

BOARD OF COUNTY COMMISSIONERS  
WASHINGTON COUNTY, MINNESOTA

RESOLUTION NO. 2014-029

DATE March 18, 2014  
MOTION  
BY COMMISSIONER Miron

DEPARTMENT  
SECONDED BY  
COMMISSIONER

Public Health & Environment  
Bearth

**RESOLUTION ADOPTING WASHINGTON COUNTY  
HAZARDOUS WASTE MANAGEMENT ORDINANCE #195 AND  
REPEALING HAZARDOUS WASTE MANAGEMENT ORDINANCE #187.**

**WHEREAS**, Minn. Stat. 473.811 Subd. 5b requires each metropolitan county to enact an ordinance which provides for the identification of; the labeling and classification of; the collection, storage, transportation, processing and disposal of; and other regulations touching on the public health, safety and welfare in regards to hazardous waste, and

**WHEREAS**, Washington County's regulation of hazardous waste through ordinance dates back to 1984, and

**WHEREAS**, the current Washington County Hazardous Waste Management Ordinance is Washington County Ordinance #187 which was adopted on July 26, 2011, and

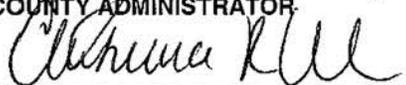
**WHEREAS**, changes in the manner of dealing with certain waste streams has led to a determination by the Washington County Department of Public Health and Environment that a new hazardous waste management ordinance incorporating these changes would be beneficial to the health, safety and welfare of the County, and

**WHEREAS**, on January 21, 2014 the Department of Public Health and Environment held a workshop with the Washington County Board of Commissioners to review proposed changes to the ordinance, and

**WHEREAS**, on March 18, 2014 the Washington County Board of Commissioners conducted a public hearing pursuant to Minn. Stat. 375.51 to consider adopting a new hazardous waste management ordinance.

**NOW, THEREFORE, BE IT RESOLVED**, that the Washington County Board of Commissioners hereby adopts Washington County Hazardous Waste Management Ordinance #195, to take effect upon the passage of this resolution and its publication according to law, and

**BE IT FURTHER RESOLVED**, that the Washington County Board of Commissioners hereby repeals Washington County Hazardous Waste Management Ordinance #187, said repeal to take effect on the date that Washington County Hazardous Waste Management Ordinance #195 becomes effective.

ATTEST:   
COUNTY ADMINISTRATOR  
  
COUNTY BOARD CHAIR

	YES	NO
BEARTH	<u>X</u>	___
KRIESEL	<u>Absent</u>	___
LEHRKE	<u>X</u>	___
MIRON	<u>X</u>	___
WEIK	<u>X</u>	___

**WASHINGTON COUNTY  
HAZARDOUS WASTE MANAGEMENT ORDINANCE #195  
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**WASHINGTON COUNTY DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT  
HAZARDOUS WASTE MANAGEMENT ORDINANCE #195**

**Section 1 Purpose and Authority**

- 1.1 The purpose of this Ordinance is to establish the rules, regulations and standards for Hazardous Waste management in Washington County, Minnesota and is enacted pursuant to the authority granted to the County under Minnesota Statutes Chapters 145A and 473.
- 1.2 In order to protect the health, safety and welfare of the public, this Ordinance establishes the following for the management of Hazardous Waste:
- (1) Requirements for the proper identification, labeling, and classification of Hazardous Wastes;
  - (2) Rules for the handling, collection, transportation, transfer and storage of Hazardous Waste;
  - (3) Rules for the treatment, recycling, resource recovery, processing, and disposal of Hazardous Waste;
  - (4) Requirements for the licensing of Hazardous Waste Generators and Hazardous Waste Facilities.

**Section 2 Scope**

- 2.1 This Ordinance shall be applicable in all incorporated and unincorporated areas of Washington County.
- 2.2 This Ordinance shall be liberally construed so as to protect from Hazardous Waste contamination the health, safety and welfare of the residents of Washington County and the natural environment of the County.

**Section 3 Definitions**

- 3.1 For the purpose of this Ordinance, the following terms or words shall have the following meaning:
- (1) Agency means the Minnesota Pollution Control Agency (MPCA).

- (2) Appliance has the same meaning given in Minnesota Statute 115A.03 or any device which contains and uses a class I or II substance (as defined by Code of Federal Regulations (CFR), title 40, part 82, subpart A, as changed) as a refrigerant and which is used for Household or commercial purposes, including but not limited to any air conditioner, refrigerator, chiller, or freezer.
- (3) Appliance Generator means any person that builds, uses, installs, replaces, maintains, services, or repairs appliances and as a result of such activity, generates appliances or appliance parts that are regulated under this ordinance.
- (4) Appliance Processor shall mean any Person scrapping, recycling, or disposing of Appliances in Washington County.
- (5) Appliance Processing Facility means any Site where a Person is conducting the activities of an Appliance Processor.
- (6) Circuit Boards means electrical equipment panels consisting of fiberglass, a paper and epoxy blend or other inert material and electrical conductors, traces or foils. Circuit Boards shall include but not be limited to Circuit Board Trimmings.
- (7) Circuit Board Trimmings means the pieces, including dust particles, which are cut or trimmed off of Circuit Boards during the Circuit Board's routing or punching process.
- (8) Collector means any Facility, or part thereof, that receives or collects Special Hazardous Waste and where no disassembly or processing of Special Hazardous Waste occurs.
- (9) County means Washington County, Minnesota.
- (10) County Board means the Washington County Board of Commissioners.
- (11) Department means the Washington County Department of Public Health and Environment.
- (12) Electronics means Electronic Components and Electronic Devices.
- (13) Electronic Component means subassemblies or other parts derived from the disassembly of Electronic Devices, which exhibit the toxicity characteristic set forth in Minn. R. 7045.0131. Electronic Components include but are not limited to Circuit Boards.
- (14) Electronic Device means electronic equipment that contains one or more electronic Circuit Boards, cathode ray tubes, or other circuitry or parts that exhibit the toxicity characteristic set forth in Minn. R. 7045.0131.

