

Goodhue County Land Use Management

Goodhue County Government Center | 509 West Fifth Street | Red Wing, Minnesota 55066

Lisa M. Hanni, L.S. Director

Building | Planning | Zoning
Telephone: 651.385.3104
Fax: 651.385.3106



County Surveyor / Recorder

Environmental Health | Land Surveying | GIS
Telephone: 651.385.3223
Fax: 651.385.3098

To: County Board
From: Land Use Management
Meeting Date: January 2, 2024
Report date: December 27, 2023

PUBLIC HEARING: Consider Goodhue County Ordinance Updates

Proposed amendments to Article 10 (Definitions), Article 11 (Performance Standards), and Article 20 (Table of Uses) to allow Solid Waste Transfer Facilities.

Attachments:

Proposed Amendments
December 18, 2023, Planning Commission Draft Meeting Minutes
[Goodhue County Zoning Ordinance](#)

Summary:

The County Board began a process with the MPCA to close the Wanamingo demolition landfill in September 2023 (44284 135th AVE, Zumbrota in Minneola Township). With this closure, there is a desire to have a solid waste disposal option in the rural area of Goodhue County.

For the past several years, the Wanamingo landfill used dumpsters to dispose of materials that were not allowed to be disposed of in the ground. After discussions with the MPCA and extensive research, it was determined the use of a property to dispose of solid waste that is brought to the site, stored in dumpsters, and removed once the dumpster reaches capacity would be considered a “Transfer Facility”. This type of operation is not a permissible use in the County Zoning Ordinance.

Staff has researched other Minnesota Counties’ zoning rules and State of Minnesota statutes for solid waste transfer facilities. Many aspects of the state statutes are incorporated into the proposed performance standards. Goodhue County has a Waste Management Ordinance from 1990 that defines “Transfer Facilities” and has a few performance standards. Several Counties permit transfer facility operations in Agricultural, Industrial, and Business districts. Some Counties permit these facilities under performance standards found in their Solid Waste Ordinance while others have performance standards within their Zoning Ordinance.

It is important to note that the current landowner of the Wanamingo demolition landfill, Glen Steberg, was in contract with Goodhue County regarding the use of his property and staffing the landfill for many years. With the closure of the landfill, Mr. Steberg has shown interest in continuing to operate a Transfer Facility if allowed by the County Zoning Ordinance. Mr. Steberg would need to obtain all proper County Zoning and Waste Management permits as well as any MPCA permits as needed. This Ordinance amendment would not be limited to Mr. Steberg’s property. Anyone could apply for a CUP/IUP for a Transfer Facility in an appropriate zoning district with Township approval.

Article 10:

Add a definition for Transfer Facility:

TRANSFER FACILITY A fixed facility in which waste collected from any source is temporarily deposited, compacted, or rearranged for transportation to another waste management facility in quantities up to 120 cubic yards or stored for more than 48 hours.

Table of uses:

- Add Transfer Facilities as a Conditional/Interim Use in A-1, Agricultural Protection, A-2, General Agriculture, and A-3, Urban Fringe Districts.

Table of Uses – Business & Industrial Districts:

- Add Transfer Facilities as a Conditional/Interim Use in Business and Industrial Districts.

Article 11:

- Add performance standards for Transfer Facilities. After discussion staff added a provision to proposed Article 11 Section 35 M. that Transfer Facilities also not be allowed within active mineral extraction facilities.

PAC Recommendation:

The Planning Advisory Commission recommends the County Board

- Adopt the staff report into the record;
- Accept the testimony, exhibits, and other evidence presented into the record; and

APPROVE the amendments to Articles 10 (Definitions), 11 (Performance Standards), and 20 (Table of Uses) regarding Transfer Stations.

PLANNING ADVISORY COMMISSION
GOODHUE COUNTY, MN
December 18, 2023 MEETING MINUTES
DRAFT

PUBLIC HEARING: Consider Goodhue County Zoning Ordinance Updates - Solid Waste Transfer Facilities and Floodplain Repetitive Loss Ordinance

Proposed amendments to Article 10 (Definitions), Article 11 (Performance Standards), and Article 20 (Table of Uses) to allow Solid Waste Transfer Facilities.

