ENROLLED ORDINANCE

No. 2004-787

INTRODUCED BY COMMISSIONER(S): Boike

AN ORDINANCE TO AMEND AND REPUBLISH THE WAYNE COUNTY SOLID WASTE ORDINANCE, BEING ORDINANCE 2003-532, to protect the public health and land, air, water, and other natural resources of the county; to supplement provisions of, Part 115 of the Michigan Natural Resources and Environmental Protection Act, 1994 PA 451, as amended, ("NREPA") and its Administrative Rules; to regulate specified solid waste management practices; to control the operations of solid waste facilities and prevent any adverse off-site effects of operations; to provide an enforceable mechanism for implementation of the Wayne County Solid Waste Management Plan; to prescribe the powers and duties of agencies; to provide for appeals; and to provide for penalties and remedies.

IT IS HEREBY ORDAINED BY THE PEOPLE OF THE CHARTER COUNTY OF WAYNE:

SECTION 110 GENERAL PROVISIONS

111 Enabling Clause

111.1 The County of Wayne, as authorized by the Wayne County Home Rule Charter, Article IV, Part IV, Section 4.343.(b), and Sections 324.11508, 324.11531, and 324.11532 of NREPA, hereby adopts the Wayne County Solid Waste Ordinance. The County Commission of Wayne County under authority of Section 3.115 (1) of the Wayne County Home

Rule Charter, approves the Wayne County Solid Waste Ordinance. This Ordinance is also authorized and enacted pursuant to the provisions of the Michigan Public Health Code P.A. 368 of 1978, as amended, MCL 333.2611.

112 State Incorporated Requirements

112.1 Incorporated in this Ordinance by reference are: MCL 324.11501 through 11507, 11509 through 11536, 11537a, 11541 through 11543, 11545, 11546 and 11548 of NREPA, and the State Administrative Rules promulgated thereunder, MAC R 299.4101 through R299.4140; MAC R299.4203 through R299.4602 and R299.4703 through 4708; MAC R299.4710 through 4711; MAC R299.4901 through 4922. Copies of any material referenced in this section (PART 115 of NREPA and the attendant State Administrative Rules) are available at a nominal charge from the Wayne County Department of Environment.

112.2 All solid waste disposal areas shall be designed, constructed, operated, maintained, monitored, and closed in accordance with the requirements of Part 115 of the NREPA, the State Administrative Rules promulgated thereunder, this Ordinance, and the Wayne County Solid Waste Management Plan.

113 County Requirements

113.1 Proposals for construction, modification, expansion, alteration, reconstruction and operation of a solid waste disposal area shall comply with this Ordinance, the Wayne County Solid Waste Management Plan, the Wayne County Storm Water Management Ordinance, the Wayne County Air Quality Management Ordinance and any other applicable statutes or regulations. Copies of the Solid Waste Management Plan, the Wayne County Storm Water Ordinance and Wayne County Air Quality Management Ordinance are available for review or for purchase from the Wayne County Department of Environment.

113.2 This Ordinance shall be applicable in Wayne County as provided by law.

114 Technological Advances

114.1 The use of technological advances, which meet the intent of applicable sections of this Ordinance, shall not be prohibited. An applicant or licensee who wishes to utilize a newly developed system, device or procedure, shall request approval from the Department prior to use of the new technology. If the Department determines that the technological advance would provide performance equivalent to a requirement of this Ordinance, the new technology shall be approved.

SECTION 120 DEFINITIONS

120.1 The words and phrases used in this Ordinance have the meanings ascribed to them by this section, or Sections 324.11502 through 11506 of NREPA and its Administrative Rules.

120.2 Words and phrases used in the present tense include the future; words and phrases in the masculine gender include the feminine and neuter; the singular number includes the plural and the plural includes the singular.

120.3 Where words and phrases are not defined under the provisions of this section, they shall have ascribed to them their ordinarily accepted meanings, or such as the context herein may imply.

"ASTM" means the American Society for Testing and Materials.

"C.F.R." means the Code of Federal Regulations published by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C.

"Commercial Waste" means all types of solid waste generated by stores, offices, restaurants, warehouses, and other non-manufacturing activities, but does not include household waste, hazardous waste, and industrial waste.

"Compliance Boundary" means the solid waste boundary or an alternative boundary specified in accordance with 40 C.F.R. part 257.3-4(b).

Composting" means the process by which biological decomposition of solid waste is carried out under controlled aerobic conditions and which stabilizes the organic fraction into a material that can easily and safely be stored, handled and used in an environmentally acceptable manner. The presence of insignificant and anaerobic zones within the composting material will not cause the process to be classified as other than composting.

"Composting Facility" means a facility where composting of yard clippings or compostable material occurs using composting technology. Composting technology may include physical turning, windrowing, aeration, or other mechanical handling of organic matter.

"County" means the County of Wayne, Michigan.

"County Commission" means the elected Wayne County Commission.

"Department" means the Wayne County Department of Environment.

"Designated Solid Waste Agency" means the Land Resources Management Division of the Wayne County Department of Environment; or the County Agency, which the Wayne County Chief Executive Officer designates to seek criminal complaints, and warrants as authorized.

"Division" means any duly authorized agent of the Land Resource Management Division of the Wayne County Department of Environment.

"Division Director" means the Director of the Wayne County Land Resource Management Division of the Department of Environment or his/her authorized representative.

"Drainage Systems" means all swales, ditches, pipes, stormwater detention/retention basins, and sedimentation ponds used to convey stormwater at the solid waste disposal area.

"Existing Solid Waste Disposal Area" means any of the following: (i) a solid waste disposal area that has been issued a construction permit pursuant to the provisions of the Act; (ii) a solid waste disposal area that had engineering plans approved by the director of the Michigan Department of Natural Resources before January 11,1979; or (iii) an industrial waste pile that is located at the site of generation.

"Facility Inclusion Committee" means the committee appointed to make decisions regarding the placement of solid waste disposal facilities within Wayne County, as set forth in the Wayne County Solid Waste Management Plan.

"Fugitive Dust" means particulate matter emitted into the outdoor atmosphere from outdoor or indoor activities, operations or premises due to forces of wind or man's activity.

"Generator" means any person, county, municipality, state or federal facility whose activity results in the generation of a solid waste.

"Hazardous Waste" means those wastes that are regulated by Part 111 of NREPA, its Administrative Rules or 40 CFR parts 260 through 265 of the Federal Regulations.

"Health Department" means the Wayne County Health Department.

"Health Director" means the director of the Health Department.

“Household Waste” means any solid waste, including garbage and trash that is derived from households, including single and multi-residences, hotels and motels.

“Industrial Waste” means solid waste which is generated by manufacturing or industrial processes, or originates from an industrial site and which is not a hazardous waste regulated pursuant to the provisions of Part 115 of NREPA.

“Industrial Waste Landfill” means a landfill that is used for the disposal of non-hazardous industrial waste pursuant to Part 111 of NREPA.

“Leachate” means liquid which has come in contact with, passed through, or emerged from, solid waste and which contains soluble, suspended, or miscible materials that are removed from the wastes.

“Leachate Discharge” means any non-permitted release of leachate that is causing or has the potential to cause contamination of groundwater, surface water or the environment.

"Licensee" means the person to whom a Solid Waste Disposal Area License has been issued pursuant to Part 115 OF NREPA.

"Liner" means any natural soil sidewall or base, compacted soil sidewall or base, or synthetic material sidewall or base, which is utilized to contain solid waste or the leachate generated therefrom.

"Liquid" means a fluid with a solid content less than 20%.

