

RAMSEY COUNTY ADMINISTRATIVE ORDINANCE

"The County Board of Ramsey County ordains:"

1.00 APPLICATION OF ORDINANCE

- 1.01 Application: The provisions of this Ordinance shall apply to all activities, conditions, premises and persons within the County of Ramsey, which are regulated by Ramsey County.
- 1.02 Other Provisions: If provisions of a Ramsey County Ordinance conflict with provisions of this Ordinance, the more restrictive provisions shall prevail. If neither provision is more restrictive, the provision in the program-specific Ordinance shall prevail.

2.00 DEFINITIONS

The following words and phrases, when used in this Ordinance, unless the context clearly indicates otherwise, shall have the meaning ascribed to them in this section.

- 2.01 County: shall mean the County of Ramsey.
- 2.02 County Board: shall mean the Board of Ramsey County Commissioners and their authorized representatives.
- 2.03 Department: shall mean a separate part, division, bureau, sub-unit or branch of Ramsey County authorized by the County Board to carry out or enforce any provision of a County Ordinance.
- 2.04 Fees: shall mean any and all fees assessed by the Department for the regulated activity, including, but not limited to: license fees, application fees, penalties for late renewals, state program fees, review fees and mandated surcharges.
- 2.05 License: shall mean the whole or part of any permit, certificate, approval, registration, or similar form of permission or renewal required by a County Ordinance or State Law administered by the County for the operation of any business, service or facility. The term "license" shall not include any license, lease or permit issued by any County Department solely for the use of any County property or facility by the licensee.
- 2.06 Licensee: shall mean the person who has been given the authority by the issuance of a license by the Department to establish, operate, and/or maintain a facility or activity regulated by County Ordinances.
- 2.07 Person: shall mean any human being, any municipality or other governmental or political subdivision or other public agency, any public or private corporation, any partnership, firm, association, or other organization, any receiver, trustee, assignee, agent, employee, or other legal representative of any of the foregoing, or any other legal entity.

3.00 UNLAWFUL ACTIVITIES

3.01 It is unlawful for any person:

- A. To engage in any activity, trade, profession, business, or privilege or to operate any site, facility or establishment for which a license is required by any provision of a County Ordinance unless such person has first obtained such license.
- B. To engage in any activity, trade, profession, business or privilege or operate any site, facility, or establishment in Ramsey County for which a license is required by any provision of a County Ordinance when any license granted for the conduct of such activity, trade, profession, business or privilege or operation of such site, facility or establishment has been revoked or suspended.
- C. Who possesses a valid license issued pursuant to County Ordinance to engage in any such activity, or operate any such licensed facility, establishment, profession, business, or privilege in such a way as to knowingly violate any requirement of any Ramsey County Ordinance applicable to such activity, trade, profession, business, privilege, site, facility or establishment.
- D. To fail or refuse to correct any condition or method of operation, which violates any Ramsey County Ordinance applicable to the conduct of any licensed activity, trade, profession, business, privilege, site, facility, or establishment after being ordered to do so by the County.

4.00 LICENSING PROCEDURES

Unless provided for by other County Ordinances, the procedure for application for issuance, denial, suspension, or revocation of any license required by County Ordinance shall be as set forth herein.

- 4.01 Application: Application for a license or license renewal shall be made to the Department and shall be on forms furnished by the Department. The application shall not be considered complete until the Department has received all information required.
- 4.02 Financial Assurance and Insurance: Issuance of any license pursuant to the provisions of any County Ordinance shall be contingent upon the applicant furnishing to the County financial assurance in a form and amount to be determined by the County. The applicant shall also furnish to the County certificates of insurance issued by insurers duly licensed with the State of Minnesota in the types and amounts specified by the County.
- 4.03 Payment of Fee: The fees required for a license shall be paid to the County in the manner specified by the Department. Unless otherwise provided by the County Board, no license fee shall be prorated for a portion of a year and no license fee shall be refunded. No license shall be issued until all required fees have been paid in full.

