

GENESEE COUNTY SOLID WASTE ORDINANCE

The Genesee County Board of Commissioners, pursuant to authority granted by MCL 46.11(j) hereby adopts the following ordinance:

ARTICLE I TITLE, PURPOSE, ADMINISTRATION, AUTHORITY AND JURISDICTION

Section 1.01 - Title

This Ordinance shall be known as the Genesee County Solid Waste Ordinance.

Section 1.02 - Purpose

The purpose of this Ordinance is to implement the Genesee County Solid Waste Management Plan, as amended, and as adopted pursuant to Part 115 of 451 P.A. 1994, to protect and promote the public health, safety and welfare of the inhabitants of Genesee County by regulating the collection, transportation, delivery, and disposal of solid waste; to establish conditions for issuing waste hauler permits; to provide residents and businesses an incentive to recycle, thereby reducing the volume of solid waste; to preserve and improve the environment; to provide penalties for violations of the Ordinance; and to establish a county surcharge on solid waste collected in Genesee County, transported through a transfer facility in Genesee County, or disposed of in Genesee County, the funds collected by this Ordinance to be used to support the administration and solid waste planning and implementation programs described in the Genesee County Solid Waste Management Plan, as amended.

Section 1.03 - Authority

This Ordinance is enacted pursuant to Section 11(j) of Michigan Public Act 156 of 1851, being Michigan Compiled Law 46.11(j); Act 451 of 1994, Part 115, being Michigan Compiled Law 324.11501 et seq., and the Genesee County Solid Waste Management Plan, as amended.

Section 1.04 - Jurisdiction

The jurisdiction of this Ordinance shall be countywide, including all cities, villages and townships in Genesee County.

Section 1.05 - Administration

The Genesee County Metropolitan Planning Commission shall be the agency responsible for administering and enforcing this Ordinance.

ARTICLE II DEFINITIONS

Section 2.01 - Definitions

For purposes of this Ordinance, the words and phrases listed below shall have the following meanings.

1. "Part 115" means the Part 115 of the Natural Resources and Environmental Protection Act, Act 451 of the Public Acts of Michigan 1994, as amended, being Michigan Compiled Law 324.11501 et seq.
2. "Administrator" means the Genesee County Metropolitan Planning Commission.
3. "Board" means the Genesee County Board of Commissioners.
4. "County" means the County of Genesee, Michigan, acting by and through the Genesee County Board of Commissioners.
5. "Demolition and Construction Debris" means a type of solid waste consisting of non-hazardous waste building materials and rubble resulting from construction, remodeling, repair, and demolition of houses, commercial buildings, and other structures. Construction and demolition debris includes trees, stumps, and brush removed from property during construction, maintenance, or repair. Construction and demolition waste does not include any of the following, which is defined under this Ordinance as solid waste even if it results from construction, remodeling, repair, and demolition of structures which includes: (a) garbage, (b) furniture, (c) solid waste resulting from a processing technique that render individual waste components unrecognizable, such as pulverizing or shredding. It also does not include any of the following which may require special disposal considerations: (a) asbestos waste, (b) drums and containers, (c) fuel tanks, (d) corrugated container board, and (e) appliances.
6. "Garbage" for all purposes of this Ordinance, shall have the same meaning as Solid Waste.
7. "Landfill" means a disposal area for solid waste which has been issued a permit and is regulated by the Michigan Department of Environmental Quality (MDEQ), pursuant to Part 115 of the Natural Resources and Environmental Protection Act, being Michigan Compiled Law 324.11501 et seq. and which is included in the Plan.
8. "Person" means any individual, firm, public or private corporation, partnership, trust, public or private agency, or any other entity, or any group of such persons.
9. "Plan" means the Genesee County Solid Waste Management Plan, as amended.
10. "Premises" means a parcel of land, including any building or structures, within Genesee County used for residential, commercial, industrial, or institutional purposes either separately or in combination to which a separate street address, postal address or box, tax roll description, or other similar identification has been assigned to or is in use by a person having control of the area.
11. "Refuse" for all purposes of the Ordinance, shall have the same meaning as Solid Waste.
12. "Residential and Commercial Recyclable Material" means newspaper, glass bottles or jars, tin or steel cans, cardboard boxes, and high density polyethylene (HDPE) plastic containers.
13. "Solid Waste" means all miscellaneous, non-hazardous waste materials and matter resulting from household or living conditions, business operations and enterprises, general routine property use and maintenance, and physical construction and installations related to general routine property use including garbage, rubbish, waste materials from industrial and/or commercial business

operations, and waste materials from the construction or repair of buildings and structures. It also includes animal waste and all rejected food wastes.

