



## Olmsted County Code of Ordinances

### Chapter 3550-3599 – Solid Waste Designation Ordinance

Olmsted County MN

Effective September 1, 2016, as Adopted on June 21, 2016

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# OLMSTED COUNTY

## **SOLID WASTE DESIGNATION ORDINANCE**

### SECTION 3550: DECLARATION OF INTENT

An ordinance regulating the transportation and delivery of Solid Waste generated within Olmsted County, Minnesota; defining the geographic area and the types and quantities of

Solid Waste subject to designation; specifying the point or points of delivery of the Solid Waste; requiring that Designated Waste be delivered to Designated Points of Delivery; establishing procedures and principles to be followed by the County in establishing and amending rates and charges at the Designated Point of Delivery; excepting from the ordinance certain materials; and stating additional regulations governing Commercial Haulers, Registered Haulers, and Self-Haulers; and other matters.

The County Board of Olmsted County, Minnesota does ordain:

### SECTION 3551: TITLE AND PURPOSE AND DEFINITIONS

The Title of this Ordinance is the Solid Waste Designation Ordinance.

The purpose of this Ordinance is to assure that Designated Waste is managed within Olmsted County in an environmentally sound manner in order to protect the public health and welfare, and investments in the integrated solid waste management system of Olmsted County made pursuant to State mandates governing Solid Waste management.

The capitalized terms used in this Section shall, for all purposes of the Solid Waste Designation Ordinance, have the meanings specified in Chapters 3500-3549 unless the context clearly otherwise requires.

### SECTION 3552: APPLICATION OF ORDINANCE

This Ordinance shall govern all Persons who generate, transport or dispose of Designated Waste or contract for transportation or disposal of Designated Waste generated within the geographical boundaries of Olmsted County.

### SECTION 3553: DESIGNATION

Except as otherwise provided herein, on and after the Effective Date, all Persons must deliver, or cause to be delivered, all quantities of Designated Waste generated within the geographic boundaries of Olmsted County to the applicable Designated Point of Delivery, as detailed below, and may not be delivered to any other site.

The Designated Points of Delivery are components of Olmsted County's integrated solid waste management system and are as follows, or as set by resolution of the Olmsted County Board:

1. Olmsted Waste-to-Energy Facility  
301 Silver Creek Road NE  
Rochester, Minnesota
2. Olmsted County Kalmar Landfill  
7401 1 9<sup>th</sup> Street NW  
Rochester, Minnesota
3. Olmsted County Recycling Center Plus  
305 Silver Creek Road NE  
Rochester, Minnesota

Commercial Haulers and Registered Haulers must deliver all quantities of Designated Waste to the Olmsted Waste-to-Energy Facility. Self-Haulers may deliver Designated Waste to the Olmsted Waste-to-Energy Facility or the Olmsted County Recycling Center Plus. Designated Waste will be accepted at the Olmsted County Kalmar Landfill only from Persons directed by the County to deliver Designated Waste thereto.

#### SECTION 3554: MATERIALS NOT SUBJECT TO DESIGNATION

a) The Waste Management Act (Act) directs counties to implement landfill abatement programs, according to the waste management hierarchy. The Act identifies Recycling of material as preferred over resource recovery. This Act, in Minn. Stat Sections 115A.83, subds. 2(1) and (4), exempts materials from designation that are separated from solid waste and recovered for reuse in their original form or for use in manufacturing processes; and also Recyclable Materials that are being recycled, and residuals from Recycling if there is at least an 85 percent volume reduction in the Solid Waste processed at the Recycling Center and those residuals are managed as Separate Waste Streams. These exemptions do not apply to materials, including any residuals from processing Solid Waste or Recyclable Materials, that are managed by a management method that is ranked lower on the list of waste management practices Minn. Stat. Section 115A.02(b), than the primary waste management practice that would be used on the waste at the Designated Points of Delivery. For example, a source-separated corrugated cardboard waste stream that goes to a Recycling Center would not be Designated Waste; however, that same material going to a landfill would be Designated Waste. As an additional example, residuals from a Recycling Center that would be landfilled and would be Acceptable Waste at the Facility, would be considered Designated Waste.

Designation will not apply to or include:

1. Materials that are separated by the Generator from Solid Waste and recovered for reuse in their original form or for use in manufacturing processes. For the purposes of this section, "manufacturing processes" do not include the treatment of waste after collection for the purpose of composting.