- 4.04 Penalty for Late Payment: Every person who submits payment for an initial or renewal license after the due date specified by the Department shall be subject to the following penalty:
- A. If the payment is submitted one to thirty days late, a twenty-five percent (25%) penalty, with a minimum penalty of twenty-five dollars (\$25.00).
 - B. If the payment is submitted more than thirty days from the due date,
 - 1. the license application may be denied,
 - 2. the activity for which a license is required shall cease, and
 - 3. if a new license is approved within one calendar year of the denial date, the fee shall consist of the amount set forth for new licenses, plus the late penalty fee that was not paid for the previous application.
- 4.05 Issuance or Denial of License: Unless otherwise provided in the Ordinance under which a license is issued, and except in the initial licensing of solid waste transfer stations as provided herein, the Department shall have thirty (30) days after receipt of a complete application to grant or renew a license.
- A. When a license is denied, the Department shall state the basis for its decision and the notice of its decision shall be served on the applicant either personally or by certified mail at the address designated in the license application. The denial shall become effective on the eleventh (11th) County working day after service of the notice unless prior to that date the applicant has either paid the required fees or requested a hearing. Any request for a hearing shall be made in accordance with the requirements of Section 7.00 of this Ordinance and any such hearing shall be conducted pursuant to Section 7.00 of this Ordinance.
 - B. Prior to issuing an initial license for a solid waste transfer station the Department shall commence a 30-day public comment period, seeking written comments from the public. A comment period shall begin only after the Department has determined that the license application is complete. The Department shall notify the appropriate local government and landowners within 350 feet of the property boundary of the proposed transfer station. The applicant must include the names of landowners within 350 feet of the property boundary in the license application. If requested by members of the public to hold a public meeting or the municipality or planning district council in which the proposed facility is located, and if the municipality or Minnesota Pollution Control Agency does not hold a public meeting, then, following the 30-day comment period, the Department will host a public meeting for the purpose of taking comments on the application. Following the comment period the Department will prepare a written summary of the comments. The Department will issue or deny the license within thirty days of the later of the close of the comment period or the date of the hearing.
- 4.06 Suspension: Any license required under County Ordinance may be suspended by the Department for violation of any provision of any County Ordinance.

- A. Upon written notice to the licensee said license may be suspended by the Department until the violation is corrected but in no event for longer than sixty (60) days.
- B. Such suspension shall not occur earlier than ten working days after written notice of suspension has been served on the licensee either personally or by certified mail at the address designated in the license application. The notice shall contain the effective date of the suspension, the nature of the violation or violations constituting the basis for the suspension, the facts which support the conclusion that a violation or violations have occurred, and that a request for a hearing shall be made in accordance with the requirements of Section 7.00 of this Ordinance.

4.07 Summary Suspension: If the Department finds that there is an imminent risk of substantial harm to the public health, safety, or welfare it may summarily suspend a license.

- A. Written notice of such summary suspension shall be served on the licensee personally or by certified mail at the address designated in the license application. In addition, the Department may post copies of the notice of summary suspension of the license on the licensed facility or property being used for the licensed activity. Said posting shall constitute the notice required under this section.
- B. The notice shall state the nature of the violation requiring emergency action, the facts which support the conclusion that a violation or violations have occurred, and a statement that a request for a hearing shall be made in accordance with the requirements of Section 7.00 of this Ordinance.
- C. The summary suspension shall not be stayed pending review by the Department or an appeal to the County Board.

4.08 Suspensions, Re-inspections: Upon written notification from the licensee that all the violations for which a license was suspended have been corrected, the Department shall re-inspect the facility or activity within a reasonable length of time. If the violations constituting the grounds for the suspension have been corrected, the Department shall immediately dismiss the suspension by written notice, which shall be served upon the licensee either personally or by certified mail at the address designated in the license application.

4.09 Revocation: Any license granted pursuant to a County Ordinance may be revoked by
the Department for violation of a material provision of any County Ordinance.

- A. Revocation shall not occur earlier than ten (10) County working days from the time that written notice of revocation is served on the licensee or, if a hearing is requested, until written notice of the County Board action has been served on the licensee.
- B. The notice shall state the violation(s) constituting the basis for the revocation, the facts which support the conclusion that a violation or violations have occurred, and a statement that a request for a hearing shall be made in accordance with the requirements of Section 7.00 of this Ordinance.

