

**Ordinance Number Seven
Hazardous Waste Management Ordinance
For
Hennepin County**

Department of Environmental Services

Adopted by the Hennepin County Board of Commissioners

Hennepin County, Minnesota

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Ordinance Number Seven

Hazardous Waste Management Ordinance For Hennepin County

Purpose. The purpose of this ordinance is to establish rules, regulations, and standards, for hazardous waste management in Hennepin County, Minnesota for the identification, labeling, and classification of hazardous waste; the handling, collection, transportation, and storage of hazardous waste; the treatment, processing and disposal of hazardous waste; the licensing of hazardous waste generators and hazardous waste facilities; the payment of license fees; the penalties for failure to comply with the provisions of this ordinance; the issuance, denial, modification, suspension, and revocation of licenses; the imposition of conditions upon licenses; and other matters as determined to be necessary for the health, welfare and safety of the public. Further, this ordinance shall be liberally construed so as to protect the natural environment from hazardous waste contamination.

Authority. This ordinance is adopted pursuant to Minnesota Statutes, chapters 145A and 473.

The Hennepin County Board of Commissioners does ordain:

1.00 General Provisions

- 1.01 Administrative Procedures. Provisions of the Hennepin County Administrative Procedures Ordinance that are not covered by this ordinance and do not conflict with provisions of this ordinance shall apply.
- 1.02 Administration. The Hennepin County Department of Environmental Services shall administer this ordinance.
- 1.03 Definitions.
- A. “Agency” means the Minnesota Pollution Control Agency (MPCA).
 - B. “Appliance” means any major appliance, as defined in Minnesota Statutes, section 115A.03, that contains components regulated under this ordinance. Appliances shall include any device which contains and uses a class I or II substance (as defined by Code of Federal Regulations, title 40, section 82.3, subpart A, as amended) as a refrigerant and which is used for household or commercial purposes, including any air conditioner, dehumidifier, refrigerator, chiller, or freezer.
 - C. “Appliance Generator” means any person that uses, installs, replaces, maintains, services, or repairs appliances and as a result, generates appliances or appliance parts that are regulated under this ordinance.
 - D. “Appliance Processor” means any person that scraps, recycles, or disposes of appliances.
 - E. “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 circuit board trimmings.

- F. “Circuit Board Trimmings” means the pieces, including dust particles that are cut or trimmed off of circuit boards during the routing, drilling or punching process in order to make the boards the proper size for use.
- G. “County Board” means the Hennepin County Board of Commissioners.
- H. “Demolition” means the wrecking or removing of any load-supporting structural member of a facility together with any related handling operations or the intentional burning of any facility. This shall include any renovation that involves the modification or removal of any building components, including, but not limited to, walls, floors, ceilings, roofs, electrical components, ventilation components, and appliances.
- I. “Demolition Debris” has the meaning in Minnesota Rules, part 7035.0300, subpart 30.
- J. “Department” means Hennepin County Department of Environmental Services, its staff, and designated agents.
- K. “Electronics” means electronic components and electronic devices.
- L. “Electronic Component” means subassemblies or other parts derived from the disassembly of electronic devices that exhibit the toxicity characteristic defined in Minnesota Rules, part 7045.0131. Electronic components shall include circuit boards.
- M. “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 defined in Minnesota Rules, part 7045.0131.
- N. “Embargo” means an order by the Department prohibiting the movement, removal, transport, use, treatment, sale, or disposal of a material which is, or is suspected to be, a hazardous waste and which is being mismanaged or which the Department has reason to suspect is being or will be managed in violation of this ordinance.
- O. “Enforcement Costs” means expenses incurred through the enforcement of this ordinance. These costs shall include, but are not limited to: wages and overhead associated with county employee staff time and staff time from assisting governmental organizations; materials; transportation; services provided by third party consultants, contractors, and laboratories; medical expenses; and all costs incurred in handling and disposing of hazardous waste that was unlawfully delivered to a county household hazardous waste collection site.
- P. “Facility” has the meaning in Minnesota Rules, part 7045.0020, subpart 24, and includes, transfer facilities and facilities that collect for treatment, recycling, reclamation, storage, or disposal; special hazardous waste, universal waste, appliances, recyclable fuel, used oil, or waste contaminated with used oil.
- Q. “Generator” has the meaning in Minnesota Rules, part 7045.0020, subpart 31, and shall include any person, by site, whose act or process produces a universal waste

or special hazardous waste or whose act first causes a universal waste or special hazardous waste to become subject to regulation.

- R. “Hazardous Building Components” means materials and articles that meet the definition of hazardous waste, oil, polychlorinated biphenyls (PCBs), refrigerants, asbestos containing materials; and other items posing risk to humans or the environment. Examples include, but are not limited to, fluorescent and high intensity discharge lamps, neon lighting, lighting ballasts (both PCB and non-PCB containing ballasts), PCB caulk and sealant, electrical capacitors, batteries, circuit boards, appliances, components of heating, ventilation and air conditioning (HVAC) systems that contain the above referenced materials, and thermometers, gauges, switches, and relays containing mercury.
- S. “Hazardous Waste” means any refuse, sludge, or other waste material or combination 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 (42 U.S.C. § 2014), as amended.
- T. “Minimal Generator” means any very small quantity generator who generates only the following wastes:
- 1) one hundred (100) pounds, or less, per year of hazardous waste, including feedstocks and by-products, that is not acutely toxic and that is not listed in 2 through 7 below
 - 2) used oil, waste contaminated with used oil, used oil filters, or petroleum fuel filters
 - 3) spent lead-acid batteries managed under Minnesota Rules, part 7045.0685
 - 4) universal wastes and special hazardous wastes as defined by this ordinance
 - 5) waste photographic fixer solution which is shipped off site for recycling
 - 6) waste photographic fixer if treated on-site to remove eighty (80) or more percent of the hazardous constituent
 - 7) waste recyclable fuel that is not stored or accumulated on site
- U. “Person” means any human being, any municipality or other governmental or political subdivision or other public agency, any public or private corporation, any partnership, any firm, association, or other organization, any receiver, trustee, assignee, agent, or other legal representative of any of the foregoing or any other legal entity.

- V. “Release” or “Releases” means the accidental or intentional spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing of a waste into the environment.
 - W. “Special Hazardous Waste” includes the following hazardous wastes:
 - 1) photographic and X-ray negatives and paper that exhibit the toxicity characteristic defined in Minnesota Rules, part 7045.0131.
 - 2) electronics, except for “appliances” as defined by this ordinance.
 - X. “Universal Waste” has the meaning given in the Code of Federal Regulations, title 40, section 273.9.
- 1.04 Compliance. No person shall cause or permit the generation, transportation, disposal, or processing of hazardous waste, or the construction or operation of hazardous waste facilities, except in full compliance with the provisions of this ordinance, including but not limited to, all provisions requiring full disclosure of information regarding such generation, transportation, disposal, or processing.
 - 1.05 Conditions. The Department may impose conditions on any license, permit, or variance as deemed necessary to monitor the operation, ensure the public health and safety, and to protect the environment. A person who violates any condition imposed by the Department on a license, permit, or variance shall be in violation of this ordinance and subject to the penalty provisions in this ordinance.
 - 1.06 False Information. Any person who omits any information or submits false information is in violation of this ordinance and subject to the penalty provisions in this ordinance.
 - 1.07 Listing, Delisting, and Waste Classification. In the event the Agency modifies the lists of wastes by listing or delisting, or classifies a waste as hazardous, the County Board may, by resolution, amend the lists of wastes set forth in this ordinance, or classify certain wastes as hazardous, to incorporate said Agency action.
 - 1.08 Agency Program Management Decisions and Policies. The Department may allow generators and facilities to abide by lesser standards as set forth in Program Management Decisions and Policies published and authorized by the Agency. If the generator or facility fails to abide by any Program Management Decision or Policy standards, the generator or facility is subject to all applicable regulations in Minnesota Rules, chapter 7045.
 - 2.00 **Standards for Health, Safety & Environmental Preservation**
 - 2.01 Standards Adopted. Minnesota Rules, chapter 7045, except for Minnesota Rules, parts 7045.1000 through 7045.1030, relating to hazardous waste, as may be amended, are hereby adopted by reference and made a part of this ordinance.

