

Ordinance #162  
Benton County Solid Waste Ordinance

An ordinance authorizing and providing for county solid waste management, establishing powers and duties in connection therewith, establishing standards and requirements for solid waste management operations within the county of Benton, requiring a license for the establishment and use of a solid waste management operation, embodying minimum standards and requirements established by rules of the Minnesota Pollution Control Agency; providing for enforcement of said requirements; requiring a performance bond and insurance; and imposing penalties for failure to comply with these provisions; in purpose and object to promote health, welfare and safety of the public and protect resources of water, air and land pursuant to Minnesota Statutes, Chapter 115, 115A, 116 and 400.

The Benton County Board of Commissioners, County of Benton, States of Minnesota, under authority provided in Chapter 400.16(f), of Minnesota Statutes, Ordains:

Section I – DEFINITIONS

The following definitions shall apply in the interpretation and the enforcement of this regulation.

- 1.1 Agency means the Minnesota Pollution Control Agency.
- 1.2 Air Contaminant means the presence in the outdoor atmosphere of any dust, fume, mist, smoke, vapor, gas or other gaseous fluid, or particulate substance differing in composition from or exceeding in concentration the natural components of the atmosphere.
- 1.3 Air Pollution means the presence in the outdoor atmosphere of any air contaminant or combination there of in such quantity, of such nature and duration, and under such conditions as would be injurious to human health or welfare, to animal or plant life, or to property, or to interfere unreasonably with the enjoyment of life or property.
- 1.4 Canister System means one or more commercial solid waste storage containers (such as “green boxes” and “dumpsters”) located to function as intermediate disposal facilities, and which are serviced on a regular basis by a public or private solid waste hauler.
- 1.5 Collection Site means a permitted site, or a site exempted from permit, used for the storage of waste tires.
- 1.6 Commercial Hauler means any person, as defined in Section I, who owns, operates or lease vehicles for hire for the purpose of collections and/or transportation of any type of solid waste.

- 1.7 Composting means the controlled biological decomposition of selected solid waste in a manner resulting in an innocuous final product.
- 1.8 County means any department or representative of the County who is authorized by this ordinance or otherwise by the County Board to represent the County of Benton in the enforcement or administration of this ordinance.
- 1.9 County Board means the Benton County Board of Commissioners.
- 1.10 Cover Material is material that is used to cover compacted solid waste in a land disposal site. Important general characteristics of good cover material are low permeability, uniform texture, cohesiveness and compactability. Suitable cover materials include, but are not limited to, sandy loam, loam, silt loam, sandy clay loam, silty clay loam, clay loam, sandy clay and loamy sand.
- 1.11 Demolition Landfill is defined as an area of land used for the disposal of demolition waste without creating nuisances or hazards to the environment, public health or safety and is operated in compliance with the provisions of this ordinance and agency regulations.
- 1.12 Demolition Waste is defined as concreted, black-top, bricks, blocks, structural metals, wood from demolished structures, trees and tree trimmings, rubble, building materials normally handled in construction and other inert waste materials as may be approved by the County.
- 1.13 Final Solid Waste Disposal Facility means the site, facility, operating procedures and maintenance thereof for the complete and ultimate disposal of solid waste by the sanitary landfill method.
- 1.14 Floodplain is as defined in Minnesota Statutes, Chapter 104.
- 1.15 Garbage means discarded material resulting from the handling, processing, storage, preparation, serving and consumption of food.
- 1.16 Hazardous Waste means any refuse, sludge, or other waste material or combinations of 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, storage, transported, or disposed of, or otherwise managed, Categories of hazardous waste materials includes, 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.

- 1.17 Incineration means the process by which solid wastes are burned for the purpose of volume or weight reduction or energy recovery in facilities designed for such use.
- 1.18 Intermediate Waste Disposal Facility is a facility for the preliminary or incomplete disposal of solid waste including, but not limited to; transfer station, canister site or system, open burning site, incineration, composting, recovery of recyclable materials, reduction, shredding and compression.
- 1.19 Karst means irregular topography characterized by sinkholes, streamless valleys, and streams that disappear underground, all developed by the action of surface and underground water in soluble rock such as limestone.
- 1.20 Land Pollution means the presence in or on the land of any waste in such quantity, of such nature and duration, and under such conditions as would affect injuriously the waters of the state, create air contaminants or cause air pollution.
- 1.21 License means express written permission as granted by the County Board to engage in solid waste management activities.
- 1.22 Licensee means a person who has been issued a license by the County Board for solid waste management purposes pursuant to this ordinance.
- 1.23 Municipality means a city, village, borough, county, town, sanitary district or other governmental subdivision or public corporation, or agency created by the legislature.
- 1.24 Open Burning means burning any matter whereby the resultant combustion products are emitted directly to the open atmosphere without passing through an adequate stack, duct, or chimney.
- 1.25 Operation means any site, facility, or activity relating to solid waste management purposes pursuant to this ordinance.
- 1.26 Permit means express written permission as granted by the Minnesota Pollution Control Agency to engage in solid waste management activities.
- 1.27 Person means any human being, any municipality or other governmental or political subdivision or other public agency, and 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.