"Main Interior Haul Roads" means all on-site roads, which are used by solid waste transporting units on a routine basis.

“Municipal Solid Waste Landfill” or “Type II Landfill” means a landfill, which receives household waste, municipal solid waste, incinerator ash, or sewage sludge and which is not a land application unit, surface impoundment, injection well, or waste pile. A Municipal Solid Waste Landfill also may receive other types of solid waste, such as commercial waste, non-hazardous sludge, conditionally exempt small quantity generator waste, and industrial waste. Such landfill may be publicly or privately owned.

"Off-site Roads" means all roads and their respective right-of-way, outside the solid waste disposal area boundary, which are used by solid waste transporting units entering or exiting the solid waste disposal area.

"On-site Roads" means all roads temporary or permanent, which are within the licensed solid waste disposal area.

“Operator” means the person who is in control of or responsible for the operation of a facility or part of a facility.

“Owner” means the person who owns a facility or part of a facility.

“Part 31” means Part 31 of NREPA, as amended, being MCL 324.3101 through 324.3133.

“Part 55” means Part 55 of NREPA, as amended, being MCL 324.5501 through 324.5542.

“Part 111” means Part 111 of NREPA, as amended, being MCL 324.11101 through 324.11152.

“Part 115" means part 115 of NREPA, MCL 324.11501 through 324.11550.

“Part 201” means Part 201 of NREPA, as amended, being MCL 324.20101 through 324.20142.

"Person" means an individual; sole proprietorship; partnership; association; corporation, public or private, organized or existing under the laws of this state or any other state, including a federal corporation; this state or an agency or department of this state; a municipality in this state; or a county in this state.

"Public Servants" means representatives of the division, designated by the Commissioners, Wayne County Commission, to issue and serve appearance tickets.

"Resource Recovery Facility" means machinery, equipment, structure or any parts or accessories of machinery, equipment or structures, installed or acquired for the primary purpose of recovering materials or energy from the waste stream.

“Sanitary Landfill” means a type of disposal area consisting of one or more landfill units and the active work areas associated with these units. Sanitary Landfill shall be classified as one of the following types of landfills:

(i) A Type II Landfill, which is a municipal solid waste landfill, and includes a municipal solid waste incinerator ash landfill.

(ii) A Type III Landfill, which is any landfill that is not a municipal solid waste landfill or a hazardous waste landfill and includes both of the following:

(a) construction and demolition waste landfills.

(b) industrial waste landfills.

"Sewage" means a liquid waste which includes human excreta, wastes from sink, lavatory, bathtub, shower or laundry, and any other liquid waste of organic or chemical nature, either singularly or in any combination thereof.

“Significant Storm Event” means a storm that generates 0.1 inches or more of rainfall in 24 hours. "Sludge" means any semi-solid that has more than 20% but less than 60% solids.

"Solid Waste" means garbage, rubbish, ashes, incinerator ash, incinerator residue, street cleanings, municipal and industrial sludges, solid commercial and solid industrial waste, and animal waste other than organic waste generated in the production of livestock and poultry, but does not include human body waste, medical or liquid or other waste regulated by statute, ferrous or nonferrous scrap directed to a scrap metal processor or to a reuser of ferrous or nonferrous products, slag or slag products directed to a slag processor or to a reuser of slag or slag products, or certain sludges, ashes described in Section 324.11506(g) of Part 115, materials approved for emergency disposal by the Director of the Michigan Department of Environmental Quality, source separated materials, site separated materials and fly ash or other ash produced from the combustion of coal, when used as identified in Section 324.11506 (k) of Part 115.

“Solid Waste Boundary” means the outermost perimeter of the solid waste (projected in the horizontal plane) as it would exist at completion of the sanitary landfill and as authorized in a construction permit or in engineering plans approved for the landfill unit by the solid waste county agency before January 11, 1979.

"Solid Waste Planning Committee” means the committee appointed to assist in the implementation of the approved Wayne County Solid Waste Management Plan.

"Solid Waste Disposal Area" means a solid waste transfer facility, incinerator, sanitary landfill, processing plant, and resource recovery facility or other solid waste handling and disposal facility utilized in the disposal of solid waste.

"Solid Waste Management Plan" means the approved Wayne County Solid Waste Management Plan, as required by Part 115, and its approved updates.

“Yard Clippings” means leaves, grass clippings, vegetable or other garden debris, shrubbery, or brush or tree trimmings, less than 4 feet in length and 2 inches in diameter, that can be converted to compost humus. Yard clippings do not include stumps, agricultural wastes, animal waste, roots, sewage sludge, or garbage.

SECTION 140 GENERAL PROHIBITIONS AND NOTIFICATIONS.

140.1 Sanitary Landfills are prohibited from accepting materials that would prevent the landfill liner from performing as designed, hazardous waste, liquids, yard clippings and sewage.

140.2 If an owner/operator discovers that the Sanitary Landfill has accepted hazardous wastes, liquids or sewage, the owner/operator of the landfill shall immediately notify the Division in writing of the incident and document the incident in the operational record.

140.3 A Sanitary Landfill may not accept waste from any municipality within the State of Michigan unless that municipality has a recycling program consistent with the recycling provisions of the Wayne County Solid Waste Management Plan. Within thirty (30) days of commencing receipt of waste from a municipality within the State of Michigan, the landfill shall submit to the Division a certification from that municipality that it is implementing a recycling program consistent with the Wayne County Solid Waste Management Plan.

140.4 All Sanitary Landfills, Resource Recovery Facilities, transfer stations, composting facilities and process facilities shall immediately notify the Division by telephone of any fires, or spills of leachate, fuel, or wastes, if the spill is 55 gallons or greater or is of a quantity that requires reporting to any State or Federal agency.

SECTION 150 ON-SITE ROADS

150.1 This section is enacted to assure that on-site roads shall be constructed to provide for all weather accessibility and for the easy removal of mud, waste, and dust.

150.2 Main interior haul roads, and entrance and exit facilities at solid waste disposal areas shall be paved. These roads shall be constructed to adequately support the anticipated loads and maintained to assure structural integrity during the useful life of the roads.

150.3 Requirements for paving additional on-site roads may be required by the Department if the intent of Section 160 is not being met.

150.4 All on-site unpaved roads shall be maintained to prevent off-site and minimize on-site fugitive dust emissions. All on-site paved roads shall be cleaned to remove mud, dust, and waste materials from the road surfaces.

SECTION 160 OFF-SITE ROAD MAINTENANCE

160.1 This section is enacted to assure that tracking of mud and/or solid waste materials from solid waste disposal areas onto public off-site roads will be minimized and to assure that mud and/or solid waste materials which are tracked off-site are adequately removed.

160.2 Each licensee of a solid waste disposal area shall maintain, revise, and provide to the Department, as necessary, an Off-Site Road Maintenance Plan, which addresses, at a minimum, the following:

A. Method of dislodging mud and/or solid waste materials from the vehicles or undercarriage.

B. If a water wash system is utilized:

1. Describe where the wash water will be contained.

2. The method and location for removal and disposal of sediment and contaminated water.

C. A traffic control pattern, including a by-pass road around the truck cleaning area if applicable.

D. Method for removing soil, dust and/or solid waste materials attributable to the solid waste disposal operations from public off-site roads within 2,500 feet of the solid waste disposal area entrance and exits.

160.3 Trucks and off-site roads shall be cleaned as described in the plan cited in subsection 160.2 as often as necessary to prevent the occurrence of nuisances resulting from the tracking of mud and/or solid waste materials.

160.4 All solid waste materials, mud and dust which are removed from public off-site roads shall be disposed of as a solid waste.