Pierret presented the staff report and attachments.

Commissioner Greseth asked for clarification about the difference between a recycling center and a Transfer Facility. He questioned whether these were the same concept.

Commissioner Gale asked how you differentiate between a construction site with a dumpster that sits there for weeks and a Transfer Facility.

Pierret stated a Transfer Facility is a business where the public pays a fee to bring their construction debris, appliances, etc. This is set up as a business unlike at a construction site.

Commissioner Greseth stated that at a transfer station, you need to go through the material brought in and deposit it in the appropriate containers much like a recycling center.

Pierret restated the definition of a Transfer Facility.

Chair Buck Opened the Public Hearing

Flinton Stehr 19603 460th Street Way Zumbrota and Zumbrota Town Board member, was curious where the 120 yard maximum size came from.

Pierret stated that the 120-yard rule came from the PCA rules and state statutes where any operation over 120-yards requires extensive paperwork and applications with the PCA.

Kevin Simanski 28983 320th Ave Way Red Wing stated that Red Wing has a landfill and Goodhue County doesn't, the County just gave up control of the Bench Street landfill, so why is Goodhue County looking to get back into the landfill business?

Lisa Hanni stated what's on the table is not a landfill. Materials will not be deposited into the ground but in dumpsters on the site. She added that if Mr. Simanski has suggestions on the proposed language staff would review those suggestions.

Mr. Simanski asked about hazardous waste and storing materials on the ground. He questioned the proposed operation of a Transfer Facility.

Hanni clarified that Transfer Facilities are not landfills, the dumpsters would be removed from the site once they are full and the County would not be partnering with private landowners to operate a Transfer Facility.

Theresa Gaident 29407 Hwy 58 Blvd. stated she agrees with the 1000-foot setback from dwellings and residential districts for Transfer Facilities.

After Chair Buck called three times for comments it was moved by Commissioner Fox and seconded by Commissioner Miller to close the Public Hearing.

Motion carried 6:0

Commissioner Miller stated this is something that southern Goodhue County needs.

PLANNING ADVISORY COMMISSION
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DRAFT

Commissioner Fox stated that we need to be careful in how this is written because we don't want a lot of small operations or businesses that can't be regulated.

Commissioner Gale stated that in St. Louis County everything is managed by the county and everyone is assessed a fee.

Commissioner Greseth stated that the MPCA limits both the number and size of these facilities. It's something that's needed but needs to be done with thought.

Hanni stated that we could make a map to show related businesses such as landscaping businesses or contractor's yards that may be able to open a Transfer Facility easier than other landowners.

Commissioner Fox stated that you don't want folks coming in with a dump trailer, dumping it on the ground, and then finding items that don't belong and operators left with materials they don't know what to do with. He would like to have time to review the proposed language.

Commissioner Greseth asked if there was anything stopping the large waste companies from coming in and setting these up.

Hanni stated that the 120-yard threshold is what's keeping larger waste companies from doing transfer facilities.

8It was moved by Commissioner Greseth and seconded by Commissioner Nystuen for the Planning Advisory Commission to:

- adopt the staff report into the record;
 - adopt the finding of fact;
 - accept the application, testimony, exhibits, and other evidence presented into the record;
- and

Recommend the County Board of Commissioners **APPROVE** the Proposed amendments to Article 10 (Definitions), Article 11 (Performance Standards), and Article 20 (Table of Uses) to allow Solid Waste Transfer Facilities.

Motion carried 5:1 (Fox dissented)

Other Discussion

9ADJOURN: Motion by Commissioner Nystuen and seconded by Commissioner Greseth to adjourn the Planning Commission Meeting at 7:12 p.m.

Motion carried 6:0

Respectfully Submitted,

William Lenzen Zoning Assistant

MOTIONS

¹ APPROVE the PAC meeting agenda

Motion carried 6:0

² APPROVE the previous month's meeting minutes

Motion carried 6:0

STEEP SLOPE. Land where agricultural activity or development is either not recommended or described as poorly suited due to slope steepness and the site's soil characteristics, as mapped and described in available County soil surveys or other technical reports unless appropriate design and construction techniques and farming practices are used in accordance with the provisions of this Ordinance. Where specific information is not available, steep slopes are lands having average slopes over twelve (12) percent, as measured over horizontal distances of fifty (50) feet or more, that are not bluffs.

