA.

SECTION 2: DEFINITIONS

Definitions. When used in this Ordinance, unless otherwise specified or unless the content requires a different meaning, the following terms when capitalized shall have the following respective meanings:

Acceptable Waste shall mean Mixed Municipal Solid Waste and Solid Waste that meets the requirements of the Designated Facility, as determined by the Designated Facility, but specifically excludes Unacceptable Waste.

Acts shall mean Minn. Stat. Chapters 115A and 400, as they may be amended from time to time.

Agreement shall mean the Solid Waste Processing Agreement between the City of Red Wing and Goodhue County, dated September 4, 2018, including any amendments thereto.

City shall mean the City of Red Wing, Minnesota.

Commercial Hauler shall mean any Person who owns, operates, or leases vehicles for the purpose of contracting for compensation with a Generator to collect and/or transport Mixed Municipal Solid Waste and other Solid Waste generated in the County.

County shall mean Goodhue County, Minnesota.

Designated Waste shall mean all Acceptable Waste generated within the geographic boundaries of Goodhue County.

Designated Waste includes:

- Mixed Municipal Solid Waste
- Other Solid Waste, such as industrial solid waste and non-mixed solid municipal waste, that prior to final processing or disposal:
 - is not managed as a separate waste stream; or
 - is managed as a separate waste stream using a waste management practice that is ranked lower on the list of waste management practices in Minn. Stat. Sec. 115A.02 paragraph (b), than the primary waste management practice that would be used on the waste at the Designated Facility.

Designated Waste does not include Unacceptable Waste.

Generator shall mean any Person who produces Solid Waste.

Mixed Municipal Solid Waste (MMSW) shall mean garbage, refuse, and other Solid Waste from residential, commercial, industrial, and community activities that the generator of the waste aggregates for collection and that may be accepted at the Designated Facility.

Person shall mean any individual person, organization, business entity, company and all other associations or groups however constituted that collects, transports, delivers, manages, or generates Solid Waste in Goodhue County. Person includes, but is not limited to, Self-Haulers and Commercial Haulers.

Self-Hauler shall mean a Person who does not contract with a Commercial Hauler and that transports Solid Waste it has generated to a Solid Waste management facility.

Solid Waste means garbage, refuse, sludge from a water supply treatment plant or air contaminant treatment facility, and other discarded waste materials and sludges, in solid, semisolid, liquid, or contained gaseous form resulting from industrial, commercial, mining and agricultural operations, and from community activities, but does not include hazardous waste; animal waste used as fertilizer; earthen fill, boulders, rock; concrete diamond grinding and saw slurry associated with the construction, improvements, or repair of a road when deposited on the road project site in a manner that is in compliance with best management practices and rules of the agency; 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 wastewater 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.

State shall mean the State of Minnesota.

Unacceptable Waste shall mean Mixed Municipal Solid Waste and Solid Waste that cannot be accepted at the Designated Facility. The Designated Facility shall maintain a list of Unacceptable Waste that shall be made available to the public, and which may be amended as needed by the Designated Facility.

SECTION 3: APPLICATION OF ORDINANCE

This Ordinance shall govern all Persons who generate, collect, transport or dispose of Designated Waste, or contract for transportation or disposal of Designated Waste, generated within the geographical boundaries of Goodhue County.

SECTION 4: DESIGNATION

Except as otherwise provided herein, on and after the Effective Date all Persons, including commercial Haulers and Self Haulers, must deliver or cause to be delivered all quantities of Designated Waste exclusively to the Designated Facility, which is the City of Red Wing Solid Waste Campus, 1873 Bench Street, Red Wing, Minnesota, 55066.

SECTION 5: MATERIALS NOT SUBJECT TO DESIGNATION

Designation does not apply to or include:

1. Materials that are separated from Solid Waste and recovered for reuse in their original form or for use in manufacturing processes. For the purposes of this

- section, “manufacturing processes” does not include the treatment of waste after collection for composting.
2. Materials that are processed at a resource recovery facility, other than the Designated Facility, at the capacity in operation at the time that the County Waste Designation Plan was approved by the MPCA, on August 18, 2017.
 3. Materials that are separated at a permitted transfer station located within the boundaries of the County for the purpose of recycling the materials if:
 - a. The transfer station was in operation on January 1, 1991; or
 - b. The materials were not being separated for recycling at the Designated Facility at the time the transfer station began separation of the materials.
 4. Materials that are:
 - a. Generated in the County that are being recycled, and residuals from the recycling if there is at least an 85 percent volume reduction in the Solid Waste processed at the recycling facility and the residuals are managed as separate waste streams; or
 - b. Separated for recycling at a transfer station located outside the County Area, that meet the volume reduction and residual management criteria in Section 5.4.a, above, and that have been excluded from designation pursuant to the process set forth in Minn. Stat. § 115A.84, subd. 5.
 5. Acceptable Waste delivered to the Designated Facility pursuant to a waste delivery agreement with the City and the County, for the term of the agreement.
 6. Unacceptable Waste.
 7. Any waste materials excluded pursuant to Minn. Stat. Sec. 115A.84, subd. 4, or the petition process provided in Minn. Stat. Sec. 115A.893.