SECTION 170 LEACHATE COLLECTION AND REMOVAL SYSTEMS

170.1 Leachate collection and removal systems are to be designed, constructed and maintained to minimize the build-up of leachate within a sanitary landfill, and the possibility of ground and surface water contamination.

170.2 All non-permitted leachate discharges are to be immediately eliminated. All actions to eliminate such discharges shall adequately prevent ground and surface water contamination.

170.3 All sanitary landfills shall have a leachate collection and removal system meeting the design requirements of MAC R299.4423, the operating requirements of MAC R299.4432 and the following minimum requirements.

A. The owner/operator shall monitor the leachate collection system and record the leachate depths on a weekly basis to assure compliance with the applicable hydraulic head limit set forth in Part 115. Leachate monitoring records shall be incorporated into the facilities operating record.

B. The method of leachate disposal shall be approved by the Department to protect the public health, welfare, and environment unless the disposal method is regulated by state or federal law.

C. The collected leachate shall be disposed of in a manner that is in compliance with applicable laws and that does not harm the environment.

D. All leachate collection system pipes shall be cleaned or flushed as necessary to maintain proper operation of the system. Every three years, the owner/operator shall provide documentation that the pipes are operating at the designed

capacities this documentation shall be incorporated into the facilities operating record.

170.4 The facility may recirculate leachate, liquid from the secondary collection system, or gas condensate back to a disposal unit. Prior to recirculation, a recirculation plan must be submitted to, and approved by, the Division.

SECTION 180 GAS MANAGEMENT SYSTEM

180.1 The owner/operator of a Sanitary Landfill shall comply with the requirements of MAC R 299.4433.

180.2 The owner/operator of a Sanitary Landfill shall immediately notify the Division by telephone if methane gas levels exceed the limits specified in MAC R.299.4433 (1) and provide to the Division within 60 days of detection, the plan to remediate for the methane gas releases.

180.3 The owner/operator of a Sanitary Landfill shall assure that the decomposition gases which are generated within the Sanitary Landfill do not cause a hazard or nuisance to health, safety, and welfare of the public.

180.4 Along with the construction permit application, the applicant shall submit plans for a gas migration control system. This system shall be designed, operated, and maintained to meet the following minimum requirements:

A. The system shall prevent lateral gas movement from the site, or gas accumulation in nearby structures on-site or off-site.

B. The system shall prevent the decomposition gas concentrations from causing a public health hazard or nuisance.

180.5 The Division may establish alternate schedules for demonstrating compliance pursuant to MAC R.299.4433 (4).

180.6 Gas Management Design Considerations

A. The final cover design for type II landfills shall have either of the following to meet the gas control requirements:

1. A permeable soil layer which is not less than one (1) foot thick and which is located directly below the infiltration layer that vents landfill gas to gas risers.

2. Other means of assuring that gases cannot travel laterally from the site or accumulate in structures

B. The base elevation for any gas well installed as part of a gas management system shall be at a minimum of 10 feet above the liner.

180.7 If methane gas levels exceeding the limits in MAC R 299.4433(1) are detected from either an active or closed landfill unit, the owner/operator shall do all of the following:

A. Immediately take all necessary steps to ensure protection of human health and notify the Division.

B. Within 7 days of detection, submit to the Division and place in the operating record, the methane gas levels detected, and a description of the steps taken to protect human health.

C. Within 60 days of detection, implement a remediation plan for the methane gas releases, place a copy of the plan in the operating record, and notify the Division that the plan has been implemented. The plan shall describe the nature and extent of the problem and the proposed remedy.

SECTION 190 SOIL EROSION, SEDIMENTATION CONTROL AND STORMWATER MANAGEMENT

190.1 The landfill owner/operator shall control runoff from the active work area of the landfill, and shall institute soil erosion control and sedimentation control measures as necessary to comply with the Wayne County Stormwater Management Ordinance and provisions of part 91 of the NREPA, being sections 9101 through 9123 of public act no. 451 of 1994, as amended, and Sections 324.9101 through 324.9123 of the Michigan Compiled Laws.

190.2 The landfill final cover design shall be sufficient to limit erosion to not more than two (2) tons per acre per year based upon the Universal Soil Loss Equation ("USLE"), or other method approved by the Division. The landfill shall use drainage swales every twenty (20) vertical feet in order to meet the performance criteria of less than 2 tons/acre/year. The facility may choose a design other than drainage swales every 20 vertical feet, if the facility can demonstrate, using the USLE, that the performance criteria is met.

190.3 A combination of sedimentation/retention basin(s), swales and/or ditches shall be required at all sanitary landfills to retain the sediment eroded from the site, and the runoff produced by a 25-year, 24-hour storm.

190. 4 All new solid waste disposal areas or expansions that require a Solid Waste Construction Permit under Part 115 must receive approval of their stormwater management system from Wayne County Permits Division.

190.5 All sedimentation/retention basins, swales, ditches, and other components of the drainage system shall be maintained in compliance with the following:

A) The construction approval issued by the Wayne County Permit Division under the Storm Water Management Ordinance.

B) The basin(s), swales and ditches shall be stabilized with seed and mulch in accordance with Section 200.5.

C) The basin(s), swales and ditches shall be cleaned out, as necessary to assure that they are operating at the designed capacities.

SECTION 200 LANDSCAPING REQUIREMENTS

200.1 All solid waste disposal areas shall be landscaped and maintained in accordance with the landscaping plan approved by the Division and the minimum requirements of 200.4 and 200.5.

200.2 A landscaping plan that complies with the requirements of this section must be submitted to the Division prior to the Facility Inclusion Committee's review of the solid waste disposal area proposal or at the time of submittal of a construction permit application if review by the Facility Inclusion Committee is not required. This plan shall address, at a minimum, the following:

A. A description of the visual screening to be utilized at the disposal area, and

B. A schedule for installation of the visual screening.

200.3 The adequacy of the landscaping plan shall be determined by the Division.

200.4 The landscaping requirements listed in this subsection shall be utilized at all solid waste disposal areas unless otherwise approved in writing by the Division. Alternate landscaping may be approved if the applicant demonstrates that the requirements of this subsection are not necessary. The request by the applicant may include a demonstration that adjacent property owners will not be subjected to visual nuisances by disposal operations.

A. Landfilling operations shall be conducted and progress in a manner that will preserve the natural screening vegetation as long as practical.

B. Where screening berms are not required by MAC 299.4305 and MAC 299.4412, greenbelt areas around the site perimeter shall be established to provide a visual buffer between the landfill
and adjacent property. These greenbelt areas must be landscaped in accordance with the minimum standards of subsection 200.5(B).

C. Where screening berms are required by MAC 299.4305 and MAC R 299.4312, the berms shall be stabilized as prescribed in subsection 200.5 (C) and vegetated with a combination of deciduous trees, evergreen trees, shrubs and grasses or ground cover.

200.5 All bare earth slopes and disturbed areas shall be stabilized with topsoil, seed and straw mulch, or equivalent, in conformance with the procedures prescribed in this subsection, between April 1 and June 15 of each year, and between September 15 and November 1 of each year, weather permitting. Alternative stabilization methods may be approved in writing by the Division.

A. A minimum of three (3) inches of topsoil cover shall be utilized when establishing vegetation on all landscaped areas not planted with trees or shrubs. Vegetation shall be either suitable grasses or ground cover.

B. Greenbelts must be landscaped with a minimum of one tree per 3000 sq. ft. of greenbelt area. The trees may be either deciduous or evergreens and may be planted in rows, random, or groupings so as to be visually appealing. Natural vegetation at equivalent densities may be utilized to meet these requirements.