4.10 Variance

- A. Variance Permitted: If, because of exceptional circumstance, the strict enforcement of any provision of a Ramsey County Ordinance would cause unnecessary hardship, or that strict conformity with an Ordinance would be unreasonable, impractical, or not feasible a variance may be granted by the Department.
- B. Variance Conditions: A variance may be granted upon findings by the Department that:
 - 1. The conditions causing the hardship are unique to the property, applicant, or licensee.
 - 2. The variance is proved necessary in order to secure for the applicant a right or rights enjoyed by other persons in the same area or district.
 - 3. Granting the variance will not be contrary to public interest or adverse to the rights of other persons similarly situated or properties in the same area or district.
 - 4. Granting the variance will not be detrimental to the public health, safety, and welfare.
 - 5. No variance shall be granted simply because there are no objections, because those who do not object outnumber those who do, or for any reason other than a proved hardship.
- C. Informal Administrative Hearing: Unless otherwise provided, the Department shall conduct an informal administrative hearing within thirty (30) days of receipt of an application for variance. The applicant or his/her designated representative shall attend the hearing and present the facts or conditions upon which the application for variance is based. The Department shall prepare a written decision, with its reasons therefore, and serve it on the applicant personally or by certified mail by the close of business on the tenth (10th) County working day following the hearing.
- D. Request for Formal Hearing: In the event that the Department decides to deny the application for variance, the applicant may request a formal hearing. The request shall be in writing stating the grounds upon which the request is based and served personally or by certified mail on the Department by the close of business on the tenth (10th) County working day after the Department's decision was placed in the United States mail or personally served upon the applicant. The hearing shall be conducted pursuant to Section 7.00 of this Ordinance.

5.00 INSPECTION

- 5.01 Routine Inspections: Routine inspection and evaluation of activities, trades, professions, businesses, privileges, sites, facilities and establishments shall be made by the Department with such frequency as to insure consistent compliance by the applicant or licensee with the provisions of the County Ordinance. Inspections consist of the physical presence of Department staff at a site or facility for the purpose of observing and evaluating existing conditions and past occurrences, in order to determine the degree of compliance with existing Ordinances, rules,

regulations and standards. As deemed necessary by staff, the scope of an inspection may include, but is not limited to the following:

1. reviewing files, records, plans, and other documents, in both paper and electronic form;
2. physical access to all areas of a site or facility;
3. collecting environmental samples, including, but not limited to, samples of air, water, food, soil, products, bi-products, and wastes; and
4. taking photographs and recording by video, audio, or other electronic means.

The licensee shall allow free access to authorized representatives of the County or any other governmental agency at any reasonable time for the purpose of making such inspections as may be necessary to determine compliance with the requirements of County Ordinances, or any other applicable statute, Ordinance, or regulation. Failure of the applicant or licensee to permit such inspection shall be grounds for revocation, suspension, or denial of a license. The licensee shall be provided with written and documented notice of any deficiencies, requirements for their correction, and the date when the corrections shall be accomplished.

5.02 Right of Entry: Whenever necessary to make an inspection to enforce any provision of a County Ordinance, the Department or its authorized agent may enter any building, premises, or property in or upon which a regulated activity takes place at all reasonable times to inspect the same or to perform any duty incumbent upon the Department, provided that if such building, premises, or property be occupied, the authorized agent shall first present proper credentials and request entry; and if such building, premises, or property be unoccupied, the Department shall first make a reasonable effort to locate the owner or other persons having charge or control thereof and request entry. If such entry is refused, the Department shall have recourse to every remedy provided by law to secure entry, including administrative warrants.

5.03 Authorization to Issue Orders: Whenever the Department or its authorized agents find any unlawful or dangerous condition or activity it may issue such orders as may be necessary to protect the public health, safety, or welfare.

5.04 Compliance Required: The owner, operator, or other person responsible for the condition or violation to which the order or notice pertains shall comply with any order issued by the Department within such time as determined by the Department. If the building, premises, or property is owned by one person and occupied by another and the order or notice requires immediate compliance such order or notice shall be served on the owner and occupant and both the owner and the occupant shall ensure compliance with the order or notice.