- (15) Embargo means the requirements, conditions and prohibitions contained in a written order issued by the Department, which prohibits the use, sale, movement, treatment, or disposal of a material or item that the Department reasonably suspects is being used or will be managed in violation of this Ordinance.
- (16) Facility has the meaning given in Minnesota Rules pt. 7045.0020- subp. 24. In addition, Facility means any Site where any Person conducts the following activities: keeping, collecting or accumulating Hazardous Waste received from other Persons; treating, storing, disposing, transferring, recovering, recycling, depositing, reclaiming or other handling or processing of Hazardous Waste. Facility shall also mean the collection for treatment, storage or disposal of Universal Waste received from other Persons; and the recycling and processing of Universal Waste, Special Hazardous Waste, Appliances, used oil and used oil filters received from other Persons.
- (17) Generator has the meaning given in Minn. Rules pt 7045.0020 subp. 31. Unless specifically stated otherwise, in addition, Generator means any Person, who produces a Special Hazardous Waste or a Universal Waste; causes a Special Hazardous Waste or Universal Waste to become subject to regulation; or collects from others and stores: used oil, used oil filters or waste contaminated with used oil or Universal Waste; or
- (A) Who owns property upon which Appliances, Special Hazardous Waste, Universal Hazardous Waste, Hazardous Waste, used oil, used oil filters or waste contaminated with used oil or hazardous materials have been abandoned or Released; or
- (B) Who meets the criteria for any Generator size, in accordance with Minn. Rules Chapter 7045.0206.
- (18) Hazardous Component means ballasts, capacitors, lamps, Electronic Components, batteries; and sensing, measurement, and control devices containing mercury such as but not limited to thermostats, pressurestats, accustats, switches, relays, and mercury flame sensors, or any other part which exhibits the toxicity characteristic set forth in Minn. R. 7045.0131.
- (19) Hazardous Waste means any refuse, sludge, or other waste material or combinations of refuse, sludge and other waste materials which are in solid, semisolid, liquid, or contained gaseous form and 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 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 changed.
- (20) Household has the same meaning as contained in Minnesota Statutes, Section 115A.96 subd. 1 (a).
- (21) Household Hazardous Waste has the same meaning as in Minnesota Statutes, Section 115A.96, subd 1 (b).
- (22) License shall mean the form of permission required by County Ordinance or State law administered by the County for the operation within the County of any business, service, Generator or Facility conducting a Hazardous Waste management activity within the County.
- (23) Licensee shall mean the Person who:
- (A) Is the owner, owner's agent, or other Person legally responsible for the operations of the Facility or Generator; and
  - (B) Holds a valid License to operate a Hazardous Waste Generator Site or a Hazardous Waste Facility pursuant to this Ordinance.
- (24) License Fee with the exclusion of Transfer Facility License Fee which is otherwise defined in Section 3.1 of this Ordinance, means the all-inclusive fee due for an initial or renewal License application, which includes the County application and License fee and late fees, if applicable.
- (25) Notice of Violation means an administrative complaint issued by the Department to a Person alleging violations of the Ordinance, Minnesota Statutes or Rules.
- (26) Ordinance means the Washington County Hazardous Waste Management Ordinance and all the amendments thereto.
- (27) Own, Owner or Owning have the same meaning as given in Minnesota Statutes Chapter 115B.02.
- (28) Person means any human being; political subdivision of the State of Minnesota; state agency; public or private corporation, partnership, firm, association, or other organization; or any receiver, trustee, assignee, agent or other legal representative of any of the forgoing; or any other legal entity.

- (29) Public Health Hazard means any condition upon real property which poses an immediate and direct hazard to human health due to the existence of the condition itself or due to the immediate threat of transmission of such through any means of transmission. Public Health Hazard shall also mean any spills, releases or contamination from the storage, abandonment or handling of used oil, used oil filters, material contaminated with used oil, waste lamps containing mercury or spent lead acid batteries.
- (30) Release, Released or Releases means the accidental or intentional spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping or disposing of a Hazardous Waste in violation of this Ordinance.
- (31) Rule(s) shall mean Minnesota Rules unless specifically referring to Environmental Protection Agency rules.
- (32) Site means the structure, structures or the area or exact plot of ground on which anything is, has been or is to be located.
- (33) Special Hazardous Waste includes the following Hazardous Wastes:
- (A) Electronics.
- 34) Special Variance means a variance adopted pursuant to Section 14.6.
- (35) Special Hazardous Waste Processing/Storage Facility means any Site where Special Hazardous Waste is disassembled/processed for recycling or disposal, or a Collector that exceeds the time or quantity limits specified in this Ordinance.
- (36) Structure means a building or other fixture upon real property.
- (37) Terminate Operation means the shut-down of a Site or business which is then not operated or the relinquishment of a lease of or license in real property or the sale of an operation to a new Person.
- (38) Transfer Facility means as defined in Minn. Rules pt 7045.0020 Subp. 93. In addition, Transfer Facility means a Facility which stores Hazardous Waste on or off the Transfer Facility's vehicle(s) for more than 24 hours and for no more than 10 days.
- (39) Transfer Facility License Fee means the all-inclusive fee assessed by the County, which shall be on a graduated fee schedule predicated upon the use of a specified Transfer Facility. The all inclusive fee may include if applicable an initial or renewal License application fee, MPCA statewide and program fees, and late fees. The determination of the amount of the fee shall be subject to the fee allowances in subsections 9.14, 9.15, 10.1, 10.2 of the Ordinance.

- (40) Universal Waste shall have the meaning set forth in the Code of Federal Regulations (CFR) Title 40 Section 273.9.
- (41) Warning Letter means a written document issued by the Department to a Person giving Notice of Violation of the Ordinance or Minnesota Statutes or Rules.

#### **Section 4 Standards for Health, Safety and Environmental Preservation**

##### **4.1 Standards Adopted:**

Minn. Rules Ch. 7045, and as amended except for Minn. Rules pts. 7045.0484, 7045.0540, 7045.0549, 7045.0551, 7045.1000 through 7045.1030, relating to Hazardous Waste, and as modified herein, are hereby adopted by reference and made a part of this Ordinance.

##### **4.2 Standards Changed:**

This Ordinance hereby modifies for purposes of this Ordinance the portions of the Minnesota Rules as which were adopted by reference in subsection 4.1 of this Ordinance:

- (1) Whenever the term "Minnesota Pollution Control Agency", "Pollution Control Agency" or "Agency", appears in these adopted Rules, it shall mean the "Department," except as used in Minn. Rules pts.: 7045.0020 subp. 4, and 9C; 7045.0070; 7045.0075; 7045.0080; 7045.0090 when referenced by 7045.0545, 7045.0546, 7045.0547, and 7045.0548; 7045.0129; 7045.0133; 7045.0135, subp. 5, item E; 7045.0139; 7045.0218; 7045.0243, subp. 3, item D; 7045.0261, subp. 6; 7045.0275 subp. 2; 7045.0302; 7045.0361; 7045.0395; 7045.0397; 7045.0450, subp. 1; 7045.0452, subp. 2; 7045.0458 subp. 1, item A; 7045.0468, subp. 2; 7045.0498 through 7045.0524; 7045.0552, subp. 3, item A; 7045.0554; 7045.0556, subp. 2; 7045.0574, subp. 2; 7045.0608 through 7045.0624; 7045.0655, subp. 1. However, the above stated term is used in conjunction with "Environmental Protection Agency", or "federal or state agency", the term "Agency" referenced above shall remain unchanged.
- (2) Whenever the term "commissioner" appears in these adopted rules, it shall mean "Department" except when used in Minn. Rules pts.: 7045.0020, subp. 6a, item B, subp. 9c, subp. 13a, subp. 43b and 85a; 7045.0075; 7045.0080; 7045.0090 when referenced by 7045.0545, 7045.0546, 7045.0547 and 7045.0548; 7045.0129; 7045.131, and 7; 7045.0218; 7045.0261, subp. 9; 7045.0265; 7045.294, subp. 1a, item B; 7045.0302; 7045.0310, subp. 3, items B, C and D subp. 5, item C; and subp. 6, item D (second occurrence only); 7045.0320, subps. 9 and 10; 7045.0395, subp. 5, item B; 7045.0474; 7045.0476, subp. 3, item A; 7045.0498 through 7045.0502; 7045.0504 subp. 1 through 6 and 8 through 10; 7045.0506 through 7045.0516; 7045.0518 subp. 1 through 5 and 7 through 9; 7045.0520 through 7045.0524; 7045.0528, subp. 3, subp. 4, items D(4), item G and subp. 8 item F; 7045.0545 subp. 1-7; 7045.0546; 7045.0580; 7045.0582, subp. 3, item A; 7045.0590 through

7045.0594; 7045.0608 through 7045.0624; 7045.0628, subp. 4, item D(4); and 7045.0652, subp. 2, item B.; 7045.0665; 7045.0686; 7045.0845, 7045.0875 Subp. 8B; 7045.0990 subp 4; 7045.1309; 7045.1315, subp. 2, item G; and 7045.1360, in which cases the term "commissioner" shall remain unchanged.