STREET. Any thoroughfare or way other than a public alley, dedicated to the use of the public and open to public travel, whether designated as a road, avenue, highway, boulevard, drive, lane, circle, place, court or any other similar designation, or a private street open to restricted travel, at least thirty (30) feet in width.

STRUCTURE. Anything constructed or erected on the ground or attached to the ground or on-site utilities, including, but not limited to, buildings, factories, sheds, detached garages, cabins, manufactured homes, travel trailers/vehicles not meeting the exemption criteria specified in Article 32, Section 9, Subd. 3.A. of the Ordinance and other similar items.

STRUCTURAL ALTERATION. Any changes in the supporting members of a building such as bearing walls, columns, beams or girders or any substantial change in the roof and exterior walls.

SUBSTANTIAL DAMAGE. See Article 32 (Floodplain District)

SUBSTANTIAL IMPROVEMENT. See Article 32 (Floodplain District)

SUBSTATION, SES. See Article 18 (WECS)

SUBSTATION, WECS. See Article 19 (SES)

SWCD. Soil and Water Conservation District.

TASTING ROOM. See Article 11 (Farm Wineries)

TIMBER. Standing trees which because of their size, quality and number are marketable.

TIMBER HARVESTING AND LOGGING. The cutting of trees over four (4) inches in diameter measured at breast height, skidding, on-site processing, and loading of trees to be removed from a parcel.

TOWER ACCESSORY STRUCTURE. See Article 17 (WCF)

TOWER, HEIGHT. See Article 17 (WCF)

TOWER, METEOROLOGICAL. See Article 18 (WECS)

TOWER, WECS. See Article 18 (WECS)

TOWER, WCF. See Article 17 (WCF)

TRANSFER FACILITY A fixed facility in which waste collected from any source is temporarily deposited, compacted, or rearranged for transportation to another waste management facility in quantities up to 120 cubic yards or stored more than 48 hours.

TRANSMISSION LINE. See Article 18 (WECS)

TREE CUTTING. Selective removal of trees over four (4) inches in diameter measured at breast height, for the purpose of forest or site management.

USE. The purpose for which land or buildings thereon are designed, arranged or intended to be occupied or used, or for which they are occupied or maintained.

- G. The routes and conditions of local transportation networks will be part of the review process to determine if they are capable of supporting the proposed use without appreciably diminishing traffic safety along primary access routes. When appropriate, the applicant shall bear the costs of required dust mitigation measures.

Subd. 2. **PERMITTED USES:** Contractors Yards shall be allowed as shown in the table below.

	A-1	A-2	A-3	R-1	B	I	CR	MXH
Contractors Yard	C/I	C/I	C/I	NP	C/I	P	NP	NP

KEY: P = Permitted Use C = Conditional Use Permit I = Interim Use Permit NP = Use not permitted in the district

Section 34. Self-Service Storage Facilities

Subd. 1. Self-Service Storage Facilities shall comply with the following standards:

- A. Storage units/facilities may only be used for storage. Storage units/facilities may not be used for retail sales (including garage sales), industrial uses, vehicle repair, human habitation, or storing any living animal or organism.
- B. Storage of hazardous, flammable, or explosive materials as defined in MN Statute 182.651 is prohibited.
- C. Water service to storage units is prohibited except for a fire suppression system.
- D. The site shall not be located within any wetland, floodplain, or bluffslands.
- E. All lighting shall be downward projecting or shielded to prevent light from being directed off the premises.
- F. The facility shall be secured by fencing.
- G. Exterior storage of materials, vehicles, and equipment may require screening from public view.
- H. Areas for exterior storage and access lanes for storage structures shall be surfaced with aggregate, asphalt, or similar material.
- I. Driving lanes between structures must be a minimum of 18 feet between the nearest points of buildings.
- J. A landscaping and drainage plan detailing adequate provisions for stormwater control and erosion prevention shall be provided.

