ORDINANCE REGULATING THE
ENVIRONMENTAL SERVICE FEE

ORDINANCE NO. 188

For Stearns County

Effective Date: April 24, 1997
As Amended on August 5, 1997 by Ordinance No. 190
As Amended on August 6, 2002 by Ordinance No. 263
As Amended on February 17, 2009 by Ordinance No. 418
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As Amended by Ordinances 190, 263 & 418
ORDINANCE ESTABLISHING AN ENVIRONMENTAL SERVICE FEE IN STEARNS COUNTY

ORDINANCE NO. 188

THE COUNTY BOARD OF STEARNS COUNTY ORDAINS:

SECTION 1.00  PURPOSE

1.01  Purpose. The purpose of this ordinance is to establish an environmental service fee to fund environmental programs which protect the health and welfare of Stearns County citizens pursuant to State mandates governing solid waste management. The ordinance includes: the establishment of environmental service fees for the County of Stearns, procedures for setting and modifying the amounts of the environmental service fees, payment and collection methods and establishment of an appeals process for generators of solid waste.

1.02  Authority. This ordinance is adopted pursuant to Minnesota Statutes, Section 375.51 and Minnesota Statutes, Section 400.08, or successor statutes.

1.03  Jurisdiction. This Ordinance shall apply to all areas in Stearns County, Minnesota.

SECTION 2.00  DEFINITIONS

2.01  Definitions. For the purpose of this ordinance, the terms defined in this section shall have the meanings given them, unless the context clearly indicates otherwise.

A. "County" is Stearns County, Minnesota.

B. "County Assessor" is the person appointed to the office of the County Assessor for Stearns County.

C. "County Auditor-Treasurer" is the person elected or appointed to the office of the County Auditor-Treasurer for Stearns County.

D. "County Board" is the Stearns County Board of Commissioners.

E. "County Environmental Services Director" is the person appointed to the office of Environmental Services Director for Stearns County.

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F. "Dwelling Unit" is a single unit of housing, whether freestanding or within a building containing other dwelling units, providing independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

G. "Environmental Service Fees" are the charges established by the Stearns County Board, payable by persons who own improved real and personal property in Stearns County for solid waste management services available to the property.

H. "Generate" is the act or process of producing solid waste.

I. "Generator" is any person who generates mixed municipal solid waste in Stearns County and pays for mixed municipal solid waste collection and disposal services, or any person who pays for mixed municipal solid waste collection and disposal services of behalf of a person who generates mixed municipal solid waste in Stearns County, and includes residential generators and nonresidential generators.

J. "Hauler" is a person engaged in the business of collecting, transporting, transferring or disposing of mixed municipal solid waste generated in Stearns County.

K. "Licensee" is the person who has been given authority by the County Board to collect, transport, transfer and dispose of mixed municipal solid waste generated in Stearns County. Licensee also includes registered self-haulers who dispose of mixed municipal solid waste in excess of five (5) tons in any given month.

L. "Mixed Municipal Solid Waste" is garbage, refuse and other solid waste from residential, commercial, industrial and community activities that the generator of the waste aggregates for collection, but does not include auto hulks, street sweepings, ash, construction debris, mining waste, sludges, tree and agricultural waste, tires, lead acid batteries, used oil, recyclable and other materials collected, processed and disposed of as separate waste streams.

M. "Non-Residential Generator" is a generator who does not qualify as a residential generator and who may generate waste from non-residential properties such as commercial, industrial, nursing home, service station, utility, government, railroad, non-profit, hospital or other tax exempt property.

N. "Non-Residential Property" is all improved real property in Stearns County containing improvements other than a dwelling unit and classified by the County Assessor as commercial, industrial, nursing home, service station, utility, railroad or tax exempt property.
O. "Ordinance" is Stearns County Ordinance 181, Environmental Service Fee Ordinance, as may be amended from time to time.

P. "Person" includes, but is not limited to: an individual, business, public or private corporation, partnership, joint venture, association, trust, unincorporated association, government or agency or political subdivision thereof, any other legal entity, and any receiver, trustee, assignee, agent, or other legal representative of any of the foregoing.

Q. "Residential Generator" is a generator who pays for mixed municipal solid waste collection and disposal services for a residential building including, but not limited to, a single family home, a duplex, a triplex, a four-plex, and apartment building, a mobile home, a condominium, a townhouse, a cooperative housing unit, or a residential building on a perma-lease.