- (3) Whenever the term "permit", "permittee", "permitting" or "permitted" appears in these adopted rules, it shall mean "License", "Licensee", "licensing" or "Licensed" except in Minn. Rules pts.: 7045.0020, subp. 10 item B; subp. 15, item A(4), subp. 23 item A; subp 24 item B and subp. 58 item A; 7045.0121, subp. 2 item D; 7045.0208 subp. 2 item C; 7045.0210; 7045.0261, subps. 2 and 6; 7045.0310, subp. 6 item D; 7045.0320, subp. 9, item C; 7045.0397; 7045.0450, subp. 1; 7045.0458, subp. 1, item A; 7045.0498 through 7045.0524; 7045.0546; 7045.0552, subp. 2; 7045.0554, subp. 1; 7045.0608 through 7045.0624; 7045.1380, subp. 1, item A, and where the term is used with "National Pollutant Discharge Elimination System Permit", "NPDES Permit", "permit-by-rule", "State Disposal System Permit", "Emission Facility Operating Permit", or "air quality permit" the terms "permit", "permittee", "permitting" or "permitted" shall remain unchanged.
- (4) The terms "Minnesota" or "State of Minnesota" shall mean "County of Washington" in Minn. Rules pts.: 7045.0210; 7045.0212; 7045.0214; 7045.0240; 7045.0261, subp. 5 and 6 (except the phrases "Specific Minnesota" and "in Minnesota" shall remain unchanged); 7045.0302, subp. 1; 7045.0351, subp. 1; 7045.0355 and 7045.0361.
- (5) Minn. Rules pt. 7045.0020, subp. 66, shall not apply to this Ordinance.
- (6) For purposes of this Ordinance, Minn. Rules pt. 7045.0060 is modified to read as follows: "No variance may be granted if the granting of the variance would result in noncompliance with EPA (Environmental Protection Agency) regulations and or MPCA (Minnesota Pollution Control Agency) rules for the generation, storage, processing, treatment, transportation, or disposal of Hazardous Waste or the operation of Hazardous Waste facilities."
- (7) Minn. Rule 7045.0125 subp. 9 shall not apply to this Ordinance.
- (8) For purposes of this Ordinance, Minn. Rule 7045.0135 subp. 5 item C(4) the phrase "chapter 7046" is modified to read "the Department".
- (9) For purposes of this Ordinance, Minn. Rules pt. 7045.0225, subp. 1 is modified by deleting in its entirety the last two sentences of Subpart 1 of the Rule.
- (10) For purposes of this Ordinance, Minn. Rules pt. 7045.0230 subp. 1 the first paragraph of Minn. Rules 7045.0230 subp. 1 is changed to read: "Information Required. An application must be on a form provided by the Department and must include the following information:"

- (11) Minn. Rules pt. 7045.0230, subp. 1a shall not apply to this Ordinance.
- (12) For purposes of this Ordinance, Minn. Rules pt. 7045.0240 is modified by the deletion of the second sentence in subp. 3.
- (13) For purposes of this Ordinance, Minn. Rules pt. 7045.0243 is modified by deleting subp. 1 and subp. 3, item C.
- (14) For purposes of this Ordinance, Minn. Rules pt. 7045.0245 subp. 2 is changed to read: "The Department will issue a hazardous waste Generator License upon approval of the application under subpart 1 and payment in full of Generator License Fees."
- (15) For purposes of this Ordinance, the first and second sentences of Minn. Rules pt. 7045.0248, subp. 1 are changed to read "A Licensed Generator must submit to the Department on forms provided by the Department a License renewal application prior to the expiration of the Generator License.
  - (1) The application and report must be received by the Department by the close of business on January 31 of each calendar year except in those cases where the U.S. Postal Service or other courier service is being used: the application and report must be dated or postmarked no later than January 31 of each calendar year.
  - (2) If January 31 falls on a weekend, the deadline noted in item (1) shall be the next business day after January 31 of each calendar year."
- (16) For purposes of this Ordinance, Minn. Rules pt. 7045.0248, subp. 1, item B shall not apply to this Ordinance.
- (17) For purposes of this Ordinance, Minn. Rules pt. 7045.0250 is modified by deleting subp. 2, 3, and 4 of this part.
- (18) For purposes of this Ordinance, Minn. Rules pt. 7045.0292 Subp. 1, 5, 6 and 8, the phrase "without a permit" is modified to read "without a Facility License or permit." The word "permit" in these references remains unchanged.
- (19) For purposes of this Ordinance, the first paragraph of Minn. Rules pt. 7045.0302, subp. 2 the word "commissioner" means Department.
- (20) For purposes of this Ordinance, Minn. Rules pt. 7045.0460, subp. 1, item A is restated as follows: "Procedures are in effect which will cause the waste to be removed safely to a location where the wastes will not be vulnerable to floodwaters before flood waters can reach the Facility. 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 permitted by a state with a Hazardous Waste management program authorized by the Environmental Protection Agency; or which has interim status."

- (21) In those instances where Minn. Rule Ch. 7045 refers to Chapters 7001 and 7046 of the Rules, such reference shall not apply to this Ordinance.

### **Section 5      Standards for the Management of Special Hazardous Waste**

- 5.1** The provisions of this section apply to all Generators, Collectors, or Processing/Storage Facilities.
- 5.2** 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 pts. 7045.0205 to 7045.0990, except in those instances expressly specified by this Ordinance. If Special Hazardous Wastes are not managed in compliance with the requirements of this Section, then they no longer meet the definition of Special Hazardous Waste and shall be deemed to be Hazardous Waste and must be managed in accordance with this Ordinance.
- 5.3** A Person who collects Special Hazardous Waste generated by Households or co-mingles Special Hazardous Waste generated by Households with any Special Hazardous Waste from Generators as defined in this Ordinance shall manage the collected Special Hazardous Wastes or co-mingled Special Hazardous Wastes under the requirements of this Ordinance. Facilities that are operated by or under contract, or License with a local unit of government or state agency to collect Special Hazardous Waste from Households under said contract or License do not need in such instances to obtain a Hazardous Waste Generator or Facility License to perform the obligations under said contract or License except such Facilities must abide by all other applicable provisions of this Ordinance.
- 5.4** A Special Hazardous Waste Processing/Storage Facility License is required in order to collect and store Special Hazardous Waste received from others except for Collectors that have completed and submitted a notification on a form provided by this Department, to this Department.
- 5.5** Generators whose only hazardous waste is Special Hazardous Waste, and who generate no more than 10 cubic yards of Special Hazardous Waste in a year, do not need to obtain a License, submit notification nor obtain a Special Hazardous Waste Processing/Storage Facility License. A Generator may accumulate over 10 cubic yards of Special Hazardous Waste for longer than a one year period only if such activity is necessary to facilitate proper recovery, treatment, or disposal of Special Hazardous Waste. If the Generator accumulates over 10 cubic yards of Special Hazardous Waste on Site, the Generator must demonstrate in a notification to the Department that such activity is solely for the purpose of facilitating proper recovery, treatment or disposal.

