

WILKIN COUNTY SOLID WASTE ORDINANCE

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STATEMENT OF AMENDMENT

This ordinance is being enacted to amend Wilkin County's current solid waste ordinance dated May 14, 1987. This ordinance is also being amended to update it to coincide with the State of Minnesota mandates.

PURPOSE

This Ordinance regulates the storage, transportation, and disposal of solid waste materials in Wilkin County. If a local requirement is more restrictive than the requirement found in this Ordinance, the local requirement will supersede the County requirement. This document has been adopted by the Wilkin County Board of Commissioners to protect the public's health and prevent nuisance, to protect air and groundwater resources, to minimize reliance upon land disposal capacity by promoting waste abatement such as recycling and composting, and to supplement and support Wilkin County and State of Minnesota controls over solid waste management activities.

DEFINITIONS

Agency – means the Minnesota Pollution Control Agency (MPCA), its agent or representative.

Appliance – means clothes washer and dryers, hot water heaters, garbage disposals, trash compactors, conventional and microwave ovens, ranges and stoves, window air conditioners, refrigerators and freezers.

Brush Disposal Facility – means a site used exclusively for disposal in or on the land of trees and tree parts including stumps, branches, and their attached leaves. Such disposal may include open burning and burial of the resulting ash and unburned tree parts.

Commercial Hauler – means any person who owns, operates, or leases vehicles for the purpose of contracting to collect to transport solid waste and/or source separated materials from residential, commercial, or industrial properties.

Composting – means the controlled microbial degradation of organic waste to yield a humus-like product.

County – means the County of Wilkin, Minnesota, or any department or representative of the County of Wilkin who is authorized by this ordinance or otherwise by the County Board to represent the County of Wilkin in the administration of enforcement of this ordinance.

County Board – means the elected officers of the Wilkin County Board of Commissioners.

Demolition Land Disposal Facility – means an area of land used for the disposal of Demolition Waste.

Demolition Waste – means solid waste resulting from the demolition of buildings, roads and other man-made structures including concrete, brick, bituminous concrete, untreated wood, masonry, glass, trees, rock, and plastic building parts. Demolition debris does not include asbestos wastes.

Disposal – has the meaning given in Minnesota Statutes Section 115A.03, Subdivision 10.

Dumping – means the discharge, deposit, injection, spilling, leaking, or placing of any Solid Waste into or on any land or water so that the waste or any constituent thereof may enter the environment or be emitted into the air, or discharged into any water, including groundwater.

Garbage – means discarded material resulting from the hauling, processing, storage, preparation, serving, and consumption of food.

Groundwater – has the meaning given for “underground water” in Minnesota Rules.

Hauler – means a person transporting solid waste and/or source separated materials.

Hazardous Waste / Hazardous Substance – has the meaning given it in Minnesota Statutes, section 115B.02, subdivision 8 and 9.

Incineration – means the process of burning wastes for the purpose of volume and weight reduction in facilities designed for such use.

Industrial Solid Waste – means all solid waste generated from an industrial or manufacturing process and solid waste generated from an industrial or manufacturing process and solid waste generated from non-manufacturing activities such as service and commercial establishments. Industrial waste does not include office materials, restaurant and food preparation waste, discarded machinery, demolition debris, or household refuse.

License – means express written permission granted by the County Board to engage in solid waste management activities.

Licensee – means a person who has been issued a license by the County Board for solid waste management purposes pursuant to this ordinance.

Mixed Municipal Solid Waste (MSW) – means garbage, refuse and other solid waste from residential, commercial, industrial, and community activities that the generator aggregates for collection, but does not include auto hulks, construction debris, sludge’s, tree and agricultural wastes, tires, lead acid batteries, used oil and oil filters, and other materials collected processed and disposed of as a separate waste stream.

Open burning – means burning any matter whereby the resultant combustion products are emitted directly into the open atmosphere without passing through adequate stack, duct, or chimney.

Person – means any human being, any municipality or other governmental or political subdivision or other public agency, any public or private corporation, any partnership, firm, association or other organization, any receiver, trustee, assignee, agent, or other legal representative of any of the foregoing, or any other legal entity.

Putrescible Material – means solid waste which is capable of being rotten, or which may reach a foul state of decay or decomposition.

