

**CHAPTER 41
SOLID WASTE MANAGEMENT**

- 41.01 Purpose.
- 41.02 Authority.
- 41.03 Short Title.
- 41.04 Definitions.
- 41.05 Administration.
- 41.06 Duties of the Committee.
[41.07 - 41.10 reserved.]
- 41.11 Costs of Operations and Users' Fees.
- 41.115 User Fee Schedule.
- 41.12 Standards and Regulations.
[41.13 - 41.20 reserved.]
- 41.21 Requirement for Use of Landfills.
- 41.22 Separation of Waste.
- 41.23 Separation of Waste Continued;
Recycling.
- 41.235 Municipal Recycling Program.
- 41.24 Recycling Requirement for Certain
Products.
- 41.25 Banned Materials.
[41.26 - 41.29 reserved.]
- 41.30 Definitions.
- 41.31 Separation of Waste.
- 41.32 Effect of Market Conditions.
- 41.33 Records To Be Maintained.
[41.34 - 41.50 reserved.]
- 41.51 County Participation in Recycling.
[41.52 - 41.79 reserved.]
- 41.80 Prohibited Activities.
- 41.81 Violations Relative to Mandatory
Recycling.
- 41.82 No Indirect Liability.
- 41.825 No Indirect Municipal Liability.
- 41.83 Violations Relative to Mandatory
Recycling.
[41.84 - 41.89 reserved.]
- 41.90 Penalties for Violations.
[41.91 - 41.98 reserved.]
- 41.99 Provisions Supplementary to Penalties.

41.01 PURPOSE. It is hereby declared to be the purpose of this chapter to protect the public health and safety and to protect the environment by establishing minimum standards for the disposal of solid wastes and to provide a coordinated county-wide program for the safe, economical and efficient collection, storage, transportation and disposal of wastes and solid wastes.

41.02 AUTHORITY. This chapter is enacted pursuant to the authority of sec. 59.70(2), Wis. Stats., and acts amendatory thereto.

[History: am., OA 12, 1997-98, pub. 09/19/97.]

41.03 SHORT TITLE. This chapter shall be known as and may be cited as the Dane County Solid Waste Management Ordinance.

41.04 DEFINITIONS. (1a) *Asbestos* means any material which contains fibrous chrysotile, crocidolite, amosite minerals or the fibrous varieties of anthophyllite, tremolite and actinolite.

(1m) *Board* shall mean the Dane County Board of Supervisors.

(2) *Commission* shall mean the solid waste and recycling commission.

(3) *Committee* shall mean the public works and transportation committee of the Dane County Board of Supervisors unless the context clearly indicates otherwise.

(3a) *County clerk* means the county clerk of the County of Dane.

(3m) *Composite liner* shall mean a dual containment system designed in accordance with all applicable state and federal requirements to protect adjacent soils, groundwater or surface water during the active life and long term care period. The bottom secondary liner shall be constructed with recompacted clay meeting the specifications set forth in Wisconsin Administrative Code NR 504.06(2) and amendments thereto. The primary liner shall consist of a synthetic membrane which is compatible with the waste being landfilled and having a permeability less than that required for the clay liner.

(3n) *Demolition and construction material* means solid waste resulting from the construction, demolition or razing of buildings, roads or other structures. Demolition and construction material typically consists of concrete, bricks, bituminous concrete, wood, glass, masonry, roofing, siding and plaster, alone or in combinations. It does not include asbestos, waste paints, solvents, sealers, adhesives or similar materials.

(4) *Department* shall mean the department of public works, highway and transportation.

(5) *Director* shall mean the director of the department of public works, highway and transportation.

(6) *Garbage* shall mean discarded materials resulting from the handling, processing, storage and consumption of food.

(6m) *HDPE plastic* means plastic containers constructed of high density polyethylene.

(6n) *PET plastic* means plastic containers constructed of polyethylene terephthalate.

(7) *Refuse* shall mean combustible and noncombustible rubbish including but not limited to paper, wood, metal, glass, cloth, and products thereof; litter and street rubbish; ashes; and lumber, concrete and other debris resulting from the construction or demolition of structures.

(8) *Sanitary landfill* shall mean a type of land disposal operation involving the disposal of solid waste on land without creating nuisances or hazards to public health or safety, by utilizing the principles of engineering to confine the solid waste to the smallest practical area, to reduce it to the smallest practical volume and to cover it with a layer of earth at the conclusion of each day's operation or at such more frequent intervals as may be necessary.

(9) *Solid waste* shall mean garbage, refuse and all other discarded or salvageable solid materials, including solid waste materials resulting from industrial, commercial and agricultural operations, and from domestic use and public service activities, but does not include solids or dissolved material in waste water effluents or other common water pollutants.

(10) *Program* shall mean the solid waste plan prepared by the Dane County Regional Plan Commission for Dane County, any amendments thereto made by the board, and the program adopted by the committee to implement the aforesaid plan and its amendments.

(11) *Hazardous wastes* shall mean those wastes defined as such pursuant to s. 291.01(7) of the Wisconsin Statutes and acts amendatory thereto.