2.02 Standards Amended. The above adopted rules are hereby amended as follows:

A. Wherever the term “Minnesota Pollution Control Agency,” “Pollution Control Agency,” or “Agency” appears in these adopted rules, it means “Department,” except in Minnesota Rules, parts:

- 7045.0020, subparts 4, 9c, and 73h
- 7045.0070
- 7045.0075
- 7045.0080
- 7045.0090 when referenced by 7045.0545, 7045.0546, 7045.0547 and 7045.0548
- 7045.0125, subpart 9, item D
- 7045.0129
- 7045.0133
- 7045.0135, subpart 5, item E
- 7045.0218
- 7045.0243, subpart 3, item D
- 7045.0261, subpart 6
- 7045.0275, subpart 2
- 7045.0302
- 7045.0361
- 7045.0395
- 7045.0397
- 7045.0450
- 7045.0452, subpart 2
- 7045.0468, subpart 2
- 7045.0498 through 7045.0524
- 7045.0540
- 7045.0546
- 7045.0552, subpart 3, item A
- 7045.0554
- 7045.0556, subpart 2
- 7045.0574, subpart 2
- 7045.0608 through 7045.0624
- 7045.0645
- 7045.0655, subpart 1
- where used with “Environmental Protection Agency,” or “federal or state agency”

For all exceptions cited above, the referenced terms remain unchanged.

B. Wherever the term “Commissioner” appears in these adopted rules, it means “Department” except in Minnesota Rules, parts:

- 7045.0020, subpart 6a, item B, subparts 9c, 22, 34, 43b, 73h and 85a
- 7045.0075
- 7045.0080
- 7045.0090 when referenced by 7045.0545, 7045.0546, 7045.0547 and 7045.0548
- 7045.0120 subpart 1, item X
- 7045.0125, subpart 4, item N and subpart 9, item D
- 7045.0129
- 7045.0218
- 7045.0261, subpart 9
- 7045.0265, subparts 1, 2, 3 and 4
- 7045.0294, subpart 1a, item B
- 7045.0302
- 7045.0310, subpart 3, items B, C and D, and subpart 5, items C and D
- 7045.0320, subparts 9 and 10
- 7045.0395
- 7045.0476, subpart 3, item A
- 7045.0498 through 7045.0524
- 7045.0528, subpart 4, item D(4)
- 7045.0545
- 7045.0546
- 7045.0552 subpart 1a
- 7045.0582, subpart 3, item A
- 7045.0608 through 7045.0624
- 7045.0628, subpart 4, item D(4)
- 7045.0652, subpart 2, item B
- 7045.0665
- 7045.0686
- 7045.0845
- 7045.0875, subpart 8, item B
- 7045.0990
- 7045.1309
- 7045.1315, subpart 2, item G

For all exceptions cited above, the term “Commissioner” remains unchanged.

C. Wherever the term “permit,” “permittee,” “permitting,” or “permitted” appears in these adopted rules, it means “license,” “licensee,” “licensing,” or “licensed” except in Minnesota Rules, parts:

- 7045.0020, subpart 10b, subpart 15, subpart 23, subpart 23a, subpart 24, item B, and subpart 58a
- 7045.0121, subpart 2, item D
- 7045.0135 subpart 5, item E
- 7045.0208
- 7045.0210
- 7045.0261, subparts 2 and 6
- 7045.0310, subpart 3, item D and subpart 6, item D
- 7045.0320
- 7045.0397
- 7045.0450
- 7045.0498 through 7045.0524
- 7045.0546
- 7045.0552
- 7045.0554, subpart 1
- 7045.0608 through 7045.0624
- 7045.0692, subpart 6, item F
- 7045.0790, subpart 7
- where used with “National Pollutant Discharge Elimination System Permit,” “NPDES Permit,” “State Disposal System Permit,” “Emission Facility Operating Permit,” “permit-by-rule,” “or Air Quality Permit”

For all exceptions cited above, the referenced terms remain unchanged.

D. The terms “Minnesota” or “State of Minnesota” means “County of Hennepin” in Minnesota Rules, parts:

- 7045.0210
- 7045.0212
- 7045.0214
- 7045.0240
- 7045.0302, subpart 1
- 7045.0351, subpart 1
- 7045.0355
- 7045.0361

E. Minnesota Rules, part 7045.0020, subpart 66 is deleted.

F. Minnesota Rules, part 7045.0060 is amended to read as follows: No variance may be granted if granting the variance would result in noncompliance with Environmental Protection Agency (EPA) regulations and Minnesota Pollution Control Agency (MPCA) rules for the generation, storage, processing, treatment, transportation, or disposal of hazardous waste or the operation of hazardous waste facilities.

G. Minnesota Rules, part 7045.0135, subpart 5, item C(4) is amended to read as follows: the fee requirements of the Department, unless a generator demonstrates performance of a PCB phase-out agreement under Minnesota Statutes, section 116.07, subdivision 2b(b).

H. Minnesota Rules, part 7045.0225, subpart 1 is amended by deleting the last two sentences.

I. The first paragraph of Minnesota Rules, part 7045.0230, subpart 1 is amended to read “**Information required.** An application must be on a form provided by the Department and must include the following information:”

- J. Minnesota Rules, part 7045.0230, subpart 1a is deleted.
- K. Minnesota Rules, part 7045.0240 is amended by the deletion of the second sentence in subpart 3.
- L. Minnesota Rules, part 7045.0243 is amended by the deletion of subpart 1 and subpart 3, item C.
- M. The first paragraph of Minnesota Rules, part 7045.0248, subpart 1 is amended to read as follows:

Applicability. A licensed generator must submit a license renewal application to the Department on forms provided by the Department. A generator must submit the application and report by December 15 of the year preceding the expiration of the generator license. The application must contain the following information for each hazardous waste produced, or to be produced, during that current calendar year:

- N. Minnesota Rules, part 7045.0248, subpart 1, item B is deleted.
- O. Minnesota Rules, part 7045.0250 is amended by the deletion of subparts 2, 3, and 4.
- P. In Minnesota Rules, part 7045.0292, subparts 1, 5, 6, and 8, the phrase “without a permit” is amended to read “without a facility permit.” The word “permit” in these references remains unchanged.
- Q. The first paragraph of Minnesota Rules, part 7045.0302, subpart 2 is amended to read as follows:

Notification. When shipping hazardous waste outside the state of Minnesota to a foreign country, the primary exporter must notify the Commissioner, the Department, and the EPA of an intended export before the waste is scheduled to leave the United States. The primary exporter must submit a complete notification sixty (60) days before the initial shipment is intended to be shipped off site. This notification may cover export activities extending over a 12-month or lesser period.

- R. The third paragraph of Minnesota Rules, part 7045.0302, subpart 2 is amended to read as follows:

The primary exporter must provide the commissioner, the Department and the EPA with written renotification of any changes to the notification, except for changes to the telephone number, decreases in the quantity indicated in item B, subitem (3), and changes in the means of transport in item B, subitem (5). The waste shall not be shipped until the primary exporter receives an EPA Acknowledgment of Consent reflecting the receiving country's consent to the changes.

- S. Minnesota Rules, part 7045.0460, subpart 1, item A is amended to read as follows:

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

- T. The phrase “in chapter 7001” is deleted wherever it appears.
- U. The phrase “under chapter 7046” is deleted wherever it appears.

2.03 Standards for Minimal Generators.

- A. Management. Minimal generators must manage their waste in accordance with all applicable federal, state, and local rules and regulations, including this ordinance. A generator that fails to comply with these requirements may lose or be denied minimal generator status.
- B. Generation Limits. Minimal generators whose hazardous waste generation does not conform to the limits defined in section 1.03 T, shall lose minimal generator status.
- C. Waste Accumulation. Minimal generators that exceed fifty five (55) gallons of accumulated hazardous waste shall lose minimal generator status. The generation of used oil, waste contaminated with used oil, used oil filters, spent lead-acid batteries, universal waste, or special hazardous waste is not counted toward this accumulation limit.
- D. Classification and Reclassification. A generator seeking classification as or reclassification to minimal generator status must demonstrate during an inspection by the Department, or by other means that the Department deems equivalent to a Department inspection, that the generator is capable of maintaining compliance with the standards set forth in section 2.03 A-C.
- E. Notice. The department shall notify a generator regarding the denial or loss of minimal generator status or the attainment of minimal generator status.