14. "Special Refuse" means furniture, household appliances, brush, large tree limbs, and other bulky refuse items, with the exception of construction and demolition debris.
15. "Transfer Station" means a tract of land, a building and any appurtenances, or a container, or any combination of land, buildings, or containers that is used or intended for use in the rehandling or storage of solid waste incidental to the transportation of the solid waste, but is not located at the site of generation or the site of disposal of the solid waste, which has been issued a permit and is regulated by the Michigan Department of Environmental Quality (MDEQ), pursuant to Part 115 of the Natural Resources and Environmental Protection Act, being Michigan Compiled Law 324.11501 et seq. and which is included in the Plan.
16. "Waste Hauler" means any person primarily engaged in the business of collection, transportation, delivery, or disposal of solid waste within the County.

ARTICLE III PERMIT REQUIREMENT FOR WASTE HAULERS

Section 3.01 - Waste Hauler Permit

Subject to the penalties in Section 6.03, no waste hauler shall engage in the business of collecting, transporting, delivering or disposing of solid waste generated by another person in Genesee County, without regard to the origin or disposal site of the waste, without first obtaining a waste hauler's permit.

Section 3.02 - Permit Application

Any person falling under Section 3.01 shall make written application to the Administrator on forms provided by or prescribed by the Administrator. The application shall require such information as will enable the Administrator to determine whether the applicant, if issued a permit, will serve the public in compliance with requirements of the Ordinance.

Section 3.03 - Permit Fee

Annual waste hauler application or renewal licensing fees must be paid by the applicant upon submittal of a permit application to the Administrator.

Waste Hauler Permit Fee: At the time of the application for a waste hauler permit, a non-refundable permit fee of \$20.00 for each vehicle to be used within Genesee County shall be paid to the Administrator.

The fee schedule shall continue in full force and effect until amended by the Board. The Board may, by resolution, decrease or increase any fee.

Provided: A waste hauler, transfer station operator or landfill operator may negotiate a contract with the County to waive or reduce permit fees, or to establish other terms or conditions relating to implementation of the Plan. The terms of such contract will control over the provisions of this section.

Section 3.04 - Approval or Denial of Permit

Upon receipt of a complete application and upon payment of the permit fee, the Administrator shall grant or deny the permit within forty-five (45) days of receipt by the Administrator.

The Administrator may deny the issuance of the permit for any of the following reasons:

1. Failure of the applicant to comply with this Ordinance.
2. Violations of this Ordinance or any other applicable federal, state, county, and local laws, statutes, rules and regulations, including but not limited to those pertaining to the collection, transporting, delivering, or its disposing of solid waste generated within Genesee County.
3. Prior criminal convictions (other than minor traffic offenses), when such bear on the ability of the applicant to serve the public as a waste hauler in a fair, honest, safe, and lawful manner, or any conviction in connection with solid waste collection, processing, and disposal activities in the last three (3) years by the applicant, its subsidiaries, or its parent company; or prior waste hauler permit revocation(s) by the applicant, its subsidiaries, or its parent company.
4. Misrepresentations of any material fact in the application for the permit.

If the waste hauler permit is denied, the Administrator shall not refund the application permit fee. Any waste hauler whose permit or conditional permit is denied has the right to an appeal hearing before the Waste Haulers Permit Board of Review.

Section 3.05 - Permit Expiration and Renewal

A permit issued under Section 3.04 shall be valid **until the remaining of the fiscal year in which the permits were issued accept in instances where the permits are renewed for the following fiscal year.** Permits shall be renewed annually following the same procedures set forth in Section 3.03.

Section 3.06 - Non-Transferability of Permits

No permit shall be transferable, unless approval is granted by the Administrator.

Section 3.07 - Exemptions

1. Persons who, upon request, can verify that they are performing one-time services for neighbors, family or friends, or individuals hauling materials from their own home are exempt from the requirements of this section. The Administrator may require appropriate proof that the solid waste was legally disposed of before an exemption is granted.
2. Publicly owned wastewater treatment plants operating within Genesee County that landfill sludge from their facilities are exempt from the requirements of this section.

ARTICLE IV CONDITIONS OF WASTE HAULER PERMIT

Section 4.01 - General Permit Conditions

It shall be a condition of each waste hauler permit that the waste hauler shall comply with all the following:

1. All provisions of this Ordinance, and the Rules adopted under the authority of this Ordinance.

2. All applicable federal, state, county, and local laws, statutes, rules and regulations, including but not limited to those pertaining to the collecting, transporting, delivering, or disposing of solid waste generated within Genesee County
3. All applicable provisions of the Plan, as required under Part 115, and any agreements regarding inter-county transport of solid waste authorized or restricted through the Plan.