6.00 ENFORCEMENT

6.01 Misdemeanor: Any person who violates a Ramsey County Ordinance shall be guilty of a misdemeanor and upon conviction thereof shall be punished as provided by law. A separate offense shall be deemed committed each day during or on which a violation occurs or continues.

6.02 Citations: Any person charged with the responsibility of administration and enforcement of any Ramsey County Ordinance shall have the power to issue citations for violations thereof.

A. Form of Misdemeanor Citations: Misdemeanor Citations shall be in a form as may be approved from time to time by the Judges of the Second Judicial District.

B. Administrative Citations:

1. **Purpose and Findings.** The County Board finds that there is a need for alternative methods of enforcing the provisions of Ramsey County Ordinances. While criminal fines and penalties have been the most typical enforcement mechanism, there are certain negative consequences for both the County and the accused. The delay inherent in that system does not ensure prompt resolution. Some administrative regulation violations need not always be treated as a criminal offense. The higher burden of proof and the potential of incarceration do not appear appropriate for most administrative violations. The criminal process does not always regard Ramsey County Ordinance violations as being important. Accordingly, the County Board finds that the use of administrative citations and the imposition of civil penalties is a legitimate and necessary alternative method of enforcement. This method of enforcement is in addition to any other legal remedy that may be pursued for Ramsey County Ordinance violations.

2. **Administrative Citations and Civil Penalties.** This Section governs administrative citations and civil penalties for violations of Ramsey County Ordinances.

3. **General provisions.** A violation of Ramsey County Ordinances is subject to administrative citation and civil penalties. Each day a violation exists constitutes a separate offense.

4. **Civil Penalties.** Penalties for violation of County Ordinances shall be established by resolution of the County Board. A schedule of civil penalties for violation of specific provisions within county Ordinances shall be presented to the Board annually upon its consideration of County fees, and initially upon adoption of amendment to the Administrative Ordinance establishing authority for Administrative Citations.

5. **Administrative Citation.** The Department may issue an administrative citation upon the finding that an Ordinance violation has occurred. The citation must be issued in person or by U.S. mail to the property owner and/or person responsible for the violation offense at the last known address. The citation must state the date, time, and nature of the offense, the name of the issuing person, the amount of the scheduled civil penalty, and the manner for paying the civil penalty or appealing the citation.

a) **Response to Citation.** A recipient shall respond to the citation within fifteen (15) County working days of receipt. The recipient may:

I. Admit the violation stated in the citation and agree to pay the fine. Payment of the civil penalty constitutes admission of the violation.

II. Deny the violation stated in the citation and request a hearing.

6. **Administrative Citation Hearing.**

a) **Hearing Officers.** The County shall maintain a list of hearing officers under contract and available to conduct hearings on the merits of an administrative citation, if requested by a recipient. A Hearing Officer is a public officer as those terms are defined by Minnesota Statutes Chapter 609.415. The hearing officer must not be a County employee. The Ramsey County Manager or their designee must establish a procedure for evaluating the competency of the hearing officers, including comments from accused violators and County staff. These reports must be provided to the County Board.

I. **Removal of Hearing Officer.** The recipient will have the right to request, no later than five (5) days before the date of the hearing, that the assigned hearing officer be removed from the case. One request for each case will be granted automatically by the Ramsey County Manager or their designee. A subsequent request must be

directed to the assigned hearing officer who will decide whether he or she can fairly and objectively review the case. The Ramsey County Manager or their designee may remove a hearing officer only by requesting that the assigned hearing officer find that he or she cannot fairly and objectively review the case. If such a finding is made, the officer shall remove himself or herself from the case, and the Ramsey County Manager or their designee will assign another hearing officer.

