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CHAPTER 50: SOLID WASTE MANAGEMENT

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GENERAL PROVISIONS

§ 50.001 PURPOSE, SCOPE AND AUTHORITY.

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

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

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

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

(D) The county has the authority to adopt this chapter under M.S. § 145A.05, as it may be amended from time to time.

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

§ 50.002 DEFINITIONS.

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

AGENCY. The Minnesota Pollution Control Agency or MPCA.

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

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

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

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

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

CLOSURE. Action to prevent or minimize the threat to public health and the environment posed by a

facility that no longer accepts the solid waste for which it operated or was permitted, including the removal of contaminated equipment, the removal of liners, applying final cover, grading and seeding final cover, installation of monitoring devices, construction of ground and surface water diversion structures and gas control systems as necessary.

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

COMPOST FACILITY. A site used to compost or co-compost solid waste including all structures or processing equipment used to control drainage, collect and treat leachate and storage areas for the incoming waste, the final product and residuals resulting from the composting process.

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

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

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

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

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

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

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

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

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

DUMPING. The discharge, deposit, injection, spilling, leaking or placing of any solid waste into or on any land or water so that the waste or any constituent thereof may enter the environment or be emitted into the air, or discharged into any water, including ground water.

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

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

FARM. A parcel of land that is at least ten acres in size used for the production of livestock, dairy animals,

dairy products, poultry and poultry products, fur bearing animals, horticultural and nursery stock which is under M.S. §§ 18.44 to 18.61, as they may be amended from time to time, fruit of all kinds, vegetables, forage, grains, bees and apiary products.

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

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

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

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

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

HAZARDOUS WASTE.

(1) As defined in M.S. § 116.06, as it may be amended from time to time, any refuse, sludge or other waste material or combinations or refuse, sludge or other waste materials in solid, semi-solid, liquid or contained gaseous form which because of its quantity, concentration or chemical, physical or infectious characteristics may:

(a) Cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness; or

(b) Pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported or disposed of, or otherwise managed.

(2) Categories of hazardous waste material include, but are not limited to explosives, flammables, oxidizers, poisons, irritants and corrosives. **HAZARDOUS WASTE** does not include source, special nuclear or by-product material as defined by the Atomic Energy Act of 1954, as amended.

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

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

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

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

management activities.

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

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

MIXED MUNICIPAL SOLID WASTE or MMSW. Garbage, refuse and other solid waste from residential, commercial, industrial and community activities that the generator aggregates for collection, but does not include auto hulks, street sweepings, ash, construction debris, mining waste, sludges, tree and agricultural wastes, tires, lead acid batteries, used oil and other materials, collected, processed and disposed of as separate waste streams.

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

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

NOTICE OF VIOLATION. A formal written notice issued by the Department to notify a party that he or she is in violation of a county ordinance. This notice will inform the party of the alleged violations, the nature and extent of the violations and the required corrective actions. The **NOTICE OF VIOLATION** shall also specify additional actions that will be taken by the Department, such as the inclusion of NOV orders into a final order or consent order and/or the issuance of a citation, as well as specific timeframes in which these actions will be completed.

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

OPEN BURNING. Burning any matter whereby the resultant combustion products are emitted directly to the open atmosphere without passing through an adequate stack, duct or chimney.

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

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

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

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

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

chapter.

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

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

RECYCLABLE MATERIALS.

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

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

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

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

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

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

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

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

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

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

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

SOLID WASTE. Garbage, refuse, demolition debris, sludge from a water supply treatment plant or air contaminant treatment facility, and other discarded waste materials and sludges, in solid, semi- solid, liquid or contained gaseous form, resulting from industrial, commercial, mining and agricultural operations, and from community activities. Except where specified otherwise, it includes elements of a waste stream which have been source separated for recycling purposes. It does not include hazardous waste, animal waste used as fertilizer, earthen fill, boulders, rock, sewage sludge, solids or dissolved material in domestic sewage or dissolved materials in irrigation return flows or other common pollutants in water resources, such as silt. It does not include dissolved or suspended solids in industrial waste water effluents or discharges which are point sources subject to permits under Section 402 of the Federal Waste Pollution Control Act, as amended. It also does not include source, special nuclear or by-product materials as defined by the Atomic Energy Act of 1954, as amended.

SOLID WASTE FACILITY. All property real or personal, including negative and positive easements and water and air rights, which is or may be needed or useful for the processing or disposal of waste. It includes but is not limited to the storage, collection, transportation, processing and reuse, conversion or disposal of solid waste in a safe, environmentally sound manner.

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

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

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

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

STATE. The State of Minnesota.

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

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

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

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

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

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

environment. The **WARNING LETTER** will inform the party of the alleged violations, the nature and extent of the violations, and the required corrective actions.

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

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

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

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

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

YARD WASTE. The garden wastes, leaves, lawn cuttings, weeds and prunings generated at residential or commercial properties.

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

§ 50.003 ADOPTED STANDARDS.

Minn. Rules Parts 7035.0300 to 7035.2875, 9220.0200 to 9220.0300 and 9220.0450 to 9220.0510 inclusive, relating to solid waste and waste tire management, respectively, as they may be amended from time to time, are hereby adopted by reference and made a part of this chapter, as amended.

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

§ 50.004 AMENDED STANDARDS.

The above adopted rules are hereby amended as follows:

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

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

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

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

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

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

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

§ 50.005 DEPARTMENT RIGHTS AND RESPONSIBILITIES.

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

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

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

(2) It will be the responsibility of Department staff to receive complaints from county residents regarding solid waste issues. Department staff shall have the right to investigate these complaints and pursue the necessary enforcement activities which may include, but are not limited to: issue orders to suspend or stop actions which constitute a violation of this chapter; recommend that legal proceedings be initiated by the county to compel compliance with the provisions of this chapter; and advise, consult and cooperate with the public, the Board of Commissioners and other governmental agencies in the furtherance of this chapter.

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

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

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

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

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

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

right to pursue actions required to enforce compliance with solid waste licenses issued by the county.

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

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

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

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

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

§ 50.006 LICENSEE RESPONSIBILITIES.

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

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

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

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

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

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

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

(G) The licensee agrees to indemnify and save the county harmless from all losses, costs and charges that

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

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

§ 50.007 SERVICE FEES.

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

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

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

(2) On or before October 15 in each year, the County Board shall certify to the County Auditor all unpaid outstanding service fee charges and a description of the lands against which the charges arose. It shall be the duty of the County Auditor, upon order of the County Board, to extend the assessments with interest rate provided for in M.S. § 279.03(1), as it may be amended from time to time, upon the tax rolls of the county for the taxes of the year in which the assessment was filed. For each year ending October 15, the assessment with interest shall be carried into the tax becoming due and payable in January of the following year, and shall be enforced and collected in the manner provided for the enforcement and collection of real property taxes in accordance with the provisions of the laws of the state. The charges, if not paid, shall become delinquent and be subject to the same penalties and the same rate of interest as the taxes under the general laws of the state.

(3) The County Board, by ordinance, may establish or revise the rate schedule for solid waste management services. All rates and charges shall be uniform in their application to use and service of the same character and quantity. A copy of the current rate schedule shall be kept on file in the Office of the County Auditor. If no new rate schedule for solid waste management services is adopted in any year, the rate schedule for the previous year shall remain in effect.

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

(b) The Service Fee as provided for herein shall be established in the Carver County Fee Schedule Ordinance.

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

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

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

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

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

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

(Ord. 4C, passed 11-14-00; Am. Ord. 4C, passed 11-23-04; Am. Fee for Service Ord. 48, passed 12-19-06)

§ 50.008 SOLID WASTE STORAGE.

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

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

(B) (1) Every property must be supplied with adequate mixed municipal solid waste (MMSW) storage containers. These containers must be provided by the owner of the property or by contract with a commercial hauler. The owner of the property will use the containers for MMSW storage. If the property owner does not occupy the property, he or she will cause the occupant or tenant to use the containers for MMSW storage.

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

the container is leak resistant.

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

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

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

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

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

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

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

§ 50.009 DISPOSAL REQUIREMENTS.

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

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

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

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

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

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

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

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

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

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

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

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

HAULING REQUIREMENTS

§ 50.020 OPERATING AND EQUIPMENT STANDARDS.

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

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

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

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

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

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

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

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

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

§ 50.021 RECYCLABLE MATERIAL COLLECTION.

(A) The hauler must provide a service, either directly or through written subcontract with a person or company approved by the Department as a condition to the license, to collect four broad categories of recyclable materials and yard wastes from all single-family residential, all multiple-family residential and commercial and industrial customers within incorporated areas. Paper and corrugated fiberboard must be collected from commercial, industrial and institutional customers when requested by the customer. Additional recyclable materials may be added to this by resolution of the Board after the effective date of this section. All licensed haulers shall be given 120 days' advance notice in writing of the proposed additional recyclable material and shall be notified in writing 15 calendar days in advance of the time and date of the County Board meeting at which time a decision will be rendered. Notice shall be deemed given by mail via general delivery, to the mailing address identified on the most recent license application or renewal form on file in the Department.

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

(C) The hauler must specify the time and day of collection that their customers are to place their recyclables out on their property for pickup. The hauler must collect the recyclables within 12 hours of the designated time. The collection location must be on the customer's property in a location at or near the regular solid waste collection site or other location mutually agreeable to the hauler and the customer.

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

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

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

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

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

(H) The hauler must demonstrate to the Department at the time of license application and at time of annual

license renewal how they will provide both an incentive to their customers to reduce the amount of waste generated and an incentive to recycle the materials designated by the County Board. Examples of compliance with this section include, but are not limited to volume based collection fees and/or credit equal to the reduction in tip fee realized through removal of the amount a customer is recycling.

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

(J) Solid waste haulers shall not mix source-separated materials with mixed municipal solid waste or handle source-separated materials in any way that reduces the reusability or marketability of the source-separated material.

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

§ 50.022 OPPORTUNITY TO RECYCLE.

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

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

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

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

(E) The hauler must notify the customer if materials are contaminated or not sorted correctly. The notification must be in writing stating the violation and corrective measures and it must be presented at the time of collection.

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

§ 50.023 ANTI-SCAVENGING.

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

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

(B) The Board of Commissioners may establish and require that additional types of recyclable materials be collected, that multi-family, commercial and industrial generators be provided collection services, that the frequency of collection from any type of generator be increased or decreased, and that recycling services be

offered to generators in the unincorporated areas of the county. These additional requirements may be established by resolution of the County Board at the beginning of each license year.

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

§ 50.024 RESIDENTIAL RECYCLING; MANDATORY.

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

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

(1) Beverage containers;

(2) Glass recyclables;

(3) Newsprint; and

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

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

§ 50.025 COMMERCIAL RECYCLING; MANDATORY.

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

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

(1) Beverage containers;

(2) Glass recyclables;

(3) Paper recyclables;

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

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

§ 50.026 LICENSING AND REPORTING REQUIREMENTS; COLLECTION.

(A) (1) A person that collects construction debris, industrial waste or mixed municipal solid waste for

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(O) All persons collecting mixed municipal solid waste in the county must maintain records regarding each load collected and/or delivered. The required information shall include but may not be limited to origin of waste, amount and type by percentage. The information shall be recorded on load report forms that are provided by the Department. The load reports shall be submitted to the Department by the seventh day of the following month.

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

§ 50.027 BASE LICENSE.

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

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

(C) Each vehicle used by a hauler for the collection or transportation of mixed municipal solid waste generated within the counties shall be identified by a license decal issued for that vehicle during the current license year. The hauler must affix the decal in a conspicuous place on the left side of the cab of the vehicle for which it was issued as directed by the Department. The hauler must maintain the license decal so that it is

readily visible and legible at all times. Any vehicle not bearing the required decal shall be considered unlicensed. If a vehicle is put into service during the license year, the hauler shall submit the required information for this vehicle to the base county and shall not use the vehicle to collect or transport mixed municipal solid waste within the counties until a decal has been issued and affixed to the new vehicle.

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

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

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

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

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

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

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

§ 50.028 OPERATING LICENSE.

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

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

unlicensed.

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

(D) The issuance of an operating license shall be subject to the provision of county ordinances and any other conditions set forth in this chapter or established by the Board of Commissioners.

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

§ 50.029 DELIVERY REQUIREMENTS.

As established in M.S. § 473.848, as it may be amended from time to time, a person may not dispose of unprocessed MMSW at land disposal facilities in the metropolitan area unless:

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

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

§ 50.030 COLLECTION AND TRANSPORTATION FEES.

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

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

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

§ 50.031 ILLICIT COLLECTION.

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

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

§ 50.032 LICENSING AND REPORTING REQUIREMENTS; CONSTRUCTION.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

§ 50.033 CONSTRUCTION/DEMOLITION DEBRIS LICENSE.

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

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

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

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

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

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

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

(E) Nothing in this provision shall prohibit a hauler from providing insurance with limits higher than the limits provided herein. The county shall be listed as additional insured. Before the license shall be issued, the

licensee shall agree to hold the additional insured harmless and shall agree to defend and indemnify the additional insured, and the additional insured's employees and agents, for any claims, damages, losses, and expenses related to the work under the license. The licensee's contract of insurance shall be the primary insurance for the additional insured and the licensee or insurance company shall provide a certificate of insurance which verifies the existence of the insurance required, including provisions to hold the additional insured harmless and defend and indemnify the additional insured. All policies and certificates shall be endorsed to require that the insurer provide at least a 60-day written notice to the county prior to the effective date of policy cancellation, non-renewal or material adverse change in coverage terms. The hauler shall maintain insurance in compliance with this division throughout the term of the construction/demolition license.

(F) The issuance of an operating license shall be subject to the provision of county ordinances and any other conditions set forth in this chapter or established by the Board of Commissioners.

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

SOLID WASTE FACILITIES

§ 50.045 FACILITIES COVERED.

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

- (1) Land disposal facilities:
 - (a) Mixed municipal solid waste;
 - (b) Demolition debris; and
 - (c) Industrial solid waste.
- (2) MMSW processing and resource recovery facilities:
 - (a) Waste incinerators;
 - (b) Compost facilities; and
 - (c) Refuse derived fuel facilities.
- (3) Transfer stations and canister systems;
- (4) Recycling facilities;
- (5) Household hazardous waste temporary storage facilities;
- (6) Waste tire transfer and storage facilities;
- (7) Waste tire processing facilities; and
- (8) Yard waste composting sites.

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

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

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

§ 50.046 EXEMPTIONS.

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

(B) *Farm generated concrete and reinforcing bar.* The license requirements established in this chapter do not apply to the burial of concrete and reinforcing bar generated from the demolition of a building or structure located on land used for farming, provided the requirements of § 50.071 are met.

(Ord. 4C, passed 11-14-00; Am. Ord. 74-2012, passed 6-19-12)

§ 50.047 LICENSING REQUIREMENTS.

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

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

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

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

(C) Issuance or renewal of any license pursuant to the provisions of this chapter shall be contingent upon the applicant securing insurance, and furnishing to the county a copy of a certificate therefor, the following

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

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

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

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

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

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

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

§ 50.048 PRELIMINARY APPLICATION.

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

- (1) Name and address of the project proposer and site selected for the proposed project;
- (2) Geographic area and population to be served by the proposed project;
- (3) A description of the process and expected life of the facility;
- (4) The anticipated type, quantity and source of materials to be handled in the proposed facility;
- (5) A description of the residues or waste discharges from the proposed facility and the environmental

safeguards which will be incorporated into the project;

- (6) The anticipated hours of operation of the proposed facility and the resulting truck traffic;
- (7) A description of the adequacy of existing roadways to support the proposed facility;
- (8) A description of the availability or lack thereof of similar facilities in the county or region and how the proposed facility will be compatible with the county solid waste master plan; and
- (9) Additional information as may be required by the Department.

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

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

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

§ 50.049 FINAL APPLICATION.

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

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

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

(7) Additional information as may be required by the Department.

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

§ 50.050 LAND DISPOSAL FACILITIES.

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

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

§ 50.051 WASTE COMBUSTORS.

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

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

§ 50.052 MMSW COMPOST FACILITIES.

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

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

§ 50.053 REFUSE DERIVED FUEL (RDF) FACILITIES.

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

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

§ 50.054 TRANSFER STATIONS AND CANISTER SYSTEMS.

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

- (1) Facility design and layout, including equipment configuration;
- (2) Storage capacity of the facility;
- (3) Final disposal point of waste managed at the facility;
- (4) On-site traffic patterns;

- (5) Operating plan; and
- (6) Recycling and composting areas and operations, if any.

(B) Transfer station and canister systems design and operations must comply with agency requirements, as established in Minn. Rules Part 7035.2865, as it may be amended from time to time.

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

§ 50.055 RECYCLING FACILITIES.

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

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

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

§ 50.056 HOUSEHOLD HAZARDOUS WASTE TEMPORARY STORAGE FACILITIES.

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

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

§ 50.057 WASTE TIRE TRANSFER AND STORAGE FACILITIES.

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

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

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

§ 50.058 WASTE TIRE PROCESSING FACILITIES.

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

(B) Proposers of waste tire processing facilities must submit documentation which indicates how the

facility process product will be marketed and/or utilized.

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

§ 50.059 YARD WASTE COMPOSTING FACILITIES.

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

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

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

- (1) The compost site must have controlled access which will be closed during nonoperating hours.
- (2) The site must be regularly managed in a manner as to minimize nuisance and odor problems.

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

§ 50.060 FINAL APPLICATION REVIEW PROCESS.

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

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

(2) Notice of the time, place and proposed project shall be given by publication in the official newspaper of the county at least ten days before the hearing. Written notice shall be sent to property owners of record within ¼-mile of the project site, or to the ten properties nearest to the project site, whichever would provide notice to the greatest number of property owners.

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

(C) The Board shall refuse to issue a license for any facility which does not comply with county ordinance, state laws and rules and the county's solid waste master plan, as provided for in state statutes. If a license application is denied, the applicant shall be notified in writing of the reasons for a determination. A

denial shall be without prejudice to the applicant's right to an appearance before the Board or to the applicant's right to file a further final application after revisions are made to satisfy objections specified as reasons for the denial.

(D) The Board shall either approve or deny a license application within 60 calendar days of receipt of the complete final license application.

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

SPECIAL WASTES

§ 50.070 YARD WASTES.

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

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

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

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

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

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

§ 50.071 DEMOLITION DEBRIS.

Licensing, design and operating requirements for demolition debris land disposal facilities are established herein, except that a person may bury concrete and reinforcing bar generated from the demolition of a building or structure located on land used for farming provided that the following requirements are met:

(A) A complete application and all applicable fees as per the county fee schedule must be received and approved by the Department prior to burial of concrete and reinforcing bar:

(B) The concrete and reinforcing bar must originate from a building or structure located on land used for farming and shall not include concrete and reinforcing bar from residential or commercial structures or activities;

(C) No other solid waste or other material governed by this chapter or Minnesota Statutes may be buried;

(D) The application shall include an accurate description of the burial site, the estimated amount of

concrete and reinforcing bar to be buried, the dimensions of the excavation including cover, a site restoration plan, and any other information requested by the Department needed to review the application due to site specific conditions;

(E) The burial site must be located on property classified as agricultural land by the County Assessor's Office and on the same parcel of property as the structure or building that the concrete and reinforcing bar was generated from;

(F) The burial site location must not be located within the boundaries of any municipality, in any Transition Area, or Shoreland Impact Zone and shall not be located within 50 feet of any wetland, floodplain, bluff, public right-of-way or property line;

(G) At least three feet of cover must be placed over the concrete and reinforcing bar and the site must be graded and restored to prevent erosion and settling;

(H) The owner of the property must provide 48 hour notice to the Department prior to the burial of the concrete and reinforcing bar and must allow the Department access to the property to inspect the burial site prior to covering;

(I) Pursuant to this chapter and M.S. § 17.135, within 90 days of completion of the burial an affidavit containing a legal description of the property and a map drawn from available information showing the boundary of the property and the location of concrete and reinforcing bar buried on the property shall be recorded with the County Recorder. The County Recorder will record the affidavit required under this paragraph in a manner that ensures its disclosure in the ordinary course of a title search of the subject property.

(Ord. 4C, passed 11-14-00; Am. Ord. 74-2012, passed 6-19-12)

§ 50.072 WASTE TIRES.

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

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

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

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

(1) Tire retail businesses which store no more than 500 waste tires on the business' premises;

(2) Retreading businesses which store no more than 3,000 waste tires on the business' premises;

(3) Businesses which routinely remove tires which store no more than 500 tires on the business' premises; and

(4) Agency-permitted sanitary land disposal or transfer stations at which no more than 10,000 waste

tires are stored.

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

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

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

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

(2) A person transporting ten or fewer waste tires;

(3) A person transporting tire-derived products to a market;

(4) A person transporting waste tires for agricultural purposes; and/or

(5) A business that generates and transports its own waste tires.

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

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

(I) The owner of a property which is in violation of the terms of this section must bring the property into compliance within one year of the effective date of this chapter.

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

§ 50.073 HOUSEHOLD HAZARDOUS WASTES.

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

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

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

(3) This plan must include:

- (a) Participation in public education activities on household hazardous waste entering the facility;
- (b) A strategy for reduction of household hazardous waste entering the facility; and
- (c) A plan for the storage and disposal of separated household hazardous waste.

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

§ 50.074 MAJOR APPLIANCES.

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

(B) A person may not place major appliances in mixed municipal waste or dispose of them in a MMSW processing or disposal facility.

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

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

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

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

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

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

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

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

§ 50.075 INFECTIOUS WASTES.

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

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

(C) Commercial haulers of infectious wastes must be licensed with MNDOT and the MDH. Commercial haulers of infectious waste must prepare infectious waste management plans to be submitted to the MDH.

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

§ 50.076 INDUSTRIAL WASTES.

As is required in Minn. Rules Part 7001.3300, as it may be amended from time to time, all MMSW processing, disposal and transfer facilities must have industrial waste management plans.

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

§ 50.077 BATTERIES.

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

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

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

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

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

(E) A lead acid batteries retailer must recycle batteries collected from consumers. Any outlet failing to recycle these batteries is guilty of a misdemeanor.

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

ADMINISTRATION AND ENFORCEMENT

§ 50.090 MODIFICATIONS.

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

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

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

§ 50.091 CITATION AUTHORITY.

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

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

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

(2) Citations shall be made out in quadruplicate. One copy shall be issued to the person alleged to have committed the violation; one copy shall be filed with the Department; one copy shall be filed with the County Attorney's Office; one copy shall be filed with the District Court, First Judicial District.

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

(a) The name and address of the person alleged to have committed the violation and, when known, the owner or person in charge of the premises at which the violation occurs;

(b) The date and place of violation;

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

(d) The name of person issuing the citation;

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

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

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

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

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

(5) If the person charged with the violation fails to appear as required by the citation, the citation shall be referred to the County Attorney's Office.

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

§ 50.092 SUSPENSION.

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

(B) The suspension shall not occur earlier than ten county working days after written notice of suspension has been served on the licensee or, if a hearing is requested, until written notice of the Board action has been served on the licensee. Notice to the licensee shall be served personally or by registered or certified mail at the address designated in the license application. The written notice of suspension shall contain the effective date of the suspension, the nature of the violation or violations constituting the basis for the suspension, the facts which support the conclusion that a violation or violations has occurred, and a statement that if a licensee desires to appeal, he or she must, within ten county working days exclusive of the day of service, file a request for a hearing. The hearing request shall be in writing stating the grounds for appeal and served personally or by registered or certified mail on the Department by midnight of the tenth county working day following service. Following receipt of a request for a hearing, the Department shall set a time and place for the hearing.

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

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

§ 50.093 SUMMARY SUSPENSION.

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

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

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

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

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

§ 50.094 SUSPENSION REINSPECTION.

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

(B) If the Department finds upon reinspection that the violations constituting the grounds for the suspension have been corrected, the Department shall immediately dismiss the suspension, subject to Board ratification at its next meeting, by written notice to the licensee, served personally or by registered or certified mail at the address designated in the license application.

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

§ 50.095 REVOCATION.

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

(B) (1) Revocation shall not occur earlier than ten county working days from the time that written notice of the revocation is served on the licensee or, if a hearing is requested, until written notice of the Board action has been served on the licensee. Notice to the licensee shall be served personally or by registered or certified mail at the address designated in the license application. The written notice of revocation shall contain the effective date of the revocation the nature of the violation or violations constituting the basis for the revocation, the facts which support the conclusion that a violation or violations has occurred, and a statement that if the licensee desires to appeal, he or she must within ten working days, exclusive of the day of service, file a request for a hearing.

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

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

§ 50.096 HEARINGS.

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

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

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

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

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

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

(E) The applicant or licensee may be represented by counsel. The Department, the licensee or applicant, and additional parties, as determined by the county Board or hearing examiner, in that order, shall present evidence. All testimony shall be sworn under oath. All parties shall have full opportunity to respond to and present evidence, cross examine witnesses and present argument. The Board or hearing examiner may also examine witnesses.

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

(G) All evidence which possesses probative value, including hearsay, may be admitted if it is the type of evidence on which prudent persons are accustomed to rely in the conduct of their serious affairs. Evidence which is incompetent, irrelevant, immaterial or unduly repetitious may be excluded. The hearing shall be confined to matters raised in the Department's written notice of suspension, summary of suspension or termination or in the appellants written request for a hearing.

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

- (1) Clarify the issues to be determined at the hearing;
- (2) Provide an opportunity for discovery of all relevant documentary, photographic or other demonstrative evidence in the possession of each party; and (The hearing examiner or Board's representative may require each party to supply a reasonable number of copies of relevant evidence capable of reproduction.)
- (3) Provide an opportunity for discovery of the full name and address of all witnesses who will be called at the hearing and a brief description of the facts and opinions to which each is expected to testify. If the names and addresses are not known, the party shall describe them thoroughly by job duties and involvement with the facts in issue.

(I) If a pre-hearing conference is held, evidence not divulged as provided above shall be excluded at the

hearing unless the party advancing the evidence took all reasonable steps to divulge it to the adverse party prior to the hearing and:

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

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

(J) If the applicant or licensee fails to appear at the hearing, he or she shall forfeit any right to a public hearing before the Board or hearing examiner.

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

§ 50.999 PENALTY.

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

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

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

CHAPTER 51: HAZARDOUS WASTE MANAGEMENT

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GENERAL PROVISIONS

§ 51.01 PURPOSE.

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

(Ord. 28F, passed 10-31-00; Am. Ord. 60-2007, passed 8-14-07)

§ 51.02 AUTHORITY.