(11m) *Infectious waste* has the meaning set forth in s. 287.07(7)(c)1.c. of the Wisconsin Statutes or amendments thereto.

(12) *Landfill user* means those persons and entities who, directly or through the services of a third party, dispose of or attempt to dispose of solid wastes at any Dane County-owned landfill, and includes all persons, governmental operations and business, commercial, retail and industrial enterprises however organized and of whatever type. Landfill user also includes department of natural resources-licensed solid waste collection and transportation services when engaged in hauling solid wastes generated by others.

(13) *Multi-family dwelling*, except as provided in ss. 41.23 and 41.30, means a dwelling intended to be the residence of more than one family, as defined in the relevant zoning text of the municipality in which the dwelling is located.

(14) *Newsprint* means that portion of newspapers or periodicals which remain in

substantially original condition at the time of disposal such that the material is suitable for commercial grade recycling. Newsprint does not include:

(a) the paper commonly used in the production of magazines, books and other physical media for written material, other than newsprint as commonly used in newspapers;

(b) paper which is not suitable for recycling purposes or is in a state which makes separation unreasonable or unduly expensive, for reasons which include, but are not limited to, the following:

i. the paper has been put to another use, such as wrappings for other wastes, and is thus rendered unfit for commercial recycling;

ii. the paper is no longer flat and folded to the approximate dimensions of its original condition;

iii. the paper is mixed in with commercial or municipal litter or refuse as a result of the failure of citizens or business invitees to separate newspapers from other discarded material outdoors or in publicly accessible areas of buildings.

iv. the paper has been damaged or altered by any other means so as to make commercial recycling impossible or unduly difficult.

(15) *Person* includes all partnerships, associations and bodies politic or corporate.

(16) *Municipality* means any town, city or village wherever located except that as used in ss. 41.22 and 41.23, the term refers only to a town, city or village located wholly or partly within the boundaries of Dane County.

(17) *Electronic device* has the meaning set forth in s. 287.17(1)(gm) of the Wisconsin Statutes or amendments thereto, and includes computers, printers (desktop-style printers and printer fax-copier-scanner combinations), video display devices (televisions, computer monitors, laptop computers), computer peripherals (mice, keyboards, etc.), fax machines, DVD players, VCRs, digital video players/recorders, and phones with video displays.

[History: (11) am. and (12), (13), (14) and (15) cr., OA 36, 1985-86; pub. 10/22/85; (13) am. and (16) cr., Sub. 2 to OA 17, 1988-89, pub. 03/31/89; (3m) cr., OA 37, 1988-89, pub. 05/15/89; (11m) cr., OA 18, 1989-90, pub. 12/23/89; (1) renum. as (1m); (3), (3m), (11m), (12), (13) and (16) am. and (1a), (3a), (3n), (6m) and (6n) cr., Sub. 1 to OA 44, 1990-91, pub. 08/07/91; (2), (3m), (11) and (11m) am., OA 12, 1997-98, pub. 09/19/97; (3) – (5) am., (17) cr., OA 22, 2013-14, pub. 11/27/13.]

41.05 ADMINISTRATION. (1) The committee shall exercise general supervisory powers over the program implemented by this ordinance and

shall, from time to time, make recommendations thereon to the board.

(2) The director of the department of public works shall exercise day to day supervision of the program and the procedures established to effect the program's purposes and goals.

(3) The commission shall act in an advisory capacity as set forth in section 15.32 of this code.

[History: (3) am., OA 12, 1997-98, pub. 09/19/97.]
State Law Reference: 65 OAG 233 (10/26/76)

41.06 DUTIES OF THE COMMITTEE. It shall be the duty of the committee to:

(1) Determine matters of policy and procedure relating to the operation of the program.

(2) Supervise the execution of all laws, ordinances, rules and regulations of the State of Wisconsin, its administrative agencies and of Dane County.

(3) With the aid and advice of the commission, encourage and conduct studies, investigations and research relating to various aspects of solid waste management programs, including programs involving recycling of wastes, and make recommendations thereon to the board for its consideration and approval.

(4) Investigate all complaints relative to the operation of all county-owned or operated programs and disposal sites.

(5) Establish appropriate rules for the operation of all county-owned or operated programs.

(6) Establish user fees for any county-owned or operated programs in such a manner that such user fees will be sufficient to amortize all costs of such programs.

(7) With the aid and advice of the commission, develop long-range plans for the provision of adequate disposal sites and the possible future expansion of such sites and services incidental thereto, and make recommendations thereon to the board for its consideration and approval.

(8) Develop waste storage, collection and transportation rules and regulations for individuals, firms and public bodies served by any such system, as needed.

(9) Negotiate and recommend to the board, pursuant to procedures otherwise established by the board, contracts with consultants, contractors or other county departments to prepare plans and specifications or to construct or operate any landfill site.

(10) Prepare an annual budget and submit the same to the board for its approval.

(11) When appropriate, negotiate and enter into contracts and agreements with local units of government for the collection and disposal of solid waste, and submit the same to the board for its consideration and approval.

[41.07 - 41.10 reserved.]

