

ORDINANCE NUMBER 187

BENTON COUNTY SOLID WASTE
DESIGNATION ORDINANCE

BE IT ORDAINED by the Benton County Board of Commissioners as follows:

SECTION I. DEFINITIONS

The following words and phrases, when used in this ordinance, unless the context clearly indicates otherwise, shall have the meanings ascribed to them in this section.

Subsection 1. "Acceptable Waste" is defined as garbage, refuse, and other mixed municipal solid waste from residential, commercial, industrial, and community activities, but does not include unacceptable waste.

Subsection 2. "Collection" is defined as the gathering or aggregating of solid waste from public or private places for transportation to a site or facility.

Subsection 3. "Commission" is defined as the Tri-County Solid Waste Management Commission.

Subsection 4. "Coordinator" is defined as the Tri-County Solid Waste Management Commission Coordinator.

Subsection 5. "County" is defined as Benton County, Minnesota.

Subsection 6. "Department" is defined as the Benton County Department of Planning and Zoning.

Subsection 7. "Designated Area" is defined as the area or areas described in Section II, Subsection 1.

Subsection 8. "Designated Facility" is defined as the facility or facilities identified in Section II, Subsection 1.

Subsection 9. "Designated Waste" is defined as acceptable waste generated in a designated area which is required by Section II to be delivered to a designated facility.

Subsection 10. "Designation" is defined as the requirement contained in Section II that all of the designated waste that is generated within a designated area be delivered to a designated facility.

Subsection 11. "Designation Plan" is defined as that document entitled "Tri-County Solid Waste Management Commission Designation Plan," and any amendments thereto, which was approved by the Waste Management Board on March 24, 1988, pursuant to Minn. Stat. Section 115A.80, et seq.

Subsection 12. "Generate" is defined as the act or process of producing waste, including the production or aggregation of waste occurring at an intermediate disposal facility.

Subsection 13. "Generator" is defined as any person who generates waste.

Subsection 14. "Hauler" is defined as any person in the business of the collection and transportation of solid waste.

Subsection 15. "Hazardous Waste" is defined as any refuse, sludge, or other waste material or combinations of refuse, sludge or other waste materials in solid, semisolid, liquid, or contained gaseous form which because of its quantity, concentration, or chemical, physical, or infectious characteristics may (a) cause or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible illness; or (b) pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of, or otherwise managed. Categories of hazardous waste materials include, but are not limited to: explosives, flammables, oxidizers, poisons, irritants, and corrosives. Hazardous waste does not include source, special nuclear, or by-product material as defined by the Atomic Energy Act of 1954, as amended.

Subsection 16. "Holidays" are defined as New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day or as specified by County Board resolution.

Subsection 17. "Mixed Municipal Solid Waste" is defined as garbage, refuse, and other solid waste from residential, commercial, industrial, and community activities which is generated and collected in aggregate, 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.

Subsection 18. "Resource Recovery" is defined as the reclamation for sale, use, or reuse of materials, substances, energy, or other products contained within or derived from waste.

Subsection 19. "Resource Recovery Facility" is defined as a waste

facility established and used primarily for resource recovery, including related and appurtenant facilities such as transmission facilities and transfer stations primarily serving the resource recovery facility.

Subsection 20. "Tipping Fee" is defined as the fees charged to haulers or other persons for waste delivered to a designated facility.

Subsection 21. "Transportation" is defined as the conveying of solid waste from one place to another.

Subsection 22. "Unacceptable Waste" is defined as waste delivered in quantities which may pose a threat to health or safety, or to the environment, or may cause damage to, or materially adversely affect, the operation of a designated facility, including but not limited to: incinerator ash; foundry sand; explosives; hospital, pathological, and biological waste; hazardous waste; chemicals and radioactive materials; oil sludges; asbestos in identifiable quantities; cesspool or other human waste; sewage and other highly diluted, water-carried materials or substances; materials in gaseous form; human or animal remains; street sweepings; ash; mining waste; sludges; demolition debris; and hazardous refuse of any kind, such as cleaning fluids, crank case oils, cutting oils, paints, acids, caustics, poisons, drugs.

Subsection 23. "Waste" is defined as solid waste, which has the meaning given it in Minn. Stat. Section 116.06, subd. 10 (1988).