This chapter is adopted pursuant to M.S. Chapters 145A and 473, as they may be amended from time to time.

(Ord. 28F, passed 10-31-00; Am. Ord. 60-2007, passed 8-14-07)

§ 51.03 DEFINITIONS.

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

AGENCY. The Minnesota Pollution Control Agency or MPCA.

CIRCUIT BOARDS. Electrical panels consisting of fiberglass, a paper and epoxy blend, or other inert material and electrical conductors, traces or foils. **CIRCUIT BOARDS** shall include circuit board trimmings.

CIRCUIT BOARD TRIMMINGS. The pieces, including dust particles, that are trimmed off of circuit boards during the routing or punching process in order to make the boards the proper size for use.

COUNTY BOARD. The Carver County Board of Commissioners.

DEPARTMENT. The Carver County Environmental Services Department.

ELECTRONIC COMPONENT. Subassemblies or other parts derived from the disassembly of electronic devices, which exhibit the toxicity characteristic of Minn. Rules 7045.0131. **ELECTRONIC COMPONENT** shall include circuit boards.

ELECTRONIC DEVICE. Electronic component that contains one or more electronic circuit boards, cathode ray tubes, or other circuitry or parts that exhibit the toxicity characteristic under Minn. Rules 7045.0131.

ELECTRONICS. Electronic components and electronic devices.

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

FACILITY. The meaning in Minn. Rules Part 7045.0020, subpart 24 and shall also include transfer facilities and facilities that collect for treatment, storage or disposal special hazardous waste, universal waste, appliances, recyclable fuel, used oil or waste contaminated with used oil.

GENERATOR. The meaning in Minn. Rules Part 7045.0020, subpart 31 and shall include any person, by site, whose act or process produces a universal waste or special hazardous waste or whose act first causes a universal waste or special hazardous waste to become subject to regulation.

HAZARDOUS BUILDING COMPONENTS. Materials and articles containing cadmium, lead, mercury, oil, polychlorinated biphenyls (PCBs), or refrigerants; asbestos containing materials; or other items posing risk to humans or the environment including, but not limited to, fluorescent and high intensity discharge lamps; neon lighting; lighting ballasts (both PCB and non-PCB containing ballasts); electrical capacitors; batteries, circuit boards; appliances; components of heating, ventilation and air conditioning (HVAC) systems that contain the above referenced materials; and thermometers, gauges, switches and relays containing mercury. Wastes included in this definition that are regulated by Minn. Rules Chapters 7000 through 7150 and C.F.R. Title 40 shall be regulated by those rules, as applicable.

HAZARDOUS WASTE. Any refuse, sludge or other waste material or combinations of refuse, sludge or other waste materials in solid, semisolid, liquid or contained gaseous form which, because of its quantity, concentration or chemical, physical or infectious characteristics, may cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness or pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported or disposed of, or otherwise managed. Categories of **HAZARDOUS WASTE** materials include, but are not limited to, explosives, flammables, oxidizers, poisons, irritants and corrosives. **HAZARDOUS WASTE** does not include source, special nuclear or by-product material as defined by the Atomic Energy Act of 1954, as amended.

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

- (1) Ten gallons or less per year of hazardous waste that is not acutely toxic, as defined by Minn. Rules Part 7045.0020(3)(a), as it may be amended from time to time;
 - (2) Any amount of used oil, waste contaminated with used oil, used oil filters or petroleum fuel filters;
 - (3) Any amount of lead acid batteries managed under Minn. Rules Part 7045.0685;
 - (4) Universal waste and special hazardous wastes as defined by this chapter;
 - (5) Any amount of photographic fixer solution which is shipped off-site for recycling;
 - (6) Any amount of photographic fixer solution if treated to remove 80% of the hazardous constituents;
- or
- (7) Any amount of fuel/water mixtures and fuel tank filters that are not stored or accumulated on site.

NOTICE OF VIOLATION. A formal written notice issued by the Department to notify a party that he or she is in violation of a county chapter. This notice will inform the party of the alleged violations, the nature and extent of the violations, and the required corrective actions. The **NOTICE OF VIOLATION** shall also specify additional actions that will be taken by the Department, such as the inclusion of NOV orders into a final order or consent order and/or the issuance of a citation, as well as specific time frames in which these actions will be completed.

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

SPECIAL HAZARDOUS WASTE. Shall include the following hazardous wastes:

- (1) Photographic and x-ray negatives and paper which exhibit the toxicity characteristic under Minn. Rules Part 7045.0131;
- (2) Electronics as defined by this chapter.

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

(Ord. 28F, passed 10-31-00; Am. Ord. 60-2007, passed 8-14-07)

§ 51.04 COMPLIANCE.

No person shall cause or permit the generation, transportation, disposal or processing of hazardous waste or the construction or operation of hazardous waste facilities, except in full compliance with the provisions of this chapter, including, but not limited to all provisions requiring full disclosure of information regarding the generation, transportation, disposal or processing.

(Ord. 28F, passed 10-31-00; Am. Ord. 60-2007, passed 8-14-07)

§ 51.05 GENERAL CONDITIONS.

(A) The Department may impose conditions on any license, permit or variance as deemed reasonably necessary to monitor the operation and ensure the public health and safety and to protect the environment.

(B) Violation of any condition imposed by the county on a license, permit or variance shall be deemed a violation of this chapter.

(Ord. 28F, passed 10-31-00; Am. Ord. 60-2007, passed 8-14-07)

§ 51.06 FALSE INFORMATION.

Omission of any information or submission of false information may be deemed a violation of this chapter or may be deemed a violation of state or federal law.

(Ord. 28F, passed 10-31-00; Am. Ord. 60-2007, passed 8-14-07)

§ 51.07 WASTE CLASSIFICATION.

In the event the agency modifies the lists of wastes by listing or delisting, or classifies a waste as hazardous, the Board may, by resolution, amend the lists of wastes set forth in this chapter, or classify certain wastes as hazardous, to incorporate agency action.

(Ord. 28F, passed 10-31-00; Am. Ord. 60-2007, passed 8-14-07)

§ 51.08 RIGHT OF ENTRY.

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

(B) If the entry is refused, the Department shall have recourse to every remedy provided by law to secure entry including administrative search warrants. If the owner or other person having control of the premises has threatened an authorized agent of the Department with refusal to allow the Department entry at any future date, the Department shall document said refusal and may obtain an administrative search warrant without demanding entry on the future date.

(Ord. 28F, passed 10-31-00; Am. Ord. 60-2007, passed 8-14-07)

§ 51.09 STANDARDS FOR PRESERVATION.

(A) Minn. Rules Chapter 7045, except for Minn. Rules Parts 7045.1000 through 7045.1030 inclusive, as it may be amended from time to time, relating to hazardous waste, are hereby adopted by reference and made a part of this chapter. Adoption of the state rules into this chapter does not relieve regulated parties from full compliance with requirements as they also apply to the state or federal entities specified in the state rules. Regulated parties must obtain required approvals and submit necessary information to the appropriate state or federal authorities as well as to the county.

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

(C) *Standards amended.* The above adopted rules are hereby amended as follows:

(1) Wherever the term **MINNESOTA POLLUTION CONTROL AGENCY, POLLUTION CONTROL AGENCY** or **AGENCY** appears in these adopted rules it shall mean the **DEPARTMENT**, except in

Minn. Rules Parts 7045.0020 subparts 4, 9c and 73h; 7045.0070; 7045.0075; 7045.0080; 7045.0090 when referenced by 7045.0545, 7045.0546, 7045.0547 and 7045.0548; 7045.0125, subpart 9, item D; 7045.0129; 7045.0133; 7045.0135, subpart 1, paragraph 3; 7045.0139; 7045.0218; 7045.0243, subpart 3, item D; 7045.0261, subpart 5, item B and subpart 6; 7045.0275, subpart 2; 7045.0302; 7045.0361; 7045.0395; 7045.0397; 7045.0450, subpart 1; 7045.0452, subpart 2; 7045.0468, subpart 2; 7045.0498 through 7045.0524; 7045.0546; 7045.0552, subpart 3 item A; 7045.0554; 7045.0556, subpart 2; 7045.0574, subpart 2; 7045.0608 through 7045.0624; 7045.0655, subpart 1; and where used with **ENVIRONMENTAL PROTECTION AGENCY**, or **FEDERAL OR STATE AGENCY**, where they shall remain unchanged.

(2) Wherever the term **COMMISSIONER** appears in these adopted rules, it shall mean **DEPARTMENT** except in Minn. Rules Parts 7045.0020, subpart 6a, item B, subparts 9c, 13a, 43.b, 73h, and 85a; 7045.0075; 7045.0080; 7045.0090 when referenced by 7045.0545, 7045.0546, 7045.0547 and 7045.0548; 7045.0125, subpart 4, item N and subpart 9, item D; 7045.0129; 7045.0131, subparts 1 and 7; 7045.0218; 7045.0261, subpart 9; 7045.0265; 7045.0294, subpart 1a, item B; 7045.0302; 7045.0310, subpart 3, items B, C and D, and subpart 5, item C; 7045.0320, subparts 9 and 10; 7045.0474; 7045.0476, subpart 3, item A; 7045.0498 through 7045.0524; 7045.0528, subpart 4, item D(4) and subpart 8, item D(1); 7045.0545, subparts 1 through 7; 7045.0546; 7045.0580; 7045.0582, subpart 3, item A; 7045.0608 through 7045.0624; 7045.0628, subpart 4, item D(4); 7045.0652, subpart 2, item B; 7045.0686; 7045.0875, subpart 8, item B; 7045.0990; 7045.1309; 7045.1315, subpart 2, item G; 7045.1360, where it shall remain unchanged.

(3) Wherever the term **PERMIT, PERMITEE, PERMITTING or PERMITTED** appears in these adopted rules, it shall mean **LICENSE, LICENSEE, LICENSING or LICENSED** except in Minn. Rules Parts 7045.0020, subpart 10b, subpart 15, item A(4), subpart 23a, subpart 24, item B, and subpart 58a; 7045.0121, subpart 2, item D; 7045.0208, subpart 2, item C; 7045.0210; 7045.0261, subparts 2, 5, and 6; 7045.0310, subpart 3, item D and subpart 6, item D; 7045.0320, subpart 9, item C; 7045.0397; 7045.0450, subpart 1; 7045.0498 through 7045.0524; 7045.0545, subparts 5 and 7; 7045.0546; 7045.0552, subpart 2; 7045.0554, subpart 1; 7045.0608 through 7045.0624; 7045.0790, subpart 7; 7045.1380, subpart 1, item A; and where used with **NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT, NPDES PERMIT, STATE DISPOSAL SYSTEM PERMIT, EMISSION FACILITY OPERATING PERMIT, PERMIT-BY-RULE**, or **AIR QUALITY PERMIT**, where they shall remain unchanged.

(4) The terms **MINNESOTA or STATE OF MINNESOTA** shall mean **COUNTY OF CARVER** in Minn. Rules Parts 7045.0210; 7045.0212; 7045.0214; 7045.0240; 7045.0261, subpart 5 and subpart 6 (except the phrases **SPECIFIC MINNESOTA** and **IN MINNESOTA** which shall remain unchanged); 7045.0302, subpart 1; 7045.0351, subpart 1; 7045.0355 and 7045.0361.

(5) Minn. Rules Part 7045.0020, subpart 66 is deleted in its entirety.

(6) Minn. Rules Part 7045.0060 is amended to read as follows:

"No variance may be granted if granting the variance would result in noncompliance with Environmental Protection Agency (EPA) regulations and Minnesota Pollution Control Agency (MPCA) rules for the generation, storage, processing, treatment, transportation or disposal of hazardous waste or the operation of hazardous waste facilities."

(7) Minn. Rules Part 7045.0225, subpart 1 is amended by deleting the last two sentences in their entirety.

(8) The first paragraph of Minn. Rules Part 7045.0230, subpart 1 is amended to read:

"Information required. An application must be on a form provided by the Department and must include

the following information".

- (9) Minn. Rules Part 7045.0230, subpart 1a is deleted in its entirety.
- (10) Minn. Rules Part 7045.0240 is amended by the deletion of the second sentence in subpart 3.
- (11) Minn. Rules Part 7045.0243 is amended by the deletion of subpart 1 and subpart 3, item C.
- (12) The first paragraph of Minn. Rules Part 7045.0248, subpart 1 is amended to read as follows:

"A licensed generator must submit a license renewal application to the Department on forms provided by the Department. A generator must submit the application and report by the January 31 preceding the expiration of the generator license. The application must contain the following information for each hazardous waste produced during the preceding calendar year:".

- (13) Minn. Rules Part 7045.0248, subpart 1, item B is deleted in its entirety.
- (14) Minn. Rules Part 7045.0250 is deleted in its entirety.
- (15) Minn. Rules Part 7045.0261, subpart 5 is amended to read as follows:

"Subpart 5. Permitted facilities. The facilities shall be licensed or permitted by:

- A. the department if the hazardous waste facility is located within Carver County in Minnesota;
- or
- B. the state agency with a hazardous waste program authorized by the EPA pursuant to Code of Federal Regulations, title 40, part 271 (1983); or
 - C. the EPA; or
 - D. having interim status."

- (16) Minn. Rules Part 7045.0261 subpart 9 is amended to read as follows:

"Subpart 9. Number of copies. The manifest must consist of at least the number of copies which will provide the generator, each transporter, and the owner or operator of the designated facility with one copy each for their records, another copy to be returned to the generator by the facility, and the required copies to be returned to the commissioner or to the Hazardous Waste Manifest Program, pursuant to parts 7045.0265, 7045.0474, subpart 2, item D; and 7045.0580, subpart 2, item D, and any additional copies required by the generator's or designated facility's state, if other than Minnesota. Copies to be returned to the commissioner shall be sent to: Minnesota Pollution Control Agency, Hazardous Waste Division, 520 Lafayette Road, Saint Paul, Minnesota 55155, Attention: HWIMS. Copies to be returned to the Hazardous Waste Manifest Program shall be sent to: Hazardous Waste Manifest Program, Mail Code L609, 300 S 6th Street, Minneapolis, Minnesota 55487."

- (17) Minn. Rules Part 7045.0265 subpart 1D is amended to read as follows:

"D. send one copy to the commissioner within five working days of the initial transporter's acceptance of the hazardous waste shipment if the generator is a large quantity or small quantity generator. Send one copy

to the Hazardous Waste Manifest Program if the generator is a very small quantity generator."

(18) Minn. Rules Part 7045.0265 subpart 2B is amended to read as follows:

"B. send one copy to the commissioner within five working days of the initial transporter's acceptance of the hazardous waste shipment if the generator is a large quantity or small quantity generator. Send one copy to the Hazardous Waste Manifest Program if the generator is a very small quantity generator."

(19) Minn. Rules Part 7045.0265 subpart 3B is amended to read as follows:

"B. send one copy to the commissioner within five working days of the initial transporter's acceptance of the hazardous waste shipment if the generator is a large quantity or small quantity generator. Send one copy to the Hazardous Waste Manifest Program if the generator is a very small quantity generator."

(20) Minn. Rules Part 7045.0265 subpart 4A is amended to read as follows:

"A. the copy of the hazardous waste manifest signed by the facility operator is sent to the commissioner within 40 days of the acceptance of the hazardous waste by the hazardous waste facility if the generator is a large quantity or small quantity generator. The copy of the hazardous waste manifest signed by the facility operator is sent to the Hazardous Waste Manifest Program within 40 days of the acceptance of the hazardous waste by the hazardous waste facility if the generator is a very small quantity generator; and".

(21) In Minn. Rules Part 7045.0292, subparts 1, 5, 6 and 8, the phrase "without a permit" is amended to read "without a facility permit". The word "permit" in these references remains unchanged.

(22) The first paragraph of Minn. Rules Part 7045.0302, subpart 2 is amended to read as follows:

"Subpart 2. Notification. When shipping hazardous waste outside the state of Minnesota to a foreign country, the primary exporter must notify the Commissioner, the Department and the EPA of an intended export before the waste is scheduled to leave the United States. A complete notification should be submitted sixty (60) days before the initial shipment is intended to be shipped off site. This notification may cover export activities extending over a 12-month or lesser period. The notification must be in writing, signed by the primary exporter and include the following information:".

(23) Minn. Rules Part 7045.0460, subpart 1, item A is amended to read as follows:

"A. Procedures are in effect which will cause the waste to be removed safely before floodwaters can reach the facility to a location where the wastes will not be vulnerable to floodwaters. The location to which wastes are moved must be a facility which is either licensed by this Department, or permitted by the Environmental Protection Agency, or by a state with a hazardous waste management program authorized by the Environmental Protection Agency, or which has interim status.".

(24) The term "in Chapter 7001" is deleted wherever it appears.

(25) The phrase "under chapter 7046" is deleted wherever it appears.

(Ord. 28F, passed 10-31-00; Am. Ord. 60-2007, passed 8-14-07)

§ 51.10 MINIMAL GENERATORS.

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

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

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

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

(4) Minimal generators that exceed 55 gallons of accumulated hazardous waste lose minimal generator status. The generation of used oil, used oil contaminated absorbents, used oil filters, spent lead acid batteries, universal waste, special hazardous waste, feedstock, or by-product waste is not counted towards this accumulation limit.

(Ord. 60-2007, passed 8-14-07)

§ 51.11 SPECIAL HAZARDOUS WASTE.

(A) Special hazardous wastes that are managed in compliance with the management requirements specified in this ordinance are not subject to the hazardous waste management requirements in Minn. Rules Parts 7045.0205 to 7045.0990 and 7045.1300 to 7045.1380, except for those provisions specified by reference in this chapter. Special hazardous wastes that are not managed in compliance with the requirements specified in this chapter must be managed in accordance with all applicable hazardous waste management requirements in Minn. Rules Parts 7045.0205 to 7045.0990 and 7045.1300 to 7045.1380. The provisions of this section apply to all generators and facilities.

(B) A person who collects special hazardous waste generated by households or commingles special hazardous waste generated by households with any special hazardous waste defined in this chapter shall manage the collected special hazardous waste or commingled special hazardous waste under the requirements of this chapter. Facilities that are operated by or under contract, license or formal agreement with a local unit of government to collect special hazardous waste from households do not need to obtain a hazardous waste generator or facility license to operate, however, such facilities must abide by all other applicable provisions of this chapter.

(C) *Storage.* A generator shall store special hazardous waste in containers or in a manner that:

(1) Prevents damage to or breakage of special hazardous waste during normal handling conditions;

(2) Are compatible with the waste being stored in the container;

(3) Will not leak or break open during normal handling conditions;

(4) Protects handlers and all other persons from physical injury caused by contact with special hazardous waste; and

(5) Prevents releases of special hazardous waste, including components or residues of special hazardous waste.

(D) *Storage areas.*

- (1) Storage of special hazardous waste indoors or outdoors must be on a surface impermeable to the hazardous waste.
- (2) Outdoor storage areas must prevent release to soil or water.
- (3) Storage areas for special hazardous wastes must have protection from damage including vehicular accidents and vandalism.
- (4) Special hazardous waste containers must have adequate aisle space to allow unobstructed movement of personnel and equipment in an emergency.

(E) *Storage time limit.* A generator may accumulate special hazardous waste up to 10,000 pounds for no longer than one year from the date the special hazardous waste is generated. A generator of special hazardous waste may accumulate over 10,000 pounds and one year if such activity is solely for the purpose of accumulation of such quantities of special hazardous waste as necessary to facilitate proper recovery, treatment, or disposal. However, the generator bears the burden of proving that such activity is solely for the purpose of accumulation of such quantities of special hazardous waste as necessary to facilitate proper recovery, treatment, or disposal. A generator of special hazardous waste who accumulates special hazardous waste must be able to demonstrate the length of time that the special hazardous waste has been accumulated from the date it becomes a waste. The generator may make this demonstration by:

- (1) Placing the special hazardous waste in a container and marking or labeling the container with the earliest date that any special hazardous waste in the container became a waste; or
- (2) Marking or labeling each individual item of special hazardous waste (e.g., each battery or thermostat) with the date it became a waste; or
- (3) Maintaining an inventory system on-site that identifies the date each special hazardous waste became a waste; or
- (4) Maintaining an inventory system on-site that identifies the earliest date that any special hazardous waste in a group of special hazardous waste items or a group of containers of special hazardous waste became a waste; or
- (5) Placing the special hazardous waste in a specific accumulation area and identifying the earliest date that any special hazardous waste in the area became a waste; or
- (6) Any other method which clearly demonstrates the length of time that the special hazardous waste has been accumulated from the date it becomes a waste.

(F) *Labeling of containers.* Generators and facilities shall label each waste container with, as applicable:

- (1) The words "used" or "waste" followed by a brief description of the waste in the container;
- (2) A brief description of the waste in the container followed by the words "for recycling."

(G) *Response to releases or detection of inadequate container.* Generators and facilities shall conduct the activities set out in divisions (1) through (4) below upon detection of storage that no longer meets the standards

in division (C) above or upon a release of a special hazardous waste, including components or residues of a special hazardous waste.

(1) Immediately stop and contain any release of a special hazardous waste, including all components or residues of a special hazardous waste.

(2) If a container storing a special hazardous waste begins to leak or does not otherwise meet the container standards in division (C) above, transfer all waste remaining in the leaking or inadequate container to a container that meets the requirements of division (C) above.

(3) Prior to returning to service any leaking or otherwise damaged container, repair the container so that it meets the container standards of division (C) above.

(4) If a release may cause pollution of the environment, immediately notify the Minnesota Duty Officer by calling (651) 649-5451.

(H) *Treatment.* A generator is prohibited from conducting any treatment of special hazardous waste, except for activities associated with:

(1) Responding to a release as set out in division (G) above;

(2) Transferring a type of special hazardous waste from one storage container into another storage container containing the same type of special hazardous waste;

(3) Shredding or cutting up circuit boards, hard drives or photographic and X-ray negatives and paper.

(I) *Transportation.* All special hazardous waste must be shipped to a collector, a licensed processing/storage facility, a recycler, or a permitted hazardous waste facility. Shipments must be accompanied by a shipping paper, bill of lading, or manifest. The shipping documents must include the name of shipper, the date of shipment, the amount of waste, and the destination facility's name, address and phone number.

(J) *Recordkeeping.* Records shall be kept for all shipments of special hazardous waste. Each copy shall be maintained on site for a period of three years from the date the shipment was initiated by the generator.

(Ord. 60-2007, passed 8-14-07)

§ 51.12 UNIVERSAL WASTE.

(A) Generators and facilities utilizing the universal waste exemption must manage their universal waste in accordance with Minn. Rules part 7045.1400 et seq. and this chapter.

(B) A person who collects universal waste generated by households or commingles universal waste generated by households with any universal waste shall manage the collected universal waste or commingled universal waste under the requirements of this chapter. Facilities that are operated by or under contract, license or formal agreement with a local unit of government to collect universal waste from households do not need to obtain a hazardous waste generator or facility license to operate, however, such facilities must abide by all other applicable provisions of this chapter.

(C) *Applicability.* The term **HANDLER** adopted in Minn. Rules Part 7045.1400, shall mean the

following:

(1) *Generator*. When the universal waste activity meets the definition of **GENERATOR** in this chapter.

(2) *Facility*. When the universal waste activity meets the definition of **FACILITY** in this chapter.

(D) *Recordkeeping*. Records shall be kept for all shipments of universal waste. Each record shall be maintained on site for a period of three years from the date the shipment was initiated. The record may take the form of a log, invoice, manifest, bill of lading or other shipping document. The record for each shipment of universal waste sent must include the following information:

(a) The name, address and telephone number of the destination to whom the universal waste was sent;

(b) The quantity of each type of universal waste sent (e.g., batteries, pesticides, thermostats);

(c) The date the shipment of universal waste left the generator site.

(E) *Additional standards for mercury containing equipment*. Mercury containing equipment must be stored in a container. The container must be closed, structurally sound, compatible with the contents, and must lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions and must be reasonably designed to prevent the escape of mercury into the environment by volatilization or any other means.

(Ord. 60-2007, passed 8-14-07)

LICENSING REQUIREMENTS

§ 51.20 LICENSE REQUIRED.

Unless otherwise provided by this chapter, no person shall, within the county, make or allow property under his, her or its control to be used for any activity which generates wastes regulated under this chapter, except at an individual generation site for which a hazardous waste generator license has been granted by the Department. Unless otherwise provided by this chapter, no person shall, within the county, store, deposit, keep, accumulate, process, treat, reclaim, dispose of or otherwise handle, process or cause to be transported, wastes generated under this chapter except at a site or facility for which a license has been granted by the Department. Unless otherwise provided by this chapter, no person shall operate a used oil collection site, a used oil filter collection site or a spent battery collection site, except at an individual site for which a hazardous waste license has been granted by the Department. On a case by case basis, the Department may allow a person that does not possess a facility license to accept used oil, used oil filters, recyclable fuel waste, universal waste and/or special hazardous waste if the facility possesses a generator license, using the following criteria as a guide: the site takes these wastes only from generators owned or operated by the owner or operator of the receiving site, is receiving used oil pursuant to M.S. § 325E.11, is operated in compliance with Minn. Rules Part 7045.0310, or the volumes of the wastes received or number of generators shipping waste to the receiving site are not deemed to present a hazard requiring management standards over and above what normally would be applied to that generator license.

(Ord. 28F, passed 10-31-00; Am. Ord. 60-2007, passed 8-14-07)

§ 51.21 LICENSING NOT EXCLUSIVE.

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

(Ord. 28F, passed 10-31-00; Am. Ord. 60-2007, passed 8-14-07)

§ 51.22 FEES.

(A) The Board may, by ordinance, establish fees, including fees for the initial and renewal of licenses for generators and for the initial application, initial license, and renewal of licenses for facilities.

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

(C) Fees for new licenses are due 30 days after the billing date. Fees for renewal of licenses are due 30 days prior to the expiration of the current license. Hazardous waste generators whose production of hazardous waste (volume and/or types) exceeds that set forth in their license renewal application, and said excess production places them in a higher license category, shall be invoiced for the additional fee. The additional fee due for the current license year must be paid within 30 days of the invoice date, or before the renewal of their license for the coming year, whichever comes first. As used herein, fees may include license fees, Agency statewide program fees, application fees, late penalty fees and other fees as may be prescribed by the Board.

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

(Ord. 28F, passed 10-31-00; Am. Ord. 60-2007, passed 8-14-07)

§ 51.23 MINIMAL GENERATORS.