41.11 COSTS OF OPERATIONS AND USERS' FEES.

Any determinations made by the committee regarding costs of operations and users' fees for the operation of any county-owned or operated solid waste disposal system shall be referred to the board for its consideration. No schedule of users' fees shall become effective unless approved by the board.

41.115 USER FEE SCHEDULE.

(1) The standard fees for deposit of allowable solid wastes, other than tires, asphalt shingles, and clean wood waste, at Landfill No. 2 (Rodefeld site) or Construction and Demolition Recycling Facility shall be assessed according to the following schedule, plus all applicable State imposed fees:

<u>Weight of Load Deposited</u>	<u>Fee</u>
less than 500 lbs.	\$ 9.25
500 lbs. but less than 1,000 lbs.	\$ 18.50
1,000 lbs. but less than 1,500 lbs.	\$ 27.75
1,500 lbs. but less than 2,000 lbs.	\$ 37.00
2,000 lbs. or more, per lb.	1.85 cents

(2) Notwithstanding the rate set forth in sub. (1), the rate for high volume users shall be 1.55 cents per pound for loads in excess of 2,000 pounds, plus all applicable State imposed fees. The high volume user rate shall not apply to construction and demolition material.

(a) As used in this subsection, *high volume user* means one who has deposited at least 200 tons at the landfill in each of the 6 months immediately preceding the month in which this subsection is applied.

(3) Tires deposited at Landfill No. 2 or Construction and Demolition Recycling Facility shall be assessed at the rate of \$175.00 per ton.

(4) Clean loads of asphalt shingles deposited at Landfill No. 2 or Construction and Demolition Recycling Facility shall be assessed at the rate

of \$48.00 per ton. Mixed loads of asphalt shingles shall be assessed at the rate of \$60.00 per ton.

(5) Clean wood waste, comprised of only logs, branches, and brush, deposited at Landfill No. 2 for recycling shall be assessed at the rate of \$40.00 per ton, plus all applicable state imposed fees.

(6) Clean wood chips deposited at Landfill No. 2 shall be assessed at the rate of \$25.00 per ton, plus all applicable state imposed fees.

(7) The standard fees for deposit of allowable wastes as Clean Sweep shall be assessed according to the following schedule:

<u>Customer Type</u>	<u>Fee</u>
Dane County Households & Farms	\$10.00 per trip
Businesses	Fee based on weight and type of waste
Out-of-County Households & Farms	\$75.00 per trip

The fee for Households and Farms is for disposal of all household hazardous waste and miscellaneous electronics in a single residential or farm load. Dane County reserves the right to charge additional fees for excessive sized loads. An additional fee will be charged for disposal of certain electronic devices as follows:

Microwave Oven	\$10.00
Television or Computer Monitor	\$15.00

(8) The committee may recommend to the County Board, and the County Board may approve contracts with individual customers that guarantees specific waste volumes to a landfill for a set period of time for disposal rates that are lower than those set forth in sub (1).

[History: cr., Sub. 2 to OA 23, 1993-94, pub. 11/15/93; eff. 01/01/94; (3) cr., OA 23, 1996-97, pub. 08/23/96; (3) expired eff. 01/01/98; (2) am., OA 11, 2005-06, pub. 09/23/05; (1) am., OA 42, 2007-08, pub. 12/20/07; am., sub. 1 to OA 38, 2008-09, pub. 05/11/09; 41.115 am., OA 27, 2011-12, pub. 11/23/11; *NON-CODE PROVISION:* The amendments made by Article 2 above shall first take effect on January 1, 2012, or the day after publication, whichever comes later; (1) and (2) am., (4)-(6) cr., OA 22, 2013-14, pub. 11/27/13; (1), (3), and (4) am., 2015 OA-10, pub. 07/27/15; (1) and (5)-(8) renum. and am., Sub. 1 to 2016 OA-19, pub. 07/26/16; (7) am., 2016 OA-74, pub. 02/09/17; (3), (4), and (7) am., 2017 OA-34, pub. 11/30/17.]

41.12 STANDARDS AND REGULATIONS. (1) All solid waste disposal systems established

under this chapter shall conform to all applicable laws and regulations of the State of Wisconsin and its administrative agencies as well as all applicable laws and regulations of Dane County.

(2) All deliveries and deposits at any landfill site operated or owned by Dane County shall be in accordance with the directions and orders of the county personnel in charge of such site.

(3) All sanitary landfills, with the exception of those designed exclusively for the disposal of construction and demolition waste, constructed after the effective date of this section shall be constructed with a composite liner system.

[History: (3) cr., OA 37, 1988-89, pub. 05/15/89; (3) am., Sub. 1 to OA 44, 1990-91, pub. 08/07/91.]

[41.13 - 41.20 reserved.]

41.21 REQUIREMENT FOR USE OF LANDFILLS. (1) It is the intent of the County of Dane that sections 41.21 through 41.25 of this ordinance are enacted for the purpose of extending the life of the various Dane County landfills by reducing the amount of solid waste that must be placed in the landfills, for the conservation of natural resources and for energy savings.