2.04 Standards for the Management of Special Hazardous Waste.

- A. Management. Special hazardous wastes that are managed in compliance with the management standards specified in this section are not subject to the hazardous waste management requirements in Minnesota Rules, parts 7045.0205 to 7045.0990 and parts 7045.1390 to 7045.1400, except for those provisions specified by reference in this ordinance. Special hazardous wastes that are not managed in compliance with the standards specified in this section must be managed in accordance with all applicable hazardous waste management requirements in Minnesota Rules, parts 7045.0205 to 7045.0990 and parts 7045.1390 to 7045.1400. The provisions of this section apply to all generators and facilities.

- B. Household Special Hazardous Waste. A person who collects special hazardous waste generated by households or commingles special hazardous waste generated by households with any special hazardous waste defined in this ordinance shall manage the collected special hazardous waste or commingled special hazardous waste under the requirements of this ordinance.
- C. Storage. 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 waste being stored in the container;
 - 3) will not leak or break open during normal handling conditions;
 - 4) protects handlers and all other persons from physical injury caused by contact with special hazardous waste; and
 - 5) prevents releases of special hazardous waste, including components or residues of special hazardous waste.
- D. Storage Areas.
- 1) Storage of special hazardous waste indoors or outdoors must be on a surface impermeable to the special hazardous waste.
 - 2) Outdoor storage areas must prevent release to soil or water.
 - 3) Storage areas for special hazardous wastes must have protection from damage, including vehicular accidents and vandalism.
 - 4) Special hazardous waste containers must have adequate aisle space to allow unobstructed movement of personnel and equipment in an emergency.
- E. Storage Limits.
- 1) Accumulation Time and Quantity Limits.
 - a) Generator: A generator may accumulate up to 10,000 pounds of special hazardous waste for no longer than one year from the date the special hazardous waste is generated. A generator of special hazardous waste may accumulate more than 10,000 pounds or for more than one year if such activity is solely for the purpose of accumulation of such quantities of special hazardous waste as necessary to facilitate proper recovery, treatment, or disposal. However, the generator bears the burden of proving that such activity is solely for the purpose of accumulation of such quantities of special hazardous waste as necessary to facilitate proper recovery, treatment, or disposal.
 - b) Tier 3 Facility: A Tier 3 facility may store up to 40,000 pounds of special hazardous waste for up to one year. Upon reaching 40,000 pounds or one year, whichever is reached first, all special

hazardous waste must be shipped within ten days. Tier 3 facilities that exceed these time or quantity limits must apply for a Tier 2 facility license.

- c) Tier 1 and Tier 2 Facilities: The Department will establish site specific accumulation time and quantity limits for Tier 1 and Tier 2 facilities. Tier 1 and Tier 2 facilities must not collect special hazardous waste in a manner that is considered speculative accumulation, as defined in Minnesota Rules, part 7045.0020.
- 2) Generators and facilities must be able to demonstrate the length of time that special hazardous waste has been accumulated from the date it became a waste. Generators and facilities may make this demonstration by:
- a) Placing the special hazardous waste in a container and marking or labeling the container with the earliest date that any special hazardous waste in the container became a waste;
 - b) Marking or labeling each individual item of special hazardous waste (e.g., each electronic device or each electronic component) with the date it became a waste;
 - c) Maintaining an inventory system on-site that identifies the date each special hazardous waste became a waste;
 - d) Maintaining an inventory system on-site that identifies the earliest date that any special hazardous waste in a group of special hazardous waste items or a group of containers of special hazardous waste became a waste;
 - e) Placing the special hazardous waste in a specific accumulation area and identifying the earliest date that any special hazardous waste in the area became a waste; or
 - f) Any other method which clearly demonstrates the length of time that the special hazardous waste has been accumulated from the date it became a waste.
- F. Labeling of containers. Generators and facilities shall label each waste container with, as applicable:
- 1) the words, “used” or “waste” followed by a brief description of the waste in the container; or
 - 2) a brief description of the waste in the container followed by the words, “for recycling.”
- G. Response to releases or detection of inadequate container. Generators and facilities shall conduct the activities set out in (1) to (4) below upon detection of storage that no longer meets the standards in item C above or upon a release of a special hazardous waste, including components or residues of a special hazardous waste.

- 1) Immediately stop and contain any release of a special hazardous waste, including all components or residues of a special hazardous waste.
- 2) If a container storing a special hazardous waste begins to leak or does not otherwise meet the container standards in item C, transfer all waste remaining in the leaking or inadequate container to a container that meets the requirements of item C above.
- 3) Prior to returning to service any leaking or otherwise damaged container, repair the container so that it meets the container standards of item C above.
- 4) If a release may cause pollution of the environment, immediately notify the Minnesota Duty Officer by calling (651) 649-5451.

H. Treatment.

- 1) Generators. A generator is prohibited from conducting any treatment of special hazardous waste, except for activities associated with:
 - a) responding to a release as set out in item G above;
 - b) transferring a type of special hazardous waste from one storage container into another storage container containing the same type of special hazardous waste; or
 - c) shredding or cutting up circuit boards, hard drives or photographic and X-ray negatives and paper.
- 2) Tier 3 Facilities. Tier 3 facilities are prohibited from conducting any treatment of special hazardous waste except for the activities associated with:
 - a) responding to a release as set out in item G above; or
 - b) transferring a type of special hazardous waste from one storage container into another storage container containing the same type of special hazardous waste.
- 3) The Department will establish site specific licensing conditions governing treatment by Tier 1 and Tier 2 facilities.

I. Transportation. Any generator or facility shipping special hazardous waste must only ship that waste 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 uniform hazardous waste manifest. The shipping documents must include the name of shipper, the date of shipment, the amount of waste, and the destination facility's name, address, and phone number.

J. Record Keeping. Any generator or facility shipping special hazardous waste must keep records of all shipments and shall make the records immediately available during an inspection. Each copy shall be maintained on site for a period of three years from the date the shipment was initiated by the generator.

2.05 Standards for the Management of Universal Waste.

- A. Management. Generators and facilities must manage universal waste in accordance with the standards in Minnesota Rules, part 7045.1400 and this section. Universal wastes that are not managed in accordance with the standards in Minnesota Rules 7045.1400 and this section are subject to all applicable hazardous waste management requirements in Minnesota Rules, parts 7045.0205 to 7045.0990 and part 7045.1390.
- B. Household Universal Waste. A person who collects universal waste generated by households or commingles universal waste generated by households with any universal waste, shall manage the collected universal waste or commingled universal waste under the requirements of this ordinance.
- C. Applicability. The term handler adopted in Minnesota Rules, part 7045.1400, shall mean the following:
- 1) Generator: when the universal waste activity meets the definition of “generator” in this ordinance.
 - 2) Facility: when the universal waste activity meets the definition of “facility” in this ordinance.
- D. Mercury Lamps. A retail store that generates mercury lamps may accept mercury lamps from customers without obtaining a facility license if the retail store accumulates no more than 1,000 four-foot-equivalent lamps at any one time and obtains a generator license. A retail store must obtain a facility license if it does not obtain a generator license.
- E. Record Keeping. Any person, generator, or facility shipping universal waste must keep records of all shipments and shall make the records immediately available during an inspection. Each record shall be maintained on site for a period of three years from the date the shipment was initiated. The record may take the form of a log, invoice, uniform hazardous waste manifest, bill of lading, or other shipping document. The record for each shipment of universal waste must include the following information:
- 1) The name, address, and telephone number of the destination to whom the universal waste was sent;
 - 2) The quantity of each type of universal waste sent (e.g., batteries, pesticides, thermostats); and
 - 3) The date the shipment of universal waste left the site.
- F. Additional Standards for Mercury-Containing Equipment. Any person, generator, or facility who owns or uses mercury or mercury-containing equipment must store it in a securely closed container. The container must be structurally sound, compatible with the contents, and must lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions and must be reasonably designed to prevent the escape of mercury into the environment by volatilization or any other means.

