



MOWER
COUNTY

Statement of Need and
Reasonableness (SONAR)

Proposed Mower County
Solid Waste Management Ordinance

Re-Write:

Solid Waste Landfill Regulations

And

Solid Waste Facility Fees and Deposits

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I. Introduction and Background

1) Introduction:

Mower County's current Solid Waste Management Ordinance (ORD I-92), dated November 1991, was initially adopted by the Mower County Board of Commissioners on February 25, 1992. Refer to ORD I-92 (*Appendix A*). Mower County (the County) realizes that ORD I-92 is outdated, and lacking in provisions necessary to properly regulate solid waste landfills in a manner that is protective of the state's water, land, air, and other natural resources, and the public health. Per Minn. Statute 115.01, Subd 22. "Waters of the State" are:

"Waters of the state means all streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through, or border upon the state or any portion thereof."

To provide for necessary regulatory controls that are protective of the County's precious natural resources, and human health and safety; and, to ensure that the burden of required enforcement and response actions does not fall primarily on County taxpayers, the County intends to amend ORD I-92 by replacing it in its entirety with a newly adopted Solid Waste Management Ordinance (ORD _____).

2) Background:

The County is required by Minnesota law to manage solid waste in a manner that protects the state's land, air, water, and other natural resources, and public health by ensuring that certain reduction, separation and recovery, resource recovery, and proper disposal methods of solid waste generated is set forth in an ordinance. This is particularly important knowing that areas of the County have karst features. Per the United States Geologic Survey (USGS):

"Karst is a terrain with distinctive landforms and hydrology created from the dissolution of soluble rocks, principally limestone and dolomite. Karst terrain is characterized by springs, caves, sinkholes, and a unique hydrogeology that results in aquifers that are highly productive but extremely vulnerable to contamination."

The County is predominantly an agricultural community, consisting of fertile and well drained soils that is vital to its economy.

The County receives its drinking water entirely from aquifers (groundwater). Additionally, groundwater is used for industrial and agricultural purposes. Protection of vulnerable aquifers is of high

importance, and the County has and continues to devote time and resources towards efforts to protect surface and groundwater resources from known and potential pollution sources.

The County currently has two active landfills: SKB Austin Demolition Landfill (SW-542, hereinafter “Austin Facility”) which is a Class II unlined landfill, and SKB Lansing Landfill (SW-514, hereinafter “Lansing Facility”) which is a Class III lined landfill. Austin Facility accepts for land disposal: construction debris and demolition waste, and non-friable Class 2 Asbestos. Lansing Facility accepts for land disposal: construction debris and demolition waste, and industrial solid waste in accordance with its Industrial Solid Waste Management Plan.

SKB, on December 12, 2012, purchased 50 acres (parcel 08.021.0030) directly west of its Lansing Facility with the intent of modifying their existing industrial solid waste landfill operations, and obtaining: A Minnesota Pollution Control Agency (MPCA) permit, County and local permits, and required licenses that would allow for the acceptance and disposal of mixed municipal solid waste (MSW). Refer to aerial map of SKB’s Austin and Lansing landfills, and proposed expansion site (*Appendix B*).

In addition to the Austin Facility and Lansing Facility, the County has several closed or inactive landfills. Refer to Figure 1 in ***Landfill Review: SKB Lansing Landfill [SW-514] SKB Austin Landfill [SW-542]*** prepared by Tim Kenyon, Leggette Brashears and Graham, Inc. October 30, 2016 (*Appendix C*).

Concerned that ORD I-92 is outdated, the County initiated a comprehensive review and study of its official solid waste controls.

To allow for a reasonable time to conduct this comprehensive review and study of its official solid waste controls, and in accordance with Minn. Statutes § 394.34, the Mower County Board of Commissioners during a regular meeting held on May 26, 2015, adopted an Interim Ordinance (ORD. #01-15), placing a moratorium on the location and establishment of new solid waste facilities, and the expansion of existing solid waste facilities, for a period of one-year.

The County retained the services of consultants to assist in this comprehensive review and study of its official solid waste controls, and to draft various reports, provide recommendations, and prepare necessary amendments to ORD I-92.

The County’s Waste Committee determined that the necessary work to complete the process identified in the paragraph above may not be completed by May 26, 2016; and in accordance with Minn. Statutes § 394.34, the Mower County Board of Commissioners during a regular meeting held on May 3, 2016, adopted resolution #21-16 authorizing a one-year extension of ORD #01-15, thereby allowing additional time necessary to complete this comprehensive review, and provide for needed amendments to ORD I-92.

The County solicited input from local stakeholders throughout this comprehensive review and study. Refer to minutes of the Waste Committee (*Appendix D*).

II. Statutory Authority

Minnesota counties are required by Minnesota law to manage solid waste in a manner that protects the state's land, air, water, and other natural resources, and public health by ensuring that certain reduction, separation and recovery, resource recovery, and proper disposal methods of solid waste generated are set forth. To accomplish these mandates, and to provide for reasonable protective regulatory provisions, counties adopt solid waste ordinances.

The following Minnesota State Statutes are typically referenced within county solid waste ordinances:

- *Minn. State Statute § 400 Solid Waste Management;*
- *Minn. State Statute § 145A Community Health Board;*
- *Minn. State Statute § 115 Water Pollution Control; Sanitary Districts;*
- *Minn. State Statute § 115A Waste Management;*
- *Minn. State Statute § 375 County Boards;*
- *Minn. State Statute § 116 Pollution Control Agency.*

Although there are many subdivisions and chapters within each of the above referenced Minn. State Statutes, and other possible state statutes not listed that are applicable to county management of solid waste, for the purpose of this SONAR only, below are specific subdivisions and chapters that reference various mandates, and the responsibility of counties in the overall management of solid waste, and the need for effective and sound management controls:

A. Minn. State Statute § 400.01 POLICY AND AUTHORIZATION *“In order to protect the state’s water, air, and land resources so as to promote the public safety, health, welfare, and productive capacity of its population, it is in the best interests that counties conduct solid waste management programs.”*

B. Minn. State Statute § 400.16 SOLID WASTE AND SEWAGE SLUDGE MANAGEMENT REGULATIONS *“The county may by ordinance establish and revise rules, regulations, and standards for solid waste and sewage sludge management and land pollution, relating to (a) the location, sanitary operation, and maintenance of solid waste facilities and sewage sludge disposal facilities by the county and any municipality or other public agency and by private operators; (b) the collection, processing, and disposal of solid waste and sewage sludge; (c) the amount and type of equipment required in relation to the amount and type of material received at any solid waste facility or sewage sludge disposal facility; (d) the control of salvage operations, water or air or land pollution, and rodents at such facilities; (e) the termination or abandonment of the facilities or activities; and (f) other matters relating to the*

facilities as may be determined necessary for the public health, welfare, and safety. The county may issue permits or licenses for solid waste facilities and may require that the facilities be registered with an appropriate county office. The county shall adopt the ordinances for mixed municipal solid waste management. The county shall make provision for issuing permits or licenses for mixed municipal solid waste facilities and shall require that the facilities be registered with an appropriate county office. No permit or license shall be issued for a mixed municipal solid 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 state and local laws, ordinances, and rules. No permit shall be issued for a solid waste facility used primarily for resource recovery or a transfer station serving such a facility, if the facility or station is owned or operated by a public agency or if the acquisition or betterment of the facility or station is secured by public funds or obligations issued by a public agency, unless the county finds and determines that adequate markets exist for the products recovered and that any displacement of existing resource recovery facilities and transfer stations serving such facilities that may result from the establishment of the new facility is required in order to achieve the waste management objectives of the county. The county ordinance shall require appropriate procedures for termination or abandonment of any mixed municipal solid waste facilities or services, which shall include provision for long-term monitoring for possible land pollution, and for the payment by the owners or operators thereof, or both, of any costs incurred by the county in completing the procedures. The county may require the procedures and payments with respect to any facilities or services regulated pursuant to this section. In the event the operators or owners fail to complete the procedures in accordance with the ordinance, the county may recover the costs of completion in a civil action in any court of competent jurisdiction or, in the discretion of the board, the costs may be certified to the county auditor as a special tax against the land to be collected as other taxes are collected. The ordinance may be enforced by injunction, action to compel performance, other appropriate action in the district court, or administrative penalty order authorized under section [116.072](#). Any ordinance enacted under this section shall embody minimum standards and requirements established by rule of the agency.”

C. Minn. State Statute § 145A, Subd. 4. REGULATION OF WASTE “A county board may adopt ordinances to provide for or regulate the disposal of sewage, garbage, and other refuse.”

D. Minn. State Statute § 115.03 POWERS AND DUTIES

“Subd. 1(e) to adopt, issue, reissue, modify, deny, or revoke, enter into or enforce reasonable orders, permits, variances, standards, rules, schedules of compliance, and stipulation agreements, under such conditions as it may prescribe, in order to prevent, control or abate water pollution, or for the installation or operation of disposal systems or parts thereof, or for the equipment of facilities:

(1) requiring the discontinuance of the discharge of sewage, industrial waste or other wastes into any waters of the state resulting in pollution in excess of the applicable pollution standard established under this chapter;

(2) prohibiting or directing the abatement of any discharge of sewage, industrial waste, or other wastes, into any waters of the state or the deposit thereof or the discharge into any municipal disposal system where the same is likely to get into any waters of the state in violation of this chapter and, with respect to the pollution of waters of the state, chapter 116, or standards or rules promulgated or permits issued pursuant thereto, and specifying the schedule of compliance within which such prohibition or abatement must be accomplished;

(3) prohibiting the storage of any liquid or solid substance or other pollutant in a manner which does not reasonably assure proper retention against entry into any waters of the state that would be likely to pollute any waters of the state;

(4) requiring the construction, installation, maintenance, and operation by any person of any disposal system or any part thereof, or other equipment and facilities, or the reconstruction, alteration, or enlargement of its existing disposal system or any part thereof, or the adoption of other remedial measures to prevent, control or abate any discharge or deposit of sewage, industrial waste or other wastes by any person; [...]"

E. Minn. State Statute § 115A.02 LEGISLATIVE DECLARATION OF POLICY; PURPOSE

"(a) It is the goal of this chapter to protect the state's land, air, water, and other natural resources and the public health by improving waste management in the state to serve the following purposes:

- (1) reduction in the amount and toxicity of waste generated;
- (2) separation and recovery of materials and energy from waste;
- (3) reduction in indiscriminate dependence on disposal of waste;
- (4) coordination of solid waste management among political subdivisions; and
- (5) orderly and deliberate development and financial security of waste facilities including disposal facilities. [...]"

F. Minn. State Statute § 115A.919 COUNTY FEE AUTHORITY

"Subd. 1. **Fee.** (a) A county may impose a fee, by cubic yard of waste or its equivalent, on operators of facilities for the disposal of mixed municipal solid waste or construction debris located within the county. The revenue from the fees shall be credited to the county general fund and shall be used only for landfill abatement purposes, or costs of closure, postclosure care, and response actions or for purposes of mitigating and compensating for the local risks, costs, and other adverse effects of facilities. The interest generated from fees imposed under this subdivision may be credited to the county general fund for use by a county for other purposes.

(b) Fees for construction debris facilities may not exceed 50 cents per cubic yard. Revenues from the fees must offset any financial assurances required by the county for a construction debris facility. The maximum revenue that may be collected for a construction debris facility must be determined by multiplying the total permitted capacity of the facility by 15 cents per cubic yard. Once the maximum revenue has been collected for a facility, the fee may no longer be imposed. The limitation on the fees in this paragraph and in section 115A.921, subdivision 2, are not intended to alter the liability of the facility operator or the authority of the agency to impose financial assurance requirements.

Subd. 2. **Additional fee.** A county may impose a fee, by cubic yard or the equivalent of waste collected outside the county, in addition to a fee imposed under subdivision 1, on operators of mixed municipal solid waste disposal facilities located within the county. The fee may not exceed \$7.50 per cubic yard or the equivalent. A person licensed to collect solid waste in a county that designates the waste under sections 115A.80 to 115A.893 who is referred to a disposal facility outside the county due to temporary closure of the designated facility is exempt from the additional fee; the designated facility is responsible for the fee. Revenue generated from the additional fee must be credited to the county general fund and may be used only for the purposes listed in subdivision 1.

Subd. 2a. **Joint powers agreement.** If a facility is owned by a joint powers board, total fees in excess of \$1 per cubic yard or equivalent may not be imposed or revenue expended under subdivision 1 or 2 without the approval of the board.

Subd. 3. **Exemptions.** (a) Waste residue from recycling facilities at which recyclable materials are separated or processed for the purpose of recycling, or from energy and resource recovery facilities at which solid waste is processed for the purpose of extracting, reducing, converting to energy, or otherwise separating and preparing solid waste for reuse shall be exempt from any fee imposed by a county under this section if there is at least an 85 percent weight reduction in the solid waste processed. Before any fee is reduced, the verification procedures of section 473.843, subdivision 1, paragraph (c), must be followed and submitted to the appropriate county, except that for facilities operating outside of the metropolitan area the commissioner shall prescribe procedures for verifying the required 85 percent weight reduction.

(b) A facility permitted for the disposal of construction debris is exempt from 25 percent of a fee imposed under subdivision 1 if the facility has implemented a recycling program approved by the county and 25 percent if the facility contains a liner and leachate collection system approved by the agency.”

G. Minn. State Statute § 115A.46 REGIONAL AND LOCAL SOLID WASTE MANAGEMENT PLAN REQUIREMENTS.

“Subd. 1. General. (a) Plans shall address the state policies and purposes expressed in section 115A.02 and may not be inconsistent with state law.

(b) Plans for the location, establishment, operation, maintenance, and postclosure use of facilities and facility sites, for ordinances, and for licensing, permit, and enforcement activities shall be consistent with the rules adopted by the agency pursuant to chapter 116. [...]”

H. Minn. State Statute § 116.07 POWERS AND DUTIES

“Subd. 4(c) The rules for the disposal of solid waste shall include site-specific criteria to prohibit solid waste disposal based on the area's sensitivity to groundwater contamination, including site-specific testing. The rules shall provide criteria for locating landfills based on a site's sensitivity to groundwater contamination. Sensitivity to groundwater contamination is based on the predicted minimum time of travel of groundwater contaminants from the solid waste to the compliance boundary. The rules shall prohibit landfills in areas where karst is likely to develop. The rules shall specify testable or otherwise objective thresholds for these criteria. The rules shall also include modifications to financial assurance requirements under subdivision 4h that ensure the state is protected from financial responsibility for future groundwater contamination. The modifications to the financial assurance rules specified in this paragraph must require that a solid waste disposal facility subject to them maintain financial assurance so long as the facility poses a potential environmental risk to human health, wildlife, or the environment, as determined by the agency following an empirical assessment. The financial assurance and siting modifications to the rules specified in this paragraph do not apply to:

(1) solid waste facilities initially permitted before January 1, 2011, including future contiguous expansions and noncontiguous expansions within 600 yards of a permitted boundary;

(2) solid waste disposal facilities that accept only construction and demolition debris and incidental nonrecyclable packaging, and facilities that accept only industrial waste that is limited to wood, concrete, porcelain fixtures, shingles, or window glass resulting from the manufacture of construction materials; and

(3) requirements for permit by rule solid waste disposal facilities.”

I. Minn. State Statute § 116.081 PROHIBITIONS; AIR CONTAMINANT AND WASTE FACILITIES AND SYSTEMS

*“Subd. 1. **Permit required.** It shall be unlawful for any person to construct, install or operate an emission facility, air contaminant treatment facility, treatment facility, potential air contaminant storage facility, storage facility, or system or facility related to the collection, transportation, storage, processing, or disposal of waste, or any part thereof unless otherwise exempted by any agency rule now in force or hereinafter adopted, until plans therefor shall have been submitted to the agency, and a written permit therefor shall have been granted by the agency. The requirements of this section shall not be applied to motor vehicles.”*

III. County's Demographics

Mower County Minnesota lies in the southeast portion of the state, approximately 100 miles south of the city of Minneapolis. The County is bordered by Dodge, Steele, and Olmsted counties to the north, Freeborn County to the west, Fillmore County to the east, and the State of Iowa to the south.

The County encompasses the Austin, "Minnesota Micropolitan Statistical Area" and is included in the "Rochester-Austin combined statistical area" (United States Census).

According to the 2010 United States Census, the County's population was 39,163 with a per square mile density of 55.1. And, the United States Census estimates that the County's 2015 population was 39,116.

The County consists of 711.33 square miles. There are 20 townships, and 14 cities. The City of Austin is the County seat, with a 2010 US Census population of 24,718.

Agriculture is the primary land use in the County. According to the County's current Local Water Management Plan (2006 – 2015), approximately 703 square miles (roughly 500,000 acres) is productive agricultural land.

Hormel Foods Corporation is an American food company that is headquartered in the City of Austin. Hormel Foods Corporation is a Fortune 500 company; this local meatpacking plant supports a large workforce, and contributes towards the vitality of the County's agricultural economy.

According to the 2012 Minnesota Department of Agricultural Statistics report, the County ranks fourth (4th) in Corn for Grain production, fifth (5th) in Swine production, and ninth (9th) in Soybean production.

IV. Current Solid Waste Management Ordinance: Landfill Regulatory Provisions and Fees

The County's current Solid Waste Management Ordinance (ORD I-92), dated November 1991, was prepared by Bruce A. Liesch and Associates (*Appendix A*).

The County recognizes that the Minnesota Pollution Control Agency (MPCA) issues permits to solid waste landfills in accordance with existing Minnesota Rules. The County also recognizes that counties can adopt solid waste ordinances that are more restrictive than Minnesota Rules.