**5.6** Storage of Special Hazardous Waste must be in containers or stored in a manner that:

- (1) Prevents damage to or breakage of Special Hazardous Waste during normal handling conditions;
- (2) Is compatible with the material being stored in the container;
- (3) Will not leak or break open during normal handling conditions;
- (4) Protect handlers and all other individuals from physical injury caused by contact with Special Hazardous Waste; and
- (5) Prevent Releases of Special Hazardous Waste and components or residues of Special Hazardous Waste.

**5.7** Storage areas for Special Hazardous Waste must meet the following standards:

- (1) Storage of Special Hazardous Waste must be on a surface impermeable to the Special Hazardous Waste.
- (2) Storage areas must prevent Releases of Special Hazardous Waste or its constituents, components, dusts or residues to soil or water.
- (3) Storage areas must have protection from damage of Special Hazardous Waste from damage by vehicles and outside sources.
- (4) Storage areas shall have restricted access in order to protect Special Hazardous Waste from vandalism.
- (5) Special Hazardous Waste must have adequate aisle space to allow unobstructed movement of personnel and equipment in an emergency.

**5.8** In any one year period, a Collector may store for up to one year on Site no more than 40 cubic yards of Special Hazardous Waste without obtaining for a Processing/Storage Facility License. Upon reaching the 40 cubic yards limit or the end of the one year period, whichever comes first, all Special Hazardous Waste must within ten days of the aforementioned event be shipped in accordance with subsection 5.143 of this Ordinance except a Collector may store less than 40 cubic yards of Special Hazardous Waste past the one year period if such activity is solely for the purpose of accumulating that quantity of Special Hazardous Waste as necessary to facilitate proper recovery, treatment, or disposal. However, the Collector must demonstrate to the Department by clear and convincing evidence that such accumulation is solely for the purpose of facilitating proper recovery, treatment, or disposal of the Special Hazardous Waste.

- 5.9** Generators, Collectors and Facilities must be able to demonstrate the length of time that the Special Hazardous Waste has been accumulated from the date it is deemed a Special Hazardous Waste. Generators, Collectors and Facilities may make such 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 Special Hazardous Waste;
  - (2) Marking or labeling each individual Special Hazardous Waste with the date it became a Special Hazardous Waste;
  - (3) Maintaining an inventory system on the Site that identifies the date each Special Hazardous Waste became a Special Hazardous Waste;
  - (4) Maintaining an on-Site inventory system acceptable to the Department that identifies the earliest date that any discrete and identifiable Special Hazardous Waste in a group of mixed Special Hazardous Waste or a group of containers of Special Hazardous Waste became a Special Hazardous Waste;
  - (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 Special Hazardous Waste; or
  - (6) Any other method acceptable to the Department, which clearly demonstrates to the Department the length of time the Special Hazardous Wastes have been accumulated.
- 5.10** All Special Hazardous Waste stored in accordance with subsections 5.5 and 5.6 of this Ordinance shall be labeled as follows:
- (1) The words “used” or “waste” followed by a brief description of the waste in the container; or
  - (2) A brief description of the waste in the container followed by the words “for recycling.”
- 5.11** Upon discovery that storage of Special Hazardous Waste or its components or residues no longer complies with subsections 5.5 and 5.6 of this Ordinance or upon Release of a Special Hazardous Waste or its components or residues, a Generator, Collector or Special Hazardous Waste Storage/Processing Facility shall:
- (1) Immediately stop activity and contain any Release of the Special Hazardous Waste, or its components or residues.

- (2) If a container storing a Special Hazardous Waste begins to leak or does not otherwise meet the container standards required by subsection 5.5 of this Ordinance, the Generator, Collector or Special Hazardous Waste Storage/Processing Facility shall transfer all Special Hazardous Waste and any components or residues thereof remaining in the leaking or inadequate container to a container that meets the requirements of subsection 5.5 of this Ordinance.
  - (3) Prior to returning to service any leaking or otherwise damaged container, the Generator, Collector or Special Hazardous Waste Storage/Processing Facility shall repair the container so that it meets the container standards of item 5.35 above.
  - (4) If a Release may pollute the environment, a Generator, Collector or Special Hazardous Waste Storage/Processing Facility shall immediately notify the Minnesota Duty Officer by calling (651) 649-5451 and institute recovery of the Release pursuant to the protocol established in Minn. Rules Chapter 7045.0275.
- 5.12** A Generator is prohibited from treating Special Hazardous Waste except for activities associated with:
- (1) Responding to a Release as set out in subsection 5.11 above; or
  - (2) Shredding or cutting up Circuit Boards or computer hard drives.
- 5.13** A Collector is prohibited from treating Special Hazardous Waste except for the activities associated with response to a Release described in subsection 5.11 of this Ordinance.
- 5.14** In the event shipping a Special Hazardous Waste becomes necessary all Special Hazardous Waste may only 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, a description of the Special Hazardous Waste, the amount of waste, and the destination facility's name, address and phone number.
- 5.15** A Special Hazardous Waste Processing/Storage Facility must certify that all employees that handle Special Hazardous Waste are familiar with the management requirements for Special Hazardous Waste. Such certification is not required for Generators or Collectors. In addition, Facilities may not collect Special Hazardous Waste in a manner that is considered Speculative Accumulation as the term is defined in Minn. Rule 7045.0020.
- 5.16** All shipping papers for the shipment of Special Hazardous Waste and applicable employee training records, must be kept on Site; readily available; and for a minimum of three years.

- 5.17** Unless otherwise specified elsewhere in this Ordinance, A Special Hazardous Waste Processing/Storage Facility must obtain and maintain financial assurance and insurance and that is acceptable to the County as specified in Sections 12 and 13 of this Ordinance.

