

**City of Ramsey**  
**Agenda**  
**Environmental Policy Board (EPB)**  
**Monday, February 10, 2025**  
**6:30 pm**  
**Council Chambers, 7550 Sunwood Drive NW**

Remote Attendance available at [www.cityoframsey.com/meetings](http://www.cityoframsey.com/meetings).  
Those joining remotely and requesting to speak are asked to use a webcam when speaking.

1. **Call to Order**
  
2. **Citizen Input**
  
3. **Approve Agenda**
  
4. **Approve Minutes**
  1. Approve Meeting Minutes Dated January 13, 2025
  
5. **Policy Board Business**
  1. Curbside Recycling Contact Status
  
6. **Board/Staff Input**
  
7. **Adjournment**

**Environmental Policy Board (EPB)**

**Meeting Date:** 02/10/2025

**Primary Strategic Plan Initiative:**

**Information**

**Title:**

Approve Meeting Minutes Dated January 13, 2025

**Purpose/Background:**

The purpose of this case is to approve the Environmental Policy Board (EPB) meeting minutes dated January 13, 2025.

**Recommendation:**

Staff recommends approving the meeting minutes.

**Outcome/Action:**

Motion to approve the meeting minutes dated January 13, 2025.

**Attachments**

Meeting Minutes Dated January 13, 2025

**Form Review**

**Inbox**

Brian Hagen

Form Started By: Chris Anderson

Final Approval Date: 02/06/2025

**Reviewed By**

Brian Hagen

**Date**

02/06/2025 08:30 AM

Started On: 02/05/2025 12:19 PM

**ENVIRONMENTAL POLICY BOARD  
CITY OF RAMSEY  
ANOKA COUNTY  
STATE OF MINNESOTA**

On Monday, January 13, 2025, the Environmental Policy Board (EPB) met in the Council Chambers at the Ramsey Municipal Center, 7550 Sunwood Drive N.W., Ramsey, Minnesota.

Members Present:     Chairperson Melissa Fetterley  
                          Board Member Reid Bernard  
                          Board Member Thomas Hagerty  
                          Board Member Paula Houts  
                          Board Member Laura Moore  
                          Board Member Hassan Salami

Members Absent:     Board Member Nick Burgess

Also Present:         Senior Planner Chris Anderson

**1.     CALL TO ORDER**

Chairperson Fetterley called the meeting to order at 6:30 p.m.

**2.     CITIZEN INPUT**

None.

**3.     APPROVE AGENDA**

Motion by Board Member Moore and seconded by Board Member Bernard to approve the agenda as submitted.

Motion carried. Voting Yes: Chairperson Fetterley, Board Member Moore, Bernard, Hagerty, Houts, and Salami. Voting No: None. Absent: Board Member Burgess.

**4.     APPROVE MINUTES**

**4.01:   Approve Meeting Minutes Dated December 16, 2024**

Motion by Board Member Hagerty and seconded by Board Member Salami to approve the regular meeting minutes dated December 16, 2024.

Motion carried. Voting Yes: Chairperson Fetterley, Board Member Hagerty, Salami, Bernard, Houts, and Moore. Voting No: None. Absent: Board Member Burgess.

**5.     POLICY BOARD BUSINESS**

**5.01:   Consider the Natural Resources Aspects of a Preliminary Plat for Riverstone South**

## **6<sup>th</sup> Addition (Project No. 24-127); Case of Development Consulting Services, LLC**

Senior Planner Anderson presented the staff report. He stated that the City has received an application from Development Consulting Services, LLC for a Preliminary Plat for Riverstone South 6<sup>th</sup> Addition, a proposed single-family residential development to be located on Outlot C, Riverstone South. The subject property is located south of Riverdale Drive, between 148<sup>th</sup> and Pearson Street. Revised plans have been received and additional comments have been provided.

Board Member Moore asked for more information on the oaks that need to be removed prior to April 15<sup>th</sup> and whether that would just be chopping the tree or removing the entire stump as well.

Senior Planner Anderson replied that it is about getting the trees removed and if the stumps would not be removed at that time, those stumps would need to be painted immediately to help prevent the introduction of oak wilt.

Board Member Moore asked if there is an end date on the protection of the City-owned land.

Senior Planner Anderson replied that it is his understanding that the seven-acre parcel acquired through the Riverstone South project provided that protection in perpetuity.

Board Member Moore asked if there are native seed mixes used by this builder in other additions of this development.

Senior Planner Anderson replied that some seed mixes have been used around stormwater basins, but the vast majority of Riverstone South does not have native seed mix.

Motion by Board Member Moore and seconded by Board Member Hagerty to recommend approval of the plans, contingent upon compliance with staff's review comments.

Motion carried. Voting Yes: Chairperson Fetterley, Board Member Moore, Hagerty, Bernard, Houts, and Salami. Voting No: None. Absent: Board Member Burgess.

## **5.02: Consider the Natural Resources Aspects of a Proposed Site Plan for Northstar Truck & RV Parking LLC (Project No. 24-122)**

Senior Planner Anderson presented the staff report. He stated that the City has received a Land Use Application from Nikolay Babkin for a Site Plan and Zoning Amendment to accommodate a proposed truck and RV parking operation on the property known as 15861 Jarvis Street NW.

Board Member Salami asked if this is the first project where a property straddles two communities.

Senior Planner Anderson replied that this is a unique project that not only straddles two cities, but two counties. He commented that Ramsey and Elk River have worked together on road projects, but this is the first for a land use application in his experience.

Board Member Salami asked how taxes would work.

Senior Planner Anderson replied that nothing will change with how the site is taxed, noting that Sherburne County and Elk River would tax their portion of property and Anoka County and Ramsey will tax its portion of property.

Board Member Moore asked for more information on the Northfork lots near this parcel and whether those are vacant.

Senior Planner Anderson replied that there are homes on the Ramsey side but industrial development on the Elk River site.

Board Member Moore commented that there appears to be a significant tree buffer between the Northfork home and subject property. She commented that there are a lot of semis and RVs in her neighborhood that park on the street or overhanging from the driveway, so this is a great concept. She commented that those vehicles are taller than six feet and asked if the fence should be higher.

Senior Planner Anderson replied that the fence is not required at all, as screening could also be provided through plantings. He stated that even with an eight-foot fence the top of a semi would still be above that. He stated that there is a heavily wooded area that exists with a fence and additional plantings inside of the fence that will be added.

Board Member Moore stated that she agrees it would not make sense to place trees in the middle of the parking area as that could cause difficulty for the vehicles to maneuver.

Chairperson Fetterly agreed that this is an interesting concept that is needed in the community.

Motion by Board Member Salami and seconded by Board Member Bernard to recommend approval of the Landscape Plan, contingent upon compliance with staff's review comments.

Motion carried. Voting Yes: Chairperson Fetterley, Board Member Salami, Bernard, Hagerty, Houts, and Moore. Voting No: None. Absent: Board Member Burgess.

## **6. BOARD / STAFF INPUT**

Senior Planner Anderson stated that there are still dumpsters at the Public Works site for cardboard collection that will run through the following week. He stated that the holiday lights collection will run for another 2.5 weeks at City Hall. He noted that a new Council Liaison will be appointed at the City Council meeting this week and should be at the next EPB meeting.

## **7. ADJOURNMENT**

Motion by Board Member Moore and seconded by Board Member Hagerty to adjourn the meeting.

The meeting adjourned at 7:15 p.m.