SECTION II. DESIGNATION

Subsection 1. Designated Areas and Points of Delivery.

- A. The St. Cloud Transfer Station on 670 North Highway 10 in the City of St. Cloud, Minnesota, the designated facility, is hereby established as the designated point of delivery for all designated waste generated in Benton County.
- B. The Elk River Resource Recovery Facility on 165th Avenue Northwest near Highway 10 in the City of Elk River, Minnesota, is established as the designated point of delivery for all designated waste generated in Benton County, provided that:
 1. The St. Cloud Transfer Station is not operating and the County or Transfer Station operator notifies haulers that the Transfer Station is inoperative; or

2. The Agreement between St. Cloud Transfer and Recycling Corporation and the Commission dated September 22, 1988, and any subsequent amendments thereto, is terminated.

Subsection 2.

On and after July 1, 1989, all acceptable waste generated in the designated areas must be delivered to a designated facility, and may not be delivered to any other site or facility except as otherwise provided in this section. Nothing in this subsection shall preclude delivery of designated waste to a privately owned site or facility located within the County for transfer to a designated facility, provided that the site or facility license specifically permits the receipt of designated waste. This section is binding on all political subdivisions, landfill operators, waste generators, and haulers in the designated area. The provisions of this section shall be in full force and effect upon a date to be specified by resolution of the County Board adopted at least sixty (60) days in advance of the effective date.

Subsection 3. Exceptions.

The following materials are exempt from the designation requirements of this section:

- A. Materials that are separated from solid waste and recovered for reuse in their original form or for use in manufacturing processes.
- B. Material otherwise subject to designation for which negotiated contractual arrangements with the Commission exist that will require the delivery of the waste to a designated facility, provided that this exemption shall apply only so long as the contract remains in full force and effect.
- C. Yard waste.
- D. Administrative Exemption. The Coordinator may determine on a case-by-case basis if acceptable waste should be exempt from Designation due to operating conditions at the facility or transfer station that preclude its timely delivery and may specify conditions for such exemptions. The Coordinator shall make its determination based upon written application and may classify the waste as exempt.
- E. Materials that are processed at another resource recovery facility provided that:
 1. Such facility was in operation at the time of

approval by the Waste Management Board of the Designation Plan on March 24, 1988.

2. The quantity of exempt material shall not exceed the facility's processing capacity used for the processing of wastes generated in the county. The term "processing capacity" shall mean the specific procedure in effect on March 24, 1988 and shall be the arithmetic mean of the weekly quantity of County waste processed by the facility for the 52 weeks preceding the approval of the designation plan. For facilities not in existence for a full 52 weeks preceding March 24, 1988, the Coordinator shall establish a prorated capacity based on the facility's actual period of operation. The average weekly quantity as determined herein shall constitute the maximum weekly quantity of exempt material.
3. The facility owner or operator has requested an exemption and has provided documentation, acceptable to the Commission, which substantiates the requested exemption. Such exemption request and documentation must clearly demonstrate that the waste was in fact processed and not landfilled and must include at least the following: the existence of the facility on March 24, 1988; the quantity of County waste processed at the facility and the quantity of waste landfilled for the 52 weeks prior to March 24, 1988; a list of all haulers delivering County waste to the facility during said 52 weeks; a list of all haulers currently delivering County waste to the facility; and such other information as the Commission may require to establish the facility's exemption. Upon a clear demonstration of processing capacity as set forth herein, the Commission shall approve the exemption in writing.
4. The Commission has approved the exemption in writing.
5. The owner of such facility shall, by January 31 of each year, submit to the Commission a written report for the previous calendar year, acceptable to the Commission, which addresses at least the following: the quantity of County waste, by hauler, delivered to the facility; the quantity of County waste, by type of generator and generation district, delivered to the facility; the quantity of materials recovered; the quantity of materials marketed; the quantity of materials landfilled and

the percent of landfill abatement achieved; and such other information as the Coordinator requires for monitoring compliance with this ordinance or reporting to the Minnesota Pollution Control Agency, Office of Waste Management Grants and Assistance.

- F. Acceptable waste generated within Benton County that is transported to a processing or disposal site located outside the State of Minnesota, provided that the person, partnership, corporation or business entity engaged in transporting the waste out of Benton County file with the Benton County Solid Waste Officer notice stating the destination of said waste and the estimated number of tons to be transported on an annual basis. Said notice must be refiled on an annual basis.
(Ordinance #234 adopted 12/08/93)

Subsection 4.