[History: cr., OA 36, 1985-86, pub. 10/22/85.]

41.22 SEPARATION OF WASTE. (1) On and after January 1, 1987, each municipality which desires to afford its residents, businesses, commercial, retail and industrial enterprises and governmental entities located within the municipality the opportunity to deposit in any Dane County-owned landfill any solid waste which originates in or is generated, accumulated or collected in the municipality shall first adopt and provide an effective program, including local ordinances, requiring landfill users located within the municipality to separate newsprint from all other solid waste and provide for the recycling of newsprint.

(2) On and after January 1, 1987, no landfill user shall deposit or cause to be deposited any newsprint at any Dane County-owned landfill.

(a) When market conditions are such that it is not economically feasible to recycle newsprint, the committee may recommend to the county board the suspension of this section and allow newsprint to be deposited at all or some county-owned landfills. No such suspension shall be effective unless declared by the county board and noticed by signs duly posted at the public entrances to each landfill to which the suspension shall apply.

(3) The committee shall review each municipal program enacted under sub. (1) which is intended by a municipality to meet the requirements of this ordinance and shall approve those municipal programs which reasonably tend to conserve natural resources by reducing the amount of newsprint admitted to county-owned landfills and which promote the recycling of newsprint. The committee may consider the following factors when reviewing any such municipal program:

(a) whether the implementing ordinance requires landfill users located within the municipality to separate newsprint from other solid waste;

(b) whether the municipality establishes either a municipally operated or privately operated solid waste collection system for its residential users which promotes separation of newsprint from other solid waste;

(c) whether the implementing ordinance requires owners of multi-family dwellings to facilitate the separation and recycling of newsprint by residents of such dwellings;

(d) whether the municipality's implementing ordinance requires owners of commercial, retail, industrial and governmental facilities to put in place and maintain a separate container for the collection of newsprint;

(e) the municipality's area, number of residents, distribution of population, character and amount of commercial and manufacturing enterprises;

(f) whether the municipality actively enforces its implementing ordinance; and

(g) such other factors as the committee in its discretion may determine are relevant to the purposes of this ordinance. In evaluating municipal ordinances, the committee shall assign such weight to any one factor as is reasonable under the circumstances and may review various aspects of the municipal program on an on-going basis.

(4) The committee shall certify to the county clerk those municipalities which meet the requirements of this ordinance as well as the names of those municipalities which no longer meet the requirements of this ordinance.

(5) Any person may request of the county clerk that he or she be notified of, and the county clerk shall notify any such person of, the names of municipalities whose ordinances are approved under this chapter. Any person may rely upon such notice from the county clerk until notified in writing by the county clerk of any change in status of the municipality. Notices from the

county clerk shall be deemed received by the addressee 3 days after the date of mailing if sent by certified mail, return receipt requested.

[History: cr., OA 36, 1985-86, pub. 10/22/85; (1) am., OA 22, 2013-14, pub. 11/27/13.]

41.23 SEPARATION OF WASTE CONTINUED; RECYCLING. (1) On and after February 1, 1991, each municipality which desires to afford its residents, businesses, commercial, retail and industrial enterprises and governmental entities located within the municipality the opportunity to deposit in any Dane County-owned landfill any solid waste which originates in or is generated, accumulated or collected in the municipality shall first adopt and provide an effective recycling program, approved by the county board.

(2) On and after February 1, 1991, no landfill user shall deposit or cause to be deposited any ferrous metal cans, aluminum cans, corrugated cardboard, glass bottles and jars, HDPE plastic, PET plastic, large appliances, used oil, grass, leaves, brush, tires or lead acid batteries at any Dane County-owned landfill unless such user is a municipality which has in place an effective recycling program or is a private waste hauler that certifies to the county that each of its customers that is a multi-family dwelling or a commercial, retail, industrial or governmental facility or municipality has an effective recycling program.

[History: cr., Sub. 2 to OA 17, 1988-89, pub. 03/31/89; (1) and (2) am., OA 34, 1990-91, pub. 02/08/91; (1) am., (2)(a) - (d) renum. as (1) - (4) of sec. 41.235, and (3) - (5) renum. as (5) - (7) of sec. 41.235, and (2) am., Sub. 1 to OA 44, 1990-91, pub. 08/07/91.]

41.235 MUNICIPAL RECYCLING PROGRAM.

(1) An effective recycling program for a municipality shall mean a program which, at a minimum, has the following elements:

(a) A municipal ordinance that requires landfill users located within the municipality to separate ferrous metal cans, aluminum cans, corrugated cardboard, glass bottles and jars, HDPE and PET plastic containers, tires and lead acid batteries from all other solid waste;

(b) A municipal ordinance that either (i) requires owners of multi-family dwellings to provide adequate, separate containers for the collection of recyclable materials and to notify tenants on move-in and on a semi-annual basis thereafter of county and municipal recycling requirements, or (ii) mandates the separation and recycling of recyclable materials by the tenants or owners of such buildings;

(c) A municipal ordinance that either (i) requires owners of commercial, retail, industrial and governmental facilities to provide adequate separate containers for the collection of recyclable materials and to regularly notify all users of the premises of such facilities, including employees, agents and customers, of county and municipal recycling requirements, or (ii) mandates the separation and recycling of recyclable materials by the tenants or owners of such buildings;

(d) A municipally operated or privately operated solid waste collection system for residential users which promotes the separation and recycling of ferrous metal cans, aluminum cans, corrugated cardboard, glass bottles and jars, HDPE and PET plastic and the separation and safe disposition of tires and lead acid batteries; and

(e) A good faith effort to enforce the provisions of the municipal ordinance.