**Section 6 Standards for the Management of Universal Waste**

- 6.1** A Universal Waste must be managed in accordance with Minn. Rules pts. 7045.1400 and this Ordinance. In those instances where Minn. Rules pt. 7045.1400 and this Ordinance conflict, the more restrictive shall apply.
- 6.2** Any Person who collects Universal Waste generated by Households or co-mingles Universal Waste generated by Households with any other Universal Waste shall manage the collected Universal Waste or co-mingled Universal Waste under the requirements of this Ordinance. With respect to Universal Waste generated by Households and collected from said Households pursuant to a contract, or license or formal agreement with a local unit of government or state agency, Facilities that are operated by or under said contract, or license or formal agreement to collect Universal Waste generated by Households and from said 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 Ordinance.
- 6.3** For purposes of Section 6 of this Ordinance only, Minn. Rule. pt. 7045.1400, is modified in such a manner that the term Handler for purposes of dealing with Universal Waste:
- (1) Shall mean "Generator" when the activity being performed with the Universal Waste is such that the activity is identical to the activity defining this Ordinance's term for Generator found in Section 3.1 (16) of this Ordinance.
  - (2) Shall mean "Facility" when the activity being performed with the Universal Waste is identical to the activity defining this Ordinance's term for Facility found in Section 3.1 of this Ordinance.
- 6.4** A Generator of Universal Waste must keep a record of each shipment of Universal Waste. Each record shall be kept from the date of each shipment for a period of three years in a manner which makes it available for on-Site inspection. 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 must include the following:
- (1) The name, address and telephone number of the Person to whom the Universal Waste was sent;
  - (2) The quantity of each type of Universal Waste sent (e.g., batteries, pesticides, thermostats);
  - (3) The date the shipment of Universal Waste left the Generator's Site.
- 6.5** Mercury containing devices must be stored in a closed container which has the following characteristics: structurally sound; compatible with its contents; show no evidence of spillage, leakage, or damage that may under reasonably foreseeable circumstances result

in leakage and be—reasonably designed to prevent the escape of mercury into the environment by volatilization or other means.

**Section 7 Standards for Appliance Generators and Processing Facilities**

- 7.1 In order to operate, An Appliance Processing Facility shall obtain a Facility License.
- 7.2 In order to generate, store, recycle or dispose of its Hazardous Waste, Appliance Generators that generate Hazardous Waste shall obtain a Generator License.
- 7.2 Appliance Generators and Processors must manage their Appliance processing in accordance with all applicable federal, state, and local rules and ordinances.
- 7.3 Appliance Processors shall ensure that all capacitors and/or light ballasts in Appliances that may contain polychlorinated biphenyls (PCBs) are removed and managed separately as a Hazardous Waste.
- 7.4 Appliance Processors shall remove and reclaim, destroy, or properly dispose of all chlorofluorocarbon (CFC) or hydrochlorofluorocarbon (HCFC) (commonly referred to by the trade name “Freon”); refrigerants. In performing these activities the Appliance Processor shall comply with the following:
- (1) The refrigerant technician certification requirements in Code of Federal Regulations, title 40, part 82;
  - (2) Shall, if requested by the County, provide proof of such certifications; if requested by the County;
  - (3) Obtain and maintain on Site for County inspection a signed statement from the final disposal Facility, verifying that all refrigerants have been removed pursuant to 40 CFR part 82.156.; Final disposal Facility shall include but not be limited to scrap recyclers.
- 7.5 Appliance Processors shall ensure that all Hazardous Components are removed and managed separately as a Hazardous Waste.
- 7.6 Appliance Generators and Processors shall keep records ~~for~~ of all shipments made of appliances containing Hazardous Components or Hazardous Components removed from appliances. Appliance Generators and Processors shall maintain each record on site for a period of three (3) years from the date the shipment was initiated and shall make the records easily available for inspection. The record may take the form of a log, invoice, uniform hazardous waste manifest, bill of lading, or other shipment document. The record for each shipment must include the following information:

- (1) The name, address, and telephone number of the destination of where the Appliances or hazardous components were shipped;
  - (2) The quantity of each type of appliance or Hazardous Component shipped; and
  - (3) The date the Appliance or Hazardous Component was shipped.
- 7.7 Appliance Processors shall remove and properly manage as Hazardous Waste any hazardous solutions or vapors contained in gas air conditioners and/or gas refrigerators which exhibit the toxicity characteristic set forth in Minn. R. 7045.0131.
- 7.8 Appliance Processors shall in accordance with this Ordinance remove and manage switches, relays, temperature devices, lamps, and other components containing mercury.
- 7.9 Upon complying with subsections 7.1 through 7.6 of this Ordinance, ~~above~~ the Appliances so managed will be deemed scrap metal as that term is defined by Minnesota Rules 7045.0020, subpart 79a. Appliance Processors shall recycle or reuse the scrap metal in accordance with MS 115A.9561.
- 7.10 Appliance Processors must certify and maintain on the Site such certifications that all employees that process Appliances are familiar with the management requirements for processing appliances and make the records easily available for inspection. Such certification is not required for Generators or Collectors.

### **Section 8 Administration**

- 8.1 This Ordinance shall be administered by the Department.
- 8.2 All of the provisions of the Washington County Administrative Ordinance shall be applicable to this Ordinance.
- 8.3 Any Site for which a License is required under this Ordinance must conform to all land use and zoning regulations. Therefore as condition precedent and subsequent of any License required by this Ordinance, the Licensed Site must comply with all land use and zoning regulations governing the location where the regulated activity will be conducted. Failure to comply with and to provide evidence of such land use and zoning regulations shall be grounds for denial, suspension or revocation of the License.
- 8.4 Whenever necessary to perform an inspection; to enforce any of the provisions of this Ordinance or there is reasonable cause to believe that ~~any~~ unlawful Generator or Facility activity is being conducted or Public Health Hazard exists in or on any Site, the Department or its authorized agent may access such Site at all reasonable times to inspect the same or to perform any duty imposed upon the Department by this Ordinance.

- (1) If the Site is occupied, the Department shall prior to entry present proper credentials and request entry.
- (2) If such Site is unoccupied, the Department shall make a reasonable effort to locate the Owner or other Persons having charge or control of the Site and request entry.
- (3) If entry is refused, such refusal shall be deemed a misdemeanor, and the County may obtain an administrative warrant to conduct the inspection.

**8.5** The County Board shall, by resolution, establish fees for Licenses issued under this Ordinance and may establish such other fees as may be necessary for the administration and enforcement of this Ordinance.

### **Section 9      Licensing**

- 9.1** No Person shall make or allow property under the Person's ownership or control to be used for any Generator activity that does not comply with this Ordinance.
- 9.2** Unless otherwise provided by this Ordinance, no Person shall make or allow property under the Person's control to be used for any Facility activity; and no Person shall process or recycle used oil, used oil filters or waste mercury-containing lamps, except at a Site or Facility for which a License for the Site or Facility has been issued by the Department. Collectors that have exceeded the weight or time limit specified in item 5.7 and Processors of Special Hazardous Waste must obtain a Processing/Storage Facility License.
- 9.3** Prior to the issuance of a License for any Facility pursuant to this Ordinance, the License applicant shall furnish the County with a bond or letter of credit in an amount determined pursuant to subsection 12.2 and naming Washington County as the obligee.
- 9.4** A Household generating Household Hazardous Waste is exempt from the requirements of subsections 9.1 and 9.2 of this Ordinance.
- 9.5** Applications for Licenses for Generators, Facilities or Sites under this Ordinance shall be submitted to the Department on forms provided by the Department. Applications shall provide such information as may be needed for the administration of this Ordinance. Such information shall include, but not be limited to, the information specified in Minn. Rules pts. 7045.0230 or 7045.0248, as applicable. Applicants for a License for a Facility shall submit to the Department, on request, all of the documents and supporting information required by the Agency in its permitting procedures.
- 9.6** If an application for a License under this Ordinance is not complete or otherwise does not conform to the requirements set forth in this Ordinance, the Department shall advise the applicant within sixty (60) days of receipt of the application. Such notification shall be in writing and will include the reasons for non-acceptance of the application. The applicant