Section 35. Transfer Facilities

Subd. 1. Transfer Facilities shall comply with the following standards:

- A. No more than 120 cubic yards of waste shall be stored on-site at any given time and no more than 120 cubic yards of waste shall be managed on-site per day.
- B. The site shall be located at least 1,000 feet from any existing dwelling, except dwellings on the same parcel as the Transfer Facility.

- C. Transfer Facilities shall be located at least 1,000 feet from any Residential district (R1).
- D. Transfer Facilities shall comply with the Goodhue County Waste Management Ordinance, Minnesota Pollution Control Agency requirements, state, and federal laws. Documents required for submittal under the Goodhue County Waste Management Ordinance for Transfer Facilities shall be submitted to the Zoning Administrator with the conditional use permit application. A copy of the MPCA permit (if required) shall be submitted to the Zoning Administrator prior to opening.
- E. The owner or operator shall submit information regarding the surrounding property uses, any potential environmental hazards, sanitary facilities and waste disposal, and lighting.
- F. Exterior storage, loading, and unloading areas shall comply with setback requirements of the underlying zoning district and be adequately screened from view from all public roadways and adjacent residential uses except those uses on the same parcel as the Transfer Facility.
- G. Outdoor storage and parking areas shall have durable, all-weather, impervious surfacing.
- H. The site shall be fenced on all sides to prevent unlawful dumping and entrance.
- I. At each entrance to the facility, the owner or operator shall install and maintain a sign that lists the wastes that are or are not accepted at the facility, its hours of operation, a number to call for assistance with disposal of items that are not accepted at the facility, the MPCA assigned permit number, name of the facility, and prices for use of the facility.
- J. The owner or operator shall be responsible for ensuring the public access road that the facility is located on is not blocked or made impassable by hauled materials and that ditches are free of materials. The owner or operator shall be responsible for dust control on aggregate surfaced roads if requested by the road authority.
- K. All materials shall be confined to the designated processing and storage areas. The property shall be maintained so as to prevent wind dispersion of materials. The facility grounds and immediately adjacent property shall be free of litter stemming from facility operations.
- L. Mixed municipal solid waste, industrial waste, hazardous waste, and liquid waste shall not be accepted on-site, including oil.
- M. Transfer Facilities shall not be located within a floodplain, shoreland, wetland, sinkhole, bluffland, active mineral extraction facility, or wild and scenic river district.

GOODHUE COUNTY ZONING ORDINANCE

Table of Uses

Use	A-1	A-2	A-3	R-1	CS
Recreational					
Public Stable	C/I	C/I	C/I	NP	NP
Park/Recreational Area (operated by a governmental agency)	C/I	C/I	C/I ^{bc}	NP	NP
Park/Recreational Area	NP	NP	NP	C/I	C/I
Hunting Club/Shooting Preserve	C/I	C/I	NP	NP	NP
Campground &/or RV Site (<i>Art.16 § 7</i>)	C/I	C/I	C/I	NP	NP
Park Manager's Residence (1 per campground/RV park w/ ≥ 30 campsites)	NP	C/I	C/I	NP	NP
Commercial Outdoor Recreation Facilities (including, but not limited to, Golf Courses/Driving Ranges, Tennis Courts, Skiing, Swimming Pools, Park Facilities)	C/I	C/I	C/I ^{abc}	NP	NP
Commercial Outdoor Recreation Health Facilities	NP	C/I	NP	NP	NP
Commercial Outdoor Recreation Storage Structure (size & location to be approved by the Planning Advisory Commission)	NP	NP	C/I ^{bc}	NP	NP
Retreat Centers (<i>Art.11 § 25</i>)	NP	C/I	C/I	NP	NP
Institutional					
Community Building	C/I	C/I	C/I ^{bc}	C/I	C/I ^{bc}
Church	C/I	C/I	C/I ^{bc}	C/I	C/I ^{bc}
Cemetery	C/I	C/I	C/I ^{bc}	NP	NP
Memorial Garden	C/I	C/I	NP	NP	NP
Public School	C/I	C/I	C/I ^{bc}	C/I	NP
Private School	C/I	C/I	C/I ^{bc}	NP	NP
Nursery School	C/I	C/I	C/I ^{bc}	NP	NP
Funeral Home	NP	NP	C/I ^{bc}	NP	NP
Hospital, Sanitarium, Philanthropic/Eleemosynary Institutions (except correctional institutions, animal hospitals)	NP	NP	C/I ^{bc}	NP	NP
Miscellaneous					
WECS (Non-Commercial Micro) (<i>Art. 18</i>)	P	P	P	P	P
WECS (Non-Commercial) (<i>Art. 18</i>)	P	P	C/I	NP	NP
WECS (Commercial) (<i>Art. 18</i>)	C/I	C/I	NP	NP	NP
WECS (Meteorological Tower) (<i>Art. 18</i>)	P	P	C/I	NP	NP
SES (Utility Scale) (<i>Art. 19</i>)	C/I	C/I	C/I	NP	NP
SES (Commercial Scale) (<i>Art. 19</i>)	P	P	P	P	P
SES (Residential Scale) (<i>Art. 19</i>)	P	P	P	P	P
Aircraft Landing Fields & Facilities	C/I	C/I	NP	NP	NP
Sanitary Landfills/Sewage Disposal Works	C/I	NP	NP	NP	NP
Non-agricultural Lagoons (In accordance w/ MPCA regulations)	C/I	NP	NP	NP	NP
Migratory Labor Camp	C/I	C/I	NP	NP	NP
Commercial Radio Towers/TV Towers/Transmitters	C/I	C/I	C/I	NP	C/I
Solid Waste Transfer Facilities	C/I	C/I	C/I	NP	NP
KEY: P = PERMITTED NP = NOT PERMITTED C = CONDITIONAL USE PERMIT I = INTERIM USE PERMIT					