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

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

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

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

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

- (1) The business closes;
- (2) The business is sold or otherwise changes ownership;
- (3) The business moves to a new location;
- (4) The business assumes a new name; or
- (5) The generator's rate of generation no longer meets the minimal generator definition listed herein.

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

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

(G) Any minimal generator may, by making written request to the Department, remain regulated as a very small quantity generator in lieu of the minimal generator requirements.

(Ord. 28F, passed 10-31-00; Am. Ord. 60-2007, passed 8-14-07)

§ 51.24 LICENSE TERM.

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

(B) The license year for hazardous waste facilities shall be from July 1 through June 30. The license year for hazardous waste generators shall be from April 1 through March 31.

(Ord. 28F, passed 10-31-00; Am. Ord. 60-2007, passed 8-14-07)

§ 51.25 LICENSE APPLICATION.

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

(2) *Generators.* Generators shall submit to the Department a license application. The license application shall include, but not necessarily be limited to, the information specified in Minn. Rules Parts 7045.0230 to 7045.0248 as applicable. Applications for a generator license received more than 75 days after commencement of operation, or applications for license renewal received after January 31, shall be considered late and subject to a late application penalty. Applications for license modification shall be deemed late, and subject to a late application penalty, if received later than as set forth in Minn. Rules Part 7045.0243(3)(G), as it may be amended from time to time. The date of receipt is the postmark date if mailed or the Department date of receipt if hand delivered.

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

(B) (1) If an application for a generator license or license renewal is not complete or otherwise does not conform with the requirements set forth in this chapter, the Department shall advise the applicant within 60 days of application receipt, in writing, of the reasons for non-acceptance and may request that the applicant resubmit, modify or otherwise alter the application. The applicant shall comply with the requests within the time specified by the Department.

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

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

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

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

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

(E) For licensing purposes, the Department may consider on-site treatment by the generator, of on-site generated hazardous waste, as part of the generator's licensure and may exempt such on-site treatment from facility licensing requirements. The exemption shall be limited to the following types of treatment: the specific treatment activities allowed in Minn. Rules Parts 7045.0450(3)(K); 7045.0652; and 7045.0855(3), as they may be amended from time to time; and/or recovery of reusable solvents by distillation. The treatment must be described in the generator license application and approved by the Department. The Department may require generators, who do on-site treatment as identified above, to comply with the requirements of Minn. Rules Parts 7045.0558; 7045.0562(1) and (2); and 7045.0566 through 7045.0576, as they may be amended from time to time, or may impose license conditions as may be deemed necessary to monitor the treatment operation and

ensure public health and safety.

(F) Use of household hazardous waste collection site. Delivery of waste governed under this chapter to a household hazardous waste collection site is prohibited unless the site is authorized by the Agency to accept such hazardous waste and the operator granted permission to accept the waste knowing it was not household hazardous waste.

(G) (1) Unless otherwise provided by the County Board and/or Department, issuance of a hazardous waste transfer, storage, resource recovery, disposal, treatment or other handling or processing site or facility license, pursuant to the provisions of this chapter, shall be contingent upon the applicant furnishing to the Department a bond or letter of credit acceptable to the Department naming the county as the obligee with sufficient sureties duly licensed and authorized to transact corporate surety business in the State of Minnesota as sureties. The amount of the bond or letter of credit shall be set by the Department according to the following formula: estimated cost, submitted by the applicant and approved by the Department, for a third party contractor, unrelated to the applicant or to Carver County, to dispose of the maximum inventory of hazardous wastes that will be on site at any one time, and to decontaminate the facility and all equipment in the facility, or dispose of any equipment that cannot be decontaminated, and to perform any other activities necessary to ensure that the facility does not pose a threat to human health or the environment; plus an additional 30% to cover unanticipated costs and administrative costs that the county might incur. The condition of the bond or letter of credit shall be that if the principal fails to obey any of the requirements or do any of the acts required by this chapter an order or notice issued by the Department or conditions of the license in the operation of the site or facility, or if, for any reason, the applicant ceases to operate or abandons the site or facility, and the county determines that chemical analysis and/or testing and remediation are required to restore the site or facility to the condition and requirements as provided by the chapter, notice, order, or license, the principal and the sureties on its bond shall pay for any and all expenses required for chemical testing and to remedy the failure of the principal to comply with this chapter, orders or notices of the Department, or conditions of the license and that the principal and its sureties will indemnify and save the county harmless from all losses, costs and charges that may occur to the county because of any default of the principal under terms of his or her license to operate and this chapter of the county. In the event the county is required to expend monies or expend any labor or material to restore the site or facility to the condition or requirements as provided by this chapter, order or notice by the Department, or license, the principal and the sureties shall reimburse the county for any and all expenses incurred to remedy the failure of the principal to comply with the terms of this chapter, orders or notices of the Department or conditions of the license. The applicant may satisfy the requirements of this section by demonstrating that they pass a financial test, the terms of which will be set on a case by case basis by the Department. For facilities permitted by the Agency or having interim status, or otherwise required by the Agency to establish financial assurance for closure or corrective action, the license applicant, in lieu of the above, shall submit to the Department for review satisfactory evidence of compliance with the Agency's financial assurance requirements.

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

(a) Unless otherwise provided by the Department, issuance of a license to a facility not required by the Agency to meet the liability requirements of Minn. Rules Parts 7045.0518 or 7045.0620, pursuant to the provisions of this chapter, shall be contingent upon the applicant furnishing to the county a certificate of

insurance showing that the applicant maintains the following minimum coverage:

1. A commercial general liability insurance policy covering all premises and operations with limits of not less than \$1,000,000 for personal injuries arising from one occurrence, \$1,000,000 for damages arising from death and/ or total bodily injuries arising from one occurrence, and \$1,000,000 for property damage arising from one occurrence, or a combined single limit thereof, with a \$2,000,000 annual aggregate.

2. An automobile liability insurance policy, if applicable, with limits of \$1,000,000 per accident for death or bodily injury and/or damages to any one person, \$1,000,000 for total bodily injuries and/or damages arising from any one accident and with limits of not less than \$1,000,000 per accident for property damage.

3. Workers compensation coverage at the statutory limits (or written confirmation that the applicant is a qualified self insured or is otherwise exempt under M.S. §176.041).

(b) A financial test for liability coverage may be substituted for the certificate of insurance upon the approval of the Department. The county shall be notified 30 days prior to the effective date of a cancellation or change of insurance.

(c) Hazardous waste facilities shall not be required to submit a bond, letter of credit, or

financial test, specified herein, and proof of adequate insurance specified herein, if the applicant can demonstrate to the Department that financial assurance is not required by the Agency, and the closure cost estimate approved by the Department is \$10,000.00 or less.

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

(4) In order to operate a hazardous waste site or facility during interim period prior to license approval by the Department, a person must obtain interim operating approval from the Department and comply with conditions set by the Department. Interim operating approval shall require said person to operate the hazardous waste site or facility in conformance with Minn. Rules Parts 7045.0552 through 7045.0606 and 7045.0626 through 7045.0642, as it may be amended from time to time, if operating as a treatment, storage or disposal facility, or in conformance with Minn. Rules Part 7045.0365, as it may be amended from time to time, if operating as a transfer facility or in conformance with Minn. Rules Parts 7045.0125 and/or 7045.0675 , as it may be amended from time to time, if operating as a recycling facility. Additionally, the Department may impose conditions as deemed necessary to monitor the operation and ensure public health and safety, and will require compliance with the insurance requirements specified herein. The requirements under interim operating approval shall remain in force until the Department acts to grant or deny the license. If the Department finds that the hazardous waste site or facility is not being operated in compliance with the requirements of interim operating approval, the approval shall be terminated. Any person operating in full compliance with this paragraph shall be considered to be in compliance herewith until the Department acts to grant or deny the license. Any person who, on an interim basis, in compliance with this section, owns or operates a hazardous waste transfer, storage, disposal, resource recovery, treatment or other handling or processing facility shall apply for a hazardous waste facility license within 120 days of commencement of operation.

(5) Nothing in this item is intended to allow facilities to operate without permits, licenses or compliance agreements required by the agency.

(Ord. 28F, passed 10-31-00; Am. Ord. 60-2007, passed 8-14-07)

§ 51.26 TERMINATION OF OPERATION.

Any person who, for any reason, terminates operations at a regulated site, must remove all hazardous waste and materials contaminated with hazardous waste prior to termination of operations. Termination of operations may include the sale of an operation to a new entity, or the simple shutdown of a business or site, which is then not operated, the relinquishing of lease or rental rights to a property, or a change in operation such that hazardous waste is no longer generated. Removal of the waste from the site must be completed in a timely manner as determined by the Department and accomplished in full compliance with this chapter and Minn. Rules Chapter 7045. Materials remaining on the site of a terminated operation shall be considered waste materials. The continued storage of hazardous wastes on the site of a terminated operation shall be done in compliance with the hazardous waste storage facility rules in Minn. Rules Chapters 7045 and 7001 and this chapter.

(Ord. 28F, passed 10-31-00; Am. Ord. 60-2007, passed 8-14-07)

ADMINISTRATION AND ENFORCEMENT

§ 51.40 MODIFICATIONS.

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

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

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

(Ord. 28F, passed 10-31-00; Am. Ord. 60-2007, passed 8-14-07)

§ 51.41 AUTHORITIES OF THE DEPARTMENT.

The Department is authorized to administer and enforce this chapter. The Department's authority includes but is not limited to the following:

(A) Receive and review generator and facility license or license renewal applications, issue hazardous waste generator and facility licenses, and approve or disapprove interim operations of facilities pursuant to this chapter;

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

(C) Recommend that legal proceedings be initiated by the county to compel compliance with the

provisions of this chapter; and

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

(Ord. 28F, passed 10-31-00; Am. Ord. 60-2007, passed 8-14-07)

§ 51.42 INSPECTION.

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

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

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

(Ord. 28F, passed 10-31-00; Am. Ord. 60-2007, passed 8-14-07)

§ 51.43 ORDERS AND NOTICES.

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

(Ord. 28F, passed 10-31-00; Am. Ord. 60-2007, passed 8-14-07)

§ 51.44 COMPLIANCE.

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

(B) Any order or notice issued or served by the Department shall be complied with by the owner, operator, occupant or other person deemed by the Department to be responsible for the condition or violation to which the order or notice pertains. Every order or notice shall set forth a time limit for compliance depending upon the nature of the hazardous waste and the danger created by the violation. In cases of extreme danger to the health, welfare and safety of the public, immediate compliance shall be required. If the building or other premises is owned by one person and occupied by another, under lease or otherwise, and the order or notice requires immediate compliance for the health, welfare and safety of the public, the order or notice shall be complied with by the owner, unless the owner and occupant have otherwise agreed between themselves, in which event the occupant shall comply.

(Ord. 28F, passed 10-31-00; Am. Ord. 60-2007, passed 8-14-07)

§ 51.45 CITATION AUTHORITY.

Upon approval by resolution, the County Board may issue citation authority to the Department.

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

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

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

(2) Citations shall be made out in quadruplicate. One copy shall be issued to the person alleged to have committed the violation; one copy shall be filed with the Department; one copy shall be filed with the County Attorney's Office; one copy shall be filed with the District Court, First Judicial District.

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

- (a) The name and address of the person alleged to have committed the violation and, when known, the owner or person in charge of the premises at which the violation occurs;
- (b) The date and place of violation;
- (c) A short description of the violation followed by reference to the section of this chapter violated;
- (d) The name of person issuing the citation;
- (e) The date and place at which the person receiving the citation shall appear and a notice that if the person does not respond, a warrant may be issued for the person's arrest; and
- (f) Other information as the Court may specify.

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

- (a) Pay the fine assigned to the violation; or
- (b) Schedule a court date for a hearing on the citation.

(5) If the person charged with the violation fails to appear as required by the citation, the citation shall be referred to the County Attorney's Office.

(Ord. 28F, passed 10-31-00; Am. Ord. 60-2007, passed 8-14-07)

§ 51.46 SUSPENSION OF LICENSE.

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

(B) (1) The suspension shall not occur earlier than ten county working days after written notice of suspension has been served on the licensee. Notice to the licensee shall be served personally or by registered or certified mail at the address designated in the license application.

(2) The written notice of suspension shall contain the effective date of the suspension, the nature of the violation or violations constituting the basis for the suspension, the facts which support the conclusion that a violation or violations has occurred, and a statement that if a licensee desires a hearing, he or she must within ten county working days, exclusive of the day of service, file a request for a hearing with the Department. If the licensee fails to request a hearing, he shall forfeit any opportunity to a hearing. If a hearing is requested, the suspension shall be stayed pending outcome of the hearing.

(Ord. 28F, passed 10-31-00; Am. Ord. 60-2007, passed 8-14-07)

§ 51.47 SUMMARY SUSPENSION.

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

(B) The written notice in such cases shall state the effective date of the suspension, the nature of the violation or violations requiring emergency action, the facts which support the conclusion that a violation or violations has occurred and a statement that if the licensee desires a hearing that he must, within ten county working days, exclusive of the day of service, file a request for a hearing with the Department. If the licensee fails to request a hearing, he shall forfeit any opportunity to a hearing. Any such suspension shall be reviewed by the Department upon a written request of the licensee.

(C) If a hearing is requested, the summary suspension shall not be stayed pending the outcome of the hearing.

(Ord. 28F, passed 10-31-00; Am. Ord. 60-2007, passed 8-14-07)

§ 51.48 SUSPENSION REINSPECTIONS.

Upon written notification from the licensee that all the violations for which a suspension or summary suspension was revoked have been corrected, the Department shall reinspect the facility or activity within a reasonable length of time, but in no case more than three county working days after receipt of the notice from the licensee. If the Department finds upon the reinspection that the violations constituting the grounds for the suspension have been corrected, the Department shall immediately dismiss the suspension by written notice to the licensee and the County Board.

(Ord. 28F, passed 10-31-00; Am. Ord. 60-2007, passed 8-14-07)

§ 51.49 REVOCATION OF LICENSE.

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

(B) Revocation shall not occur earlier than ten county working days from the time that written notice of the revocation is served on the licensee. Notice to the licensee shall be served personally or by registered or certified mail at the address designated in the license application. The written notice of revocation shall contain the effective date of the revocation, the nature of the violation or violations constituting the basis for the revocation, the facts which support the conclusion that a violation or violations has occurred and a statement that if the licensee desires a hearing, he or she must within ten county working days, exclusive of the day of service, file a request for a hearing with the Department. If the licensee fails to request a hearing, he shall forfeit any opportunity for a hearing. If a hearing is requested, the revocation shall be stayed pending the outcome of the hearing.

(Ord. 28F, passed 10-31-00; Am. Ord. 60-2007, passed 8-14-07)

§ 51.50 HEARINGS.

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

(A) *Hearing officer.* The hearing shall be before an impartial hearing officer who shall conduct the hearing on behalf of the County Board. The Department shall prescribe the duties of the hearing officer or contract with the Office of Administrative Hearings. The Department shall ascertain the availability and timeliness of scheduling the hearing through the Office of Administrative Hearings. If it is determined that a prompt hearing is not readily available through the Office of Administrative Hearings, the Department may appoint an individual learned in the law to act as the hearing officer.

(B) *Prehearing and hearing notice.* The Department shall schedule and provide notice of the date, time and place of the prehearing conference and hearing. The prehearing conference shall be held at least three weeks prior to the hearing. The hearing shall be held no later than 45 calendar days after receipt of the request for hearing or by mutual agreement of the parties, subject to scheduling by the Office of Administrative Hearings.

(C) *Procedure.* The prehearing conference and hearing shall be conducted in the following manner:

(1) The prehearing conference shall define the issues, schedule the exchange of witness lists and documentary evidence, seek agreement on the authenticity of documents and relevant testimonial evidence, determine whether intended evidence is cumulative and repetitive, and consider all other matters that will assist in a fair and expeditious hearing.

(2) Each party shall exchange all relevant information and documentary evidence at least one week prior to the hearing date. Such information shall include all evidence intended for introduction at the hearing and includes but is not limited to the following: exhibits; statements; reports; witness lists including a description of the facts and opinions to which each is expected to testify; photographs; slides; demonstrative evidence. Evidence not exchanged in accordance with this provision will not be considered in the hearing unless good cause is shown to the hearing officer.

(3) The hearing shall be public and shall be tape recorded or upon agreement of the parties may be recorded by a court reporter.

(4) All witnesses shall testify under oath or affirmation.

(5) Hearings shall be informal and the rules of evidence as applied in the courts shall not apply. Irrelevant, immaterial and repetitious evidence shall be excluded.

(6) The Department shall have the burden of proof through clear and convincing evidence.

(7) The Department, licensee or applicant, and additional parties as determined by the hearing officer, shall present evidence in that order. Each party shall have the opportunity to cross-examine the witnesses of the other party. The hearing officer may examine witnesses.

(8) Failure of an applicant or licensee to appear at the hearing shall result in a waiver of the right to a hearing.

(9) The hearing officer shall issue a report containing written findings of fact and conclusions based upon the evidence presented at the hearing and shall submit the same to the County Board.

(10) Each party may submit written arguments to the County Board.

(11) The County Board shall consider the report of the hearing officer at the next possible board meeting and may adopt or modify the report and take action, reject the report of the hearing officer, or remand for further hearing. The parties shall be notified of the action of the County Board within 30 calendar days following its determination.

(12) Issuing, denying, suspending, modifying, imposing conditions upon or revoking a license shall be subject to review by the Agency. The Agency shall after written notification have 15 days to review, affirm, suspend, modify or reverse the action of the County Board. After this period the action of the County Board shall be final subject to appeal to the District Court.

(13) Appeal of a decision by the County Board shall be made to the District Court within 30 calendar days following the review by the Agency. The scope of review of the District Court shall be governed by M.S. § 14.69. Filing an appeal does not stay enforcement of the County Board decision.

(Ord. 28F, passed 10-31-00; Am. Ord. 60-2007, passed 8-14-07)

§ 51.99 PENALTY.

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

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

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

(D) The penalty for late initial license application, late license renewal application or late license fee payment shall be established by ordinance by the County Board.

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

(Ord. 28F, passed 10-31-00; Am. Ord. 60-2007, passed 8-14-07)

CHAPTER 52: SUBSURFACE SEWAGE TREATMENT SYSTEMS

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GENERAL PROVISIONS

§ 52.001 PURPOSE.

The purpose of this chapter is to establish minimum requirements for regulation of subsurface sewage treatment systems (hereinafter “SSTS”) for the treatment and dispersal of sewage within the applicable jurisdiction of the Department to protect public health and safety, groundwater quality and prevent or eliminate the development of public nuisances. It is intended to serve the best interests of the County’s citizens by protecting its health, safety, general welfare, and natural resources.

(Ord. 67-2010, passed 5-17-11)

§ 52.002 INTENT.

It is intended by the Carver County Environmental Services Department that this Chapter will promote the following.

- (A) The protection of lakes, rivers and streams, wetlands, and groundwater in Carver County essential to the promotion of public health, safety, welfare, socioeconomic growth, and development of the County.
- (B) The regulation of proper SSTS construction, reconstruction, repair, and maintenance to prevent the entry and migration of contaminants, thereby protecting surface water and groundwater from degradation.
- (C) The establishment of minimum standards for SSTS placement, design, construction, reconstruction,

repair, and maintenance to prevent contamination and, if contamination is discovered, the identification and control of its consequences and the abatement of its source and migration.

(D) The appropriate utilization of privy vaults and other non-water carried sewage collection and storage facilities.

(E) The provision of SSTS technical assistance and education, plan review, inspections, surveys, and complaint investigations to prevent and control water-borne diseases, lake degradation, groundwater related hazards, and public nuisance conditions.

(Ord. 67-2010, passed 5-17-11)

§ 52.003 AUTHORITY.

This chapter is enacted pursuant to M.S. §§ 115.55 and 115.56; M.S. § 145A.01 through 145A.08; M.S. § 375.51; or successor statutes and Minn. Rules, Chapter 7080, Chapter 7081, Chapter 7082, and Chapter 7083; or successor rules as they may be amended from time to time.

(Ord. 67-2010, passed 5-17-11)

§ 52.004 DEFINITIONS.

The following words and phrases shall have the meanings ascribed to them in this section. If not specifically defined in this section, terms used in this chapter shall have the same meaning as provided in the standards adopted by reference in § 52.020. Words or phrases that are not defined here or in the standards adopted by reference shall have common usage meaning. For purposes of this chapter, the words “must” and “shall” are mandatory, and the words “may” and “should” are permissive.

ARTIFICIAL DRAINAGE. An SSTS that uses artificial drainage to lower the periodically saturated soil level to create the required separation between the distribution media and the water table.

BOARD OF ADJUSTMENT. A board established by Carver County Zoning Code, Chapter 152 with the authority to order the issuance of variances, hear and decide appeals from a member of the affected public, and review any order, requirement, decision, or determination made by any administrative official charged with enforcing any chapter adopted pursuant to the provision of M.S. §§ 394.21 to 394.37, order the issuance of permits for buildings in areas designated for future public use on an official map and perform such other duties as required by the official controls.

CLASS V INJECTION WELL. A shallow well used to place a variety of fluids directly below the land surface, which includes a domestic SSTS serving more than 20 people. The US Environmental Protection Agency and delegated state groundwater programs permit these wells to inject wastes below the ground surface provided they meet certain requirements and do not endanger underground sources of drinking water. Class V motor vehicle waste disposal wells and large-capacity cesspools are specifically prohibited (see 40 C.F.R. §§ 144 and 146).

CLUSTER SYSTEM. An SSTS under some form of common ownership that collects wastewater from two or more dwellings or structures and conveys it to a soil treatment and dispersal system located on an acceptable site near the dwellings or structures.

COUNTY. Carver County, Minnesota.

COUNTY BOARD. The Carver County Board of Commissioners.

DEPARTMENT. The Carver County Environmental Services Department.

MPCA. The Minnesota Pollution Control Agency.

QUALIFIED EMPLOYEE. An employee of the state or a local unit of government, who performs site evaluations or designs, installs, maintains, pumps, or inspects SSTS as part of the individual's employment duties and is a certified SSTS professional with specialty area endorsements applicable to the work being conducted.

STATE. The State of Minnesota.

SUBSURFACE SEWAGE TREATMENT SYSTEM or "SSTS". A subsurface sewage treatment system includes individual subsurface sewage treatment systems and mid-sized subsurface sewage treatment systems

TREATMENT LEVEL. Treatment system performance levels defined in Minn. Rules Chapter 7083.4030 and Table III for testing of proprietary treatment products. Minnesota Rules Chapter 7083.4030 is hereby incorporated by reference as amended from time to time.

(Ord. 67-2010, passed 5-17-11)

§ 52.005 SCOPE.

This chapter regulates the siting, design, installation, alterations, operation, maintenance, monitoring, and management of all SSTS within the Department's applicable jurisdiction including, but not limited to individual SSTS and cluster or community SSTS, privy vaults, and other non-water carried SSTS. All sewage generated in unsewered areas of the county must be treated and dispersed by an approved SSTS that is sited, designed, installed, operated, and maintained in accordance with the provisions of this chapter or by an SSTS that has been permitted by the MPCA.

(Ord. 67-2010, passed 5-17-11)

§ 52.006 JURISDICTION.

The jurisdiction of this chapter shall include all lands of the county except for incorporated areas that administer an SSTS program by ordinance within their incorporated jurisdiction, which is at least as strict as this chapter.

(Ord. 67-2010, passed 5-17-11)

§ 52.007 ABROGATION AND GREATER RESTRICTIONS.

It is not intended by this chapter to repeal, abrogate, or impair any other existing Carver County chapters, easements, covenants, or deed restrictions. Whenever any provision of this chapter is found to be in direct

conflict with the provisions of any other Carver County chapter, the chapter containing the more restrictive requirements shall govern.

(Ord. 67-2010, passed 5-17-11)

§ 52.008 COUNTY ADMINISTRATION.

The County Environmental Services Department is authorized to administer the SSTS program and all provisions of this chapter. At appropriate times, the Department may review and request revisions to update this chapter as necessary. The Department may employ or retain under contract, qualified, and appropriately certified and/or licensed SSTS professional(s) to administer and operate the SSTS program.

(Ord. 67-2010, passed 5-17-11)

§ 52.009 STATE DISPOSAL SYSTEM PERMIT.

(A) The owner or owners of a single SSTS or a group of SSTS under common ownership must obtain a state disposal system permit from the MPCA, when all or part of proposed or existing soil dispersal components are within one-half mile of each other and the combined flow from all proposed and existing SSTS is greater than 10,000 gallons per day.

(B) SSTS serving establishments or facilities licensed or otherwise regulated by the state must conform to the requirements of this chapter.

(Ord. 67-2010, passed 5-17-11) Penalty, see § 52.999

§ 52.010 SSTS OPERATION AND EFFECTIVENESS.

Neither the issuance of SSTS permits or certificates of compliance shall be construed to represent a guarantee or warranty of the SSTS operation or effectiveness.

(Ord. 67-2010, passed 5-17-11)

§ 52.011 VALIDITY.

The validity of any part of this chapter shall not be affected by the invalidity of any other parts of this chapter where the part can be given effect, irrespective of any invalid part or parts.

(Ord. 67-2010, passed 5-17-11)

§ 52.012 LIABILITY.

No liability or responsibility shall be imposed upon the Department or any of its officials, employees, contractors, agents, or servants thereof, for damage resulting from a defective design, construction, operation,

abandonment, or misplacement of any onsite or cluster SSTS regulated under this rule by reason of standards, requirements, or inspections authorized hereunder.

(Ord. 67-2010, passed 5-17-11)

SSTS STANDARDS

§ 52.020 STANDARDS ADOPTED BY REFERENCE.

Minnesota Rules Chapters 7080, 7081, 7082, and 7083, as they may be amended from time to time, relating to SSTS are hereby adopted by reference and made part of this chapter as if fully set forth herein, except as modified by or inconsistent with provisions of this chapter. This adoption does not supersede the county's right or ability to adopt local standards that are in compliance with M.S. § 115.55.

(Ord. 67-2010, passed 5-17-11)

§ 52.021 AMENDMENTS TO THE ADOPTED STANDARDS.

(A) Minnesota Rules Chapter 7080.1500, subpart 6, is amended to include: An SSTS design that proposes to reuse an existing tank(s) for a replacement SSTS must include the MPCA Tank Integrity and Safety Compliance form, which includes a verification that all tank and riser joints, riser connections, and pipe connections are watertight according to Minn. Rules Chapter 7080.2010, subpart 1, item A.