- 1.28 Putrescible Material means solid waste which is capable of being rotten, or which may reach a foul state of decay or decomposition.
- 1.29 Refuse means putrescible and nonputrescible solid waste, including garbage, rubbish, ashes, incinerator residue, street cleanings, market and industrial solid wastes and municipal treatment wastes which do not contain free moisture.
- 1.30 Refuse Collection System means a public or private operation engaged in solid waste collection and solid waste transportation.
- 1.31 Regional Flood is as defined in Minnesota Statutes, Chapter 104.
- 1.32 Rubbish means nonputrescible solid wastes, including, but not limited to, ashes consisting of both combustible and noncombustible wastes, such as paper, cardboard, tin cans, yard clippings, wood, glass, bedding, crockery or litter of any kind.
- 1.33 Sanitary Landfill means a land disposal site employing an 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 particle volume, and applying cover material at the end of each operating day, or at intervals as may be required by the agency.
- 1.34 Shoreland means land located within the following distances from public water:  
a) 1,000 feet from the ordinary high water mark of a lake, pond or flowage; and b) 300 feet from a river or stream, or the landward extent of a flood plain designated by ordinance on such a river or stream, whichever is greater.
- 1.35 Sludge means any solid, semi-solid, or liquid waste generated from a municipal, commercial, or industrial wastewater treatment plant, water supply treatment plants, or air contaminant treatment facility, or any other waste having similar characteristics and effects.
- 1.36 Solid Waste means garbage, refuse, sludge from a water supply treatment plant or air contaminant treatment facility, or other discarded waste materials and sludges, in solid, semi-solid, liquid or contained gaseous form, resulting from industrial, commercial, mining, or agricultural operations, or from community activities, but does not include hazardous waste, animal waste used as fertilizer, earthen fill, boulders, rock, sewage sludge, solid or dissolved material in domestic sewage or other common pollutants in water resources, such as silt, dissolved or suspended solids in industrial waste water effluents or discharges which are point sources subject to permits under Section 402 of the Federal Water Pollution Control Act, as amended; dissolved materials in irrigation return flows; or source, special nuclear or by-product material as defined by the Atomic Energy Act of 1954, as amended.

- 1.37 Solid Waste Management means the storage, collection, or removal of solid waste from or on public or private property, its transportation to intermediate or final disposal facilities or its final disposal by methods approved by the Agency.
- 1.38 Solid Waste Management Facility is any tract of land or parcel, including any constructed facility used for the treatment of or the preliminary, intermediate, or final disposal of solid waste, including, but not limited to, transfer station, incineration, composting, waste reduction, recycling facility, and landfill disposal.
- 1.39 Solid Waste Storage means the holding of solid waste near the point of generation.
- 1.40 Solid Waste Transportation means the conveying of solid waste from one place to another by means of vehicle, rail car, water vessel, conveyor or other means.
- 1.41 Test-Well Monitoring, Closure and Post-Closure Contingency Fund means a fund established by the County Board for funds contributed to the county by sanitary landfill and demolition landfill owners and operators. The County Board shall control all disbursements from the fund for the purposes of (a) monitoring test water wells [§12.2], (b) closure of the affected landfill by placement of earthen, cover, grading, establishing vegetation, installation of gas and leachate collection and monitoring systems, and (c) post-closure and contingency expenditures, including but not limited to, cost of ongoing monitoring of gas, leachate and the ground water as well as maintenance of the landfill cover, and other activities to protect the environment, health and safety of the public. (Ord.#183, adopted 4/5/88)
- 1.42 Tire means a pneumatic tire or solid tire for motor vehicles as defined in Minnesota Statutes 169.01.
- 1.43 Tire Collector means a person who owns or operates a site used for storage, collection, or deposit of more than 50 waste tires.
- 1.44 Tire Dump means an establishment, site, or place of business without a required tire collector or tire processor permit that is maintained, operated, used or allowed to be used for storing, keeping, or depositing temporary storage activity.
- 1.45 Tire Processing means producing or manufacturing usable materials, including fuel, from waste tires including necessary incidental temporary storage activity.
- 1.46 Tire Processor means a person engaged in the processing of waste tires.
- 1.47 Transfer Station means an intermediate solid waste disposal facility in which solid waste collected from any source is temporarily deposited to await transportation to another solid waste management facility.

- 1.48 Waste Tire means a tire that is no longer suitable for its original intended purpose because of wear, damage or defect.
- 1.49 Water Pollution means a) the discharge of any pollutant into any waters of the state or the contamination of any waters of the states so as to create a nuisance or render such water unclean, or noxious, or impure so as to be actually or potentially harmful or detrimental or injurious to public health, safety or welfare, to domestic, agricultural, commercial, industrial, recreational or other legitimate uses, or to livestock, animals, birds, fish or other aquatic life; or b) the man-made or man-induced alteration of the chemical, physical, biological or radiological integrity of waters of the state.
- 1.50 Waters of the State means any waters, surface or underground, except those surface waters, which are not confined but are spread and diffused over the land. Waters of the state include all boundary and inland waters.