(2) An effective recycling program for the owner of a multi-family dwelling shall mean either (i) the provision of adequate, separate containers for the collection of recyclable materials and the provision of notice to all tenants on move-in and on a semi-annual basis thereafter of county and municipal recycling requirements, or (ii) mandates the separation and recycling of recyclable materials by the tenants or owners of such buildings.

(3) An effective recycling program for the owner of a commercial, retail, industrial and governmental facility shall mean either (i) the provision of adequate, separate containers for the collection of recyclable materials and the regular provision of notice to all users of the premises of such facility, including employees, agents and customers, of county and municipal recycling requirements, or (ii) mandates the separation and recycling of recyclable materials by the tenants or owners of such buildings.

(4) For purposes of this section, multi-family dwelling means a dwelling intended to be the residence of four or more families as defined in the relevant zoning text of the municipality in which the dwelling is located.

(5) (a) The committee shall review each municipal program enacted under sub. (1) which is intended by a municipality to meet the requirements of this ordinance and shall recommend for approval to the county board those municipal programs which meet such requirements, which are effective and which reasonably tend to conserve natural resources by reducing the amount of recyclable items

admitted to county-owned landfills and which promote the recycling of such materials.

(b) If the committee determines that a municipality is not engaging in a good faith effort to enforce the provisions of its municipal ordinance or that its solid waste collection system for residential users does not promote the separation and recycling of recyclable materials, the committee may suspend, limit or revoke approval of the municipality's recycling program.

(6) The committee may recommend to the county board and the county board may approve for a specified period of time, the suspension of the requirements of this ordinance as to such items as are then not economically feasible to recycle and allow such items to be deposited at all or some county-owned landfills only during the approved time period.

(7) Nothing in this ordinance shall be construed to require a municipality to operate or contract for a solid waste collection system.

[History: (1)(b), (c) and (d), (2), (3) and (6) am., Sub. 1 to OA 44, 1990-91, pub. 08/07/91.]

41.24 RECYCLING REQUIREMENT FOR CERTAIN PRODUCTS. (1)

On and after January 1, 1990, no retailer shall sell or offer for sale any tire or lead acid battery unless the retailer shall, at the point of sale, inform the buyer that tires and lead acid batteries cannot be accepted for disposal at Dane County-owned landfills.

(2) On or after May 17, 2002, no retailer shall sell or offer for sale any thermostat containing mercury or fluorescent lamps or bulbs unless the retailer shall, at the point of sale, inform the buyer that thermostats containing mercury and fluorescent lamps or bulbs cannot be accepted at Dane County-owned landfills.

(3) A retailer of tires, lead acid batteries, thermostats containing mercury or fluorescent lamps or bulbs, shall offer to accept for reuse, recycling or recovery any such used product which the buyer is proposing to replace with a newly-purchased product.

(4) A retailer who receives any used product under this section must attempt to recycle them, whether directly or by transferring any such used product to a recycling business.

[History: cr., OA 38, 1988-89, pub. 05/15/89; (2) and (3) am., Sub. 1 to OA 44, 1990-91, pub.08/07/91; (2) and (3) renum. as (3) and (4), respectively, and as renum. am. and a new (2) cr., OA 39, 2001-02, pub. 05/16/02.]

41.25 BANNED MATERIALS. The following materials shall not be deposited in any Dane County owned landfill:

- (1) Grass clippings and leaves.
- (2) Electronic devices.
- (3) Oil filters and oil absorbent materials.

[History: cr., Sub. 1 to OA 44, 1990-91, pub. 08/07/91; 41.25 am., OA 22, 2013-14, pub. 11/27/13.]

[41.26 - 41.29 reserved.]

41.30 DEFINITIONS. As used in sections 41.31 through 41.33, inclusive, the following words and phrases shall have the meanings indicated:

(1) *Effective recycling program* has the meaning set forth in subsections (1) through (4) of sec. 41.235, and includes recycling requirements for newsprint, consonant with the requirements set forth in sec. 41.22.

(2) *Landfill* means any privately or publicly owned landfill located in Dane County. A publicly owned landfill which accepts waste only from its municipal owner is exempt from this definition unless the landfill is located in the unincorporated areas of the county. County-owned landfills are exempt from this definition.

(3) *Landfill user* means those persons and entities who, directly or through the services of a third party, dispose of or attempt to dispose of solid wastes at any landfill, as defined herein, and includes all persons, governmental operations and business, commercial, retail and industrial enterprises however organized and of whatever type. *Landfill user* does include department of natural resources-licensed solid waste collection and transportation services when engaged in hauling solid wastes.