(B) Minnesota Rules Chapter 7080.1730, item B, is amended as follows: Dates of preliminary and field evaluations must be dated within 12 months of the date of the SSTS construction permit application and within 24 months of the SSTS installation.

(C) Minnesota Rules Chapter 7080.1730, item F, is amended to include: the Department must be notified of any technical requirements of this chapter, Minn. Rules Chapter 7080, or Chapter 7081, that cannot be met before the design is completed.

(D) Minnesota Rules Chapter 7080.1930, subpart 1, Table V "Septic Tank Liquid Minimum Capacities (Gallons)", is amended as follows:

<i>Number of Bedrooms</i>	<i>Tank Size With Multiple Compartments or Multiple Tanks in Series</i>	<i>Tank Size With Garbage Disposal and/or Lift in the Basement</i>	<i>Pump Tank</i>
2 or less	1500	2250	1000
3 or 4	2000	3000	1000
5 or 6	2250	3375	1500
7, 8, or 9	3000	4500	1500

SSTS with a valid certificate of compliance may not be required to meet the above sizing chart if the tank capacity and soil treatment and dispersal system meet the current minimum state requirements for the anticipated additional gallons per day.

(E) Minnesota Rules Chapter 7080.2000, item C, is amended as follows: The top of sewage tanks must not be buried deeper than four feet from final grade. Exceptions may be made on a case by case basis for existing uses with extenuating circumstances preventing a shallow burial, not to exceed the tank manufacturer's maximum designed depth for the tank. The minimum depth of soil cover over the insulation on the top of the tank is six inches.

(F) Minnesota Rules Chapter 7080.2100, subpart 2, item B, is amended to include: The pump discharge line must be sleeved with a four-inch PVC pipe from the edge of the tank or maintenance hole to undisturbed ground.

(G) Minnesota Rules Chapter 7080.2150, subpart 2, Table VII, is amended to include: Setbacks from the soil treatment and dispersal area for above grade systems, including but not limited to: mound and at grade systems, will be measured from the toe of the slope to any property line(s) and/or road right-of-way(s). Setback of ten feet from the SSTS to a swimming pool. Setback of 20 feet from the SSTS to slopes greater than 20%. Setback of 50 feet from the SSTS to a bluff. Setback of ten feet (20 feet in shoreland areas) to an interceptor drain.

(H) Minnesota Rules Chapter 7080.2220, subpart 2, item B, is amended to include: Setbacks from the soil treatment and dispersal area for above grade systems, including but not limited to: mound and at grade systems, will be measured from the toe of the slope to any property line(s) and/or road right-of-way(s). Setback of ten feet from the SSTS to a swimming pool. Setback of 20 feet from the SSTS to slopes greater than 20%. Setback of 50 feet from the SSTS to a bluff. Setback of ten feet (20 feet in shoreland areas) to an interceptor drain.

(I) Minnesota Rules Chapter 7080.2220, subpart 3, item J, is amended as follows: The entire area that will receive materials for a mound must be roughened by approved methods.

(J) Minnesota Rules Chapter 7080.2230, subpart 2, item C, is amended to include: Setbacks from the soil treatment and dispersal area for above grade systems, including but not limited to: mound and at grade systems, will be measured from the toe of the slope to any property line(s) and/or road right-of-way(s). Setback of ten feet from the SSTS to a swimming pool. Setback of 20 feet from the SSTS to slopes greater than 20%. Setback of 50 feet from the SSTS to a bluff. Setback of ten feet (20 feet in shoreland areas) to an interceptor drain.

(K) Minnesota Rules Chapter 7080.2290, item D, is amended as follows: For a dwelling, the minimum holding tank size is 1,500 gallons or 400 gallons times the number of bedrooms, whichever is greater. For other establishments, the minimum holding tank size is 1,500 gallons or at least five times the design flow, whichever is greater. The required capacity of holding tank(s) in flood plain areas must be calculated according to Minn. Rules Chapter 7080.2270, subpart 10.

(L) Minnesota Rules Chapter 7080.2350 is amended as follows: Type IV Systems may be allowed, with the exception of those that would reduce the required three-foot separation to the periodically saturated soil or to downsize the required soil treatment and dispersal system. Type IV Systems installed prior to June 1, 2011 are exempt from this prohibition. When an advanced treatment device is added to an SSTS (new or existing), pressure distribution must be provided in the soil treatment and dispersal system.

(M) Minnesota Rules Chapter 7080.2400, is amended as follows: Type V Systems are prohibited. Type V Systems installed prior to June 1, 2011 are exempt from this prohibition.

(N) Minnesota Rules Chapter 7082.0100, subpart 1, item A, is amended as follows: An SSTS that fails to protect groundwater, as described in Minn. Rules Chapter 7080.1500, subpart 4, item B, must be brought into compliance within 36 months of the date of the notice of noncompliance, discovery by the Department, or within ten months from the date of the property transfer, whichever is the earlier date.

(O) Minnesota Rules Chapter 7082.0700, subpart 2, item A1, is amended to include: Compliance inspections of existing SSTS are required:

(1) Before any permit or variance is issued for a property with an SSTS located in a shoreland area (1,000 feet of a lake, pond, or flowage; or 300 feet of a river or stream, or the landward extent of a floodplain), subject to the exceptions in Carver County Zoning Code § 152.122.

(2) When there is a change in the use of the property or structure(s) that would affect water use, including but not limited to: a permit or variance to expand a structure for the purpose of a bedroom, home business, contractor’s yard, or daycare. The certificate of compliance must also certify that all components are sized to current State minimum requirements for the additional bedroom or the change in use.

(3) When an SSTS construction permit is required to repair, modify, or upgrade an existing SSTS.

(4) At the time of property sale or transfer, in accordance with § 52.199. Any evaluation, investigation, inspection, recommendation, or other process used to prepare a disclosure statement, if conducted by a party who is not the SSTS owner, constitutes a compliance inspection, and must be conducted in accordance with Minn. Rules Chapter 7080.1500.

(5) When there is a division of land pursuant to Carver County Zoning Code § 152.035(D).

(6) During systematic lake or area wide SSTS surveys by the Department as described in § 52.043.

(7) Any time that a building permit is applied for and no record of a soil treatment and dispersal system exists.

(P) Minnesota Rules Chapter 7083.0700, item B, is repealed.

(Q) Minnesota Rules Chapter 7083.0700, item F, is amended as follows: An owner may abandon an SSTS, on property they own, if a final inspection is conducted by the Department or licensed SSTS professional. An individual or business, independent of the owner, which abandons an SSTS, must be licensed as an SSTS professional by the Minnesota Pollution Control Agency.

(R) Minnesota Rules Chapter 7083.0770, subpart 2, is amended to include: Submit a tank maintenance report for each SSTS to the Department and the property owner.

(Ord. 67-2010, passed 5-17-11)

§ 52.022 SSTS SETBACKS.

SSTS must be designed and installed to comply with the following minimum setback distances measured in feet:

<i>Feature</i>	<i>Tank(s)/ Sealed Privy</i>	<i>Soil Treatment and Dispersal Area/ Unsealed Privy</i>	<i>Building Sewer or Supply Pipes</i>
Private, single family water supply well with less than 50 feet of casing and not	50	100	50

encountering 10 feet of impervious material. ¹			
Any other private, single family water supply well or buried water suction pipe. ²	50	50	50
Buried pipe distributing water under pressure. ³	10	10	10
Structure(s) ⁴	10	20	-
Property lines and road right-of-ways. ⁵	10	10 Above grade systems will be measured from the toe of the slope. ⁶	
Ordinary high watermark of natural environmental lakes. ⁷	150	150	-
Ordinary high watermark of recreational development lakes and protected water courses. ⁷	75	75	-
Ordinary high watermark of general development lakes. ⁷	50	50	-
Swimming pool.	10	10	-
Slopes of 20% or greater.	20	20	-
Bluff. (Average grade 25% slope and has a 25' rise in elevation.)	50	50	
Interceptor drains.	-	10 (20 feet in Shoreland Areas.)	-

¹ (Minn. Rules Chapter 7080.1710, item B and Minn. Rules Chapter 4725)

² (Minn. Rules Chapters 4725 and 4715)

³ (Minn. Rules Chapter 4715)

⁴ (Minn. Rules Chapter 7080.215 Table VII)

⁵ (Minn. Rules Chapter 7080.215 Table VII)

⁶ (When lot size prohibits meeting the required ten-foot setback from the toe of the slope, the ten-foot setback may be measured from the absorption area, with Department approval and a survey verifying the proposed

setback. The survey must be provided by the property owner at the property owner's expense.)

⁷(Shoreland Management Act and Minn. Rules Chapters 6105 and 6120)

(Ord. 67-2010, passed 5-17-11)

§ 52.023 DETERMINATION OF HYDRAULIC LOADING RATE AND SSTS SIZING.

(A) Minnesota Rules Chapter 7080.2150, subpart 3, item E, Table IX, entitled "Loading Rates for Determining Bottom Absorption Area and Absorption Ratios Using Detail Soil Descriptions" and herein adopted by reference, must be used to determine the hydraulic loading rate and infiltration area for all SSTS permitted under this chapter.

(B) Percolation testing may also be required per § 52.162(C)(2). Minnesota Rules Chapter 7080.2150, subpart 3, item E, Table IXa, entitled "Loading Rates for Determining Bottom Absorption Area and Absorption Ratios Using Percolation Tests" and herein adopted by reference. The larger sizing factor of the two must be used for the SSTS design.

(Ord. 67-2010, passed 5-17-11)

§ 52.024 HOLDING TANKS.

Holding tanks may be used for single family homes and other structures with limited water use, as determined by the Department, under the following conditions.

(A) Holding tank(s) may be allowed for structures or pre-existing dwellings where an SSTS, as described in Minn. Rules Chapter 7080.2210 through 7080.2230, or site conditions described in Minn. Rules Chapter 7081.0270, subparts 3 through 7, cannot reasonably be installed as determined by the Department.

(B) Septic tank(s) may be allowed temporarily as holding tank(s) for:

(1) New residential construction completed when the ground is frozen or the soil is above the plastic limit not allowing the full soil treatment and dispersal system to be installed; or

(2) Repair of an imminent threat to public health or safety in accordance with § 52.056.

(C) Holding tank(s) must not be used as an SSTS for:

(1) New residential construction;

(2) Improvements greater than 50% of the assessed value of the structure at the time of the application for the improvement; or

(3) Recreational uses on undeveloped lots of record.

(D) A minimum of a 1,500-gallon holding tank must be installed in accordance with Minn. Rules Chapter 7080.2290.

(E) The property owner must provide to the Department a copy of a valid monitoring and disposal contract executed between the property owner and a licensed SSTS maintainer, which guarantees the removal of the holding tank contents in a timely manner that prevents an illegal discharge in accordance with Minn. Rules Chapter 7082.0100, subpart 3, item G.

(F) The property owner must hold a valid contract with a licensed SSTS maintainer at all times.

(G) The licensed SSTS maintainer must certify the date the pumping occurred, number of gallons removed, any tank leakage below or above the operating depth, and the treatment facility to which the waste was discharged and if applicable, water meter reading at the time of pumping. The licensed SSTS maintainer is to note any safety concerns, troubleshooting or repairs conducted.

(Ord. 67-2010, passed 5-17-11) Penalty, see § 52.999

§ 52.025 SSTS CONSTRUCTION IN FLOODPLAINS.

SSTS must not be located in a floodway and wherever possible, location within any part of a floodplain should be avoided. If no option exists to locate an SSTS outside of a floodplain, location within the flood fringe is allowed if the requirements in Minn. Rules Chapter 7080.2270 and all relevant local requirements are met.

(Ord. 67-2010, passed 5-17-11) Penalty, see § 52.999

§ 52.026 CLASS V INJECTION WELLS.

All owners of new or replacement SSTS that are considered to be Class V injection wells, as defined in 40 C.F.R. § 144, are required by the Federal Government to submit SSTS inventory information to the Environmental Protection Agency as described in 40 C.F.R. § 144. Further, owners are required to identify all Class V injection wells in property transfer disclosures.

(Ord. 67-2010, passed 5-17-11) Penalty, see § 52.999

GENERAL REQUIREMENTS RETROACTIVITY

§ 52.040 ALL SSTS.

Except as explicitly set forth in § 52.041, all provisions of this chapter shall apply to any SSTS regardless of the date it was originally permitted.

(Ord. 67-2010, passed 5-17-11)

§ 52.041 EXISTING SSTS CONSTRUCTION PERMITS.

Unexpired SSTS construction permits which were issued prior to the effective date of this chapter shall remain valid until the original expiration date or until a change in property ownership, whichever is earlier and shall be governed by the rules in effect at the time the SSTS construction permit was issued.

(Ord. 67-2010, passed 5-17-11)

§ 52.042 SSTS ON LOTS CREATED AFTER JANUARY 23,1996.

All lots created after January 23, 1996 must have a minimum of two soil treatment and dispersal areas that can support systems as described in Minn. Rules Chapters 7080.2210 through 7080.2230, or site conditions described in Minn. Rules Chapter 7081.0270, subparts 3 through 7, as identified by a licensed SSTS designer. It shall be the responsibility of the property owner to preserve and protect the soil treatment and dispersal areas from compaction, building, or other activities which could conceivably limit the use of the sites for sewage treatment and dispersal.

(Ord. 67-2010, passed 5-17-11) Penalty, see § 52.999

§ 52.043 EXISTING SSTS WITHOUT PERMITS.

In order to meet water quality goals, the County Board may, from time to time, adopt by resolution programs to accelerate SSTS compliance. The resolution may identify specific geographic areas, timelines for compliance, establish incentives, target specific system types, and may include such other provisions as necessary to accomplish the goals.

(Ord. 67-2010, passed 5-17-11)

SSTS UPGRADE, REPAIR, REPLACEMENT, AND ABANDONMENT

§ 52.055 FAILURE TO PROTECT GROUNDWATER.

An SSTS that is determined not to be protective of groundwater in accordance with Minn. Rules Chapter 7080.1500, subpart 4, item B, must be connected to a municipal wastewater treatment system, upgraded, repaired, replaced, or abandoned in accordance with the provisions of this chapter within 36 months of the date of the notice of noncompliance, discovery by the Department, or within ten months from the date of property transfer, whichever is the earlier date. The Department has the authority to require repair or replacement of the SSTS sooner than specified above.

(Ord. 67-2010, passed 5-17-11) Penalty, see § 52.999

§ 52.056 IMMINENT THREAT TO PUBLIC HEALTH OR SAFETY.

An SSTS that is determined to be an imminent threat to public health or safety in accordance with Minn. Rules Chapter 7080.1500, subpart 4, item A, must be connected to a municipal wastewater treatment system, upgraded, repaired, replaced, or abandoned in accordance with the provisions of this chapter within ten months of the date of the notice of noncompliance or discovery by the Department, whichever is the earlier date. The Department has the authority to require repair or replacement of an imminent threat to public health sooner than specified above. The Department may require the property owner to:

- (A) Respond within five business days of notification by submitting a plan for abating the discharge; or

(B) Pump the septic tank(s) as an interim abatement measure.

(Ord. 67-2010, passed 5-17-11) Penalty, see § 52.999

§ 52.057 SSTS EMPLOYING ARTIFICIAL DRAINAGE.

(A) Existing curtain drain systems identified through a compliance inspection and resulting in failure due to lack of separation to the periodically saturated soils may continue in use if the SSTS is enrolled in the curtain drain monitoring program and continues to meet the requirements of the program.

(B) Curtain drain systems that do not have the required separation to the periodically saturated soils but meet the requirements of the curtain drain monitoring program shall not be considered failing for the purposes of this division.

(C) If at any time during the monitoring of the SSTS, the requirements of the program are not met, the SSTS will be deemed failing and the SSTS must be brought into compliance.

(Ord. 67-2010, passed 5-17-11) Penalty, see § 52.999

§ 52.058 ABANDONMENT.

(A) Any SSTS, or any component thereof, which is no longer intended to be used, must be abandoned in accordance with Minn. Rules Chapter 7080.2500.

(B) A property owner may retain a licensed SSTS business to abandon all the components of the SSTS, and submit the MPCA's SSTS Abandonment Reporting Form to the Department within 30 days of the abandonment, or complete the abandonment themselves provided a final inspection is conducted by the Department or a licensed SSTS professional.

(Ord. 67-2010, passed 5-17-11) Penalty, see § 52.999

SSTS CONSTRUCTION PERMIT

§ 52.070 SSTS CONSTRUCTION PERMIT REQUIRED.

It is unlawful for any person, business, firm, or corporation to construct, install, modify, replace, or operate an SSTS without the appropriate permit from the Department. The issuing of any permit, variance, or conditional use under the provisions of the Carver County Zoning Code shall not absolve the property owner(s) of responsibility to obtain any other required permits.

(Ord. 67-2010, passed 5-17-11) Penalty, see § 52.999

§ 52.071 SSTS CONSTRUCTION PERMIT.

An SSTS construction permit must be obtained by the property owner, or an agent of the property owner, from the Department prior to the installation, construction, replacement, modification, alteration, repair, or

capacity expansion of an SSTS. The purpose of this permit is to ensure that the proposed construction activity is sited, designed, and constructed in accordance with the provisions of this chapter by appropriately certified and/or licensed SSTS professional(s).

(Ord. 67-2010, passed 5-17-11) Penalty, see § 52.999

§ 52.072 ACTIVITIES REQUIRING AN SSTS CONSTRUCTION PERMIT.

(A) An SSTS construction permit is required for the installation of a new SSTS, replacement of an existing SSTS, or any repair or replacement of components that will alter the original design, layout, function, treatment capacity, or location of the system.

(B) Rejuvenation and remediation technologies are allowed as prescribed in Minn. Rules Chapter 7080.2450, subpart 8; or successor rules. These types of repair technologies are not to be considered a minor repair, and require an SSTS construction permit as set forth in § 52.071.

(Ord. 67-2010, passed 5-17-11) Penalty, see § 52.999

§ 52.073 ACTIVITIES NOT REQUIRING AN SSTS CONSTRUCTION PERMIT.

An SSTS construction permit is not required for minor repairs as long as the repairs do not change the original design, layout, function, treatment capacity, or location of the system. Examples of such minor repairs include, but are not limited to: replacement of the pump, floats, alarm, inspection pipes or caps, maintenance hole risers, or tank baffles.

(Ord. 67-2010, passed 5-17-11)

§ 52.074 SSTS CONSTRUCTION PERMIT REQUIRED TO OBTAIN BUILDING PERMIT.

(A) For any property on which an SSTS construction permit is required, approval and issuance of a valid SSTS construction permit must be obtained before a building or land use permit may be issued by the Carver County Public Health and Environment Division.

(B) Failure to submit an existing SSTS compliance inspection for a property transfer, pursuant to § 52.199, will result in all future building or land use permit application(s) for the property to be denied until a certificate of compliance is submitted for the existing SSTS, or an escrow account is established and an SSTS construction permit is issued.

(Ord. 67-2010, passed 5-17-11) Penalty, see § 52.999

§ 52.075 CONFORMANCE TO PREVAILING REQUIREMENTS.

Any activity involving an existing SSTS that requires an SSTS construction permit shall require that the entire SSTS be brought into compliance with Minn. Rules Chapter 7080.1500 and verification of any existing tank(s) proposed for reuse must meet Minn. Rules Chapter 7080.2010, subpart 1, item A.

(Ord. 67-2010, passed 5-17-11) Penalty, see § 52.999

§ 52.076 SSTS CONSTRUCTION PERMIT APPLICATION REQUIREMENTS.

SSTS construction permit applications must be made on forms provided by the Department and signed by the property owner and the licensed SSTS installer including the installer's certification number and date of expiration. The applications must include the documents listed in divisions (A) through (E) below.

- (A) Name, mailing address, telephone number, and email address.
- (B) Property Identification Number and address or other description of property location.
- (C) Site evaluation report as described in Minn. Rules Chapter 7080.1730.
- (D) Design report as described in Minn. Rules Chapter 7080.2430.
- (E) SSTS management plan and/or operating permit application as described in Minn. Rules Chapter 7082.0600.

(Ord. 67-2010, passed 5-17-11) Penalty, see § 52.999

§ 52.077 SSTS CONSTRUCTION PERMIT APPLICATION REVIEW AND RESPONSE.

The Department is authorized to review an SSTS construction permit application and supporting documents. Upon the Department's satisfaction that the proposed work will conform to the provisions of this chapter, a written permit authorizing construction of the SSTS as designed may be issued. In the event the applicant makes a significant change to the approved SSTS construction permit, the applicant must file an amended SSTS construction permit application and SSTS management plan detailing the changed conditions prior to initiating or continuing SSTS construction, modification, or operation for approval or denial.

(Ord. 67-2010, passed 5-17-11) Penalty, see § 52.999

§ 52.078 SSTS CONSTRUCTION PERMIT DENIED.

If an application for an SSTS construction permit is denied, notice of denial, including reasons for said denial, will be mailed to the address set forth in the SSTS construction permit application.

(Ord. 67-2010, passed 5-17-11)

§ 52.079 APPEAL.

(A) *Hearing.* An appeal from any order, requirement, decision, or determination from the Department shall be heard by the Board of Adjustment pursuant to Carver County Zoning Code, § 152.214.

(B) *Stay of action.* An appeal stays all proceeding and furtherance of the action appealed from unless the Board of Adjustment certifies that by reason of the facts stated in the certificate the stay would cause imminent

peril to life or property.

(C) *Action to Board of Adjustment.* The Board of Adjustment may reverse or affirm wholly or partly or may modify the order, requirement, decision, or determination appealed from and to that end shall have all of the powers of the officer from whom the appeal was taken and may direct issuance of the permit. The reasons for the Board of Adjustment's decision shall be stated in writing.

(Ord. 67-2010, passed 5-17-11)

§ 52.080 SSTS CONSTRUCTION PERMIT EXPIRATION.

The SSTS construction permit is valid for a period of one year from its date of issue, provided the preliminary and field evaluations for the SSTS design were completed within 24 months of the date of the SSTS installation.

(Ord. 67-2010, passed 5-17-11)

§ 52.081 FEES.

The County Board has the authority to establish fees for activities undertaken by the Department pursuant to this chapter. Fees shall be due and payable at a time and in a manner to be determined by the Department. Construction started before an SSTS construction permit has been obtained shall be charged twice the current SSTS construction permit fee.

(Ord. 67-2010, passed 5-17-11)

§ 52.082 SSTS CONSTRUCTION PERMIT TRANSFERABILITY.

An SSTS construction permit shall not be transferred to a new property owner or different licensed SSTS installer. The new property owner or licensed SSTS installer must amend the SSTS construction permit in accordance with this chapter.

(Ord. 67-2010, passed 5-17-11) Penalty, see § 52.999

§ 52.083 SSTS CONSTRUCTION PERMIT SUSPENSION OR REVOCATION.

(A) The Department may suspend or revoke an SSTS construction permit issued under this chapter for any false statements, erroneous or inaccurate data supplied by the property owner or licensed SSTS designer, or revised interpretation of the law by the Department or a building official, misrepresentations of facts on which the SSTS construction permit was issued or unauthorized changes to the SSTS.

(B) A notice of suspension or revocation and the reasons for the suspension or revocation shall be conveyed in writing to the property owner and the licensed SSTS installer.

(C) If suspended or revoked, installation or modification of an SSTS may not commence or continue until a valid SSTS construction permit is obtained.

(Ord. 67-2010, passed 5-17-11) Penalty, see § 52.999

§ 52.084 SSTS CONSTRUCTION PERMIT POSTING.

The SSTS construction permit must be posted on the property in such a location and manner so that the SSTS construction permit is visible and available for inspection until SSTS construction is completed and a certificate of compliance is issued.

(Ord. 67-2010, passed 5-17-11) Penalty, see § 52.999

SSTS MANAGEMENT PLAN

§ 52.095 PURPOSE.

The purpose of an SSTS management plan is to describe how a particular SSTS is intended to be operated and maintained to sustain the performance required.

(Ord. 67-2010, passed 5-17-11)

§ 52.096 SSTS REQUIRING MANAGEMENT PLANS.

SSTS management plans are required for all new or replacement SSTS. The SSTS management plan must be submitted to the property owner and the Department with the SSTS construction permit application.

(Ord. 67-2010, passed 5-17-11) Penalty, see § 52.999

§ 52.097 REQUIRED CONTENTS OF AN SSTS MANAGEMENT PLAN.

SSTS management plans shall include:

- (A) Operating requirements describing tasks that the property owner can perform and tasks that a licensed SSTS service provider or maintainer must perform;
- (B) Monitoring requirements;
- (C) Maintenance requirements including maintenance procedures and a schedule for routine maintenance;
- (D) Statement that the property owner is required to notify the Department when the SSTS management plan requirements are not being met;
- (E) Disclosure of the location and condition of the additional soil treatment and dispersal area on the owner's property or a property serving the owner's residence; and
- (F) Other requirements as determined by the Department.

(Ord. 67-2010, passed 5-17-11) Penalty, see § 52.999

§ 52.098 REQUIREMENTS FOR SSTS NOT OPERATED UNDER A MANAGEMENT PLAN.

SSTS that are not operated under an SSTS management plan must have sewage treatment tanks inspected and provide for the removal of solids if needed every three years. Solids must be removed when their accumulation meets the limit described in Minn. Rules Chapter 7080.2450.

(Ord. 67-2010, passed 5-17-11) Penalty, see § 52.999

SSTS OPERATING PERMIT

§ 52.110 SSTS REQUIRING AN OPERATING PERMIT.

(A) An SSTS operating permit shall be required of all owners of new Type IV, Type V, MSTs, or any other SSTS deemed by the Department to require operational oversight. Sewage effluent must not be discharged to the soil treatment and dispersal system until the Department certifies that the SSTS was installed in substantial conformance, as determined by the Department with the approved plans and a valid SSTS operating permit is issued to the property owner.

(B) Type IV, Type V, and MSTs installed prior to the effective date of this chapter shall require an SSTS operating permit upon transfer of ownership, replacement, modification, or expansion of the SSTS that requires an SSTS construction permit, or following any SSTS enforcement action.

(Ord. 67-2010, passed 5-17-11) Penalty, see § 52.999

§ 52.111 SSTS OPERATING PERMIT APPLICATION REQUIREMENTS.