## Section II – GENERAL PROVISION

- 2.1 No person shall use, cause, permit, or allow land or property under his control to be used for solid waste management purposes, except at an operation for which a license has been granted by the County Board, or another licensed and approved facility, unless otherwise provided by this ordinance. The County of Benton can participate in solid waste management pursuant to this ordinance without having to obtain a license.
- 2.2 A license shall not be required under this ordinance for the disposal of solid waste from only a single household on property where that household is located when a member thereof is the owner, occupant or lessee of the property, but such site shall be operated and maintained in a nuisance free and aesthetic manner consistent with this ordinance and shall conform to the following criteria:
1. The lowest portion of solid waste shall be at least five (5) feet above bedrock and/or highest known water table.
  2. All solid waste shall be covered with at least six (6) inches of clean soil within one (1) week after placement.
  3. If this site is terminated, at least two (2) feet of clean soil shall be placed over the solid waste within ninety (90) days and appropriate vegetation shall be established as soon as weather conditions permit.
  4. Disposal of solid waste in any karst feature such as a sinkhole is strictly prohibited.
  5. Disposal of solid waste in any ravine, gully or dry run is strictly prohibited.
- 2.3 Any operation to be used for any method of solid waste management not otherwise provided for in county ordinances must be licensed application shall

contain three complete sets of plans, specifications and reports prepared by a registered engineer of Minnesota. Those shall include:

1. A current map or aerial photograph of the area showing land use and zoning within one-fourth (1/4) mile of the site or facility. The map or aerial photograph shall be of sufficient scale to show all homes, buildings, lakes, ponds, watercourses, wetlands, dry runs, rock outcroppings, roads and other applicable details as determined by the Solid Waste Officer, and shall include the general topography with contours and drainage patterns. The location of wells shall be identified on the map or photograph. United States Geological Survey data shall be included and a north arrow drawn. A location insert map shall be included.
2. A plot plan including a legal description of the site and adjacent area showing dimensions, location of soil borings, present and planned pertinent features including, but not limited to, roads, fencing, screening, cover stockpiles and monitoring points if planned for. The scale of the plot plan shall not be greater than 200 feet per inch.
3. An ultimate land use plan of the site including stages identifying the total and complete land use, and showing finished contour lines and elevations. The scale of the ultimate land use plan shall not be greater than 200 feet per inch.
4. A report indicating:
  - a) The geographical areas expected to be served by the facility, current population of the areas, and projected population figures for the period of the expected life of the facility.
  - b) The anticipated type, quantity and source of material to be disposed of at the site.
  - c) The type and amount of equipment to be provided at the site for waste handling.
  - d) The area of the site in acres.
  - e) The name and address of the owner of the site or facility, and the name and address of the individuals responsible for the actual operation and maintenance of the site.
  - f) The intended operating procedures.
  - g) The expected schedule of fee charges to be imposed at the facility.
  - h) An estimate of the number of vehicles using the facility each day and the volume of wastes deposited daily.
  - i) The layout and construction of the facility.

5. A notarized affidavit stating that the applicable local governments have been given at least thirty (30) days of written notification of the pending application for a license.
6. A land use permit from the County Zoning Administrator that the use proposed is in accordance with the established County Zoning Ordinance.
7. Documentation of the availability of revenues necessary to operate the facility in accordance with the applicable state and local laws, ordinances and rules.
8. Such additional information as may be required by the Solid Waste Officer.

- 2.4 After receiving an application for an operation, the County Board shall refer such applications to the County Solid Waste Officer and the County Planning Commission, who shall give their non-binding recommendation to the County Board concerning whether it should issue or deny the license.

If an applicant is denied a license, such applicant shall be notified in writing of the reasons therefore by the County Board. A denial shall be without prejudice to the applicant's right to an appearance before the County Board or to the applicant's right to file a further application after revisions are made to satisfy objections specified as reasons for the denial.

- 2.5 Except as otherwise provided, a public hearing before the County Board is required prior to the issuance of a license for a solid waste management facility. (Ord. #168, adopted 2/5/85)

Notice of the time, place and project to be considered shall be given by publication in the official newspaper of the County at least ten (10) days before the hearing.

Written notice shall be sent to property owners of record within one-quarter mile of the existing or proposed project, or to the ten properties nearest to the project, whichever would provide notice to the greatest number of owners.

Written notice shall also be given to the affected board of town supervisors and the municipal council of any municipality within two miles of the existing or proposed project.

The applicant and all other interested parties shall be afforded an opportunity to be heard at the hearing.

Evidence may be adduced in a manner consistent with rules of evidence applied in civil cases. A transcript thereof shall be made by tape recording or other suitable technique. All books, records, files and correspondence of the County Board pertaining to said application shall be available for public inspection.

- 2.6 The County Board shall refuse to issue a license for any operation which does not comply with county ordinances, agency laws and rules and the County's Solid Waste Management Plan as provided for in Minnesota Statutes.
- 2.7 Unless otherwise provided by the County Board, issuance of a license pursuant to the provisions of this ordinance shall be contingent upon the applicant contributing to a test-well monitoring, closure and post-closure contingency fund commencing on the effective date of this ordinance, and furnishing to the County a bond in an amount established by County Board resolution, and naming the County obligee with sufficient sureties duly licensed and authorized to transact business in the State of Minnesota as sureties.