- b) Request For Hearing.** If the recipient responds by requesting a hearing, the Department shall acknowledge receipt of the request for hearing to the recipient within two (2) County working days, and shall also request that the recipient indicate the preferred manner to receive future notices and material, either by U.S. mail or e-mail. The Department shall assign the case to a hearing officer on the list. The Department shall notify the hearing officer, the recipient, and the issuing person of the assignment in writing. The hearing officer shall schedule a hearing within twenty (20) County working days of receiving the notice. Any delays in holding the hearing by the hearing officer shall be reported to the Department by the hearing officer.
- c) Citation Materials.** At assignment, the Department shall transmit a copy of the citation and all materials relating to the citation to the hearing officer. The hearing officer shall transmit a copy of any materials received to the recipient at the earliest opportunity but no later than three (3) County working days in advance of the hearing.
- d) Notice of Hearing.** Notice of the hearing must be served on the person responsible for the violation at least ten (10) County working days in advance, unless a shorter time is accepted by all parties. Service of the Notice will be by the method preferred by the recipient and will be complete upon mailing.
- e) Hearing.** At the hearing, the hearing officer shall receive the testimony of any witnesses, witness statements, and comments presented by the person cited. The hearing officer will consider these items alongside the materials submitted by the issuing person and may weigh the evidence and make credibility determinations to the best of the hearing officer's ability. The hearing officer is not required to apply the rules of evidence in making determinations about the evidence presented. The issuing person is not required to attend the hearing.
- f) Decision/Findings.** After considering all of the evidence submitted, the hearing officer shall determine, by a preponderance of the evidence, whether the person cited did or did not violate the Ordinance identified in the citation. The hearing officer shall make written findings supporting the determination and transmit them to the cited person and the Department within five (5) County working days of closing the hearing. The decision of the hearing officer is final without any further right of administrative appeal. Upon exhaustion of county administrative appeal rights, the cited person may pursue judicial appellate rights as allowed by Minnesota Statutes Chapter 606 or other applicable law.
- g) Failure to attend the hearing constitutes a waiver of the violator's rights to an administrative hearing and an admission of the violation. A hearing officer may waive this result upon good cause shown. Examples of "good cause" are: death or incapacitating illness of the accused; a court order requiring the accused to appear for another hearing at the same time; and lack of proper service of the citation or notice of the hearing. "Good cause" does not include: forgetfulness and intentional delay.**

- 7. Payment Following Finding of Violation.** If the hearing officer finds a violation, the civil penalty for the Ordinance Violation is due within twenty (20) County working days of the date the findings are sent to the recipient. The hearing officer may not alter or reduce the civil penalty for any offense or combine multiple offenses into a single civil penalty. Payment of civil penalties due shall be made in the manner specified by the Ramsey County

Manager or their designee.

8. Recovery of Civil Penalties. If a civil penalty is not paid within the time specified, the County has the authority to take the following actions:

- a) A lien may be assessed against the property and collected in the same manner as taxes.
- b) A personal obligation may be collected by appropriate legal means.
- c) A late payment fee of 10 percent of the civil penalty may be assessed for each 30-day period, or part thereof, that the fine remains unpaid after the due date.

9. Criminal Penalties. The following are misdemeanors, punishable in accordance with State Law: (i) failure, without good cause, to appear at a hearing that was scheduled under Ramsey County Administrative Ordinance, Section 6.02 (B)(5) (d); (ii) failure to pay a civil penalty imposed by a hearing officer within twenty (20) County working days after it was imposed, or such other time as may be established by the hearing officer.

If the final adjudication in the administrative penalty procedure is a finding of no violation, then the Department may not prosecute a criminal violation in district court based on the same set of facts. This does not preclude the Department from pursuing a criminal conviction for a violation of the same provision based on a different set of facts. A different date of violation will constitute a different set of facts.

C. Issuance: ~~The Administrative or Criminal Citations~~ shall be issued to the person charged with the violation, or in the case of a corporation or municipality, to any officer or agent expressly or implicitly authorized to accept such issuance.

6.03 Other Actions: Other actions may be taken as follows:

- A. In the event of a violation or a threat of violation of any Ramsey County Ordinance, the Ramsey County Attorney may take appropriate action to enforce the Ordinance including application for injunctive relief or other appropriate action to prevent, restrain, correct, or abate violations or threatened violations.
- B. If a licensee, owner, or operator of any activity, trade profession, business, privilege, site, facility or establishment fails to comply with an applicable Ramsey County Ordinance, the County may take the necessary steps to correct such violations. The costs thereof may be recovered in a civil action or may be certified, at the discretion of the County Board, to the Director of the Department of Property Taxation as a special assessment against the real property on which the violation occurred.