Respectfully submitted,

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Chris Anderson  
Senior Planner

ATTEST:

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Abdi Sahal  
Planning Assistant

Drafted by Amanda Staple  
*TimeSaver Off Site Secretarial, Inc.*

**Environmental Policy Board (EPB)****Meeting Date:** 02/10/2025**Primary Strategic Plan Initiative:** Identify and implement operational efficiencies, cost savings and additional funding sources.**Information****Title:**

Curbside Recycling Contact Status

**Purpose/Background:**

The City of Ramsey is currently in the fifth and final year of a 5-year residential curbside recycling contract with ACE Solid Waste. The current contract runs through December 31, 2025. The purpose of this case is to initiate discussion on policy direction in advance of the expiration of the current recycling contract. Please note, this case and discussion focuses solely on recycling service and does not contemplate garbage service. Ultimately, there are essentially three (3) potential options to be considered:

- Enter into negotiations with the current recycling service provider to extend or renew the curbside recycling contract.
- Prepare a Request for Proposals (RFP) to solicit bids for a curbside recycling service.
- Migrate to an open hauling system (similar to what we currently have for garbage service), which would not necessarily include management and oversight of the curbside program by the City, but would still involve licensing of haulers, semiannual reporting to Anoka County (both financial and tonnage reports), and education and marketing efforts.

**Time Frame/Observations/Alternatives:****Background and Historical Overview**

State Statute (Chapter 115A Waste Management) requires that residents, including both single family and multifamily residences, have the opportunity to recycle. The City has historically satisfied this requirement with a contract for curbside collection of residentially generated recyclables. In fact, it appears that the City's first contract for curbside recycling service was executed in 1990 (recycling service at that time was \$1.15 per household), and since then, the City has continued to utilize a contracted service to ensure residents have an opportunity to recycle. The current contract specifically addresses all townhomes and single-family residential homes. Note that apartment complexes and the manufactured home park are treated as commercial accounts and are not part of the current contract (meaning they need to secure recycling service through their trash hauler directly).

In addition to the statutory requirement that residents have an opportunity to recycle, the City also enters into a Recycling Agreement annually with Anoka County in order to receive funding to operate the recycling program (funding is provided from the State of Minnesota via the Select Committee on Recycling and the Environment or SCORE). Among other things, this annual agreement specifies the tonnage goal for each municipality (for example, the 2025 tonnage goal for Ramsey, which is set by Anoka County, is 3,124 tons). The annual tonnage goal is based on population and type of housing (split between single family households [225lbs per person] and multi-unit households [150lbs per person]). These tonnage goals tend to increase each year in an attempt to meet the State of Minnesota's goal of recycling 75% of solid waste by 2030. The City of Ramsey has continuously achieved its annual tonnage goal since 2006 (when Ramsey moved to a single sort system rather than having to separate various materials and bagging them before putting them in the 18-gallon bin and setting it out at the curb).

The City of Ramsey can comply with Chapter 115A of State Statutes by either providing recycling service via a contract or by migrating to an open hauling system. Both options have their pros and cons, which are generally laid out below.

### **Organized Collection (Contracted Recycling Service)**

Organized collection of recycling, accomplished via a contracted service, oftentimes results in greater participation rates and greater volumes (tonnage) of material collected. Since one hauler would be serving the entire community, there are collection efficiencies realized that often result in a lower cost per household compared to an open hauling system. Organized collection typically means fewer trucks on residential streets (there are presently seven [7] licensed waste haulers in Ramsey, which, under an open hauling system, could result in seven [7] different recycling trucks coming down the same residential street. That would be in addition to garbage trucks, yard waste trucks, and organics collection trucks, which, per the latest Metropolitan Solid Waste Management Plan, by the year 2030, the option for curbside collection of organics must be available in cities with a population of 5,000 or more.). Fewer trucks on the road would mean less wear and tear on our streets, reduced truck emissions, and should improve safety (fewer potential accidents with fewer trucks). Administration of a contracted recycling service tends to be more efficient compared to open hauling, since there is a single hauler that Staff has to work with to obtain tonnage data needed for the semi-annual reporting to Anoka County. Similarly, education and marketing tends to be more efficient and more specific also. This is because different haulers may have slightly different standards and/or accept more or less materials than other haulers.

On the other hand, organized collection has its cons as well. Coordination of upsizing or downsizing recycling carts (which can be requested by a resident at any time during the year) must go through the City rather than directly through the hauler. Also, requests for recycling carts to be delivered to a new construction home all have to come through City Staff. Any complaints related to the recycling service come through the City to be resolved rather than directly to the hauler (complaints/concerns have generally been scarce but can consume a lot of Staff time). Organized collection eliminates the option for residents to change haulers if they so desire, and it means that all households pay for recycling, even if they choose not to participate in the recycling program. Residents can choose not to recycle, but the monthly fee is still applicable.

### **Open Hauling System**

In an open hauling system, the primary benefit is that residents have the freedom and ability to change haulers any time they so choose. A household will have a more direct relationship with their hauler as any questions and/or concerns they have would go directly to the hauler instead of to City Staff. This type of collection system tends to be more 'business friendly' to smaller haulers and/or a start-up hauling business.

As with organized collection, an open hauling system also has its own cons. Open hauling typically results in more collection trucks on local streets. The potential disadvantages of this include increased street maintenance (by the city), more truck emissions, and increased traffic (which could lead to more safety concerns). In an open hauling system, monthly costs tend to be higher per household, as there are likely greater distances between service addresses. Promotion and education (by the city) tends to be more generalized, since different haulers may accept different materials and/or have different preparation requirements.

Although not mandatory, many communities that operate under an open hauling system, tend to offer their residents a year-round recycling center. Presently, Ramsey does not have any such facility, nor does Ramsey have sufficient staffing for such a facility. Additionally, if the City were to move toward an open hauling system, various code amendments would likely be needed, such as specifying that any licensed hauler must offer recycling and that haulers cannot charge a household that recycles more than a household that does not recycle (State Statute 115A.93, Subd.3.c).

Finally, should the City opt to move to an open hauling system, moving back toward an organized system would be more challenging after the statutory changes that were adopted by the legislature in 2013 (the process is outlined under IV. Solid Waste and Recycling Collection D. Procedural Requirements for Adopting Organized Collection under the second attachment to this case).

**Funding Source:**

Funding for the City's recycling program is through the Select Committee on Recycling and the Environment (SCORE). This funding is used to cover that portion of the Senior Planner's salary spent on recycling activities, as well as recycling promotion and education, and the city's various recycling events throughout the year.

**Recommendation:**

Staff has been satisfied with the program as-is.

**Outcome/Action:**

Provide a recommendation on the desired collection method for recycling and specify any talking points that the board feels are important for the City Council to consider.

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**Attachments**

MN State Statute 115A.93

League of Minnesota Cities Informational Memo on City Solid Waste Management

**Form Review**

**Inbox**

Brian Hagen

Form Started By: Chris Anderson

Final Approval Date: 02/06/2025

**Reviewed By**

Brian Hagen

**Date**

02/06/2025 04:26 PM

Started On: 02/04/2025 08:59 AM

**115A.93 LICENSING; SOLID WASTE COLLECTION.**

Subdivision 1. **License and registration required; reporting.** (a) A person may not collect mixed municipal solid waste for hire without a license from the jurisdiction where the mixed municipal solid waste is collected. The local licensing entity shall submit a list of licensed collectors to the agency.