Recycling Facility – means a site used to separate, process, modify, convert, or otherwise prepare solid waste so that component materials or substances may be beneficially used or reused as raw materials.

Refuse – means putrescible and non-putrescible solid wastes, including garbage, rubbish, ashes, incinerator ash incinerator residue, street cleanings, and market and industrial solid wastes, and including municipal treatment wastes which do not contain free moisture.

Residence – means any building or portion thereof used as a dwelling or sleeping area for people.

Rubbish – means non-putrescible solid wastes, including ashes, consisting of both combustible and noncombustible waste such as paper, cardboard, tin cans, yard clippings, wood, glass, bedding, crockery, or litter of any kind.

Solid Waste – means garbage, refuse, demolition waste, sludge from water supply treatment plant or air contaminant treatment facility and other discarded waste materials and sludge's, in solid, semi-solid, liquid, or contained gaseous form, resulting from industrial, commercial, mining and agricultural operations and from community activities. It does not include hazardous waste; animal waste used as fertilizer, earthen fill, boulders, rock, sewage sludge, solids, or dissolved material in domestic sewage or other significant pollutants in water resources, such as silt, dissolved or waste-water effluent, dissolver materials, suspended solids in irrigation return flows, or other common water pollutants.

Solid Waste Management – means the storage, collection and removal of solid waste from public and private property, its transportation to intermediate or final disposal facilities and its disposal by approve methods.

Solid Waste Transportation – means materials that are separated from one place to another, by means of vehicle, rail car, water vessel, conveyer, or other means.

Source Separated Materials – means materials that are separated from the Solid Waste by the generator and recovered for reuse in their original form or for use in manufacturing processes.

State – means the State of Minnesota.

Tipping Fee – The fee charged to commercial haulers and citizens for waste delivered to the facility.

Waste Tire – shall have the meaning assigned by Minnesota Statues 115A.90

Yard Waste – means the garden wastes, leaves, and lawn clippings generated at residential of commercial properties.

RESPONSIBILITIES

Inspection/Compliance

It will be the responsibility of the Wilkin County Environmental Service Office to inspect solid waste storage, transportation, and disposal activities, equipment and facilities in the County to ensure the requirements established in this ordinance are being met. The Wilkin County Environmental Services Office will perform the necessary enforcement activities if these requirements are not being met.

Compliance / Enforcement

It will be the responsibilities of the Wilkin County Environmental Service Office staff to receive complaints from County residents regarding solid waste issues. Environmental Service Office staff will investigate these complaints and perform the necessary enforcement activities.

Planning / Licensing of Solid Waste Facilities and Commercial Haulers

It will be the responsibility of the Wilkin County Environmental Service Office staff to perform or oversee solid waste planning activities. This planning will involve all aspects of waste management which takes place within the County. It will be the responsibility of the Wilkin County Environmental Service Office staff to perform and oversee work to license Commercial Haulers under this ordinance.

Program Administration

It will be the responsibility of the Wilkin County Environmental Service Office staff to administer the County Solid Waste programs. These programs encompass the following activities; recycling, yard waste composting, household hazardous waste management, and Commercial hauler Licensing.

SERVICE FEES

Purpose and Authority

State law requires that all greater Minnesota counties recycle at least 25 percent of their solid waste streams by the end of 1993 and 30 percent of their solid waste streams by the end of 1996. Wilkin County imposes a service charge on all property owners in the county to raise funds for programs which will help Wilkin County meet these State mandated goals. Wilkin County has the authority to establish and collect this service under Chapter 400.08 of the Minnesota Statutes. The opportunity to recycle and/or participate in other waste abatement activities is provided to all residents of Wilkin County.

Rates and Charges

Owners of real and personal (mobile home) property shall pay a fee for waste management services to be provided by the County or by persons under contract with the County. The County Board shall set charges by resolution.

Revision and Collection

The County Board may by resolution revise the rates and charges when deemed advisable. Charges/fees must be certified by the County Board to the County Auditor during the tax year prior to the tax year in which those charges/fees are adopted and collected.