The condition of such bond shall be that if the principal fails to comply with any of the requirements or fails to perform any of the acts required by law and/or ordinance of an operation or ceases to operate or abandons the operation, and the County is required to expend any monies or expend any labor or material to restore the site and/or operation to a condition in compliance with law or this ordinance, the obligor and the sureties on its bond shall reimburse the County for any and all expenses incurred to remedy failure of the principal to comply with the terms of the law or ordinance, and the obligor 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 obligor under the terms of the license to operate in compliance with the terms of the ordinances of the County and federal and state law.

The test-well monitoring, closure and post-closure contingency fund shall be supported with fees collected and paid by the landfill owner and operator to the County. The County Board will establish by resolution a fee based on compacted cubic yards or tons of waste received or a percentage of the dump fee charged at the landfill, or a combination thereof. The County shall review the amount of the fee established at six-month intervals for the purpose of accumulating a reasonable sum of monies to fulfill the purposes of the fund. Monthly reports specifying the volume of waste received at the landfill shall be made to the County Solid Waste Officer by the 15<sup>th</sup> day of each month. The fees set by the County Board shall be paid to the Solid Waste Officer with the monthly report.

The test-well monitoring, closure and post-closure contingency fund shall not relieve the owner and operator of any of the responsibility, including the cost, of compliance with closure and post-closure laws, rules and ordinances. (Ord.#183, adopted 4/5/88)

- 2.8 In addition to the bond referred to in Section 2.7, issuance of any license pursuant to the provisions of this ordinance shall be contingent upon the applicant securing and furnishing to the County certificates of insurance for the following types of insurance issued to the licensee by insurers duly licensed within the State of Minnesota and in amounts to be set by the County Board: general liability, including, but not limited to, bodily injury, property damage, motor vehicle, loading and unloading, completed operations, and explosion and collapse of underground operations insurance.
- 2.9 Any license granted by the County Board under the provision of this ordinance may be conditionally revoked or suspended by the County Board for non-compliance with the provisions of the license, county ordinances or applicable state laws or rules, or upon written notification to the licensee and the County Board by the Solid Waste Officer or by an authorized representative of the Agency that the continued use of the operation may endanger the health, welfare and safety of the public or that the continued use may cause pollution or impairment of the environment. In the event of emergency health, safety or welfare dangers, the County Board or the Solid Waste Officer of the Agency may conditionally suspend the license immediately pending a hearing before the County Board as hereinafter provided.

The notice of conditional revocation or suspension shall be deemed served whenever it is served upon the licensee personally or by leaving the same at the licensed premises with the person in charge thereof. A copy of the notice of conditional revocation or suspension shall be provided to the County Board. The County Board shall remove the license suspension only upon presentation of evidence acceptable to the County Board that the conditions which were cited as cause for suspension have been fully corrected. The conditional revocation or suspension shall become final unless within ten (10) days of service the licensee requests a hearing before the County Board. Except as herein provided, a license may be finally revoked or suspended only after the County Board has held a hearing at which the licensee and other persons wishing to be heard concerning the operation shall have the right to be heard. The date of said hearing for license revocation or suspension shall be set by the County Board and shall not be held earlier than ten (10), nor later than thirty (30), calendar days after notice of said hearing was mailed to or served on the licensee. Evidence may be adduced in a manner consistent with the rules of evidence applied in civil cases. A transcript thereof shall be made by tape recording or other suitable technique. If, pursuant to said hearing, the County Board shall determine that the operation has been conducted in violation of the provisions of the license, county ordinances, stated law or state rules, the County Board may finally revoke the license, or the County Board may continue such suspension in effect until the licensee has demonstrated that full compliance with the provisions of the license, county ordinances, state laws and state rules has been attained and that such compliance will be continued in the foreseeable future. If the County Board revokes the operator's license, the operator may apply for a new license.

2.10 Unless otherwise provided by the County Board, each license granted pursuant to the provisions of this ordinance shall expire on April 1<sup>st</sup> of each year, unless sooner revoked pursuant to section 2.9 of this ordinance. Application for license renewal shall be made in writing to the County Board by January 1<sup>st</sup> of each year. Applications for renewal shall contain a statement of any changes in the information submitted in the last approved license application. Failure to submit such information shall result in the denial of the license by the County Board. If there are no changes, it shall be so stated in the renewal application.

2.11 A public hearing before the County Board of Commissioners is required prior to the renewal of a license for a solid waste management facility.

Notice of the time, place and project to be considered shall be given by publication in the official newspaper of the county at least ten (10) days prior to the hearing.

The applicant and all other interested parties shall be afforded the opportunity to be heard at the hearing.  
(Ord. #168, adopted 2/5/85)

2.12 The licensee shall allow authorized representatives of the County or the Agency access to the facility at any reasonable time and upon presentation or appropriate credentials for the purpose of making such inspections as may be necessary to determine compliance with the requirements of county ordinances, and any other applicable statute, ordinance or rule.

2.13 Where the conditions imposed by any provision of this ordinance are either more restrictive or less restrictive than comparable conditions imposed by any other provision of this ordinance, or any other applicable law, ordinance, or rule, that provision which establishes the higher standards for the promotion of the public health, safety and general welfare shall prevail.