1) Mower County Solid Waste Management Ordinance - Landfill Regulatory Provisions:

Existing landfills located within the County are regulated in accordance with provisions set forth in ORD I-92:

Division 8: Licensing of Solid Waste Facilities

Section 6-21 Facilities Covered

No one may operate one or more of the following types of facilities except as licensed by Mower County:

- *Land Disposal Facilities*
 - *Municipal Solid Waste (MSW)*
 - *Demolition Waste*
 - *Industrial Solid Waste*

Section 6-22 Facilities Exempted from Licensing Requirements

The County Board may, by resolution, waive any of the license requirements established in this ordinance for public owned facilities. Facilities meeting the following requirements are exempted from the licensing requirements of this ordinance:

- Any facility that does not charge a fee for its services or that provides service at no cost to the generator of the waste.
- A demolition debris disposal facility designed for less than 15,000 cubic yards total capacity and operating less than a total of twelve (12) consecutive months, not located adjacent to another demolition debris land disposal permit by rule facility, and in compliance with MN Rules parts 7035.2525 to 7035.2655, 7035.2825, and 7035.2855.

Section 6-23 General Licensing Requirements/Procedures

- a) All Agency permit requirements must be met before any waste management facility referenced in Section 6-21 may be licensed by Mower County. All technical design and operating standards established in Agency rules will apply for Mower County licensing review and approval except where requirements as established in this ordinance are more restrictive than those in the Agency rules. Proposers of municipal solid waste facility projects must secure Mower County and/or local zoning approval before submitting permit applications to the Agency.
- b) Issuance or renewal 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 Mower 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 or facility 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.
- c) Issuance or renewal 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 the County Board; general liability including, but not limited to, bodily injury, property damage, motor vehicle, or other insurance such as Workers Compensation, required by State or County Law.

- d) Issuance or renewal of any license pursuant to the provisions of this Ordinance shall be contingent upon the applicant paying the annual renewal fee for that license in the amount set by the County Board by resolution.*
- e) Renewal of any license pursuant to the provisions of this Ordinance shall be contingent upon the applicant submitting any information required in the license application that has changed since the previous submittal or such additional information as may be required by the DEH.*
- f) 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 Department of Environmental Health (DEH) 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 acceptable to the County Board that the conditions that were cited as cause for suspension have been fully corrected.

A MSW facility 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 (30) 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.

- g) *Routine inspection and evaluation of an operation shall be made by the DEH 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 the Ordinance, and any other applicable statute, ordinance, or rule.*
- h) *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.*

Section 6-24 Preliminary Application

- a) *Any person wishing to submit an application for license of an MSW facility in Mower County must first submit the following information as a preliminary application:*
- *Name and address of the project proposer, and site selected for the proposed project.*
 - *Geographic area and population to be served by the proposed project.*
 - *A description of the process and expected life of the facility.*
 - *The anticipated type, quantity, and source of materials to be handled in the proposed facility.*
 - *A description of the residues or waste discharges from the proposed facility and the environmental safeguards which will be incorporated into the project.*
 - *The anticipated hours of operation of the proposed facility and the resulting truck traffic.*
 - *A description of the adequacy of existing roadways to support the proposed facility.*
 - *A description of the availability (or lack thereof) of similar facilities in the County or region and how the proposed facility will be compatible with the County Solid Waste Management Plan.*
 - *Such additional information as may be required by the DEH.*
- b) *After receipt of a preliminary application, the County Board shall refer the application to the DEH who will review the information and give their non-*

binding recommendation to the County Board concerning whether a final application should be made.

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

Section 6-25 Final Application; General Requirements

a) Once a proposed project has received approval through the preliminary application process described in Section 6-24, an applicant for licensure of a solid waste facility must submit three (3) copies of the solid waste facility permit application documents prepared for the Agency permit or permit-by-rule process to the DEH.

Along with the Agency permit application, the proposer must submit the following items to the DEH:

- An operating schedule.*
- A schedule of fees to be charged at the facility.*
- A notarized affidavit, signed by the proposer, stating that the applicable local governments have been given at least thirty (30) day notice of the application for the facility license.*
- A certificate from the County Zoning or relevant City Administrator that the proposed facility land use is in accordance with the established County or City Zoning Ordinance.*
- Sufficient documentation to enable the County Board to determine whether the applicant is financially and operationally capable to properly process the projected waste types and amounts in the proposed facility.*
- Such additional information as may be required by the DEH.*

b) After receipt of a final application, the DEH shall review the information and give their non-binding recommendation to the County Board concerning whether a license should be issued.

c) A public hearing before the County Board is required prior to the issuance of a license for a solid waste facility unless a hearing has been conducted for the proposed facility as a requirement stated elsewhere in Mower County Code. Evidence may be adduced in manner consistent with rules of evidence applied in civil cases. A transcript thereof shall be made by tape recording or other suitable

technique. All books, records, files and correspondence of the County Board and DEH pertaining to the application shall be made available for public inspection.

Notice of the time, place and proposed project shall be given by publication in the official newspaper of the County at least ten (10) day before the hearing. Written notice shall be sent to property owners of record within one-quarter mile of the project site, or to the ten properties nearest to the project site, whichever would provide notice to the greatest number of property owners. Written notice shall also be given to the board of town supervisors where the site is located, and the municipal council of any municipality and/or town of supervisors of another township within two miles of the proposed project site.

- d) The County Board shall refuse to issue a license for any facility which does not comply with County ordinance, state laws and rules, and the County's Solid Waste Management Plan as provided for in Minnesota Statutes. If a negative determination is made by the County Board, the applicant shall be notified in writing of the reasons for such a determination. A denial shall be without prejudice to the applicant's right to an appearance before the County Board or to the applicant's right to file a further final application after revisions are made to satisfy objections specified as reasons for the denial.*

Section 6-26 Specific License Requirements for Land Disposal Facilities

All Agency design and operating requirements as established in the applicable Minnesota Rules must be met for Mower County licensing approval.

Section 6-37 Demolition Wastes

- a) Licensing, design, and operating requirements for Demolition Land Disposal Facilities are established in Section 6-23 through 6-25, and Section 6-26.*

Section 6-42 Industrial Wastes

- a) As is required in Minnesota Rules 7001.3300, all MSW processing, disposal, and transfer facilities must have Industrial Waste Management Plans.*

2) County Solid Waste Licenses issued pursuant to

ORD I-92:

Solid waste landfill licenses issued in accordance with ORD I-92 reference current Minnesota Rules, and impose no additional landfill controls.

3) Solid Waste Facility Fees and Deposits pursuant to

ORD I-92:

Solid waste facility licenses issued in accordance with ORD I-92 requires that the applicant pay an annual renewal fee for that license in the amount set by the County Board. Other than the annual license fee, ORD I-92 does not provide further language that allows for any additional fees or deposits to be paid to the County.

V. Geological and Groundwater Study

As part of the overall comprehensive review and study of the County's official solid waste controls, Leggett, Brashears & Graham, Inc. (LBG) was retained by the County Board to conduct a **Landfill Review: SKB Lansing Landfill (SW-514) SKB Austin Landfill (SW-542)**, prepared by Tim Kenyon, October 30, 2016 (*Appendix C*).

This section below provides an overview the County's geology and groundwater sensitivity based upon the findings within LBG's **Landfill Review**.

1) Geology:

The geology of the County consists largely of up to 275 feet of unconsolidated glacial sediments overlying bedrock. The unconsolidated glacial sediments are associated with the Des Moines lobe glaciers which retreated from the area approximately 20,000 years ago. The glacial sediments consist of unsorted deposits called till, which is clay - to boulder-size material laid down directly from glacial ice. The till, where thick and clayey, serves to protect underlying aquifers from surface pollution. The till is overlain and interbedded in places with glacial meltwater deposits of sorted sand, gravel, and silt (outwash), which may serve as aquifers or as sources of construction aggregate.

The glacial deposits rest on an erosional surface cut into flat-lying Paleozoic carbonate rocks (limestone and dolostone) that are 374–440 million years old. These soluble carbonate rocks underlie the entire county and a karst system is evident in many areas. Karst forms in carbonate bedrock when water moving through the soil picks up carbon dioxide, creating a weak solution of carbonic acid. This acidic solution moves through the rock and enlarges and integrates the cracks and fractures as the solutions dissolve the bedrock. The network of cracks and fissures initially transmits groundwater slowly, but as the solution-enlarged cracks and fractures grow, they are integrated into subsurface conduit systems that drain the landscape.

The uppermost bedrock encountered beneath the Lansing Facility and Austin Facility is typically greater than 100 feet deep. Depth to bedrock generally increases to the northwest where a bedrock valley has been documented.

Where present, the glacial outwash sediments serve as aquifers. County-side, the bedrock is utilized as an aquifer, typically where the quality and quantity of groundwater from the glacial aquifers is not sufficient.

2) Groundwater Sensitivity:

An assessment of the sensitivity of groundwater to pollution was performed by the Minnesota Department of Health and is presented on Figure 1 of LBG's **Landfill Review** (*Appendix C*). The location of known landfills is superimposed on the sensitivity shading, with the Lansing Facility and Austin Facility identified.

LBG's **Landfill Review** states that the Lansing Facility and Austin Facility are both located in an area of relatively low sensitivity to surficial pollution. Nevertheless, this location to lower sensitivity to surficial pollution does not imply no sensitivity. As further stated in LBG's Landfill Review, future phase development and landfill expansions of both that Austin Facility and Lansing Facility should incorporate liner and leachate collection systems.

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VI. Overview of County's Existing Zoning and Land-Use Provisions

In accordance with the County's Zoning Ordinance (Zoning Ord.), Demolition Landfills and/or Solid Waste handling or disposal facilities are a Conditional Use in: Agricultural Districts, Rural Management Districts, Business Districts, and Industrial Districts within the County.

1) County Zoning Ordinance:

Section 14-7 of the County Zoning Ord. defines landfills as:

- A. Landfill, Demolition Waste - A place for the disposal of demolition wastes including waste building materials, packaging, and rubble resulting from construction, remodeling, repair and demolition.
- B. Landfill, Solid Waste - A place for the disposal of solid wastes including garbage, refuse and other discarded solid materials resulting from residential, commercial, industrial and community activities. The operation of all solid waste landfill sites in Mower County is regulated by the Mower County Board of Commissioners through the Solid Waste Ordinance.

In accordance with Section 14-28 of the County Zoning Ord., within the unincorporated areas of the County, all uses except permitted uses shall be required to obtain a Conditional Use Permit (CUP) approved by the County Board.

Minnesota Statutes, Section 394 defines conditional use as:

Conditional use. "Conditional use" means a land use or development as defined by ordinance that would not be appropriate generally but may be allowed with appropriate restrictions as provided by official controls upon a finding that (1) certain conditions as detailed in the zoning ordinance exists, and (2) the use or development conforms to the comprehensive land use plan of the county and (3) is compatible with the existing neighborhood.

In accordance with Section Section 14-31 of the County Zoning Ord., no conditional use shall be recommended by the Planning Commission unless said Commission shall find:

- A. That the conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair

property values within the immediate vicinity.

- B. That the establishment of the conditional use will not impede the normal and orderly development and improvement of surrounding vacant properties for uses predominant in the area.
- C. That adequate utilities, access roads, drainage, and other necessary facilities have been or are being provided.
- D. That adequate measures have been or will be taken to provide sufficient off-street parking and loading spaces to serve the proposed use.
- E. That adequate measures have been or will be taken to prevent or control offensive odor, fumes, dust, noise, and vibration, so that none of these will constitute a nuisance, and to control lighted signs and other lights in such a manner that no disturbance to neighboring properties will result.

2) Current Landfills permitted in accordance with Conditional Use Permits:

As mentioned in previous sections, the County has two (2) active landfills:

- A. Austin Facility.
 - Class II unlined landfill
 - Permitted to accept construction debris and demolition waste
 - Note, Austin Facility is prohibited from accepting friable asbestos containing waste materials.
- B. Lansing Facility.
 - Class III Lined Demolition landfill
 - Permitted to accept construction debris and demolition waste, and industrial solid waste pursuant to its industrial solid waste management plan.

The current CUP's for the above two (2) active landfills generally provide for the following:

- A. Requires the owner/operator to secure appropriate County, State and Federal permits.
- B. Provide a minimum of an annual \$50,000 Surety Bond payable to the County.
- C. MPCA certified landfill operators present at the landfill during operating hours.
- D. The landfill can only receive debris as described in the permit issued by the MPCA.
- E. Unacceptable material must be separated and disposed of at another site approved to accept the material.
- F. The County has the right to inspect the facility monthly or when necessary for compliance with all solid waste regulations and conditions of the CUP.

- G. Landfill is responsible for clean-up of all debris from the adjacent township roads and ditches resulting from the landfill operations and/or from vehicles using the landfill.
- H. Encourage all customers to access the landfill from specified highways.
- I. Establish hours of operation.

3) County Solid Waste License required:

As referenced above, the County requires that owners/operators secure, as a requirement of receiving a CUP, necessary County permits which would include that of a solid waste license pursuant to its solid waste management ordinance (as amended).

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VII. Economic Factors

The economic factors resulting from solid waste landfill regulations described in this SONAR and as part of ORD ____ are as follows:

1) Landfill Owners/Operators affected:

Owners and operators of landfills seeking either:

- A. a modification to an existing County solid waste license,
- B. a license renewal, and/or
- C. a new solid waste license

Such owners and operations of landfills will be required to comply with all provisions and terms set forth in ORD ____.

Owners and operators operating under existing licenses will not be affected by ORD ____, until one or more of the above scenarios apply.

2) Probable costs to County for administration of ORD ____:

The County realizes that there will be additional staffing needs to administer the requirements set forth in ORD ____.

Costs to the County for additional staffing needs can be offset by imposing certain fees as allowed by Minn. State Statutes 400.16, and § 115A.919.

3) Probable costs of complying with ORD ____:

The County believes that there are likely to be some increased costs to landfills regulated under ORD _____. These costs will vary depending on: size of the landfill, location, solid waste materials permitted for disposal, hydrogeological conditions, and soils; and fees and deposits as set by the County Board. Therefore, actual costs are difficult to quantify.

4) Probable costs of not adopting ORD _____ :

Although actual costs of not adopting the proposed amendments set forth in ORD _____ are difficult to quantify, the adverse impacts to the County and its residents may be high if ORD _____ is not adopted and existing solid waste controls fail to mitigate potential costs and risks associated with hosting landfills located within the County.

As demonstrated above, Karst features are present in certain areas of the County. And one of the main concerns with karst topography is the susceptibility to surface and groundwater contamination. Contaminants can quickly move into groundwater supplies.

The County's economy is dependent upon a vibrant and healthy agriculture, which relies on a clean and sustainable supply of groundwater. Further, the County's residents depend upon this same groundwater supply for its drinking water.

The County is concerned that current Financial Assurance mechanisms as required by the MPCA mayis not be sufficient to fully mitigate against the potential impacts associated with land disposal facilities. Further, the County is concerned that current post-closure care period as required by MPCA can leave the County vulnerable to possible environmental impacts and costs associated beyond that limited time frameperiod (30 years for MSW landfills, and 20 years for industrial solid waste and demolition debris landfills).

Resulting costs of contamination to this groundwater supply from potential risks associated from local landfills could be devastating, and long lasting.

VIII. Current Solid Waste Landfills

Mower County is host to several active and closed landfills. Figure 1 of LBG's *Landfill Review* provides a list and locations of all known closed and active landfills, superimposed on sensitivity shading (*Appendix C*).

This section below provides a review of active landfills (Lansing Facility, and Austin Facility), with a focus on potential impacts based upon findings within LBG's *Landfill Review*.

LBG reviewed several documents as provided below, along with information from various on-line resources, principally from the Minnesota Pollution Control Agency (MPCA), the Minnesota Department of Health (MDH), and the Minnesota Geological Survey (MGS). Because much of the information is contained in multiple documents, comprehensive attribution is not practical.

LBG reviewed the following documents in their preparation of the *Landfill Review*:

- *SKB Lansing Landfill (SW-514) MPCA Permit*
- *SKB Lansing Monitoring System Work Plan, July 2001*
- *SKB Lansing Hydrogeologic Evaluation Form for Demolition Landfills, March 2007*
- *SKB Lansing Well Relocation of MW-2 and MW-3, April 2011*
- *SKB Lansing Phase I Hydrogeologic Evaluation and Phase II Work Plan for a Hydrogeologic Investigation, December 2013*
- *SKB Lansing Phase II and Phase III Hydrogeologic Investigation Report, October 2014*
- *SKB Lansing Landfill (SW-514) Annual Report for 2014*
- *SKB Lansing Landfill (SW-514) Annual Report for 2015*
- *Vonco IV Austin Landfill (SW-542) MPCA Permit*
- *SKB Austin Landfill Phase II Hydrogeologic Evaluation, May 2004*
- *SKB Austin Landfill (SW-542) Annual Report for 2014*
- *SKB Austin Landfill (SW-542) Annual Report for 2015*
- *SKB Austin Landfill Annual Leachate Report for 2015*
- *SKB Austin Leachate Seep Drain Trench, July 2015*
- *Contributions to the Geology of Mower County, MGS, 2000*
- *Mower County Geologic Atlas, MGS, 1998*

1) SKB Lansing Landfill (SW-541):

A. LBG's Key Understandings:

The Lansing Facility was first permitted as a Class II demolition landfill in 1996, includes five phases and occupies approximately 40 acres (Figures 2 and 3 of the *Landfill Review, Appendix C*). Phase 2 of the Lansing Facility is equipped with a composite liner system that includes a 60-mil HDPE layer and leachate collection system. In 2005, the designation of the Lansing Facility was changed to a Class III demolition landfill, to allow limited acceptance of industrial wastes.

SKB, on December 12, 2012, purchased 50 acres (parcel 08.021.0030) directly west of its Lansing Facility with the intent of modifying their existing industrial solid waste landfill operations, and obtaining: Minnesota Pollution Control Agency (MPCA), County, and local permits, and licenses that would allow for the acceptance and disposal of mixed municipal solid waste (MSW) (*Appendix B*).

The Lansing Facility is underlain by clay-rich glacial till with water-bearing sandy or gravelly zones at approximately 20-25 feet below grade (FBG) and at approximately 40-45 FBG. These water-bearing zones are contained within the low-permeability clay-rich glacial till and are perched above the underlying limestone bedrock, which occurs at depths generally below 100 FBG.