R. "Residential Property" is all improved real property in Stearns County that contains one or more dwelling units, mobile homes or agricultural residences.

S. "Seasonal Recreational Property" is non-homestead property used seasonally, recreationally and/or residentially and may include unlicensed travel trailers, cabins, mobile homes and other dwelling structures.

T. "Self-Hauler" is a generator disposing of their own mixed municipal solid waste.

U. "Solid Waste Management Services" includes all activities provided by Stearns County or by persons under contract with the County which support the County's solid waste management programs and responsibilities, described in Minnesota Statutes, Section 115.01A et seq. and Minnesota Statutes, Section 400.08, or successor statutes, including, but not limited to recycling and waste reduction services, collection, processing and disposal of solid waste, closure and postclosure care of a solid waste facility, and response to releases from a solid waste facility or closed solid waste facility.

V. "Tri-County Solid Waste Management Commission" is the commission formed by joint powers agreement between Stearns, Sherburne and Benton Counties for the purpose of facilitating the management of solid waste across county boundaries.

SECTION 3.00 GENERAL PROVISIONS

3.01 Administration. This ordinance shall be administered by the County Environmental Services Department with the assistance of the County Assessor and County Auditor-Treasurer.
3.02 Compliance. No person shall collect, transport, transfer or dispose of mixed municipal solid waste generated in the County except in full compliance with the provisions herein. This ordinance shall not prevent the legal transportation of mixed municipal solid waste by a hauler through the County.

3.03 Environmental Service Fee. An environmental service fee shall be imposed for solid waste management services. The generators shall pay the environmental service fee imposed in the manner set forth by the County Board. The environmental service fee for residential and nonresidential generators shall be established by resolution of the County Board.

SECTION 4.00 SERVICE AREA

4.01 Establishment of an Official Service Area. For purposes of collecting an environmental service fee, the boundaries of the County shall constitute the boundaries of the solid waste service area.

SECTION 5.00 RESIDENTIAL GENERATOR ENVIRONMENTAL SERVICE FEE ESTABLISHMENT AND AMOUNTS

5.01 Establishment. Stearns County hereby imposes environmental service fees on residential generators in the County. The environmental service fee shall be for solid waste management services available to the property. The owner of the property shall be responsible for payment of the environmental service fee imposed in the manner set forth by the County Board.

5.02 Categories of Residential Property. Owners of residential property shall pay environmental service fees for residential property in accordance with the categories listed below:

A. Category I Residences. All properties classified by the County Assessor as residential with 1, 2, or 3 dwelling units such as single family homes, agricultural residences, townhomes, condominiums, duplexes, double bungalows, triplexes, quad homes, mobile homes and other residential property with one to three dwelling units.

B. Category II Residences. All properties classified by the County Assessor as an apartment with four or more dwelling units.

1. Subcategory IIA. Dwelling units containing full cooking and/or sanitation facilities in each unit.
2. **Subcategory IIB.** Dwelling units not containing full cooking and/or sanitation facilities within each unit which must share common cooking and sanitation facilities with other dwelling units.

C. **Category III Residences.** All properties classified by the County Assessor as seasonal recreational property or as an unlicensed travel trailer.

5.03 **Rates.** The environmental service fees for residential generators shall be established by resolution of the County Board.

5.04 **Split Classifications.** The owner of property classified as both residential and non-residential property shall pay environmental service fees pursuant to both Section 5.00 and Section 7.00 of this Ordinance.

5.05 **Procedure for Revising the Residential Generator Environmental Service Fees.** The County Board may revise, by resolution, the residential generator environmental service fees following a public hearing, and shall state the effective date for the enactment of the revised environmental service fees.

**SECTION 6.00 RESIDENTIAL GENERATOR ENVIRONMENTAL SERVICE FEE BILLING AND COLLECTION**

6.01 **Billing and Collection.** The County shall bill residential generator environmental service fees on the property tax statements as a separate item which shall be due, payable and collected in the same manner as real and/or personal property taxes and subject to the same penalties and interest as overdue real and/or personal property taxes.