(b) A person may not collect recyclable materials for hire unless registered with the agency. If a person is licensed under paragraph (a), the person need not register with the agency under this paragraph.

(c) The agency, in consultation with the Solid Waste Management Coordinating Board, the Association of Minnesota Counties, the Minnesota Solid Waste Administrators Association, and representatives from the waste industry, shall, by July 1, 2016, develop uniform short and long reporting forms that will reduce duplicative reporting to governmental units by collectors of solid waste and recyclable materials.

(d) A collector of mixed municipal solid waste or recyclable materials shall separately report to the agency on an annual basis information including, but not limited to, the quantity of mixed municipal solid waste and the quantity of recyclable materials collected:

- (1) from commercial customers;
- (2) from residential customers;
- (3) by county of origin; and
- (4) by destination of the material.

Subd. 2. **Local licensing.** (a) Each city and town may issue licenses for persons to collect mixed municipal solid waste for hire within their jurisdictions.

(b) County boards shall by resolution adopt the licensing authority of a city or town that does not issue licenses. A county may delegate its licensing authority to a consortium of counties or to municipalities to license collection of mixed municipal solid waste within the county.

Subd. 3. **License requirements; pricing based on volume or weight.** (a) A licensing authority shall require licensees to impose charges for collection of mixed municipal solid waste that increase with the volume or weight of the waste collected.

(b) A licensing authority may impose requirements that are consistent with the county's solid waste policies as a condition of receiving and maintaining a license.

(c) A licensing authority shall prohibit mixed municipal solid waste collectors from imposing a greater charge on residents who recycle than on residents who do not recycle.

(d) The commissioner may exempt a licensing authority from the requirements of paragraph (a) if the county within which the authority is located has an approved solid waste management plan that concludes that variable rate pricing is not appropriate for that jurisdiction because it is inconsistent with other incentives and mechanisms implemented within the jurisdiction that are more effective in attaining the goals of this chapter to discourage on-site disposal, littering, and illegal dumping.

(e) In the interim between revisions to the county solid waste management plan, the commissioner may exempt a licensing authority from the requirements of paragraph (a) if the commissioner makes the determination otherwise made by the plan in paragraph (d) and finds that the licensing authority:

(1) operates or contracts for the operation of a residential recycling program that collects more categories of recyclable materials than required in section 115A.552;

(2) has a residential participation rate in its recycling programs of at least 70 percent or in excess of the participation rate for the county in which it is located, whichever is greater; and

(3) is located in a county that has exceeded the recycling goals in section 115A.551.

An exemption granted by the commissioner in the interim between revisions to the county solid waste management plan is only effective until the county solid waste management plan is revised.

Subd. 3a. **Volume requirement.** A licensing authority that requires a pricing system based on volume instead of weight under subdivision 3 shall determine a base unit size for an average small quantity household generator and establish, or require the licensee to establish, a multiple unit pricing system that ensures that amounts of waste generated in excess of the base unit amount are priced higher than the base unit price.

Subd. 4. **Date certain.** By January 1, 1993, each county shall ensure that each city or town within the county requires each mixed municipal solid waste collector that provides curbside collection service in the city or town to obtain a license under this section or the county shall directly require and issue the licenses. No person may collect mixed municipal solid waste after January 1, 1993, without a license.

Subd. 5. **Customer data.** Customer lists provided to counties or cities by solid waste collectors are private data on individuals as defined in section 13.02, subdivision 12, with regard to data on individuals, or nonpublic data as defined in section 13.02, subdivision 9, with regard to data not on individuals.

**History:** *1Sp1989 c 1 art 20 s 8; 1991 c 337 s 42,43; 1992 c 593 art 1 s 25,26; 1993 c 351 s 23; 1996 c 470 s 12; 1Sp2005 c 1 art 2 s 161; 1Sp2015 c 4 art 4 s 111*

## INFORMATION MEMO

# City Solid Waste Management

*Understand city authority and requirements to regulate the collection and disposal of solid waste and the roles of state and county oversight. Read about city licensing authority and permitted assessments and fees. Learn about open and organized systems of solid waste collection, including their advantages and disadvantages. Includes a flowchart showing the process for adopting organized collection.*

### RELEVANT LINKS:

[Minn. Stat. § 412.221, subd. 22 \(3\), Minn. Stat. § 410.33, \*Troje v. City Council of City of Hastings\*, 310 Minn. 183, 245 N.W.2d 596 \(1976\).](#)

[Minn. Stat. § 443.18, Minn. Stat. § 410.01.](#)

See [Minn. Stat. §§ 443.18-443.35](#) for more information about first class cities' authority and restrictions regarding solid waste management.

See Information Brief, [Minnesota Solid Waste History](#), Minnesota House of Representatives.

## I. Authority, oversight, and definitions

### A. Authority to regulate

All cities are authorized to provide for or regulate by ordinance the disposal of sewage, garbage, and other refuse. This broad grant of police power authorizes cities to regulate the collection and disposal of solid waste.

### B. Authority to acquire, construct, and operate solid waste facilities—first class cities

First class cities (Minneapolis, St. Paul, Duluth, and Rochester) are authorized:

- To acquire by purchase or condemnation lands on which to build plants for the destruction of garbage and other refuse.
- To purchase, build, operate, and maintain such plants for the destruction of garbage and other refuse.
- To provide for the collection of all such garbage or refuse and its delivery to destruction plants or other places.
- To pay and contract to pay for the same in such annual installments and at such a rate of interest on deferred payments as the city council determines.

Each of these actions must be authorized by at least a three-fourths vote of all members of the city council. First class cities have additional authority and restrictions regarding solid waste management.

### C. State oversight

Before the 1970s, open burning and open dumping were the most common forms of solid waste management.

This material is provided as general information and is not a substitute for legal advice. Consult your attorney for advice concerning specific situations.

## RELEVANT LINKS:

[Minn. Stat. § 115A.46. For Government and Partners: Materials and waste management, MPCA.](#)

[See Minn. Stat. ch. 115A.](#)

[Minn. Stat. § 115A.02.](#)

[Minn. Stat. § 115A.46. Minn. Stat. § 400.16. Minn. Stat. § 473.149. Minn. R. ch. 9215.](#)

[Minn. Stat. § 115A.46 subd. 5.](#)

[Minn. Stat. § 473.149. See Metropolitan Solid Waste Management Policy Plan 2022-2042.](#)

Beginning in the 1970s, the Minnesota Legislature adopted a variety of waste management regulations, and it gave the Minnesota Pollution Control Agency (MPCA) regulatory oversight over the management of solid waste and recycling.

The MPCA develops and enforces the state's solid waste management regulations. It also is responsible for approving the solid waste plans that counties must adopt. The MPCA offers a variety of tools to help counties, cities, and townships develop and support systems that recover resources and manage waste.

The Minnesota Legislature adopted the Waste Management Act in 1980. It establishes the following descending order of preference for waste management:

- Waste reduction and reuse.
- Waste recycling.
- Composting of source-separated compostable materials, including, but not limited to, yard waste and food waste.
- Resource recovery through mixed municipal solid waste composting or incineration.
- Land disposal that produces no measurable methane gas or that involves the retrieval of methane gas as a fuel for the production of energy to be used on-site or for sale.
- Land disposal that produces measurable methane and that does not involve the retrieval of methane gas as a fuel for the production of energy to be used on-site or for sale.