(4) *Multi-family dwelling* means a dwelling intended to be the residence of four or more families as defined in the relevant zoning text of the municipality in which the dwelling is located.

(5) *Municipality* means a town, township, village, city, county, school district, vocational, technical and adult education district, solid waste district, parish, sewerage district, sanitary district or any other public or quasi-public corporation or body whether located within or outside of Dane County.

(6) *Municipality of origin* means a municipality in which solid waste is collected.

(7) *Solid waste* means any solid waste as defined in s. 41.04(9), which originates in or is generated, accumulated or collected in a municipality.

[History: cr., Sub. 1 to OA 44, 1990-91, pub. 08/07/91.]

41.31 SEPARATION OF WASTE. (1) On and after January 1, 1992, a landfill shall not accept any solid waste unless the municipality of origin shall first adopt and provide an effective recycling program.

(2) On and after January 1, 1992, a landfill shall not accept any newsprint, ferrous metal cans, aluminum cans, corrugated cardboard, glass bottles and jars, HDPE plastic, PET plastic, large appliances, used oil, grass, leaves, brush, tires and lead acid batteries unless the landfill user seeking to use the landfill is a municipality which has in place an effective recycling program or is a private waste hauler that certifies to the county that each customer which is a multi-family dwelling or a commercial, retail, industrial, governmental facility or municipality has an effective recycling program in place.

[History: cr., Sub. 1 to OA 44, 1990-91, pub. 08/07/91.]

41.32 EFFECT OF MARKET CONDITIONS.

When market conditions are such that it is not economically feasible to recycle any item banned from landfills by section 41.31, the committee may recommend to the county board, and the county board may approve for a specified period of time, the suspension of any provision of section 41.31 and allow otherwise banned items to be deposited at all or some landfills only during the approved time period. No such suspension shall be effective unless declared by the county board and noticed by signs duly posted at the entrances to each landfill to which the suspension shall apply.

[History: cr., Sub. 1 to OA 44, 1990-91, pub. 08/07/91.]

41.33 RECORDS TO BE MAINTAINED. The owner of a landfill shall maintain or cause to be maintained records containing the names of all persons or firms hauling wastes to the landfill and shall require each such hauler to maintain records containing the names of customers and the name of the municipality, county and state in which each customer is located. The owner of the landfill shall also require each hauler to certify that each municipality of waste origin has in place an effective recycling plan. Records required to be maintained by this section shall be open to inspection by the director or his or her designees at any time during normal business hours and shall be maintained for 2 years beyond termination of accepting waste from any particular user.

[History: cr., Sub. 1 to OA 44, 1990-91, pub. 08/07/91.]

[41.34 - 41.50 reserved.]

41.51 COUNTY PARTICIPATION IN RECYCLING. The department is authorized to contract with any municipality or individual to accept and provide recycling for any material that originates in or is generated, accumulated or collected in the municipality or by the individual or the individual's customers.

[History: cr., Sub. 2 to OA 17, 1988-89, pub. 03/31/89.]

[41.52 - 41.79 reserved.]

41.80 PROHIBITED ACTIVITIES. It shall be unlawful and a violation of this ordinance to do any of the following:

- (1) Burn or cause to be burned any material at a county-owned landfill site.
- (2) Dump or cause to be dumped any garbage, refuse or other solid waste material on any highway, public grounds or water course.
- (3) Salvage or attempt to salvage any waste material at a county-owned or operated landfill site, unless prior written permission is obtained from the committee.
- (4) Place any hazardous wastes or any toxic waste on any lands designated as a county-owned or operated landfill site, unless prior written permission is obtained from the committee.
- (5) Deposit any solid waste at any Dane County-owned landfill other than during those hours of operation when the landfill is open to the public.
- (6) Deposit any solid waste on any portion of any Dane County-owned landfill other than at locations within fenced portions of the landfill.
- (7) (a) Deposit in any fashion whatsoever any infectious waste at any county-owned landfill site, unless the same shall first have been rendered non-infectious by a method approved by the department of natural resources of the State of Wisconsin.
- (b) Notwithstanding the provisions of sub. (a), the department of natural resources, or their authorized agents, may dispose of deer carcasses infected with chronic wasting disease at a county-owned landfill pursuant to an agreement between the State of Wisconsin and Dane County.
- (8) Deposit any materials banned by s. 41.25 at any Dane County owned landfill.

[History: (5) and (6) cr., OA 36, 1985-86, pub. 10/22/85; (7) cr., OA 18, 1989-90, pub. 12/23/89; (8) cr., Sub. 1 to OA 44, 1990-91, pub. 08/07/91; (7) am., OA 24, 2007-08, pub. 11/12/07; (8) am., OA 22, 2013-14, pub. 11/27/13.]

41.81 VIOLATIONS RELATIVE TO MANDATORY RECYCLING.

(1) On and after January 1, 1987, it shall be unlawful and a violation of this ordinance for any landfill user to deposit or cause to be deposited in any Dane County-owned landfill any solid waste which originated in or was generated, accumulated or collected in a municipality which does not both have in place and enforce an ordinance imposing the requirements of section 41.22(1) of this ordinance.