C. Berms must be landscaped with a minimum of one tree and one shrub per 30 linear feet of berm. Trees may be deciduous or evergreen and may be planted in rows, random, or groups so as to be visually appealing.

D. Trees and shrubs when planted must meet the following minimum standards.

1. Deciduous trees must be at least 2.5 inch caliper.

2. Evergreens must be at least 4 feet in height.

3. Shrubs must be at least 2 feet in height unless they are tree like shrubs then they must be at least 4 feet in height.

4. The following trees are not acceptable: Box Elder, Soft Maples, Elms, Poplars, Willows, Horse Chestnuts, Tree of Heaven and Catalpa.

SECTION 210 FUGITIVE DUST, NOXIOUS ODORS, NOISE, AND BLOWING DEBRIS

210.1 The operation of a solid waste disposal area shall not result in unreasonable off-site deterioration of air quality, cause unreasonable interference with the comfortable enjoyment of life or property, or cause injurious effects to human health, safety, or welfare. All solid waste disposal areas shall be designed, constructed and operated so that fugitive dust, noxious odors, noise, and blowing debris are controlled and do not cause off-site problems or nuisances.

210.2 The applicant shall submit with the construction permit application an operations plan to minimize the off-site occurrences of fugitive dust, noxious odors, and blowing debris. This plan may include such measures as: restricting the daily work area, refusing to accept certain waste streams, installing portable fences, applying masking agents, using

intensive labor efforts, stipulating a greater frequency for cover, or other appropriate measures. This plan shall be approved by the Division.

210.3 If an off-site problem or nuisance condition exists, as determined by the Division, despite compliance with the operation plan, then a contingency plan shall be developed by the owner/operator. This contingency plan shall be submitted within 10 working days from the date that the Division notifies the owner/operator. This plan shall demonstrate to the satisfaction of the Division that the problem will be abated within the shortest practical time period.

210.4 In the preparation of the operations plan required by Subsection 210.2, or the contingency plan which may be required by Subsection 210.3, the applicant or owner/ operator shall comply with the requirements of Part 55 or the Wayne County Air Quality Management Ordinance, whichever is more stringent.

SECTION 220 SLUDGE DISPOSAL, MONITORING AND REPORTING REQUIREMENTS

220.1 The requirements listed in this section are to protect the health, safety, and welfare of the public, to protect water and other natural resources, and to prevent nuisance conditions.

220.2 All municipal and industrial sludges disposed of in a sanitary landfill shall not contain any free liquid as determined by Method 9095, known as the Paint Filter Test. This subsection does not apply to Type III sludges delivered to Type III landfills that collect and discharge free liquids under a state or federal discharge permit.

220.3 Sludge odors shall be controlled, prior to acceptance for disposal. Acceptable control methods include:

a. Transporting the sludge in fully sealed containers designed to prevent the release of odors during transportation.
b. Transporting the sludge in trailers that are sealed through the use of tarps and/or an alternative cover system designed to prevent the release of odors during transportation.
c. Treatment of the sludge prior to transportation in a manner that reduces the level of odor so that during transportation objectionable odors are not released. The treatment method must be approved by the Department.

220.4 Sorbent material may be used to increase the solids content of a sludge or liquid at a licensed processing facility. The sorbent material shall be of a nature that will not decompose over time and shall be added prior to delivery of the sludge to the sanitary landfill. Periodic analysis of the sorbent material may be required by the Division to assure the sorbent material's continued performance.

220.5 Operators of solid waste disposal areas that accept sludges shall keep on file at the disposal location the following information:

A. A list of all sludges accepted which includes the generator name and a description of the sludge.

B. The daily quantities and types of sludges from each generator.

C. The following daily test results if required by the Division:

1) The paint filter test results for the various sludge/sorbent material mixtures.

2) The pH of any chemically stabilized sludge.

D. Analysis to verify that the sludge is not a hazardous waste.

220.6 For any non-hazardous sludge which is received from a generator on a continual basis, the analysis required by subsection 220.2 shall be updated annually. The Division may require an increased frequency of the analyses if:

A. Observation of the sludge at the disposal site suggests that there has been a change in sludge characteristic; or

B. The process that generates the sludge is suspected or known to generate an inconsistent waste.

220.7 If a sludge or sludge-sorbent mixture that does not meet the requirements of subsections 220.2, 220.3, and 220.4, is delivered to a sanitary landfill, the operator shall:

A. Not accept the materials for disposal, and
B. Immediately notify the Division.

220.8 If as a result of sludge disposal operations it is determined that violations of this Ordinance occur at the solid waste disposal area, modified or alternative disposal techniques shall be instituted to abate the violation. Such techniques shall effectively increase the solids content of the sludge beyond the requirements cited in subsection 220.2 by either:

A. Adding sorbent material to the sludge, or increasing the quantity of sorbent material added to the sludge, prior to delivery to the Sanitary Landfill, or

B. Adding additional sorbent material to the sludge at the Sanitary Landfill.

220.9 Sorbent material added to the sludge at the Sanitary Landfill shall be non-degradable.

220.10 Sorbent material stored at the landfill shall not cause a violation of this Ordinance.

SECTION 230 GROUND AND SURFACE WATER QUALITY

230.1 All sanitary landfills shall be located, designed, constructed, and operated to assure that ground and/or surface waters are not contaminated. To assure compliance with this Section, all sanitary landfills shall submit to the Division for approval a hydrogeological monitoring plan.

230.2 The hydrogeological monitoring plan shall include a surface water monitoring program for any surface water that may receive runoff from the active work area. The surface water monitoring program must be approved by the Division.

230.3 Analysis for all ground and surface water monitoring events shall be submitted to the Division within thirty (30) days after the end of the calendar quarter.

230.4 The owner/operator shall statistically evaluate ground-water data for each hazardous constituent identified in the facility's hydrogeological monitoring plan in conformance with MAC R.299.4908.

230.4 Any notification required pursuant to the following rules shall also be made to the Division; MAC R 299.4440 through 299.4445, 299.4318 and 299.4319.

SECTION 235 PROCESSING, RECYCLING, COMPOSTING, TRANSFER FACILITIES

235.1 This section establishes the requirements and procedures for operation of solid waste processing facilities, resource recovery facilities, composting facilities and transfer stations for all facilities to be operated in Wayne County.

235.2 All processing, resource recovery, composting and transfer facilities shall submit to the Division for approval, prior to construction, the following:

A. Site plans including:

1) A vicinity map and legal description

2) Distances to the nearest adjacent residence and commercial and industrial facilities

3) Proposed storage areas

4) Utility locations including storm and sanitary sewers and water mains

5) Fire hydrant locations

6) Access route traffic patterns as well as on-site traffic patterns

7) All existing and proposed visual screening measures

8) Surface water drainage patterns

B. Written documentation addressing the following, if applicable:

1) Expected volumes of incoming waste; recyclables; and/or yard clippings;

2) Hours of operation;

3) Methods of controlling fugitive dust, noxious odors, noise and blowing debris;

4) Fencing and other means of limiting access;

5) Method of handling wastes and recovered materials;

6) Expected frequency of removal of recovered materials;

7) Expected frequency for turning of composting windrows;

8) Fire protection;

9) Description of daily cleanup procedures.

235.3 All processing facilities, resource recovery facilities, composting facilities and transfer stations shall comply with the requirements of Sections 200 and 210 of this Ordinance.

235.4 All facilities covered under this section must notify the Chair of the Wayne County Solid Waste Planning Committee as well as the Division that actual operations have begun.