## D. County oversight

Minnesota counties have primary responsibility for solid waste management, including recycling. All counties are required to adopt a solid waste plan that must include waste reduction and recycling provisions, as well as provisions to minimize the amount of waste disposed of in landfills.

After the MPCA has approved a county's solid waste plan, a city located in that county may not enter into a binding agreement governing solid waste management activity or develop or implement solid waste management activity (other than activity to reduce waste generation or reuse waste materials) that is inconsistent with the county's plan without the county's consent.

Metropolitan counties must develop solid waste management plans that are consistent with the most recent "metropolitan long range policy plan."

## RELEVANT LINKS:

[Minn. Stat. § 115A.03, subd. 21.](#)

[Minn. Stat. § 115A.03, subd. 31.](#) [Minn. Stat. § 116.06, subd. 22.](#)

[Minn. Stat. § 115A.951.](#)  
[Minn. Stat. § 115A.96.](#) [Minn. Stat. § 115A.03, subd. 17a.](#)  
[Minn. Stat. § 115A.9565.](#)  
[Minn. Stat. § 115A.931.](#)  
[Minn. Stat. § 115A.932.](#)  
[Minn. Stat. § 115A.9155.](#)  
[Minn. Stat. § 115A.9157.](#)

## E. Definitions

### 1. Mixed municipal solid waste

Mixed municipal solid waste is defined as “garbage, refuse, and other solid waste from residential, commercial, industrial, and community activities that the generator of the waste aggregates for collection.” Mixed municipal solid waste does not include “auto hulks, street sweepings, ash, construction debris, mining waste, sludges, tree and agricultural wastes, tires, lead acid batteries, motor and vehicle fluids and filters, and other materials collected, processed, and disposed of as separate waste streams.”

### 2. Solid waste

Solid waste is defined as “garbage, refuse, sludge from a water supply treatment plant or air contaminant treatment facility, and other discarded waste materials and sludges, in solid, semisolid, liquid, or contained gaseous form, resulting from industrial, commercial, mining, and agricultural operations, and from community activities.” Solid waste does not include:

- Hazardous waste.
- Animal waste used as fertilizer.
- Earthen fill, boulders, rock.
- Concrete diamond grinding and saw slurry associated with the construction, improvement, or repair of a road when deposited on the road project site in a manner that is in compliance with best management practices and rules of the agency.
- Sewage sludge.
- Solid or dissolved material in domestic sewage or other common pollutants in water resources, such as silt, dissolved or suspended solids in industrial wastewater effluents or discharges which are point sources subject to permits under section 402 of the Federal Water Pollution Control Act, as amended, dissolved materials in irrigation return flows.
- Source, special nuclear, or by-product material as defined by the Atomic Energy Act of 1954, as amended.

State law specifically prohibits certain items from being included in mixed municipal solid waste or in solid waste, including: telephone directories, major appliances, electronic products containing a cathode-ray tube, yard waste, tires, motor and vehicle fluids and filters, mercury or mercury-containing devices or products from which the mercury has not been removed for reuse or recycling, fluorescent tubes, and certain batteries.

**RELEVANT LINKS:**

[Minn. Stat. § 115A.935.](#)

[Minn. Stat. § 115A.03, subd. 38.](#)

[Minn. Stat. § 115A.03, subd. 25a.](#)

[Minn. Stat. § 115A.03, subd. 32b.](#)

[Minn. Stat. § 115A.03, subd. 32a.](#) [Minn. Stat. § 115A.93.](#)

State law also prohibits the disposal of solid waste generated outside Minnesota unless the waste meets all the solid waste management regulations of the state in which it was generated and contains none of the items otherwise banned from mixed municipal solid waste in Minnesota.

### **3. Yard waste**

Yard waste is defined as “garden wastes, leaves, lawn cuttings, weeds, shrub and tree waste, and prunings.”

### **4. Recyclable materials**

Recyclable materials are defined as “materials that are separated from mixed municipal solid waste for the purpose of recycling or composting, including paper, glass, plastics, metals, automobile oil, batteries, source-separated compostable materials, and sole source food waste streams that are managed through biodegradative processes.” Recyclable materials do not include refuse-derived fuel or other material that is destroyed by incineration.

### **5. Source-separated recyclable materials**

Source-separated recyclable materials are defined as “recyclable materials, including commingled recyclable materials, that are separated by the generator.”

### **6. Source-separated compostable materials**

Source-separated compostable materials are defined as materials that:

- Are separated at the source by waste generators for the purpose of preparing them for use as compost.
- Are collected separately from mixed municipal solid waste and are governed by the licensing provisions of section 115A.93.
- Are comprised of food wastes, fish and animal waste, plant materials, diapers, sanitary products, and paper that is not recyclable.
- Are delivered to a facility to undergo controlled microbial degradation to yield a humus-like product meeting the MPCA’s class I or class II, or equivalent, compost standards, and where process rejects do not exceed 15 percent by weight of the total material delivered to the facility.
- May be delivered to a transfer station, mixed municipal solid waste processing facility, or recycling facility only for the purposes of composting or transfer to a composting facility, unless the commissioner determines that no other person is willing to accept the materials.

## RELEVANT LINKS:

[Minn. Stat. § 115A.94](#). See Section IV, *Solid waste and recycling collection*, for more information about organized collection.

[Waste Management in Minnesota, Minnesota State Auditor](#).

[Minn. Stat. § 115A.94, subd. 5](#). See Section IV, *Solid waste and recycling collection*, for more information about organized collection.

[Minn. Stat. § 115A.94, subd. 5](#).

[Minn. Stat. § 473.811, subd. 5\(b\)](#). [Minn. Stat. § 473.121](#).

## 7. Organized collection

Organized collection is defined as “a system for collecting solid waste in which a specified collector, or a member of an organization of collectors, is authorized to collect from a defined geographic service area or areas some or all of the solid waste that is released by generators for collection.”

## 8. Open collection

Open collection is generally defined as a system for collecting solid waste or recyclable materials where individual residents and businesses are free to contract with any collector licensed to do business in the city.

# II. City regulation and licensing

## A. Required regulation

There are three situations where cities are required to regulate solid waste collection.

### 1. County organized collection ordinance

Any county can adopt an ordinance requiring cities or towns within its boundaries to organize collection of solid waste. If a city does not comply with the county’s organized collection ordinance, the county can organize collection itself.

A county’s organized collection ordinance—in addition to requiring solid waste collection—may also require the separation and separate collection of recyclable materials, specify the material to be separated, and require cities to meet any performance standards for source separation contained in the county’s solid waste plan.

### 2. Cities in the metropolitan area

Cities in the metropolitan area must adopt an ordinance regulating the collection of solid waste within its boundaries. The metropolitan area includes the counties of Anoka, Carver, Dakota (excluding the cities of Northfield and Cannon Falls), Hennepin (excluding the cities of Hanover and Rockford), Ramsey, Scott (excluding the city of New Prague), and Washington. If a city is located in a metropolitan county that has adopted a collection ordinance, the city must adopt either the county ordinance by reference or a stricter ordinance. If a city is located in a metropolitan county that has adopted a recyclable-separation ordinance, the ordinance applies in all cities within the county that have failed to meet the local abatement performance standards stated in the most recent annual county report.

## RELEVANT LINKS:

[Minn. Stat. § 115A.941.](#)

[Minn. Stat. § 115A.941.](#) See Section IV, *Solid waste and recycling collection*, for more information about organized collection.