Unpaid Service Fees

On or before October 15th in each year, the County Boards shall certify to the County Auditor all unpaid outstanding charges for services hereunder, and statement of the description of the lands which were serviced and against which the charges arose. It shall be the duty of the County Auditor, upon order of the County Board, to extend the assessments with interest of six (6) percent upon the tax rolls of the County for the taxes of the year in which the assessment is filed. For each year ending October 15th, the assessment with interest shall carry into the tax becoming due and payable in January of the following year, and shall be enforced and collected in the manner provided for the enforcement and collection of real property taxes in accordance with the provisions of the law of the State. The charges, if not paid, shall become delinquent and be subject to the same penalties and the same rate of interest as the taxes under the general laws of the State.

Unpaid service fees assessed against tax exempt property may be collected in Small Claims Court or through such other means as may be approved by the County Attorney.

Appeals

Any property owner who believes that the service charge imposed upon his property is too high may appeal that charge. To do so, the property owner must obtain a complaint form from Wilkin County and return it to Wilkin County within Thirty (30) days of the date of mailing of notice of the service fee. Upon receipt of the completed complaint, Wilkin County shall have thirty (30) days to review the complaint and following review shall notify the complaining property owner by mail of the decision to either adjust the service fee in response to the complaint or to deny the complaint.

SOLID WASTE STORAGE

Solid Waste Accumulation

Except as otherwise allowed by this ordinance, owners and managers of every property shall be responsible for maintaining all open areas free of improperly stored solid waste accumulations. This includes removal of: animal feces, animal carcasses, brush piles, inoperable machines, appliances, fixtures, and equipment of damaged deteriorated or obsolete condition as to have no substantial value; lumber piles and building materials unless being actively used by a business or construction requiring the use of such materials; tin cans, broken glass, broken furniture, boxes, crates, and other debris; any other form of mixed municipal solid waste. Nothing in this section is designed to restrict the commonly accepted activities of farms and salvage yard operations.

DISPOSAL REQUIREMENTS

General Disposal Requirements

No person shall use, cause, or allow land or property under his ownership and/or control to be used for solid waste disposal purposes except at operation for which a license has been granted by the County Board. This requirement does not apply for disposal of waste characterized as municipal solid waste on farms, provided that 1) the waste generated on the farm where disposal takes place, 2) the disposal practices are consistent with Minnesota Statutes 17.135, and 3) that the farm does not have regularly scheduled collection service reasonably available as determined by resolution of the County Board.

All disposal of solid waste must be in accordance with applicable Agency Rules. No person may dispose of waste in an area or at a facility which is not licensed for accepting waste.

Consistent with Minnesota Statutes 115A.99, subdivision 1, a person who unlawfully places any portion of solid waste in or on public or private lands, shorelands, roadways, or waters is subject to a civil penalty of no less than twice nor more than five times the amount of cost incurred by a state agency or political subdivision that incurs cost as described in this section may bring an action to recover the civil penalty, related legal, administrative, and court costs, and damages for injury to or pollution of the lands, shorelands, roadways, or waters where the waste was placed if owned or managed by the entity bringing the action. Civil penalties collected under this subsection must be deposited in the general fund of the jurisdiction enforcing the penalties.

A private person may join an action by the State or political subdivision to recover damages for waste unlawfully placed on the person's property.

Yard waste may not be disposed of in the MSW stream.

Lead acid batteries may not be disposed of in the MSW stream. Used lead acid batteries must be accepted by retailers who sell new lead acid batteries.

Used motor oil and oil filters may not be disposed of in the MSW stream.

Appliances may not be disposed of in the MSW stream.

Waste tires may not be disposed of in the MSW stream.

HAULING OF SOLID WASTE AND RECYCLABLE MATERIALS

General Operating and Equipment Standards

- a) All solid waste which is hauled must be secured in covered, leak-proof vehicles or containers such that loads will not blow free or discharge liquids from the hauling vehicle. Where spillage does occur, the material will be picked-up immediately by the hauler or solid waste transporter. Spillage that cannot be immediately and completely cleaned up must be reported to the Wilkin County Environmental Services Office.
- b) All vehicle or containers which are used to haul solid waste on a regular basis must be kept clean and free of residues of the waste material so as to minimize problems associated with odors, animals, and insects.
- c) No one shall collect or transport solid waste that is smoking, smoldering, or burning, except in a container designed and approved by the State Fire Marshall.
- d) Vehicles and containers used for the collection and transportation of toxic or hazardous wastes shall be durable, enclosed and leakproof and shall be constructed, loaded, transported and unloaded in a safe, sanitary and nuisance-free manner.