- shall comply with the Department's request for additional information, re-submittal or modification within the timeframe specified by the Department. Failure to comply with the Department's request shall constitute basis for denial of such License.
- 9.7** Applications for an initial or renewal License for a Generator will be acted upon by the Department within sixty (60) calendar days of receipt of a complete application.
- 9.8** Application for an initial or renewal for a License for a Facility or Transfer Facility will be acted upon by the Department within one hundred twenty (120) calendar days of receipt of a complete application.
- 9.9** Applications for any initial or renewal License under this Ordinance shall be received in the timeframe established by the Department. Applications received after the timeframe established by the Department are considered late and subject to the late fees outlined in subsection 9.15 of this Ordinance. Applications for License renewal under this Ordinance must be accompanied by a statement of any change in information since submittal of the last approved such License or License renewal.
- 9.10** Applicants for a License for a Facility (herein after Facility License) or Transfer Facility License for a Transfer Facility (herein after Transfer Facility License) shall not commence any operation of the Facility or Transfer Facility until the License application has been approved by the Department. A Facility or Transfer Facility License shall not be issued by the Department until the Facility or Transfer Facility construction has been completed in compliance with this Ordinance and the approved plans.
- 9.11** An Application for a License for Generator (Generator License) which is received more than seventy-five (75) days after commencement of operation shall be considered late and subject to a late application penalty. Application for a Generator License modification shall be deemed late if received by the Department more than 75 days after first producing the waste.
- 9.12** A renewal application form received after the expiration of the current License year shall be processed as an initial License application and in addition to all late fees accrued, shall be assessed fees as if it was an initial License application. A Person whose renewal application is received or awaiting approval shall be deemed to be without a License after the License expires, and the activity for which the License is required shall cease until such time as a new License is granted.
- 9.13** License Fees are due within thirty (30) days of the billing date.
- 9.14** License Fees for Transfer Facility Licenses shall be imposed under this Ordinance be a fair approximation of an applicant's use of state transportation facilities within the County and be reasonably related to transporting hazardous material. When imposing such fees the Department will consider the transporter's use of the Transfer Facility, type of activity, types of substances and wastes stored during or incidental to such

transportation, and the location of the Transfer Facility Site when imposing such fees. However the fees associated with obtaining a Transfer Facility License must be reasonably related to transporting Hazardous Waste and conform to this section and to subsections 9.15, 10.1, 10.2 of this Ordinance.

- 9.15** The late fees assessed by this Section shall be either nominal or the associated percentage of the License Fee or Transfer Facility License Fee for the forthcoming year, whichever is higher. The County Board may grant a reduction or abatement of any penalty or late fee assessed by this section as the board deems just and equitable. The late fees in items one (1) to three (3) shall be assessed in addition to the License Fee and to any other fees which may have been incurred. Notwithstanding Section 6.1(4) of the Washington County Administrative Ordinance #149, in addition to the License Fee or Transfer Facility License Fee, the following fees shall be added, not to exceed \$1,000.00, to late License or Transfer Facility License applications and License or Transfer Facility License renewal applications and late License Fee or Transfer Facility License Fee payments:
- (1) One [1] to fourteen [14] calendar days late, a fifteen [15] percent or twenty-five dollar [\$25.00] late fee, whichever is higher.
  - (2) Fifteen [15] to thirty [30] calendar days late, a twenty-five [25] percent or fifty dollar [\$50.00] late fee, whichever is higher.
  - (3) Thirty-one [31] calendar days late to forty-five [45] calendar days late, a fifty percent [50%] or one hundred dollar late fee, whichever is higher.
  - (4) Over forty-five [45] calendar days late, all activity of the Generator or Facility must immediately cease. Operation cannot resume until a new License application has been submitted and all applicable License Fees, Transfer Facility License Fees and late fees are paid in full. The late fee shall be 50% of the License Fee or Transfer Facility Fee for the forthcoming year.
- 9.16** A License may be issued with conditions imposed. In imposing conditions, the Department will consider the type of activity, types of substances and wastes, and the location of the Generator or Facility Site.
- 9.17** Issuance of a License to a Facility which is subject to an Agency permit shall be contingent upon the applicant furnishing satisfactory evidence to the Department of compliance with Minn. Rules pts. 7045.0518 and 7045.0620.
- 9.18** A Transfer Facility License may be issued with conditions imposed if in the opinion of the Department it is necessary to protect public health, safety and welfare provided that any Transfer Facility License condition imposed under this Ordinance shall be consistent with the federal preemption law contained in 49 USC 5125. The Department will consider the transporter's use of the Transfer Facility, type of activity, types of

substances and wastes, and the location of the Transfer Facility Site when imposing conditions.

- 9.19** No change in Facility or Generator operation relative to Hazardous Waste activity shall be made unless the Department is first informed of and approves such change.
- 9.20** The License period for a Hazardous Waste Facility or a Transfer Facility shall be in any year from July 1 to June 30 of the following year; the License year for a Hazardous Waste Generator for any year shall be from May 1 through April 30 of the following year. Licenses for Facilities and Transfer Facilities shall be issued for a period of not more than one year, except that an initial License for a Facility or Transfer Facility may be issued to conform to the June 30 expiration date if the length of the initial License will not exceed eighteen (18) months.

Licenses for Generators shall be issued for a period of not more than one year, except that an initial License for a Generator may be issued to conform to the April 30 expiration date if the length of the initial License will not exceed for a period of up to eighteen (18) months.

- 9.21** The obtaining of a License shall not be deemed to exclude the necessity of obtaining other required licenses or permits, and compliance with the provisions of this Ordinance does not relieve any Person of the need to comply with any and all other applicable rules, regulations and laws.
- 9.22** Omission of any information or submission of false information in association with a License application, renewal application, inspection, compliance, or enforcement action shall be a substantial violation of this Ordinance.
- 9.23** Each License issued pursuant to the provisions of this Ordinance shall be nontransferable.
- 9.24** If the Licensee begins generation of a Hazardous Waste that was not listed on the License application and is therefore not authorized under the existing License, the Licensee must submit an amended application providing information required in part 7045.0230 within 75 days of first producing the new Hazardous Waste. The Generator must at all times manage the new Hazardous Waste in full compliance with parts 7045.0205 to 7045.0325 and this Ordinance. The Generator must not treat, dispose of, or relinquish control of the new Hazardous Waste until at least 15 days after the amended License application is received by the Department. The date of receipt is the postmark date if mailed or the Department date of receipt if hand delivered. In the period between 15 days after receipt and the Department's action under part 7045.0245, the generator may treat, dispose of, and relinquish control of the new waste as provided in part 7045.0208 until written response to the Generator's amended License application is received under part 7045.0245. After the Department acts on the amended License application, the Generator must manage the new Hazardous Waste according to the amended License conditions and

the requirements of this Ordinance or the Generator must cease producing the new Hazardous Waste if the amended License application is denied.