2. Materials that are processed at a resource recovery facility, other than the Facility, at the capacity in operation at the time that the County's Designation Plan was approved by the Minnesota Pollution Control Agency on June 16, 2011.

a) "Resource Recovery" is defined in Minn. Stat. Section 115A.03, subd. 27 as the reclamation for sale, use, or reuse of materials, substances, energy, or other products contained within or derived from waste.

b) "Resource Recovery Facility" is defined in Minn. Stat. Section 115A.03, subd. 28 as a "waste facility established and used primarily for resource recovery, including related and appurtenant facilities, such as transmission facilities and Transfer Stations primarily serving the resource recovery.

c) The owner of such facility shall provide documentation to the County within 30 days following a written request to do so by the County, substantiating the following: the existence of the facility at the time of Olmsted Designation Plan approval; the amount of materials processed at the time; contracts for delivery to the facility; that the facility remains in operation, and such other information as the County may require and as required in Minn. Stat. Section 1 15A.84, subd. 4.

3. Materials that are separated at a permitted Transfer Station located within the boundaries of Olmsted County for the purpose of Recycling the materials if:

a) The Transfer Station was in operation on January 1, 1991; or

b) The materials were not being separated for Recycling at the County Recycling Center at the time the Transfer Station began separation of the materials.

However, if any separate residual streams exist after separation:

c) And are commingled with other waste streams; or

d) If the separated residuals would be disposed lower on the State solid waste management hierarchy (as described in Minn. Stat. Sec. 115A.02 subd. (b)), they become Designated Waste.

4. Recyclable Materials generated in Olmsted County that are being recycled, and residuals from the recycling if there is at least an 85 percent volume reduction in the Solid Waste processed at the Recycling Center and the residuals are managed as Separate Waste Streams and disposed of higher on the State solid waste management hierarchy

(as described in Minn. Stat. Section 115A.02, subd. (b). However, if the residuals are combined into one or more waste streams or the residuals would be disposed lower on the State solid waste management hierarchy they become Designated Waste.

5. Mixed Municipal Solid Waste that is delivered to Designated Points of Delivery pursuant to Acceptable Waste Delivery Agreements (Agreements) with the County for the term of the Agreements, and any mutually agreed upon renewals of any such Agreements.

6. Acceptable Wastes generated by Mayo Clinic and processed at the Mayo Medical Waste Incinerator as long as that facility operates in accordance with Federal, State, Olmsted County, and municipal or township laws, rules and regulations.

7. Materials which the County determines on a case-by-case basis should be exempt for reasons of public health and safety. An applicant must submit a written application to the County to be considered for an exemption. At its option, the County may convene an informal hearing with the applicant. The County shall set forth its determination on the application in a written decision.

#### **SECTION 3555: SUSPENSION OF DESIGNATION REQUIREMENT**

The County, by resolution of the County Board, may suspend the Designation requirement of Section 3553 at any time. Reasons the County may suspend the Designation requirement include, but are not limited to, the following: natural disaster, or damage to or closure of part or all of the Designated Points of Delivery. If the County suspends the Designation requirement, no Person may deliver any waste to the Designated Points of Delivery unless in accordance with the resolution of the County Board or until such time as the County reinstates the Designation requirement. This provision does not relieve any Person of any obligation to comply with all other applicable federal, state or local laws or ordinances. The County will provide reasonable notice of any suspension and subsequent reinstatement of the Designation requirement to Commercial Haulers, and Persons in the County.

#### **SECTION 3556: RATES AND CHARGES**

The procedures for establishing and amending rates and charges at Designated Points of Delivery will be as specified in Chapters 3500-3549.

#### **SECTION 3559: TITLE TO DESIGNATED WASTE**

Generators, Commercial Haulers, Registered Haulers, and Self-Haulers retain all rights, title (ownership) and responsibilities with respect to all Designated Waste until the Designated Waste is delivered to the Designated Points of Delivery pursuant to this Ordinance, and is deemed by the County to be Acceptable Waste. Once deemed as Acceptable Waste, the County shall obtain all rights, title (ownership) and responsibilities with respect to the Designated Waste. The County shall not obtain all rights, title

(ownership) and responsibilities with respect to Designated Waste where the County rejects Designated Waste as Unacceptable Waste, as provided in Section 3506.07. All Persons delivering Designated Waste will defend, indemnify and hold the County harmless from any and all claims of ownership brought against the County with respect to said Designated Waste which may affect the clear title of the County to said Designated Waste at the time of its acceptance by the County.