GOODHUE COUNTY ZONING ORDINANCE
Business and Industrial Districts Table of Uses

Use	B	I
Wholesale establishment: warehousing, storage buildings, commercial laundries or dry cleaning plants	NP	P
Manufacture, compounding or treatment of materials	NP	P
Manufacturing process or treatment of products using light machinery; such as tool and die shops or metal fabricating plants	NP	P
Manufacturing of cement, lime, gypsum or plaster	NP	C/I
Distillation of bone, coal, tar petroleum, refuse, grain or wood	NP	C/I
Essential services building or storage yards	P	P
Explosives manufacture or storage	NP	C/I
Fertilizer manufacture, compost or storage	NP	C/I
Refining or recovery of products from animal refuse or offal	NP	C/I
Junkyard	NP	C/I
Livestock feeding yards, slaughtering of animals or stock yards	NP	C/I
Petroleum or asphalt refining or manufacturing	NP	C/I
Smelting or refining of metals from ores	NP	C/I
Steam board hammers or forging presses	NP	C/I
Storing, curing, or tanning of raw, green or salted hides or skins	NP	C/I
Institutional		
Church	C/I	C/I
Miscellaneous		
WECS (Non-Commercial Micro) (Art. 18)	P	P
WECS (Non-Commercial) (Art. 18)	C/I	P
WECS (Commercial) (Art. 18)	NP	C/I
WECS (Meteorological Tower) (Art. 18)	NP	P
SES (Utility Scale) (Art. 19)	C/I	C/I
SES (Commercial Scale) (Art. 19)	P	P
SES (Residential Scale) (Art. 19)	P	P
Commercial Radio Towers/TV Towers/Transmitters	C/I	C/I
Residence when included as part of the principal building occupied by owner or their employee	P	P
Self service storage facility	C/I	C/I
Solid waste transfer facility	C/I	C/I
KEY: P = PERMITTED NP = NOT PERMITTED C = CONDITIONAL USE PERMIT I = INTERIM USE PERMIT		

Subd.49. "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 floodplain designed by ordinance on such a river or stream, whichever is greater.

Subd.50. "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, 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 wastewater 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 material, special nuclear material, or byproduct material as defined by the Atomic Energy Act of 1954, as amended.

Subd.51. "Transfer Facility" means a fixed or mobile facility in which waste collected from any source is temporarily deposited, compacted, or rearranged for transportation to another waste management facility in quantities greater than 10 cubic yards or stored more than 48 hours. Trucks and semi-trailers used solely to deliver waste from one facility to another are not considered to be transfer facilities.

Subd.52. "Transporter" means a person engaged in the off-site transportation of hazardous waste by air, rail, highway, or water.