6.02 **Unpaid Fees.** The County may recover amounts due under this Ordinance in any manner authorized by law, including, but not limited to, the following:

A. **Certification to the County Auditor-Treasurer.** On or before November 30 each year, the County Board may certify to the County Auditor-Treasurer all unpaid, outstanding environmental service fees, and a description of the lands against which the environmental service fees arose. It shall be the duty of the County Auditor-Treasurer, upon order of the County Board, to extend the assessments, with interest not to exceed the interest rate provided for in Minnesota Statutes, Section 279.03, Subd. 1, or successor statutes, upon the tax roles of the County for the taxes of the year in which the assessment is filed. For each year ending November 30, the assessment with interest shall be carried into the tax becoming due and payable in January of the following year, and shall be enforced and collected in the manner provided for the enforcement and collection of real and/or personal property taxes in accordance with the provisions of the laws of the State of Minnesota. The fees, if not paid, shall become delinquent and be
subject to the same penalties and the same rate of interest as the taxes under the
general laws of the State of Minnesota.

B. **Civil Action.** In addition to each and every other remedy available to the County, unpaid environmental service fees, penalties and interest may be recovered in a civil action in the name of the County.

C. **Recovery of Costs.** The County may recover costs, including attorney fees, staff and other related costs, incurred to enforce compliance with the provisions of this Ordinance or other related ordinances.

**SECTION 7.00 NON-RESIDENTIAL GENERATOR ENVIRONMENTAL SERVICE FEE - ESTABLISHMENT, BILLING AND COLLECTION**

7.01 **Establishment.** Stearns County hereby establishes an environmental service fee for non-residential generators. The rate of the fee shall be established by resolution of the County Board. The fee shall be based upon a percentage of the non-residential generator's total cost for collection, transportation, processing and disposal of mixed municipal solid waste.

7.02 **Collection.** As a condition of license, each hauler shall bill and collect the entire environmental service fee from Stearns County non-residential generators for whom they haul mixed municipal solid waste. The fee collected by the hauler shall be based upon the generator's total cost for collection, transportation, processing and disposal of mixed municipal solid waste. Each hauler shall make reasonable efforts to collect the fee from their non-residential customers.

In the event that it is not possible for the hauler to collect the fee, it shall be the duty of the hauler to notify the County of the name of the account for which the fee can not be collected. It shall then be the responsibility of the non-residential generator to remit the appropriate fee to the County.

7.03 **Remittance.** The environmental service fee collected by haulers shall be remitted to the County by the 20th day of the month following the month in which the environmental service fee was collected by haulers or imposed on self-haulers. The environmental service fee shall be accompanied by the completed environmental service fee form which will be provided to the licensee by the County and which will be completed in accordance with instructions provided.

7.04 **Self-Haulers.** Self-haulers shall pay the environmental service fee imposed directly to the County.
7.05 **Partial Payments.** If a generator makes partial payments to a hauler, the hauler shall then apply payment to the environmental service fee directly proportional to the partial payment received from the generator.

7.06 **License Revocation.** Failure to collect or remit the environmental service fee may result in the revocation of the haulers license to collect mixed municipal solid waste in Stearns County.

7.07 **Statements.** Consistent with the hauler’s normal billing practices, each hauler shall separately state and clearly label the environmental service fee on each invoice or statement issued to their non-residential generators for payment of waste collection and disposal services.

7.08 **Reports.** On forms provided by the Environmental Services Department, each licensee shall submit, on a timely basis, written reports to the Environmental Services Director which may include, but not be limited to, total gross billings and receipts for all collection and disposal services performed within the County, the number of non-residential generators within the County, the number of tons or yards of solid waste collected within the County and disposed of within and outside the County and such other information as may be requested by the County.

7.09 **Examination of Records.** The Environmental Services Director or their duly authorized agent shall have the right to examine records, including access to computer records which shall be made available by the licensee, and all non-residential generator accounts of the licensee. The Environmental Services Director or their duly authorized agent shall be allowed free access at all reasonable times to inspect and copy at reasonable cost all business records related to a licensee's collection and disposal of mixed municipal solid waste to the extent necessary to ensure that all charges required to be collected are remitted to the County. Such records shall be maintained by the licensee for no less than five (5) years.