7.00 HEARINGS

7.01 Right to a Hearing: A licensee or applicant may contest the following Departmental actions by requesting a hearing: denial of a license; denial of renewal of a license; suspension of a license; summary suspension of a license; revocation of a license; or denial of a request for variance.

7.02 Request for a Hearing: The request for a hearing shall be in writing and specifically state the grounds for appeal. The request shall be served personally or by certified mail on the Department by the close of business on the tenth (10th) County working day following service of the notice of the Departmental action by the County on the applicant or licensee. Failure to request a hearing in a timely manner will result in a forfeiture of the right to appeal or seek review of the County's action.

7.03 Public Hearings to be Held: The hearing shall be held before the County Board, or a hearing examiner as provided below, and shall be open to the public.

- 7.04 Timelines for Holding Hearings: Requests for extensions of time must be in writing and directed to the Chair of the County Board. Unless an extension is granted, the hearing will commence no later than forty-five (45) calendar days after the date of service of the request for a hearing on the County, exclusive of the date of service.
- 7.05 Hearing Notice: Notice of the time and place of hearing shall be mailed to the applicant or licensee at least fifteen (15) working days prior to the hearing.
- 7.06 Hearing Examiner: The County Board may appoint a hearing examiner to conduct the hearing and to make proposed findings of fact, conclusions, and recommendations to the County Board, which shall be submitted in a written report. The County Board may adopt, modify, or reject the recommendations.
- 7.07 Conduct of Hearing: The applicant or licensee may be represented by counsel. All parties shall have an opportunity to respond to and present evidence, cross-examine witnesses, and present argument. The County Board or hearing examiner may also examine witnesses.
- 7.08 Burden of Proof: The Department shall have the burden of proving its position by a preponderance of the evidence, unless a different burden is established by law.
- 7.09 Evidence: All evidence which possesses probative value, including hearsay, may be admitted if it is the type of evidence on which prudent persons are accustomed to relying upon in the conduct of their serious affairs.
- 7.10 Failure to Appear: If the applicant or licensee fails to appear at the hearing in person or by counsel, the right to a hearing shall be forfeited.

8.00 SEVERABILITY

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

- 8.01 If any court of competent jurisdiction shall adjudge any provisions of this Ordinance to be invalid, such judgment shall not affect any other provisions of the Ordinance not specifically included in said judgment.
- 8.02 If any court of competent jurisdiction shall adjudge the application of any provision of this Ordinance to a particular person, site, facility or operation, such judgment shall not affect the application of said provision to any other person, site, facility, or operation not specifically included in said judgment.

9.00 PROVISIONS ACCUMULATIVE

The provisions of the Ordinance are cumulative and are additional limitations upon all other laws and Ordinances heretofore passed or which may be passed hereafter covering any subject matter in this Ordinance.

10.00 NO CONSENT

Nothing contained in the Ordinance shall be deemed to be consent, license, or permit to locate, construct, or maintain any site, facility, or establishment, or carry on any activity, trade, or profession.

11.00 EFFECTIVE DATE

This Ordinance shall be effective upon passage by the County Board and its publication in accordance with law.

FURTHER RESOLVED, That the foregoing Administrative Ordinance supersedes the original Administrative Ordinance passed by the County Board on February 23, 1981 (Resolution #81-166) and amended by the County Board on September 17, 1991 (Resolution #91-531), December 10, 1996 (Resolution #96-521), and March 13, 2001 (Resolution #2001-79), and October 20, 2009 (Resolution #2009-362).

~~Adopted by the Board of Ramsey County Commissioners this 20th day of October 2009, by Resolution #2009-362.~~

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DATE OF PUBLIC HEARING:
DATE OF PASSAGE BY COUNTY BOARD:
DATE OF PUBLICATION:
EFFECTIVE DATE OF ORDINANCE:

DRAFT