2.06 Standards for Appliance Generators and Processors.

- A. Appliance Generators and Processors must manage their waste in accordance with all applicable federal, state, and local rules and regulations.
- B. Appliance Processors shall ensure that all capacitors and all light ballasts that may contain PCBs are removed and managed as a hazardous waste.
- C. Appliance Processors shall remove and reclaim, destroy, or properly dispose of chlorofluorocarbon (CFC) or hydrochlorofluorocarbon (HCFC) (commonly called by the trade name “Freon”) refrigerants.
- D. Appliance Processors shall remove and properly manage any hazardous solutions or vapors contained in gas air conditioners and/or gas refrigerators as hazardous waste.
- E. Appliance Processors shall remove and properly manage switches, relays, temperature devices, lamps, and other components containing mercury.
- F. After complying with 2.06 A through E, the appliance is scrap metal as defined by Minnesota Rules, part 7045.0020, subpart 79a and, if recycled, may be excluded from further regulation under this ordinance.
- G. Appliance Processors shall be licensed as a hazardous waste facility.
- H. Appliance Generators that generate no other hazardous wastes do not need a generator license unless the Department determines that the appliance generator is not managing its waste in accordance with all applicable federal, state and local rules and regulations. In that case, the Department may require that the appliance generator obtain a Very Small Quantity Generator license, subject to the license terms in Section 3.11, item F, for denial of minimal generator status.
- I. Appliance Processors shall comply with the refrigerant technician certification requirements in Code of Federal Regulations, title 40, part 82 and shall provide proof of certification if requested by the Department.
- J. Persons who take the final step in the disposal process of appliances (including but not limited to scrap recyclers) must obtain a signed statement from the persons from whom the appliance or shipment of appliances is received pursuant to Code of Federal Regulations, title 40, section 82.156. The signed statement must verify that all refrigerants have been removed from the appliances and must be made available to the Department upon request.
- K. Record Keeping. Appliance generators and processors shall keep records for all shipments they make of appliances that contain hazardous components and hazardous components that have been 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 keep 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 shipping document. The record for each shipment must include the following information:

- 1) The name, address, and telephone number of the destination to whom the appliances or hazardous components were shipped;
- 2) The quantity of each type of appliance or hazardous component shipped; and
- 3) The date shipped.

2.07 Standards for Demolition Sites and Wastes from Demolition Sites.

- A. Applicability. These standards apply to any site where demolition debris is being generated, removed, transferred, processed, treated, recycled, or stored prior to disposal.
- B. Removal of Hazardous Building Components. A person, generator, or facility must remove all hazardous building components and other hazardous wastes, universal wastes, and special hazardous wastes prior to demolition. Only demolition debris may be sent for demolition disposal and the Agency must approve the disposal site.
- C. Generator of Hazardous Building Components. Unless otherwise specified in state or federal legislation and rules such as those that pertain to asbestos removal, the building owner or its contractors may remove the hazardous building components and other hazardous wastes, universal wastes, and special hazardous wastes at a demolition site. When hazardous building components and other hazardous wastes, appliances, universal wastes, and special hazardous wastes are removed, the person or persons specified in the contract referenced in item D below as responsible for the proper management of hazardous building components and other hazardous wastes, universal wastes, and special hazardous wastes is deemed the generator. Otherwise, the building owner and/or manager is deemed the generator.
- D. Management Responsibility. Parties in any contract for demolition must specify who has the responsibility for the proper management including the identification, management, removal, disposal, and recycling of hazardous building components and other hazardous wastes, universal wastes, and special hazardous wastes. The building owner and/or manager shall provide a copy of the contracts, if requested by the Department.
- E. Licensing Requirements. No generator license or facility license is required in cases where the hazardous building components and other hazardous wastes, universal wastes, and special hazardous wastes are managed in conformance with the dictates of this ordinance. Any person that ships the hazardous building components or other hazardous wastes, universal wastes, and special hazardous wastes must ship directly from the demolition site to an authorized treatment, disposal, consolidation, collection, storage, or recycling facility.
- F. Record Keeping. The building owner and/or manager shall keep copies of hazardous building component and other hazardous waste, universal waste, and special hazardous waste management records including evaluation documentation meeting the requirements of Minnesota Rules, part 7045.0214, uniform hazardous waste manifests, shipping papers, invoices, receipts, or bills of lading for at least

three (3) years. The building owner and/or manager shall make records immediately available for inspection if requested by the Department.

- G. Processing Requirements. Processing, treatment, or disposal of hazardous building components and other hazardous wastes, universal wastes, and special hazardous wastes at the demolition site is not allowed without approval of the Department.

2.08 Standards for Discharged Wastes.

- A. Sewered Wastes or Waste Discharged to Waters of the State. Generators utilizing any sewer system or waters of the state for the disposal of hazardous wastes, or the disposal of residuals of hazardous waste after treatment shall comply with all federal, state and local laws, including the requirements of this ordinance. They shall maintain a copy of any permits or reports required by the Metropolitan Council Environmental Services (MCES) or other Publicly Owned Treatment Works (POTW), or as a condition of a National Pollutant Discharge Elimination System (NPDES), or State Disposal System (SDS) permit concerning the character, concentration and quantity of the hazardous waste or residuals of hazardous waste after treatment. They shall maintain these records on site and make them easily available for inspection by the Department for a period of three (3) years from the report date.
- B. Prohibited Discharge. Any disposal of hazardous waste or industrial waste into Class V Injection Wells, as defined by Code of Federal Regulations, title 40, section 144.6, including septic tanks and dry wells, is prohibited.

3.00 Licensing

- 3.01 License Required. Unless otherwise provided by this ordinance, no person shall, within the County, make or allow property under that person's control to be used for any activity which generates wastes regulated under this ordinance except at an individual generation site for which a hazardous waste generator license has been granted by the Department. Unless otherwise provided by this ordinance, no person shall, within the County, store, deposit, keep, accumulate, process, treat, reclaim, recycle, dispose of, or otherwise handle, process, or cause to be transported, wastes regulated under this ordinance except at a site or facility for which a facility license has been granted by the Department.

The Department may allow a person that does not possess a facility license to accept used oil, waste contaminated with used oil, universal waste, or special hazardous waste if the facility receiving the waste possesses a generator license and:(1) takes these wastes only from generators owned or operated by the owner or operator of the receiving site, (2) is receiving used oil pursuant to Minnesota Statute, section 325E.11, (3) is operating in compliance with Minnesota Rules, part 7045.0310, or (4) the Department determines that the volume of the wastes received or number of generators shipping waste to the receiving site do not present a hazard requiring management standards over and above what normally would be applied to that generator license.

- 3.02 Non-exclusive Licensing. Obtaining any license required by this ordinance does not exclude the necessity of obtaining other appropriate licenses or permits except as

expressly provided in this ordinance. Compliance with the provisions of this ordinance shall not relieve any person of the need to comply with any and all other applicable rules, regulations, and laws.

3.03 Fees.

- A. The County Board shall, by resolution, establish fees, including fees for the initial license and renewal of licenses for generators and for the initial application, initial license, and renewal of licenses for facilities.
- B. The County Board may, by resolution, establish such other fees as may be necessary for the administration of this ordinance.
- C. Fees for new licenses are due thirty (30) days after the invoice date. Fees for renewal of licenses are due thirty (30) days prior to the expiration of the current license. Hazardous waste generators whose actual production of hazardous waste (volume and/or types) exceeds that set forth in their license renewal application, and said excess production places them in a higher base fee category, shall pay an additional fee. The additional fee must be paid within thirty (30) days of the invoice date, or before the renewal of their license for the coming year, whichever comes first. As used herein, fees may include license fees, Agency statewide program fees, application fees, and such other fees as may be prescribed by the County Board.
- D. Fees for license renewal are based on the past year's rate of generation and the highest generator size exhibited during the year. If the license is for new waste generation, the fee is based on an estimated rate of generation which is acceptable to the Department.
- E. Minimal generators are exempt from fees.

3.04 License Term. Unless otherwise provided by the County Board, each license granted pursuant to the provisions of this ordinance is non-transferable and valid for a period of not more than one year, except that initial licenses may be issued for a period of up to eighteen (18) months, unless earlier suspended or revoked.

The license year for hazardous waste generators runs from May 1 through April 30. The license year for hazardous waste facilities runs from July 1 through June 30, unless otherwise designated.

3.05 License Application.

- A. Applications. Applicants shall submit applications for license or license renewal to the Department on forms provided by the Department. Applicants shall provide such information as may be needed for the administration of this ordinance.
- B. Generators. Generators shall submit to the Department a license application. The license application shall include, at a minimum, the information specified in Minnesota Rules, parts 7045.0230 or 7045.0248 as applicable. Applications for a generator license received more than seventy-five (75) days after first producing a hazardous waste, or applications for license renewal received after December 15,

are late and subject to the penalty provisions in Section 6.06. Applications for license modification are late and subject to the penalty provisions in Section 6.06, if received later than provided in Minnesota Rules, part 7045.0243, subpart 3, item G. The date of receipt is the postmark date if mailed or the Department date of receipt if hand delivered or submitted electronically.