Groundwater flow within the water-bearing zones in the glacial till is generally to the south with minor variances to the southeast and southwest (*Figures 4 and 5 of the Landfill Review, Appendix C*). Both water-bearing zones are monitored: there are five monitor wells in the shallow zone and three monitor wells in the deeper zone. In the expansion area to the west, there are 12 monitor wells and piezometers split among the two zones.

The eight monitor wells (four in each zone) are monitored for volatile organic compounds (VOCs), total metals, redox parameters and field stabilization parameters. Leachate samples are also monitored for the same parameters, plus parameters required by the wastewater treatment plant (BOD and COD).

Total metals and redox parameters are detected in all wells. No VOCs have been consistently detected in any wells. Note that it is expected that VOCs will be sporadically detected in monitor wells and that these detections are false positive detections and, unless they become statistically significant, are not indicative of a release. The leachate contains a variety of VOCs as well as the other parameters.

Exceedances of Intervention Limits (ILs) are present in nearly all the wells and consist of Arsenic, Barium and Manganese. One IL exceedance for Tetrahydrofuran is reported and ascribed to well construction solvents.

In December 2013, a work plan for the evaluation of the 50 acres west-adjacent to the Lansing Facility was submitted to the MPCA. The investigation included in excess of 30 soil borings, monitor wells, piezometers and test pits, as well as testing of soil properties and groundwater analysis. The results of the investigation indicate that the subsurface geology of the expansion area is quite similar to that of the original Lansing Facility in that low-permeability, clay-rich glacial till with entrained outwash (sand) lenses are predominant. The outwash lenses in the shallow subsurface are not laterally

continuous. The deeper sand unit that is present on the original Lansing Facility appears to be present on the expansion area with a thickness of 3 to 6 feet. The low-gradient generally southward groundwater flow across the expansion area is consistent with that of the original Lansing Facility. A qualitative comparison of groundwater chemistry results to historical data indicates that the concentrations of parameters across the site varies within the expected range for similar geologic environments. Tetrahydrofuran was detected in the wells installed in 2011 and is attributed to the solvent used to fuse the PVC well casing in accordance with MDH regulations.

B. LBG's Interpretations:

The design of the Lansing Facility appears to be appropriate to the permitted status of the landfill as a Class III demolition landfill and is accommodating of the hydrogeology of both the original site and the expansion.

The groundwater monitoring system for the original facility (wells, parameters and sampling frequency) appears to be adequate for the purpose of detecting releases of leachate from the landfill into the adjacent groundwater. The groundwater monitoring system for the expansion also appears adequate for the purpose of detecting releases of leachate from the landfill into the adjacent groundwater.

As is typical of Minnesota landfills, the only substantive evaluation of the groundwater monitoring results consists of a comparison to statutory limits such as Intervention Limits. While this method of evaluation is compliant with applicable rules and is required, it falls short of utilizing the monitoring results for the assessment of the geochemical character of the groundwater in an attempt to determine if a release has occurred prior to the exceedance of an Intervention Limit. The reported Intervention Limit exceedances are not a definitive indication that a leachate release has occurred.

Changes in the geochemical character of the groundwater towards a reducing environment are often a signal that a release has occurred. Review of the groundwater monitoring results shows that the shallow zone is relatively oxidized as indicated by the presence of relatively high concentrations of dissolved oxygen (between 1 and 5 mg/L), and positive Eh readings (a measurement of oxidation/reduction potential). When compared with the shallow zone background well (MW-1), the downgradient shallow zone wells (MW-2R, MW-3, MW-3R and MW-4) are generally more mineralized and at a somewhat less oxidized state. The presence of a somewhat less oxidized condition in downgradient monitor wells in a glacial till environment is not necessarily indicative of a leachate release, but is often a result of the interruption of the natural seasonal water recharge and discharge cycle of the till as a result of the construction of the landfill. When a leachate release has occurred, the groundwater proximal to, and downgradient of, the release typically becomes strongly reduced (non-detect dissolved oxygen with strongly negative Eh readings and very highly mineralized). At this site, the departure of the groundwater from the fully oxidized state in the downgradient areas (compared with MW-1) does not appear to be sufficient to indicate that a leachate release has occurred. Given the variety and concentrations of VOCs in the leachate, as well as the strongly reduced nature of the

leachate, it is expected that a very strong reduced environment would be rather quickly evident in the groundwater in the downgradient areas should a release occur. The onset of a strongly reduced condition would be followed rather quickly by the detection of VOCs in the groundwater.

In the deeper zone, the groundwater is naturally somewhat reduced, as indicated by low dissolved oxygen concentrations and low or slightly negative Eh readings. This somewhat reduced condition is typical of groundwater located deeper within the glacial till because there is very little annual water recharge and discharge due to the largely impermeable nature of the clay-rich glacial till matrix. Review of the analytical results shows that there are no significant differences in the nature of the groundwater between MW-1RD, MW-2RD and MW-3RD that are indicative of a leachate release.

2) SKB Austin Landfill (SW-542)

A. LBG's Key Understandings:

The Austin Facility initially received a Conditional Use Permit (CUP) from the County, July 7th 1993. The Austin Facility is permitted by the MPCA as Class II Unlined Demolition Debris Land Disposal Facility. This permit includes eight phases and occupies approximately 76 acres (*Figures 6 and 7 of the Landfill Review, Appendix C*). Groundwater level data has been collected at the Austin Facility since 1998, confirming activity at the site by Vonco, the previous owner, prior to the 2006 permit. In 2014, a leachate seep drain trench was installed and began collecting leachate.

The Austin Facility is underlain by clay-rich glacial till with water-bearing sandy or gravelly zones at approximately 15-20 FBG. These water-bearing zones are contained within the low-permeability clay-rich glacial till and are perched above the underlying limestone bedrock, which occurs at depths generally below 100 FBG.

Groundwater flow within the water-bearing zones in the glacial till is generally to the southwest on the west half of the Austin Facility and to the northeast on east half of the Austin Facility (*Figure 8 Landfill Review, Appendix C*). The groundwater gradients are very flat, ranging from 0.08 to 0.0008.

The water-bearing zones are monitored by four monitor wells utilized for groundwater sampling and eight monitor wells utilized for groundwater level gauging.

The sampled monitor wells are monitored for VOCs, total metals, redox parameters and field stabilization parameters. Leachate is monitored for groundwater parameter and parameters required by the receiving facility, the Austin wastewater plant.

Total metals and redox parameters are detected in all wells. VOCs have not been consistently detected in any wells. Note that it is expected that VOCs will be sporadically detected in monitor wells and that these detections are false positive detections and, unless they become statistically significant, are not indicative of a release.

Exceedances of Intervention Limits (ILs) were indicated in 2014 for Boron and Nitrate+Nitrite and in 2015 for Boron, all in MW-2.

The leachate seep drain was placed across the southwest margin of the western portion of the Austin Facility, and is assumed to be in response to leachate migration issues (*Figure 9 of the Landfill Review, Appendix C*). No documentation was available relative to the leachate migration issues. In 2015, 48,050 gallons of leachate were collected and discharged to the City of Austin wastewater treatment plant. Several VOCs have been chronically present in the leachate, up to the maximum concentration of 296 ug/L for 2- and 3-methylphenol. As expected, the leachate is strongly reduced.

B. LBG's Interpretations

The permit documents and the 2014 Annual Report indicate that the Austin Facility is not equipped with a liner or leachate detection system. Even though this design is compliant with state rules, and unless a focused evaluation was performed to qualify the existing in-situ soils as a liner, this design is inadequate for the protection of local groundwater resources. Even if a focused evaluation was performed to qualify the in-situ soils as a liner, the design is inadequate because of the lack of a leachate collection system. The leachate that inevitably collects in the landfill will accumulate and eventually migrate to the groundwater and cause groundwater impacts. The leachate that collects in demolition landfills can contain substances that are groundwater pollutants, such as the variety of VOCs detected in the leachate from the leachate seep drain. Additionally, the redox environment in the cells in demolition landfills can be very strongly reducing, resulting in the evolution of hydrogen sulfide gas, a highly toxic atmospheric and groundwater pollutant.

The presence of the leachate seep drain trench mitigates the hazard of leachate migration to some extent; however, it is not an adequate substitution for a properly designed and installed liner and leachate collection system.

The groundwater monitoring system (wells, parameters and sampling frequency) appears to be adequate for the purpose of detecting releases of leachate from the landfill into the adjacent groundwater.

As is typical of Minnesota landfills, the only substantive evaluation of the groundwater monitoring results consists of a comparison to statutory limits such as Intervention Limits. While this method of evaluation is compliant with applicable rules and is required, it falls short of utilizing the monitoring results for the assessment of the geochemical character of the groundwater in an attempt to determine if a release has occurred prior to the exceedance of an Intervention Limit. The reported Intervention Limit exceedances are not a definitive indication that a leachate release has occurred.

Changes in the geochemical character of the groundwater towards a reducing environment are often a signal that a release has occurred. Review of the groundwater monitoring results shows that the groundwater is moderately oxidized as indicated by the presence of concentrations of dissolved oxygen generally between 1 and 5 mg/L, and positive Eh readings (a measurement of oxidation/reduction potential). Comparison of the redox conditions between the downgradient wells (MW-2, MW-3 and MW4R) with the background well (MW-1) shows that the downgradient wells are slightly less oxidized and may be trending toward a more reduced state

A key indicator of this trend toward a more reduced state is the sharp drop in Nitrate+Nitrite concentrations in MW-3 and the absence of Nitrate+Nitrite in MW-2, in the face of reasonable steady concentrations of Nitrate+Nitrite in MW-1 (reductions in concentrations of Nitrate+Nitrite can be an indicator of the onset of reducing conditions). A drop in pH, accompanied by an increase in Alkalinity, can also be an indicator of the onset of reducing conditions, and this condition is evident in MW-2 and MW-3.

The presence of a somewhat less oxidized condition in downgradient monitor wells in a glacial till environment is not necessarily indicative of a leachate release, but is often a result of the interruption of the natural seasonal water recharge and discharge cycle of the till as a result of the construction of the landfill. When a leachate release has occurred, the groundwater proximal to, and downgradient of, the release typically becomes strongly reduced (non-detect dissolved oxygen with strongly negative Eh readings also becomes very highly mineralized).

At the Austin Facility, the departure of the groundwater from the fully oxidized state in the downgradient areas (compared with MW-1) does not appear to be sufficient to indicate that a leachate release has occurred. Given the variety and concentration of VOCs expected to be present in the leachate, as well as the expected strongly reduced nature of the leachate, it is expected that a very strong reduced environment would be rather quickly evident in the groundwater in the downgradient areas should a release occur. The onset of a strongly reduced condition would be followed rather quickly by the detection of VOCs in the groundwater.

IX. Statement of Need

For the purpose of this SONAR, the statement of need identifies a problem that exists which requires that the County take necessary action. And, the solution to the described need within this SONAR is therefore addressed within the statement of reasonableness, and the proposed amendments set forth in ORD ____.

1) Comprehensive Review and Study:

The County passed Resolution #30-15 on April 28th, 2015 authorizing and directing the study of possible amendment of the County's official controls relating to the regulation of waste within the County, and establishing a Solid Waste Study group consisting of the County's Planning Commission, Environmental Services Department, and Solid Waste Committee to conduct this study. To assist in this comprehensive review and study, the County retained the services of consultants to prepare various solid waste reports, and to assist in the amendment to ORD I-92 by drafting of a Solid Waste Ordinance re-write (ORD ____).

During this review period, various solid waste reports were presented to the study group, such as:

- A. Solid waste management,
- B. Minnesota Rules and Minnesota State Statutes pertaining to solid waste management,
- C. examples of what county solid waste management ordinances can provide for, and
- D. examples of possible solid waste landfill controls.

Copies of the above referenced reports are on file with the County, and available upon request.

To further assist, the County retained the services of Leggette, Brashears, and Graham (LBG) to:

- A. Perform a review of published and publicly available County hydrogeology data with a report on environmental vulnerability from solid waste activities.
- B. Perform a review of County regulations from the perspective of environmental vulnerability and solid waste facility environmental protection/monitoring criteria.
- C. Review site records for the existing two active solid waste landfills within the County in the context of overall County hydrogeology and existing County solid waste regulations.

The compiled study of the above referenced data is provided the **Landfill Review** as prepared by LBG (*Appendix C*).

2) Need Identified:

Resulting in the overall review and study of its current solid waste landfill controls, and concurrent review of various reports and documents as presented to the study group, the County has identified the need to amend its current ORD I-92 by replacing it in entirety with ORD _____. Needs identified are summarized as follows:

A. Minnesota Law: Minnesota counties are required by law to manage solid waste in a manner that protects the state's land, air, water, and other natural resources, and public health by ensuring that certain reduction, separation and recovery, resource recovery, and proper disposal methods of solid waste generated is set forth.

B. ORD I-92 outdated: A comprehensive review and study of the County's official solid waste controls has determined that ORD I-92 is outdated and severely lacking in the necessary protective controls to reasonably protect the residents of the County from the potential impacts associated with the normal operations of a solid waste landfill. It is the intent of the County to adopt an ordinance (ORD____) that provides for:

- i. location standards and setbacks for solid waste facilities,
- ii. landfill liner standards,
- iii. separation distances between edge of liner/fill area, and landfill property lines,
- iv. management of solid wastes,
- v. financial assurance requirements,
- vi. separation distance to the County's ground water table,
- vii. end-use standards,
- viii. remittance of surcharges, fees, and deposits to the County,
- ix. surface water and run-off management,
- x. groundwater study, monitoring, and reporting requirements.

C. County's sensitive geology: The realization that ORD I-92 is outdated is further magnified given the sensitive nature of the County's geology; and, that areas of the County contain Karst features. Refer to *Landfill Review (Appendix C)*.

D. Areas of the County with Karst features: Per the MPCA, Karst is a distinctive region, largely shaped by the dissolving action of water over limestone that over time, can result in sink holes, springs and disappearing streams, to complex underground drainage systems and caves. This can allow pollutants to flow rapidly through these features to wells and streams. Refer to MPCA's *Karst, a Complex Landscape Sculpted by Water*, which

details the different features of Karst located in the County, and the vulnerability to groundwater pollution as result (*Appendix E*).

E. LBG’s recommendation for liner and leachate collection system: LBG recommends that future phase development and landfill expansion of both the Austin Facility and Lansing Facility include provisions incorporating liner and leachate collection systems (*Appendix C*).

- i. It is the intent of the County to require that: demolition debris, industrial solid waste, MSW, and waste incinerator disposal facilities meet the minimum standards set forth in Minn. Rules Part 7035.2815, subp. 7, as amended, for liner and leachate collection standards.

F. LBG’s recommendation for additional groundwater monitoring: LBG also recommends that consideration should be given to the performance of a more robust statistical analysis of the groundwater data to provide a more complete and rigorous understanding of changes in the geochemistry of the groundwater at the site (*Appendix C*).

- i. It is the intent of the County to require landfills, in addition to requirements set forth in Minn. Rule Chapter 7035, to report groundwater monitoring data that provides a more complete and rigorous understanding of the changes in the geochemistry of the groundwater at the site.

G. Minnesota Legislature and MPCA recognizes need to amend Minn.

Rules: The Minnesota State Legislature and MPCA recognizes that Minn. Rules governing solid waste are outdated, and in need of amending. This is demonstrated by the fact that the Legislature directed in May 2008 that the MPCA modify Minn. Rules to prohibit landfill siting in areas with sensitive hydrogeology, and to ensure that the state does not have financial responsibility if a landfill contaminates the groundwater. Refer to ***Minnesota Pollution Control Agency’s Report: Rules to Prohibit Disposal of Solid Waste Based on Site Sensitivity to Groundwater Contamination*** (*Appendix F*). This report, among other, details the need for rule amendments that would apply uniform standards and requirements to all land disposal facilities (such as demolition, industrial, and municipal solid waste landfills) that would:

- i. Require at least fifty feet of unconsolidated sedimentary deposits over karst bedrock;
- ii. require a minimum five-foot separation distance to the seasonal high water table;

- iii. that the waste boundary is at least 200 feet laterally from the property line; and,
- iv. various proposed changes to financial assurance requirements.

H. Proposed amendments to Minn. Rules not realized: With the exception to some changes in financial assurance requirements, the proposed amendments as described above did not occur. Refer to MPCA's *Solid Waste Financial Assurance, April 2016 (Appendix G)*.

I. MPCA's Financial assurance requirements: The MPCA's Financial assurance funding requirements are set forth in Minn. Rules Parts 7035.2665 through 7035.2805. Minn. Rules Part 7035.2655 requires solid waste disposal facilities maintain post-closure care for a minimum of 20 years. The Environmental Protection Agency requires municipal solid waste landfills maintain post-closure care for a minimum of 30 years (*40 CFR Part 258.61 Post-Closure care requirements*).

J. Post-closure care: Minn. Rules part 7035.2655, Subpart 1 provides as follows:

"[...] B. During the postclosure care period, based on the test results of sampling, analysis, and other pertinent information, the commissioner may reevaluate and modify the closure document to the extent postclosure care is needed at a facility based on compliance of Item C; Subpart 2; parts 7035.2565, and 7035.2815 to 7035.2915; and gas, leachate, or ground and surface water monitoring results."

K. Problems with current post-closure: There are many examples, both nationally and locally, of problems arising with landfills beyond their 20 or 30-year post-closure care period. Washington County Landfill in Lake Elmo is one local example of a landfill that is continuing to experience pollution long after closure occurred. Refer to MPCA's *Remedy Decision Document, Washington County Lake Elmo MN (Appendix H)*.