[Minn. Stat. § 115A.941 \(b\).](#)

[Minn. Stat. § 115A.151.](#)

[Minn. Stat. § 115A.93, subd. 1.](#)

[Minn. Stat. § 115A.93, subd. 2.](#) [Minn. Stat. § 115A.93, subd. 1\(a\).](#) *Troje v. City Council of City of Hastings*, 310 Minn. 183, 245 N.W.2d 596 (1976).

[Minn. Stat. § 115A.93, subd. 3\(a\).](#)

### 3. Cities with a population of 1,000 or more

Any city, regardless of where it is located, with a population of 1,000 or more must ensure that every residential household and business in the city has solid waste collection service.

To comply with this requirement, cities are authorized to organize solid waste collection, provide collection by city employees, or require by ordinance that every household and business has a contract for collection services. An ordinance with such a requirement must also provide for enforcement. Cities must follow specific procedural requirements before adopting organized collection of solid waste.

A city with a population of 1,000 or more may exempt a residential household or business from the requirement to have solid waste collection service if the household or business ensures that an environmentally sound alternative is used.

### B. Recycling required at city facilities

All statutory and home rule charter cities are required to ensure that facilities under their control, from which mixed municipal solid waste is collected, have containers for at least three recyclable materials, such as, but not limited to, paper, glass, plastic, and metal. Cities also must transfer all recyclable materials collected to a recycler.

### C. Licensing

#### 1. Solid waste collectors

State law prohibits any person from collecting mixed municipal solid waste for hire without a license from the jurisdiction where that waste is collected.

Cities are authorized to license solid waste collectors. If a city does so, it must submit a list of licensed collectors to the MPCA. County boards are required to adopt by resolution the licensing authority of any city that does not license solid waste collectors. If a city acts as a licensing authority, it may impose requirements that are consistent with the county's solid waste policies. In addition, state law establishes several requirements that must be imposed for any license issued to a solid waste collector.

First, a license must require collectors to impose charges for collection of mixed municipal solid waste that increase with the volume or the weight of waste collected. For example, a solid waste collector could charge fees that increase with the increasing volume of solid waste generated by customers.

## RELEVANT LINKS:

[Minn. Stat. § 115A.93, subd. 3\(d\).](#)

[Minn. Stat. § 115A.93, subd. 3\(e\).](#)

[Minn. Stat. § 115A.93, subd. 3a.](#)

[Minn. Stat. § 115A.93, subd. 3\(c\).](#)

[Minn. Stat. § 115A.553, subd. 2. Minn. Stat. § 115A.93, subd. 1\(b\).](#)

[Minn. Stat. § 115A.46, subd. 5.](#)

[Orr v. City of Rochester, 193 Minn. 371, 258 N.W. 569 \(1935\).](#)

Garbage carts of different sizes, measured by their volume in gallons, could be issued to customers who can decide what size garbage cart best suits their disposal needs.

The commissioner of the MPCA may exempt a licensing authority from this requirement if the county in which the city is located has an approved solid waste plan that concludes that variable rate pricing is not appropriate for that jurisdiction because it is inconsistent with other incentives and mechanisms

implemented that are more effective in attaining the goals of discouraging on-site disposal, littering, and illegal dumping. The commissioner may also exempt a collector from this requirement while revisions are being made to the county's solid waste plan if certain conditions are met. The exemption is only effective until the county solid waste plan is revised.

Second, a license that requires a pricing system based on volume instead of weight shall determine a base unit size for an average small quantity household generator of waste and establish, or require the licensee to establish, a multiple unit pricing system that ensures that amounts of waste generated in excess of the base unit amount are priced higher than the base unit price.

Third, a license shall prohibit collectors from imposing a greater charge on residents who recycle than on residents who do not.

## 2. Recycling collectors

Counties can require either county or municipal licenses for the collection of recyclable materials. A person may not collect recyclable materials for hire unless that person is licensed locally or is registered with the MPCA. Each county must ensure that materials separated for recycling are taken to markets for sale or to recyclable material processing centers. No county may prevent a person that generates or collects solid waste from delivering recyclable materials to a recycling facility of the generator's or collector's choice.

If a city acts as a licensing authority, it may impose requirements that are consistent with the county's recycling policies. A city can also impose requirements that are in addition to or different from the county's policies if the city's requirements are designed to reduce waste generation or promote the reuse of waste materials.

## 3. License fees

State law does not address the amount that cities can charge for licenses for collection of solid waste or recyclable materials. Generally, a license fee must be reasonable.

## RELEVANT LINKS:

*Waste Systems Corp. v. County of Martin*, 985 F.2d 1381 (8th Cir. 1993). *C & A Carbone, Inc. v. Town of Clarkstown, New York*, 511 U.S. 383 (1994).

*Ben Oehrleins and Sons and Daughter, Inc. v. Hennepin County*, 115 F.3d 1372 (8th Cir. 1997).

*City of Philadelphia v. New Jersey*, 437 U.S. 617 (1978). *United Haulers Ass'n, Inc. v. Oneida-Herkimer Solid Waste Management Auth.*, 550 U.S. 330 (2007).

*LSP Transmission Holdings, LLC v. Sieben*, 954 F.3d 1018, 1026 (8th Cir. 2020).

*General Motors Corporation v. Tracy*, 519 U.S. 278, 306 (1997).

*Paul's Industrial Garage, Inc. v. Goodhue County*, No. 21-2614 (8th Cir. 2022).

Minn. Stat. §§ 115A.83-115A.86.

Minn. Stat. § 115A.83 subd. 2. Minn. Stat. § 115A.03, subds. 27 and 28.

It should not be viewed as a source of revenue and should be in an amount that is close to the direct and indirect costs in issuing the license and regulating the licensed activity.

### D. Requiring use of specific waste facility

Some municipalities have adopted ordinances that regulate the flow of solid waste, for example, by designating where it must be taken for disposal. This is generally done as a tool to achieve solid waste management goals.

Flow control ordinances may raise constitutional issues under the Commerce Clause of the United States Constitution if they interfere with the flow of interstate commerce.

Courts have recognized a distinction under the Commerce Clause that generally allows municipalities more authority to take actions affecting solid waste if they are acting as a “market participant” instead of as a government regulator. When a municipality is providing for or contracting for waste management services, it generally is thought to be acting as a market participant.

The dormant Commerce Clause prohibits states from implementing regulations that favor in-state economic interests by burdening out-of-state competitors. However, courts have found that local governments may provide differential treatment to entities that perform different services in the same market as long as no actual or prospective competition exists. For example, a county ordinance that requires waste be made into refuse-derived fuel (RDF) and transferred to a state-run energy plant instead of contracting an out of state entity that transfers waste to a landfill does not violate the dormant Commerce Clause because the out-of-state entity performs a different service.

State law authorizes counties or sanitary districts to adopt a designation ordinance requiring that all solid waste generated within a specific geographic area must be delivered to a specific solid waste facility. A designation ordinance does not apply to the following materials:

- Materials separated from solid waste and recovered for reuse in their original form or for use in manufacturing processes.
- Materials that are processed at a resource recovery facility at the capacity in operation at the time that the designation plan is approved by the commissioner of the MPCA.

**RELEVANT LINKS:**

[Minn. Stat. § 115A.94, subd. 3.](#) [Minn. Stat. § 115A.86.](#)

[Minn. Stat. § 473.813.](#)

LMCIT staff can assist in reviewing city contracts, especially provisions related to insurance and liability. For more information, contact Chris Smith, Risk Management Attorney, at [csmith@lmc.org](mailto:csmith@lmc.org) or 651-281-1269.