Subd.53. "Waste Management" means the storage, collection, processing or removal of waste from or on public or private property, its transportation to intermediate storage facilities or its final disposal or processing by methods approved by the Agency.

Subd.54. "Waste Collection Service" means a public or private operation engaged in waste collection and transportation.

Subd.55. "Waste Materials" means all wastes defined as a hazardous waste or solid waste in their processed or unprocessed state. Waste materials include source-separated wastes, refuse-derived fuel, recyclables, compost, ash, etc.

Subd.56. "Water Pollution" means the discharge of any pollutant into any waters of the state or the contamination of any waters of the state so as to create a nuisance or render such waters unclean, or noxious, or impure so as to be actually or potentially harmful or detrimental 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 the man made or man-induced alteration of the chemical, physical, biological, or radiological integrity of waters of the state.

- G. A plan must exist for the routing of materials, if particular markets disappear or if the facility must close for a period of time - either scheduled or unscheduled shutdowns.
- H. If the facility is open for use by individuals, a separate unloading area must be provided or traffic controlled to prevent collisions between commercial and individual vehicles. This provision may be waived by the Administrator for facilities with fewer than 10 vehicles entering per day.
- I. When the facility is permanently closed, all materials must be removed and properly managed.

SECTION IX. TRANSFER FACILITIES.

Subd. 1. No person shall construct or operate a waste transfer facility without first obtaining a license issued by Goodhue County. The license shall be obtained in accordance with Sections II, V, and XX, and the facility must comply with Agency permit requirements.

Subd.2. The applicant must provide the following information when applying for a license to construct and/or operate a transfer facility:

- A. the facility design and layout;
- B. the types and number of vehicles expected to use the facility;
- C. the types of waste to be accepted;
- D. the hours of operation;
- E. the storage capacity of the facility;
- F. final location of waste;
- G. on-site traffic operations;
- H. operating plans;
- I. recycling and composting activities to be conducted, if any; and
- J. a copy of all permit materials submitted to the Agency.

Subd.3. All facility structures must be at least 20 feet from any property line and conform with all building and zoning ordinances.

Subd. 4. The design and operation of a transfer facility must meet the following standards:

- A. The facility must be secured.

- B. The facility must have all-weather roads that are negotiable by loaded collection vehicles.
- C. Tie downs or wheel curbs must be provided at elevated unloading areas.
- D. Tipping areas must be cleaned on a routine basis and capable of containing free moisture.
- E. All loading and unloading must be completed on an impervious surface.
- F. Special storage areas, Le. tires, appliances, etc., must be designed to prevent nuisance conditions, fire hazards, or other safety or health hazard.
- G. All putrescible waste must be removed at least twice per week and all stored materials at least monthly, unless otherwise approved.

Subd. 5. At closure, all materials must be removed from the facility and properly stored.

SECTION X. COMPOST SITES AND FACILITIES.

Subd. 1. A person operating a backyard compost site shall not be required to obtain a license under this Ordinance.

Subd.2. Backyard compost sites must be operated in a nuisance-free condition. No meat scraps or other uncompostable material may be deposited in the site. The pile must be turned regularly.

Subd. 3. All community yard waste compost sites must be licensed in accordance with Section II, unless publicly-owned and operated. All sites must receive a permit-by-rule from the Agency.

Subd.4. All yard waste compost sites must be constructed and operated in accordance with the following standards:

- A. Surface water drainage must be diverted from the compost area.
- B. The compost site must have controlled access and open only during posted hours.
- C. During the active lawn-cutting months when large amounts of grass are entering the site, the compost piles must be turned at least weekly with alternating days preferred. During the winter months, turning will not be required at a rate more frequent than monthly.
- D. Odors must be controlled.
- E. Non-compostables must be removed from the site at least weekly.

Subd.57. "Water Table" means the surface of the ground water at which the pressure is atmosphere. Generally this is the top of the saturated zone.

Subd.58. "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" includes all boundary and inland waters.

Subd.59. "Wetland" means a surface water feature classified as a wetland in the publication entitled "Classification of Wetlands and Deep Water Habitats of the United States," written and published by the United States Fish and Wildlife Service Biological Services Program, FWS 035-71/31, December 1979.