L. Landfills potential to pollute groundwater after 30-year post-closure care period: G. Fred Lee, PhD, PE, DEE and Ann Jones-Lee PhD demonstrates in their document *Municipal Solid Wastes (MSW) Landfill Closure and Postclosure Issues, May 2005*, the various issues and problems with the current post-closure care requirement as required in 40 CFR Part 258.61 (Post-Closure care requirements). This document states that landfills will pose a threat to groundwater long after the 30-year post-closure care period is complete, and that there is a need to identify a method of providing for a longer-term care period. Refer to *Municipal Solid Wastes (MSW) Landfill Closure and Postclosure Issues (Appendix I)*.

M. Need for longer term post-closure period: The County recognizes that landfills can pose a threat to the environment after their post-closure period is complete, and intends to require when necessary, additional or alternative post-closure care based upon landfill reporting monitoring data and results.

- i. It is the intent of the County to adopt provisions in ORD____ that allows the County to determine when deemed appropriate, a longer period for post-closure care of solid waste landfills.
- ii. It is also the intent of the County to adopt standards and procedures for reevaluating and modifying when necessary (based upon certain data and monitoring results as required) the closure license of landfills to require additional or alternative post-closure care.

N. Fees, deposits, and surcharges: As part of the mandate to manage solid waste the County is authorized to impose fees on solid waste facilities to mitigate the direct, indirect, and potential impacts that solid waste facilities have on the County and its residents. The County, pursuant to ORD _____, intends to collect these monies through a variety of sources, including surcharges, deposits, and fees.

O. Contingency fund: The County recognizes this need and intends to establish and maintain a contingency fund resulting from the intended collection of surcharges, deposits, and fees. The primary purpose of this contingency fund is to mitigate the substantial effects solid waste facilities may have on the County.

- i. It is the intent of the County to ensure that a sufficient fund balance is established to offset the potential collective post-closure and response actions costs for all solid waste landfills within the County to ensure that such costs are not borne by taxpayers.

P. Contingency fund: This contingency fund will enable the County to carry out its essential solid waste management functions, including the following:

- i. ensuring that waste is managed appropriately;
- ii. developing programs to reduce the dependence on landfilling, and thereby increase life of existing permitted landfills;
- iii. mitigating the risks, costs and other potential adverse effects associated with hosting a landfill;
- iv. and ensuring that the cost associated with necessary closure, contingency and response actions do not have to be funded primarily by Mower County taxpayers.

1. It is the intent of the County to generate and maintain a sufficient balance in the contingency fund to enable the County to carry out these essential functions as applied to all solid waste facilities.

Q. Buffer area: Minnesota Rules currently require that industrial solid waste disposal facilities provide only a 20-foot separation distance between edge of fill and property line, and only a 50-foot separation distance for demolition debris disposal facilities. However, mixed municipal solid waste disposal facilities are required to maintain a 200-foot separation distance to the compliance boundary.

R. Minimum separation distance: A minimum 200-foot separation distance for all land disposal facilities is necessary to provide for:

- i. Access roads,
- ii. groundwater monitoring wells,
- iii. storm water management,
- iv. berms, and
- v. screening activities.

S. Minimum separation distance: In addition to the above referenced activities, if groundwater became impacted at a landfill, a 200-foot buffer / separation distance would provide additional area beyond that of 20 or 50-foot buffer necessary for mitigation and remedial activities.

- i. It is the intent of the County to require a minimum of a 200-foot separation distance between the boundaries of the portion of the landfill used for the deposit of waste and the landfills property line as identified in the application.

T. Water monitoring: Additional water monitoring testing may be required by the County based upon indications of the presence of contaminants or the migration of contaminants.

U. Down-gradient residential well monitoring: Down-gradient residential well monitoring may be required in the event that it appears to the County that a contaminant attributable to the solid waste landfill appears to be migrating off-site.

- i. It is the intent of the County to require additional well water monitoring requirements, and down-gradient residential well monitoring standards within ORD__.

V. Solid Waste License Applications: Requiring solid waste facilities seeking a license from the County to submit applications to the Department on forms provided by the Department to ensure that sufficient information (plans, specifications, reports, and data) about the proposed solid waste facility is provided to the County so that a possible license issued is protective of the state’s water, land, air, and other natural resources, and the public health; and, to ensure that appropriate surcharges, fees, and/or deposits are remitted to the County.

3) Need for ORD _____:

The County recognizes that its current ORD I-92 is outdated and lacking in controls necessary to effectively manage solid waste in such a way that is protective of the state’s water, land, air, and other natural resources; and, does not provide for the collection of fees and deposits from landfills located within the County to ensure that no costs and risks associated with hosting a landfill may be borne directly or indirectly by Mower County residents. In response, the County has chosen to amend ORD I-92 by replacing it in its entirety with ORD _____, and believes that a re-write of a solid waste management ordinance can best fulfill the needs as identified in this SONAR.

Each ~~individual~~ section within ORD _____ is ~~essential~~~~important~~ and provides specific purpose and function in the ability of ~~the County~~~~ies~~ to effectively manage solid waste compliant with Minnesota law, and in a manner that is protective (as ~~demonstrated~~~~specified in sections above~~ in this SONAR). Nonetheless, below are three (3) sections relevant to the licensing and regulation of solid waste landfills within the County. These sections are: Section 6.0 Solid Waste Facility Licensing; Section 7.0 Solid Waste Facility Fees and Deposits; and, Section 8.0 Solid Waste Landfills.

X. Proposed Amendments and Statement of Reasonableness

For the purpose of this SONAR, the statement of need identifies a problem that exists which requires that the County take necessary action. The solution to that identified need is addressed in specific landfill regulations set forth in ORD ____ (a reasonable approach to addressing the needs identified).

The County believes that the proposed amendments set forth within ORD ____ provide for a necessary approach to addressing the needs identified within this SONAR. ORD ____ provides for reasonable and protective landfill controls, and the collection of necessary fees and deposits. The proposed amendments set forth within ORD ____ are presented below in *underline italic*. The **justification** for each proposed amendment appears immediately below:

1) Proposed Ord. ____, Section 6.0 Solid Waste Facility Licensing

A. Section 6.0 solid waste facility licensing

6.1 License Required

- A. LICENSE REQUIRED. Unless otherwise provided in this Ordinance, any solid waste facility to be established, operated, or maintained for intermediate, final disposal, and/or processing of solid waste shall be licensed by the County and, if applicable, permitted by the MPCA before operation may commence.
- B. OTHER WASTE FACILITIES. Solid waste facilities not specifically provided for in this Ordinance shall not be permitted, unless otherwise licensed or exempted from licensure by the County Board prior to construction and operation.
- C. LICENSING NOT EXCLUSIVE. The receipt of a solid waste facility license shall not be deemed to exclude the necessity of obtaining other applicable licenses, permits and approvals, except as expressly provided herein. Compliance with the provisions of this Ordinance shall not relieve any person or entity of the need to comply with any and all other applicable rules, regulations, and laws.

D. PUBLIC OWNED FACILITIES. The County Board may, at its discretion, waive the requirement of public owned facilities from having to obtain a license as set forth in this Section 6.0 of the Ordinance. The County Board may also waive the requirement of public owned facilities from having to pay certain fees as set forth in Section 7.0 of this Ordinance; this waiver shall not apply to fees and surcharges required for collection by Minn. State Statutes. A waiver by the County Board does not release public owned facilities from maintaining compliance with this Ordinance, and applicable Minn. Rules.

6.2 Requirements for Obtaining a Solid Waste Facility License

A. APPLICATION FOR LICENSE. Solid waste facility license applications shall be submitted to the Department on forms provided by the Department. The applicant shall include with its license application two sets of complete plans, specifications, design data, ultimate land use plan if applicable, proposed operating procedures and such other information as may be required by the County. In addition, applicants shall provide all information required in this section and subsequent sections of this Ordinance, including the following:

1. Land use approvals and permit(s) required by the County Zoning Ordinance or the zoning authority having jurisdiction over the proposed site.
2. A complete copy of the permit application submitted to the MPCA, including a set of complete plans, specifications, design data, and ultimate land use proposals.
3. A written statement of how the proposed facility is consistent with the County Solid Waste Management Plan and a current MPCA Certificate of Need (CON), if applicable.
4. Application fee as established by the County Board.
5. A topographic map that shows the proposed solid waste facility and the area surrounding it for a distance of at least one mile in all directions. The map shall be of sufficient scale to show all homes, buildings, lakes, ponds, watercourses, wetlands, dry runs, rock outcroppings, roads areas for retention of surface water runoff, and other applicable details as may be required by the Department. Wells shall also be identified on the map.
6. A copy of any environmental assessment worksheet or environmental impact statement prepared or required pursuant to this Ordinance, or Minn. Rules, Chapter 4410, as amended, or other applicable regulations.

7. A list of all types of waste the applicant intends to accept at the facility.
- B. LICENSE HOLDER. A license shall be issued jointly to the landowner, facility owner, and facility operator and/or other persons responsible for compliance with the requirements of this Ordinance.
- C. LICENSE FEES. The annual license fee and all other required fees in the amounts established by County Board shall be paid by the date specified in Section 7.0 of this Ordinance.
- D. INCOMPLETE OR NON-CONFORMING APPLICATION. If the Department determines that an application for a solid waste facility license, license modification, license renewal, and/or closure license is not complete or otherwise does not conform with the requirements set forth in this Ordinance, the Department shall advise the applicant in writing within sixty (60) days of receiving the application that the application is incomplete and shall identify what information is missing. The applicant shall provide the requested information in a timely manner. Failure to submit the requested information within thirty (30) days, or to request additional time in which to submit the requested information within thirty (30) days, shall be deemed to be a withdrawal of the application.
- E. ADDITIONAL OR UNNECESSARY DATA. The applicant shall submit reasonable additional data requested by the Department. The Department may also waive a requirement for submitting certain information if the Department determines that the information is not necessary and will not cause increased health or safety risks for the public.
- F. MULTIPLE OPERATION FACILITIES. The County Board, at its discretion, may issue one license to a person who operates or proposes to operate two or more solid waste facilities within the same site boundary. This multiple operation license may be approved when the Board determines that the combined operation of two or more solid waste facilities is such that administration and enforcement of this Ordinance and license conditions are most efficiently or appropriately served by one license. Each solid waste facility licensed under the multiple operation license shall comply with all of the requirements of this Ordinance that apply to solid waste facilities of that type, including the payment of application and license fees. The Department shall work with a person operating or proposing to operate under a multiple operation license to avoid unnecessary duplication and efforts in license application, record keeping and reporting processes. The issuance of a multiple operation license shall be based on recommendation by the Department to the County Board or request by the facility and approval by the County Board.

6.3 Duty to Comply With License Conditions

- A. OPERATIONAL CONDITIONS. The licensee shall comply with the operational conditions stated in the solid waste facility license as approved by the County. Failure of the licensee to comply with such operational conditions, including any license modifications, is a violation of this Ordinance and the licensee is subject to the penalties provided herein.
- B. LICENSE WITH SPECIAL CONDITIONS. A license may be granted that is contingent upon compliance with special conditions specified in the license. Such conditions, if any, shall be designed to promote the health, welfare and safety of the public, and to protect the environment pursuant to this Ordinance. Failure of the licensee to comply with such special conditions is a violation of this Ordinance, and is subject to the penalties provided herein.

6.4 License Modifications

- A. Major modifications to a license shall require prior approval of the County Board. The following, without limitation, shall be considered major modifications to a license:
 - 1. When the Department determines that a modification, or change to the operation or conditions of a solid waste facility create the potential for significant environmental or public health impact.
 - 2. Any change in the type(s) or quantity(ies) of waste accepted.
 - 3. Any change in the waste management method or addition of a new waste management method used at a site or solid waste facility or change to the closure plan.
 - 4. Expansion of a solid waste landfill.
- B. Notwithstanding these criteria, a major modification does not include changes or modifications that:
 - 1. Are disclosed in the license application and operations plan, and approved by the County Board as part of the license;

2. Are in conformance with the current license, and do not create the potential for significant environmental or public health impact; and
3. Will not reduce the Department's ability to monitor compliance with the license and this Ordinance.

6.5 Pilot Projects

- A. PILOT PROJECTS AUTHORIZED. The County Board may, as part of its review of any operation or closure license, or the renewal of any license, grant one or more waivers from the specific licensing requirements of this Ordinance, including application fees and various license fees, for pilot projects that the County Board determines to be beneficial to the County, with due consideration to the type and number of waivers requested. Pilot project and accompanying waivers may be approved in the discretion of the County Board on a case-by-case basis, provided however that the Board shall not approve any pilot project unless the Board finds that the proposal will not adversely impact human health or the environment, and the Board finds that:
1. The proposal will reclaim solid waste materials from existing landfill or processing facilities for processing and/or use in other end-products; or
 2. The proposal will result in an extension of landfill capacity at an existing or proposed facility without the need to alter the size or dimensions of the facility; or
 3. The proposal may substantially reduce the activities and/or costs associated with the care of solid waste landfills located in the County either both before or after closure of the solid waste landfill; or
 4. The proposal will encourage economic development within the County by increasing or diversifying the County's tax base and/or creating new employment opportunities.
- B. APPLICATION. A licensee requesting approval of a pilot project must submit an application on a form to be provided by the Department. There shall be no fee for Department Review of a pilot project. The applicant shall provide the Department with all information necessary for the Department to fully and appropriately analyze the proposal for a pilot project, as determined by the Department, including the following:
1. A detailed description of the proposal, including a description of the equipment, materials and process to be used in reclaiming solid waste materials or otherwise extending existing landfill capacity.

2. A detailed description of the proposed end use of any reclaimed materials.
3. A description of the potential economic development resulting from the proposal, including increased employment within the County and any increase or diversity in the County's tax base or beneficial alteration of the end use of the property.
4. A description of any temporary storage of reclaimed solid waste prior to the end use or processing of the materials.
5. A list of any waivers requested from the requirements of this Ordinance, and an explanation of why such waivers are necessary and appropriate in light of the potential benefits of the pilot project.
6. A time period for completion of the pilot project, if applicable.
7. Verification that the pilot project and any requested waivers will not have an adverse impact on human health and the environment, along with a proposal to monitor the potential beneficial and adverse impacts of the pilot project.

The Department shall use its reasonable best efforts to process an application for a pilot project with an accompanying application for a license or license renewal, but there shall be no limit on the amount of time necessary for the Department to consider and analyze a proposal for a pilot project and to present the proposal to the County Board.

- C. JOINT APPLICATIONS FOR PILOT PROJECT(S). One or more solid waste facilities may jointly file an application for one or more related pilot projects and may request waivers applicable to each facility's license, so long as the waivers directly relate to, and are necessary for the proposed pilot project(s).
- D. AGREEMENT AND INDEMNIFICATION; COUNTY MAY PARTICIPATE. The County, as a condition of approving any pilot project, may require that the applicant enter into an agreement with the County for implementing, monitoring and other performance standards relating to the project. As part of the agreement, the owner of the facility and operator of the pilot project shall indemnify the County, and hold the County harmless against any and all claims relating to the approval and operation of the project. The County may also, as part of the agreement, participate in the pilot project as appropriate, and as deemed beneficial by the County Board, through the use of Solid Waste Management Funds and/or the County's Economic Development Authority.

6.6 License Term, Renewal, Transfer and Continuation

A. LICENSE TERM.

1. Unless otherwise provided by the County Board, the initial term of a solid waste facility license granted pursuant to the provisions of this Ordinance shall be for a period of not more than one (1) year but shall expire on December 31 of the year the license is granted, unless earlier suspended or revoked.
2. Except as otherwise provided by the County Board, the term of a solid waste facility license that is renewed pursuant to the provisions of this Ordinance shall be five (5) years and shall expire on December 31 of the fifth year, unless earlier modified, suspended or revoked.
3. Unless otherwise provided by the County Board, the term of a solid waste landfill closure license shall be for the duration of the post-closure period.

B. LICENSE RENEWAL. An applicant for renewal of a solid waste facility license shall be made on a form provided by the Department by October 1 of the expiration year, and shall be signed by an individual authorized to act on behalf of, and bind the licensee with the submission of the following information:

1. A statement indicating any changes at the facility since the last approved solid waste facility license application or proposed changes for the forthcoming license period, and;
2. The licensee shall submit to the Department financial assurance information including the financial assurance mechanism used, the amount of bond or letter of credit, cash on deposit, amount in a depository account or trust account. Failure to submit such information is grounds for revocation, or for not granting renewal of the solid waste facility license by the County Board. If there are no changes in financial assurance, it shall be so stated in the solid waste facility license renewal application.

C. CONTINUATION OF EXPIRED LICENSE. A person who holds an expired license, and who has submitted a timely and complete application for re-issuance of the license as required by Section 6.6(B) of this Ordinance may continue to operate the licensed solid waste facility under the terms and conditions of the expiring license until the County takes final action on the application, so long as the Department determines that both of the following are true:

1. The licensee is in full compliance with the terms, and operational and special conditions of the expired license and this Ordinance; and,
 2. The Department, through no fault of the licensee, has not taken final action of the application on or before the expiration date of the license.
- D. TRANSFER OF LICENSE. A licensee shall not voluntarily or involuntarily, by operation of law or otherwise, sell, assign, transfer or otherwise dispose of, in whole or in part, a license issued under this Ordinance without the County's prior written consent.
1. For the purpose of determining whether to grant such consent, the County's inquiry shall be limited to determining to the County's satisfaction that the transferee possesses the technical and financial qualifications to operate and maintain the licensed solid waste facility. The licensee shall be responsible for ensuring that the transferee completes an application for approval of the transfer and for establishing, to the County's satisfaction, the transferee's qualifications to hold the license. Applications for approval of the transfer shall be reviewed within a reasonable time and the County's consent shall not be unreasonably withheld.
 2. In addition to any other sale, assignment, transfer or disposal, this Section shall apply to a change of ownership or control that includes, without limitation: (a) sale of all or substantially all of the company assets, except those sales of assets in the normal course of business; (b) sale or acquisition of four percent (4%) of the controlling interest (voting) stock if the stock is publicly traded; (c) sale of more than fifty-one percent (51%) of voting stock if it is a closely held corporation; (d) execution of a management agreement by which control of the corporation is transferred; or, (e) if the company is a closely held corporation, the death of the Chief Executive Officer or the majority stockholder.
 3. The licensee shall notify the County in writing of any foreclosure or other judicial sale of all or substantially part of the property and assets comprising the licensed facility. Such notice shall be considered notice that a change in ownership has taken place, and the provisions for obtaining County consent pursuant to this Section shall apply.
 4. The granting of a security interest or mortgage in all or part of the licensed solid waste facility shall not require the consent of the County.
 5. Any attempt to transfer a license or any or all of the licensee's obligations under a license without the County's consent shall be grounds for suspension or revocation of the license and other remedies available to the County, including, without limitation, grounds for drawing on the financial assurance provided pursuant to Section 6.9 of this Ordinance.