SECTION 6: SUSPENSION OF DESIGNATION REQUIREMENT

The County, by resolution of the County Board, may suspend the designation requirement of this Ordinance at any time. Reasons the County may suspend the designation requirement include, but are not limited to, the following: natural disaster, or damage to or closure of part or all of the Designated Facility. This provision does not relieve any Person of any obligation to comply with all other applicable federal, state or local laws or ordinances. The County will provide reasonable notice of any suspension and subsequent reinstatement of the designation requirement to Commercial Haulers, Self-Haulers and Persons in the County.

SECTION 7: RATES AND CHARGES

Rates and charges at the Designated Facility will be established by the annual City process to establish fees, rates and charges and pursuant to the process specified in the Agreement.

SECTION 8: TITLE TO DESIGNATED WASTE

Generators, Commercial Haulers, and Self-Haulers retain all rights, title (ownership) and responsibilities with respect to all Designated Waste until the Designated Waste is delivered to the Designated Facility pursuant to this Ordinance, and is deemed by the Designated Facility to be Acceptable Waste. Once deemed as Acceptable Waste, the City shall obtain all rights, title (ownership) and responsibilities with respect to the Designated Waste. The City shall not obtain all rights, title (ownership) and responsibilities with respect to Designated Waste where the Designated Facility rejects waste as Unacceptable Waste, as provided herein. All Persons delivering Designated Waste will defend, indemnify and hold the County and the City harmless from any and all claims of ownership brought against the County with respect to said Designated Waste which may affect the clear title of the City to said Designated Waste at the time of its acceptance by the City.

Except as otherwise agreed in writing with the City and County, nothing in this Section shall be construed as the City or County agreeing to indemnify or hold harmless Generators, Commercial Haulers, or Self-Haulers from any claims relating to the actions governed by this Ordinance brought by any party under federal or state law, including but not limited to the Comprehensive Environmental Response, Compensation, and Liability Act; Hazardous Materials Transportation Act; Resource Conservation and Recovery Act; and Minnesota Environmental Response and Liability Act, each as amended

SECTION 9: DELIVERY OF DESIGNATED WASTE

All deliveries to the Designated Facility shall be in accordance with the terms and conditions of the County and City solid waste ordinances, and in compliance with delivery instructions and procedures as the Designated Facility may from time to time prescribe.

SECTION 10: DELIVERY OF UNACCEPTABLE WASTE

Each Person shall use its best efforts to deliver only Acceptable Waste to the Designated Facility and will comply with the terms and conditions of County and City Ordinances and the Designated Facility's policies and procedures. Persons who deliver Unacceptable Waste to the Designated Facility shall be subject to the Designated Facility's rules, procedures and fees associated with handling of Unacceptable Waste.

SECTION 11: LICENSE REQUIRED

No Person may collect, transport or deliver Solid Waste subject to the requirements of this Ordinance without a solid waste haulers license as required by County solid waste ordinance, and the City solid waste ordinance if the Solid Waste was generated in the City.

SECTION 12: DELIVERY CONDITIONS

All Designated Waste shall be in substantially the same form and consistency as when it came under the control of the Person transporting the waste except that such Designated Waste may be compacted when compaction is desirable for transportation.

SECTION 13: DUTY TO ACCEPT DESIGNATED WASTE; FAILURE TO ACCEPT DESIGNATED WASTE

Notwithstanding anything in this Ordinance to the contrary, the Designated Facility will accept all Designated Waste to the extent required by applicable Minnesota law and the Agreement. If at any time the Designated Facility is unable to receive all or any part of Designated Waste at the Designated Facility, the City shall notify Persons via notice at the Designated Facility. In such event, each Person shall be responsible for the transportation of the Designated Waste to another permitted Solid Waste management facility for proper management. All costs of such transportation and disposal shall be borne by the Person.

SECTION 14: DESIGNATION RECORDS; INSPECTION

Subs. 1. Definitions. For the purposes of this section:

1. "Origin" at a minimum means the customer name, address from which Designated Waste was collected and general geographical description that names the local governmental unit from which Designated Waste was collected; and
2. "Type" means a best estimate of the percentage of each truck load that consists of residential, commercial, industrial, construction, or any other general type of Solid Waste.

Subs. 2. Records; Haulers; Facilities. Each Person who hauls Solid Waste including, but not limited to Self-Haulers and Commercial Haulers, shall maintain records regarding the volume or weight, type, and origin of Designated Waste collected or transported. Each day, a record of the origin, type, and weight of the waste collected that day and the identity of the waste facility at which that day's collected waste is deposited must be kept on the waste collection vehicle or vehicle used by a Self-Hauler. Global Positioning System (GPS) records may be used to assist in developing such information. If the waste is measured by volume at the waste facility at which it is deposited, the record may show the volume rather than the weight of the waste.

The Designated Facility shall maintain records regarding the weight of the waste, or the volume of the waste if the waste is measured by volume; the general type or types of waste; the origin of the waste delivered; the date and time of delivery; and the name of the hauler that delivered the waste.