[Minn. Stat. § 115A.93, subd. 5.](#) [Minn. Stat. § 13.02, subds. 9, 12.](#)

[Minn. Stat. § 443.015.](#) See [Adopting Assessments for Unpaid Charges for Garbage Collection and Disposal Services, LMC Model Resolution.](#)

- Materials that are separated at a permitted transfer station located within the boundaries of the designating authority for the purpose of recycling the materials if either: (1) the transfer station was in operation on Jan. 1, 1991; or (2) the materials were not being separated for recycling at the designated facility at the time the transfer station began separation of the materials.
- 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 facility and the residuals are managed as separate waste streams.

If a city organizes collection, by contract or as a municipal service, it may include a requirement that all or any portion of the solid waste be delivered to a waste facility identified by the city. This requirement would not apply to recyclable materials and materials that are processed at a resource recovery facility at the capacity in operation at the time the requirement is imposed. In a district or county where a resource recovery facility has been designated by ordinance, organized collection must conform to the designation ordinance’s requirements.

Cities in the metropolitan area have authority to directly negotiate and enter into contracts—for a term not to exceed 30 years—for the delivery of solid waste to a waste facility, and the processing of solid waste. Contracts made by direct negotiations shall be approved by resolution.

Before a city in the metropolitan area enters into a contract for a period of more than five years, it must submit the proposed contract and a description of the proposed activities under the contract to the commissioner of the MPCA for review and approval.

## **E. Customer lists**

Customer lists that solid waste collectors provide to cities are private data on individuals, or nonpublic data with regard to data not on individuals, under the Minnesota Government Data Practices Act.

## **III. City assessments and fees**

### **A. Assessments for unpaid services**

Any statutory city or city of the fourth class that provides, by contract or otherwise, for garbage collection and disposal may by ordinance require the owners of all property served to pay the proportionate cost of the service to their properties.

**RELEVANT LINKS:**

[Providing for Assessment of Unpaid Charges for Garbage Collection and Disposal Services, LMC Model Ordinance.](#)

[Minn. Stat § 443.26 – 443.35.](#)  
[Minn. Stat. § 443.29.](#)

[Minn. Stat. § 115A.921, subd. 1.](#)

[Minn. Stat. § 115A.921, subd. 1\(b\).](#)

[Minn. Stat. § 115A.921, subd. 2.](#) [Minn. Stat. § 115A.03, subd. 7.](#)

[Minn. Stat. § 115A.921, subd. 2.](#)

The city council may annually levy an assessment equal to the unpaid cost as of Sept. 1 of each year against each lot or parcel of land. The assessment may include a penalty not to exceed 10 percent of the unpaid amount, and shall bear interest not exceeding 6 percent per year. Such assessments shall be certified to the county auditor and shall be collected and remitted to the city treasurer in the same manner as assessments for local improvements.

First class cities (Minneapolis, St. Paul, Duluth, and Rochester) have additional authority to collect unpaid charges for rubbish disposal in a civil action, or to assess them against the property receiving the service and collect them as other taxes are collected.

## **B. City fees**

### **1. Operators of disposal facilities**

A city may charge a fee that cannot exceed \$1 per cubic yard of waste, or its equivalent, on operators of facilities for the disposal of mixed municipal solid waste located in the city. The fees must be credited to the city’s general fund. Revenue produced by 25 cents of the fee must be used only for purposes of landfill abatement or for mitigating and compensating for the local risks, costs, and other adverse effects of the facilities.

Revenue produced by the balance of the fee may be used for any general fund purpose.

There is an exemption from this fee for waste residue from recycling facilities at which recyclable materials are separated or processed for the purpose of recycling, or from energy and resource-recovery facilities at which solid waste is processed for the purpose of extracting, reducing, converting to energy, or otherwise separating and preparing solid waste for reuse if there is at least an 85 percent weight reduction in the solid waste processed.

A city also may charge a fee not to exceed 50 cents per cubic yard of waste, or its equivalent, on operators of facilities for the disposal of construction debris located within the city. The revenue from the fees must be credited to the city general fund. Two-thirds of the revenue must be used only for purposes of landfill abatement or for purposes of mitigating and compensating for the local risks, costs, and other adverse effects resulting from the facilities.

There is an exemption from 25 percent of this fee if the facility has implemented a recycling program that the county has approved, and 25 percent if the facility contains a liner and leachate collection system the MPCA has approved.

## RELEVANT LINKS:

[Minn. Stat. § 115A.929.](#)

[Minn. Stat. § 115A.03, subd. 36.](#)

[Minn. Stat. § 115A.919.](#)  
[Minn. Stat. § 115A.921.](#)

[Minn. Stat. § 115A.923.](#)  
For more information about these fees see Section III. B., *City Fees*. [Minn. Stat. § 115A.929.](#)

[Minn. Stat. § 115A.945.](#)

[Analysis of Waste Collection Service Arrangements](#), Minnesota Pollution Control Agency, June 2009.

Two-thirds of the revenue from this fee must offset any financial assurances required by the city for a construction debris facility. The maximum revenue that may be collected for this type of fee must be determined by multiplying the total permitted capacity of a facility by 15 cents per cubic yard. Once the maximum revenue has been collected for a facility, the fees in this subdivision may no longer be imposed.

## 2. Accounting for fees

Cities that provide for solid waste management shall account for all revenue collected from waste management fees, together with interest earned on revenue from the fees, separately from other revenue collected by the city.

Cities must report revenue collected from the fees and use of the revenue separately from other revenue and use of revenue in any required financial report or audit.

A city provides solid waste management and is subject to this requirement for a separate accounting and reporting if a city engages in any activities that are intended to affect or control the generation of waste, or engages in any activities that provide for or control the collection, processing, and disposal of waste. State law defines waste management fees as:

- All fees, charges, and surcharges collected under sections 115A.919, 115A.921, and 115A.923 of the Minnesota Statutes.
- All tipping fees collected at waste management facilities owned or operated by the city.
- All city charges for waste collection and management services.
- Any other fees, charges, or surcharges imposed on waste for the purpose of waste management, whether collected directly from generators, indirectly through property taxes, or as part of utility or other charges for city-provided services.

Any city that provides or pays for the costs of collection or disposal of solid waste must, through a billing or other system, make the prorated share of those costs for each solid waste generator visible and obvious to the generator.

## IV. Solid waste and recycling collection

### A. Types of collection systems—open collection and organized collection

The two main types of collection systems for solid waste and recycling are commonly referred to as “open collection” and “organized collection.”

**RELEVANT LINKS:**

[Minn. Stat. § 115A.94, subds. 1, 3.](#) See Section IV.D., *Procedural requirements for adopting organized collection*, for more information.

[Minn. Stat. § 115A.94, subd. 3.](#)

[Minn. Stat. § 471.345.](#) [Minn. Stat. § 412.311.](#) *Schwandt Sanitation of Paynesville v. City of Paynesville*, 423 N.W.2d 59 (Minn. Ct. App. 1988).

[Minn. Stat. § 115A.94, subd. 3.](#) [Minn. Stat. § 115A.86.](#)

[Minn. Stat. § 115A.94, subd. 3.](#)

A 2009 study authorized by the MPCA estimated that the number of cities with open solid waste collection was between 65 to 80 percent, and the number of cities with organized solid waste collection was between 20 to 35 percent. The same study indicated that the number of cities with open recycling was estimated to be between 40 to 60 percent, and the number of cities with organized recycling was estimated to be between 50 to 60 percent.