6.7 General Requirements for All Facilities

- A. GENERAL REQUIRMENTS. The following items shall be established, constructed, or provided for at all solid waste facilities, unless specifically exempted by the Department:
1. Effective litter control devices such as portable fences shall be utilized.
 2. Firefighting equipment on site adequate to insure the safety of employees.
 3. Emergency first aid equipment to provide adequate treatment for all accidents.
 4. A contingency action plan identifying procedures and actions to be taken in the event of fire, spill, chemical release, physical injury, or other emergency situations at the facility.
 5. A potable water supply for site personnel.
 6. Adequate facilities to ensure that no vehicle desiring entry into the Site may have to wait outside the perimeter of a solid waste facility.
 7. Adequate communication facilities shall be provided for emergency purposes.
 8. An adequately maintained haul road to the unloading area.
 9. Visual screening of the Site, as required by the Department, shall be provided by use of natural objects, trees, plants, seeded soil berms, fences, or other suitable means.
 10. An area shall be designated to inspect and store solid waste to determine whether or not unacceptable waste is contained in the solid waste deposited at a solid waste facility.
 11. Facilities shall not accept any material that cannot be readily and visually identified, except for material from a licensed processing facility.

- B. OPERATING RECORDS. *All solid waste facilities shall maintain accurate operational daily records with regard to all aspects of the facility, including but not limited to the quantity and the types of materials received, and the disposition of all materials received. Records shall be available during normal business hours for the on-site review and inspection by the Department's or MPCA's designated agent.*
- C. QUARTERLY OPERATING REPORTS. *Each quarter, the licensee shall submit an operating report to the Department on a form prescribed by the Department. Quarterly reports shall be due on the 15th day of April, July, October and January, and include information concerning the quantity and types of material received for each of the three preceding months.*
- D. COMPLIANCE WITH MINNESOTA RULES. *Applicants, owners, and operators of licensed solid waste facilities shall comply with applicable State solid waste rules, including Minn. Rules Chapter 7035, as amended.*
- E. COMPLIANCE WITH ORDINANCE. *The licensee shall be responsible for compliance with all of the provisions of this Ordinance.*
- F. FACILITY SITING. *The licensee shall not locate or expand any solid waste facility at a site which conflicts with MPCA, County or local requirements for solid waste facility siting.*
- G. AIR, SOIL AND WATERS OF THE COUNTY. *No licensee shall operate any solid waste facility, or dispose of, or permit to be disposed, any solid wastes in a manner so as to degrade the soil, air, or waters of the County. Any licensee who causes any degradation of the soil, air, or waters of the County shall undertake whatever action is necessary to correct the degradation, and restore said soil, air, or waters to its condition prior to its degradation.*
- H. ENVIRONMENTAL MONITORING. *The licensee shall be responsible for facilitating all environmental monitoring, including but not limited to water, soil, and landfill gases, which are required by this Ordinance, the license, or the MPCA permit for the applicable solid waste facility.*
- I. UNACCEPTABLE WASTE. *A licensee shall maintain a contingency plan for the proper temporary storage, treatment and/or disposal of unacceptable waste received at the facility. Unacceptable waste shall be any waste not identified by the licensee in its application as acceptable waste, pursuant to Section 6.2(A)(7) of this Ordinance, and approved as part of the license by the County Board. The contingency plan shall include a written list of the nearest suitable facilities where the unacceptable waste can be disposed or received from the public. Unacceptable waste shall be transported only to*

solid waste or hazardous waste facilities operating with appropriate license for disposal, treatment, conversion, or recycling.

6.8 Closure Requirements for Intermediate Disposal Facilities

- A. APPLICABILITY. The requirements of this section are applicable to the closure activities of all intermediate disposal facilities located within the County. The Department may require information in addition to that required in this section.
- B. CLOSURE REQUIREMENTS. When an intermediate disposal facility is to be closed for any reason, the Department shall be notified in writing at least one month prior to closure. At the time of closure, the licensee shall comply with the following closure requirements:
1. All solid wastes, compost, residuals, and/or finished product shall be removed from the property;
 2. The property shall be clean, and in a nuisance free condition;
 3. The Licensee shall identify an end use for the solid waste facility, and the property shall be compatible with existing land use restrictions and zoning regulations for that site.
- C. CERTIFICATION OF CLOSURE. When closure requirements in this Section 6.8(B) at an intermediate disposal facility have been completed, the Department shall be notified to allow for final inspection of the site. When a final inspection conducted by the Department determines that the closure requirements as specified in this Section 6.8(B) have been completed, the Department shall certify to the County Board, for County Board approval, that all required actions under this Section 6.8(B) have been completed. Required pre-closure financial assurance and insurance for intermediate disposal facilities shall not terminate until the County Board has approved the certification of closure.
- D. RECORDING. The certification of closure shall be recorded with the Mower County Recorder.

6.9 Financial Assurance

- B. LICENSE CONTINGENT ON FINANCIAL ASSURANCE. Issuance of any solid waste facility license pursuant to the provisions of this Ordinance shall be contingent upon the applicant furnishing to the Department, financial assurance for pre-closure/operational, closure, post-closure periods, in an amount and form to be set by the County Board, and

naming the County as obligee. The County Board may waive this requirement if the Board determines, based on the type of and associated conditions surrounding the proposed facility, that that financial assurance is not necessary to secure the licensee's performance of its obligations under the license, and is not necessary to protect public health and safety. The financial assurance shall be maintained throughout the term of each operational and closure license, unless the amount or form of the financial assurance is modified by the County Board based on the conditions and information present at the time of a renewal or violation of the license.

B. CONDITIONS. The conditions of financial assurance shall include:

1. If the licensee fails to obey any of the requirements or do any of the acts required by this Ordinance or the license in the pre-closure/operational, closure, and post-closure periods of the solid waste facility, or if, for any reason, ceases to operate or abandons the solid waste facility, and the County determines that it is necessary to expend any monies, labor or material to remediate conditions at or caused by the solid waste facility or restore the facility to the condition and requirements as provided by this Ordinance, the obliger and the sureties on the financial assurance shall promptly remit to the County the amounts demanded.
2. The obliger and its sureties will indemnify and save the County harmless from all losses, costs and charges that may occur to the County because of any defaults of the obliger under the terms of their license to operate and the ordinances of the County.
3. The financial assurance shall be subject to cancellation by the surety at any time only upon giving 120 days' prior written notice of cancellation to the Department.
4. If any financial assurance requirements continue to apply to a solid waste facility, failure to provide the County with replacement financial assurance in the form and amount required by the Ordinance and the County Board at least thirty (30) days prior to the cancellation date, shall constitute a violation of the Ordinance and shall be grounds for a claim against the current financial assurance in the full amount.
5. The specific financial assurance mechanism(s) and amount(s) utilized by a licensee for closure and post-closure care shall be identified in the closure license and shall comply with Sections 6.9(C)(2) and 6.9(C)(3).

B. REQUIREMENTS FOR FINANCIAL ASSURANCE MECHANISMS.

1. Pre-Closure/Operational Period Financial Assurance. Licensees shall provide pre-closure/operational period financial assurance through one or a combination of the following mechanisms:
 - a. **Single Access Cash Account.** A single access cash account at a financial institution that is acceptable to the Mower County Attorney's Office. The funds in this account may only be withdrawn by or with the consent of Mower County. The Department shall notify the licensee when financial assurance funds are being withdrawn, and shall state the reasons for such withdrawal.
 - b. **Letter of Credit.** An irrevocable letter of credit from a financial institution that is acceptable to the Mower County Attorney's Office.
 - c. **Bond.** A surety bond in a form and from a financial institution that is acceptable to the Mower County Attorney's Office. In general, the surety bond shall be for purposes and in an amount set by resolution of the County Board and shall name the County of Mower as the obligee. Acceptable surety companies include those companies that are licensed and authorized to transact corporate surety business in the State of Minnesota and that are listed as acceptable sureties on federal bonds in Circular 570, issued by the United States Department of the Treasury, as published annually in the Federal Register on July 1.
 - d. **Trust.** A trust in a form acceptable to the Mower County Attorney's Office.
 - e. **MPCA Financial Assurance Plan.** In addition to the financial assurance required by this Section, the licensee shall maintain separate financial assurance as may be required by the MPCA for an operational permit. Failure to maintain MPCA-required financial assurance shall be grounds for modifying the form and amount of financial assurance required by this Ordinance, pursuant to Section 6.9(A).
 - f. **Release.** The pre-closure/operational period financial assurance shall be released by the County by notifying the obligor/surety in writing after the Department determines that the licensee has fully complied with the terms and obligations of the operational license, the licensee has been granted a closure license and has provided the required closure period financial assurance, and any pre-closure/operational period violations of the Ordinance have been corrected to the satisfaction of the Department.
2. Closure Period Financial Assurance. A licensee shall provide closure period financial assurance through one or a combination of the following mechanisms:

- a. **Single Access Cash Account.** A single access cash account at a financial institution that is acceptable to the Mower County Attorney's Office. The funds in this account may only be withdrawn by or with the consent of Mower County. The Department shall notify the licensee when financial assurance funds are being withdrawn, and shall state the reasons for such withdrawal.
 - b. **Letter of Credit.** An irrevocable letter of credit from a financial institution acceptable to the Mower County Attorney's Office.
 - c. **Bond.** A surety bond in a form and from a financial institution that is acceptable to the Mower County Attorney's Office. In general, the surety bond shall be for purposes and in an amount set by resolution of the County Board and shall name the County of Mower as the obligee. Acceptable surety companies include those companies that are licensed and authorized to transact corporate surety business in the State of Minnesota and that are listed as acceptable sureties on federal bonds in Circular 570, issued by the United States Department of the Treasury, as published annually in the Federal Register on July 1.
 - d. **Trust.** A trust in a form acceptable to the Mower County Attorney's Office.
 - e. **MPCA Financial Assurance Plan.** In addition to the financial assurance required by this Section, the licensee shall maintain separate financial assurance as may be required by the MPCA pursuant to a closure plan approved by the MPCA. Failure to maintain MPCA-required financial assurance shall be grounds for modifying the form and amount of financial assurance required by this Ordinance, pursuant to Section 6.9(A).
 - f. **Release.** The closure period financial assurance shall be released by the County by notifying the obligor/surety in writing after the Department determines that the licensee has fully complied with the terms and obligations of the closure license, that any closure period violations of the Ordinance have been corrected to the satisfaction of the Department, and that the licensee has provided the required post-closure financial assurance.
3. **Post-Closure Period Financial Assurance.** Licensees that have post-closure period obligations at a site shall provide post-closure period financial assurance through one or a combination of the following mechanisms:
 - a. **Single Access Cash Account.** A single access cash account at a financial institution that is acceptable to the Mower County Attorney's Office. The funds in this account may only be withdrawn by or with the consent of Mower County. The Department

shall notify the licensee when financial assurance funds are being withdrawn and shall state the reasons for such withdrawal.

- b. **Trust.** A trust in a form acceptable to the Mower County Attorney's Office.
 - c. **Bond.** A surety bond in a form and from a financial institution that is acceptable to the Mower County Attorney's Office. In general, the surety bond shall be for purposes and in an amount set by resolution of the County Board and shall name the County of Mower as the obligee. Acceptable surety companies include those companies that are licensed and authorized to transact corporate surety business in the State of Minnesota and that are listed as acceptable sureties on federal bonds in Circular 570, issued by the United States Department of the Treasury, as published annually in the Federal Register on July 1.
 - d. **Letter of Credit.** An irrevocable letter of credit acceptable to the Mower County Attorney's Office may be used to supplement the mechanisms stated above in Sections 6.9(C)(3)(a), (b), and (c) of this Ordinance until certification of closure is submitted to the Department and approved by the County Board.
 - e. **MPCA Financial Assurance Plan.** In addition to the financial assurance required by this Section, the licensee shall maintain separate financial assurance as may be required by the MPCA for post-closure care. Failure to maintain MPCA-required financial assurance shall be grounds for modifying the form and amount of financial assurance required by this Ordinance, pursuant to Section 6.9(A).
4. **Annual Review and Adjustment.** The form and amount of financial assurance shall be subject to annual review by the Department. Adjustments shall be based on published economic indicators deemed relevant by the Mower County Attorney's Office and/or modifications to the solid waste facility specifications, operations, and/or closure plan or post-closure care standards. No adjustment shall be effective unless approved by the County Board.

6.10 Insurance Requirements

A solid waste facility licensee shall provide and maintain at all times during the term of the license such insurance coverage as set forth in this section, and otherwise comply with the provisions that follow. Such policy(ies) of insurance shall apply to the extent of, but not as a limitation upon or in satisfaction of, the license indemnity provisions. The provisions of this section shall also apply to all subcontractors, and independent contractors engaged by the licensee with respect to the license. The licensee shall be entirely responsible for securing the compliance of all such persons or parties with these provisions.

A. WORKERS COMPENSATION INSURANCE

1. Worker's compensation insurance shall be in compliance with all applicable state statutes. Such policy shall include employer's liability coverage in at least such amount(s) as are customarily issued in Minnesota and an All States or Universal Endorsement, if applicable.
2. In the event a licensee is a sole proprietor and has elected not to provide workers' compensation insurance, the licensee shall be required to execute and submit to the Department an affidavit of sole proprietorship in a form acceptable to the Department.

B. GENERAL LIABILITY.

1. Commercial General Liability Coverage (Insurance Services Office form title), providing coverage on an "occurrence", rather than on a "claims made" basis, which policy shall include, but shall not be limited to, coverage for bodily injury, property damage, personal injury, contractual liability (applying to this contract), independent licensees, "XC&U" and products-completed operations liability (if applicable). Such coverage may be provided under an equivalent policy form (or forms), so long as such equivalent form (or forms) affords coverage that is at least as broad. An Insurance Services Office "Comprehensive General Liability" policy that includes a "Broad Form Endorsement", GL 0404 (Insurance Services Office designation) shall be considered to be an acceptable equivalent policy form.
2. The licensee shall maintain at all times during the period of the license a total combined general liability policy limit of at least \$500,000 per person, \$1,500,000 for each occurrence, and \$2,000,000 aggregate, applying to liability for bodily injury, personal injury, and property damage, which total limit may be satisfied by the limit afforded under its "Commercial General Liability" policy, or equivalent policy, or by such policy in combination with the limits afforded by an "Umbrella" or "Excess Liability" policy (or policies), provided, that the coverage afforded under any such "Umbrella" or "Excess Liability" policy is at least as broad as that afforded by the underlying "Commercial General Liability" policy (or equivalent underlying policy).
3. Such commercial general liability policy and "Umbrella" or "Excess Liability" policy (or policies) may provide aggregate limits for some or all of the coverage afforded there under, so long as such aggregate limits have not, as of the beginning of the term or at any time during the term, been reduced to less than

the total required limits stated above, and further, that the “Umbrella” or “Excess Liability” policy provides coverage from the point that such aggregate limits in the underlying comprehensive general liability policy become reduced or exhausted.

- C. AUTOMOBILE LIABILITY. Business Automobile liability insurance shall be obtained and shall cover liability for bodily injury and property damage arising out of the ownership, use, maintenance, or operation of all owned, non-owned and hired automobiles and other motor vehicles utilized by the licensee in connection with the operation of the licensed Solid waste facility. Such policy shall provide total liability limits for combined bodily injury and/or property damage in the amount of at least \$500,000 per person and \$1,500,000 per incident, which total limits may be satisfied by the limits afforded under such policy, or by such policy in combination with the limits afforded by an “Umbrella” or “Excess Liability” policy(ies), provided, that the coverage afforded under any such “Umbrella” or “Excess Liability” policy(ies) shall be at least as broad with respect to such business automobile liability insurance as that afforded by the underlying policy. Unless included within the scope of the licensee’s commercial general liability policy, such business automobile liability policy shall also include coverage for motor vehicle liability assumed under contract.
- D. ADDITIONAL INSURANCE. The County may require a licensee to undertake an annual insurance evaluation, conducted by an independent evaluator selected by the County, which evaluator shall be reasonably acceptable to licensee. The County may, at any time during the period of the license, require that licensee secure any additional insurance, or additional feature to existing insurance, as is recommended by such evaluation as reasonably required for the protection of the County’s interests or those of the public.
- EVIDENCE OF INSURANCE. A licensee shall promptly provide the Department with evidence that the insurance coverage required hereunder is in full force and effect at least twenty (20) days prior to the granting of a license by the County Board. At least thirty (30) days prior to termination of any such coverage, the licensee shall provide the Department with evidence that such coverage will be renewed or replaced upon termination with insurance that complies with these provisions. Such evidence of insurance shall be in the form of a “Certificate of Insurance”, or in such other form as the Department may reasonably request, and shall contain sufficient information to allow the Department to determine whether there is compliance with these provisions. At the request of the Department, the licensee shall, in addition to providing such evidence of insurance, promptly furnish the Department with a complete (and if so requested, insurer-certified) copy of each insurance policy intended to provide coverage required hereunder. All such policies shall be endorsed to require that the insurer provide at least a sixty (60) day notice to the Department prior to the effective date of policy cancellation, non-renewal, or material adverse change in coverage terms. The licensee’s insurance agent

shall certify on the certificate of insurance, that he/she has error and omissions coverage.