Section 4.02 - Specific Permit Conditions

As a condition of a waste hauler permit issued pursuant to this Ordinance, the permit holder shall agree to:

1. File with the Administrator **a permit application including** each of the following:
 - a) A description of the number and types of equipment the applicant will use the types of collection services to be provided, and the geographic areas served by the permit holder for handling solid waste within the County.
 - b) Provide proof of minimum liability insurance as follows:

Commercial General Liability (including contractual liability, Independent contractors' coverage, and broad form general liability extensions)

Personal/Bodily Injury: \$1,000,000 each person
 \$1,000,000 each accident

Property Damage: \$1,000,000 each accident
 \$1,000,000 each aggregate

Motor Vehicle Liability (including hired cars and auto non-ownership)

Bodily Injury: \$1,000,000 each person
 \$1,000,000 each occurrence

Property Damage: \$1,000,000 each accident
 \$1,000,000 each aggregate

Further, the insurance policy shall include an endorsement stating that it is understood and agreed by the permit holder and its insurance company that thirty (30) days advance written notice of cancellation, non-renewal, reduction, and/or material change shall be sent to the Administrator.

2. **File quarterly reports** with the Administrator by the fifteenth day of January, April, July and **October** of each year containing the operations information from the previous full three month period. This information shall include the quantities (in cubic yards loose or compact) of solid waste, including demolition and construction debris, and special refuse collected by the permit holder within the jurisdiction of this Ordinance. It shall also include either the names or addresses, or the number of accounts for all Genesee County commercial and residential accounts. The report shall also indicate where the waste was landfilled. Waste haulers shall retain billing and dumping receipts for a minimum of one year. The report shall also indicate the amounts (cubic yards or tonnage) of recyclables collected by the waste hauler.
3. Notify the Administrator in writing thirty (30) days prior to any substantive change in the information filed under Subsection (a) above.

ARTICLE V COUNTY SURCHARGE

Section 5.01 - County Surcharge

The county surcharge will be \$0.12 per cubic yard of solid waste collected in Genesee County, passed through a transfer station located in Genesee County or landfilled in Genesee County. PROVIDED, that any waste hauler, transfer station operator or landfill operator who has entered an agreement with the County which provides for alternate methods of payment of the surcharge, and which contract is in force, shall be exempt from the requirements of this Article. In instances of quarterly payments owed to the County totaling less than \$1.00, the amount owed will rollover to the following quarter until a \$1.00 threshold is reached. In instances where the total annual amount owed is less than \$1.00 the surcharge will be waived. Payments must be submitted with the quarterly report within 15 days following the end of the quarter.

Section 5.02 - Collection of County Surcharge by Landfill Operator

The county surcharge for waste which is disposed of in a licensed Genesee County landfill shall be collected by the landfill operator. A landfill operator shall pay to the Administrator the county surcharge on a quarterly basis. The payment shall be due within thirty days after each quarter of a calendar year has ended. A landfill operator shall maintain records of the collection of the county surcharge for a period of 5 years. Records pertaining to the volume of waste accepted by a landfill shall be made available for review by the Administrator.

Section 5.03 - Collection of County Surcharge by Transfer Station Operator

The county surcharge for waste which is disposed of outside Genesee County and which passes through a transfer station shall be collected by a transfer station operator. A transfer station operator shall pay to the Administrator the county surcharge on a quarterly basis. The payment shall be due within thirty days after each quarter of a calendar year has ended. A transfer station operator shall maintain records of the collection of the county surcharge for a period of five (5) years. Records pertaining to the volume of waste passing through a transfer station shall be made available for review by the Administrator.

Section 5.04 - Collection of County Surcharge by Waste Hauler

The county surcharge for waste generated in Genesee County which is disposed of outside Genesee County and which does not pass through a transfer station shall be collected by the waste hauler. A waste hauler shall pay to the Administrator the county surcharge on a quarterly basis. The payment shall be due within thirty days after each quarter of a calendar year has ended. A waste hauler shall maintain records of the collection of the county surcharge for a period of 5 years. Records pertaining to the volume of waste handled by a waste hauler shall be made available for review by the Administrator.

Section 5.05 - Independent Audit by Administrator

The Administrator shall have the right, at its own cost, from time to time at reasonable times, to hire an independent auditor to cause an audit to be made of landfill, transfer station and waste haulers' records for the purpose of verifying the accuracy of county surcharge payments made by the landfill, transfer station or waste hauler. The Administrator, through the independent audit, shall not record or abstract any information concerning landfill, transfer station or waste haulers' operations not necessary for that determination. Any overpayment or underpayment discovered as the result of such audit shall be refunded to the landfill, transfer station or waste hauler, in the case of overpayment; or paid to the Administrator, in the case of underpayment, within thirty (30) days of completion of the audit.

ARTICLE VI ENFORCEMENT

Section 6.01 - Enforcement

The Administrator shall enforce the provisions of the Ordinance.