(2) On and after January 1, 1987, it shall be unlawful and a violation of this ordinance for any private hauler of solid waste, whether licensed by the department of natural resources or not, to deposit or cause to be deposited in any Dane County-owned landfill any solid waste which originated in or was generated, accumulated or collected in a municipality which does not both have in place and enforce an ordinance imposing the requirements of section 41.22(1) of this ordinance.

(3) On and after January 1, 1987, it shall be unlawful and a violation of this ordinance for any private hauler of solid waste to deposit or cause to be deposited in any Dane County-owned landfill any newsprint which has been separated from other refuse at the point of collection.

(4) On and after January 1, 1987, it shall be unlawful and a violation of this ordinance for any municipality which does not both have in place and enforce an ordinance imposing the requirements of section 41.22(1) of this ordinance to deposit or cause to be deposited in any Dane County-owned landfill any solid waste which originated in or was generated, accumulated or collected in the municipality.

(5) On and after January 1, 1987, it shall be unlawful and a violation of this ordinance for any landfill user to deposit or cause to be deposited in any Dane County-owned landfill any newsprint.

[History: cr., OA 36, 1985-86, pub. 10/22/85.]

41.82 NO INDIRECT LIABILITY. Owners of office buildings, multi-family dwellings and businesses open to the public shall not be personally liable under this ordinance for the acts of their tenants and patrons.

[History: cr., OA 36, 1985-86, pub. 10/22/85.]

41.825 NO INDIRECT MUNICIPAL LIABILITY.

A municipality adopting an ordinance or ordinances pursuant to ss. 41.22 and 41.23 shall not be liable under this ordinance for the acts of its residents and businesses, including persons or firms providing waste hauling services to residents and businesses of the municipality, provided, however, that the municipality shall be liable for tipping fees attributable to wastes of the municipal government itself and for acts of its own employees performed in the course of employment, as provided for in sec. 895.46, Wis. Stats.

[History: cr., OA 30, 1990-91, pub. 01/03/91.]

41.83 VIOLATIONS RELATIVE TO MANDATORY RECYCLING.

(1) On and after February 1, 1991, it shall be unlawful and a violation of this ordinance for any landfill user to deposit or cause to be deposited in any Dane County-owned landfill any solid waste which originated in or was generated, accumulated or collected in a municipality which does not have in place an effective recycling program under section 41.23 of this ordinance.

(2) On and after February 1, 1991, it shall be unlawful and a violation of this ordinance for any private hauler of solid waste, whether licensed by the department of natural resources or not, to deposit or cause to be deposited in any Dane County-owned landfill any solid waste which originated in or was generated, accumulated or collected in a municipality which does not have in place an effective recycling program under section 41.23 of this ordinance.

(3) On and after February 1, 1991, it shall be unlawful and a violation of this ordinance for any private hauler of solid waste, whether licensed by the department of natural resources or not, to deposit or cause to be deposited in any Dane County-owned landfill any solid waste from a customer that is a multi-family dwelling or a commercial, retail, industrial or governmental facility unless the hauler has certified to the county that such customer has an effective recycling program and such customer does, in fact, have an effective recycling program under section 41.23(2) of this ordinance.

(4) On and after February 1, 1991, it shall be unlawful and a violation of this ordinance for any municipality which does not have in place an effective recycling program under section 41.23 of this ordinance to deposit or cause to be deposited in any Dane County-owned landfill any solid waste which originated in or was

generated, accumulated or collected in the municipality.

(5) On and after February 1, 1991, it shall be unlawful and a violation of this ordinance for any landfill user, other than a municipality which has in place an effective recycling program or a private waste hauler that has certified to the county that each of its customers has an effective recycling program, to deposit or cause to be deposited in any Dane County-owned landfill any ferrous metal cans, aluminum cans, corrugated cardboard, glass bottles and jars, HDPE plastic, PET plastic, large appliances, used oil, grass, leaves, brush, tires or lead acid batteries.

(6) On and after January 1, 1992, it shall be unlawful and a violation of this ordinance for any landfill user, other than a municipality which has in place an effective recycling program or a private waste hauler that has certified to the County of Dane that each of its customers has an effective recycling program, to deposit, allow to be deposited or cause to be deposited in any landfill, as defined in sec. 41.30(2), any newsprint, ferrous metal cans, aluminum cans, corrugated cardboard, glass bottles and jars, HDPE plastic, PET plastic, large appliances, used oil, grass, leaves, brush, tires or lead acid batteries.

(7) On and after January 1, 1992, it shall be unlawful and a violation of this ordinance for any landfill owner or landfill operator, other than a municipality which has in place an effective recycling program or a private waste hauler that has certified to the County of Dane that each of its customers has an effective recycling program, to accept for disposal, to deposit, to allow to be deposited or cause to be deposited in any landfill, as defined in sec. 41.30(2), any newsprint, ferrous metal cans, aluminum cans, corrugated cardboard, glass bottles and jars, HDPE plastic, PET plastic, large appliances, used oil, grass, leaves, brush, tires or lead acid batteries.