Subs. 3. Inspection. An authorized agent of the County, anywhere in the State, may:

1. Upon presentation of identification and without a search warrant, inspect or copy the records required to be kept on a waste collection vehicle under subsection 2, above, and inspect the waste on the vehicle at the time of deposit of the waste at a facility;
2. When reasonable notice under the circumstances has been given, upon presentation of identification and without a search warrant, inspect or copy the records of an owner or operator of a Solid Waste facility that are required to be maintained under subsection 2, above;
3. Request, in writing, copies of records of a Commercial Hauler, or Self-Hauler that indicate the type, origin, and weight or, if applicable, the volume of waste collected, the identity of the facility at which the waste was deposited, and the date of deposit at the facility; and
4. Upon presentation of identification and without a search warrant, inspect or copy that portion of the records of a Commercial Hauler or Self-Hauler necessary to comply with clause (3), above, at the central record-keeping location of the Commercial Hauler or Self-Hauler only if the hauler fails to provide copies of the records within 15 days of receipt of a written request for them, unless the time has been extended by agreement of the parties.

Records or information received, inspected, or copied by the County or its authorized agent under this section are classified as nonpublic data as defined in Minn. Stat. Sec. 13.02, subd. 9. A Commercial Hauler, Self-Hauler, or the owner or operator of a waste facility shall maintain records needed to comply with this section for two years.

SECTION 15: VIOLATIONS AND PENALTIES

Subs.1. Criminal Enforcement

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

- b) Venue and Prosecution. The County Attorney's Office shall have authority to prosecute violations of any provisions of this Ordinance. Such prosecutions shall be venued in Goodhue County District Court.

Subs. 2. Civil Enforcement; Venue.

- a) The County may enforce this Ordinance by commencing an action in Goodhue County District Court. The court may compel performance in any manner deemed appropriate by the court, including, but not limited to, issuance of an order to show cause, a temporary restraining order, or an injunction for a violation or threatened violation of this Ordinance. In addition, the court may order payment of damages, including interest, or a civil penalty, or both. In an action brought to enforce this section in which the County substantially prevails, the court may order payment by the defendant of the costs of mitigating any damages caused by the violation, and other County costs and disbursements, including reasonable attorney fees.
- b) A Person who fails to comply with this Ordinance is subject to penalties including, but not limited to, the following:
 - 1. An order to compel performance or to restrain or enjoin any activity that interferes with the requirements of this Ordinance to keep records in Section 14.2, above, or the requirement to allow timely entry and inspection in Section 14, above;
 - 2. Damages caused by the failure to keep records or by refusal to allow timely entry or inspection;
 - 3. An order to compel performance for delivery of Designated Waste to the Designated Facility;
 - 4. A civil penalty for failure to comply with the requirements of this Ordinance payable to the County of up to \$10,000 per day for each day of violation; or
 - 5. At the discretion of the County Board, and as permitted by Minnesota law, the costs of compliance which may include but are not limited to unpaid service charges and avoided tipping fees, may be certified to the County Auditor as a special assessment against the real property owned by such Person and at which the corrective action occurred; or
 - 6. Any or all of the above.

The court also has as a remedy, if in accordance with Minnesota law, to place unpaid penalties on the tax rolls for collection.

SECTION 16: EACH PERSON'S MANDATORY OBLIGATIONS

All obligations to make payments due to the County under the County Solid Waste Ordinance shall be absolute and unconditional. No Person shall be entitled to any abatement, diminution, setoff, abrogation, waiver or modification thereof, nor to any termination of this Ordinance regardless of any rights of setoff, recoupment or counterclaim that each Person might otherwise have against the County or any other party or parties and regardless of any contingency, unforeseen circumstance, or event, except upon written approval by the County for good cause shown through submission of a written application and, at the County's option, attendance at an informal meeting. The County shall set forth its determination on the application in a written decision.

SECTION 17: SEVERABILITY

It is hereby declared to be the intention of the Board of Commissioners of the County that the provisions of this Ordinance are 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 18: PROVISIONS ARE CUMULATIVE

The provisions in this Ordinance are separate, distinct, and cumulative. Any additional limitations heretofore passed, or which may be passed hereafter, covering any subject matter in this Ordinance, shall not affect any other provisions of this Ordinance not specifically included in said limitations.

SECTION 19: NO CONSENT

Nothing contained in this Ordinance shall be deemed to be a consent, license, or permit to locate, construct or maintain a Solid Waste management facility, or to carry on any activity related to Solid Waste management.

SECTION 20: NON-LIABILITY

Neither the County nor any officer or employee thereof shall be held liable for any damage to Persons or property by reason of any investigation, reinvestigation, failure to investigate, inspection, reinspection or failure to inspect, or by reason of the approval or disapproval of

equipment or the granting, not granting, suspending or revoking of any license, nor for any action in connection with the inspection or control of Designated Waste or in connection with any other official duties.

SECTION 21: EFFECTIVE DATE

This Ordinance shall be in full force and effect upon sixty (60) days after adoption by the County Board.