**Section 10 Waste Management, Abandonment or Termination of Operation**

- 10.1** For licensing purposes, the Generator's on-Site treatment of certain on-Site generated Hazardous Wastes shall be an included activity of the Generator's licensure and thus exempts the Generator from obtaining a separate Facility License to conduct such on-Site treatment. Such exemption is limited to the specific treatment activities allowed in Minn. Rules 7045.0450, subp 3k; 7045.0652; 7045.0665, subp 1b; and 7045.0855, subp 3 and the recovery of reusable solvents by either closed-loop or open-loop distillation.

In order to exempt the treatment from the necessity of procuring a separate License under this subsection, a description of the treatment must be described in the Generator's License application and approved by the Department. To monitor the on-Site treatment operation and assure public health and safety, the Department may impose such conditions to the License as deemed necessary.

The Department may only impose such conditions upon a Transfer Facility License as it deems necessary to monitor the on-site treatment operation and assure public health and safety.

- 10.2** Except as indicated elsewhere in this section, Facilities and Generators utilizing any sewer system for the disposal or conveyance of Hazardous Wastes shall comply with all of the requirements of this Ordinance. Facilities and Generators shall maintain, on Site, for at least three (3) years, a copy of any permits or reports concerning the character, concentration, and quantities of the sewerred Hazardous Wastes that are required by the Metropolitan Council Environmental Services or other publicly owned treatment works, or as a condition of a National Pollutant Discharge Elimination System (NPDES) or State Disposal System (SDS) Permit. These records shall be made available for inspection by the Department upon request.

The Department may require Facilities and Generators that discharge Hazardous Waste in any sewer to comply with the requirements of 7045.0558; 7045.0562, subps. 1 and 2; and 7045.0566 through 7045.0576. The Department may impose such conditions to the License as the Department deems necessary to monitor the discharge operation and assure public health and safety.

The Department shall only impose such conditions in a Transfer Facility License as are deemed necessary to monitor the on-site treatment operation and that assure public health and safety.

- 10.3** Any Person who Terminates Operations must prior to termination of operations remove all Hazardous Wastes, Used Oil, Used Oil Filters, Special Hazardous Wastes, Universal Wastes and all materials contaminated with Hazardous Waste, Special Hazardous Waste, Universal Waste or Used Oil from the Site or business. The removal of such materials from the Site or business must be accomplished in full compliance with this Ordinance and Minn. Rules Chapter 7045. Notwithstanding its actual composition, this Ordinance

deems the materials remaining on the Site of a Terminated Operation to be Hazardous Waste materials. The continued storage of Hazardous Waste on the Site of a Terminated Operation shall be done in compliance with Minn. Rules Chapter 7001, 7045, and this Ordinance.

- 10.4** Any Person who Owns the property on which waste and materials subject to regulation by this Ordinance have been abandoned must remove these wastes, materials and all contaminated materials regulated pursuant to the requirements of this Ordinance. The removal of such materials from the property must be accomplished in compliance with this Ordinance. Continued storage of abandoned waste and materials regulated under this Ordinance on the Site is prohibited. If the Person Owning the property fails to remove these wastes or materials, the County may proceed under Section 15 of this Ordinance.
- 10.5** Any unlicensed storage of used oil or used oil filters, waste contaminated with used oil, Special Hazardous Waste, Universal Waste, which results in contamination, spills or Releases into the air, onto the land, into a Structure, onto surface water or into ground water shall be a violation of this Ordinance.

### **Section 11 Inspections**

- 11.1** The Department may inspect Hazardous Waste Facilities, Sites of Hazardous Waste Generators or other Sites where the Department reasonably believes Hazardous Wastes may be located.
- 11.2** A Facility Owner and/or Operator or a Generator shall allow the Department, or its authorized agent, access for the purposes of making such inspections.
- 11.3** A Facility Owner and/or Operator or a Generator shall provide free of charge or shall allow the Department, or its authorized agent, to collect samples of waste, soils, surface waters, ground waters, air, raw materials, sewage discharges or other materials or residues. As an alternative, if the Department agrees, a Facility Owner and/or operator or a Generator may provide free of charge samples requested by the Department.
- 11.4** A Facility Owner and/or Operator or a Generator shall allow the Department free access at all reasonable times during normal business hours to inspect and at a reasonable cost photocopy, all business records related to the generation, collection, processing and transportation of Hazardous Waste.
- 11.5** The Facility Owner and/or Operator or a Generator shall allow the Department to record and document its findings in any reasonable manner including, but not limited to, inspection notes, photographs, photocopies, readouts from analytical instruments, videotapes, audio recordings, and computer storage systems or other electronic media.

- 11.6 Within 30 days of the conclusion of an inspection, the Department will provide the Facility Owner and/or Operator or the Generator with written notice of any deficiencies, orders for their correction and the date by which corrections shall be accomplished.
- 11.7 The Department shall Embargo any material that is or is suspected to be a Hazardous Waste, Used Oil or Used Oil Filters, Waste Lamps, Special Hazardous Waste or Waste Lead Acid Batteries that is being managed in violation of this Ordinance or that the Department has reason to suspect is being or will be managed in violation of this Ordinance. The Department shall place an Embargo label on the suspect material.
- 11.8 No Person may remove an Embargo tag or remove, transport, dispose, treat or use Embargoed material except as authorized by the Department.
- 11.9 Action to Embargo shall not be a transfer of ownership or management responsibility for the Embargoed material to the County.
- 11.10 All records required to be kept under this Ordinance shall be kept at the Licensed Site or made electronically accessible at the Licensed Site for at least three years and made easily available for review during inspection.

## **Section 12 Bonding**

- 12.1 Any bond required pursuant to subsection 9.3 of this Ordinance shall be issued by a financial institution that is listed as certified by the United States Treasury Department.
- 12.2 The amount of the bond or letter of credit shall be sufficient to cover the cost of closing the Facility as established by the Department as follows:
- (1) The Applicant shall submit a reasonable estimated cost for a third party contractor to dispose of the maximum inventory of Hazardous Wastes that will be on Site or at the Facility at any one time;
  - (2) The estimated cost to decontaminate the Facility or Site and all equipment in the Facility or Site, or dispose of such equipment that cannot be decontaminated, plus;
  - (3) The cost to perform any other activities necessary to assure that the Facility or Site does not pose a threat to public health or the environment, plus;
  - (4) An additional thirty percent [30%] for unanticipated costs and administrative costs arising above and beyond the costs outlined in items 1-3 above that the County might incur.
- 12.3 The bond or letter of credit shall state that if the principal fails to obey any of the requirements or to do any of the acts required by this Ordinance; fails to follow an order or notice issued by the Department; or fails to adhere to any conditions of the License for

the operation of the Site or Facility and the Department determines that remediation is necessary the Principal and the sureties on its bond or the institution holding the letter of credit shall pay the Department upon demand for any and all expenses incurred by the Department performing the remediation.