Application for an SSTS operating permit must be made on a form provided by the Department including:

(A) Property owner's name, mailing address, telephone, and email address;

(B) SSTS construction permit reference number and date of issue;

(C) Final record drawings of the SSTS; and

(D) SSTS operating permit contracts. The owner of a Type IV, Type V, MSTs, or any other SSTS deemed by the Department to require operational oversight must hold a valid contract with a licensed SSTS service provider at all times, until the time the SSTS is properly abandoned.

(Ord. 67-2010, passed 5-17-11) Penalty, see § 52.999

§ 52.112 SSTS OPERATING PERMIT DEPARTMENT RESPONSE.

The Department is authorized to review the SSTS record drawings, operation and maintenance manual management plan, maintenance and servicing contract, and any other pertinent documents as appropriate for accuracy and completeness. If any deficiencies are identified, the SSTS operating permit shall be denied until

the deficiencies are corrected to the satisfaction of the Department.

(Ord. 67-2010, passed 5-17-11)

§ 52.113 SSTS OPERATING PERMIT TERMS AND CONDITIONS.

The SSTS operating permit must include the following:

- (A) SSTS performance and operating requirements;
- (B) Maintenance requirements and frequency;
- (C) Monitoring locations, procedures, and recording requirements;
- (D) Compliance limits and boundaries;
- (E) Reporting requirements of monitoring and maintenance;
- (F) Requirement that the property owner and licensed SSTS service provider must notify the Department when the SSTS operating permit requirements are not being met;
- (G) Disclosure of the location and condition of the alternate SSTS location;
- (H) Stipulation of acceptable and prohibited discharges; and
- (I) Valid contract between the property owner and a licensed SSTS maintenance business or service provider.

(Ord. 67-2010, passed 5-17-11) Penalty, see § 52.999

§ 52.114 SSTS OPERATING PERMIT EXPIRATION AND RENEWAL.

(A) SSTS operating permits shall be valid for the specific term stated on the permit as determined by the Department.

(B) An SSTS operating permit must be renewed prior to its expiration. If not renewed, the Department may require the SSTS to be removed from service or operated as a holding tank until the SSTS operating permit is renewed. If not renewed within 30 calendar days of the expiration date, the Department may require that the SSTS be abandoned in accordance with § 52.058.

(Ord. 67-2010, passed 5-17-11) Penalty, see § 52.999

§ 52.115 AMENDMENTS TO EXISTING SSTS OPERATING PERMITS NOT ALLOWED.

The Department may not amend an existing SSTS operating permit to reflect changes in this chapter until the permit term has expired, unless an amendment is necessary to eliminate an imminent threat to public health or safety.

(Ord. 67-2010, passed 5-17-11)

§ 52.116 SSTS OPERATING PERMITS NOT TRANSFERRABLE.

A new property owner must apply for an SSTS operating permit in accordance with § 52.111 of this chapter. The Department must not terminate the current SSTS operating permit until 60 calendar days after the date of the property transfer. To consider the new property owner's application, the Department may require monitoring by a licensed SSTS service provider in accordance to § 52.118.

(Ord. 67-2010, passed 5-17-11) Penalty, see § 52.999

§ 52.117 SUSPENSION OR REVOCATION OF SSTS OPERATING PERMITS.

(A) The Department may suspend or revoke any SSTS operating permit issued under this section for any false statements or misrepresentations of facts on which the SSTS operating permit was issued or if an imminent threat to public health exists.

(B) Notice of suspension or revocation and the reasons for revocation must be conveyed in writing to the property owner.

(C) If suspended or revoked, the Department may require that the SSTS be removed from service, operated as a holding tank, or abandoned in accordance with § 52.058.

(D) At the Department's discretion, the SSTS operating permit may be reinstated or renewed upon the property owner taking appropriate corrective actions.

(Ord. 67-2010, passed 5-17-11)

§ 52.118 MONITORING REQUIREMENTS FOR SSTS OPERATING PERMITS.

(A) Monitoring of an SSTS must be performed by a licensed SSTS service provider hired by the holder of the SSTS operating permit in accordance with the monitoring frequency and parameters stipulated in the SSTS operating permit.

(B) A monitoring report must be prepared and certified by the licensed SSTS service provider. The report must be submitted to the Department on or before the reporting date stipulated in the SSTS operating permit. The report must contain a description of all maintenance and servicing activities performed since the last monitoring report as described below:

- (1) Property owner's name and address;
- (2) SSTS operating permit number;
- (3) Average daily flow since last monitoring report;
- (4) Description of type of maintenance and date performed;

- (5) Description of samples taken (if required), analytical laboratory used, and results of analyses;
- (6) Problems noted with the SSTS, and actions proposed, or taken, to correct them; and
- (7) Name, signature, and license number of the licensed SSTS service provider who performed the work.

(Ord. 67-2010, passed 5-17-11) Penalty, see § 52.999

PROHIBITIONS

§ 52.130 OCCUPANCY OR USE OF A STRUCTURE WITHOUT A COMPLIANT SSTS.

It is unlawful for any person to maintain, occupy, or use any dwelling or structure with plumbing that is not:

- (A) Connected to a municipal wastewater treatment system; or
- (B) Provided with an SSTS that disposes of wastewater in a manner that complies with the provisions of this chapter.

(Ord. 67-2010, passed 5-17-11) Penalty, see § 52.999

§ 52.131 SEWAGE DISCHARGE TO GROUND SURFACE OR SURFACE WATER.

It is unlawful for any person to construct, maintain, or use any SSTS, regulated under this chapter, that results in raw or partially treated wastewater seeping to the ground surface or flowing into any surface water. Any surface discharging system must be permitted under the National Pollutant Discharge Elimination System program by the MPCA.

(Ord. 67-2010, passed 5-17-11) Penalty, see § 52.999

§ 52.132 SEWAGE DISCHARGE TO A WELL OR BORING.

It is unlawful for any person to discharge raw or treated wastewater into any well or boring as described in Minn. Rules Chapter 4725.2050, or any other excavation in the ground that is not in compliance with this chapter.

(Ord. 67-2010, passed 5-17-11) Penalty, see § 52.999

§ 52.133 DISCHARGE OF HAZARDOUS OR DELETERIOUS MATERIALS.

It is unlawful for any person to discharge into any SSTS, regulated under this chapter, any hazardous or deleterious material that adversely affects the treatment or dispersal performance of the system or groundwater quality.

(Ord. 67-2010, passed 5-17-11) Penalty, see § 52.999

§ 52.134 CONFLICTS OF INTEREST.

A licensed SSTS inspector working on behalf of a local unit of government must not design or install SSTS that the inspector/business will be responsible for permitting or inspecting as part of its local government duties. A person working for or on behalf of a local unit of government is not allowed to use the person's position to solicit for private business gain.

(Ord. 67-2010, passed 5-17-11) Penalty, see § 52.999

VARIANCES

§ 52.145 VARIANCE REQUESTS.

A property owner may request a variance from the standards as specified in this chapter pursuant to county policies and procedures.

(Ord. 67-2010, passed 5-17-11)

§ 52.146 AFFECTED AGENCY.

Variations that pertain to the standards and requirements of the State of Minnesota must be approved by the affected State Agency pursuant to the requirements of the State Agency.

(Ord. 67-2010, passed 5-17-11) Penalty, § 52.999

§ 52.147 BOARD OF ADJUSTMENT.

(A) The Board of Adjustment has the authority to consider variances in accordance with Minn. Rules Chapters 7080, 7081, and 7082. Variations shall only be allowed when they are in harmony with the general purposes and intent of this chapter where there are practical difficulties or particular hardship in meeting the strict letter of this chapter. Applicants must follow the requirements of Carver County Zoning Code § 152.215.

(B) The Board of Adjustment may not grant variations to the following standards:

(1) Flow determinations under Minn. Rules Chapter 7081.0110, if the deviation reduces the average daily estimated flow from greater than 10,000 gallons per day to less than 10,000 gallons per day;

(2) Provisions in Minn. Rules Chapter 7080.2150, subpart 2, items A through D, and 7081.0080, subparts 2 through 5, regarding the vertical separation required beneath the distribution media and saturated soil or bedrock from the required three feet of unsaturated soil material, except as provided in Minn. Rules Chapter 7080.2350, must be approved by MPCA; and

(3) Variations to wells and water supply lines must be approved by the Minnesota Department of Health.

(Ord. 67-2010, passed 5-17-11) Penalty, see § 52.999

SSTS PRACTITIONER LICENSING

§ 52.160 SSTS PRACTITIONER LICENSING.

No person shall engage in site evaluation, inspection, design, installation, construction, alteration, extension, repair, maintenance, or pumping of an SSTS without an appropriate and valid license issued by the MPCA, except as exempted in § 52.161.

(Ord. 67-2010, passed 5-17-11) Penalty, see § 52.999

§ 52.161 SSTS BUSINESS LICENSE EXEMPTIONS.

An SSTS business license is not required for:

(A) An individual who is a qualified employee performing work as directed by a state or local government employer;

(B) A property owner who properly abandons an SSTS provided a final inspection is conducted by the Department or licensed SSTS professional;

(C) An individual who performs supervised labor or services as an employee of a licensed SSTS business;

(D) A farmer who pumps septage from an SSTS that serves dwellings or other establishments that are owned or leased by the farmer and applies septage on land that is owned or leased by the farmer;

(E) A property owner, who personally gathers existing information, evaluates, and investigates an SSTS, to provide a disclosure as defined in M.S. § 155.55, subd. 6, for a dwelling that is owned by the individual and functions solely as a dwelling or seasonal dwelling for that individual;

(F) An individual who maintains a toilet waste treatment device for a dwelling that is owned by the individual and functions solely as a dwelling or seasonal dwelling for that individual;

(G) An individual who performs tasks identified in the SSTS management plan, that does not require an SSTS maintainer or service provider license, for a dwelling that is owned by the individual and functions solely as a dwelling or seasonal dwelling for that individual; or

(H) The owner or designee of a campground or other similar facility who removes and transports sewage wastes from recreational vehicles into a holding or treatment system located on the same property as the facility.

(Ord. 67-2010, passed 5-17-11)

§ 52.162 SSTS LICENSED DESIGNER RESPONSIBILITIES.

It is the responsibility of the licensed SSTS designer to submit a design of sufficient detail to allow adequate review for compliance by the Department. At a minimum the following is required.

(A) A detailed design using worksheets approved by the Department.

(B) The soil observation data must be dated within 12 months of the date of the SSTS construction permit application and verify that there are two soil treatment and dispersal areas, that can support systems as described in Minn. Rules Chapters 7080.2210 through 7080.2230, or site conditions described in Minn. Rules Chapter 7081.0270, subparts 3 through 7, available on the lot. Lots existing prior to January 23, 1996 must provide for one complete SSTS.

(C) The site plan must be drawn to scale, include a north arrow, horizontal, and vertical reference points for the proposed SSTS. The site plan must also include:

(1) The location of all soil observations and other testing, all wells and their depth(s) within 100 feet of the proposed SSTS, and water lines within 50 feet;

(2) Any evidence of cut, filled, disturbed, compacted, or other unsuitable soil on the lot. SSTS proposed in these areas may require a method to determine the timed rate of water flowing through the soil. Acceptable methods include, but are not limited to: percolation tests, permeameter tests, and infiltrometer tests;

(3) The distance from proposed SSTS to all other required setbacks including: existing or proposed structures, or improvements, easements, ordinary high water level, property line(s), and road right-of-way(s);

(4) Slope with percent and direction; and

(5) Elevations of the soil observations, periodically saturated soils, and the proposed bottom of the soil treatment and dispersal system in reference to a bench mark. Flood elevation and/or OHW, are to be included if applicable.

(D) The center of each trench, corners of the bed, and any toe slopes must be staked. The entire area is to be protected from disturbance, compaction, or other damage by installing snow or silt fence when there is any other construction proposed on the property. SSTS soils altered by construction traffic or other means will require a revised design be submitted to the Department along with any required fees.

(E) If a proposed SSTS design cannot meet a technical requirement of this chapter, Minn. Rules Chapter 7080 or Chapter 7081, it is the responsibility of the licensed SSTS designer to contact the Department before the design is completed.

(F) Reuse of any tank(s) for a replacement SSTS must include the MPCA tank integrity and safety compliance form and be included with the SSTS design and SSTS construction permit application.

(G) Submit any additional requirements as may be required by the Department or the MPCA.

(Ord. 67-2010, passed 5-17-11) Penalty, see § 52.999

§ 52.163 SSTS LICENSED INSTALLER RESPONSIBILITIES.

It is the responsibility of the licensed SSTS installer to:

(A) Verify the SSTS layout and placement proper soil moisture conditions for excavation, elevations of sewage tanks, and soil treatment and dispersal system;

(B) Ensure all work is installed in strict accordance with the design as approved by the Department. If the system is not or cannot be constructed as designed, it shall be the responsibility of the licensed SSTS installer to inform the licensed SSTS designer and the Department. If proposed changes are approved by the licensed SSTS designer and the Department, it shall be the responsibility of the licensed SSTS installer to submit new or amended designs to the Department before completing construction;

(C) Follow recommended standards and guidance documents for registered products, check the quality of tanks, and other materials used;

(D) Schedule required inspections with the Department before 3:00 p.m. the day before an inspection or reinspection is requested.

(1) Failure of the licensed SSTS installer to cancel an inspection, at least one hour before the scheduled time, will result in a penalty fee as set forth in the Carver County Fee Schedule.

(2) Failure to pay the penalty fee will result in a freeze on all future SSTS inspections for the affected property until the penalty fee has been paid.

(3) Upon inspection, any part of the SSTS that is determined, by the Department, not to be in compliance with this chapter, Minn. Rules Chapters 7080 or 7081, must be properly corrected and reinspected before a certificate of compliance is issued.

(4) Additional inspections required due to violations of this chapter will be subject to a re-inspection fee as set forth in the Carver County Fee Schedule. The re-inspection payment must be received by the Department within ten days following the re-inspection.

(5) If the Department is unable to complete an inspection, the licensed SSTS installer is to take photographs of critical construction phases. The photos are to be submitted along with an as built and any other requested documentation to the Department. The certificate of compliance will not be issued until the Department has reviewed the submitted documentation.

(6) Lack of inspection(s) by the Department shall not relieve or lessen the responsibility or liability of any person owning, operating, controlling, monitoring, or installing any SSTS;

(E) Uncover, upon request from the Department, any work which is backfilled prior to scheduled inspection(s) to determine compliance;

(F) Provide, upon request from the Department, a copy of the final electrical report to the Department within ten working days of the request. The Department may withhold issuing a final certificate of compliance if the electrical report is not received by the Department when requested; and

(G) Fulfill any additional requirements as may be required by the Department or the MPCA.

(Ord. 67-2010, passed 5-17-11) Penalty, see § 52.999

§ 52.164 SSTS LICENSED MAINTAINER RESPONSIBILITIES.

It is the responsibility of the licensed SSTS maintainer to:

(A) Have equipment capable of agitating the contents of the tank(s);

(B) Thoroughly remove sludge and scum through the maintenance holes. If the property owner or owner's agent refuses to allow removal through the maintenance hole, the maintainer must obtain a signed statement from the property owner or owner's agent, stating said parties were informed of correct removal procedures and reason for refusal. A copy of this statement must be submitted to the Department within 30 days of the pumping;

(C) Note any sensory observations of nondomestic wastes that have been discharged into the SSTS;

(D) Assess the condition of baffles, effluent screens, maintenance hole covers and extensions;

(E) Verify that the tank(s) and all connections are watertight;

(F) Submit a tank maintenance report for each property on forms approved by the Department, to the Department and the property owner. The amount pumped, method, and location of septage disposal must also be included on the form;

(G) Remove all septage from the tank(s) in a sealed container and dispose of in accordance with state, federal, and local requirements.

(1) If septage is to be disposed of into a municipally-controlled wastewater treatment system or into a Metropolitan Waste Control Commission facility, it must be disposed of in a location and manner approved by said governmental authority.

(2) If septage is to be disposed of using land application, Minnesota Pollution Control Agency (MPCA) Septage and Restaurant Grease Trap Waste Management Guidelines, Water/Wastewater-ISTS #4.20, must be followed; and

(H) Fulfill any additional requirements as may be required by the Department or the MPCA.

(Ord. 67-2010, passed 5-17-11) Penalty, see § 52.999

§ 52.165 SSTS LICENSED SERVICE PROVIDER RESPONSIBILITIES.

It is the responsibility of the licensed SSTS service provider to:

(A) Assess the operational status and SSTS performance by sampling, measuring, and observing, to verify compliance with the SSTS management plan or operating permit;

(B) Preserve, store, and ship samples for analysis and interpret sampling results;

(C) Adjust, repair, or replace components to bring the SSTS into proper operational compliance;

(D) Report sampling results, operational observations, system adjustments, and other management activities, in compliance with local ordinances. SSTS management plans or operating permit requirements, before December 1st each year to the property owner and the Department;

(E) Observe and provide written reports of any noncompliance to the property owner and the Department

within 30 days; and

(F) Fulfill any additional requirements as may be required by the Department or the MPCA.

(Ord. 67-2010, passed 5-17-11)

§ 52.166 SSTS LICENSED INSPECTOR RESPONSIBILITIES.

It is the responsibility of the licensed SSTS inspector to:

(A) Submit the completed Minnesota Pollution Control Agency compliance inspection form for Existing SSTS to the Department and the property owner within 15 calendar days from the date of the inspection; and

(B) Fulfill any additional requirements as may be required by the Department or the MPCA.

(Ord. 67-2010, passed 5-17-11)

§ 52.167 PERIODICALLY SATURATED SOIL DISAGREEMENTS.

If a documented discrepancy arises on the depth of the periodically saturated soil between licensed individuals for SSTS design or compliance purposes, all disputing parties must follow the procedure outlined in Minn. Rules Chapter 7082.0700, subpart 5.

(Ord. 67-2010, passed 5-17-11)

ADMINISTRATION

§ 52.180 PUBLIC EDUCATION OUTREACH.

Programs may be provided by the Department and/or others to increase public awareness and knowledge of SSTS. Programs may include distribution of educational materials through various forms of media and SSTS workshops focusing on SSTS planning, construction, operation, maintenance, and management.

(Ord. 67-2010, passed 5-17-11)

§ 52.181 RECORD KEEPING.

The Department will maintain records of SSTS construction permit applications, issued SSTS construction permits, fees assessed, variance requests, certificates of compliance, notices of Noncompliance, enforcement proceedings, site evaluation reports, design reports, record drawings, management plans, operating permits maintenance reports, an annual list of all sewage tanks installed in the county sorted by licensed SSTS installers, and other records relevant to each SSTS.

(Ord. 67-2010, passed 5-17-11)

§ 52.182 ANNUAL REPORT.

The Department shall provide an annual report of SSTS permitting activities to the MPCA.

(Ord. 67-2010, passed 5-17-11)

SSTS COMPLIANCE INSPECTION PROGRAM

§ 52.195 DEPARTMENT RESPONSIBILITY.

The Department, or its agent, is authorized to perform various SSTS inspections to assure that the requirements of this chapter are met.

(A) The Department must be given access to enter a property at any reasonable time to inspect and/or monitor the SSTS. As used in this division, “property” does not include a residence or private dwelling.

(B) No person shall hinder or otherwise interfere with the Department’s performance of their duties and responsibilities pursuant to this chapter. Refusal to allow reasonable access to the property by the Department shall be deemed a separate and distinct offense.

(Ord. 67-2010, passed 5-17-11) Penalty, see § 52.999

§ 52.196 NEW SSTS CONSTRUCTION OR REPLACEMENT.

(A) Inspections must be performed on new or replacement SSTS to determine compliance with Minn. Rules Chapters 7080 or Chapter 7081, by a qualified employee or licensed SSTS inspection business, authorized by the Department, who is independent of the property owner and the licensed SSTS installer.

(1) Inspections for Type I SSTS may include, but are not limited to: soil verification, pre-rough up (if needed), tank installation, distribution media/pipe installation, and final inspection.

(2) Inspections for all other SSTS types will include applicable Type I SSTS inspections, and additional inspections, as determined necessary by the Department.

(B) The soil treatment and dispersal system must not be placed into operation until a certificate of compliance has been issued.

(C) A certificate of compliance must be issued by the Department, if the Department has reasonable assurance that the SSTS was built in accordance with the applicable requirements as specified in the SSTS construction permit.

(D) The certificate of compliance must include a certified statement by the qualified employee or licensed SSTS inspector, authorized by the Department who conducted the inspection that the SSTS is or is not in compliance with the chapter requirements.

(E) Certificates of compliance for new SSTS construction or replacement shall remain valid for five years

from the date of issue, unless the Department finds evidence of noncompliance.

(Ord. 67-2010, passed 5-17-11)

§ 52.197 EXISTING SSTS COMPLIANCE INSPECTION.

(A) Compliance inspections of existing SSTS are required:

(1) Before any permit or variance is issued for a property with an SSTS located in a shoreland area (1,000 feet of a lake, pond, or flowage; or 300 feet of a river or stream, or the landward extent of a floodplain), subject to the exceptions in Carver County Zoning Code § 152.122;

(2) When there is a change in the use of the property or structure(s) that would affect water use, including but are limited to: a permit or variance to expand a structure for the purpose of a bedroom, home business, contractor's yard, or daycare. The certificate of compliance must also certify that all components are sized to state minimum requirements for the additional bedroom or the change in use;

(3) When an SSTS construction permit is required to repair, modify, or upgrade an existing SSTS;

(4) At the time of property sale or transfer, in accordance with § 52.199. Any evaluation, investigation, inspection, recommendation, or other process used to prepare a disclosure statement, if conducted by a party who is not the SSTS owner, constitutes a compliance inspection, and must be conducted in accordance with Minn. Rules Chapter 7080.1500;

(5) When there is a division of land pursuant to Carver County Zoning Code § 152.035(D);

(6) During systematic lake or area wide SSTS surveys by the Department as described in § 52.043; and

(7) Any time that a building permit is applied for and no record of a soil treatment and dispersal system exists.

(B) When a compliance inspection is required and cannot be completed, due to frost conditions, during the period of November 1 to April 30, permits or land use application(s) pursuant to division (A) of this section can be issued provided an escrow account is provided in the amount set forth in the Carver County Fee Schedule. A compliance inspection must be performed before the following June 1 and/or the SSTS is brought into compliance by the following September 30.

(C) Compliance inspections of existing SSTS must be reported on the inspection report forms provided by MPCA. The following conditions, must be assessed or verified:

(1) Tank watertightness assessment must be completed by pumping all of the tanks. A valid tank integrity report from a licensed SSTS maintainer must be provided;

(2) A soil separation compliance assessment must be completed by a licensed inspection business or a qualified employee inspector with jurisdiction. Compliance must be determined either by conducting new soil observations or by prior soil separation documentation made by two independent parties. The soil observations used for system design or previous inspections are allowed to be used if they contain the information required in Minn. Rules Chapter 7080.1720, subpart 5, items B, D, and F. If the soil separation has been verified by two independent parties, a subsequent determination is not required unless requested by the owner or owner's agent;

- (3) Sewage backup, surface seepage, or surface discharge including a hydraulic function report; and
- (4) Compliance with the SSTS management plan or SSTS operating permit if applicable.

(D) The certificate of compliance must include a certified statement by a licensed SSTS inspector, indicating whether the SSTS is in compliance with chapter requirements. If the SSTS is determined not to be in compliance with the applicable requirements, a notice of noncompliance must include a statement specifying those chapter provisions with which the SSTS does not comply.

(E) SSTS that are determined to have operation or monitoring deficiencies must immediately be maintained, monitored, or otherwise managed according to the SSTS operating permit.

(F) SSTS found to be noncompliant with other applicable requirements must be brought into compliance with this chapter within the timeframes established in § 52.055 and § 52.056.

(G) The certificate of compliance or notice of noncompliance must be submitted to the Department no later than 15 calendar days after the date the existing SSTS compliance inspection was performed.

(H) Certificates of compliance for existing SSTS shall remain valid for three years from the date of issue unless the Department finds evidence of noncompliance.

(I) The Department may waive an existing SSTS compliance inspection required by this chapter, if the owner of the real property served by an existing SSTS acknowledges in writing to the Department that the existing SSTS is not compliant and will be brought into compliance with this chapter within ten months.

(Ord. 67-2010, passed 5-17-11) Penalty, see § 52.999

§ 52.198 COMPLIANCE CRITERIA FOR EXISTING SSTS.

(A) SSTS that were built before April 1, 1996, are outside of areas designated as shoreland and wellhead protection areas, and do not service a food, beverage, or lodging establishment, must have at least two feet of vertical separation between the bottom of the distribution media and the periodically saturated soil and/or bedrock. The vertical separation measurement must be made outside the area of system influence but in an area of similar soil.

(B) SSTS built after March 31, 1996 or SSTS located in a shoreland area, wellhead protection area, or serving a food, beverage, or lodging establishment as defined in Minn. Rules Chapter 7080.1100, subpart 84, must have three feet of vertical separation between the bottom of the distribution media and the periodically saturated soil and/or bedrock. The vertical separation measurement must be made outside the area of system influence but in an area of similar soil. Existing SSTS that have no more than a 15% reduction in this separation distance (a separation distance no less than 30.6 inches) to account for settling of sand or soil, normal variation of separation distance measurements, and interpretation of limiting layer characteristics, may be considered compliant under this chapter.

(Ord. 67-2010, passed 5-17-11) Penalty, see § 52.999

§ 52.199 TRANSFER OF PROPERTIES.

(A) Whenever a conveyance of land occurs, the following requirements shall be met:

(1) The seller of the property is responsible for providing a completed Carver County point of sale certificate and MPCA existing SSTS compliance inspection form, with any required attachments, to the buyer at or before closing. These documents shall provide the status and location of all known SSTS and components thereof on the property and, if applicable, the requirements for bringing the SSTS into compliance with this chapter;

(2) The buyer is responsible to file the Carver County point of sale certificate, and required attachments, along with the certificate of real estate value at the County Auditor's Office; and

(3) If the seller fails to provide a certificate of compliance, sufficient security must be established in the form of an escrow account to assure the installation of a complying SSTS. The security, in the amount set forth in the Carver County Fee Schedule, shall be placed in an escrow with a licensed real estate closer, licensed attorney-at-law, or federal or state chartered financial institution. The SSTS must be installed within the time frame established in §§ 52.055 and 52.056. After a complying SSTS has been installed and a certificate of compliance issued, the escrow may be released.