Subd.60. "Yard Waste" means the garden wastes, leaves, lawn cuttings, weeds, and prunings generated at residential or commercial properties.

SECTION II. GENERAL PROVISIONS.

Subd. 1. No person shall cause, permit, or allow land or property under his control to be used for waste management purposes, except at an operation for which a license has been granted by the County Board, unless otherwise provided by this Ordinance.

The Administrator may take action as allowed under Section VI, subdivisions 2 through 4 for actions violating this subdivision.

Subd. 2. Any operation to be used for any method of waste management not otherwise provided for in this Ordinance must be licensed by the County Board before operation may commence. The license application shall include three sets of complete plans, specifications, design data and ultimate land use plans. Proposed operating procedures for a waste management facility must be prepared by a professional engineer registered in Minnesota. The applicant shall procure a proper zoning permit to accompany the application if required by a local governmental unit's Zoning Ordinance.

No license shall be issued for a waste facility unless the applicant has demonstrated to the satisfaction of the County Board the availability of revenues necessary to operate the facility in accordance with applicable Federal, State and local laws, ordinances and rules.

Subd.3. After receiving an application for an operation, the County Board shall refer such applications to the Administrator who shall give a 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 therefor 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 applicants right to file a further application after revisions are made to satisfy objections specified as reasons for the denial. All applicant's shall receive a preliminary response within 60 days of submittal and a final response within 120 days. Response times may be extended to obtain more information and/or to hold required public hearings.

Subd.4. The County Board shall refuse to issue a license for any operation that does not comply with this Ordinance, Agency rules and the County's Solid Waste Management Plan.

Subd. 5. Issuance of any license pursuant to the provisions of this Ordinance shall be contingent upon the applicant furnishing to the County a bond in an amount to be set by the County Board. This bond shall name the County as 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 licensee fails to comply with any requirements or fails to perform any of the acts required of an operation or ceases to operate any monies or expend any labor or material to restore the operation to a condition in compliance with this Ordinance, the bond holder and the sureties on its bond shall reimburse the County for any and all expenses incurred by the County to remedy failure of the licensee to comply with the terms of this Ordinance, and the bond holder and its sureties shall indemnify and save the County harmless from all losses, costs, and charges that may occur to the bond holder or its sureties because of any default of the licensee under the terms of the bond terms to operate in compliance with the terms of the ordinances of the County.

Subd.6. In addition to the bond referred to in subdivision 5, issuance of any license pursuant to the provisions of this Ordinance shall be contingent upon the applicant securing insurance, and furnishing to the County a copy of a certificate therefor, the following types of insurance issued to the licensee by insurers duly licensed within the State of Minnesota and in amounts to be set by County Board; general liability including, but not limited to, bodily injury, property damage, motor vehicle, or other insurance such as Worker's Compensation, required by State or County Law.

Subd.7. Any license granted by the County Board under the provisions of this Ordinance may be suspended by the County Board at any time for noncompliance with the provisions of the license, this Ordinance or applicable state laws or rules, or upon written notification to the licensee and the County Board by the Administrator or by an authorized representative of the Agency that the continued use of the operation endangers the health, welfare or safety of the public or that the continued use pollutes or impairs the environment.

The notice of suspension shall be deemed adequately served whenever it is served upon the licensee personally or by leaving the same at the licensed premises with the person in charge thereof or by registered mail. A copy of the notice of 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 that were cited as cause for suspension have been fully corrected.

A license may be revoked only after the County Board has held a public 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 the hearing for license revocation shall be set by the County Board and shall not be held earlier than thirty days after notice of said hearing was mailed to 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, this Ordinance, State laws or State rules, the County Board may revoke the license or continue such suspension until the licensee has demonstrated that full compliance with the rules has been attained and that such compliance will be continued in the foreseeable future.

Subd. 8. Routine inspection and evaluation of an operation shall be made by the Administrator at such frequency as to ensure consistent compliance by the operation with the provisions of this Ordinance. The licensee shall be provided with a written inspection report containing a precise description of any deficiencies, recommendations for the correction thereof and the date when the corrections shall be accomplished. Copies of said report(s) shall be furnished to the Agency. The licensee shall allow to authorized representatives of the County or the Agency access to the facility at any time for purpose of making such inspections as may be necessary to determine compliance with the requirements of this Ordinance, and any other applicable statute, ordinance, or rule.