[History: cr., Sub. 2 to OA 17, 1988-89, pub. 03/31/89; (1) - (5) am., OA 34, 1990-91, pub. 02/08/91; (5) am. and (6) and (7) cr., Sub. 1 to OA 44, 1990-91, pub. 08/07/91.]

[41.84 - 41.89 reserved.]

41.90 PENALTIES FOR VIOLATIONS.

(1) Any person who violates sub. (1) of section 41.80 of this ordinance shall forfeit not less than One Hundred Dollars (\$100.00) nor more than Four Hundred Dollars (\$400.00) for each such violation, provided that the minimum forfeiture for

the second offense within a twelve month period shall be not less than One Hundred Twenty-five Dollars (\$125.00), the minimum forfeiture for the third offense within a twelve month period shall be not less than One Hundred Fifty Dollars (\$150.00), the minimum forfeiture for the fourth offense within a twelve month period shall be not less than One Hundred Seventy-five Dollars (\$175.00) and the minimum forfeiture for the fifth and subsequent offenses within a twelve month period shall be not less than Two Hundred Dollars (\$200.00).

(2) Any person who violates subsection (2) or (3) of section 41.80 of this ordinance shall forfeit not less than Two Hundred Dollars (\$200.00) nor more than Eight Hundred Dollars (\$800.00) for each such violation, provided that the minimum forfeiture for the second offense within a twelve month period shall be not less than Two Hundred Twenty-five Dollars (\$225.00), the minimum forfeiture for the third offense within a twelve month period shall be not less than Two Hundred Fifty Dollars (\$250.00), the minimum forfeiture for the fourth offense within a twelve month period shall be not less than Two Hundred Seventy-five Dollars (\$275.00) and the minimum forfeiture for the fifth and subsequent offenses within a twelve month period shall be not less than Three Hundred Dollars (\$300.00).

(3) Any person who violates section 41.80(4) or (7) of this ordinance shall forfeit not less than Two Thousand Dollars (\$2,000.00) nor more than Ten Thousand Dollars (\$10,000.00) for each such violation, provided that the minimum forfeiture for the second offense within a twelve month period shall be not less than Three Thousand Dollars (\$3,000.00), the minimum forfeiture for the third offense within a twelve month period shall be not less than Four Thousand Dollars (\$4,000.00), the minimum forfeiture for the fourth offense within a twelve month period shall be not less than Five Thousand Dollars (\$5,000.00) and provided further that the range of forfeitures for the fifth and subsequent offenses within a twelve month period shall be not less than Ten Thousand Dollars (\$10,000.00) nor more than Twenty Thousand Dollars (\$20,000.00).

(4) Any person who violates subsections (5) or (6) of section 41.80 of this ordinance shall forfeit not less than Fifty Dollars (\$50.00) nor more than Two Hundred Dollars (\$200.00) for each such violation, provided that the range of forfeitures for the fifth and subsequent violations of either subsection within a twelve month period shall be not less than One Hundred Dollars (\$100.00) nor

more than Three Hundred Dollars (\$300.00) for each violation.

(5) Any person who violates subsection (8) of section 41.80 or any subsection of either section 41.81 or section 41.83 of this ordinance shall forfeit not less than Two Hundred Dollars (\$200.00) nor more than Five Hundred Dollars (\$500.00) for each such violation, provided that the range of forfeiture for the third and subsequent violations of any provision of either subsection (8) of section 41.80, section 41.81 or section 41.83 within a twelve month period shall be not less than Five Hundred Dollars (\$500.00) nor more than Two Thousand Dollars (\$2,000.00) for each violation.

[History: (5) am., Sub. 2 to OA 17, 1988-89, pub. 03/31/89; (3) am., OA 18, 1989-90, pub. 12/23/89; (5) am., Sub. 1 to OA 44, 1990-91, pub. 08/07/91.]

[41.91 - 41.98 reserved.]

41.99 PROVISIONS SUPPLEMENTARY TO PENALTIES.

(1) Any person who neglects or refuses to pay any forfeiture imposed may be confined to the county jail until such forfeiture is paid provided, however, that no person shall be so confined unless he or she has the ability to pay such forfeiture and provided further that in no event shall any such person refusing payment be confined more than thirty (30) days.

(2) In determining whether any person has the ability to pay any forfeiture, all items of income and all assets may be considered regardless of whether or not such income or assets are subject to garnishment, lien, attachment or execution by any creditor.

(3) Each day of a violation shall be considered a separate violation.

(4) The imposition of a forfeiture under this ordinance shall not bar, or act as a waiver of rights in, any civil action brought by the County of Dane or any third party against the violator.

(5) In addition to the imposition of forfeitures, the public works director may, in the interests of preserving Dane County's ability to handle solid wastes, refuse entry to any Dane County landfill to any person, firm or municipality who or which violates any provision of this ordinance. Any person, firm or municipality affected may appeal the decision of the public works director to the committee whose decision shall be final.

[History: am., OA 36, 1985-86, pub. 10/22/85.]

END OF CHAPTER