- C. Facilities. Tier 1 and Tier 2 facilities shall submit to the Department a license application. Where a permit is required, applicants for a Tier 1 license shall also submit, on request, all of the documents and supporting information required by the Agency in its permitting process. Tier 3 facilities need only submit to the Department a Tier 3 notification form ninety (90) days before commencing operations.
- D. Facilities Interim Operating Approval. Unless interim operating approval has been granted under section 3.10, item E, applicants for a facility license shall not commence any construction or operation until the initial license application has been approved by the County, nor shall they commence any operation until an initial license is issued. The Department will not issue a facility license until the facility construction has been completed in compliance with this ordinance and the approved plans, and has been approved by the Department.

3.06 Incomplete or Non-Conforming Application.

- A. Generator. If an application for a generator license or license renewal is not complete or otherwise does not conform with the requirements in this ordinance, the Department shall advise the applicant within sixty (60) days of application receipt, in writing, of the reasons for non-acceptance and may request that the applicant resubmit, modify, or otherwise alter the application. The applicant shall comply with such request within the time specified by the Department.
- B. Facility. If an application for a facility license or license renewal is not complete or otherwise does not conform with the requirements in this ordinance, the Department shall advise the applicant within one hundred twenty (120) days of application receipt, in writing, of the reasons for non-acceptance and may request that the applicant resubmit, modify, or otherwise alter the application. The applicant shall comply with such requests within the time specified by the Department.

3.07 Renewal.

- A. Generator. An applicant must submit generator applications for license renewal to the Department no later than December 15. Applications for license renewal must be accompanied by a statement of any change in information submitted in the last approved license or in the license renewal application by indicating such changes on the application and must be signed by a person responsible for hazardous waste management for the generator. If there are no changes, the license renewal application shall so state. If the Department does not act on a generator license renewal application that was complete and was submitted on time, the current license shall continue in force until action is taken.

- B. Facility. An applicant must submit facility applications for license renewal to the Department at least ninety (90) days prior to the expiration of the current license. Applications for license renewal must be accompanied by a statement noting any change in information submitted in the last approved license or in the license renewal application and must be signed by the responsible person listed on the license renewal application. If there are no changes, the license renewal application shall so state. The Department must review the facility license renewal application and determine whether or not to grant approval. If the Department does not act on a facility license renewal application that is complete and was submitted on time, the current license shall continue in force until action is taken.

3.08 Denial.

- A. Generator. Failure by the Department to act on an initial generator license application within sixty (60) days from the date of receipt of a completed application shall constitute grounds for the applicant to request a hearing. Section 4.10 of this ordinance shall govern the request for a hearing.
- B. Facility. Except as provided in section 3.10, item E, failure by the Department to act on an initial facility license application within one hundred twenty (120) days from the date of receipt of a completed application, shall constitute grounds for the applicant to request a hearing. Section 4.10 of this ordinance shall govern the request for a hearing
- C. Denial for Cause. The Department may deny a license when there is evidence of non-compliance with this ordinance. The Department may deny a license in cases where a local unit of government has informed the Department that the applicant's site is not zoned for a specific type of hazardous waste activity.

3.09 Waste Management.

- A. On-site Treatment. For licensing purposes, the Department may consider on-site treatment by the generator of on-site generated hazardous waste as part of the generator's licensure and may exempt such on-site treatment from facility licensing requirements. Such exemption shall be limited to the following types of treatment: the specific treatment activities allowed in Minnesota Rules, parts 7045.0450, subpart 3, item K; 7045.0652; and 7045.0855, subpart 3; and/or recovery of reusable solvents by distillation. The treatment must be described in the generator license application and approved by the Department. The Department may require generators who conduct on-site treatment as identified above to comply with the requirements of Minnesota Rules, parts 7045.0558; 7045.0562, subparts. 1 and 2; and 7045.0566 through 7045.0576 or may impose such license conditions as may be deemed necessary to monitor the treatment operation and ensure public health and safety.
- B. Use of Household Hazardous Waste Collection Site. Delivery of waste regulated under this ordinance to a household hazardous waste collection site is prohibited unless the site is authorized by the Agency to accept such hazardous waste and the

operator granted permission to accept the waste knowing it was not household hazardous waste.

3.10 Additional Licensing Requirements for Facilities.

Facilities are divided into three tiers for licensing, depending on the type of waste handled, waste handling activity, and specific threshold criteria. The Department shall impose license conditions based on tier and other factors as deemed necessary to monitor the operation, ensure public health and safety, and to protect the environment. The Department will consider Tier 3 facilities in possession of a license once the Tier 3 facility license application is approved by the Department. The Department will issue a license to Tier 1 and Tier 2 facilities only after they have fulfilled all licensing conditions. The facility license must be posted in a public area at the licensed site.

Facilities regulated under this ordinance include, but are not limited to the waste types, activities, and licensing thresholds listed in the following table:

Tier 1		
Waste Type	Activity	Licensing Threshold
Waste regulated under Minnesota Rules, chapter 7045	State permitted Hazardous Waste Facilities or other Collection, Consolidation, Storage, Treatment, Disposal, or Recycling facilities except those facilities listed specifically in Tier 2 or Tier 3	Any amount
Tier 2		
Waste Type	Activity	Licensing Threshold
Appliances	Recycling, Processing, and Disposal	Any amount
Batteries Other Than Lead-Acid	Collection, Consolidation, Storage	Closure costs more than \$10,000
Electronics	Collection, Consolidation, Storage	Accumulation of 20 tons (roughly one semi-trailer) or more for longer than 10 days
Electronics	Processing, Recycling	Any amount
Lamps	Collection, Consolidation, Storage	Any amount
Recyclable Fuel	Collection, Consolidation, Storage, Treatment, or Recycling	Any amount
Pesticides	Collection, Consolidation, Storage	Any amount
Precious Metal Bearing Hazardous Waste	Collection, Consolidation, Storage, Treatment, or	Any amount

	Recycling	
Used Oil, Used Oil Filter, Oil Contaminated Material	Collection, Consolidation, Storage, Treatment, or Recycling	Any amount
Very Small Quantity Generator Hazardous Waste Collection Program	Collection Programs regulated under Minnesota Rules, part 7045.0320	Any amount
Mercury Containing Equipment	Collection, Consolidation, Storage	Any amount
Hazardous Waste Transfer Facilities, as defined in Minnesota Rules, part 7045.0020	Consolidate for 10 days or fewer	Any Amount
Tier 3		
Waste Type	Activity	Licensing Threshold
Electronics	Collection, Consolidation, Storage	Any amount accumulated for no longer than 10 days
Electronics	Collection, Consolidation, Storage	Accumulation of less than 20 tons for longer than 10 days but no longer than 1 year
Batteries Lead-Acid	Collection, Consolidation, Storage	Greater than 11,000 pounds on site
Batteries Other Than Lead-Acid	Collection, Consolidation, Storage	Closure costs no more than \$10,000
Household Hazardous Waste	Collection, Consolidation, Storage (only at sites with no generator license)	Any amount

A. Financial Assurance. Unless otherwise provided by the County Board or the Department, an applicant must furnish to the Department a bond, letter of credit, or financial test meeting the requirements of this section before the Department will issue a hazardous waste facility license.

Bonds or letters of credit shall name the County as the obligee with sufficient sureties duly licensed and authorized to transact corporate surety business in the State of Minnesota as sureties. The Department shall set the amount of the bond, letter of credit, or financial test according to the estimated cost, submitted by the applicant and approved by the Department, for a third party contractor, unrelated to the applicant or to Hennepin County, to complete all of the following:

- 1) dispose of the maximum inventory of hazardous wastes that will be on site at any one time;
- 2) decontaminate the facility and all equipment in the facility, or dispose of any equipment that cannot be decontaminated;

- 3) perform remedial actions to remove, mitigate, restore, or decontaminate the facility and other properties that are affected by pollution from the facility;
- 4) perform any other activities necessary to ensure that the facility does not pose a threat to human health or the environment; and
- 5) provide an additional thirty (30) percent above estimated costs to cover unanticipated costs and administrative costs that the County might incur in exercising its authority.

The Department may allow the applicant to satisfy the requirements of this section by providing a financial test. The terms of the financial test will be set on a case by case basis by the Department using Minnesota Rules, part 7045.0504, subpart. 7 as a guide.

If the applicant fails to obey all of the requirements and do all of the acts required by this ordinance, any order or notice issued by the Department, or any conditions of the license in the operation of the site or facility, the Department may require, as a condition of the bond, letter of credit, or financial test, that the applicant and the sureties on its bond, letter of credit, or financial test pay for any and all expenses required to remedy the conditions resulting from those failures.