7.10 **Minnesota Government Data Practices Act.** Records or information received, inspected or copied by the County shall be subject to the Minnesota Government Data Practices Act, Minnesota Statute, Section 13.01 *et seq.* and are classified as private or nonpublic data a defined in Minnesota Statute 13.02, Subd. 9 or 12, or successor statutes. The records and information may be used to enforce collection of environmental service fees. Data becomes public if certified to the County Auditor for unpaid outstanding charges pursuant to Minnesota Statute, Section 400.08, Subd. 4(b), or successor statutes, or where legal actions are commenced.

7.11 **Late Payment.** A late payment penalty of 1.5% per month on the environmental service fee, collected but not remitted by the hauler, shall be charged to the hauler and/or self-hauler not making payment by the due date. If a hauler fails to bill and collect the environmental service fee from a generator, the hauler shall be responsible for the
environmental service fee and a 1.5% per month late payment penalty. The 1.5% per month late payment penalty shall commence from the date the environmental service fee should have been billed.

7.12 Unpaid Fees. On or before October 15th each year, the County Board may certify to the County Auditor all unpaid, outstanding environmental service fees and a description of the lands against which the environmental service fees arose. It shall be the duty of the County Auditor, upon order of the County Board, to extend the assessments, with interest not to exceed the interest rate provided for in Minnesota Statutes, Section 279.03, Subd. 1, or successor statutes, upon the tax roles of the County for the taxes of the year in which the assessment is filed. For each year ending October 15th, the assessment with interest shall be carried into the tax becoming due and payable in January of the following year, and shall be enforced and collected in the manner provided for the enforcement and collection of real property taxes in accordance with the provisions of the laws of the State of Minnesota. The charges, if not paid, shall become delinquent and be subject to the same penalties and the same rate of interest as the taxes under the general laws of the State of Minnesota.

7.13 Collection Actions. Exercise of any remedy under this Ordinance does not preclude exercise of other remedies.

A. If an owner, lessee, or occupant of a property or any person obligated on their behalf to pay the environmental service fee fails to pay a hauler the environmental service fee in a timely manner, the County may use any available legal remedies to collect the overdue, unpaid environmental service fee from any or all of them.

B. If a hauler has collected environmental service fees and failed to remit them to the County in a timely manner, the County may use any available legal remedies to collect the environmental service fee from the hauler.

C. If a self-hauler fails to pay the environmental service fee to the County in a timely manner, the County may use any available legal remedies to collect the environmental service fee from the self-hauler.

7.14 Exemptions. Exemptions from the Environmental Service Fee.

A. Compactors. Charges for compactor rentals are exempt from the environmental service fee.

B. Recyclers. Waste residue from recycling facilities at which recyclable materials are separated or processed for the purpose of recycling, or from energy and/or 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 is exempt from the environmental service fee if there is at least an 85% weight reduction in the solid waste processed. To qualify for this exemption, a recycling facility must be exempted by the Minnesota Pollution Control Agency under the provisions in Minnesota Statutes, Section 115A.923 and continue to maintain this exemption. The Environmental Services Director or their duly authorized agent shall have the right to examine and copy records at all reasonable times in order to ensure that the recycling facility has continued to maintain its exemption.

7.15 Procedure for Revising the Non-residential Generator Environmental Service Fee. The County Board may, by resolution, amend the amount of the non-residential generator environmental service fee as it deems necessary.

SECTION 8.00 APPEALS

8.01 Real Property Appeals. Written requests for appeal of the environmental service fee for real property must be received or postmarked on or before May 14th of the year in which the fee is due. Upon receipt of a written request for an appeal, the Environmental Services Department will forward to the applicant an appeal packet outlining the applicable requirements, including the appeal forms. The appeals form must be received by the Environmental Services Department no later than July 1st of the year in which the fee is due in order to be considered.

8.02 Personal Property Appeals. Written requests for appeal of the environmental service fee for personal property must be received on or before August 30th of the year in which the fee is due. Upon receipt of a written request for an appeal, the Environmental Services Department will forward to the applicant an appeal packet outlining the applicable requirements, including the appeal forms. The appeal forms must be received by the Environmental Services Department no later than October 1st of the year in which the fee is due for personal property appeals in order to be considered.

8.03 General Requirements.

A. The deadline for submitting a written request for appeal for fees due may be extended for good cause shown as determined by the Environmental Services Department Director.