Section 6.02 - Penalties

A person violating the provisions of this Ordinance shall be guilty of a misdemeanor punishable by a fine of up to \$500.00, or imprisonment not to exceed ninety days, or both. Each day a violation exists shall be considered a separate violation.

Section 6.03 - Limitation, Suspension or Revocation of Waste Hauler Permit

The Administrator shall have the right to limit or suspend a waste hauler's permit for violations of this Ordinance. Waste hauler permits may be revoked when a serious violation of this Ordinance are identified on a repeated basis. A waste hauler permit may be suspended or revoked as follows:

1. In the case of a first and single violation of this Ordinance, the waste hauler permit holder will be given notification, in writing, of provisions for permit suspension or revocation in the event of additional or further violations; and
2. In the case of two (2) violations within a single year, the permit may be suspended for thirty (30) days; and
3. In the case of three (3) violations within a single year, the permit may be suspended for ninety (90) days; and
4. In the case of four (4) violations within a single year, the permit may be revoked...

Except as otherwise herein provided, notice of a decision to deny, limit, suspend or revoke a waste hauler permit must be personally served on, or sent by first class mail to the last known address of, the permit holder or applicant for a permit.

The notice must state the reasons for the decision to deny, limit, suspend or revoke a permit. The statement of reasons shall include a citation to a specific violation of this Ordinance.

The notice must also advise the permit holder or applicant for permit of the right to seek review by the Waste Haulers' Permit Board of Review of the Administrator's decision and of the procedures for obtaining such review.

Following service of the notice as provided above and, except as otherwise herein provided, an aggrieved permit holder or applicant for permit shall have ten (10) business days in which to file a Petition for Review of the Decision.

Failure by the permit holder or applicant for permit to timely file a petition for review shall cause the decision to become a Final Order of Immediate Effect.

Section 6.04 - Establishment of Waste Haulers' Permit Board of Review

The Board of Commissioners shall appoint not less than three individuals to comprise a Waste Haulers' Permit Board of Review. The procedures which follow apply to persons who seek administrative review of a decision to deny, limit, suspend or revoke a waste hauler permit.

A quorum of the Waste Haulers' Permit Board of Review shall consist of one more than one-half the membership, one of whom is also a member of the Board of Commissioners.

A decision of the Waste Haulers' Permit Board of Review requires a vote of a majority of the quorum.

Section 6.05 - Waste Haulers' Permit Board of Review Procedures

Except as otherwise herein provided, hearings shall be scheduled not more than fourteen (14) days following the day on which a petition for review is filed. Notice of the date, time, and place of the hearing shall be personally served on, or sent by first class mail to, the permit holder or applicant for permit.

An aggrieved permit holder or applicant for permit shall not discuss details of the case with any member of the Waste Haulers' Permit Board of Review prior to the hearing or shall not attempt to influence Board of Review members in any way preparatory to release of a Final Order.

Section 6.06 - Conduct of Waste Haulers' Permit Board of Review Hearing

The conduct of a hearing before the Waste Haulers' Permit Board of Review shall conform as nearly as practicable to the Procedures in Contested Cases, Chapter 4, of the "Administrative Procedures Act," being Act 306, P.A. 1969, as amended [MCL 24.271 et seq].

The presiding officer shall perform the typical duties of a presiding officer in a contested case including, but not limited to, administering oaths and affirmations and ruling on objections, motions and the admissibility of evidence.

The parties (i.e., the Administrator and the aggrieved applicant or permit holder) to a contested case before the Waste Haulers' Permit Board of Review shall, among other things, have the right to direct and cross-examine witnesses, submit documentary evidence, redirect or recross-examine witnesses and submit rebuttal evidence.

Section 6.07 - Final Order

A Final Order issued following a hearing shall be supported by and made in accordance with competent, material and substantial evidence in accordance with Act 306, P.A. 1969, as amended [MCL 24.285 et seq]. The order may take the form of a decision to affirm, modify, or rescind the original decision. The Final Order may be issued before the Board of Review adjourns or within fifteen (15) calendar days following the hearing.

ARTICLE VII RULES

Section 7.01 - Adoption of Rules

The County Board of Commissioners may adopt Rules to carry out the provisions of this Ordinance including those pertaining to the establishment, administration, and enforcement of waste hauler licensing requirements and service specifications.

The Rules may be amended from time to time by the County Board of Commissioners.

ARTICLE VIII MISCELLANEOUS

Section 8.01 - Severability

Sections of the Ordinance shall be deemed severable and should any section, clause, or provision of this Ordinance be declared invalid, it shall not affect the validity of the Ordinance as a whole or any part thereof other than the part so declared to be invalid.

Section 8.02 - Effective Date

This Ordinance shall become effective immediately upon publication in a newspaper of general circulation in Genesee County.

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