Failure means any condition involving waste or constituents of waste regulated under this ordinance (“waste”), that poses a threat to human health or the environment. This includes but is not limited to waste storage deficiencies, releases of any waste, abandonment or neglect of waste or of a contaminated site, inadequate monitoring and supervision of waste management activities or of a contaminated site, inadequate preparedness and prevention as dictated by Minnesota Rules, part 7045.0566, any evidence of surface or subsurface contamination of soil or water resources that has occurred or is imminent, or any condition that poses an imminent release.

The applicant and its sureties shall indemnify and hold the County harmless from all losses, costs, and charges that the County may incur because of any default of the applicant under the terms of this ordinance and the applicant’s license. In the event the County is required to expend monies, labor, or material to identify the extent of non-compliance and environmental impact or to restore the site or facility to the condition or requirements as provided by this ordinance, the applicant and the sureties shall reimburse the County for any and all expenses.

Monies paid under this section will be used to make the Department or its assigns whole for any loss, cost, claim, or expense incurred in connection with correcting, mitigating, or restoring any failures as described in this section. The Department may elect to use the monies to reimburse other parties that incur expenses that are a result of the applicant’s failure to satisfy its responsibilities, though the Department shall always have first claim against the funds. The Department will have the sole responsibility for determining who is eligible for reimbursement and the order of priority in paying claims should the funds available be insufficient to cover all claims. The Department is under no obligation to reimburse other

parties who make claims against the funds and may elect to make partial reimbursement in cases where monies are insufficient to cover all claims.

- B. Insurance. Unless otherwise provided by the County Board or the Department, an applicant shall furnish to the Department satisfactory evidence of compliance with Minnesota Rules, parts 7045.0518 and 7045.0620 prior to the Department issuing any license to a facility that requires an agency permit or is operating under interim status pursuant to Minnesota Rules, parts 7045.0552 through 7045.0648.

Unless otherwise provided by the County Board or the Department, the Department may issue a license to a facility not required by the Agency to meet the liability requirements of Minnesota Rules, parts 7045.0518 or 7045.0620, contingent upon the applicant furnishing the Department with a certificate of insurance showing that the applicant maintains the following coverage:

- 1) A commercial general liability insurance policy covering all premises and operations with limits of not less than \$1,500,000 for personal injuries arising from one occurrence, \$1,500,000 for damages arising from death and/or total bodily injuries arising from one occurrence, and \$1,500,000 for property damage arising from one occurrence, or a combined single limit thereof, with a \$2,000,000 annual aggregate.
- 2) An automobile liability insurance policy, if applicable, with limits of not less than \$1,500,000 per accident for death or bodily injury and/or damages to any one person, \$1,500,000 for total bodily injuries and/or damages arising from any one accident, and with limits of not less than \$1,500,000 per accident for property damage.
- 3) Workers compensation coverage at the statutory limits (or written confirmation that the applicant is a qualified self-insured entity or is otherwise exempt under Minnesota Statutes, section 176.041).

The Department may substitute a financial test for liability coverage for the certificate of insurance if the financial test has been approved by the Department.

Under interim operating approval, the Department shall specify the required insurance.

A facility that is required to be insured under this section must notify the Department thirty (30) days prior to the effective date of a cancellation or any change to the insurance coverage.

- C. Exceptions to Financial Assurance and Insurance Requirements. Except as provided under section 4.06, the Department shall not require hazardous waste facilities to submit a bond, letter of credit, or financial test, pursuant to section 3.10 A, and proof of adequate insurance pursuant to section 3.10 B, 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 dollars (\$10,000.00) or less.

- D. Change in Facility Operation. No person may change the operation of a hazardous waste facility unless such change is first approved by the Department.
- E. Interim Operating Approval. In order to operate a hazardous waste site or facility during the interim period prior to initial license approval by the Department, a person must obtain interim operating approval from the Department and comply with conditions set by the Department. During interim operation, that person must operate the hazardous waste site or facility in conformance with Agency Permit requirements for an Agency Permitted facility, or in conformance with Minnesota Rules, part 7045.0365 if operating as a transfer facility, or in conformance with Minnesota Rules, part 7045.0125 and/or 7045.0675 if operating as a recycling facility or in conformance with Minnesota Rules, part 7045.0865, 7045.0875, 7045.0885, 7045.0895 and/or 7045.0990 as applicable, for used oil management facilities.

The Department may impose conditions as deemed necessary to monitor the operation and ensure public health and safety and will require compliance with the insurance requirements specified in section 3.10 B. The requirements under interim operating approval shall remain in force until the Department acts to grant or deny the license. If the Department finds that the hazardous waste site or facility is not being operated in compliance with the requirements of interim operating approval such approval shall be terminated. Any person operating in full compliance with this paragraph is in compliance with section 3.01 until the Department acts to grant or deny the license. Any person who, on an interim basis, within compliance with this section, owns or operates a hazardous waste facility, shall apply for a hazardous waste facility license within one hundred twenty (120) days of commencement of operation. Nothing in this item is intended to allow facilities to operate without permits, licenses, or compliance agreements required by the Agency.

- F. For facilities permitted by the Agency or having interim status, or otherwise required by the Agency to establish financial assurance for closure or corrective action, the license applicant, in lieu of financial assurance set forth in Section 3.10 A, shall submit to the Department for review, satisfactory evidence of compliance with the Agency's financial assurance requirements. The Department may require additional financial assurance for any facility activities that are not subject to Agency financial assurance requirements.

3.11 Minimal Generator Licensing Requirements.

- A. Licensing. Minimal generators shall comply with the following licensing sections of this ordinance:
 - 1) section 3.01 License Required,
 - 2) section 3.02 License Not Exclusive,
 - 3) section 3.05 A License Application,
 - 4) section 3.06 A Incomplete or Non-Conforming Application,

- 5) section 3.08 Denial, and
 - 6) section 3.09 Waste Management.
- B. License Term. The license term for each minimal generator license granted pursuant to the provisions of this ordinance shall be non-transferable and shall be for a period of five (5) years beginning January 1 of years evenly divisible by five. The initial license for a minimal generator will be effective from the date of issue through December 31 of the year preceding the next year evenly divisible by five.
- C. License Issuance. The Department will issue licenses for minimal generators once every five (5) years in years evenly divisible by five.
- D. License Renewal. Minimal generators must submit a statement of any changes to their license information at the time of an inspection by the Department. This statement must be signed by a person responsible for hazardous waste management for the generator. If there are no changes, it shall so state.
- E. License Modification. Minimal generators shall notify the Department within thirty (30) calendar days whenever any of the following occurs:
- 1) The business closes.
 - 2) The business is sold or otherwise changes ownership.
 - 3) The business moves to a new location.
 - 4) The business produces other hazardous waste not included in their current license.
 - 5) The business assumes a new name.
 - 6) The generator's hazardous waste generation does not conform to the limits defined in section 1.03 T.
- F. Loss of Minimal Generator Status. Any generator who loses or is denied minimal generator status pursuant to section 2.03 shall be subject to the full generator licensing standards of this ordinance. The generator will not be eligible to gain minimal generator status until the next license issuance year as defined in section 3.11C. If the next license issuance year will begin in less than two (2) calendar years from the date the generator is determined to have lost or been denied minimal generator status, the generator may not be eligible for minimal generator status until the following issuance year as defined by section 3.11 C.

Once minimal generator status has been lost or denied, the generator shall not gain minimal generator status except under the terms defined in section 2.03.