- E. INSURER POLICIES. All policies of insurance required by this Ordinance shall be issued by financially responsible insurers licensed to do business in the State of Minnesota, and all such insurers shall be acceptable to the Department. Such acceptance shall not be unreasonably withheld or delayed. An insurer with a current A.M. Best Company rating of at least A: VII shall be conclusively deemed to be acceptable. In all other instances, the Department shall have twenty (20) business days from the date of receipt of a licensee's evidence of insurance to advise the licensee in writing of any insurer that is not acceptable to the County. If the Department does not respond in writing within such twenty (20) day period, the licensee's insurer(s) shall be deemed to be acceptable to the County.
- F. LOSS INFORMATION. At the request of the Department, the licensee shall promptly furnish loss information concerning all liability claims brought against a licensee (or any other Insured under licensee's required policies) that may affect the amount of liability insurance available for the benefit and protection of the County under this Ordinance. Such loss information shall include such specifics and be in such form as the Department may reasonably require.

B. Justification.

Counties are required by Minnesota law to manage solid waste in a manner that protects the state's land, air, water, and other natural resources, and the public health. The County recognizes the need to require solid waste facilities seeking a license from the County to submit applications to the Department on forms provided by the Department to ensure that sufficient information (plans, specifications, reports, data, and financial assurance requirements) about the proposed solid waste facility is provided to the County so that a possible license issued is protective of the County's natural resources; and, to ensure that appropriate surcharges, fees, and/or deposits are remitted to the County.

2) Proposed Ord. _____, Section 7.0 Solid Waste Facility Fees and Deposits:

A. Section 7.0 solid waste facility fees and deposits

7.1 Facility License Fees

- A. APPLICATION FEE. *An application fee shall be submitted with all applications for a solid waste facility license, expansion of a solid waste facility, license renewal involving a major modification, or appeal of solid waste landfill fees and deposits. The application fees shall be in an amount set forth in the County's fee schedule. An application that does not include the required application fee shall be considered incomplete.*
- B. FACILITY LICENSE FEES. *In addition to the application fees, there shall be facility license fees for each type of solid waste facility. The facility license fees shall be set forth in the County's fee schedule and shall be reviewed annually by the County Board. The initial solid waste facility license fee shall be paid prior to issuance of the license. License fees shall be paid annually thereafter by December 31 of each year, as a condition of license renewal. Annual license fees shall terminate once the County Board has approved a certification of closure pursuant to this Ordinance, Sections 6.8(C) or 8.10(G). Non-payment of the facility license fees shall be grounds for denial of a license application, modification or renewal, or revocation of an existing license, and may also be enforced as provided in Section 19.0 of this Ordinance,*
- C. LICENSE RENEWAL. *There shall be no fee for renewal of a license, provided that there are no major modifications to the license, as determined by the Department pursuant to Section 6.4 of this Ordinance. A license renewal that includes a major modification shall pay an application fee as required by this Section 7.1(A).*

7.2 SOLID WASTE LANDFILL FEES AND DEPOSITS

- A. PURPOSE AND INTENT. *Pursuant to Minnesota State Statute, chapters 115A and 400, the County hereby establishes a system of fees and other financial security to compensate the County for and protect the County against the costs, expenses and risks associated with locating a solid waste landfill within the County, including, without limitation, administrative costs, landfill abatement, response actions (both on and off-site), impacts to County infrastructure, and the closure costs, post-closure care and*

perpetual care of solid waste landfills. For purposes of this Section, perpetual care shall mean those activities and costs associated with landfills located within the County that will continue beyond the post-closure care period prescribed by the MPCA and this Ordinance, and include, without limitation: (1) continual site maintenance, including fencing, building care, inspection of equipment and inspection and repair of slumping associated with steep-sided landfills; (2) monitoring of gas and ground water; (3) monitoring leachate collection; and (4) maintaining cover integrity and preventing uncontrolled storm water and snow melt from entering a closed waste cell. Perpetual care may also include remediation or response activities that may not be undertaken by a responsible party, facility operator, or other state or federal agency and that may be necessary to protect the public health and the environment. It is the express intent of this Section that the costs and risks associated with hosting a solid waste landfill are not borne directly or indirectly by Mower County residents.

B. MSW FEES.

1. BASE FEE. All solid waste landfills in Mower County that accept and dispose of MSW shall pay a fee for each ton of MSW accepted and disposed of at the facility. The amount of the MSW Base Fee shall be established by the County Board and may be reviewed and revised annually.
2. OUT-OF-COUNTY FEE. In addition to the Base Fee, all solid waste landfills in Mower County that accept and dispose of MSW shall pay a fee for each ton of MSW generated outside of Mower County, that is accepted and disposed of at the facility. The amount of the Out-of-County Fee shall be established by the County Board and may be reviewed and revised annually.

C. CONSTRUCTION AND DEMOLITION WASTE FEE. All solid waste landfills in Mower County that accept and dispose of demolition waste and construction debris shall pay a fee for each ton of demolition waste and construction debris accepted and disposed of at the facility. The amount of the fee shall be established by the County Board and may be reviewed and revised annually.

D. PAYMENT OF FEES. The fees established by this Section 7.2 shall be charged to facility owners and shall be paid in the following manner:

1. Monthly returns shall be on a reporting form prescribed by the Department.
2. The return shall be signed by the facility operator or a person authorized by the facility operator to do so.
3. A check for the full amount of the fee and made out to the County shall accompany the return form.

- E. The return shall be filed with the Department on or before the last day of the month immediately following the month in which the fee was incurred.
- F. EXEMPTION FROM BASE FEE AND OUT-OF-COUNTY FEE. If a solid waste facility achieves 85 percent or greater reduction in weight of solid waste that is managed through recycling, composting, or processing, the following solid waste materials shall then be exempt from Base Fees and Out-of-County Fees:
1. All Residuals or Residue.
 2. All Non-Processible Waste.
- G. INDUSTRIAL WASTE TRUST ACCOUNT DEPOSITS. Solid waste facilities that accept and dispose of industrial waste shall contribute to an Industrial Waste Trust Account established within the County for the purposes identified in Section 7.2(A) of this Ordinance. The Industrial Waste Trust Account shall be for the benefit of the County on behalf of its residents and its natural resources and is not intended to and shall not create any beneficial interest in or on behalf of any other party. The amount of the Industrial Waste Trust Account deposit for industrial waste facilities shall be on a per-ton basis for each ton of industrial waste accepted and disposed of at the facility as a separate waste stream from MSW. The per-ton amount shall be established by the County Board and may be reviewed and revised annually. The Industrial Waste Trust Account deposit shall be charged to facility owners and shall be paid in the manner provided in Section 7.2(D) of this Ordinance. Industrial Waste Trust Account deposits collected by the County shall be maintained by the County in a separate interest bearing account. Upon completion of the required post-closure care obligations and expiration of the prescribed post-closure care period for an industrial waste facility, the facility may purchase a perpetual bond or similar financial security, in an amount and form acceptable to the County, providing for the perpetual care of the facility and addressing to the County's satisfaction the perpetual care goals and needs identified in Section 7.2(A) of this Ordinance. A facility that has contributed Industrial Waste Trust Account deposits may, with the County's consent, use available funds from the County's Industrial Solid Waste Trust Account to purchase the perpetual bond or other financial security, or may assign to the County, with the County's consent, the right to make payment on such perpetual bond or other financial security from the available Trust Account funds.
- H. MUNICIPAL SOLID WASTE COMBUSTER ASH TRUST ACCOUNT DEPOSITS. Solid waste facilities that accept and dispose of energy recovery facility ash ("MSW Ash") shall contribute to an MSW Ash Trust Account established within the County for the purposes identified in Section 7.2(A) of this Ordinance. The MSW Ash Trust Account shall be for the benefit of the County on behalf of its residents and its natural resources and is not

intended to and shall not create any beneficial interest in or on behalf of any other party. The amount of the ERF Ash Trust Account deposit for ERF Ash landfills shall be on a per-ton basis for each ton of MSW Ash accepted and disposed of at the facility. The per-ton amount shall be established by the County Board and may be reviewed and revised annually. The MSW Ash Trust Account deposit shall be charged to facility owners and shall be paid in the manner provided in Section 7.2(D) of this Ordinance. Provided, however, that the County Board may, in connection with issuing or renewing any Energy Recovery Ash Landfill license, waive MSW Ash Trust Account deposits if the Board determines that the waiver of such deposits is beneficial and necessary to encourage and support processing of solid waste at any Energy Recovery facility located within the County. MSW Ash Trust Account deposits collected by the County shall be maintained by the County in a separate interest bearing account. Upon completion of the required post-closure care obligations and expiration of the proscribed post-closure care period for an MSW Ash facility, the landfill may purchase a perpetual bond or similar financial security in an amount and form acceptable to the County providing for the perpetual care of the facility and addressing to the County's satisfaction the perpetual care goals and needs identified in Section 7.2(A) of this Ordinance. A solid waste landfill that has contributed MSW Ash Trust Account deposits may, with the County's consent, use available funds from the County's MSW Ash Trust Account to purchase the perpetual bond or other financial security, or may assign to the County, with the County's consent, the right to make payment on such perpetual bond or other financial security from the available Trust Account funds.

- I. HOST FEE AGREEMENT. In order to provide for longer-term certainty in connection with the amount of the fees and deposits established in this Section, solid waste facilities may enter into a Host Fee Agreement with the County for payment of Host Fees in lieu of the fees and deposits required pursuant to this Section 7.2. The Host Fee Agreement shall establish the amounts of fees and deposits applicable to the waste stream(s) accepted at the facility for a period of two or more years, provided that the initial amounts shall be at least equal to the amounts then currently established by the County Board. A Host Fee Agreement will provide that the County will not impose on the facility the fees and deposits established in this Section 7.2 during the term of the Agreement. A Host Fee Agreement may also provide for credits against Host Fees for solid waste facilities that implement County-approved on-site landfill abatement, recycling programs or landfill improvements that are not otherwise required as part of the facility's County license or MPCA permit. Landfill abatement and recycling programs may be approved in the County's discretion based on the factors set forth in Section 6.5 of this Ordinance.
- J. NON-PAYMENT OF FEES. Non-payment of fees, deposits or other financial security required by this Section 7.2 shall be grounds for denial of a license application, modification or renewal, or suspension or revocation of an existing license, and may also be enforced as provided in Section 19 of this Ordinance.

K. FEES TO BE UNIFORM; APPEAL.

1. The County Board shall establish the amounts of fees and Trust Account deposits for each waste stream in a manner to be applied uniformly to solid waste landfills located within the County. A solid waste landfill may appeal the amount of the fees established by this Section 7.2 for the waste stream(s) applicable to that facility if the facility believes that, because of the unique characteristics of the facility, the amount of the fees or deposits should be reduced. Any such appeal must be submitted on a form to be provided by the Department with the facility's timely application for a solid waste facility license or renewal or modification of an existing license. No appeal will be accepted after a license, renewal or modification application has been submitted or, in connection with a license renewal application, after the time by which such application is required to be submitted pursuant to Section 6.6(B) of this Ordinance. An appeal submitted in connection with an application to modify an existing license shall be limited to the fees or deposits applicable to the proposed modification. The requirement that a facility submit an appeal under this Section at the time the facility applies for a license renewal or modification shall not apply in the event the County Board increases the amount of the fees or deposits applicable to the facility's waste stream during the term of an existing license. In that case, an appeal must be submitted within sixty (60) days after the date on which the County Board approves the fee or deposit increase and the appeal shall be limited to the amount of the increase only.

2. The appeal shall be considered by the County Board at the same time as the Board considers the facility's application for a license, renewal or modification. In those cases where an appeal is submitted in connection with a fee or deposit increase during the term of an existing license, the appeal shall be considered by the County Board within sixty (60) days after the Department determines a facility's appeal application is complete. It shall be the facility's burden to conclusively establish that the uniform fees and/or deposits applicable to the facility's waste stream exceed the direct and indirect costs, expenses and potential risks associated with the facility's landfill. A facility's request for reduction of fees or deposits shall include, without limitation, a detailed explanation of the unique attributes of the facility and its operations, including the facility property and the property and natural resources in the surrounding area, demonstrating that the potential costs, expenses and risks associated with the facility are substantially different than those presented by other facilities located within the County and accepting the same waste stream(s). The County Board may employ the use of a qualified individual to serve as a factfinder to assist the County Board in considering an appeal under this Section 7.2(J). The fees and expenses of the factfinder shall be shared equally by the applicant and the County. An appeal shall not relieve the facility of its obligation to make timely payments in the amounts established by the County. If an appeal is granted and the

amount of the fee or deposit is reduced, the County shall refund to the facility the difference between the amounts paid and the amounts that would have been due based on the reduced fee or deposit, calculated from the date the appeal application was accepted as complete by the County. The County Board may require, as a condition of reducing the applicable fee or deposit, that the facility enter into an agreement with the County providing for the payment of the reduced fee or deposit and establishing a procedure for monitoring the unique conditions or characteristics of the facility that were accepted as the basis for reducing the applicable fee or deposit.

7.3 INDUSTRIAL SOLID WASTE REVIEW FEE

The industrial solid waste review fee, as established by the County Board, shall be paid for each application, renewal, and amendment of an application for disposal of an industrial solid waste pursuant to Section 9.0 of this Ordinance. Non-payment of fees shall be grounds for denial of a license application or renewal, or revocation of an existing license, and may also be enforced as provided in Section 19 of this Ordinance.

7.4 OTHER FEES, RATES, AND SERVICE CHARGES

Other fees, rates, and charges pursuant to this Ordinance and applicable law shall be established by the County Board and set forth in the County's fee schedule. Such other fees, rates, and charges pursuant to this Ordinance may be billed in a manner determined by the County and payment enforced in the same manner as other fees required by this Section.

B. Justification.

As authorized by the state Legislature, the County recognizes its need to establish and maintain a system for collecting fees and deposits from landfills located within the County to ensure that no costs and risks associated with hosting a solid waste landfill may be borne directly or indirectly by Mower County residents.

3) Proposed Section 8.0 Solid Waste Landfills:

A. Section 8.0 solid waste landfills

8.1 LOCATION OF FACILITY

Notwithstanding any other County or municipal ordinance authorizing the use of property for solid waste facility purposes, no portion of a solid waste landfill that is used for the deposit of solid waste into the land may be located in the following areas:

- A. Within areas considered unsuitable because of topography, geology, hydrogeology, or soils that may cause failures in the leachate collection system, or prevent effective monitoring, or containment of a release;
- B. Within areas affected by a 0.2 percent flood area (aka 500-year floodplain);
- C. Within 300 feet from a stream;
- D. Within a shoreland district;
- E. Within five feet of the seasonal high ground water table;
- F. Within 300 feet of a wetland;
- G. Within 10,000 feet of an airport runway used by turbojet aircraft, or 5,000 feet of any airport runway used by only piston-type aircraft;
- H. Within 1,000 feet of a residence, or park;
- I. Within 1,000 feet of the right-of-way of any federal, state, or interstate highway; or, any county, city, or township road;
- J. Within 1,000 feet from the normal high water mark of a lake, pond, or flowage;

8.2 FINAL ELEVATIONS, SLOPE, AND RUN-OFF

Development of a solid waste landfill shall not:

- A. Exceed maximum final grade elevations approved in the solid waste facility license by the County Board.
- B. Exceed final contours of a minimum 2% and a maximum of 20 % slope over entire fill for solid waste landfills.
- C. Result in any net increase of rate or flow of surface water runoff from the site to any adjoining parcels.

8.3 LICENSE REQUIRED; APPLICATION REQUIREMENTS

It is a violation of this Ordinance for any person to establish, operate and maintain a solid waste landfill without first being licensed to do so by the County Board. An applicant for a solid waste landfill license shall submit an application on a form to be provided by the Department. In addition to the information required by Section 6.2(A) and any other section of this Ordinance, the following information, prepared by a Minnesota licensed professional engineer, shall be submitted as a part of the application for a solid waste landfill:

- A. ENVIRONMENTAL ASSESSMENT WORKSHEET. Solid waste landfills shall be required to prepare an Environmental Assessment Worksheet pursuant to Minn. Rule. Chapter 4410, as amended.
- B. SITE-PLOT PLAN. The site-plot plan shall have a scale of not greater than 200 feet per inch and a vertical contour interval determined by the Department, but not greater than five feet. The site-plot plan shall include all land within 1,000 feet of the property boundaries for the proposed facility. The following shall be included as a minimum:
 - 1. Name and address of the facility, property owner, and the facility operator;
 - 2. Location and legal description of property for type of facility, and proposed operation;
 - 3. Estimate of population to be served, and area of anticipated service;
 - 4. Comprehensive plan of the community, if available, or existing and future land use maps;

5. A copy of the latest Zoning Ordinance, if the facility is to be located within any municipality that conducts its own planning and zoning activities;
 6. City and/or township boundaries;
 7. North arrow, section line, section number;
 8. Waters of the state, ditches, flood plains, and floodways;
 9. Adjacent residences and property ownership;
 10. Roads and railroads; and
 11. Easements and utilities.
- C. ENGINEERING PLAN. The engineering plans shall include as a minimum:
1. A current map or aerial photograph of the area showing land use and zoning within 1/4 mile of the property boundaries for the proposed solid waste landfill. The map or aerial photograph shall be of sufficient scale to show: all homes, buildings, lakes, ponds, water courses, wetlands, dry runs, rock outcroppings, roads, and other applicable details, and shall indicate the general topography with contours and drainage patterns. Wells shall be identified on the map or aerial photograph, U.S.G.S. datum shall be indicated, and a north arrow shall be illustrated. A location insert map shall be included.
 2. A plot plan including: legal description of the property that includes all areas of the solid waste facility intended for operations, and the immediate adjacent area showing dimensions; the results and location of soil borings required pursuant to Minn. Rules Chapter 7035, as amended; a description of each soil type applicable to the property; and present and planned pertinent features including but not limited to roads, fencing and cover stockpiles. The plan of development including any excavation, trenching, and fill shall be shown progressively with time. Cross sections shall be included on the plot plan or on separate sheets showing progressively with time the original and proposed elevation of excavation, trenching, and fill. The scale of the plot plan shall not be greater than 200 feet per inch.
 3. An ultimate land use plan of the site including stages identifying the total and complete land use of all property described in the application. The scale of the ultimate land use plan shall not be greater than 200 feet per inch.