2.14 Every license issued for a solid waste operation in the County shall be registered with the office of the County Solid Waste Officer.

### Section III – SOLID WASTE OFFICER

3.1 The Planning and Zoning Administrator shall act as the Solid Waste Officer and, as such, is responsible for the administration and enforcement of the provisions of this ordinance.

3.2 The Solid Waste Officer or his duly authorized representative shall have all necessary authority to implement and carry out the provisions of this ordinance including, but not limited to, the following:

1. To review and consider all license applications and supporting materials which are referred to the Solid Waste Officer for operations within the County, and, after such review and consideration, to recommend in writing with documentation to the County Board whether a license should be granted or denied.
2. To inspect operations to determine compliance and to investigate complaints about violations of this ordinance.
3. To recommend to the County Attorney that legal proceedings be initiated against a person or group of persons to compel compliance with the provisions of this ordinance or to terminate or control an operation not in compliance with this ordinance.
4. To encourage and conduct studies, investigations and research relating to aspects of solid waste management, including, but not limited to, methodology, chemical and physical considerations and engineering.
5. To advise, consult and cooperate with the public and other governmental agencies in furtherance of the purpose of this ordinance.

#### Section IV – SOLID WASTE STORAGE

- 4.1 Solid wastes shall be stored in a manner, which complies with state rules administered by the Agency.
- 4.2 Toxic or hazardous wastes shall be stored in accordance with state rules administered by the Agency.
- 4.3 Transfer stations and canister sites may be established and shall be licensed according to Section VIII and shall meet all requirements listed in Section IV as well as any additional requirements imposed by the County Board.
- 4.4 Solid wastes shall not be stored on public or private property for more than two (2) weeks without the written approval of the Solid Waste Officer. Nonputrescible wastes suitable for recycling shall not be stored on public or private property in a manner, which creates a nuisance, blight or health hazard.
- 4.5 Collection and Transportation of Solid Wastes  
(Ord.#212, adopted 4/7/92)
  1. Unless otherwise provided in these regulations, the owners, lessee and occupant of any premises, business establishment or industry is responsible for the collection and transportation of solid waste from the premises, establishment or industry, and shall collect and remove all solid waste accumulated at the premises, business establishment or industry and transport it to an appropriate solid waste management facility for which a permit has been issued by the Agency and the county.

2. Debris, litter, garbage, papers or junk should not be piled outside of disposal containers on any property except in public or other licensed refuse disposal facilities.
3. Vehicles or containers used for the collection and transportation of garbage and other putrescible wastes, or solid waste containing such materials, shall be covered, leak proof, durable and of easily cleanable construction. There shall be cleaned to prevent offensive odors, pollution or insect breeding, and shall be maintained in good repair.
4. Vehicles or containers used for the collection and transportation of any solid waste shall be loaded and moved in such a manner that the content will not fall, leak or spill there from, and shall be covered to prevent blowing of material. Where spillage does occur, the material shall be picked up immediately by the solid waste collector or transporter and returned to the vehicle or container and the area properly cleaned.
5. Vehicles and containers used for the collection and transportation of toxic or hazardous wastes shall be durable, enclosed and leak proof and shall be constructed, loaded, transported and unloaded in a safe, sanitary and nuisance-free manner.
6. No person, corporation or business shall engage in the business of collecting or transporting solid waste without first obtaining a license from the County Board.
7. The County Board shall not issue solid waste transportation licenses until the following requirements are met:
  - (a) The applicant shall file an application for a solid waste collection and transportation license upon a form provided by the County Board.
  - (b) The applicant shall submit specifications of all vehicles to be used for solid waste collection and transportation. Such vehicles shall have leak-proof bodies of easily cleanable construction, completely covered with metal or heavy canvas, and shall be subject to approval and periodic inspection by the Solid Waste Officer.
  - (c) The applicant shall submit a description of the route to be followed by all solid waste collection and transportation vehicles between the area of collection and the solid waste operation, which route shall be subject to approval by the Solid Waste Officer.
  - (d) The applicant shall submit a schedule of charges for the hauling of solid waste.
  - (e) The applicant shall provide a \$10,000.00 bond to insure conformance to all provisions of this ordinance.
  - (f) The applicant shall provide proof of insurance in compliance with Section 2.8 of this ordinance.
  - (g) All applicants shall pay a license fee to Benton County in an amount as determined by the Board of Commissioners.
  - (h) The applicant shall provide, in writing, any other information requested by an agent of Benton County to Benton County.

8. Solid waste must be disposed of at an operation possessing a permit from the Agency and license from the County.
9. All licenses issued pursuant to this section shall expire on the 5<sup>th</sup> of March of the year following the date of issuance of the license.
10. Any solid waste transportation license issued pursuant to this section may be revoked or suspended pursuant to Section 2.9 to this ordinance in the event of noncompliance with the conditions of license or the provisions of this section.
11. Except for the sanitary operation of solid waste hauling vehicles, as described in subdivisions 2, 3 and 4, the Benton County Board, and its agents, shall not undertake the inspection or regulation of the appearance or condition of motor vehicles used in the collection and transportation of solid waste, regardless of whether said vehicles operated within the county are licensed or unlicensed. Benton County assumes no liability for the safe operation of these vehicles. This section shall not affect the rights, duties and responsibilities of Law Enforcement Personnel who are acting within the course of their duties.