Except as otherwise agreed in writing with the County, nothing in this Section shall be construed as the County agreeing to indemnify or hold harmless Generators, Commercial Haulers, Registered Haulers, or Self-Haulers from any claims relating to the actions governed by this Ordinance brought by any party under federal or state law, including but not limited to the Comprehensive Environmental Response, Compensation, and Liability Act; Hazardous Materials Transportation Act; Resource Conservation and Recovery Act; and Minnesota Environmental Response and Liability Act, each as amended

### SECTION 3560: DELIVERY OF DESIGNATED WASTE

All deliveries to the Designated Points of Delivery shall be in accordance with the terms and conditions of the County's Solid Waste Ordinances and in compliance with delivery instructions and procedures as the County may from time to time prescribe.

3560.01 Delivery of Unacceptable Waste Each Person shall use its best efforts to deliver only Acceptable Waste to the Designated Points of Delivery and will comply with the terms and conditions of Olmsted County Ordinances and Facilities policies and procedures.

3560.02 Delivery Conditions All Designated Waste shall be in substantially the same form and consistency as when it came under the control of the Person transporting the waste except that such Designated Waste may be compacted when compaction is desirable for transportation.

### SECTION 3561: DUTY TO ACCEPT DESIGNATED WASTE: FAILURE TO ACCEPT DESIGNATED WASTE

Notwithstanding anything in this Ordinance to the contrary, the Designated Points of Delivery will accept all Designated Waste to the extent required by applicable Minnesota Law. If at any time after the Effective Date the County is temporarily unable to receive all or any part of Designated Waste at the Designated Points of Delivery, the County shall notify Persons via notice at the Designated Points of Delivery. In such event, each Person shall be responsible for the transportation of the Designated Waste to another permitted Solid Waste Management Facility. However, for the duration of the temporary period when the County is unable to accept Designated Waste, the County may direct Designated Waste to an alternate Solid Waste Management Facility or as otherwise required by contract with the County. All costs of such transportation and disposal shall be borne by the Person.

## SECTION 3562: DESIGNATION RECORDS\* INSPECTION

Subs. 1. Definitions. For the purposes of this section:

1. "Origin" at a minimum means the customer name, address from which Designated Waste was collected and general geographical description that names the local governmental unit within Olmsted County from which Designated Waste was collected; and

2. "Type" means a best estimate of the percentage of each truck load that consists of residential, commercial, industrial, construction, or any other general type of waste.

Subs. 2. Records; haulers; facilities. Each Person who hauls Solid Waste including, but not limited to Self-Haulers, Commercial Haulers and Registered Haulers, shall maintain records regarding the volume or weight, type, and origin of Designated Waste collected or transported. Each day, a record of the origin, type, and weight of the waste collected that day and the identity of the waste facility at which that day's collected waste is deposited must be kept on the waste collection vehicle or vehicle used by a Self-Hauler. If the waste is measured by volume at the waste facility at which it is deposited, the record may show the volume rather than the weight of the waste.

The owner or operator of a Solid Waste Management Facility shall maintain records regarding the weight of the waste, or the volume of the waste if the waste is measured by volume; the general type or types of waste; the origin of the waste delivered; the date and time of delivery; and the name of the waste hauler that delivered the waste.

Subs. 3. Inspection. An authorized agent of Olmsted County, anywhere in the State, may:

1. Upon presentation of identification and without a search warrant, inspect or copy the records required to be kept on a waste collection vehicle under subdivision 2, above, and inspect the waste on the vehicle at the time of deposit of the waste at a facility;

2. When reasonable notice under the circumstances has been given, upon presentation of identification and without a search warrant, inspect or copy the records of an owner or operator of a solid waste facility that are required to be maintained under subdivision 2, above;

3. Request, in writing, copies of records of a Commercial Hauler, Registered Hauler or Self-Hauler that indicate the type, origin, and weight or, if applicable, the volume of waste collected, the identity of the facility at which the waste was deposited, and the date of deposit at the facility; and

4. Upon presentation of identification and without a search warrant, inspect or copy that portion of the records of a Commercial Hauler, Registered Hauler or Self-Hauler



necessary to comply with clause (3), above, at the central record-keeping location of the Commercial Hauler, Registered Hauler, or Self-Hauler only if the hauler fails to provide copies of the records within 15 days of receipt of a written request for them, unless the time has been extended by agreement of the parties.

Records or information received, inspected, or copied by the County under this section are classified as nonpublic data as defined in Minn. Stat. Section 13.02, subd. 9, and may be used by the County solely for enforcement of this Designation Ordinance. A Commercial Hauler, Registered Hauler or Self-Hauler, or the owner or operator of a waste facility shall maintain records needed to comply with this section for two years, or as may be required by contract with the County.