4. Geological and ground water information shall be submitted that forms the basis or is otherwise used to establish the water monitoring system required by Section 8.5(O).
5. Source and characteristics of cover material, and method of protecting cover material for winter operation.
6. Type and amount of equipment to be provided at the site for excavating, earth moving, spreading, compacting, and other needs.
7. Area of site in acres.
8. Proposed access routes within a five (5)-mile radius of the proposed facility.
9. Persons responsible for actual operation and maintenance of the site, and intended operating procedures.
10. Description of improvements proposed to comply with applicable ordinances and standards.
11. Landscape and grading plans.
12. Drainage plan to prevent ponding and leachate run-off from the site. All surface water run-off and leachate shall be collected for re-use, on-site treatment, or transported off-site for treatment or proper disposal

D. OPERATIONS PLAN. The operations plan shall include at a minimum:

1. A description of the solid waste proposed to be disposed, collected, stored, and processed at the facility.
2. A contingency action plan identifying procedures and actions to be taken in the event of fire, spill, chemical releases, physical injury, or other emergency situations at the facility.
3. A description of the overall operation and sequencing of fill operations.
4. A description of worker protection, training, and safety equipment to be employed on site.

- 5. A description of the methods of weighing or measuring solid waste accepted at the facility.
- E. OTHER INFORMATION. Any other information deemed necessary by the County Board or the Department.

8.4 GENERAL REQUIREMENTS

The following shall be established, constructed, or provided for at the solid waste landfill site except as indicated below:

- A. LANDFILL EQUIPMENT. Equipment sufficient for spreading, compacting, and covering operations to include enough reserve equipment or arrangements to immediately provide for equipment during periods of breakdown.
- B. SIGN REQUIRED. At each entrance to the site, the licensee shall erect and maintain a sign stating the name of the facility, the schedule of days and hours the facility is open to the public if applicable, MPCA permit number, and the penalty for nonconforming dumping. The sign and its placement shall be subject to approval by the Department.
- C. SECURITY FENCE. All new facilities or expansions to existing facilities constructed after the effective date of this Ordinance shall maintain a six (6) foot high security fence around the perimeter of the landfill area.
- D. INDIVIDUAL DISPOSAL FACILITIES. Suitable disposal facilities shall be provided for individuals who wish to transport and dispose of their own solid waste if the facility is open to such individuals.
- E. RECORDS. Records as approved and requested by the Department shall be maintained and shall be accessible to the Department. These records shall show:
 - 1. The total number of tons of solid waste accepted and disposed based solely on the difference between the tare weight of each vehicle and/or conveyance, and the gross weight of each vehicle and/or conveyance as measured on the landfill scale;
 - 2. General type or types of solid waste accepted and disposed, passed through, or rejected by the facility;
 - 3. Origin(s) of solid waste accepted and disposed;

4. The date and time of delivery; and
 5. The hauler(s) that delivered solid waste to the facility.
- F. SCALE REQUIRED. A solid waste landfill shall weigh all incoming solid waste and shall record the weight in tons on a Department of Commerce approved scale that is installed at the facility or on a Department of Commerce approved scale located at another solid waste facility in the County that is also owned and operated by the licensee. The weights shall be automatically recorded on the scale ticket. For mixed loads, the landfill operator may estimate the percentage of the recorded weight attributable to each waste stream identified in the mixed load. In the event of a mechanical issue that may temporarily render the scale inoperable, the landfill operator shall manually record the weight of each load delivered to the landfill. In such event, the landfill operator shall provide a report to the Department identifying the time period during which the scale was inoperable and the reason the scale was inoperable. The report shall be provided with the solid waste landfill's monthly fee reports.

8.5 OPERATING PROCEDURES

Any person who has been granted a license by the County Board to operate a solid waste landfill shall operate said landfill in conformance with Minn. Rules Chapter 7035, as amended, and comply with the following operating regulations.

- A. MINIMUM SEPARATION DISTANCE. All solid waste landfills shall be required to maintain a minimum of a 200-foot separation between the boundaries of the portion of the property used for the deposit of solid waste and the property line of the property described in the application. Access roads, replacement wetlands, storm water run-off ponds, monitoring wells, berming, screening activities, and potential future correction action may be located and occur within the buffer zone upon approval by the Department. The buffer zone shall not include public rights-of-way.
- B. OPEN BURNING. Open burning of solid waste is prohibited. No scavenging shall be allowed.
- C. MINIMIZING LEACHATE. Solid waste shall be deposited in such a manner (utilizing sound engineering and design methods) to minimize or prevent leachate production and movement that may cause surface and/or ground water contamination.

- D. UNLOADING AREA. Unloading of solid waste shall be confined to as small an area as practical and surrounded with appropriate structures to contain possible wind-blown material within the area.
- E. LITTER CONTROL. Solid waste landfills shall incorporate the use of litter control devices such as fencing for effective litter control. Upon conclusion of each day of operation, all litter and wind-blown debris resulting from the operation that departs the waste disposal boundary shall be collected and returned to the landfill working face and covered by the owner or operator. In addition, upon conclusion of each week of operation, all wind-blown material resulting from the operation shall be collected and returned to the landfill working face and covered by the owner or operator.
- F. COMPACTION. Solid waste shall be compacted as densely as practicable.
- G. SURFACE WATER DRAINAGE. Surface water drainage shall be diverted around the landfill operating area with due consideration given to the effects of any changes to watershed areas that may occur because of such diversion. Storm-water runoff shall be retained on site in holding ponds approved as part of the licensee's engineering plan. The top surface of the disposal site shall be appropriately graded to reduce rutting and shall be sloped for proper drainage. An adequate supply of granular material or crushed stone shall be stockpiled to ensure access to the disposal area in event of unstable conditions.
- H. WASTE TIRE PROHIBITION. The land disposal of waste tires is prohibited in any solid waste landfill.
- I. VECTOR, NUISANCE CONTROL. Control of vectors (such as rodents and flies), odors, dust, wind-blown material, and other potential public nuisances shall be sufficient to prevent or eliminate any public nuisance. The Department may require that the licensee, at its own expense, engage an exterminator or pest control agent to inspect the landfill on at least a monthly basis. A copy of each inspection report shall be sent to the Department immediately upon its receipt by the licensee.
- J. ATTENDANT ON DUTY. An attendant shall always be on duty at the site while it is open for public use. Unloading of solid waste shall be continuously supervised at the working face of the solid waste landfill.
- K. ACCEPTANCE OF SOLID WASTE FROM LICENSED HAULERS. A solid waste landfill licensed by the County Board shall immediately notify the Department if that facility has accepted any solid waste from a solid waste collection and transportation vehicle that is not licensed pursuant to this Ordinance, unless the vehicle, pursuant to this Ordinance, is not required to be licensed.

- L. LIFT HEIGHT. The height of any single lift of solid waste shall be dependent on the method of operation but shall not exceed twenty (20) feet.
- M. TEMPORARY COVER FOR CLOSED AREAS. Within one month after final elevation of the landfill site is achieved, for final termination of a site, or any continuous, unbroken area of two acres or greater of a continuing operation is brought to final elevation, the area shall be covered with two feet of approved, compacted material, properly and adequately sloped to provide surface water runoff. A temporary cover other than what is required by this Section 8.5(M) may be used provided that the proposed temporary cover is first approved by the both the Department and the MPCA. No holes or depressions that might result in collection of surface water shall remain or exist after such covering. Final closure shall proceed according to the facility closure plan.
- N. VEGETATIVE COVER. The finished surface of the filled area shall be covered with adequate topsoil and seeded with native grasses or other suitable vegetation immediately, or in the spring on areas terminated during winter conditions. If necessary, seeded slopes shall be covered with straw or mulching material to prevent erosion.
- O. WATER MONITORING SYSTEM. Solid waste landfills shall design, install, and maintain a water monitoring system that complies with Minn. Rule Chapter 7035, as amended. The applicant shall install monitoring wells at the facility in locations based on the groundwater flow direction established in the hydrogeologic investigation. Down-gradient wells should be placed within the property boundary. Wells shall generally not be more than 200 feet from the edge of the waste fill area, unless necessary to adequately characterize the facility, provide for sufficient monitoring, and/or provide for remedial activities. Monitoring wells shall be horizontally and vertically located based on site-specific conditions. Monitoring parameters shall include a parameter list based on typical groundwater analyte lists, and/or parameters that are more specific to the waste type(s). Additional testing shall be required if the Department reasonably determines a need for additional wells or probes to be tested, additional parameters to be analyzed or increased frequency of tests based upon indications of the presence of contaminants in previous tests or migration of contaminants.
- P. REPORT AND DATA EVALUATION. The purpose of this Section 8.5(P) is to set forth requirements for the evaluation and reporting groundwater monitoring data that is acquired as part of the State-required ground water monitoring. The requirements contained herein are intended to supplement, but not replace, the State-required reporting. The reporting required under this ordinance will hereinafter be referred to as the "County-required report."
1. Frequency. The County-required report will be submitted an annual basis compliant with the State-required report deadlines. The county-required report will be

submitted to the County under separate cover coincident with a copy of the MPCA required report.

2. Statistical Evaluation. The data for the applicable reporting year, in the context of the available historic site groundwater monitoring data, will be statistically evaluated in general accordance with the methods and procedures contained with the “Statistical Analysis of Groundwater Monitoring Data at RCRA Facilities – Unified Guidance” as published by the United States Environmental Protection Agency in March 2009, as amended. The statistical evaluation must include, but not necessarily be limited to, inter- and/or –intra-well analysis as appropriate to the distribution of the data and hydrodynamic configuration of the site, graphical presentation of monitoring data, and trend analysis.
3. Geochemical Evaluation. The geochemical condition of the groundwater will be evaluated on an annual basis coincident with the statistical evaluation. The geochemical evaluation must include a determination of the redox state of the groundwater with emphasis on the presence or absence of trends toward an increased oxidative or reduced geochemical environment. The geochemical evaluation must include a discussion of any geochemical trends and the intensity of the redox environment relative to indications of landfill-related groundwater impacts.
4. Reporting Plan. Prior to the performance of the first groundwater monitoring data evaluation under this ordinance a Reporting Plan must be submitted to the county not later than six months prior to the reporting deadline. The County will review the plan and provide either approval of the plan or provide comments within 60 days of submission of the plan. Approval of the Plan by the County is required prior to the performance of the data evaluation and reporting. The County may, at its sole discretion, require periodic modifications to the Reporting Plan.

The reporting plan must include a full description of the statistical procedures and methods to be utilized along with the rationale for their selection. Items required to be considered include, but are not necessarily limited to:

- a. Hydrodynamic site configuration for the selection of compliance (downgradient) and background (upgradient) wells;
- b. Temporal and spatial volume and coverage of compliance and background datasets;
- c. Normal, non-normal or log-normal distribution of data and residuals;

- d. Presence of non-detect results in the datasets and statistical treatment of these values;
 - e. Identification and rationale for retention and/or elimination of data outliers;
 - f. Selection and rationale for use of inter- or intra-well methods;
 - g. Procedure for identification and confirmation of Statistically Significant Increases;
 - h. Proposed procedure for reacting to Statistically Significant Increases.
- Q. DOWN-GRADIENT RESIDENTIAL WELL MONITORING. The Department may require the licensee to conduct down-gradient residential well monitoring if a contaminant slug or plume attributable to the solid waste landfill appears to the Department to be migrating or is migrating off-site. Down-gradient residential well monitoring shall be conducted as specified in a monitoring plan to be promptly established by the licensee and approved by the Department. The Department may, at any time, require the licensee to modify the monitoring plan based on information relating to the type of contamination suspected to be migrating, surrounding land uses, soil conditions, well locations and depths and other relevant factors. If any contaminant is detected in a residential well that is attributable to the solid waste landfill at any time, the licensee shall immediately provide bottled water to the residents whose wells are affected until additional testing indicates the residential well is not affected by contaminants from a solid waste landfill. The cost of down-gradient residential well monitoring and bottled water shall be borne by the Licensee.
- R. ADDITIONAL ON-SITE AND/OR OFF-SITE GROUNDWATER INVESTIGATION. If any contaminants in the groundwater at a solid waste landfill exceed an intervention and/or health risk limit, additional on-site and/or off-site groundwater monitoring may be required by the Department if the Department reasonably determines a need for additional wells or probes to be tested, additional parameters to be analyzed or increased frequency of tests based upon indications of the presence of contaminants in previous tests or migration of contaminants. If required by the Department, a work plan for the on-site and/or off-site groundwater investigation shall be prepared and submitted to the Department for Department approval. The work plan shall address whether or not the confirmed exceedence(s) will result in impact to water supply wells, surface water, or receptors in the vicinity of the solid waste landfill.
- S. UNIFORM REPORTING. The licensee shall submit in a timely manner the following reports to the Department as prescribed by the County.

1. Quarterly Operating Report. Each quarter, the licensee shall submit an operating report to the Department on a form prescribed by the Department. Quarterly reports shall be due on the 15th day of April, July, October and January and include the following information for each of the three preceding months:
 - a. Tons of solid waste received as measured on a Department approved scale. Tonnage shall be determined by subtracting the tare weight of vehicles and/or conveyances from the gross weight of the vehicles and/or conveyances as measured on the landfill scale.
 - b. Number of incoming loads accepted at the facility.
 - c. Identification of rejected, recycled and unacceptable waste, the weight or volume and type of rejected, recycled and unacceptable waste, and the destination of rejected, recycled and unacceptable waste.
 - d. Other information as determined by the Department that is required by this Ordinance to be kept by the facility.
2. Annual Report. The landfill operator shall submit to the County a copy of its annual report to the MPCA. At a minimum, the following information shall be included in or submitted with the annual report:
 - a. Yearly totals for tons of solid waste received. Tonnage shall be determined as described in Section 8.5(S)(1)(a) above.
 - b. The landfill capacity in cubic yards utilized during the same period and the landfill capacity in cubic yards remaining at the close of the reporting period in accordance with MPCA permitted capacity.
 - c. A plan describing a reuse/recycling program at the facility to minimize the amount of waste landfilled.
3. Surface and Ground Water Monitoring Report. A surface and ground water monitoring report shall include the certified analytical data for representative samples taken from all established monitoring stations for those physical and chemical parameters required by the Department and the MPCA as well as all other data required by the Department.

4. Methane Monitoring Report. If requested by written notice from the Department, a methane monitoring report shall include all required data from established monitoring stations and methane recovery facilities.
5. Leachate Monitoring Report. If requested by written notice from the Department, a leachate monitoring report shall include all required data from established monitoring stations and leachate collection and treatment facilities.
- T. END USE. At each renewal of County license, the operator/owner shall identify an end use and shall provide evidence of engineering to attain such end use. The use shall be compatible with the uses within any municipality that is adjoining the property or where the property is included in a municipality's annexation plan.

8.6 ADDITIONAL REQUIREMENTS FOR MSW LANDFILLS

At a minimum, the following additional requirements shall be met for a MSW landfill:

- A. STATE RULE ADOPTED. The design, construction, and operation of a MSW land disposal facility shall be in accordance with this Section 8.0, and Minn. Rules Part 7035.2815, as amended, which are hereby adopted by reference as part of this Ordinance.
- B. DAILY COVER. Solid waste shall be covered at the end of each day with at least six inches of soil or other cover material approved by the Department.
- C. INTERMEDIATE COVER. Intermediate cover on all filled surfaces of the facility where no solid waste will be placed within thirty (30) days shall be provided immediately. This cover shall consist of compacted material of sufficient depth, at least twelve (12) inches if soil or similar material is used, to cover the waste completely, and shall be graded, seeded, and maintained to prevent water ponding, erosion, and public nuisance conditions.
- D. PUTRESCIBLE MATERIALS. Putrescible materials that have reached a foul state of decay or decomposition, such as spoiled food and animal carcasses, shall be immediately covered and compacted.
- E. REQUIREMENT TO ACCEPT SOLID WASTE. During the posted hours of operation, the licensee shall accept all solid waste offered for disposal that may legally and reasonably be disposed of at the site.

F. PROHIBITED WASTES.

1. The following shall not be acceptable for deposit in MSW landfills except in amounts normal in household waste:
 - a. Liquids, except for approved recirculation of leachate.
 - b. Any of the following: digested sewage sludges, lime sludges, grit chamber cleanings, bar screenings, and other sludges, unless approved by the Department. Approval would be based on consideration of such factors as chemical composition, free moisture content, and workability.
 - c. In no case will raw sewage, sludge, raw animal manure, or septic tank pumpings be acceptable.
 - d. Hazardous waste as identified by the Department and the MPCA.
 - e. Industrial solid wastes, including sludge and ash, and other potentially hazardous materials or wastes that have not been tested and specifically approved for disposal by the Department pursuant to Section 9.0 of this Ordinance.
 - f. All other materials and wastes or mixtures thereof that may be determined by the Department to not be acceptable.
 - g. Radioactive material that exceeds radiation emission limit standards for solid waste as determined by the Minnesota Department of Health or the MPCA.
2. The following wastes in any amount are prohibited from disposal in a MSW landfill located in the County:
 - a. Tires;
 - b. Lead-acid batteries;
 - c. Major appliances;
 - d. Trees and tree branches;
 - e. Waste oil and used oil filters;

- f. Yard wastes;
 - g. Mercury-containing wastes as listed in Minn. Stat. §115A.932, or as amended; and
 - h. Telephone directories.
- G. FIRE CONTROL. The licensee of a MSW landfill is responsible for adequate fire protection on the site. Firefighting equipment shall always be available on the site, or the licensee shall furnish the Department proof of a firefighting agreement between the licensee and the local fire protection agency to immediately acquire its services when needed.
- H. HOURS OF OPERATION. Receipt and disposal of solid waste by MSW landfills shall be performed between 6:00 A.M. and 8:00 P.M. Daily cover as required by Section 8.6(B) of this Ordinance shall be completed by 12:00 midnight.
- I. WASTE DISPOSAL ON UNLINED AREAS PROHIBITED. No person may place MSW in a portion of any final disposal facility that does not comply with the minimum requirements for design, construction, and operation of a new final disposal facility for the type of solid waste being disposed.
- J. WATER MONITORING. A ground and surface water monitoring system shall be established that complies with this Ordinance and Minn. Rules Part 7035.2815, as amended.