4.00 Administration & Enforcement

- 4.01 Duties of the Department. The Department shall be responsible for the administration and enforcement of this ordinance. The Department's duties shall include, but not be limited to, the following:

- A. Receive and review generator and facility license or license renewal applications, issue generator and facility licenses, and approve or disapprove interim operations of facilities.
 - B. Inspect hazardous waste facilities and generators as provided in this ordinance and investigate alleged violations of this ordinance.
 - C. Recommend that legal proceedings be initiated by the County to compel compliance with the provisions of this ordinance.
 - D. Advise, consult, and cooperate with other governmental agencies in the furtherance of this ordinance.
- 4.02 Right of Entry. Whenever necessary to perform an inspection to enforce any of the provisions of this ordinance, or whenever the Department has reasonable cause to believe that hazardous waste exists in any building or upon any premises, the Department or its authorized agent may enter such building or premises at all reasonable times to inspect the same or to perform any duty imposed upon the Department by this ordinance, provided that if such building or premises is occupied, the authorized agent shall first present proper credentials and demand entry; and if such building or premises is unoccupied, the Department shall first make a reasonable effort to locate the owner or other persons having charge or control of the building or premises and demand entry. Advanced notice is not required. If such entry is refused, or cannot be obtained, the Department shall have recourse to every remedy provided by law to secure entry including administrative search warrants. If the owner or other person having control of the premises has threatened an authorized agent of the Department that they will refuse to allow the Department entry for inspection in the future, then the Department shall have the authority to obtain an administrative search warrant in advance of an inspection at that premises, without first being denied entry.
- 4.03 Orders and Notices. Whenever the Department or its authorized representatives shall find in any building or on any premises hazardous waste whether at a site or facility for which a license has been granted by the Department or where no such license has been issued, the Department shall issue such orders as may be necessary for the enforcement of this ordinance governing and safeguarding the health, welfare, and safety of the public.
- 4.04 Compliance with Orders and Notices. Any owner, operator, occupant, or other person responsible for the condition or violation to which an order or notice pertains, shall comply with the order or notice issued or served by the Department. Every order or notice shall set forth a time limit for compliance depending upon the nature of the hazardous waste and the danger created by the violation. In cases of extreme danger to the health, welfare, and safety of the public, immediate compliance is required. If the building or other premises is owned by one person and occupied by another, under lease or otherwise, and the order or notice requires immediate compliance for the health, welfare, and safety of the public, the owner shall comply with such order or notice. If the owner has a written agreement with the occupant which places compliance responsibilities on the occupant, the occupant shall comply.
- 4.05 Inspection. To ensure compliance with the provisions of this ordinance, the Department may inspect and evaluate hazardous waste facilities, short term storage facilities,

generators, or other sites where the Department has reason to believe hazardous wastes are or have been present. The Department shall provide the owner and/or operator with written notice of any deficiencies, recommendations for their correction, and the date by which the corrections shall be accomplished. The owner and/or operator shall allow the Department or its authorized agent access for the purposes of making such inspections as may be necessary to determine compliance with the requirements of this ordinance. At the Department's election, the owner and/or operator shall provide free of charge or shall allow the Department or its agent to collect samples of waste, soils, surface waters, ground waters, air, raw materials, sewage discharges, or other materials or residues present at or emanating from the site for testing. The owner and/or operator shall allow free access at all reasonable times to inspect and copy all business records related to an owner's and/or operator's generation, collection, processing, and transportation of waste. The owner and/or operator shall keep all records required to be kept under this ordinance at the licensed site and shall make the records readily available for review during the inspection. The owner and/or operator shall allow the Department to record and document its findings in any reasonable and appropriate manner including, but not limited to, notes, photographs, photocopies, readouts from analytical instruments, videotapes, audio recordings, and computer storage systems or other electronic media. When requested by the Department, the owner and/or operator shall provide photocopies of records.

- 4.06 Financial Assurance. Whenever the Department has reasonable cause to believe that a person, generator or facility has mismanaged hazardous waste upon any premises, the Department may require that person, generator or facility to demonstrate to the satisfaction of the Department, the availability of adequate financial resources to ensure the hazardous waste is properly disposed of, treated or processed to protect human health and the environment.

If the Department has reasonable cause to believe that a person, generator, or facility may not have the financial resources to manage its hazardous waste at a site or that a site has become tax delinquent, the Department may order the site owner or operator to provide financial assurance in the form of a bond or letter of credit naming the County as obligee with sufficient sureties duly licensed and authorized to transact corporate surety business in the State of Minnesota as sureties. The Department shall set the amount of the bond or letter of credit according to the estimated cost, submitted by the owner or operator and approved by the Department, for a third party contractor, unrelated to the owner or operator or to Hennepin County, to complete the following:

- 1) dispose of the hazardous wastes;
- 2) perform remedial actions to remove, mitigate, restore, or decontaminate the site and other properties that are affected by pollution from the site;
- 3) perform any other activities necessary to ensure that the site does not pose a threat to human health or the environment; and
- 4) provide an additional thirty (30) percent deposit to cover unanticipated costs and administrative costs that the County might incur.

Failure to submit a bond or letter of credit shall subject the site owner or operator to all the remedies available to the Department to ensure that the hazardous waste is managed properly, as set forth in this ordinance.

- 4.07 Revocation of License. The Department may revoke any license issued by the Department for violation of any provision of this ordinance. Revocation shall not occur earlier than ten (10) calendar days, exclusive of the day of service, after written notice of revocation has been served on the licensee. Such written notice shall contain the effective date of revocation, the nature of the violation or violations constituting the basis for the revocation, the facts which support the conclusion that a violation or violations have occurred, and a statement that if the licensee desires a hearing he must, within ten (10) calendar days, exclusive of the day of service, file a written request with the Department. If the licensee fails to request a hearing, he shall forfeit any opportunity for a hearing. If a hearing is requested, the Department shall stay the revocation pending the outcome of the hearing.
- 4.08 Suspension of License. Any license required under this ordinance may be suspended for not longer than sixty (60) days by the issuer for violation of any provision of this ordinance. Suspension shall not occur earlier than ten (10) calendar days, exclusive of the day of service, after written notice of suspension has been served on the licensee. Such written notice shall contain the effective date of suspension, the nature of the violation or violations constituting the basis for the suspension, the facts which support the conclusion that a violation or violations have occurred, and a statement that, if the licensee desires a hearing he must, within ten (10) calendar days, exclusive of the day of service, file a written request with the Department. If the licensee fails to request a hearing, he shall forfeit any opportunity to a hearing. If a hearing is requested, the Department shall stay the suspension pending outcome of the hearing.
- 4.09 Summary Suspension of License.
- A. If the Department finds that the public health, safety, or welfare requires emergency action, the Department may order a summary suspension of a license upon notification of the County Attorney's Office and the County Board. The Department shall personally serve written notices of such summary suspensions on the licensee or shall serve by registered or certified mail to the licensee at the address designated in the license application.
 - B. The written notice in such cases shall state the effective date of the suspension, the nature of the violation or violations requiring emergency action, and a statement that, if the licensee desires a hearing he must, within ten (10) calendar days, exclusive of the day of service, file a written request with the Department. If the licensee fails to request a hearing, he shall forfeit any opportunity to a hearing. The Department shall review any suspension upon a written request of the licensee. The Department review shall be conducted pursuant to Section 4.10 of this ordinance.
 - C. Upon written notification from the licensee that all the violations for which the summary suspension was invoked have been corrected, the Department shall re-inspect the site, facility, or activity within a reasonable length of time, but in no

case more than three (3) working days after receipt of the notice from the licensee. If the Department finds on such re-inspection that the violation or violations constituting the grounds for suspension have been corrected, the Department shall immediately terminate the suspension by written notice to the licensee and the County Board.

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

4.10 Hearings. A hearing on an application, renewal, suspension, or revocation of a license is governed by the following:

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

B. Prehearing and Hearing Notice. The Department shall schedule and provide notice of the date, time and place of the prehearing conference, and hearing. The prehearing conference shall be held at least three (3) weeks prior to the hearing. The hearing shall be held no later than forty-five (45) calendar days after receipt of the request for hearing or by mutual agreement of the parties, subject to scheduling by the Office of Administrative Hearings.

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

- 1) The prehearing conference shall define the issues, schedule the exchange of witness lists and documentary evidence, seek agreement on the authenticity of documents and relevant testimonial evidence, determine whether intended evidence is cumulative and repetitive, and consider all other matters that will assist in a fair and expeditious hearing.
- 2) Each party shall exchange all relevant information and documentary evidence at least one (1) week prior to the hearing date. Such information shall include all evidence intended for introduction at the hearing and includes but is not limited to the following: exhibits, statements, reports, witness lists including a description of the facts and opinions to which each is expected to testify, photographs, slides, and demonstrative evidence. Evidence not exchanged in accordance with this provision will not be considered in the hearing unless good cause is shown to the hearing officer.
- 3) The hearing is public and must be tape recorded or, at the discretion of the hearing officer, recorded by a court reporter.
- 4) All witnesses shall testify under oath or affirmation.