Unless the facility has notified haulers and the County that the facility is inoperative and the County suspends designation, a designated facility must accept all designated waste delivered to the facility.

Subsection 5. Receiving Hours.

Designated waste must be delivered to the designated facility identified in Section II, Subsection 1.A, the St. Cloud Transfer Station, between 6:00 a.m. and 5:00 p.m., Monday through Friday, 7:00 a.m. and 2:00 p.m., Saturday, excluding holidays, or at such other times as the Commission may determine. Designated waste must be delivered to the designated facility identified in Section II, Subsection 1.B., the Elk River Resource Recovery Facility, between 6:00 a.m. and 6:00 p.m. Monday through Saturday, excluding holidays, or at such other times as the Commission may determine. A facility will not be required to accept waste delivered at any times other than those specified herein.

Subsection 6. Tipping Fees.

- A. Payment. Every person who delivers waste to a designated facility must pay a tipping fee to the facility operator for waste delivered to a designated facility.
- B. Establishment of Fees. The Commission shall, after a public hearing, establish and amend the tipping fee by resolution. The resolution shall state the effective date of the fees.
- C. Factors to be considered by the Commission. The

Commission shall set the tipping fee and any amendments thereto at a reasonable amount, taking into account any of the following factors:

1. The cost to the Commission for waste management services, including those provided by a designated facility;
2. The cost of handling and/or disposing of special wastes and unacceptable waste; and
3. Any other factors which the Commission may determine to have an impact on the reasonableness of the tipping fee at a designated facility.

Subsection 7. Suspension of Designation Requirement.

The County may suspend the designation requirements of this section for just cause, including but not limited to the inability of a designated facility to accept the designated waste. This provision does not relieve any person of any obligation to comply with all other applicable federal, state, or local laws, regulations, or ordinances. The County will provide notice of any suspension or subsequent reinstatement of the designation requirement to haulers, municipalities, and landfill operators in the designated area.

Subsection 8. Delivery of Waste.

No person may deposit unacceptable waste at a designated facility. The designated facility operator may reject any load which he has reasonable basis to believe contains unacceptable waste by refusing to allow disposal of the load at the facility. At the time of such rejection, the facility operator will provide the vehicle operator with a certificate of rejection stating the reason or reasons therefor.

Rejected waste must be disposed of in accordance with all applicable federal, state, and local laws, regulations, and ordinances. A certificate of rejection must be presented to the operator of any waste facility used for disposal of rejected waste. The hauler or other person responsible for the rejected waste shall submit to the Coordinator, within five days of waste rejection, a certification acceptable to the Coordinator of proper disposal of the rejected waste.

Any hauler or other person who deposits unacceptable waste at a designated facility must recover all such unacceptable waste immediately upon demand of the facility operator. Such unacceptable waste shall be considered rejected waste, and must be disposed of in accordance with this section and all applicable federal, state, and local laws, regulations and ordinances.

Any hauler may contest a wrongful rejection of wastes by delivering a written notice of its claim of wrongful rejection to the Coordinator. Such written notice shall state the date of waste rejection and the grounds for the hauler's claim that the designated facility operator wrongfully refused to accept designated waste.

Subsection 9. Delivery Conditions.

Each hauler or other person shall deliver all designated waste in accordance with the following terms and conditions:

- A. Each hauler or other person delivering waste pursuant to this ordinance shall comply with all rules for use of a designated facility that have been approved by the Commission and are posted at the designated facility or otherwise made available to the hauler.
- B. Each hauler shall, upon delivery of any waste to a designated facility, give the facility operator a load report, on a form acceptable to the Coordinator, for each load which contains at least the following information: hauler name, address, telephone number, designated facility identification number; source of waste (city or township or other county of origin); type of waste (i.e. residential or non-residential); percent of waste by city or township and type of generator; percent of waste from each other county; date of delivery; and signature of hauler or hauler's agent delivering the load.

Subsection 10.

No waste facility may permit any designated waste to be deposited at such waste facility unless the person or hauler seeking deposit presents a certificate of rejection from the designated facility or the County has issued a notice of suspension of designation. The waste facility operator shall promptly notify the Department of any hauler not complying with this requirement.