8.7 ADDITIONAL REQUIREMENTS FOR DEMOLITION LANDFILLS

At a minimum, the following additional requirements shall be met for a demolition landfill:

- A. STATE RULE ADOPTED. The design, construction, and operation of a demolition debris land disposal facility shall be in accordance with this Section 8.0, and Minn. Rules Part 7035.2825, as amended, which are hereby adopted by reference as part of this Ordinance.
- B. ACCEPTABLE WASTES. A demolition landfill may only accept demolition waste for disposal. If solid waste other than demolition waste is disposed at a demolition landfill,

the licensee shall be responsible for removal and disposal of such waste at a solid waste facility properly licensed or permitted to receive the waste in question.

- C. ADDITIONAL MATERIALS. Additional materials may be allowed pursuant to an industrial solid waste management plan as approved by the Department pursuant to Section 9.0 of this Ordinance and the MPCA.
- D. LINER SYSTEM REQUIREMENTS. Demolition landfills shall have in place, prior to acceptance of waste, a liner system that complies with the following minimum standards:
1. Liner Requirement. The liner system shall comply with, at a minimum, the standards for Municipal Solid Waste Landfills as set forth in Minn. Rules Part 7035.2815, subp. 7, as amended. A liner other than what is allowed by Minn. Rules Part 7035.2815, subp. 7, or as amended, may be used if the liner offers equivalent or greater protection than liners allowed by Minn. Rules Part 7035.2815, subp. 7, as amended, and that the liner design is approved by the County and the MPCA.
 2. Leachate Detection, Collection, and Treatment. The facility shall include leachate detection, collection, and approved disposal or treatment method. A leachate management plan shall be submitted to and approved by the Department prior to the construction and operation of a demolition landfill.
 3. Leachate Collection Efficiency. The facility shall be designed to have a leachate collection efficiency of at least 98 percent of the precipitation falling on the fill area, using industry-standard modeling. The efficiency calculation shall consider the liner thickness, the liner slope, the saturated hydraulic conductivity of the liner and drainage layer, the drainage layer thickness, the permeability of the drainage layer and liner, the porosity of the drainage layer, the flow distance to collection pipes, and the amount of leachate to be generated and collected based on annual infiltration.
- E. LANDFILL GAS MANAGEMENT SYSTEM. A demolition landfill shall include a Department approved landfill gas management system. A landfill gas management plan shall be submitted to and approved by the Department prior to the construction and operation of a demolition landfill.
- F. WASTE DELIVERIES. All waste materials allowed into the demolition landfill shall be of such condition that upon immediate visual inspection, materials may be identified to determine acceptability, unless otherwise approved by the Department. No

containerized wastes shall be accepted at the demolition landfill. The County shall encourage the licensee's ability to engage in recycling and other waste abatement activities.

- G. RENEWABLE RESOURCES. All demolition landfills shall use best management practices to facilitate reuse of renewable resources.
- H. INTERMEDIATE COVER. Intermediate cover on all filled surfaces of the facility where no solid waste will be placed within thirty (30) days shall be provided immediately. This cover shall consist of compacted material of sufficient depth, at least twelve (12) inches if soil or similar material is used, to cover the waste completely and shall be graded, seeded, and maintained to prevent water ponding, erosion, and public nuisance conditions.
- I. FINAL COVER REQUIREMENTS. Demolition landfills shall install a final cover system that is designed in consideration of the liner and leachate collection system, and to minimize erosion and prevent surface water infiltration. Facilities shall submit to the Department and MPCA for approval, no later than 90 days prior to closure activities, plans and Quality Assurance/Quality Control (QA/QC) Plans for approval that shall demonstrate compliance with this Ordinance section.
- J. WATER MONITORING. A ground and surface water monitoring system shall be established that complies with Minn. Rules Part 7035.2825, as amended.

8.8 ADDITIONAL REQUIREMENTS FOR INDUSTRIAL WASTE LANDFILLS

A solid waste landfill shall be licensed as an industrial waste landfill when applications or reporting submitted to the County identifies that a Disposal Facility has accepted, or proposes to accept, greater than 50% industrial solid waste annually by volume. At a minimum, the following additional requirements shall be met for an industrial waste landfill:

- A. STATE RULE ADOPTED. The design, construction, and operation of an industrial solid waste land disposal facility shall be in accordance with this Section 8.0, and Minn. Rules Parts 7035.1590 through 7035.2500, as amended, which are hereby adopted by reference as part of this Ordinance.
- B. ACCEPTABLE WASTES. Only wastes from approved source(s) and of the approved type(s) shall be disposed of at an industrial waste landfill.

C. UNACCEPTABLE WASTES. The following shall not be accepted for disposal at an industrial waste landfill:

1. Liquids;
2. Raw sewage, sewage sludge that does not meet **PFRP**, septage, or raw animal manure;
3. Hazardous waste;
4. Mixed municipal solid waste, except for those permitted to accept mixed municipal solid waste;
5. Mattresses and furniture that are not considered industrial solid waste;
6. Industrial solid wastes, including sludge and ash and other potentially hazardous materials or wastes that have not been tested and specifically approved for final disposal by the Department pursuant to Section 9.0 of the Ordinance; and
7. All other materials and wastes, or mixtures thereof, that are unacceptable pursuant to a facility's industrial waste management plan.

D. LINER SYSTEM REQUIREMENTS. Industrial waste landfills shall have in place, prior to acceptance of waste, a liner system that complies with the following minimum standards:

1. Liner Requirement. The liner system shall comply with, at a minimum, the standards for Municipal Solid Waste Landfills as set forth in Minn. Rules Part 7035.2815, subp. 7, as amended. A liner other than what is allowed by Minn. Rules Part 7035.2815, subp. 7, or as amended, may be used if the liner offers equivalent or greater protection than liners allowed by Minn. Rules Part 7035.2815, subp. 7, as amended, and that the liner design is approved by the Department and the MPCA.
2. Leachate Detection, Collection, and Treatment. The facility shall include leachate detection, collection, and approved disposal or treatment method. A leachate management plan shall be submitted to and approved by the Department prior to the construction and operation of an industrial waste landfill.
3. Leachate Collection Efficiency. The facility shall be designed to have a leachate collection efficiency of at least 98 percent of the precipitation falling on the fill

area, using industry-standard modeling. The efficiency calculation shall consider the liner thickness, the liner slope, the saturated hydraulic conductivity of the liner and drainage layer, the drainage layer thickness, the permeability of the drainage layer and liner, the porosity of the drainage layer, the flow distance to collection pipes, and the amount of leachate to be generated and collected based on annual infiltration.

- E. LANDFILL GAS MANAGEMENT SYSTEM. An industrial waste landfill shall include a Department approved landfill gas management system. A landfill gas management plan shall be submitted to and approved by the Department prior to the construction and operation of an industrial waste landfill.
- F. COVER MATERIAL. Industrial solid waste shall be compacted as densely as practicable and covered after each day of operation, or as specified by the Department, with a compacted layer of at least six inches of suitable cover material. All previously filled areas shall be maintained with at least six inches of suitable cover material. If disposal areas will be exposed to the elements for a period of 30 days or longer, an intermediate cover totaling at least 12 inches of compacted, suitable cover material shall be provided, seeded and maintained.
- G. FINAL COVER REQUIREMENTS. Industrial waste landfills shall install a final cover system that is designed to minimize erosion and prevent surface water infiltration. Industrial waste landfills shall take into consideration, the liner and leachate collection system, when designing the final cover. Facilities shall submit to the County and MPCA for approval, no later than 90 days prior to closure activities, plans and Quality Assurance/Quality Control (QA/QC) Plans for approval that shall demonstrate compliance with this Ordinance section.

8.9 ADDITIONAL REQUIREMENTS FOR WASTE INCINERATOR ASH LANDFILLS

As a minimum, the following additional requirements shall be met for a waste incinerator ash landfill:

- A. STATE RULE ADOPTED. The design, construction, and operation of a waste incinerator land disposal facility shall be in accordance with this Section 8.0, and Minn. Rules Part 7035.2885, as amended, which are hereby adopted by reference as part of this Ordinance

B. ACCEPTABLE WASTES. Only wastes from the approved source(s) and of the approved type(s) shall be disposed of at a waste incinerator ash landfill.

C. UNACCEPTABLE WASTES. The following shall not be accepted for segregated disposal at a waste incinerator ash landfill:

1. Liquids;
2. Raw sewage, sewage sludge, septage, or raw animal manure;
3. Hazardous waste as identified by the MPCA and the Department;
4. Mixed municipal solid waste;
5. Industrial solid waste, including sludge and ash and other potentially hazardous materials or wastes that have not been tested and specifically approved for final disposal by the MPCA and the Department. The Department may sample and analyze any such materials or wastes at any reasonable time at the expense of the generator or facility to verify acceptance for segregated disposal. Written permission must be obtained from the Department prior to segregated disposal of any applicable waste. Disposal of industrial solid waste shall be in accordance with the requirements of Section 9.0 of this Ordinance; and
6. All other materials and wastes or mixtures thereof that may be determined by the Department to be not acceptable.

D. ADDITIONAL APPLICATION REQUIREMENTS FOR LICENSE.

1. Waste Description. Each waste incinerator ash landfill license application shall include a detailed description of the physical and chemical characteristics of the waste(s) to be disposed of at the proposed facility. As a minimum, this description shall include:
 - a. The process or source that generated the waste(s);
 - b. The amount of waste(s) generated during a specified time-period;
 - c. The chemical composition of the waste(s);

- d. A physical description of the waste(s);
 - e. The percent moisture present in the waste(s) and if free moisture is present; and,
 - f. Other information that the Department may deem necessary.
- 2. Additional Waste Analysis. Based on the information provided in accordance with this section 8.9(D), the Department shall determine whether additional chemical analyses will be required to further define the waste characteristics. If the Department requires additional chemical analyses, the Department shall approve the proposed sampling and testing program.
 - 3. Waste Management Plan. Each waste incinerator ash landfill application shall include a waste management plan that shall, as a minimum, address all actual and planned deviations from facility operational and design requirements, specified in Section 8.0 of this Ordinance, and the reasons for these deviations.
- E. PUBLIC USE RESTRICTIONS. A waste incinerator ash landfill shall not be open for general public use. The use of a waste incinerator ash landfill shall be restricted to the licensee unless otherwise approved by the County Board.

8.10 CLOSURE, CLOSURE PERIOD, AND POST-CLOSURE CARE REQUIREMENTS

- A. APPLICABILITY. The requirements of this section are applicable to the closure of all solid waste landfills located within the County. The Department may require information in addition to that required in this section.
- B. CLOSURE LICENSE. All solid waste landfills licensed pursuant to this Ordinance shall apply for and be issued a closure license upon expiration of the final operational license issued for the facility, or when the solid waste landfill is closed for any reason. The licensee shall submit an application for a closure license, on a form to be provided by the Department, no later than six (6) months prior to expiration of the final operational license issued to the solid waste landfill or when the solid waste landfill will be closed. Applications for a closure license shall be reviewed in the manner provided for operational licenses as set forth in Section 6.2 of this Ordinance. An application for a closure license shall include the closure and post-closure plans required pursuant to

Sections 8.10(C) and 8.10(D), respectively, and shall identify proposed standards for closure and post-closure care. Licensees acknowledge, as a condition of receiving a license under this Ordinance, that timely and proper closure and post-closure care is necessary to protect public health and safety. Accordingly, the failure to timely apply for a closure license as required shall be considered a violation of this Ordinance and the County shall be entitled to exercise any and all remedies available, including, without limitation, drawing on the financial assurance required pursuant to this Ordinance if necessary to develop and implement a closure plan and post-closure care. Such actions shall not relieve the Licensee of its responsibilities and obligations under a license and this Ordinance, including, without limitation, closure and post-closure care and to indemnify and hold the County harmless.

- C. CLOSURE PLAN. As a condition of receiving a closure license under this Ordinance, a licensee shall submit a closure plan as required by this Section 8.10(C). The closure plan may be the same closure plan as required by Minn. Rules Part 7035.2625, subp. 3, as amended. In addition to the closure plan requirements of Minn. Rules Part 7035.2625, subp. 3, the closure plan shall include the following:
1. Detailed Map. A detailed map that includes the location of fill areas, buildings, roads, wells, hydrogeologic information, elevations, scales, and any other features of the site. Documents submitted shall show the nature and location of property lines and waste disposed at the facility and all adjacent property ownership at the time of closure.
 2. Additional Compliance Requirements. The closure plan shall identify compliance with the following:
 - a. All acceptable and, if applicable, unacceptable wastes shall be removed from the property;
 - b. The property shall be left in a clean and nuisance free condition;
 - c. The Licensee shall identify an end use for the solid waste landfill and the property which shall be compatible with all applicable land use restrictions and zoning regulations.
 3. Time Line for Completion. The closure plan shall include a time line for completion of all closure activities, which in any event shall be completed no later than twelve (12)

months following approval of the closure license, unless extended by the Department.

- D. POST-CLOSURE PLAN. As a condition of receiving a closure license under this Ordinance, a licensee shall submit a post-closure plan as required by this Section 8.10(D). The post-closure plan may be the same post-closure plan as required by Minn. Rules Part 7035.2645, as amended. In addition to the post-closure plan requirements of Minn. Rules Part 7035.2645, the licensee shall submit a detailed map that includes the location of fill areas, buildings, roads, wells, hydrogeologic information, elevations, scales, and any other features of the site. Documents submitted shall show the nature and location of property lines and waste disposed at the facility and all adjacent property ownership at the time of closure.
- E. LICENSE TERM AND CONDITIONS. A closure license shall be permanent and the terms and obligations, including standards for post-closure care and including closure and post-closure financial assurance, shall be binding on the licensee and, if a transfer of ownership is approved by the Department, the licensee's assigns.
- F. FINAL INSPECTION. Prior to termination of operations at the site, the MPCA and Department shall be notified in order that site inspection may be conducted prior to removal of any equipment from the property. The final condition of the landfill shall be approved by the Department and the MPCA before such removal may occur.
- G. CERTIFICATION OF CLOSURE. After completion of closure actions as specified in the closure plan, the licensee shall certify to the County Board, for County Board approval, that all required actions under the closure plan have been completed.
- H. FILING OF DISCLOSURE NOTICE. Upon completion of a final inspection of a solid waste landfill that has completed closure, the owner, responsible person, or operator shall file a solid waste disposal disclosure notice that meets the requirements of this Ordinance with the Mower County Recorder on a form approved by the Department. The Department shall approve such notice prior to filing. The notice shall, at a minimum, include the following:
1. The approved closure license and closure and post-closure plans;
 2. The legal description of the solid waste landfill;

3. The type and location of the buried solid waste on site;
 4. The cover material used to cover the solid wastes;
 5. The restrictions, if any, for use of the property; and
 6. A certification by the owner or operator of the solid waste landfill that to the best of the owner or operator's knowledge, the information contained in the solid waste disposal disclosure notice is true and complete.
- I. POST-CLOSURE PERIOD CARE REQUIREMENTS.
1. Post-closure Period Care. Post-closure period care shall continue for at least 30 years after the date of completing closure for MSW landfills, and 20 years for all other solid waste landfills, unless a longer period is determined to be appropriate by the County Board.
 2. Reevaluation of Post-closure Period. During the post-closure period, based on the results of sampling, analysis, and other pertinent information, the County Board may, upon notice to the licensee and hearing, reevaluate and modify the closure license to the extent additional or alternative post-closure care is needed at a facility based on compliance with the requirements of Sections 6.7(G), 8.5, 8.10, and the landfill gas, leachate, and/or ground and surface water monitoring results.
 3. Approved Post-closure Plan. All post-closure period care activities must be conducted in compliance with the approved post-closure plan.

B. Justification.

As demonstrated above in Section IX Statement of Need in this SONAR, the County recognizes the inadequacy of existing landfill controls set forth in its current ORD I-92, and realizes the need to adopt landfill controls that are much more protective of the state's water, land, air, and other natural resources, and the public health.

XI. List of Authors

The following participated in the development of ORD ____ and this SONAR:

The Mower County Solid Waste Study Group:

County Commissioner Jerry Reinartz

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XII. Conclusion

As stated in this SONAR, Minnesota Counties are required by state legislature to adopt and maintain ordinances to provide for the management of solid waste, and therefore are responsible for the proper management of solid waste, which includes regulating solid waste landfills in a manner that is protective of the state's water, land, air, and other natural resources, and the public health. This SONAR demonstrates that ORD I-92 lacks the reasonable and necessary controls to effectively regulate solid waste facilities, and to mitigate against the potential risks and costs associated with landfills located within the County.

This SONAR also demonstrates the need to establish and maintain a system for collecting fees and deposits from landfills located within the County to ensure that no costs and risks associated with hosting a solid waste landfill may be borne directly or indirectly by Mower County residents.

Given the sensitive nature of the County's geology, and the fact that ORD I-92 is sorely lacking in sufficient controls to mitigate against the potential risks and costs associated with landfills located within the County, it is therefore reasonable and prudent to adopt ORD ____.

This SONAR is hereby approved by the Mower County Board of Commissioners on _____, 2017.

Moved by _____, seconded by _____ and adopted.

Craig Oscarson, County Coordinator