## Section V – SOLID WASTE LAND DISPOSAL FACILITIES

- 5.1 Land disposal facilities, including, but not limited to, sanitary landfills, and demolition landfills, shall meet all the requirements of state laws and rules administered by the Agency which governs these facilities.

Additionally, no person shall establish, operate or maintain a land disposal facility without first obtaining a license from the County Board in accordance with Section II.

- 5.2 An application for a county license shall include, but not be limited to, the following:
  1. Three sets of a cross section plan, including a minimum of two cross sections of each phase, perpendicular to one another, showing existing grade, excavation grade, final grade water table profile, profile and identity of soils and profile and identity of bedrock.
  2. Three sets of site development plans shall be submitted as part of the plot plan, which indicates the location, and sequence of filling in phases of six (6) month duration.
  3. Three sets of a report including:
    - a. A hydro geological study setting forth the same information as required by the Agency.
    - b. The source and characteristics of cover material and methods to be used for protecting it during winter.
    - c. A description of the waste processing methods to be used prior to final disposal of the solid waste.
  4. An operational and financial plan for closure and post closure, monitoring and maintenance of the facility for a period of twenty (20) years.

5. A copy of all information submitted to the Agency for obtaining an Agency permit.
- 5.3 In addition to compliance with those rules administered by the Agency, the following shall be established, constructed or provided as a sanitary landfill:
  1. Emergency first-aid equipment adequate to provide treatment for persons injured in accidents while at the site.
  2. A suitable disposal area shall be provided for individuals who wish to transport and dispose of their own solid waste.
  3. Litter control devices.

## Section VI – INCINERATION AND ENERGY RECOVERY

- 6.1 All incinerators having a capacity greater than 6,000 pounds per hour shall meet the requirements of state rules administered by the Agency. Additionally, the following requirements shall apply to all incinerators of any size which process solid waste from more than a single household.
- 6.2 No person shall install or operate an incinerator without first obtaining a license from the County Board.
- 6.3 The applicant shall meet all requirements for obtaining a license as specified in Section II of this ordinance. Furthermore, the County Board shall not issue a license until the applicant and facility comply with the following requirements:
  1. All of the same criteria for incinerator construction, operation and maintenance contained in state laws and rules administered by the Agency which presently apply only to incinerators which have capacities greater than 6,000 pounds per hour.
  2. Upon completion of the facility and prior to initial operation, the County Solid Waste Officer shall be notified to allow personnel of the County to inspect the facility both prior to and during the performance tests.
- 6.4 The application for a county license shall include, but not be limited to, the following:
  1. Plans for the disposal of incinerator residue and emergency disposal of solid waste in the event of a major incinerator plant breakdown.
  2. An engineering report including furnace design criteria and expected performance data.
- 6.5 During normal operation, the facility shall comply with the following requirements:

1. Permanent records shall be maintained for County inspection as to the quantity of material incinerated, the total quantity of resulting residue and total hours of plant operation.
2. Any discharge to the air, or to the surface or groundwaters of the state shall meet all applicable state rules for air and water quality or effluent standards.
3. All unloading and processing of solid wastes at the facility shall be conducted in such a manner as to prevent or eliminate odors and litter outside the facility.

## Section VVI – INTERMEDIATE SOLID WASTE DISPOSAL FACILITIES

- 7.1 No intermediate solid waste disposal operation shall be constructed, established, Maintained or operated unless the operator or owner thereof has first been issued therefore a license from the County Board and a permit from the Agency. The applicant shall meet all applicable requirements for obtaining a license as specified in Section II of this ordinance.
- 7.2 The intermediate solid waste facility shall be constructed, operated and maintained in compliance with the following requirements and state rules administered by this Agency:
  1. A sign shall be posted on the premises indicating the name of the operation, the days and hours during which it is open to the public, and user charges, if any. The sign shall be approved by the Solid Waste Officer.
  2. Roads on the premises shall be all-weather surfaced. The premises shall be constructed and landscaped in such a manner as to be aesthetically pleasing in appearance.
  3. Sanitary facilities and shelter adequate for employees shall be provided on the premises.
  4. Records in a form acceptable to the Solid Waste Officer shall be maintained indicating the type and quantity of solid waste processed by the operation.
  5. When stated in and as a part of the license, the licensee shall take away all solid waste and shall wash, clean and disinfect the facility at the end of each day of use.
  6. The operation shall be located, equipped, operated and maintained in a manner, which prevents the creation of a nuisance or unsanitary condition.
  7. The premises' entrance and exits shall be maintained in a clean, neat and orderly manner at all times, and shall be controlled by the licensee in such a manner as to provide orderly and safe ingress and egress.
  8. All unloading of solid waste from contributing vehicles shall be conducted in such a manner as to prevent or eliminate odor and little outside the facility.