235.5 Upon any change in ownership of a solid waste disposal area, the owner/operator of the facility shall notify the Division in writing.

235.6 In addition, all composting facilities shall comply with the following:

A. The site shall be graded at a minimum 1 percent slope to minimize ponding of water, maintain flow in the direction of drainage collection ditches, and direct flow away from the composting material.

B. The working areas of the site shall be compacted, graded and/or ditched to prevent contaminants from exiting the site via surface water or groundwater.

C. Roll-off boxes, or similar waste containers, containing wastes not suitable for composting, shall be moved off site on a weekly basis, or more often as necessary to prevent nuisance conditions.

D. The operator shall provide adequate size and quantity of equipment on site and shall provide for its routine operational maintenance.

E. Finished compost shall be kept clearly separated from incoming yard clippings and unfinished compost for proper delineation of materials.

F. Access shall be limited to times when a responsible individual is on duty. A notice stating the days and hours of operation shall be conspicuously posted at the entrance to the facility.

G. Any leachate generated during mixing or composting shall be:

1. Collected and reintroduced into the compost pile;

2. Directed to a sanitary sewer if a Permit is obtained from the sewer agency;

3. Directed to a storm sewer or natural water course if an NPDES permit is obtained;

4. Transported by a liquid industrial waste hauler who is properly licensed under the Michigan Liquid Waste Haulers Act; or

5. Handled in any other manner approved by the Division.

H. A site-specific written plan shall be developed and followed for the operation of the composting facility, and shall include temperature and moisture contents of the compost piles.

J. A contingency abatement plan shall be developed to provide for a malfunctioning operation. The plan shall, at a minimum, specify all of the following:

1. Identification of supervisory personnel responsible for putting the abatement plan into action;

2. Mechanism by which an offending odor source, contaminant runoff, or other malfunction will be eliminated;

3. Method by which new incoming material will be halted or handled; and

4. Criteria and method by which routine operations will recommence.

SECTION 240 POST CLOSURE REQUIREMENTS

240.1 The owner/operator of a sanitary landfill shall be responsible for monitoring and maintaining the site after closure in accordance with the requirements of this section to minimize possible environmental damage or threats to health, safety, and welfare of the public.

240.2 All monitoring required pursuant to MAC R299.4449 shall be performed at least semi-annually for the 30 year post-closure period, unless otherwise authorized by the Division. Whenever any maintenance work is to be performed, the Division shall be notified in writing ten (10) working days prior to such activity.

241 Post Closure Monitoring Reports

241.1 The monitoring information collected as required by subsections 240.2 and MAC R299.4449 shall be submitted to the Division within thirty (30)days after the end of each calendar quarter.

241.2 If any of the monitoring results indicate that the disposal area is in violation of this Ordinance, the owner/operator is to immediately notify the Division. The Division may order the owner/operator to take corrective action, or to increase monitoring frequency.

242 Post Closure Assurances

242.1 To assure compliance with the post closure requirements of Section 240 the owner/operator or property owner of a closed Sanitary Landfill shall provide notice to the Division upon any change in ownership or management of the Sanitary Landfill property. This notice shall include the name and address of the new owner or management company. Notice shall also be provided to the Division when it is required pursuant to MCL 324.11518.

SECTION 250 WASTE STREAM REPORTING

250.1 This section establishes the requirements and procedures for periodic reporting of solid waste data. The data will provide the Solid Waste Planning Committee and Designated Solid Waste Agency with information needed to determine that the goals and requirements of the Wayne County Solid Waste Management Plan are achieved.

250.2 A. Each Sanitary Landfill, Resource Recovery Facility that combusts solid waste, and solid waste processing facility that manages waste that ultimately is intended for disposal included in the Wayne County Solid Waste Management Plan shall submit to the Division, a facility quarterly solid waste stream report, as provided by the Division, within thirty (30) calendar days after the end of each quarter. The quarterly report shall include the following information:

1. Facility name, address, telephone number and fax number;

2. Facility type;

3. Reporting units: cubic yards or tons;

4. Quarter and Year;

5. Amount of waste received, listed by county, state and country;

6. Amount of recycled/recovered material received;

7. List of municipalities disposing of residential waste at the Sanitary Landfill or Resource Recovery Facility that combusts solid waste;

8. Amount incinerated, if applicable;

9. Amount landfilled, if applicable; and

10. Amount of ash monofilled; if applicable.

B. Each solid waste Sanitary Landfill, Resource Recovery Facility that combusts solid waste, and solid waste processing facility that manages waste that ultimately is intended for disposal in Wayne County must submit a facility annual solid waste stream report, as provided by the Division, to the Division by October 31. The report shall cover the period from October 1st to September 31st and shall include the following information:

1. Facility name, address, telephone number and fax number.

2. Facility type.

3. Reporting units: cubic yards or tons.

4. Year.

5. Amount of waste received listed by county, state and country.

6. All waste must be reported by waste category (i.e. residential, commercial, industrial or Resource Recovery Facility).

7. For all non-Wayne County municipalities within the State of Michigan disposing of residential waste at the facility, copies of certifications that the municipality has a recycling program consistent with the Wayne County Solid Waste Management Plan.

8. All changes in Resource Recovery Facilities that combust solid waste design or operating status which would change the availability of the facility to accept waste; and anticipated effect of these changes.

9. Each sanitary landfill licensee shall retain the services of a professional engineer who will annually submit to the designated Division:

a. An updated topographic survey and accompanying calculations which will indicate the volume of space remaining to be filled as of the first of October of each year. The volume shall be expressed in cubic yards;

b. A calculation of the ratio of the volume of refuse delivered to the facility to the volume of compacted in place refuse. This ratio, when possible, should be determined based on the previous year's experience;

c. A Projection of the landfill's life expectancy. The projection is to be expressed in years or fractions of years;

d. All changes in design or operating techniques which would cause change in remaining capacity; and the anticipated effect of these changes on life expectancy.

10. For Resource Recovery Facilities that combust solid waste only, amounts of: waste received, material recycled, material combusted, ash generated, volume reduced, and percent of reduction.

11. All solid waste received must be reported by sector (residential, commercial, industrial, and special) as defined on the facility quarterly solid waste stream report.

250.3 Each Wayne County municipality disposing of waste in Solid Waste Disposal Areas that are identified within the Wayne County Solid Waste Management Plan must submit an annual solid waste stream report thirty-one (31) days after the end of the calendar year with the following information:

A. Municipality

1. Address

2. Contact person

3. Telephone and fax numbers

B. Demographics

1. Population

2. Number of households

3. If municipal service is provided under contract, units serviced-single family, multi-family, apartments, condominiums.

C. Type of waste collection services and providers (if applicable)

1. Municipal crew

2. Contract hauler

3. Special/bulky waste collection

4. Curbside recycling collection

5. Household hazardous waste collection and drop-off centers and dates of Household Hazardous Waste collections.

6. Drop off recycling centers

7. Identify if member of waste disposal authority

8. Identify the solid waste disposal facility utilized

9. Identify haulers for each type of recyclable, including yard waste, accepted and/or collected

10. Identify all amounts of solid waste, including recyclables and yard clippings, collected, reduced, composted, incinerated, and landfilled.

11. Calculate a pounds/person/day generation figure using the formula provided on the report.

SECTION 270 COMPLIANCE SCHEDULE

270.1 This section is enacted to assure that all existing solid waste disposal areas will comply with the intent and specific sections of this Ordinance.