Open collection is generally defined as a collection system where individual residents and businesses are free to contract with any collector licensed to do business in the city.

Organized collection is defined as a “system for collecting solid waste in which a specified collector, or a member of an organization of collectors, is authorized to collect from a defined geographic service area or areas some or all of the solid waste that is released by generators for collection.”

A city must comply with certain procedural requirements in the organized collection statute before adopting organized collection of solid waste. There may be additional procedural requirements for home rule charter cities.

A city may organize collection as a municipal service where city employees collect solid waste from a defined geographic service area or areas. In the alternative, cities may organize collection by using one or more private collectors or an organization of collectors. The agreement with the private collectors may be made through an ordinance, franchise, license, negotiated or bid contract, or by other means.

The competitive bidding requirements in state law do not apply to city contracts for solid waste collection because a contract for these services does not meet the definition of a “contract” that is subject to the Uniform Municipal Contracting Law.

Organized collection accomplished by contract or as a municipal service may include a requirement that all or any portion of the solid waste—except recyclable materials and materials that are processed at a resource-recovery facility at the capacity in operation at the time the requirement is imposed—be delivered to a waste facility identified by the city. In a district or county where a resource-recovery facility has been designated by ordinance, organized collection must conform to the ordinance’s requirements.

Cities are prohibited from establishing or administering organized collection in a way that impairs recycling. Further, cities must exempt recyclable materials from organized collection upon a showing by the person who generates the recyclables or a collector of recyclables that the materials are or will be separated from mixed municipal solid waste by the generator, separately collected, and delivered for reuse in their original form or for use in a manufacturing process.

## RELEVANT LINKS:

[Minn. Stat. § 115A.94, subds. 1, 3. Minn. Stat. § 115A.03, subds. 25a, 31. Minn. Stat. § 116.06, subd. 22.](#)

[Waste Recovery Coop. of Minn. v. Cnty. of Hennepin, 475 N.W.2d 892 \(Minn. Ct. App. 1991\).](#)

[Minn. Stat. § 115A.94, subd. 6.](#)

[Minn. Stat. § 115A.03, subd. 4. Minn. Stat. § 115A.94.](#)

[Jennissen v. City of Bloomington, 913 N.W.2d 456 \(Minn. 2018\). Clark v. City of Saint Paul, 934 N.W.2d 234 \(Minn. 2019\). Jennissen v. City of Bloomington, 938 N.W.2d 808 \(Minn. 2020\).](#)

It is not absolutely clear whether a city that decides to enter into an agreement for the collection of recyclable materials, including source-separated compostable materials, with one collector or an organization of collectors is required to comply with the procedural requirements in the organized collection statute. The answer likely depends on whether the definition of “solid waste” referenced in the organized collection statute should be interpreted to include recyclable materials.

The Minnesota Court of Appeals, in a published opinion, considered a similar issue of whether telephone directories, which were collected for recycling, were subject to a county’s designation ordinance requiring mixed municipal solid waste to be disposed of at a county-designated facility. The court of appeals concluded that the telephone directories did not meet the definition of mixed municipal solid waste or of solid waste because they were being collected for recycling in a “separate waste stream” and were not being “discarded” as solid waste.

If a city is considering entering into an agreement for the collection of recyclable materials with one collector or an organization of collectors, it should consult its city attorney to determine whether it must follow the procedural requirements in the organized collection statute.

## **B. Organized collection is generally optional**

The organized collection statute provides that the authority to organize the collection of solid waste is optional and is in addition to authority governing solid waste collection granted by other law. The statute also provides that a city may exercise any authority granted by any other law, including a home rule charter, to govern collection of solid waste. A city would only be required to organize collection if the county in which it is located has by ordinance required cities within its jurisdiction to organize collection.

The Waste Management Act defines cities as “statutory and home rule charter cities authorized to plan under sections 462.351 to 462.364.” Therefore, both statutory and home rule charter cities may adopt organized collection using the procedures outlined in the organized collection statute.

The Minnesota Supreme Court has held that the Waste Management Act does not preempt home rule charter cities from regulating the process for organizing the collection of solid waste. Instead, the Supreme Court concluded that the Act establishes the minimum procedural requirements that cities must follow before adopting organized collection, and that home rule charter cities may be subject to additional procedural requirements, including those adopted through a citizen petition for a referendum or for a proposed charter amendment.

## RELEVANT LINKS:

*Analysis of Waste Collection Service Arrangements*, Minnesota Pollution Control Agency, June 2009.

*Analysis of Waste Collection Service Arrangements*, Minnesota Pollution Control Agency, June 2009.

The Benefits of Organized Collection, Minnesota Pollution Control Agency, Feb. 2012. *Analysis of Waste Collection Service Arrangements*, Minnesota Pollution Control Agency, June 2009.

## C. Open collection versus organized collection: pros and cons

### 1. Open collection

There are several frequently cited advantages of open collection:

- Residents have more choice and are free to select a solid waste collector based on their preference.
- There is a direct relationship between the solid waste collector and its customers.
- There are minimal administrative costs for cities.
- Smaller solid waste collectors are better able to enter the market in an open collection system by servicing a portion of city residents.

In contrast, there are several frequently cited disadvantages of open collection:

- Open collection generally results in a more expensive monthly cost for residents.
- Multiple collectors mean more truck traffic and the resulting negative side effects, including the potential for added street maintenance costs, and increased vehicle noise and emissions, fuel consumption, and vehicle accidents.
- There may be inconsistent charges for the same level of service in a city.
- Cities have reduced ability to manage solid waste collection.

### 2. Organized collection

There are several frequently cited advantages of organized collection:

- The price paid by households in an organized collection system is generally lower per month for similar service levels than in an open collection system due to increased efficiencies from serving every household or business in the community or on a particular route.
- Limiting the number of solid waste collectors allows cities to decrease the impacts of increased truck traffic, including the potential for added street maintenance costs, vehicle noise and emissions, fuel consumption, and vehicle accidents.
- Cities have greater ability to manage solid waste collection and can establish service requirements.
- Standardized service makes public education easier.
- Cities' ability to seek requests for proposals on a regular basis helps lower costs.

## RELEVANT LINKS:

*Analysis of Waste Collection Service Arrangements*, Minnesota Pollution Control Agency, June 2009.

Minn. Stat. § 115A.94, 2013 Minn. Laws ch. 45.

See Appendix A, Organized Collection Flowchart.

Minn. Stat. § 115A.03, subd. 4. Minn. Stat. § 115A.94.

*Jennissen v. City of Bloomington*, 913 N.W.2d 456 (Minn. 2018). *Clark v. City of Saint Paul*, 934 N.W.2d 234 (Minn. 2019). *Jennissen v. City of Bloomington*, 938 N.W.2d 808 (Minn. 2020).

Minn. Stat. § 115A.94, subd. 4d. Minn. Stat. § 331A.03.

In contrast, there are several frequently cited disadvantages of organized collection:

- Households and businesses do not get to choose their collector.
- Cities have greater administrative involvement and costs.
- Small collectors have higher entry costs to get into the market and competitive opportunities are limited to contract openings.
- The statutory requirements for switching from open collection to organized collection are time consuming and can be difficult politically.