- 12.4** The Principal and its sureties will indemnify and save the County harmless from all losses, costs, and charges that may occur to the County arising from any act or omission of the Principal of any default of the Principal in derogation from the terms of the License to operate and of the provisions of this Ordinance.
- 12.5** Facilities and Sites permitted by the Agency shall submit, in a form acceptable to the Department, satisfactory evidence of compliance with the Agency's financial assurance requirements. Such financial assurance requirements may, in the sole discretion of the County, be accepted in lieu of a bond or letter of credit issued to the County.
- 12.6** Facilities or Sites shall not be required to submit a bond, letter of credit, or financial test, pursuant to this section or proof of adequate insurance pursuant to section 13, 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 ten thousand (\$10,000) or less. Facilities or Sites with Department approval may be exempt from the financial assurance requirements under this section and with Department approval may be exempt from the insurance requirements under Section 13, but in such cases the Facility or Site shall be licensed as a Facility pursuant to the financial responsibility requirements of Minn. Rules 7045.0210.
- 12.7** The bond or letter of credit shall be issued and in force during the entire time term of the Facility License as established by Section 9.20 plus an additional 90 days from the expiration date of the license.
- 12.8** A financial test may be substituted for a bond or letter of credit contingent on the applicant submitting all the information contained in Minn. Rules 7045.0504 Subpart 7 and on the applicant demonstrating compliance with that part to the Department.

### **Section 13 Insurance**

- 13.1** Issuance of a License to a Facility or site which is not required by the Agency to meet the requirements of Minn. Rules 7045.0518 or 7045.0620 shall be contingent upon the applicant furnishing to the Department a certificate of insurance showing that the applicant maintains the following minimum coverage: Environmental impairment liability insurance coverage including remediation, cleanup and legal liability for \$3,000,000 per occurrence. This provision does not apply to Hazardous Waste Generators unless activities set forth in section 3.1 (15) of this ordinance are also conducted.

- 13.2** Self-insurance for environmental impairment liability coverage may be substituted for the certificate of insurance required of Facilities contingent on the applicant furnishing to the Department all the information outlined in Minn. Rules 7045.0518 Subpart 6 and on the applicant demonstrating compliance with that part to the Department.
- 13.3** Insurance information must be submitted at the time of the License application and/or License renewal. The absence of all necessary insurance information shall constitute an incomplete application.
- 13.4** Insurance required under this section shall be maintained through the term of the license. Certificates of insurance which expire within the term of the Facility License shall be replaced by another certificate of insurance. If the expired certificate of insurance is not replaced, then the Facility License shall be also be expired.
- 13.5** If a Transfer Facility is required to obtain and carry public liability insurance under federal laws, nothing in this section shall require a Facility or Site to obtain insurance coverage in excess of the scope or amount of insurance under federal law. The burden of demonstrating that an insurance requirement in this section exceeds what is required under federal law is placed solely on the Transfer Facility.

#### **Section 14    Modification of Requirements**

- 14.1** The Department may waive or modify the strict application of the provisions of this Ordinance by reducing or waiving certain requirements in accordance with the Washington County Administrative Ordinance when such requirements are found by the Department to be unnecessary or impractical.
- 14.2** Requests by an applicant or Licensee for a variance to the requirements of this Ordinance must be made in writing to the Department pursuant to and shall be determined in accordance with the Washington County Administrative Ordinance.
- 14.3** No variance shall be granted by the County if it would result in noncompliance with Minn. Rules Chapter 7045 unless such modification or waiver has been approved or granted by the Agency.
- 14.4** 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 may be granted by the Department only where said amendment has been approved by the Agency.
- 14.5** The Department may approve a variance that will carry over to each successive License renewal granted. Such carryover may be specifically rescinded by the Department at the next renewal.

- 14.6** The Department may provide upon its own volition variances (hereinafter Special Variance) from one or more sections of this Ordinance. Any Special Variance provided under this subsection will be limited in scope and confined to allowing activities specifically identified in the Special Variance to proceed under the standards set forth in the Agency's Program Management Decisions or its published policies. The Department may only provide for a Special Variance if it determines the public health and welfare and the environment will continue to be protected.

Any imposition or termination of or changes to Special Variances created under this subsection shall be published on the County's website, and it will be the sole responsibility of Licensees to keep abreast of creations or terminations or modifications to Special Variances.

In cases where the Department allows for a Special Variance under this subsection, if a Generator or Facility fails to abide by the applicable Agency Program Management Decision or policy standards identified in the Special Variance, the Generator or Facility shall immediately lose the privilege of operating pursuant to the Special Variance and must immediately conform its activities to this Ordinance.

#### **Section 15    Violations and Enforcement**

- 15.1** Any Person who fails to comply with this Ordinance is guilty of a misdemeanor. A separate offense shall be deemed committed upon each day during or on which a violation occurs or continues.
- 15.2** Citations may be issued by the Department pursuant to Section 5 of Washington County Administrative Ordinance #149.
- 15.3** In the event of a violation or a threat of a violation of this Ordinance, the County may institute appropriate civil actions or proceedings including but not limited to a request for injunctive relief to prevent, restrain, correct or abate such violations or threatened violations.
- 15.4** In addition to any equitable relief the County may institute under subsection 15.3 of the Ordinance, the County may also seek to recover in a civil action the money damages incurred by the County for any corrective action the County may take; or
- 15.5** The County may at the discretion of the County Board, certify the costs for corrective action to the County Auditor as a special assessment against the real property.

#### **Section 16    Provisions Cumulative**

The provisions of this Ordinance are cumulative to all other laws, Ordinances and regulations heretofore passed, or which may be passed hereafter, covering any subject matter in this Ordinance.

**Section 17 Severability**

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

- (1) If any Court of competent jurisdiction shall adjudge any provision of the Ordinance to be invalid, such judgment shall not affect any of the provisions of this Ordinance not specifically included in such judgment.
- (2) If any Court of competent jurisdiction shall adjudge invalid the application of any provision of this Ordinance to a particular Structure, Site, Facility or operation, such judgment shall not affect the application of said provision to any other Structure, Site, Facility, or operation not specifically included in said judgment or action.

**Section 18 Repeal of Washington County Hazardous Management Ordinance #187**

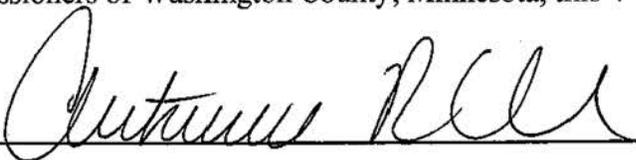
Washington County Hazardous Waste Management Ordinance #187 as adopted on July 26, 2011, is hereby repealed and superseded by this Ordinance.

**Section 19 Effective Date**

This Ordinance shall become effective immediately upon passage by the County Board and publication according to law.

Passed by the Board of County Commissioners of Washington County, Minnesota, this 4<sup>th</sup> day of March 2014.

Autumn Lehrke, Chairman  
Board of County Commissioners



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Attest:



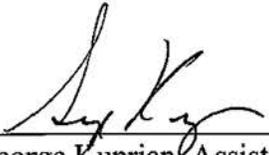
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Molly O'Rourke, County Administrator

Ordinance prepared by:

Washington County  
Department of Public Health and Environment  
14949 62<sup>nd</sup> Street North  
PO Box 6  
Stillwater, MN 55082-0006

Approved as to form and legality:



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George Kuprian, Assistant County Attorney