270.2 The Division Director may issue a compliance schedule, including a sequence of actions, measures, or operations, to provide for the upgrading of an existing solid waste disposal area.

270.3 For any existing solid waste disposal area at which site preparation has been completed, Section 150, 170, 180, 190.2–190.5, and 200 shall be excluded from the compliance schedule of Subsection 270.2 unless operation of the disposal area is found to cause a violation of this Ordinance. Based on a violation, the Division Director may issue a new compliance schedule to abate the violation; and the new compliance schedule may include any of the requirements of Sections 150, 170, 180, 190, and 200 to abate the violation.

270.4 Solid waste disposal areas shall be upgraded in accordance with the compliance schedule.

SECTION 280 RIGHT OF ENTRY AND INSPECTION

280.1 To determine compliance with this Ordinance, all Solid Waste Disposal Areas are subject to inspection by the Department. This includes all site inspections made during the preparation, construction, operation, closure, and thirty (30) year post-closure periods. Should entry to a premise for an inspection be refused, the Department may obtain a warrant authorizing premise entry and inspection pursuant to Section 2446 of Act 368 of Public Acts of 1978, being Section 333.2446 of the Michigan Compiled Laws. The Department is empowered to collect and examine samples as deemed necessary to perform the duties prescribed herein, and to take photographic, video tape or other representations of conditions existent at the solid waste disposal area. No person shall hinder, obstruct, delay, resist or prevent any inspection from being made, or any sample being collected and/or examined by the Department. Nor shall any person molest, intimidate, harass, or impede a representative of the Department in the lawful discharge of his or her powers and duties.

280.2 Based on an alleged violation of this Ordinance, specifically designated employees or officers of the municipality in which the solid waste disposal area is located, may enter the disposal area when accompanied by a representative of the facility. If the designated employee or officer confirms the alleged violation, the Department shall be contacted immediately. The governing body of the municipality shall designate by resolution no more than three employees or officers to be given this responsibility; and shall transmit copies of the resolution to the Department and to the solid waste disposal area operator.

SECTION 290 VARIANCES

290.1 Variances from the following parts of this Ordinance may be granted in writing by the Department.

A. Subsection 150.2 and 3 (paving of on-site roads)

B. Subsection 160.2 (off-site road maintenance plan)

C. Subsection 180 (gas migration control system)

D. Subsection 190 (sedimentation/retention)

E. Subsection 200 (landscaping)

F. Subsection 230.2 (groundwater and surface water quality)

290.2 A variance may not be granted unless the applicant demonstrates, to the satisfaction of the Department, the following: (a) that the requirement is infeasible and imprudent for the particular solid waste disposal area at issue; (b) that the proposed alternative will provide an equivalent degree of protection for the public health, welfare, and the environment or that the public health, welfare and the environment will not be impaired.

290.3 A request for a variance for a solid waste disposal area shall be in writing and shall include the justification for the variance. For a new Part 115 licensed facility, the request shall accompany the construction permit application or information submitted in accordance with Section 235 of the Ordinance.

290.4 When a request for a variance is received from an existing facility:

A. The Department shall promptly notify the municipality in which the facility is located that a request for a variance has been received;

B. Within 30 days of receipt of the notice, the municipality or the applicant may request in writing a public hearing on the proposed variance. If a public hearing is requested, the Department shall publish a notice in a newspaper having major circulation in the vicinity of the solid waste disposal area; and shall conduct the public hearing on the proposed variance;

C. After the hearing, the Department shall review the comments and other testimony and make a decision on the proposed variance.

290.5 The requirements contained in the Ordinance shall be enforced until a written variance has been granted by the Department.

SECTION 300 COMPLIANCE AND ENFORCEMENT

301 Notice of Violation

301.1 If the County believes that a violation of this Ordinance or the Wayne County Solid Waste Management Plan has occurred or exists, including without limitation any notice, order, license, permit, agreement, decision or determination promulgated, issued, made and entered by the County under this Ordinance or the Solid Waste Management Plan, the County may issue a written notice of violation to the person or persons determined by the County to have caused or contributed to the violation. The written notice of violation shall

contain at least the following information, as applicable to the situation and to the extent known by the County:

(a) The name and address of the violator;

(b) The location and time that the violation occurred or was observed, and the duration of the violation;

(c) The nature of the violation, including the provisions of this ordinance, the Solid Waste Management Plan, or of any notice, order, license, permit, agreement, decision or determination violated;

(d) The basis for determining that a violation has occurred (personal observation, pollutant analysis, etc.);

(e) The amount of the fine, penalty or charge assessed or due, if any;

(f) The manner in which, and time and date by which, any fine, penalty or charge must be paid, including any penalty or charge for late payment;

(g) The remedial action ordered, the time within which required actions must be taken, and any consequences for failure to do so.

(h) The right to appeal the issuance of the notice and a summary of the procedures for appeal, or other applicable administrative procedures.

(i) The date and time the order or notice was issued.

301.2 A person receiving a notice of violation may request additional information from the County regarding the contents or requirements of any order or notice. However, a request for additional information shall not extend the time for compliance with the notice.

301.3 Within ten (10) days of the receipt of a written notice of violation, the alleged violator(s) shall submit to the County an explanation of the violation and a compliance plan for correcting the violation to comply with this Ordinance and the Wayne County Solid Waste Management Plan. Submission of the compliance plan in no way relieves the alleged violator(s) of liability for any previous or future violations.

301.4 If the County determines that the response resolves and/or corrects the violation, then the County shall issue a written determination that the violation has been resolved and/or corrected. If the response proposes a plan for resolving and/or correcting the violation, then the compliance plan shall be incorporated into a consent agreement pursuant to Section 302.

301.5 An informal conference may be requested by the County or by person or persons alleged to have caused or contributed to the violation to facilitate a voluntary agreement.

302 Consent Agreement

302.1 A consent agreement may be entered into at any time by and between the County and an alleged violator. The consent agreement shall be acceptable to both the County and the alleged violator and shall reflect the agreement of the alleged violator to assume responsibility for and correct violations of this Ordinance and the Wayne County Solid Waste Management Plan.

302.2 The consent agreement shall be signed by the County and the alleged violator and may contain any appropriate provisions necessary to resolve disputed claims and address identified and potential deficiencies in the alleged violator's compliance status, including, but not limited to, a statement of facts; a description of the actions necessary to correct any non-compliance; compliance schedules; required compliance or remedial actions; fines; penalties; cost reimbursement; financial assurance provisions; and stipulated penalties for the non-compliance.

303 Administrative Compliance Orders

303.1 If the County determines that a person or persons has violated this Ordinance or the Wayne County Solid Waste Management Plan, including without limitation any notice, order, license, permit, agreement, decision or determination promulgated, issued, made and entered by the County under this Ordinance or the Solid Waste Management Plan, the County may issue a unilateral administrative compliance order to the person directing the person to take action to achieve compliance within the time specified by the order.

303.2 The County may issue a unilateral administrative compliance order under Section 303.1 under any of the following circumstances:

(a) A consent agreement is not entered into and the County determines that a person or persons has caused or contributed, or continues to cause or contribute, to a violation of this Ordinance or the Wayne County Solid Waste Management Plan;

(b) The County determines that a person has violated a consent agreement entered into with the County or an administrative compliance order issued by the County;

(c) The County finds that a violation constitutes or will cause an imminent and substantial injury to the public health, safety, welfare, or the environment, and it is prejudicial to the interests of the people of the Charter County of Wayne to delay action. An administrative compliance order issued pursuant to this section shall require the violator to initiate immediate action to avoid, correct, or remove the imminent danger or take other action as provided by Section 2451 of Act 368 of the Public Acts of 1978 (Public Health Code), being Section 333.2451 of the Michigan Compiled Laws;

(d) The County reasonably believes that there is a nuisance, unsanitary condition, or cause of illness as a result of a building, condition, or improper solid waste management. An Administrative Compliance Order issued pursuant to this Section may require the violator to avoid, correct, or remove, at the owner's expense, a building or condition, which violates this Ordinance pursuant to Section 2455 of Act 368 of Public Acts of 1978 (Public Health Code), being Section 333.2455 of the Michigan Compiled Laws.