(B) The MPCA existing SSTS compliance inspection form need not be obtained if the sale or transfer involves one of the following circumstances:

(1) Tract of land is vacant or contains no structures with plumbing fixtures;

(2) The SSTS serving the existing dwelling or other structure with plumbing has been abandoned per § 52.058. Attach the MPCA's SSTS abandonment reporting form;

(3) The transfer does not require the filing of a certificate of real estate value, as described in M.S. § 272.115;

(4) The transfer is a foreclosure or tax forfeiture. This subsection applies only for the transfer from the original mortgagee, to the financial/lending institution or local unit of government. The subsequent transfer shall meet the requirements of this chapter;

(5) A refinance of a property;

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

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

(8) Dwellings or other structures connected exclusively to a municipal wastewater treatment system. Including 201 systems which discharge directly to the Metropolitan Council Environmental Services interceptor/collector sewer and do not utilize a septic tank(s) or soil treatment and disposal system.

(C) All property conveyances subject to this chapter occurring during the period between November 1st and April 30th, and SSTS compliance cannot be determined due to frozen soil conditions, shall have an escrow account established pursuant to the Carver County Fee Schedule. The buyer is responsible to have the compliance inspection completed by the following June 1st by a licensed SSTS inspector. If, upon inspection, the SSTS is found to be in compliance, the funds in escrow may be released. If, upon inspection, the SSTS is

found to be non-compliant, the SSTS shall be brought into compliance within ten months from the date of property transfer.

(D) Should the seller fail to have the compliance inspection completed, and neither party established an escrow account, the buyer of the property becomes wholly responsible and shall have a certificate of compliance on the existing SSTS submitted to the Department within 30 days of the property transfer or have the SSTS brought into compliance within 90 days of the property transfer.

(Ord. 67-2010, passed 5-17-11) Penalty, see § 52.999

ENFORCEMENT

§ 52.210 NOTICE OF VIOLATION.

The Department is authorized to serve, in person or by mail, a notice of violation to any person determined to be violating provisions of this chapter. The notice of violation may contain:

- (A) A statement documenting the findings of fact determined through observations, inspections, or investigations;
- (B) A list of specific violation(s) of this chapter;
- (C) Specific requirements for correction or removal of the specified violation(s); and/or
- (D) A mandatory time schedule for correction, removal, and compliance with this chapter.

(Ord. 67-2010, passed 5-17-11)

§ 52.211 CEASE AND DESIST ORDERS.

Cease and desist orders may be issued when the Department has probable cause that an activity regulated by this, or any other provision of this chapter, is being, or has been conducted without an SSTS construction permit, or in violation of an SSTS construction permit. When work has been stopped by a cease and desist order, the work shall not resume until the reason for the work stoppage has been completely satisfied, any administrative fees paid and the cease and desist order lifted.

(Ord. 67-2010, passed 5-17-11)

§ 52.212 CIVIL REMEDIES.

In the event of a violation or a threat of a violation of this chapter, the county may institute appropriate civil actions or proceedings, including injunctive relief, to prevent, restrain, correct, or abate such violations or threat of violations. The county may recover costs incurred for corrective action in a civil action in any court of competent jurisdiction, and such costs may be certified by court order to the County Auditor as a special tax against the real property. These and other remedies, as determined appropriate by the county, may be imposed upon the property owner, permittee, licensed SSTS installer, or other responsible person, either in addition to or separate from other enforcement actions.

(Ord. 67-2010, passed 5-17-11)

§ 52.213 INTERPRETATION.

In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements and shall be liberally construed in favor of the county, and shall not be deemed a limitation or repeal of any other powers granted by Minnesota Statutes.

(Ord. 67-2010, passed 5-17-11)

§ 52.999 PENALTY.

Any person, firm, agent, or corporation who violates any of the provisions of this chapter, or who fails, neglects, or refuses to comply with the provisions of this chapter, including violations of conditions and safeguards, or who knowingly makes any material false statement, or knowing omission in any document required to be submitted under the provisions hereof, shall be guilty of a misdemeanor and upon conviction thereof, shall be punishable as defined by Minnesota State Statutes. Each day that a violation exists shall constitute a separate offense.

(Ord. 67-2010, passed 5-17-11)

CHAPTER 53: OPEN BURNING

Section

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§ 53.01 PURPOSE, SCOPE AND AUTHORITY.

(A) This subchapter regulates the disposal, by the method of burning, of solid waste materials in Carver County. If a local requirement is more restrictive than the requirement found in this subchapter, the local requirement will supersede the county requirement. This subchapter has been adopted by the Carver County Board of Commissioners to protect the public's health and prevent nuisance; to protect air and ground water resources; to minimize reliance upon disposal by burning; to promote waste abatement such as recycling and composting; and to supplement and support Carver County and State of Minnesota controls over open burning.

(B) This subchapter establishes standards for the regulation of open burning activities in Carver County, Minnesota. This subchapter requires that appropriate permits be obtained from the Department of Natural Resources (DNR) for the purpose of open burns.

(Ord. 5B, passed 6-26-01; Am. Ord. 73-2012, passed 3-20-12)

§ 53.02 GENERAL PROVISIONS.

(A) *Definitions.* The following words and phrases, when used in this subchapter, unless the context clearly indicates otherwise, shall have the meanings ascribed to them in this section.

AGRICULTURAL FIRE. Open burning for the purpose of disposing of materials generated on ten acres or larger parcels of land that is in "agricultural use" as defined in M.S. § 17.81, as it may be amended from time to time.

BURNING BAN. The Commissioner, by written order, may suspend the issuance of permits for open fires, revoke or suspend the operation of a permit previously issued and, to the extent he or she deems necessary, prohibit the burning of all or some kinds of open fires. t

BURNING RESTRICTION. No permit may be issued in instances where there are alternatives to burning or burning can be delayed until after the restriction has been lifted. Variances may be given on a case by case basis. DNR Foresters will review variance applications and make recommendations to the local Fire Chief, who will have the final authority during the restriction period.

COMMISSIONER. The Commissioner of the Department of Natural Resources.

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

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

DEPARTMENT OF NATURAL RESOURCES (DNR). The Minnesota Department of Natural Resources. The DNR is charged with conserving and managing the state's natural resources.

DESIGNATED LOCAL AUTHORITY (DLA). A representative of a local unit of government, fire chief, fire marshal, or fire warden who has been trained and certified by the DNR. The Carver County Environmental Services Department shall be the local DLA in local governmental units who do not choose to designate a DLA.

HAZARDOUS WASTE. As defined in M.S. § 116.06, as it may be amended from time to time, means any refuse, sludge, or other waste material or combinations or refuse, sludge, or other waste materials in solid, semi-solid, liquid, or contained gaseous form which because of its quantity, concentration, or chemical, physical, or infectious characteristics may: (a) cause or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible illness; or (b) pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of, or otherwise managed. Categories of hazardous waste material include, but are not limited to: explosives, flammables, oxidizers, poisons, irritants and corrosives. **HAZARDOUS WASTE** does not include source, special nuclear, or by-product material as defined by the Atomic Energy Act of 1954, as amended.

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

LAW ENFORCEMENT. Means any licensed peace officer.

MIXED MUNICIPAL SOLID WASTE (MMSW). Garbage, refuse, and other solid waste from residential, commercial, industrial, and community activities that the generator aggregates for disposal, but does not include auto hulks, street sweepings, ash, construction debris, mining waste, sludges, tree and agricultural wastes, tires, lead acid batteries, used oil, and other materials, collected, processed, and disposed of as separate waste streams.

OPEN BURNING. The burning of any matter if the resultant combustion products are emitted directly to the atmosphere without passing through a stack, duct or chimney, except a recreational fire as defined herein.

RECREATIONAL FIRE. A fire set with approved starter fuel, with the materials to be burned no more than 3 feet in diameter and 3 feet in height, using dry, clean wood; producing little detectable smoke, odor or soot beyond the property line; for recreational, ceremonial, food preparation or social purposes; extinguished completely before quitting the occasion; and respecting weather conditions, neighbors, burning bans, and air quality so that nuisance, health or safety hazards will not be created. Mobile cooking devices such as, charcoal grills, propane, and natural gas devices are not defined as recreational fires. Recreational fires shall not be located closer than 25 feet to any structure.

RUNNING FIRE. An open burn that is not confined to piled materials but is meant to consume materials over an unconfined area. Running fires include but are not limited to, open burning conducted to clear or maintain small areas of land surrounded by tilled agricultural land, open burning to maintain wildlife habitat in managed wildlife areas, and open burning conducted by a local government unit to maintain road rights-of-way. Permits for all running fires must be reviewed and approved by the DNR.

SNOW COVERED. The ground has a continuous unbroken cover of snow, to a depth of three inches or more, surrounding the immediate area of the fire.

STARTER FUELS. Dry, untreated, unpainted kindling, branches, or cardboard, or charcoal fire starter. Paraffin candles and alcohols are permitted as starter fuels and as aids to ignition only. Only propane gas torches or other clean gas burning devices causing minimal pollution may be used to start an open burn.

WOOD. Dry, clean fuel only such as twigs, branches, limbs, “presto logs,” charcoal, cordwood or untreated dimensional lumber. **WOOD** does not include pallets, wood that is green, with leaves or needles, rotten, wet, oil soaked, or treated with paint, glue or preservatives. Clean pallets may be used for recreational fires when cut into three-foot lengths.

(B) *Compliance.* No person shall cause or permit open burning, except in full compliance with the provisions of this subchapter.

(C) *Conditions.* Violations of any condition, imposed by the Department or DLA on a permit, shall be deemed a violation of this subchapter.

(D) *False information.* Omission of any information or submission of false information may be deemed a violation of this subchapter or may be deemed a violation of state statute.

(E) *Right of entry.* Whenever necessary to perform an inspection, to enforce any of the provisions of this subchapter, or whenever the DNR, Department, DLA or Law Enforcement has reasonable cause to believe that prohibited materials are being burned upon the premises, the DNR, Department, DLA or Law Enforcement may enter such premises at all reasonable times to inspect the same or to perform any duty imposed upon the DNR, Department, DLA and Law Enforcement by this subchapter, provided that if such premises be occupied, the authorized agent shall first present proper credentials and demand entry; and if such premises be unoccupied, the DNR, Department, DLA or Law Enforcement shall first make a reasonable effort to locate the owner or other persons having charge or control of the premises and demand entry. If such entry is refused, the DNR, Department, DLA or Law Enforcement shall have recourse to every remedy provided by law to secure entry including administrative search warrants.

(Ord. 5B, passed 6-26-01; Am. Ord. 73-2012, passed 3-20-12)

§ 53.03 STANDARDS ADOPTED.

“Open Burning,” as it may be amended from time to time, M.S. §§ 88.01 to 88.22, as they may be amended from time to time, and Minnesota Uniform Fire Code (where adopted), are hereby adopted by reference and made a part of this subchapter as if fully set forth at this point.

(Ord. 5B, passed 6-26-01)

§ 53.04 ADMINISTRATION AND ENFORCEMENT.

(A) *Duties of the Department.* The Department shall be responsible for the administration and enforcement of this subchapter. The Department’s duties shall include, but are not limited to, the following:

(1) The Department shall maintain records of open burns within Carver County;

(2) The Department shall review and issue open burn permits for local governments who do not designate a DLA;

(3) The Department and its agents shall administer this subchapter, investigate complaints and violations related to it and enforce the provisions of this subchapter as provided in rules and statutes;

(4) The Department shall assist the DNR in providing training to certify a DLA;

(5) The Department shall recommend certification of the DLA to the DNR when appropriate;

(6) The Department may decommission a DLA for failure to carry out the duties and responsibilities assigned to them.

(B) *Duties of local government.* The local government duties shall include, but are not be limited to the following:

(1) Local governmental unit may name one or more DLA as provided by this subchapter. The DLA must be trained and certified by the DNR. The local governmental unit shall provide the Department with the names and addresses of these persons. A DLA may not issue open burning permits before such notification is provided to the county.

(2) A local governmental unit may, by ordinance, require open burning regulations that are more stringent than the provisions of this subchapter.

(C) *Duties of designated local authority.* Referred to hereafter as DLA shall have the following duties:

(1) The DLA shall review applications and issue or deny permits according to the criteria established in this subchapter and the Minnesota Rules and Statutes incorporated herein by reference;

(2) The DLA shall report to the Department violations of this subchapter as they become aware of them;

(3) The DLA shall submit burn permits to the Department by the seventh day of the following month;

(4) The DLA shall issue burning permits in accordance with instructions received from the DNR;

(5) The DLA shall fill out the burning permit form;

(6) The DLA shall report all unauthorized fires through 911 and the Department;

(7) The DLA shall issue written burning permits only. Verbal permission by itself does not constitute a legal permit;

(8) The DLA shall report any problems or difficulties to the Department;

(9) The DLA shall attend training provided by the DNR or the Department;

(10) A DLA who moves outside of their assigned commission area would not be authorized to continue writing permits. DLA who is no longer interested in working for the fire prevention program may simply request to be decommissioned. In addition, an individual may be decommissioned for failure to properly carry out the duties and responsibilities assigned to them;

(11) The DLA shall insure that the permit holder understands all the regulations associated with

conducting an open burn;

(12) A DLA shall only issue permits within their assigned commission area.

(Ord. 5B, passed 6-26-01; Am. Ord. 73-2012, passed 3-20-12)

§ 53.05 PERMIT HOLDER RESPONSIBILITY.

(A) *Responsibility.*

(1) The permit holder is responsible for compliance and implementation of all general conditions and special conditions as established in the permit issued.

(2) A person lighting or responsible for the lighting of an agricultural fire shall also carry out the duties and responsibilities of an open burn permit holder as per this section and shall be subject to the same costs and penalties.

(3) After completing the burning permit online service application, the permit holder will be able to save an electronic copy and will be asked to print the permit. The printed permit must be present while conducting the burn.

(B) *Safeguard.*

(1) Open burning shall not be conducted within 100 feet of any structure.

(2) Open burning, excluding recreational fires and running fires, shall not be conducted within 50 feet of a stream, river, lake, or other water body.

(3) An open burn shall not be allowed to smolder with no flame present.

(C) *Notification.* The permit holder cannot conduct the burn until they have requested activation as instructed on the permit. The permit holder may activate on-line during the application process, or by calling the DNR burn activation line. Activation will only be possible if burning conditions are favorable to allow open burning; the permit holder will receive an activation code that they must write on their permit in the space provided.

(D) *Attendance.*

(1) Every open burn event shall be constantly attended by the permit holder or his or her competent representative.

(2) The open burn fire shall be completely extinguished before the permit holder or his or her representative leaves the site.

(E) *Inspections.*

(1) It is the responsibility of the permit holder to have a valid permit, on site and, available for inspection by the Department, DLA, DNR, or Law Enforcement.

(2) The permit holder shall allow the Department, DLA, DNR or Law Enforcement access on site for inspection prior to burning, while conducting the burn, as well as after the burn as referenced in division (E).

(F) *Costs and penalties.*

(1) The permit holder shall be responsible for all costs incurred as a result of the burn, including, but not limited to, fire suppression, tickets, citations and permit fees.

(2) Any person who violates any provisions of this subchapter, in addition to any penalties herein prescribed, shall also be liable in full damages to any and every person suffering loss or injury by reason of the violation, including liability to the county, cities, townships, and fire suppression and medical response teams, for all expenses incurred in fighting or preventing the spread of, or extinguishing any fire caused by, or resulting from, any violation of this subchapter. When a fire set by any person spreads to and damages or destroys property belonging to another, the setting of the fire shall be prima facie evidence of negligence in setting and allowing the same to spread.

(Ord. 5B, passed 6-26-01; Am. Ord. 73-2012, passed 3-20-12)

§ 53.06 PROHIBITED MATERIALS.

(A) *Prohibition.* No person shall conduct, cause or permit the open burning of any material that was not generated at the site of the open burn.

(B) *Hazardous and solid waste.*

(1) No person shall conduct, cause or permit the open burning of leaves.

(2) No person shall conduct, cause or permit the open burning of oils, petrol fuels, rubber, plastics, plastic pesticide containers, plastic liners in seed, feed, or pesticide bags, chemically treated materials, or other materials which produce excessive or noxious smoke such as tires, railroad ties, treated, painted or glued wood, composite shingles, tar paper, insulation, composition board, sheetrock, wiring, paint or paint filters, mixed municipal solid waste, hazardous waste, industrial waste, construction debris or demolition debris.

(3) No person shall conduct, cause or permit the open burning of hazardous waste, salvage operations, solid waste generated from an industrial or manufacturing process or from a service or commercial establishment, or building material generated from demolition of commercial or institutional structures.

(C) *Food waste.* No person shall conduct, cause or permit open burning of discarded material resulting from the handling, processing, storage, preparation, serving or consumption of food.

(D) *Wetlands, grasslands and farm fields.* No person shall conduct, cause, or permit the open burning of wetlands, grass lands, pastures, crop residue, or road rights-of-way except as provided in § 53.08.

(E) *Animal carcasses.* No person shall conduct, cause, or permit the open burning of any dead domestic animal without the approval of the Department. Such burning shall be permitted only to abate an immediate public health threat.

(F) *Structures.* No person shall conduct, cause or permit the open burning of a structure except as provided in § 53.08.

(Ord. 5B, passed 6-26-01; Am. Ord. 73-2012, passed 3-20-12)

§ 53.07 PERMIT REQUIRED FOR OPEN BURNING.

(A) *Permit required.* No person shall start or allow any open burning on any property in the county without having obtained valid open burning permit.

(B) *Recreational fires.* Recreational fires, as defined in § 53.02, are exempt from this provision year round.

(C) *Snow cover.* A permit is required at all times throughout the year, even when the ground is snow covered.

(Ord. 5B, passed 6-26-01; Am. Ord. 73-2012, passed 3-20-12)

§ 53.08 PURPOSES ALLOWED FOR OPEN BURNING.

(A) When all alternative utilization methods for brush has been deemed not practicable, open burning will be permitted. This decision shall be made by the DLA, the Department, or the DNR.

(B) Open burn permits may be issued only for the following purposes:

(1) *Fire or health hazard.* Elimination of fire or health hazard that cannot be abated by other practical means. The Commissioner may allow burning of prohibited materials when the commissioner of health or the local board of health has made a determination that the burning is necessary to abate a public health nuisance.

(2) *Maintenance or construction.* Ground thawing for utility repair and construction.

(3) *Disposal.*

(a) Disposal of vegetative matter for managing forest, prairie or wildlife habitat, and in the development and maintenance of land and rights-of-way where chipping, composting, landspreading or other alternative methods are not practical.

(b) Disposal of diseased trees, diseased or infected nursery stock, and diseased bee hives, all generated on site.

(c) Disposal of unpainted, untreated, non-glued lumber and wood shakes where recycling, reuse, removal or other alternative disposal methods are not practical, and provided that the material was not generated by demolition of a commercial or institutional structure. A farm building is not a commercial structure.

(d) Disposal of wet hay windrowed in a field or pasture.

(e) Disposal of bailing twine and paper feed sacks without plastic liners.

(4) *Fire department training.*

(a) Permits for structures can only be issued by the DNR.

(b) The property owner or project contractor shall obtain a demolition permit from the local unit of government.

(c) All required paperwork provided by the Minnesota Pollution Control Agency shall be completed.

(d) Fire departments shall ensure that the property owner properly dispose of all debris following permitted burns. Receipts, showing proper disposal, shall be retained by the fire department for the period of three years upon removal of the debris.

(Ord. 5B, passed 6-26-01; Am. Ord. 73-2012, passed 3-20-12)

§ 53.09 PERMIT APPLICATION FOR OPEN BURNING AND PERMIT FEES.

(A) *Application.* Open burning permits shall be obtained by making application through the DNR's burning permit online service or on a form provided by the DNR.

(B) *Permit fee.*

(1) A permit fee is collected at the time of applying for a permit on the DNR's burning permit online service. The burning permit online service fee shall be set by the DNR.

(2) Application and permit fees for permits reviewed or issued by the Department shall be set by resolution of the Carver County Board of Commissioners. The Board of Commissioners may, at other times, amend its resolution setting the fees as it deems necessary. The fees established by the Board of Commissioners resolution shall continue to be the required fee until amended by a resolution.

(3) A DLA may require application or permit fees for permits issued in their jurisdiction. These fees may be set and amended by resolution by the DLA as it deems necessary.

(Ord. 5B, passed 6-26-01; Am. Ord. 73-2012, passed 3-20-12)

§ 53.10 PERMIT PROCESS FOR OPEN BURNING.

(A) *Review, approval and attached conditions.*

(1) Upon receipt of a completed open burning permit application, the Department or DLA shall review and approve or deny the application. The Department or the DLA may attach conditions to the permit consistent with Minnesota Pollution Control Agency (MPCA), DNR, Department, or local regulations and ordinances. The DLA may also attach reasonable special conditions to the permit due to site specific conditions which would or which may have the potential to create safety or pollution concerns or nuisance conditions.

(2) Permits for all running fires and structures must be reviewed and approved by the DNR. Permits for other permitted materials may be reviewed and issued by the Department or DLA. A Department or DNR representative may inspect the proposed burn site and may deny the issuance of the permit based upon finding that a practical alternative method of disposal exists, or safety, pollution or nuisance conditions may result.

(3) A permit for a running fire may be issued for the purpose of maintaining wildlife habitat,

establishing and/or maintaining a prairie, maintenance of road rights-of-way, and for maintenance of small areas of land surrounded by tilled agricultural land.

(B) *Permit length.* Permits obtained through the DNR burning permit online service or through a DLA are valid for the calendar year in which they are purchased, but must be activated each day burning occurs.

(Ord. 5B, passed 6-26-01; Am. Ord. 73-2012, passed 3-20-12)

§ 53.11 REVOCATION OF OPEN BURNING PERMIT.

The open burning permit and the right to conduct an agricultural fire is subject to revocation at the discretion of DNR, the Department, DLA, or Law Enforcement. Reasons for revocation include, but are not limited to: discovery of inappropriate materials at a open burn site, a fire hazard existing or developing during the course of the burn, any of the conditions of the permit being violated during the course of the burn, pollution or nuisance conditions developed during the course of the burn, or a fire smoldering with no flame present.

(Ord. 5B, passed 6-26-01; Am. Ord. 73-2012, passed 3-20-12)

§ 53.12 DENIAL OF OPEN BURNING PERMIT.

The Department or a DLA may deny the open burning permit application based on the following circumstances:

- (A) If established criteria for the issuance of an open burning permit are not met during review of said application;
- (B) It is determined that a practical alternative method of disposal of the material exists;
- (C) A pollution or nuisance condition would result;
- (D) Inappropriate weather conditions; or
- (E) Any other condition as determined by the Department or DLA.

(Ord. 5B, passed 6-26-01)

§ 53.13 BURNING BAN, BURNING RESTRICTIONS OR AIR QUALITY ALERT.

No open burn or agricultural fires will be permitted when the Department or DNR has officially declared burning restrictions. A variance to permit open burning, however, may be obtained for special circumstances through the DNR.

(Ord. 5B, passed 6-26-01; Am. Ord. 73-2012, passed 3-20-12)

§ 53.99 PENALTY.

(A) *Misdemeanor.* Except as where separately provided for in §§ 53.01 through 53.13 or state statutes, any person who fails to comply with the provisions of §§ 53.01 through 53.13 is guilty of a misdemeanor. A separate offense shall be deemed committed upon each day during or on which a violation occurs or continues.

(B) *Civil actions and injunctive relief.* In the event of a violation or a threat of violation of §§ 53.01 through 53.13, the county may institute appropriate actions or proceedings, including injunctive relief to prevent, restrain, correct or abate such violations or threatened violations. The county may recover costs incurred for corrective action in a civil action in any court of competent jurisdiction or, at the discretion of the County Board, the costs may be certified to the County Auditor as a special tax against the real property.

(C) *Permit issuance and denial.* In the event that a violation of §§ 53.01 through 53.13 or any state or local ordinance occurs, the violator must apply for any future permits through the Department.

(Ord. 5B, passed 6-26-01)

CHAPTER 54: FEEDLOT MANAGEMENT

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GENERAL PROVISIONS

§ 54.01 PURPOSE.

It is the intent and purpose of this chapter to maintain and improve the county's agricultural economy and community, and to ensure that animal feedlots and animal wastes are properly managed to protect public health and natural resources.

(Ord. 49, passed 7-7-03)

§ 54.02 TITLE.

This chapter shall be known, cited, and referred to as the Carver County Feedlot Management Ordinance.

(Ord. 49, passed 7-7-03)

§ 54.03 SCOPE AND AUTHORITY.

(A) *Scope.* From and after the effective date of July 23, 1996, when this chapter was originally adopted,

the use of all land and every building or portion of a building used for a feedlot, or as part of a feedlot shall be in conformity with the provisions of this chapter. Pre-existing structures, which are not in conformity with the setback and area provisions of this chapter, and/or the County Zoning Code (§ 152.001 *et seq.*), but were in conformity with the standards prior to changes established by the County Zoning Code and/or this chapter, shall be allowed as long as pollution hazards are mitigated within the timelines set forth by the MPCA Feedlot Rule, Chapter 7020, or this chapter.

(B) *Authority.* This chapter is adopted pursuant to the authorization and policies contained in M.S. Chapters 115 and 116, and MPCA Feedlot Rule, Chapter 7020 and the planning and zoning enabling legislation in M.S. Chapter 394.

(C) *Jurisdiction.* The jurisdiction of this chapter shall apply to all the areas of Carver County outside the incorporated limits of municipalities.

(Ord. 49, passed 7-7-03)

§ 54.04 DEFINITIONS.

(A) For the purpose of this chapter, certain terms or words used herein shall be interpreted as follows:

(1) The word “shall” is mandatory, and not discretionary; the word “may” is permissive; the word “person” shall include individuals, businesses, and corporations;

(2) Words used in the present tense shall include the future; and words used in the singular shall include the plural, and the plural the singular;

(3) Words shall be given their common usage if not defined;

(4) The word “used for” shall include the phrases “arranged for,” “designed for,” “intended for,” “maintained for,” and “occupied for”;

(5) The masculine gender shall include the feminine and neuter;

(6) The word “Board” includes the “county commissioners,” the “Board of County Commissioners”, or any other word or words meaning the “Carver County Board of Commissioners”.

(B) For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning or the term is defined in Minn. Rule 7020.

AGENCY. The Minnesota Pollution Control Agency (MPCA) as established in M.S. Chapter 116.

BLUFF. As defined by the County Zoning Code.