## D. Procedural requirements for adopting organized collection

There are several procedural steps a city must take before it is authorized to adopt organized collection of solid waste.

The Minnesota Legislature adopted significant changes to the organized collection statute in 2013 that were designed to simplify the process for adopting organized collection. Any city that has adopted organized collection as of May 1, 2013, is exempt from the new requirements.

The Waste Management Act defines cities as “statutory and home rule charter cities authorized to plan under sections 462.351 to 462.364.” Therefore, both statutory and home rule charter cities may adopt organized collection using the procedures outlined in the organized collection statute.

The Minnesota Supreme Court has held that the Waste Management Act does not preempt home rule charter cities from regulating the process for organizing the collection of solid waste. Instead, the Supreme Court concluded that the Act establishes the minimum procedural requirements that cities must follow before adopting organized collection, and that home rule charter cities may be subject to additional procedural requirements, including those adopted through a citizen petition for a referendum or for a proposed charter amendment.

### 1. Notice to public and to licensed collectors

A city with more than one licensed collector must first give notice to the public and to all licensed collectors that it is considering adopting organized collection. State law does not specify how notice should be provided. The League recommends providing both published notice and individual mailed notice to each licensed collector.

**RELEVANT LINKS:**

[Minn. Stat. § 115A.94, subd. 4d.](#)

[Minn. Stat. § 115A.94, subd. 4e.](#)

[Minn. Stat. § 115A.94, subd. 4d.](#)

[Minn. Stat. § 115A.94, subd. 4d.](#)

[Minn. Stat. § 115A.94, subd. 4d.](#)

[Minn. Stat. § 115A.94, subd. 4d.](#)

[Minn. Stat. § 115A.94, subd. 4c.](#)

LMCIT staff can assist in reviewing city contracts, especially provisions related to insurance and liability. For more information, contact Chris Smith, Risk Management Attorney, at [csmith@lmc.org](mailto:csmith@lmc.org) or 651-281-1269.

## **2. Exclusive negotiation period with licensed collectors**

After the city provides notice of its intent to consider adopting organized collection, it must provide a negotiation period that is exclusive between the city and all collectors licensed to operate in the city. This exclusive negotiation period must be at least 60 days, but it may be longer if the city chooses.

Before the exclusive meetings and negotiation, participating licensed collectors and elected officials must meet and confer regarding waste collection issues, including but not limited to road deterioration, public safety, pricing mechanisms, and contractual considerations unique to organized collection.

A city is not required to reach an agreement with the licensed collectors during this period. The purpose of the exclusive negotiation period is to allow the licensed collectors an opportunity to develop a proposal in which they, as members of an organization of collectors, will collect solid waste from designated sections of the city.

The proposal must contain identified city priorities, including issues related to zone creation, traffic, safety, environmental performance, service provided, and price, and must reflect existing collectors maintaining their respective market share of business as determined by each hauler's average customer count during the six months before the beginning of the exclusive negotiation period.

If an existing collector opts to be excluded from the proposal, the city may allocate its customers proportionally based on market share to the participating collectors who choose to negotiate.

If an organized collection agreement is established as a result of the exclusive negotiation period, the initial agreement must be in effect for seven years. Upon execution of an agreement between the participating licensed collectors and the city, the city shall establish organized collection through appropriate local controls. The city does not need to establish a solid waste collection options committee if it reaches an agreement with the licensed haulers during the exclusive negotiation period; however, the city must first provide public notice and a public hearing before officially deciding to implement organized collection. Organized collection may begin no sooner than six months after the effective date of the city's decision to implement organized collection.

## RELEVANT LINKS:

[Minn. Stat. § 115A.94 subd. 4a.](#) [Minn. Stat. ch. 13D.](#)

[Minn. Stat. § 115A.94, subd. 4b.](#)

[Minn. Stat. § 115A.94, subd. 4b.](#)

[Minn. Stat. § 115A.94, subd. 4b.](#)

[Minn. Stat. § 115A.94, subd. 4b.](#)

[Minn. Stat. § 115A.94, subd. 4b.](#)

### 3. Solid waste collection options committee

If a city does not reach an agreement with its licensed collectors during the exclusive negotiation period, it may form by resolution a “solid waste collection options committee” to study additional methods of solid waste collection. The city council appoints the committee members. The committee is subject to the open meeting law and has several mandatory duties.

First, the committee shall determine which methods of solid waste collection to examine, which must include at least three methods of collection: (1) the existing system of collection; (2) a system in which a single collector collects solid waste from all sections of the city; and (3) a system in which multiple collectors, either singly or as members of an organization of collectors, collect solid waste from different sections of the city.

Second, the committee shall establish a list of criteria on which the organized collection methods selected for examination will be evaluated, which may include: costs to residential subscribers; the impacts on residential subscribers’ ability to choose a provider of solid waste service based on the desired level of service, costs, and any other factors; the impact of miles driven on city streets and alleys and the incremental impact of miles driven by collection vehicles; initial and operating costs of implementing the solid waste collection system; providing incentives for waste reduction; impacts on solid waste collectors; and other physical, economic, fiscal, social, environmental, and aesthetic impacts.

Third, the committee shall collect information regarding the operation and efficacy of existing methods of organized collection in other cities and towns.

Fourth, the committee shall seek input from, at a minimum:

- The city council.
- The city official responsible for solid waste issues.
- Persons currently licensed to operate solid waste collection and recycling services in the city.
- City residents who currently pay for residential solid waste collection services.

Finally, the committee must issue a report on its research, findings, and any recommendations to the city council.

## RELEVANT LINKS:

[Minn. Stat. § 115A.94, subd. 4c.](#)

[Minn. Stat. § 115A.94, subd. 4c.](#)  
[Minn. Stat. § 115A.94, subd. 3.](#)

[Minn. Stat. § 115A.94, subd. 7.](#)

[Minn. Stat. § 115A.94, subd. 4f.](#)  
[Minn. Stat. § 604.02.](#)

### **4. Public notice and public hearing**

A city council shall consider the committee's report and recommendations. A city must provide public notice and hold at least one public hearing before deciding to implement organized collection.

### **5. Implementation**

A city can begin organized collection no sooner than six months after the effective date of the city's decision to implement organized collection. A city may organize collection as a municipal service where city employees collect solid waste from a defined geographic service area or areas. In the alternative, cities may organize collection by using one or more private solid waste collectors or an organization of collectors. An agreement with private collectors may be made through an ordinance, franchise, license, negotiated or bid contract, or by other means.

### **6. Anticompetitive conduct**

A city that organizes collection is authorized to engage in anticompetitive conduct to the extent necessary to plan and implement its chosen organized collection system and is immune from liability under state laws relating to antitrust, restraint of trade, and unfair practices, and other regulation of trade or commerce.

### **7. Joint liability limited**

An organized collection agreement must not obligate a participating licensed collector for damages to third parties solely caused by another participating licensed collector, notwithstanding section 604.02 of the Minnesota Statutes. The organized collection agreement may include joint obligations for actions that are undertaken by all the participating collectors.

## **V. Conclusion**

Cities have broad authority to regulate the collection and disposal of solid waste. Cities exercise this authority subject to state and county oversight. Cities should work closely with their city attorneys when exercising this authority by requiring licenses, imposing fees and assessments, entering into contracts, and adopting ordinances. Cities must comply with procedural requirements in the organized collection statute before they may adopt organized collection of solid waste.

# Appendix A: Organized Collection Flowchart