- 5) Hearings shall be informal and the rules of evidence as applied in the courts shall not apply. Irrelevant, immaterial, and repetitious evidence shall be excluded.
- 6) The Department shall have the burden of proof through clear and convincing evidence.
- 7) The Department, licensee or applicant, and additional parties as determined by the hearing officer, shall present evidence in that order. Each party shall have the opportunity to cross-examine the witnesses of the other party. The hearing officer may examine witnesses.
- 8) Failure of an applicant or licensee to appear at the hearing shall result in a waiver of the right to a hearing.
- 9) The hearing officer shall issue a report containing written findings of fact and conclusions based upon the evidence presented at the hearing and shall submit the same to the County Board.
- 10) Each party adversely affected may submit written exceptions and present arguments to the County Board.
- 11) The County Board shall consider the report of the hearing officer at the next possible board meeting and may adopt or modify the report and take action, reject the report of the hearing officer, or remand for further hearing. The parties shall be notified of the action of the County Board within thirty (30) calendar days following its determination.
- 12) The Agency may review any decision to issue, deny, suspend, modify, impose conditions upon, or revoke a license. The Agency shall, after written notification, have fifteen (15) days to review, suspend, modify, or reverse the action of the County Board. After this period, the action of the County Board shall be final, subject to appeal to the District Court.
- 13) Appeal of a decision by the County Board shall be made to the District Court within thirty (30) calendar days following the review by the Agency. Minnesota Statute, section 14.69 shall govern the scope of review by District Court. Filing an appeal will not stay enforcement of the County Board decision.

5.00 Termination of Operation and Abandonment

- 5.01 Termination of Operation. Any person who, for any reason, terminates operations at a site, must remove all hazardous waste and materials contaminated with hazardous waste prior to termination of operations. Termination of operations may include the sale of an operation to a new entity, the simple shutdown of a business or site which is then not operating, the relinquishing of lease or rental rights to a property, or a change in operation eliminating all generation of hazardous waste. The person must remove the waste from the site in a timely manner as determined by the Department and accomplished in full compliance with this ordinance and Minnesota Rules, chapter 7045.

The person must retain copies of records demonstrating compliance with this section, including reports, contracts, evaluation documentation meeting the requirements of Minnesota Rules, part 7045.0214, uniform hazardous waste manifests, shipping papers, invoices, receipts, or bills of lading, for at least three (3) years and shall make the records available for inspection if requested by the Department.

Materials remaining on the site of a terminated operation are waste materials. A person who continues to store hazardous wastes on the site of a terminated operation shall do so in compliance with the hazardous waste storage facility rules in Minnesota Rules, chapters 7001, 7045, and this ordinance.

5.02 Abandonment. Any person who owns property on which hazardous waste or materials contaminated with hazardous waste has been abandoned, must remove all waste and contaminated materials. The person must remove the waste and contaminated materials in full compliance with this ordinance and in a timely manner as determined by the Department. Continued storage of the waste on the abandonment site is prohibited.

6.00 **Violations and Penalties**

6.01 Misdemeanor. Any person who willfully or negligently fails to comply with the provisions of this ordinance is guilty of a misdemeanor. A separate offense is committed on each day that a violation occurs or continues.

6.02 Aiding and Abetting. As set forth in Minnesota Statute, section 609.05, a person is criminally liable for a crime committed by another if the person intentionally aids, advises, hires, counsels, or conspires with or otherwise procures the other to commit the crime. A person liable for such crime is also liable for any other crime committed in pursuance of the intended crime if reasonably foreseeable by the person as a probable consequence of committing or attempting to commit the crime intended. A person who intentionally aids, advises, hires, counsels, or conspires with or otherwise procures another to commit a crime and thereafter abandons that purpose and makes a reasonable effort to prevent the commission of the crime prior to its commission is not liable if the crime is thereafter committed.

A person liable under this section may be charged with and convicted of the crime although the person who directly committed it has not been convicted, or has been convicted of some other degree of the crime or of some other crime based on the same act, or if the person is a juvenile who has not been found delinquent for the act. For purposes of this section, a crime also includes an act committed by a juvenile that would be a crime if committed by an adult.

6.03 Injunctive Relief. In the event of a violation or a threat of violation of this ordinance, the Department may institute appropriate actions or proceedings, including requesting injunctive relief to prevent, restrain, correct or abate such violations or threatened violations.

6.04 Civil Action or Cost as Special Tax. If a person fails to comply with the provisions of this ordinance, the County may recover costs incurred for corrective action in a civil action in any court of competent jurisdiction or, at the discretion of the County Board, the costs may be certified to the County Auditor as a special tax against real property.

- 6.05 Citation Authority. The Department may issue citations pursuant to Ordinance Number 1 County Licenses, Procedures-Criminal Penalty, section V.
- 6.06 Penalty Provisions.
- A. Existing Generators License Renewal. The Department may issue a citation, for failure to submit an application for license renewal, to Generators who fail to submit applications for license renewal by December 15 and continue to operate. The Department may issue a citation, for operating without a hazardous waste generator license, to Generators who fail to remit all applicable fees by April 30 prior to the license year.
 - B. New Generators License Issuance. The Department may issue a citation, for operating without a hazardous waste generator license, to Generators who fail to submit applications for a generator license within seventy-five (75) days of first producing a hazardous waste and who continue to operate. The Department may issue a citation, for operating without a hazardous waste generator license, to Generators who fail to remit all applicable fees within thirty (30) days after the invoice date.
 - C. Applications for License Modification. The Department may issue a citation, for failure to submit a modification to license, to Generators who submit applications for license modification later than allowed in Minnesota Rules, part 7045.0243, subpart 3, item G.
- 6.07 Embargo. The Department may embargo and forbid the movement, removal, transport, disposal, treatment, sale, or use of any material which is or is suspected to be a hazardous waste or material contaminated with hazardous waste and which is being mismanaged or which the Department has reason to suspect is being or will be managed in violation of this ordinance. The Department shall place a tag to indicate the embargo on the suspect material. No person shall remove the tag or remove, transport, dispose, treat, or use such embargoed material except as authorized by the Department. Such action by the Department shall not be considered to impute ownership or management responsibility upon the County.
- 6.08 Enforcement Cost Recovery. The Department may recover all enforcement costs incurred by the Department pursuant to any civil, administrative, or criminal enforcement action. The Department may recover these costs through any Federal or State enforcement action, through restitution in a criminal enforcement action pursuant to settlement of the action, through a voluntary settlement agreement with the subject of an administrative enforcement action, or by any other means allowed under this ordinance.
- 7.00 **Modification of Requirements**
- 7.01 Waivers or Modifications. The County Board may waive or modify the strict application of the provisions of this ordinance by reducing or waiving certain requirements when such requirements are unnecessary or impractical, or by imposing additional requirements necessary to reduce risk of harm to persons, property, or the environment.

7.02 Agency Approval. The County Board will not grant any modification or waiver if it would result in noncompliance with Minnesota Rules, chapter 7045 unless the Agency has approved or granted such modification or waiver.

7.03 Closure and Post-Closure. For facilities permitted or granted interim status by the agency, the Department shall grant amendments to the facility closure and post-closure plans and extensions to the closure and post-closure period only where the amendments or extensions have been approved by the Agency.

8.00 **Effective Date**

8.01 This ordinance is effective immediately upon passage by the County Board.

8.02 This ordinance shall not be construed to hold the Department or the County of Hennepin or its officers or employees responsible for any damage to persons or property by reason of the inspection or re-inspection authorized; or by reason of the approval or disapproval of equipment or licensing; nor for any action in connection with the inspection or control of hazardous waste or related business records or in connection with any other official duties.

9.00 **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:


- A. Validity of Provisions. If any Court of competent jurisdiction determines that any provision of this ordinance is invalid, such determination shall not affect any of the provisions of this ordinance not specifically included in said judgment.
- B. Application to Site or Facility. If any Court of competent jurisdiction determines that the application of any provision of this ordinance to a particular structure, site, facility, or operation is invalid, such determination shall not affect the application of the provision to any other structure, site, facility, or operation not specifically included in the Court's ruling, judgment, or action.

10.00 **Accumulated Provisions**


The provisions of this ordinance are cumulative to all other current and future laws, ordinances, and regulations covering any subject matter in this ordinance.

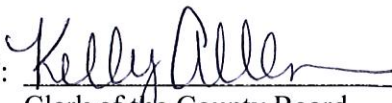
Passed by Board of County Commissioners of Hennepin County this 2nd day of October, 2012.

COUNTY OF HENNEPIN
STATE OF MINNESOTA

BY: 
Chair of the County Board

APPROVED:


Assistant County Attorney

ATTEST: 
Clerk of the County Board