### SECTION 3563: VIOLATIONS AND PENALTIES

#### Subs. 1. Criminal Enforcement.

a) Misdemeanor. Any person who fails to comply with the provisions of this Ordinance is guilty of a misdemeanor. A separate offense shall be deemed committed upon each day during or on which a violation occurs or continues.

b) Venue and Prosecution. The Olmsted County Attorney's Office shall have authority to prosecute violations of any provisions of this Ordinance. Such prosecutions shall be venued in Olmsted County District Court.

#### Subs. 2. Civil Enforcement; Venue.

a) Olmsted County may enforce this section by commencing an action in Olmsted County District Court. The court may compel performance in any manner deemed appropriate by the court, including, but not limited to, issuance of an order to show cause, a temporary restraining order, or an injunction for a violation or threatened violation of this Ordinance. In addition, the court may order payment of damages, including interest, or a civil penalty, or both. In an action brought to enforce this section in which the County substantially prevails, the court may order payment by the defendant of the costs of mitigating any damages caused by the violation, and other County costs and disbursements, including reasonable attorney fees.

b) A Person who fails to comply with this Ordinance is subject to penalties including, but not limited to, the following:

1. An order to compel performance or to restrain or enjoin any activity that interferes with the requirements of this Ordinance to keep records in subsection 2, above, or the requirement to allow timely entry and inspection in subsection 3, above;

2. Damages caused by the failure to keep records or by refusal to allow timely entry or inspection;

3. An order to compel performance for delivery of Designated Waste to the Designated Point of Delivery;

4. A civil penalty for failure to comply with the requirements of this Ordinance payable to the County of up to \$10,000 per day for each day of violation; or

5. At the discretion of the County Board, and as permitted by Minnesota law, the costs of compliance which may include but are not limited to unpaid Solid Waste Service Charges and avoided Tipping Fees, may be certified to the County Auditor as a Special Assessment against the real property owned by such Person and at which the corrective action occurred; or

6. Any or all of the above.

The court also has as a remedy, if in accordance with Minnesota law, to place unpaid penalties on the tax rolls for collection.

## SECTION 3564: GENERAL TERMS

3564.01 Each Person's Mandatory Obligations. All obligations to make payments due to the County under the Solid Waste Ordinances shall be absolute and unconditional. No Person shall be entitled to any abatement, diminution, setoff, abrogation, waiver or modification thereof, nor to any termination of this Ordinance regardless of any rights of setoff, recoupment or counterclaim that each Person might otherwise have against the County or any other party or parties and regardless of any contingency, unforeseen circumstance, or event, except upon written approval by the County for good cause shown through submission of a written application and, at the County's option, attendance at an informal meeting. The County shall set forth its determination on the application in a written decision.

3564.02 Severability. It is hereby declared to be the intention of the Board of Commissioners of the County that the provisions of this Ordinance are severable in accordance with the following:

a) If any court of competent jurisdiction shall adjudge any provision of this Ordinance to be invalid, such judgment shall not affect any other provisions of this Ordinance not specifically included in said judgment.

b) If any court of competent jurisdiction shall adjudge invalid the application of any provision of this Ordinance to a particular structure, site, facility or operation, such judgment shall not affect the application of said provision to any other structure, site, facility or operation not specifically included in said judgment.

3564.03 Provisions Are Cumulative. The provisions in this Ordinance are separate, distinct, and cumulative. Any additional limitations heretofore passed, or which may be

passed hereafter, covering any subject matter in this Ordinance, shall not affect any other provisions of this Ordinance not specifically included in said limitations.

3564.04 No Consent. Nothing contained in this Ordinance shall be deemed to be a consent, license, or permit to locate, construct or maintain a Solid Waste Management Facility, or to carry on any activity related to solid waste management.

3564.05 Non-Liability. Neither the County nor any officer or employee thereof shall be held liable for any damage to Persons or property by reason of any investigation, reinvestigation, failure to investigate, inspection, reinspection or failure to inspect, or by reason of the approval or disapproval of equipment or the granting, not granting, suspending or revoking of any license, nor for any action in connection with the inspection or control of Designated Waste or in connection with any other official duties.

3564.06 Effective Date. The provisions of this revised Ordinance shall be in full force and effect after publication, and shall be enforceable on and after September 1, 2016. Amendments hereto shall become effective as specified in the amending ordinance.

Dated this 21<sup>st</sup> day of June, 2016.

OLMSTED COUNTY BOARD OF COMMISSIONERS



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By: Stephanie Podülke, Chairperson

ATTEST:



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Richard G. Devlin. Clerk-Administrator