BLUFF IMPACT ZONE. As defined by the County Zoning Code.

BUILDING, AGRICULTURAL. All buildings, other than dwellings, which are incidental to a farming operation.

CEMETERY. As defined by the County Zoning Code.

COMMERCIAL APPLICATOR. As defined by M.S. § 18C.430, Commercial animal waste technician.

COMMISSIONER. The Commissioner of the Minnesota Pollution Control Agency whose duties are defined in M.S. § 116.03.

CONDITIONAL USE PERMIT (CUP). A permit specifically and individually granted, with provisions, by the County Board, after recommendations thereon, pursuant to the provisions of the County Zoning Code.

CHURCH. As defined by the County Zoning Code.

DRAINAGE WAY. Any natural or artificial water course, including but not limited to streams, rivers, creeks, ditches, channels, canals, conduits, culverts, waterways, gullies, ravines, or washes, in which waters flow in a definite direction or course, either continually or intermittently; and including any area adjacent thereto which is subject to inundation by reason of overflow or floodwater.

FAMILY. An individual, or two or more persons related by blood, marriage, or adoption, living together as a single housekeeping unit in a dwelling unit.

FAMILY FARM. As defined by M.S. § 116B.02(6).

FAMILY, IMMEDIATE. Persons related by blood, marriage, or certified legal instrument.

FARM. A tract of land or lands, which is primarily used for agricultural activities such as the production of cash crops, livestock or poultry farming. A farm may include agricultural dwellings and accessory buildings and structures necessary to the operation of the farm. It may be individually, jointly, or corporately owned.

FEEDLOT ADMINISTRATOR. A county employee, or his/her designee, appointed by the County Board, to administer the provisions of this chapter. This employee(s) shall have the same duties and powers as a County Feedlot Pollution Control Officer as defined by MPCA Feedlot Rule, Chapter 7020.

FEEDLOT, (NEW) ANIMAL. An animal feedlot constructed and operated at a site where no animal feedlot existed previously or where a pre-existing animal feedlot has been abandoned or unused for a period of three years or more.

FEEDLOT, (EXISTING) ANIMAL. An animal feedlot that has registered, pursuant to Minn. Rule 7020.0350 and/or has registered with Carver County Environmental Services prior to July 7, 2003.

FEEDLOT OPERATOR. An individual, a corporation, a group of individuals, a partnership, joint venture, owner or any other business entity having charge or control of one or more livestock feedlots, poultry lots or other animal lots.

FEEDLOT RUNOFF. The movement of water, in any form, from, or through, a feedlot, carrying particles of manure or process wastewater into a body of water, ditch, right of way, or to a channelized flow environment.

FLOOD. As defined by the County Zoning Code.

FLOOD FREQUENCY. As defined by the County Zoning Code.

FLOOD FRINGE. As defined by the County Zoning Code.

HOTEL. As defined by the County Zoning Code.

LETTER OF COMPLETION. A letter, from the County Environmental Services Department, that an owner/operator of an animal feedlot has attended an approved educational workshop.

NON-AGRICULTURAL COMMERCIAL USE. The principal use of land or buildings, for the sale, lease, rental, or trade of products, that is not associated with an agricultural activity.

NON-AGRICULTURAL INDUSTRIAL USE. The principal use of land or buildings, for the production, manufacture, warehousing, storage, or transfer of goods, products, commodities, or other wholesale items, that is not associated with an agricultural activity.

NRCS. The Natural Resources Conservation Service of the USDA, a federal agency.

OFFSET. Odor From Feedlots Setback Estimation Tool developed by the Department of Biosystems and Agricultural Engineering of the University of Minnesota

PARCEL. As defined by the County Zoning Code.

PERSON. Includes a firm, association, organization, partnership, trust, company or corporation as well as an individual.

POLLUTION HAZARD. As defined by the MPCA Feedlot Rule, Chapter 7020, including but not limited to an animal feedlot or manure storage area where construction or operation will allow a discharge of pollutants to surface water or ground water in excess of applicable standards, including Minn. Rules 7050 and 7055, during a rainstorm event less than a 25-year, 24-hour magnitude or will violate any state or county rules or ordinances.

POLLUTION, IMPAIRMENT, OR DESTRUCTION. As defined by M.S. § 116B.02(5).

SCHOOLS. As defined by the County Zoning Code. For the purpose of this chapter, home schools shall not apply.

REGIONAL PARK. As defined in the County 2020 Comprehensive Plan as Baylor Regional Park, Lake Minnewashta Regional Park, Carver Park Reserve, Lake Waconia County Park, and Lake Bavaria Boat Launch.

RESTAURANT. As defined by M.S. § 157.15(12).

RIGHT-OF-WAY. For the purpose of this chapter, the right-of-way shall be one-half of the actual right-of-way width, indicated by available county records. However, if no records exist, the right-of-way shall be assumed to be 33 feet, measured from the centerline of the road, as built.

SWCD. The Carver Soil and Water Conservation District

USDA. The United States Department of Agriculture

VARIANCE. A modification or variation of the provisions of this chapter where it is determined that, by reason of exceptional circumstances, the strict enforcement of this chapter would cause an unnecessary hardship.

WETLAND. As defined by M.S. § 103G.005(17b).

(Ord. 49, passed 7-7-03)

§ 54.05 COMPLIANCE AND MEASUREMENTS.

(A) The use of any land for the establishment, expansion, or management of an animal feedlot shall comply with the provisions of this chapter, the County Zoning Code, the provisions of MPCA Feedlot Rule, Chapter 7020, the provisions of the MPCA Waters of the State Rule, Chapter 7050, and the provisions of the Department of Health Wells and Borings Rule, Chapter 4725.

(B) All stated and measured distance shall be taken to the nearest integral foot. If a fraction is one-half foot or less, the integral foot next below shall be taken.

(Ord. 49, passed 7-7-03)

§ 54.06 TOWNSHIP POLICIES.

Township Comprehensive Plan Chapters may address policies regarding maximum animal unit density/numbers and thresholds that would trigger a Conditional Use Permit (CUP). This chapter will administer township feedlot policies provided Township Comprehensive Plan Chapters are adopted in accordance with the county's Comprehensive Land Use Plan.

(Ord. 49, passed 7-7-03)

§ 54.07 PROPERLY OPERATED FEEDLOT NOT A NUISANCE.

(A) Agriculture often includes such activities as the intense use of farm equipment and machinery; plowing during dry and windy conditions; the raising of livestock and fowl; the use of soil amendments, including manure, herbicides, and pesticides; and storage of manure. These activities may occur during any 24-hour period. Thus, owners or renters of property located in agricultural areas may be subject to discomforts such as odors, dust, insects, and noise. While these activities may be considered nuisances in a more urban setting, they are common in an agricultural community and vital to the sustenance of an agricultural economy.

(B) Pursuant to M.S. § 561.19, agricultural activities shall not be considered a public nuisance, provided such activities do not violate any state statute, rule, or other law.

(C) This section shall not prevent any party or person from proceeding to bring civil action against an agricultural operator/owner. However, it is strongly encouraged that complaints between agricultural operations and local property owners/renters seek a resolution through the County Dispute Resolution Program or other form of mediation or dispute resolution before pursuing litigation.

(Ord. 49, passed 7-7-03)

ADMINISTRATION AND ENFORCEMENT

§ 54.15 ADMINISTRATION.

(A) The County Environmental Services Department shall administer this chapter. The County Board shall appoint a County Feedlot Administrator(s) to discharge the authorities of this Department under the Feedlot Management chapter.

(B) The County Feedlot Administrator(s) shall have the authority to:

- (1) Administer and enforce this chapter;
- (2) Supervise the keeping of all necessary records for feedlots, including but not limited to:
 - (a) Permit applications;
 - (b) Inspection reports;
 - (c) Correspondence;
 - (d) Site plans;
 - (e) Engineering and construction reports for manure storage facilities, and/or other required engineering plans;
- (3) Consult with SWCD, NRCS, MPCA, and private consultants as necessary to ensure construction standards are followed on manure handling and runoff control structures, or other management practices for the purpose of pollution control;
- (4) Provide and maintain public information and educational materials relative to this chapter and feedlot management;
- (5) Oversee the inspection of feedlot operations to insure compliance with the standards of this chapter;
- (6) Review permits and feedlot sites every four years, or more, to determine continuing compliance with this chapter;
- (7) Consult with other county departments, state and federal agencies, and private consultants as needed.

(C) The County Feedlot Administrator(s) shall have the authority to review applications and process as follows:

(1) Copies of application materials for state and/or federal administered feedlots shall be submitted to the County Feedlot Administrator. Originals should be sent to the MPCA. However, feedlot owners and/or operators that need assistance with state and/or federal applications can request support from the County Feedlot Administrator.

(2) No building permits, or other similar permit, for the purpose of the confined feeding, breeding, raising, or holding of animals or the handling or storage of manure shall be issued until approval is made by the

County Feedlot Administrator(s).

(D) Feedlots that are administered by the MPCA shall not be exempt from this chapter, or the Zoning Code.

(Ord. 49, passed 7-7-03)

§ 54.16 VIOLATIONS AND ENFORCEMENT.

(A) *Violations.* Any person, firm or corporation who shall violate any of the provisions hereof or who shall fail to comply with any of the provisions hereof or who shall make any false statement in any document required to be submitted under the provisions hereof, shall be guilty of a misdemeanor. Each day that a violation continues shall constitute a separate offense.

(B) *Enforcement.*

(1) *Access to premises.* Upon the request of the County Feedlot Administrator, the applicant, permittee or any other person shall allow access at any reasonable time to the affected premises for the purposes of regulating and enforcing this chapter.

(2) *Interference prohibited.* No person shall hinder or otherwise interfere with the County Feedlot Administrator in the performance of duties and responsibilities required pursuant to this chapter.

(3) *Stop work orders.* Whenever any work is being done contrary to the provisions of this chapter, the County Environmental Services Department, or the Land Management Department may order the work stopped by written notice personally served upon the owner or operator of the feedlot. All activities shall cease and desist until subsequent authorization to proceed is received from the Environmental Services Department or the Land Management Department.

(4) *Revocation.* Any person who fails to comply with the conditions set forth in the feedlot permit may be subject to revocation upon written notice personally served upon the owner or operator of the feedlot.

(5) *Injunctive relief and other remedies.* In the event of a violation or a threat of a violation of this chapter, the county may institute appropriate actions or proceedings, including injunctive relief, to prevent, restrain, correct or abate such violations or threat of violations. The county may recover costs incurred for corrective action in a civil action in any court of competent jurisdiction, and such costs may be certified by court order to the County Auditor as a special tax against the real property. These and other remedies, as determined appropriate by the county, may be imposed upon the applicant, permittee, installer, or other responsible person either in addition to or separate from other enforcement actions.

(Ord. 49, passed 7-7-03)

§ 54.17 JOINT AND SEVERABLE LIABILITY.

(A) Owners and operators of feedlots shall have joint and severable liability for clean-up, closure, and remediation of abandoned feedlot sites.

(B) The owner, and/or operator, of any animal feedlot shall be responsible for the storage, transportation,

and disposal of all animal manure and associated wastewater generated by the animal feedlot.

(Ord. 49, passed 7-7-03)

§ 54.18 VARIANCES.

(A) Any person seeking a variance to this chapter shall complete a Variance Application Form and submit it to the County Environmental Services Department.

(B) All variances shall be processed per the County Zoning Code, § 152.215.

(C) The Board of Adjustment may impose conditions it considers necessary to protect the public health, safety, and welfare. Such conditions may include odor mitigation or other agricultural management practices.

(D) Any use that is also prohibited by the Zoning Code will require a variance to the Zoning Code and can be addressed in the same application to the Land Management Department.

(Ord. 49, passed 7-7-03)

§ 54.19 APPEALS.

(A) *Hearing.* An appeal from any order, requirement, decision, or determination from the Feedlot Administrator shall be heard by the Board of Adjustment within 60 days from the date of filing the appeal. The Board of Adjustment shall give due notice thereof to the appellant and the officer, from whom the appeal is taken, and to the public and decide the same within 90 days of the hearing date.

(B) *Stay of action.* An appeal stays all proceeding and furtherance of the action appealed from unless the Board of Adjustment certifies that by reason of the facts stated in the certificate the stay would cause imminent peril to life or property.

(C) *Action to Board of Adjustment.* The Board of Adjustment may reverse or affirm wholly or partly or may modify the order, requirement, decision, or determination appealed from and to that end shall have all of the powers of the officer from whom the appeal was taken and may direct issuance of the permit. The reasons for the Board of Adjustment's decision shall be stated in writing.

(Ord. 49, passed 7-7-03)

PERMIT AND EDUCATIONAL REQUIREMENTS

§ 54.30 FEEDLOT PERMITS.

(A) All feedlots of ten animal units or more shall be inventoried through the County Feedlot Inventory.

(B) Permit required. Any person owning or operating an existing feedlot, or proposing a new feedlot, shall make application to the Environmental Services Department, and obtain a permit:

(1) When required under the MPCA Feedlot Rule, Chapter 7020;

(2) When a change in the construction or operation of an animal feedlot would significantly or adversely affect the storage, handling, utilization, or disposal of animal manure;

(3) When a new feedlot, of ten animal units or more in shoreland, and 50 animal units or more out of shoreland, is proposed;

(4) (a) The County Board may, by resolution, require all un-permitted feedlots within environmentally sensitive areas to apply for, obtain, and operate according to the requirements of a permit. These areas may include, but are not limited to:

1. Shoreland areas;
2. Specific watersheds or sub-watersheds;
3. Areas determined by the County Board to be sensitive to ground or surface water pollution;

(b) The resolution adopting these requirements must state the reason or reasons for declaring the area an environmentally sensitive area and shall include legally sufficient findings of fact. A public meeting, for the purpose of receiving comment on the proposed resolution, shall take place prior to the adoption of the resolution. All known feedlots and local governments within the area shall receive written notice of the intention of the County Board to take such action at least 14 days prior to the public comment meeting.

(5) A feedlot, of any size, which is located within the Shoreland Zoning District, may be reviewed by the Carver County Feedlot Administrator to determine if a pollution hazard exists. The Feedlot Administrator may place conditions upon the operations of such feedlots to limit their impact on surface water quality.

(C) Permit application. Applications will be the MPCA permit application for animal feedlots and/or manure storage areas.

(Ord. 49, passed 7-7-03)

§ 54.31 CONDITIONAL USE PERMITS.

(A) Feedlots meeting one or more of the following criteria must apply for and receive a Conditional Use Permit (CUP), pursuant to the County Zoning Code, when issuance of a permit is required by § 54.30(B) of this chapter:

- (1) Feedlots, of ten animal units or more, located in the Shoreland Zoning District;
- (2) Feedlots of 300 animal units or more located in the following areas:

(a) The portion of the county located east of County Road 10 in Watertown Township, all of Laketown Township, all of Chaska Township, the part of Dahlgren Township lying east of Guernsey Avenue and north of County Road 140 and that part of Dahlgren Township lying east of County Road 40, and the part of San Francisco Township lying east of County Road 40;

(b) Feedlots of 600 animal units or more located in that part of the county not covered by division (2) above;

(c) Feedlots identified by specific policies of a Township Comprehensive Plan Chapter, pursuant to § 54.06 of this chapter;

(d) Any feedlot expansion requested within Transition Areas identified by the County Comprehensive Land Use Plan. An application shall only be accepted by the county provided the affected municipality submits a letter stating the operation would conform to the city's Comprehensive Plan.

(B) Continuation of the public hearing may be necessary in order to gather further information prior to making recommendation to the County Board.

(C) Conditions shall be required for approval. Conditions should address, but may not be limited to, the following:

- (1) Maintaining an appropriate crust or cover on an earthen basin;
- (2) Providing a notice to neighbors before manure hauling/application;
- (3) Using an injection method or a spread and incorporate method for manure application;
- (4) Managing odors through use of covers, curtains, or biofilters;
- (5) Utilizing new technology, approved by the County Feedlot Administrator;
- (6) Utilizing OFFSET for odor prediction.

(Ord. 49, passed 7-7-03; Am. Ord. 62-2007, passed 12-11-07)

§ 54.32 SERVICE FEES.

Service fees are annually set by the County Board for various permits and other such services.

(Ord. 49, passed 7-7-03)

§ 54.33 EDUCATION.

(A) Any operator/owner of an animal feedlot, with ten animal units or more, shall participate in an educational workshop or program, approved by the Environmental Services Department, once every three years. A letter of completion or attendance shall be proof of fulfillment of this requirement.

(B) Any operator/owner of an animal feedlot, who is required to fulfill the educational requirement in division (A), is exempt from such requirement if he/she has an approved manure management plan, in accordance with Minn. Rule 7020.2225, or has a written agreement to close the feedlot, within three years, in accordance with Minn. Rule 7020.2025.

(C) Any person, required to meet this condition, who fails to attend an approved workshop or program, within the three-year period, shall be subject to a \$100 penalty fee. This fee may be used to offset the cost of an unscheduled workshop or program that the individual(s) are required to attend.

(Ord. 49, passed 7-7-03)

FEEDLOT AND SETBACK REQUIREMENTS

§ 54.45 MINIMUM ACREAGE.

A minimum area of five acres or such greater area required to meet all setbacks set forth by the County Zoning Code and this chapter shall be required for feedlot operations.

(Ord. 49, passed 7-7-03)

§ 54.46 SETBACKS.

(A) Livestock buildings, all types of manure storage areas, and manure stockpiles shall be constructed, operated, and maintained to minimize, within economical reason and industry standards, the aesthetic, health, odor, and pollution concerns.

(B) For the purpose of this section, when measuring from a road, the edge of the right-of-way line shall be considered the property line.

(C) New feedlots.

(1) A setback of 200 feet shall apply to all new feedlots of ten animal units or more from rear, front, and side property lines.

(2) A setback of 1,000 feet shall apply to all feedlots of 30 animal units or more from residences, churches, schools, regional parks, cemeteries, non-agricultural commercial and industrial activities, and restaurants.

(a) A setback of 1,000 feet shall also apply to all new residences, churches, schools, regional parks, cemeteries, non-agricultural commercial and industrial activities, and restaurants from animal feedlots of 30 animal units or more.

(b) Owners and/or operators of a proposed feedlot, that also own the residences, churches, schools, regional parks, cemeteries, non-agricultural commercial and industrial activities, and restaurants, on the site, shall be exempt from the setback requirements set forth in this section. This exemption shall be reciprocal.

(D) Existing feedlots as of July 7, 2003.

(1) The modifications and/or expansions of animal feedlots, that are located within 200 feet of existing property lines, may be allowed if they do not further encroach on the established setback.

(2) The modification or expansion of animal feedlots that are located within 1,000 feet of residences, churches, schools, regional parks, cemeteries, non-agricultural commercial and industrial activities, and restaurants may be allowed if the modification and/or expansion does not further encroach on the established setback.

(a) This setback shall be reciprocal.

(b) Odor mitigation techniques as authorized in § 54.48 of this chapter may be required for feedlots seeking to expand or modify pursuant to this section.

(E) Feedlots established after July 7, 2003. Animal feedlots, consisting of fewer than 30 animal units, that are located within 1000 feet of residences, churches, schools, regional parks, cemeteries, non-agricultural commercial and industrial activities, and restaurants shall not be allowed to expand to greater than 30 animal units.

(F) Residential lots and building sites that were approved by plat, minor subdivision, CUP, variance, or other similar action -- prior to May 1, 2000 -- shall be exempt from the 1000-foot setback requirement. The dwelling shall be located as far from the feedlot as reasonably practical, determined by the Department of Environmental Services in coordination with the Land Management Department.

(G) Manure stockpiles. No manure stockpile, of a feedlot over 30 animal units, shall be permitted within 200 feet of residences, churches, schools, regional parks, cemeteries, non-agricultural commercial and industrial activities, and restaurants.

(H) Wetlands.

(1) No new feedlot shall be permitted within 300 feet of an unprotected wetland that is Type 3 or greater of one acre or more.

(2) Modifications or expansions to existing feedlots that are located within 300 feet of an unprotected wetland that is Type 3 or greater, of one acre or more, are allowed as long as the expansion does not further encroach into the wetland or pose a pollution hazard.

(3) No new feedlots shall be permitted within 500 feet of any wetland designated as a special protection area.

(Ord. 49, passed 7-7-03)

§ 54.47 LOCATIONS.

(A) *Well head protection areas.* Feedlot and manure management practices may be further regulated within a Well Head Protection Zone established by local units of government.

(B) *Bluff impact zone.* Modifications or expansions to existing feedlots that are located within a bluff impact zone are allowed if they do not further encroach on the bluff impact zone, all zoning regulations are complied with, and all identified pollution hazards are corrected.

(C) *Transition areas.* No new feedlot shall be constructed within any of the Transition Areas identified by the County Comprehensive Land Use Plan without approval of the city.

(D) *Abandoned Wells.* All abandoned wells shall be properly sealed pursuant to Minn. Department of Health Rule, Chapter 4725.

(Ord. 49, passed 7-7-03)

§ 54.48 ODOR MITIGATION.

(A) The use of odor modeling to analyze feedlot odors and make recommendations for odor management may be necessary for an expansion or modification pursuant to § 54.46(D)(2), a CUP, or variance request. For the purpose of this section, measuring for an odor rating shall be achieved by using OFFSET -- or another feedlot odor measuring tool recommended by the University of Minnesota and approved by the County Feedlot Administrator.

(B) New liquid manure storage facilities, for swine feedlots over 300 animal units, shall not be constructed unless the facility will be covered, with an approved cover, for the purpose of odor mitigation. The cover shall be in place and maintained from May 1 through November 1.

(C) New barns, including modifications of barns, with shallow or deep pits, must be constructed using approved biofiltration air systems, or approved equivalent (i.e., University of Minnesota approved systems).

(D) Feedlots requiring a liquid manure storage facility, for the purpose of pollution abatement, may be exempt from this section, if so determined by action of the Board of Commissioners.

(Ord. 49, passed 7-7-03)

MANURE AND LAND APPLICATION REQUIREMENTS

§ 54.60 LAND APPLICATION OF MANURE.

(A) All application of manure shall follow the MPCA Feedlot Rule, Chapter 7020 in addition to the requirements set forth in this chapter.

(B) Buffer requirements.

(1) Streams, wetlands, and drainage ditches.

(a) Protected. If applying manure, or process wastewater, with 300 feet of the ordinary high water of a protected stream, wetland, or drainage ditch, a 25-foot vegetated buffer shall be maintained along the stream, wetland, or drainage ditch.

(b) Unprotected. If applying manure, or process wastewater, within 50 feet of the ordinary high water of an unprotected stream, wetland, or drainage ditch, one rod (16.5 feet) of vegetated buffer shall be maintained along the stream, wetland, or drainage ditch.

(2) Lakes. If applying manure, or process waste water, within 300 feet of the ordinary high water of any lake, a 25-foot vegetated buffer shall be maintained along the lake.

(C) Right-of-Way. Manure shall not be applied to the right-of-way of public roads.

(D) Wells.

(1) If no pollution hazard exists, a minimum distance of 100 feet shall be maintained between manure,

or process wastewater, and any private water supply well.

(2) If no pollution hazard exists, a minimum distance of 300 feet shall be maintained between manure, or process wastewater, and any public water supply well.

(E) Residences. Animal manure, and process wastewater, shall not be applied within 100 feet of a residence unless it is injected or immediately incorporated into the soil. However, permission by the resident may be granted to spread closer. When determining the distance between a residence and manure application, the distance shall be measured from the residence, not property lines, to manure application.

(F) Treatment or disposal. Any manure not utilized as domestic fertilizer shall be treated or disposed of in accordance with applicable state rules.

(G) Irrigation of liquid manure. Irrigation of liquid manure is strictly prohibited in the county.

(Ord. 49, passed 7-7-03)

§ 54.61 MANURE SPREADERS AND OTHER VEHICLES.

(A) All vehicles used to transport animal manure, or process wastewater, on public roads shall be leak proof. Manure spreaders with end gates shall be in compliance with this provision provided the end gate works effectively to restrict leakage and the manure spreader is leak proof.

(B) All animal manure shall be stored and transported in conformance with MPCA Feedlot Rule (Chapter 7020) and this chapter.

(Ord. 49, passed 7-7-03)

§ 54.62 STEEL MANURE HOLDING TANKS.

No steel tanks shall be used for underground manure storage.

(Ord. 49, passed 7-7-03)

§ 54.63 COMMERCIAL MANURE PUMPERS AND APPLICATORS.

(A) All commercial manure pumpers and applicators must be registered with the County Environmental Services Department in order to conduct business within the county.

(B) Registration must include the following:

(1) Written request for registration that includes company name, owner(s) name, address, description of land application procedures/policies used;

(2) Any other information as requested by the County Environmental Services Department;

(3) Registration shall be renewed every four years.

(C) The following conditions shall apply to manure application:

(1) Liquid manure must be injected or incorporated within 24 hours of application;

(2) Pumpers and applicators shall comply with the conditions of this chapter and the feedlot owner's permit.

(Ord. 49, passed 7-7-03)

§ 54.64 ADDITIONAL LAND.

The feedlot owner and/or operator shall own, or have sufficient additional land under contract to meet the manure utilization requirement for spreading of manure produced at their feedlot. The county may retain copies of all written agreements between the feedlot operators and lessors, or any person who permits land manure application. Each parcel of land subject to agreement shall be limited to one agreement per parcel.

(Ord. 49, passed 7-7-03)

CHAPTER 55: CLEANUP OF CLANDESTINE DRUG LAB SITES

Section

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- 55.30 Exceptions, appeals, and penalties

GENERAL PROVISIONS

§ 55.01 TITLE AND STATUTORY AUTHORITY.

(A) The ordinance this chapter refers to shall be known and referenced as the "Cleanup of Clandestine Drug Lab Sites Ordinance."

(B) This chapter is enacted pursuant to the powers specified in M.S. Ch. 145A, including but not limited, to §§ 145A.04, 145A.05, and 145A.10.

(Ord. 53-2004, passed 8-2-04)

§ 55.02 PURPOSE.

(A) Professional reports, based on assessments, testing, and investigations, show that chemicals used in the production of illicit drugs can condense, penetrate, and contaminate on the land, surfaces, furnishings, and equipment in or near structures where clandestine drug labs are located.

(B) These conditions present health and safety risks to occupants and visitors of such structures and land through fire, explosion, and skin and respiratory exposure to chemicals.