## Section VIII – DEMOLITION LANDFILLS

- 8.1 No person shall establish, operate or maintain a demolition landfill without first obtaining a license from the County Board in accordance with Section II.

8.2 The construction requirements and operational procedures of Section VI, applicable to Solid Waste Land Disposal Facilities, shall be applicable to demolition landfills, except for those provisions specifically waived in writing by the Solid Waste Officer. In addition to the foregoing requirements, the following requirements shall apply:

1. No public usage will be allowed except when specifically approved by the County Board in the license agreement.
2. Only demolition waste as defined shall be deposited in a demolition landfill.
3. A site shall be considered finished or terminated and require terminal covering when the site can no longer reasonably be used for the disposal of demolition waste and/or current license is not in effect.
4. The lowest portion of demolition waste shall be at least five (5) feet above bedrock and/or the highest known water table.

#### Section IX – COMPOSTING

9.1 No person shall establish, operate or maintain a composting facility without first obtaining a license from the County Board in accordance with Section II.

9.2 Material resulting from composting or similar processes and offered for sale shall contain no pathogenic organisms, shall not reheat upon standing, shall be innocuous and shall contain no sharp particles which would cause injury to persons handling the compost.

#### Section X – WASTE TIRES

10.1 Waste tire collectors and processors shall meet all the requirements of state laws and rules administered by the Agency, which govern, said activities.

10.2 A tire collector or tire processor with more than 500 waste tires shall obtain a permit from the County unless exempted in Section 11.3.

10.3 Exemptions – A license is not required for:

1. A retail tire seller for the retail selling site if no more than 500 waste tires are kept on the business premises;
2. An owner or operator of a tire retreading business for the business site if no more than 3,000 waste tires are kept on the business premises;
3. An owner or operator of a business who, in the ordinary course of business, removes tires from motor vehicles if no more than 500 waste tires are kept on the business premises;
4. A permitted landfill operator with less than 10,000 waste tires stored above ground at the permitted site; or

5. A person using waste tires for agricultural purposes if the waste tires are kept on the site of use.
- 10.4 The disposal of waste tires in the land is prohibited after July 1, 1985. This does not prohibit the storage of unprocessed waste tires at a collection or processing facility.
- 10.5 Waste tires shall be stored in a manner, which will not create a nuisance, blight, health hazard or fire hazard.

#### Section XI – LICENSE FEES

- 11.1 Approval of the County Board of an application for a license for the storage, collection or transportation of solid waste or for a solid waste management facility shall be contingent upon the payment to the County of a license fee in the amount established by the County Board. The amounts of the license fees shall be based upon the approximate cost to the County of processing the license applications and administering and enforcing this ordinance with respect to said licenses. The fees prescribed shall be paid by the license applicant for each facility maintained.
- 11.2 License fees shall be paid annually as a condition of license renewal. Non-payment of the annual license fees shall be ground for denial of license renewal. Fees shall be paid to the County Treasurer prior to issuance of licenses. All fees for licenses required under this ordinance shall be established by the County Board.
- 11.3 Any non-profit organization shall be exempt from all fees in Section XII of this ordinance providing these organizations demonstrate that their solid waste disposal efforts are designed for community clean-up through source separation and recycling techniques and as a source of fund raising.

#### Section XII – TERMINATION OF SOLID WASTE OPERATIONS

- 12.1 All solid waste operations licensed by the County shall be terminated in accordance with state laws and rules administered by the Agency.
- 12.2 The licensee of any solid waste management facility which has water monitoring wells which are required by the County or Agency to be sampled shall contribute money to the test-well monitoring, closure and post-closure contingency fund (§2.7) no later than one year from the effective date of this ordinance or five years prior to termination of the operation, whichever occurs sooner. The frequency and amount of money to be contributed shall be determined by the County Board.

One of the purposes of the contingency fund is to set aside adequate funds to continue the sampling required by the County or the Agency for a period as deemed reasonable and necessary by the County and Agency after review of the applicable data. The County Board shall specify by resolution the amount of money to be deposited in the fund and the terms for payments, which shall be made by the licensee to that fund. (Ord.#183, adopted 4/5/88)

- 12.3 The County shall perform all long-term monitoring required by the County or the Agency following termination or abandonment of all solid waste operations.
- 12.4 The licensee of each solid waste management facility shall inform the County Board in writing of a licensee's intent to abandon or terminate the operation. Such notice shall be provided in advance of the abandonment or termination date by the following amount of time:

Land Disposal Operation	3 years
Intermediate Disposal Facility	1 year
Incineration Facility	3 years
Collection/Transportation Service	6 months
Other Solid Waste Operations	As stated in license

Failure of the licensee to comply, for any reason, with the above advance notice requirements shall constitute a failure of the licensee to comply with the terms of this ordinance.

- 12.5 The owner or operator of any solid wasteland disposal facility shall be responsible for closure and post-closure of the site. Failure to comply, for any reason, with the closure and post-closure requirements, as established by the County and Agency shall constitute failure by the licensee with the terms of this ordinance.