(e) Under any other circumstances in which the County determines that such an order is necessary to insure compliance with this Ordinance or the Solid Waste Management Plan.

303.3 A unilateral administrative compliance order shall contain at least the following information, as applicable to the situation and to the extent known by the County:

(a) The name and address of the violator;

(b) The location and time that the violation occurred or was observed, and the duration of the violation;

(c) The nature of the violation, including the provisions of this ordinance, the Solid Waste Management Plan, or of any notice, order, license, permit, agreement, decision or determination violated;

(d) The basis for determining that a violation has occurred (personal observation, pollutant analysis, etc.);

(e) The amount of the fine, penalty or charge assessed or due, if any;

(f) The manner in which, and time and date by which, any fine, penalty or charge must be paid, including any penalty or charge for late payment;

(g) The remedial action ordered, the time within which required actions must be taken, and any consequences for failure to do so;

(h) The right to appeal the issuance of the notice and a summary of the procedures for appeal, or other applicable administrative procedures; and

(i) The date and time the order or notice was issued.

303.4 The person or persons who receive an administrative compliance order from the County under this section shall comply with the order within the time specified by the order.

303.5 If the Director determines that improper solid waste management or another condition subject to this Ordinance (1) creates a substantial danger of illness or injury to the public

health, safety, welfare, or the environment, and (2) constitutes an emergency such that immediate action is required to protect the health and safety of the people of Wayne County, the County may take such action, without prior notice and at the owner's expense, as may be necessary and appropriate under the circumstances to avoid, correct, remove, or abate the condition or imminent danger. The County may recover all costs and expenses incurred in taking action to alleviate such an emergency from the property owner, and is authorized to charge such costs against the owner of the property by placing a tax lien against the property. A property owner or other aggrieved person may appeal the County's action in accordance with Section 400 of this Ordinance.

304 Municipal Civil Infractions

304.1 Violation; Municipal Civil Infraction. Except as provided by section 305, a person who violates any provision of this ordinance or the Wayne County Solid Waste Management Plan (including, without limitation, any notice, order, license, permit, agreement, decision or determination promulgated, issued, made or entered by the county under this ordinance or the Solid Waste Management Plan) is responsible for a municipal civil infraction, subject to payment of a civil fine of not less than $250.00 per day and not more than $10,000.00 per day for each infraction, plus costs and other sanctions; except that a person who violates sections 140.1, 170.1, 170.3C, 180.3, 220.2, 230.1, 240.1 and 270.4 of this ordinance shall be subject to payment of a civil fine of not less than $1,000 per day and not more than $10,000 per day for each infraction, plus costs, expenses and other sanctions.

304.2 Repeat Offenses; Increased Fines. Increased fines may be imposed for repeat offenses. As used in this section, "repeat offense" means a second (or any subsequent) municipal civil infraction violation of the same requirement or provision of this ordinance (i) committed by a person within any 12-month period and (ii) for which the person admits responsibility or is determined to be responsible.
The increased fine for a repeat offense under this ordinance shall be as follows:

(a) The fine for any offense that is a first repeat offense shall be not less than $500.00, plus costs; except that the fine for any offense that is a first repeat offense under sections 140.1, 170.1, 170.3C, 180.3, 220.2, 230.1, 240.1 and 270.4 of this ordinance shall not be less than $2,500.00, plus costs, expenses and other sanctions.

(b) The fine for any offense that is a second repeat offense or any subsequent repeat offense shall be not less than $1,000.00, plus costs; except that the fine for any offense that is a second or any subsequent repeat offense under sections 140.1, 170.1, 170.3C, 180.3, 220.2, 230.1, 240.1 and 270.4 of this ordinance shall not be less than $5,000.00, plus costs, expenses and other sanctions.

304.3 Amount of Fines.

(a) Municipal Civil Infraction Citations. Subject to the minimum fine amounts specified in sections 304.1 and 304.2, the following factors shall be considered in determining the amount of a municipal civil infraction fine following the issuance of a municipal civil infraction citation for a violation of this ordinance: the type, nature, gravity, magnitude, severity, frequency, duration, preventability, potential and actual effect, cause (including whether negligent or intentional) and economic benefit to the violator (such as delayed or avoided costs or competitive advantage) of a violation; the violator's recalcitrance, cooperation or efforts to comply; the violator's compliance history (regardless whether prior enforcement proceedings were commenced); the economic impacts of the fine on the violator; and such other matters as justice may require. A violator shall bear the burden of demonstrating the presence and degree of any mitigating factors to be considered in determining the amount of a fine. However, mitigating factors shall not be considered unless it is determined that the violator has made all good faith efforts to correct and terminate all violations.

(b) Municipal Civil Infraction Notices; Schedule of Fines. Notwithstanding any provision of this ordinance to the contrary, the amount of a municipal civil infraction fine due in response to the issuance of a municipal civil infraction notice for a violation as provided by Section 304.1 shall be according to the following schedule:

For violation of any provision of this ordinance (except sections 140.1, 170.1, 170.3C, 180.3, 220.2, 230.1, 240.1 and 270.4)

First Offense: $250.00
First Repeat Offense: $500.00
Second Repeat Offense (or any Subsequent Repeat Offense): $1,000.00

For violation of any provision of sections 140.1, 170.1, 170.3C, 180.3, 220.2, 230.1, 240.1 and 270.4)

First Offense: $1,000.00
First Repeat Offense: $2,500.00
Second Repeat Offense (or any Subsequent Repeat Offense): $5,000.00

For any fine not paid in full at the Bureau within 30 days of the time specified for appearance in the municipal civil infraction violation notice, the fine amount due shall automatically be double the amounts listed immediately above. A copy of this schedule shall be posted at the Wayne County Municipal Ordinance Violations Bureau.

304.4 Authorized County Officials. The following persons are “authorized county officials” for purposes of issuing municipal civil infraction citations (directing alleged violators to appear in district court) or municipal civil infraction violation notices (directing alleged violators to appear at the Wayne County Municipal Ordinance Violations Bureau) for violations under

this ordinance: the Director of the Department of Environment and his or her designees and authorized representatives; the Division Director and his or her designees and authorized representatives; the Health Director, and his or her designees and authorized representatives; and any police officer.

304.5 Except as otherwise provided by this section, the procedures for municipal civil infraction actions shall be as set forth in Chapter 2 ("Municipal Civil Infractions":) of the Wayne County Code.

305 Criminal Penalties; Imprisonment

Any person who (a) at the time of a violation knew or should have known that the action resulting in the violation was contrary to any provision of this ordinance, or contrary to any notice, order, permit, decision or determination promulgated, issued or made by the Division under this ordinance; or (b) intentionally makes a false statement, representation, or certification in an application for, or form pertaining to a permit, or in a notice, report, or record required by this ordinance, or in any other correspondence or communication, written or oral, with the Division regarding matters regulated by this ordinance; or (c) intentionally falsifies, tampers with, or renders inaccurate any sampling or monitoring device or record required to be maintained by this ordinance; or (d) commits any other act that is punishable under state law by imprisonment for more than 90 days; shall, upon conviction, be guilty of a misdemeanor punishable by a fine of $500.00 per violation, per day, or imprisonment for up to 90 days, or both in the discretion of the court.