B. Written requests for appeal may be submitted by the property owner or their duly authorized representative.

C. The property owner shall provide the Environmental Services Department with supporting facts and documentation on the appeal forms in sufficient detail to allow a determination as to whether the facts warrant granting an appeal.
D. The burden is on the property owner to provide evidence demonstrating that the property qualifies for a reduction in the environmental service fee.

E. This ordinance requires that the property owner pay the environmental service fee pending disposition of the appeal.

8.04 Procedures and Criteria. The Stearns County Board hereby adopts the following guidelines for determining whether an appeal of an environmental service fee may be granted to generators of mixed municipal solid waste. Appeals shall not be based upon the value of the property, and may be granted, in whole or in part, under the circumstances as described as follows:

A. Stearns County administrative or clerical errors
B. The property is misclassified for purpose of calculating the charge as of January 2nd of the year in which the fee is due, e.g. the number of dwelling units is inaccurate.
C. A dwelling unit was (1) uninhabitable or (2) was destroyed or demolished as of January 2nd of the year in which the fee is due and the property owner provides convincing evidence that demonstrates to the County's satisfaction that it is likely that this condition will continue for the entire year.
D. The Appeals Panel may consider exceptional circumstances under which the strict enforcement of any provisions of this ordinance would cause undue hardship and would be unreasonable, impractical or not feasible.

8.05 Appeals Panel. The County Board shall appoint an appeals panel in January of each year. This panel shall consist of one representative from the County Auditor-Treasurer's Office, the Assessor's Office, the Environmental Services Department, the Tri-County Solid Waste Management Commission and the County Board. Additionally, the County Board shall appoint two citizen members, one representing business and one representing the citizens of the County. The purpose of this panel will be to hear and decide appeals relating to the environmental service fee. The decisions of this panel shall be final.

8.06 Appeals Process. The following steps shall be used in deciding appeals of environmental service fees:

A. The Environmental Services Department Director or their designee shall accept written applications for appeal of the environmental service fee and shall forward said applications to the appeals panel.
B. The appeals panel shall consider and decide appeal applications in accordance with the guidelines outlined in Section 8.04 of this Ordinance. If the appeals
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panel approves an appeal application, the Environmental Services Department Director shall notify the property owner and when applicable, the County Auditor-Treasurer and County Assessor. If the appeals panel denies all or a portion of the appeal application, the Environmental Services Department Director shall notify the property owner of the decision.

C. The Environmental Services Department will track and manage the progress of each appeal request, notify applicants of the approval or denial of appeal requests, forward appeals to the appeals panel for action and notify the County Board, the County Auditor-Treasurer and County Assessor of appeal applications approved.

SECTION 9.00 ENFORCEMENT

9.01 Misdemeanor. Any person who willfully or negligently hauls mixed municipal solid waste without a required license or hauls mixed municipal solid waste and fails to collect or fails to remit to the County the required environmental service fee shall be guilty of a misdemeanor. The County may institute appropriate actions or proceedings, including application for injunctive relief, action to compel performance or other appropriate actions to prevent, restrain, correct or abate any violation or threatened violation of this Ordinance or other related ordinances.

SECTION 10.00 SEVERABILITY

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

A. Validity of Provisions. If any court of competent jurisdiction shall rule that any provision of this Ordinance is invalid, other provisions not specifically included in said judgment shall not be affected.

B. Application to Particular Person or Property. If any court of competent jurisdiction shall rule that the application of any provision of this Ordinance is invalid to a particular person or property, such judgment shall not affect the application of said provision to any other person or property not specifically included in the judgment.

SECTION 11.00 PROVISIONS ARE CUMULATIVE

11.01 Provisions are Cumulative. The provisions of this Ordinance are cumulative and are additional limitations upon all other laws and ordinances covering any subject matter in this Ordinance.
SECTION 12.00 REPEALER

12.01 Stearns County Ordinance No. 181 is hereby repealed.

SECTION 13.00 EFFECTIVE DATE

13.01 Effective Date. This Ordinance shall be in full force and effect upon passage and publication as provided by law.


APPROVED:

S/ Robert A. Gambrino
Robert A. Gambrino, Chair
Stearns County Board of Commissioners

ATTEST BY:
S/ Henry J. Kohorst
Henry J. Kohorst
Stearns County Auditor-Treasurer
Clerk
Stearns County Board of Commissioners