Licensing Requirements for Collection/Hauling of Solid Waste

- a) No person shall provide solid waste collection and transportation service without being licensed by the Wilkin County Board of Commissioners. The following are exempt from this requirement: 1) any person hauling solid waste but not charging a fee for that service, and; 2) any person hauling solid waste generated outside of Wilkin County to a solid waste facility outside of Wilkin County.
- b) All relevant Minnesota Department of Transportation (MnDOT) and Minnesota Department of Health (MDH) requirements regarding equipment, operations, and inspections must be met.
- c) The Wilkin County operating license for solid waste collection and hauling will expire on December 31 of each year. Application for such a license will be on a form provided by the County board and submitted to the Wilkin County Environmental Services Office.
- d) Issuance of any license shall be contingent upon the applicant furnishing to the County a bond in an amount to set by the County Board and naming the County as obligee with sufficient sureties

dully licensed and authorized to transact business in the State of Minnesota as sureties. The condition of such bond shall be that if the principal fails to comply with any of the requirements or fails to perform any of the requirements or fails to perform any of the acts required of an operation or ceases to operate or abandon the operation, and the County is required to expend any labor or material to restore the operation to a condition in compliance with this ordinance, the obligor and its sureties will indemnify and save the County harmless from all losses, costs and obligation under the terms of his license to operate in compliance with the terms of the ordinances of the County.

- e) In addition to the bond to be furnished, the licensee shall furnish to the County certificates of insurance issued insurers duly licensed within the State of Minnesota including the following coverage: 1) Public liability insurance including general liability, automobile liability, and completed operations liability and loading and unloading liability; 2) Bodily injury liability in the amount of at least the statutory minimum required for counties for injury and death of any one person in any one occurrence; 3) Property damage liability in the amount of at least the statutory minimum required for counties.
- f) Any approved licensed applicant shall be required to enter into a Waste Assurance Contract. The terms and conditions of the Waste Assurance Contract shall be approved by Wilkin County and executed by the licensee. The Waste Assurance Contract shall include but not limited to the standards for receiving solid waste as established by the Eight County Solid Waste Joint Powers Board and the City of Fergus Falls in the operation of a certain incinerator located in Fergus Falls or other approved landfill site as designated by Wilkin County.
- g) Issuance of any license pursuant to the provision of this Ordinance shall be contingent upon the applicant paying the annual renewal fee for the license in the amount set by the County Board by resolution. Nonpayment of the annual fee shall be grounds of license denial.
- h) 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 Environmental Services Office or 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 persons 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 have been fully corrected.

Collection and Transportation Fees

- a) Commercial Haulers must offer volume based rates to all customers including residential customers. These rates must accurately reflect volume or weight based cost differentials to haulers for their disposal tip fee costs.
- b) Commercial Haulers must not impose greater charges on residents who recycle than those who do not recycle.

SPECIAL WASTES

Yard Waste

Yard waste may not be disposed of into the municipal solid waste (MSW) stream.

Yard waste composting sites at which a fee is not charged do not have to be licensed by the County. However, the following requirements must be met:

- Compost sites must be maintained in an orderly and nuisance-free manner.
- Compost piles must be turned in a regular manner so as to avoid odor problems.
- A compost pile may not be located less than five (5) feet from a property line of the property upon which the compost pile is operated. A compost pile may not be located closer to the primary residential structure of the property upon which the compost pile is operated.

Demolition Wastes

- a) Demolition waste may not be disposed of on incorporated areas of the County.
- b) Wilkin County has designated the demolition landfill in Wahpeton, ND, for the disposal of demolition waste, unless the hauling of such waste to the landfill is cost prohibitive.
- c) Demolition waste may be disposed on unincorporated areas of the County. A permit must first be obtained from the Minnesota Pollution Control Agency before the demolition starts. Permit applications are available from the Wilkin County Environmental Office.