Subd. 9. Where the conditions imposed by any provision of this Ordinance differ with conditions imposed by other provision of this Ordinance, or any other applicable law, ordinance or rule, the provision that establishes the higher standards for the promotion of the public health, safety, and general welfare shall prevail.

Subd.10. Every license issued under this Ordinance for a waste management shall be registered with the office of the Administrator.

Subd.11. All unpaid bills related to waste management may be certified on the tax rolls for the next year.

SECTION III. SOLID WASTE ADMINISTRATOR.

Subd. 1. The Solid Waste Administrator shall have all necessary authority to implement and carry out the provisions of this Ordinance including, but not limited to, the following:

- A. To review and consider all license applications and supporting materials referred to the Administrator for waste management 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;
- B. To inspect operations to determine compliance and to investigate complaints about violations of this Ordinance;
- C. 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;

create a nuisance, safety concerns or health hazard. Approval may be granted for longer storage at the time of licensure for a commercial hauler based on the service provided.

SECTION V. COLLECTION AND TRANSPORTATION OF WASTE.

Subd. 1. The collection and transportation of waste materials shall be performed in accordance with State rules administered by the Agency.

Subd.2. Toxic or hazardous wastes shall be transported in a manner consistent with State rules administered by the Agency.

Subd. 3. No person may collect or transport waste materials for hire without first obtaining a license from the County Board. The County Board shall not issue a license until the applicant complies with all of the following requirements:

- A. The applicant shall submit a completed application form provided by the County for a waste collection and transportation license.
- B. The applicant shall submit for inspection to the County, when requested but no more than once per year except when are detected as not meeting Ordinance standards, all vehicles to be used for waste collection and transportation. An annual Minnesota Department of Transportation inspection shall be conducted prior to license issuance. The Minnesota Department of Transportation inspection results may be used in replacement of a County inspection.

Such vehicles shall have leak-resistant bodies of easily cleanable construction, completely covered with metal, heavy canvas or other suitable covering, and shall be subject to approval and periodic inspection by the Administrator or the Administrator's designee.

- C. The applicant shall meet all of the applicable requirements for obtaining a license that are specified in Section II of this Ordinance.
- D. The applicant shall establish a fee for collection and transportation of waste materials on a volume-based system, to the extent possible.

SECTION VI. LITTER.

Subd. 1. It shall be unlawful to place any portion of waste in or on public or private lands, shorelands, roadways, or waters. Such placement will be considered littering under this Ordinance.

Subd. 2. A person in violation of Subdivision 1 shall be subject to a civil penalty of not less than twice or more than five times the amount of cost incurred by the County to remove, process, and dispose of the waste.

the Ordinance. Prior to any public hearing held by the County Board under this provision, persons who may be adversely affected by the granting of the proposed variance shall be given at least thirty (30) days notice to said public hearing. Publication of a notice of hearing in appropriate newspapers shall be considered adequate notice.

SECTION XIX. NONCONFORMING SITES AND FACILITIES.

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 240 days from that date unless a variance application is submitted to the County Board within 180 days period following the effective date of this Ordinance. If the variance request is denied, the waste management facility must be properly closed.

SECTION XX. ADDITIONAL REQUIREMENTS.

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 waste management sites or facilities.

SECTION XXI. SEVERABILITY.

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

Subd. 1. If any Court of competent jurisdiction shall adjudge any provision of this Ordinance to be invalid, such judgement shall not affect any other provision of this Ordinance not specifically included in said judgement.

Subd. 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 not specifically included said judgement.

SECTION XXII. PROVISIONS ARE CUMULATIVE

The provisions of this Ordinance are cumulative limitation upon all other laws and ordinances heretofore passed or that may be passed hereafter, covering any subject matter of this Ordinance.

SECTION XXIII. NO CONSENT.

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

SECTION XXIV. VIOLATIONS.

Subd. 1. Any person who violates or fails, neglects or refuses to comply with the provisions of this Ordinance shall be guilty of a misdemeanor and upon conviction thereof