Subsection 11. Inspection of Records.

A person authorized by the County may, upon presentation of identification and without a search warrant, inspect or copy records of any owner or operator of any waste facility in the state that contain information regarding the volume, type, origin, and weight of the waste received by the facility, and the date and time of weighing. A person who fails to open for inspection and copying the records referred to in this section is guilty of a misdemeanor.

Subsection 12. Mixing of Waste Prohibited.

No person shall mix designated waste with unacceptable wastes or wastes from other counties or designated areas. Upon written request, the Commission may grant a waiver to allow the mixing of acceptable waste generated outside of the County with County designated waste, or to allow the mixing of acceptable waste generated in the designated area with waste generated in another designated area, prior to delivery to a designated facility. The waiver shall be given in writing by the Commission and shall be subject to such conditions as the Commission may establish to verify compliance with this ordinance.

Subsection 13. Petition for Exclusion.

Any person proposing to own or operate a resource recovery facility using designated waste may petition the Commission for exclusion of the materials from designation. In order to qualify for the exclusion of materials under this section, the petitioners shall submit with the petition a written description of the proposed facility, its intended location, its waste supply sources, purchasers of its products, its design capacity, and other information that the Commission may reasonably require.

The Commission, after appropriate notice and hearing, shall issue a written decision with findings of fact and conclusions on all material issues. The Commission shall grant the petition if it determines that: (a) the materials will be processed at another resource recovery facility, and (b) the exclusion can be implemented without impairing the financial viability of a designated facility or impairing the contractual obligations or preventing the performance of contracts by a designated facility owner or operator, the Commission, or users of a designated facility.

Any person aggrieved by the decision of the Commission, pursuant to this subsection, may appeal to the Minnesota Pollution Control Agency, Office of Waste Management Grants and Assistance in accordance with Minn. Stat. Section 115A.893.

SECTION III. EFFECTIVE DATE

This ordinance shall take effect July 1, 1989.

APPROVED AND ADOPTED by the Benton County Board of Commissioners this _____ day of _____, 1989.

Donald Winkelman, Sr., Chairman
Benton County Board of Commissioners

ATTEST:

William E. Scott, III, Clerk

Ordinance Number 234
Benton County, Minnesota

WHEREAS, the Benton County Board of Commissioners instituted proceedings to amend Ordinance Number 187 (Solid Waste Designation Ordinance) and any other ordinance, if any, amending Ordinance Number 187; and

WHEREAS, on June 1, 8, & 15, 1993, Notice of Public Hearing and Intent to Amend Benton County Solid Waste Ordinance (Number 187) was published in the official newspaper and mailed to all parties as required by Minnesota Law; and

WHEREAS, on July 6, 1993, the Benton County Board of Commissioners held a public hearing thereon;

WHEREAS, on November 6, 1993, the Minnesota Office of Waste Management issued a determination indicating approval of the amendment to Ordinance 187;

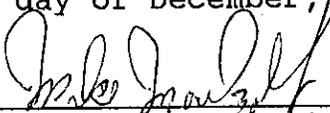
WHEREAS, on December 8, 1993, the Benton County Board of Commissioners granted final approval to the proposed designation amendment,

NOW, THEREFORE, THE BENTON COUNTY BOARD OF COMMISSIONERS ORDAINS:

Amend Section II, Subsection 3 (Exemptions) of Benton County Ordinance Number 187 by adding the following subpart:

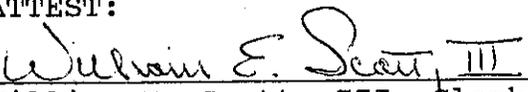
- F. Acceptable waste generated within Benton County that is transported to a processing or disposal site located outside the State of Minnesota, provided that the person, partnership, corporation or business entity engaged in transporting the waste out of Benton County file with the Benton County Solid Waste Officer notice stating the destination of said waste and the estimated number of tons to be transported on an annual basis. Said notice must be refiled on an annual basis.

APPROVED AND ADOPTED by the Benton County Board of Commissioners this 8th day of December, 1993.



Mike Moulzolf, Chairman
Benton County Board of Commissioners

ATTEST:



William E. Scott, III, Clerk