(C) This chapter establishes responsibilities and guidelines for involved parties to assure that:

(1) People are not unnecessarily exposed to the dangers of these contaminated structures or land; and

(2) Proper steps are taken to remove contaminants and assure appropriate tests are completed to verify that affected structures and land are sufficiently cleaned for human contact.

(D) This chapter assists and guides appropriate public authorities, property owners, and occupants to prevent injury and illness to members of the public, particularly children and pregnant women.

(E) This chapter is intended to reduce exposure to chemicals used at clandestine drug lab operations in

structures including dwellings, buildings, motor vehicles, trailers, appliances or the land where they are located.

(F) This chapter is intended to minimize the cost to the county for cleanup of clandestine drug lab sites.

(Ord. 53-2004, passed 8-2-04)

§ 55.03 JURISDICTION.

(A) This chapter shall apply to all incorporated and unincorporated municipalities and land (city or township) within the boundaries of the county.

(B) Where a municipality has lawfully passed an ordinance to regulate and enforce the cleanup of clandestine drug labs, the county shall coordinate regulation and enforcement with that municipality.

(Ord. 53-2004, passed 8-2-04)

§ 55.04 INTERPRETATION AND APPLICATION.

(A) The provisions of this chapter shall be interpreted and applied as the minimum requirements necessary to protect public health, safety, and welfare.

(B) Where the conditions imposed by any provision of this chapter are either more restrictive or less restrictive than comparable provisions imposed by any other law, ordinance, statute, resolution, or regulation of any kind, the regulations which are more restrictive or which impose higher standards or requirements shall apply.

(Ord. 53-2004, passed 8-2-04)

§ 55.05 DISCLAIMER OF LIABILITY.

Liability on the part of, or a cause of action against the county or any employee or agent thereof for any damages that may result from reliance on this chapter shall be eliminated or limited as provided by M.S. Ch. 466.

(Ord. 53-2004, passed 8-2-04)

§ 55.06 FEES.

Fees for the administration of this chapter may be established and amended periodically by ordinance of the County Board of Commissioners.

(Ord. 53-2004, passed 8-2-04)

§ 55.07 DEFINITIONS, RULES, AND WORD USAGE.

For the purpose of this chapter, the following terms or words shall be interpreted as follows:

CHILD. Means any person less than 18 years of age.

CHEMICAL INVESTIGATION SITE. Means a clandestine drug lab site that is under notice and order for cleanup and/or remediation as a public health nuisance, as authorized by M.S. Ch. 145A and this chapter.

CLANDESTINE DRUG LAB OPERATION. Means the unlawful manufacture or attempt to manufacture a controlled substance.

CLANDESTINE DRUG LAB SITE. Means any area including, but not limited to, a dwelling, building, motor vehicle, trailer, boat, part of a ditch, field, woods, lake, or appliance occupied or affected by conditions and/or chemicals, typically associated with a clandestine drug lab operation.

CLEANUP. Means proper removal and/or containment of substances hazardous to humans and/or the environment at a chemical investigation site. Cleanup is a part of remediation.

CONTROLLED SUBSTANCE. Means a drug, substance or immediate precursor in Schedules I through V of M.S. § 152.02, as amended in the future. The term shall not include distilled spirits, wine, malt beverages, intoxicating liquors, or tobacco.

OWNER. Means any person, firm, or corporation who owns, in whole or in part, the land and/or structures such as buildings, motor vehicle, trailer, boat or other appliance at a clandestine drug lab site.

PUBLIC HEALTH NUISANCE. Shall have the meaning attributed to it in M.S. § 145A.02, subd.17.

PUBLIC HEALTH AUTHORITY. Means Carver County Community Health Services authorized by the County Board of Commissioners pursuant to the Local Public Health Act, M.S. Ch. 145A, to act as its agent for public health purposes.

REMEDIATION. Means any method used to abate the public health nuisance created by a chemical investigation site and bring it into compliance with all applicable state and federal law including, but not limited to: assessment, evaluation, testing, venting, detergent scrubbing, enclosure, encapsulation, demolition, and removal of contaminated materials.

LAW ENFORCEMENT. Means any licensed peace officer.

STRUCTURE. Means a dwelling, building, motor vehicle, trailer, boat, ice fishing house, appliance or any other area or location, either fixed or temporary.

(Ord. 53-2004, passed 8-2-04)

ADMINISTRATION

§ 55.20 DECLARATION OF SITE AS A CHEMICAL INVESTIGATION SITE PUBLIC HEALTH NUISANCE.

Clandestine drug lab sites, as defined herein, are declared by this chapter to be "Chemical Investigation Site Public Health Nuisances".

(Ord. 53-2004, passed 8-2-04)

§ 55.21 MEDICAL GUIDELINES FOR ASSESSING HEALTH STATUS OF EXPOSED PERSONS.

Medical guidelines for assessing the health status and determining medical care needs of persons—particularly children—that are found or known to be occupants or frequent visitors at a clandestine drug lab site, may be established and updated as necessary by the "Medical Consultant" who provides consultation services under contract to Carver County Community Health Services.

(Ord. 53- 2004, passed 8-2-04)

§ 55.22 LAW ENFORCEMENT NOTICE TO AFFECTED PUBLIC, PUBLIC HEALTH, AND CHILD PROTECTION AUTHORITIES.

(A) Law enforcement authorities, who identify and confirm a clandestine drug lab site or clandestine drug lab operation, shall notify the Public Health Authority and the county department responsible for child protection within one working day of identifying and confirming the lab site, as permitted by M.S. § 13.82. The obligation to promptly notify may be delayed to accomplish appropriate law enforcement objectives, but any decision to delay notification must be in compliance with Minnesota law including, but not limited to, M.S. § 626.556. The notice shall include sufficient information to inform the recipients of the following:

- (1) Property or structure location by street address and other identifiable location;
- (2) Property or structure owner's and occupant's identities—especially the identities of any children and women of child-bearing age found or known to be associated with the site;
- (3) Chemicals found, indications of chemical residues and any related odors and vapors;
- (4) Equipment in a dwelling or structure that is typically associated with the manufacture of a controlled substance; and
- (5) Conditions typically associated with a clandestine drug lab site or operation including, but not limited to, weapons, illicit drugs, filth, fire, or electrical shock and other harmful conditions as determined by Minnesota law.

(B) Upon identification of the clandestine drug lab site or operation, law enforcement agencies may treat, store, transport or dispose of all hazardous waste found at the site in a manner consistent with rules and regulations adopted by the Minnesota Department of Health, the Minnesota Pollution Control, the county, and all other state, federal, and local agencies with jurisdiction over the site or operation.

(C) When a law enforcement agency completes its work under division (B) and is prepared to leave such sites, the agency shall affix a warning sign to a conspicuous part of the site. The warning sign shall be that prepared in advance for such situations by the Public Health Authority. The warning sign shall be of a size and contain information sufficient to alert visitors or returning occupants that the site is a Chemical Investigation Site Public Health Nuisance, may be dangerous to enter, and must not be entered except by authorization of the Public Health Authority and/or Law Enforcement agency identified on the sign.

(D) Any person, other than a representative of the Public Health Authority, who willfully removes the

warning sign specified in division (C), is guilty of a misdemeanor pursuant to M.S. § 145A.04, subd.10.

(Ord. 53-2004, passed 8-2-04)

§ 55.23 NOTICE OF CHEMICAL INVESTIGATION SITE PUBLIC HEALTH NUISANCE TO OWNER AND OCCUPANT.

(A) After the Public Health Authority receives notice from a law enforcement agency that the agency has identified a clandestine drug lab site and posted the appropriate Chemical Investigation Site Public Health Nuisance warning sign, the Public Health Authority shall serve the known lawful occupants and owners of the site pursuant to M.S. § 145A.04, subd. 8(b) with notice of their responsibilities relative to the Chemical Investigation Site Public Health Nuisance.

(B) The Public Health Authority shall notify and order the property owner of record and known occupant or agent to have the public health nuisance removed or abated within ten days as provided in M.S. § 145A.04 and this chapter. The public health notice and order shall include the following:

(1) A replica of the Chemical Investigation Site Public Health Nuisance declaration that is posted at the site's entrance(s).

(2) Information about the potentially hazardous condition of the chemical investigation site.

(3) A summary of the property owner's and occupant's responsibilities under this chapter.

(4) Information on locating professional services necessary to remove and abate the Chemical Investigation Site Public Health Nuisance status as provided in this chapter and M.S. § 145A.04.

(C) Subject to any restrictions imposed by M.S. Ch. 13, the Public Health Authority shall endeavor to provide information in writing about the Chemical Investigation Site Public Health Nuisance declaration and potential hazard(s) to the following additional concerned parties:

(1) Neighbors within close proximity that can be reasonably affected by the conditions found;

(2) The local municipal clerk;

(3) Local law enforcement;

(4) Other state and local authorities, such as the Minnesota Pollution Control Agency and Minnesota Department of Health, that may have public and environmental protection responsibilities at the site; and

(5) County Administrator.

(Ord. 53-2004, passed 8-2-04)

§ 55.24 NOTICE FILED WITH PROPERTY RECORD AND/OR MOTOR VEHICLE RECORD.

(A) When 30 days have passed since the owner received the order of abatement specified in § 55.23(B), and Carver County Public Health has not obtained any reasonable assurance or plan from the property owner or

occupant that the structure is being properly vacated, cleaned, remediated, and tested, Carver County Public Health shall provide a copy of the Chemical Investigation Site Public Health Nuisance notice and order to the County Recorder and to the lien and mortgage holders of the affected structure and/or properties. The County Recorder is authorized to file that information with the property record to notify other persons with interest in the property about the property's Chemical Investigation Site Public Health Nuisance status.

(B) When the affected property is a motor vehicle, boat, or trailer, Carver County Public Health shall notify the appropriate state and local agencies that maintain motor vehicle, boat, or trailer records, and the holders of liens or security interests against the vehicle or trailer.

(Ord. 53-2004, passed 8-2-04)

§ 55.25 PROPERTY OWNER'S AND OCCUPANT'S RESPONSIBILITY TO ACT.

(A) Property owner(s) and occupant(s) provided with a notice, which also includes the posted warning sign informing them about the Chemical Investigation Site Public Health Nuisance, shall promptly act to vacate occupants from those parts of a structure that are a Chemical Investigation Site Public Health Nuisance. This includes dwellings, buildings, motor vehicles, trailers, boats, appliances or any other affected area or location.

(B) Within ten business days of receiving the public health notice and order to cleanup the Chemical Investigation Site Public Health Nuisance, the property owner(s) and/or occupant(s) shall take the following actions:

(1) Notify Public Health Authority that the affected parts of the dwellings, buildings, and/or motor vehicles have been and will remain vacated and secured until the Public Health Authority provides notice that the public health nuisance no longer exists.

(2) Contract with one or more acceptable environmental hazard testing and cleaning firms (acceptable firms are those that have provided assurance of appropriate equipment, procedures, and personnel, as determined by the Public Health Authority) to accomplish the following:

(a) A detailed on-site assessment of the extent of contamination at the site and the contamination of the personal property therein;

(b) Soil testing of the site and testing of all property and soil in proximity to the site that the environmental hazard testing and cleaning firm determines may have been affected by the conditions found at the site;

(c) A complete cleanup of the site (including but not limited to the cleanup or removal of contaminated plumbing, ventilation systems, fixtures and contaminated soil) or a demolition of the site and a complete cleanup of the demolished site;

(d) A complete cleanup, or disposal at an approved dumpsite, of all personal property in the site;

(e) A complete cleanup of all property and soil in proximity to the site that is found to have been affected by the conditions found at the site, and

(f) Remediation testing and follow-up testing to determine that all health risks are sufficiently reduced, according to Minnesota Department of Health guidelines, to allow safe human occupancy and use of

the site and use of the personal property therein.

(3) Provide the Public Health Authority with the identity of the testing and cleaning firm the owner or occupant has contracted with for remediation of the structure(s) as described above.

(4) Provide the Public Health Authority with the contractor's plan and schedule for remediation that will abate the Chemical Investigation Site Public Health Nuisance declaration.

(5) The property owner or occupant may request an extension of time to consider options for arranging cleanup or removal of the affected parts of the structure. The owner or occupant must show good cause for any such extension. Any such extension shall be dependant on the owner's assurance that the affected parts of the structure will not be occupied pending appropriate cleanup or demolition.

(Ord. 53-2004, passed 8-2-04)

§ 55.26 PROPERTY OWNER'S RESPONSIBILITY FOR COSTS AND OPPORTUNITY FOR RECOVERY.

(A) Consistent with M.S. Ch. 145A, the property owner shall be responsible for:

(1) Private contractor's fees, cleanup, remediation, and testing of Chemical Investigation Site Public Health Nuisance conditions; and

(2) County fees and costs of administering notices and enforcing, vacating, cleanup, remediation, and testing of affected parts of the property.

(B) Nothing in this chapter is intended to limit the property owners, agents, occupants, or the county's right to recover costs or damages from persons contributing to the public health nuisance, such as the operators of the clandestine drug lab and/or other lawful sources.

(C) The county's administrative and enforcement services, referenced in division (A), include but are not limited to the following:

(1) Posting warning notices or signs at the site;

(2) Notification of affected parties;

(3) Securing the site, providing limited access to the site, and prosecution of unauthorized persons found at the site;

(4) Expenses related to the recovery of costs, including the assessment process;

(5) Laboratory fees;

(6) Cleanup services;

(7) Administrative fees; and

(8) Other associated costs.

(Ord. 53-2004, passed 8-2-04)

§ 55.27 SPECIAL ASSESSMENT TO RECOVER PUBLIC COSTS.

(A) The county is authorized under M.S. § 145A.04, subd. 8(c) to proceed within ten business days of service of a notice for abatement or removal of the Public Health Nuisance to initiate the assessment and cleanup when a) the property owner is not located, or b) the Public Health Authority determines that the owner refuses to, or cannot pay the costs, or arrange timely assessment and cleanup that is acceptable to the designated Public Health Authority.

(B) The County Administrator shall be fully authorized to act, consistent with Minnesota law, on behalf of the county to direct funds to assure prompt remediation of chemical investigation sites.

(C) When the estimated cost of testing, cleanup, and remediation exceeds 75% of the County Assessor's market value of the structure and land, the County Administrator is authorized to notify the property owner of the county's intent to remove and dispose of the affected real property instead of proceeding with cleaning and remediation.

(D) The property owner shall be responsible for all costs, including those of the county, incurred to abate the public health nuisance, including contractor's fees and public costs for services that were performed in association with a clandestine drug lab site or chemical dump site cleanup. The county's costs may also include, but shall not be limited to, those set forth in § 55.26(C). Fees and costs specified above that are not paid for in any other way may be collected through a special assessment on the property as allowed by M.S. § 145A.08, or by any other applicable federal, state, and county laws, ordinances, and/or applicable County Board Resolution.

(E) The cost of testing, cleanup, and remediation shall be certified by the Director of Carver County Public Health or his or her designee. Notice of cost, and demand for payment, shall be forwarded to the property owner by certified mail at the property owner's last known address as shown on property tax records. If payment in full is not made within 30 days of mailing of notice, Carver County Public Health may request that all costs be assessed against the property.

(F) Payment on the special assessment shall be collected at the time real estate taxes are due.

(G) The county may also seek recovery of costs through other methods allowed by federal or state law.

(Ord. 53-2004, passed 8-2-04)

§ 55.28 AUTHORITY TO MODIFY ABATEMENT ORDER.

(A) The Public Health Authority may modify conditions of the abatement order specified in § 55.23(B).

(B) Such modification shall occur only after the Public Health Authority has determined that levels of contamination are sufficiently reduced through remediation to warrant modification of the order. The Public Health Authority may rely on information from competent sources, including those supplied by the property owner and/or others such as state and local health, safety, law enforcement and pollution control authorities to reach such decisions.

(C) When the declaration is modified or removed the Public Health Authority shall forward that

information to the County Recorder for addition to the property record if notice of the nuisance declaration was previously filed with the Recorder as described above. Similarly, notice shall be provided to the motor vehicle or other license records agencies and lien holders if a notice had previously been provided to them.

(Ord. 53-2004, passed 8-2-04)

§ 55.29 WASTE GENERATED FROM CLEANING UP A CLANDESTINE DRUG LAB.

Waste generated from Chemical Investigation Site Public Health Nuisances shall be treated, stored, transported, and disposed in accordance with applicable rules and regulations adopted by the state Department of Health, state Pollution Control Agency, and the county.

(Ord. 53-2004, passed 8-2-04)

EXCEPTIONS, APPEALS, AND PENALTIES

§ 55.30 EXCEPTIONS, APPEALS, AND PENALTIES.

Administration of this chapter, including guidance for, challenges to, and penalties shall be according to the authorities provided in M.S. Ch. 145A, other applicable Minnesota laws, and the County Solid Waste Management Ordinance.

(Ord. 53-2004, passed 8-2-04)

CHAPTER 56: SUBSURFACE SEWAGE TREATMENT SYSTEM AND WATER WELL LOAN PROGRAM

Section

- 56.01 Purpose
- 56.02 Authority
- 56.03 Definitions
- 56.04 Administration
- 56.05 Application and certification procedures
- 56.06 Eligibility
- 56.07 Loan financing terms
- 56.08 Appeals
- 56.09 Separability

§ 56.01 PURPOSE.

This chapter is adopted to provide for the creation of a public loan program that assists private property owners in the financing of site evaluation, installation, repair, or replacement of subsurface sewage treatment systems and in the financing of the sealing and replacement of wells on private property. Such a loan program promotes the public health and welfare by preventing, reducing, and eliminating water pollution from subsurface sewage treatment systems or wells that meet the priority criteria established in the Administrative Plan.

(Ord. 58-2007, passed 3-27-07)

§ 56.02 AUTHORITY.

Carver County may establish a subsurface sewer treatment system and well loan program pursuant to the authority granted under M.S. Chapter 1031, M.S. Chapter 115, and Minn. Rules Chapter 7080 and as amended that may pertain to sewage and wastewater treatment and enforcement standards for subsurface sewage treatment systems and wells.

(Ord. 58-2007, passed 3-27-07)

§ 56.03 DEFINITIONS.

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

BORROWER. Individual or multiple landowners applying for a low-interest loan.

IMPROVEMENT. A site evaluation, design, installation, repair, or replacement of a subsurface sewage treatment system or well or sealing of an abandoned well.

LOCAL LENDER. A state or federally chartered bank, a savings and loan association, a state or federal credit union, a non-profit economic development organization approved by the Commissioner, a farm credit systems institution or the applicant when designating itself as the ***LOCAL LENDER.***

PROJECT. A site evaluation, design, installation, repair or replacement of a subsurface sewage treatment system or well or sealing of an abandoned well.

PROPERTY OWNER. The owner or owners as recorded on the tax roll of the county where the real property on which the SSTS or well that is installed, repaired or replaced is located.

SUBSURFACE SEWAGE TREATMENT SYSTEM or SSTS. A sewage treatment system or parts thereof, using soil treatment and disposal to treat 5,000 gallons or less of waste water per day (M.S. § 116.18, subd. 3c) or uses an alternative discharging system treating 10,000 gallons per day using treatment methods and disposal other than subsurface soil treatment and disposal (M.S. Chapter 1031).

WELL. A well as defined in M.S. § 1031.005, subd. 21.

(Ord. 58-2007, passed 3-27-07)

§ 56.04 ADMINISTRATION.

(A) The Carver County Board of Commissioners may designate by resolution a county department or agency to serve as local lender for purposes of the grant program.

(B) The Carver County Board of Commissioners may designate by resolution a loan administrator to administer the loan program to determine the eligibility of property owners, and to distribute loan funds to eligible borrowers.

(C) All repairs and improvements made to SSTS or wells under this chapter shall be performed by a licensed professional and shall comply with the agency rules adopted pursuant to M.S. § 115.55, subd. 3 and Minn. Rules Chapter 7080 and other applicable requirements.

(D) Loan funds shall be disbursed to eligible property owners according to priority criteria adopted by the County Board. In considering loan requests, the loan administrator shall consider criteria including, but not limited to, the age and depth of the SSTS or well, the proximity of the SSTS or well to contaminant sources, the pollution potential, and the risks to public health and safety.

(E) Access to the fund is voluntary and shall result in a lien on the benefiting property according to the terms set forth in the Administrative Plan. The Administrative Plan may be amended by the Carver County Board.

(F) The property owner has the right to prepay the assessment.

(G) Projects shall only be funded to the extent of funds available in the loan fund.

(Ord. 58-2007, passed 3-27-07)

§ 56.05 APPLICATION AND CERTIFICATION PROCEDURES.

(A) The County Board shall establish an initial loan application period and direct the loan administrator to publish notice of the initial application period in the official county newspaper.

(B) Property owners shall contact the Carver County Community Development Agency (CDA) or Carver County Environmental Services to receive an application form. The property owner shall complete the application, and submit it to the Carver County CDA or other designated department or agency within the initial application period. Applications received after the initial application period will not be considered for funding until all eligible applications received during the initial application period are funded.

(C) CDA or other designated department or agency shall review applications, contact applicants for additional information if needed and forward applications to the loan program administrator for determination of eligibility. The loan administrator shall rank applications according to priority criteria adopted by the County Board of Commissioners and notify applicants of their status.

(D) Property owners shall have a site evaluation, system design and construction bid completed by a licensed SSTS professional and provide this information to the loan administrator along with any related information requested by the loan administrator. The loan administrator shall review the information provided and notify the property owner of eligibility for grant funds and project approval or disapproval. The loan administrator may request additional information or construction bids for the project.

(E) Work on projects shall begin promptly after the property owner receives approval by the loan program administrator. All repairs and improvements made to SSTS or wells under this chapter shall be performed by a licensed professional and shall comply with the agency rules adopted pursuant to M.S. § 115.55, subd. 3, Minn. Rules Chapter 7080, Chapter 52 of this code, and other applicable requirements.

(F) Carver County shall inspect the site to observe installation and conditions at the time of inspections. Inspections related to the installation of any wells will be conducted by the Minnesota Department of Health. Copies of the certification shall be promptly forwarded to the loan program administrator.

(G) Upon receiving documentation of certification of completion, the loan administrator shall distribute the funds to the property owner or licensed contractor as per established county payment procedures.

(Ord. 58-2007, passed 3-27-07)

§ 56.06 ELIGIBILITY.

(A) Eligible activities.

(1) Repair or replacement of an existing subsurface sewage treatment system (SSTS) that does not conform with provisions of Minn. Rules Chapter 7080 and/or Chapter 52 of this code.

(2) Relocation of SSTS out of environmentally sensitive areas.

(3) Replacement of SSTS that are failing or non-conforming with an expanded SSTS, provided that loan funds are not used to finance the expanded portion of the SSTS.

(4) Replacement of SSTS up to 15 days prior to loan application submittal and in full compliance with this chapter.

(5) Well projects:

(a) Sealing abandoned wells or wells that do not conform to M.S. § 1031.005, subd. 21, § 1031.301, subd. 1.

(b) Replacement or relocation of wells that do not conform to M.S. § 1031.005, subd. 21, § 1031.301, subd. 1.

(B) Ineligible activities.

(1) SSTS in excess of flow rates listed in the definition of subsurface sewage treatment system set forth in § 56.03.

(2) New connections or repairing old connections to collection systems or municipal waste treatment

systems.

(3) Installation of SSTS for new construction.

(4) Expansion or upgrading of a conforming SSTS due to construction of additional living quarters, new construction, or new or expanded use.

(5) Costs that were incurred after the termination date of the loan agreement with the applicant.

(6) Well projects:

(a) Installation of new wells for new construction.

(b) Installation of new wells for increased yield or flow rate.

(Ord. 58-2007, passed 3-27-07)

§ 56.07 LOAN FINANCING TERMS.

(A) *Interest rate.* Loans shall be made based on an interest rate to be established by the County Board of Commissioners.

(B) *Term.* Loans shall be made based on a term to be established by the County Board of Commissioners in the Administrative Plan.

(C) *Fees.*

(1) *Origination fee.* An origination fee established by the County Board of Commissioners and set forth in the fee-for-service schedule, shall be charged for administration costs related to the implementation and management of the loan program.

(2) *Pre-application fee.* The Carver County CDA may charge a pre-application certification fee in an amount established by the County Board of Commissioners.

(D) *Loan amount.* The maximum loan amount shall be set by the County Board of Commissioners not to exceed limits established by the Minnesota Department of Agriculture loan program pursuant to authority granted under M.S. Chapter 246, § 6.

(E) *Repayment.* Repayment shall be made as a special assessment collected with the property tax payable for the property.

(Ord. 58-2007, passed 3-27-07; Am. Ord. 64-2008, passed 4-8-08)

§ 56.08 APPEALS.

(A) *Right to appeal.* An applicant may appeal a decision by the loan administrator to deny or modify a SSTS loan application. Such appeal must be made within 30 days of the notice of denial or modification.

(B) *Hearing.* An appeal from any order, requirement, decision, or determination from the loan administrator shall be heard by the Board of Adjustment within 30 days from the date of filing the appeal. The Board of Adjustment shall give due notice thereof to the appellant and officer, from whom the appeal is taken, and decide the same within 30 days of the hearing date.

(C) *Stay of action.* An appeal stays all proceeding and furtherance of the action appealed from unless the Board of Adjustment certifies that by reason of the facts stated in the certificate the stay would cause imminent peril to life or property.

(D) *Action to Board of Adjustment.* The Board of Adjustment may reverse or affirm wholly or partly or may modify the order, requirement, decision, or determination appealed from and to that end shall have all of the powers of the officer from whom the appeal was taken and may direct issuance of the loan. The reasons for the Board of Adjustment's decision shall be stated in writing.

(E) *Fee.* Any applicant requesting a hearing with the Board of Adjustment shall pay a non-refundable fee to assist in covering the costs of the Board of Adjustment hearing. The fee shall be initially established as \$150 until such time as the fee is included and adopted into the County Fee Schedule.

(Ord. 58-2007, passed 3-27-07)

§ 56.09 SEPARABILITY.

If any part of this chapter shall be held invalid by a court of competent jurisdiction, it shall not invalidate any other section, provision, or part thereof.

(Ord. 58-2007, passed 3-27-07)

§ 56.10 EFFECTIVE DATE AND DISSOLUTION.

This chapter shall be in full force and effect from and after November 1, 2006 according to law. Carver County may dissolve the subsurface sewer treatment system and well loan program by passing an ordinance complying with the provisions of M.S. § 115.57.

(Ord. 58-2007, passed 3-27-07)

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