### Section XIII – REQUIREMENTS FOR OTHER METHODS OF SOLID WASTE HANDLING, PROCESSING AND DISPOSAL

- 13.1 Before a site or facility for any method of solid waste handling, processing and disposal, including transfer stations, not otherwise provided for in there parts is practiced or placed into operation, an application form including three sets of complete plans, specifications, design data, ultimate land use plan and proposed operating procedures shall be submitted to the County for review and license issuance. All such information shall be prepared and submitted by a registered professional engineer of Minnesota.

### Section XIV – RATES AND CHARGES FOR SOLID WASTE MANAGEMENT

- 14.1 A special account on the official books of the County is hereby created which shall be known as the Solid Waste Management Fund. Except as otherwise

provided, all receipts from the charges collected pursuant to this ordinance and all receipts from the sale of real or personal property pertaining to solid waste management systems and the proceeds of all gifts, loans and issuance of bonds for the purpose of the system shall be credited to the Solid Waste Management Fund. All costs of acquisition, construction, enlargement, improvement, repair, supervision, control, maintenance and operation of the solid waste management system and facilities which are owned and operated by the County, but not those owned and operated by its contractor, shall be charged to the Solid Waste Management Fund. (Ord.#183, adopted 4/5/88)

- 14.2 There is hereby imposed on operators of facilities for mixed municipal solid waste located within the county a fee of 25 cents per cubic yard of solid waste deposited at or in said facilities. Facilities qualifying for partial exemption under Minnesota Statutes 115A.919 shall pay a fee of 12.5 cents per cubic yard of solid waste deposited in said facilities.
- 14.3 Collection of charges shall be made by the licensed operators, and that fraction of the charges required by the County for its purposes shall be submitted by the collector on a monthly basis.

The Solid Waste Officer or his duly authorized representative shall be allowed to inspect the premises, books, records, receipts or other materials as collected by the licensed operators during normal business hours, and the calculation of the charges to be submitted to the county pursuant to this ordinance.

#### Section XV – VARIANCES

- 15.1 Upon written application by the applicant or operator, the County Board may grant variances from the provisions of this ordinance in order to promote the effective and reasonable application and enforcement of the provisions of this ordinance. If such variance would result in non-compliance with Agency rules, a variance application must be filed with the Agency
- 15.2 A variance may be granted by the County Board after a public hearing if the applicant or operator first obtains a variance from the Agency, and the County Board determines that enforcement of this ordinance would cause the applicant undue hardship, or that the ordinance cannot be complied with due to technological impossibility or economic unreasonableness. Such a variance shall not be granted for a period in excess of two years, but may be renewed upon application by the applicant and after a public hearing is held. A variance may be revoked prior to expiration of the variance by the County Board after a public hearing. An application for a variance shall be accompanied by a plan and schedule for achieving compliance with the ordinance. Prior to any public hearing held by the County Board under this provision, notice shall be given as provided in Section 2.5.

## Section XVI – NOCONFORMING SITES AND FACILITIES

- 16.1 Solid waste management facilities in existence on the effective date of this ordinance shall conform to the provisions of this ordinance or terminate operations no later than one hundred eighty (180) days from that date unless a variance application is submitted to the County Board within a one hundred eighty (180) day period following the effective date of this ordinance.

## Section SVII – ADDITIONAL REQUIREMENTS

- 17.1 For the purpose of protecting the public health, safety and welfare, the County Board may impose additional requirements consistent with the intent of this ordinance for the operation of solid waste management sites or facilities.

## Section XVIII – SEVERABILITY

- 18.1 It is hereby declared to be the intention of the County Board that the provisions of this ordinance be severable in accordance with the following:
1. If any court of competent jurisdiction shall adjudge any provisions of this ordinance to be invalid, such judgment shall not affect any other provision 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.

## Section XIX – PROVISIONS ARE CUMULATIVE

- 19.1 The provisions of this ordinance are cumulative limitations upon all other laws and ordinances heretofore passed of which may be passed hereafter, covering any subject matter of this ordinance.

## Section XX – NO CONSENT

- 20.1 Nothing contained in this ordinance shall be deemed to be a consent, license or permit to locate, construct, operate or maintain any site, facility or operation, or to carry on any activity.

## Section XXI – VIOLATIONS

- 21.1 Any person who violates the provisions of this ordinance shall be guilty of a misdemeanor.

## Section XXII – OTHER ORDINANCES AND REGULATIONS

22.1 Nothing in this ordinance shall preclude any local unit of government from adopting stricter regulations than this ordinance.

## Section XXIII – EFFECTIVE DATE

23.1 This ordinance shall be in full force and effect from and after its passage and publication according to law.

## Section XXIV – REPEALER

24.1 The Benton County Solid Waste Ordinance adopted November 7, 1972, is hereby repealed.

## Section XXV – EFFECT OF REPEALER

25.1 The repeal of the previous ordinance shall not affect any right accrued, any duty imposed, any penalty incurred, or any proceeding commenced under or by virtue of the ordinance repealed. Any criminal or civil suit, action, or proceeding pending or which could have been brought to enforce any right under the authority of the ordinance repealed shall an may be commenced or proceed with an concluded under the ordinance in existence when the suit, action, or proceeding was or could have been instituted, notwithstanding, the repeal of such ordinance; or the same may be proceeded with and concluded under the provisions of the new ordinance enacted.