Waste Tires

- a) All storage, transportation, and processing of waste tires in the County must comply with Agency requirements. Chapters 7001 and 9220 of the Minnesota Waste Tire Permitting Rules are hereby incorporated by reference.
- b) Waste tires may not be burned, buried or disposed of into the MSW stream.
- c) Retailers generating more than 100 waste tires per year must keep logs of tires generated and method used to dispose of those tires. Logs must be periodically submitted to the Agency for review.
- d) All properties being used to store more than ten (10) passenger tires (or equivalent weight of other used tires) must be permitted by the Agency with the following exemptions:
 - Tire retail business which store no more than 500 waste tires on the business premises.
 - Retreading business which store no more than 3,000 waste tires on the business premises.
 - Businesses which routinely remove tires which store no more than 500 tires on the business premises.
 - Agency-permitted sanitary land disposal or transfer stations at which no more than 10,000 waste tires are stored.
 - A person using waste tires on an agricultural site for legitimate agricultural purposes.

- e) Any person who transports waste tires for hire is required to have an Agency Waste Tire Identification Number which authorizes him to perform this service. Such a transporter must submit quarterly reports to the Agency documenting quantity, source, and disposal point of all tire loads. The following are exempt from the requirements to have an Agency Identifications Number and submit quarterly reports:
 - o An MSW and/or recyclable material hauler transporting incidental quantities of waste tires
 - o A person transporting ten (10) or fewer waste tires.
 - o A person transporting tire derived products to a market.
 - o A person transporting waste tires for agricultural purposes.
 - o A business that generates and transports its own waste tires.
- f) No more than ten (10) tires may be stored on a non-agricultural area.
- g) No more than ten (10) waste tires may be stored on a non-farm residential lot. These tires must be stored in an enclosed structure.
- h) A business not directly related to tire sales or tires retreading may not store more than 100 waste tires on the business premises.
- i) The owner of a property which is in violation of the terms of this section must bring the property into compliance within one (1) of the effective date of this ordinance.

Appliances

- a) All handling, management, and processing of major appliances must be in accordance with agency rules and other provisions of this ordinance.
- b) A person may not place appliances in MSW or dispose of them in a MSW processing or disposal facility.
- c) Processors of scrap refrigerators, central air conditioning units, and freezers are required to remove and recycle, destroy, or properly dispose of Chlorofluorocarbons (CFC's)
- d) A person who removes, stores, or transport capacitors is considered a PCB generator and must obtain an EPA hazardous waste Generator Identification Number.

Infectious Wastes

All storage and handling of infectious waste materials must be in accordance with State requirements as established in Minnesota Statutes 116.75 – 116.83 and Minnesota Rules 7035.9100 – 7035.9150.

Lead Acid Batteries

- a) All storage, handling, and disposal of batteries must be managed in accordance with Minnesota Rules and Statutes.
- b) Lead acid batteries may not be disposed of in municipal solid waste. Violation is a misdemeanor.

- c) A retail establishment which sells lead acid batteries must accept used lead acid batteries from consumers at no charge. Consumers may not deliver more than five (5) lead acid batteries to such an establishment at one time.
- d) A consumer purchasing a lead acid battery without a used lead acid battery to return at the point of sale must pay a surcharge of five (5) dollars as part of the purchase. This surcharge will be refunded to the consumer should the consumer return a used lead acid battery within thirty (30) days of the initial purchase.
- e) A lead acid batteries retailer must recycle batteries collected from consumers. Any such outlet failing to recycle these batteries is guilty of a misdemeanor.

Used Oil

A person may not place used oil in mixed municipal solid waste or place used oil in or on the land. Used oil may be recycled by returning it to an oil retailer or to used oil recycling facility.

VIOLATIONS

Penalty

- a) Any person within the County who violates this ordinance, or permits a violation to exist on property under his control, or fails to take action to abate the existence of the violation as ordered or notified by the County shall be guilty of a misdemeanor and upon conviction shall be punished as provided by the law. A separate offense shall be deemed committed each day, during or one, which a violation occurs or continues.
- b) This ordinance, in addition to other remedies, may be enforced by injunction, action to compel performance or other appropriate action in District Court to prevent, restrain, correct or abate violations.
- c) All property affected by this ordinance shall be subject to inspection by the County in accordance with Minnesota Statutes. After presentation of credentials, the County may collect samples for evidence or laboratory examination as deemed necessary for enforcement of this ordinance. No person shall refuse to permit the County's officers to inspect any premises. No person shall molest or resist the County's officers in their discharge of duty.