306 Additional Civil Fines and Penalties

In addition to any civil fine or penalty imposed by enforcement of Section 304 of this ordinance, the County pursuant to the authority of Section 11546 of Public Act No. 451 of 1994, being Section 324.11546 of the Michigan Compiled Laws, may bring an action for further appropriate relief and in addition to any other relief provided by law or this ordinance, request that the court impose a civil fine of not more than $10,000.00 for each day of any violation of this ordinance.

307 Agreements, Contracts, or Arrangements

Pursuant to Section 2435(c) of Act 368 of Public Acts of 1978, being Section 333.2435(c) of the Michigan Compiled Laws, the Department may enter into agreements, contracts or arrangements with a governmental entity or persons necessary or appropriate to assist the Department in carrying out its duties and functions unless otherwise prohibited by law.

308 Suspension of Enforcement

The Division Director may, in his or her discretion, and subject to any terms or conditions determined appropriate by the Director, suspend enforcement of this Ordinance, including specific sections, parts, or subsections of this Ordinance.

309 Separate Offenses

Each act of violation, and each day or portion of a day that a violation of this ordinance, the Solid Waste Management Plan, or of any notice, order, license, permit, agreement, decision or determination promulgated, issued, made or entered by the county under this ordinance or the Solid Waste Management Plan is permitted to exist or occur, constitutes a separate offense and shall be punishable as provided by this ordinance.

310 Reservation of Rights

Nothing in this Ordinance shall preclude the County from instituting a civil or criminal action pursuant to applicable laws, including without limitation, Sections 2462(3) and 2465(1) of Act 368 of Public Acts of 1978 (Public Health Code), being Sections 333.2462(3) and 333.2465(1) of the Michigan Compiled Laws; and Section 11546 of Public Act No. 451 of 1994 (Natural Resources and Environmental Protection Act), being Section 324.11546 of the Michigan Compiled Laws; to restrain, correct, or abate a violation of this Ordinance; or to stop an illegal act; or to abate a nuisance; or to prevent pollution; or to prosecute any person believed to have violated this Ordinance or the Wayne County Solid Waste Management Plan under applicable laws, regulations, and ordinances.

SECTIONS 400 RECONSIDERATION AND APPEALS

401 Reconsideration

401.1 Any person whose legal rights, duties, or privileges are directly and adversely affected by a determination by the County pursuant to this Ordinance and/or the Wayne County Solid Waste Management Plan may submit a written request for reconsideration of the County's determination within ten (10) days of the date on which the County makes its determination. The request for reconsideration shall be directed to the Division Director.

401.2 The County shall respond to a request for reconsideration in writing within ten (10) days of receipt. The County's response shall affirm, rescind, or modify the determination or order as appropriate. Persons may appeal the County's decision upon reconsideration pursuant to the provisions of Section 402.

402 Appeal

402.1 Applicability.

402.1.1 Any person whose legal rights, duties, or privileges are directly and adversely affected by a determination by the County pursuant to this Ordinance and/or the Wayne County Solid

Waste Management Plan, may appeal for relief from the County's determination in accordance with the procedures established in this section 402.

402.1.2 An appeal shall act as a stay of decision until a final decision is rendered by the County, except that the County shall not be precluded from pursuing any civil or criminal proceeding available under law and equity during the appeal period, nor shall the stay be construed to abridge the rights of the Director, or to stay an order or decision pursuant to Section 2451 and Section 2455 of Act 368 of Public Acts of 1978 (Public Health Code), being Sections 333.2451 and 333.2455 of the Michigan Compiled Laws, to avoid, correct or remove an imminent danger.

402.2 Procedures for Appeal.

402.2.1 The appeal shall be in writing, shall be addressed to the Director, and shall be received by the Director within twenty (20) days of the decision or act that is the subject of the appeal. The appeal shall set forth the specific act or matter complained of and in dispute, and shall include documentation to support the appellant's position. A person shall post a fee of $250.00 at the time of filing the appeal to cover the cost of processing the appeal.

402.2.2 Within thirty (30) business days of receipt of a written appeal, the Director shall acknowledge such receipt in writing to all interested parties and shall set a day and time for an appellate hearing to be conducted in accordance with section 402.3. If appropriate, the Director also shall direct the Division to schedule a conciliation meeting with the appellant in accordance with section 402.2.3.

402.2.3 If a conciliation meeting is held, it shall be open to all interested parties and their representatives. After the conciliation meeting, if the appellant or the Director determines that an appeal cannot be resolved through a conciliation meeting, the parties shall so inform the Director in writing and request a hearing in accordance with Section 402.3. If all interested parties determine that the dispute has been satisfactorily resolved through the conciliation meeting process or otherwise, the agreement shall be incorporated into a consent agreement.

402.3 Hearing Procedure.

402.3.1 If an appellate hearing is required, the Director shall promptly appoint a disinterested hearing officer of suitable qualifications to conduct an administrative hearing and to receive testimony and evidence presented by the aggrieved person(s). The hearing officer also shall receive testimony and evidence from the County or others as he or she deems necessary. To the extent practicable, the hearing shall be convened and conducted in accordance with Act 306 of the Public Acts of 1969 (Administrative Procedures Act), being Sections 24.201 through 24.328 of the Michigan Compiled Laws, as amended.

402.3.2 A notice shall be sent to the appellant party at least ten (10) days prior to the hearing. The notice shall include:

(a) a statement of the date, time, place and nature of the hearing;

(b) a statement of the legal authority and jurisdiction under which the hearing will be held;

(c) a reference to the particular sections of this Ordinance and/or the Wayne County Solid Waste Management Plan involved in the appeal;

(d) a statement of the right of the aggrieved person(s) to be represented by an attorney at the hearing; and

(e) a short statement of the issues involved.

402.3.3 The hearing officer shall conduct the hearing and file a written report of said hearing with the Director within thirty (30) days of his or her appointment. The hearing officer shall have the right to extend this thirty (30) day period for good cause. However, in such event, his or her report will be submitted to the Director within fifteen (15) days of the conclusion of the hearing.

402.3.4 The hearing officer's report shall include a brief statement of factual matters at issue, the nature of the testimony and evidence received, and shall include a recommendation to either uphold, rescind, or modify the decision or action in question on such terms as the hearing officer deems equitable.

402.3.5 Within fifteen (15) days of receipt of the hearing officer's report, the Director shall render a decision in writing. The Director shall not be bound by the recommendation of the hearing officer.

402.3.6 The decision of the Director shall be final and enforceable at law. A person aggrieved by a final decision of the Director may obtain judicial review pursuant to Act 306 of the Public Acts of 1969 (Administrative Procedures Act), being Sections 24.201 through 24.328 of the Michigan Compiled Laws, as amended Aggrieved persons shall exhaust all administrative remedies provided in this Ordinance before seeking judicial review.

SECTION 410 AMENDMENTS

410.1 This Ordinance may be amended

Any amendments to this Ordinance will be made after public notice and public hearing pursuant to Section 2442 of Act 368 of the Public Acts of 1978, being Section 333.2442 of Michigan Compiled Laws.

SECTION 420 INTERPRETATION CLAUSES

421 Other Laws and Regulations

421.1 This Ordinance provides minimum standards, supplemental to the statutes of the State of Michigan and the administrative rules duly promulgated thereunder. Where any provision of this Ordinance and a provision of any Federal or State statute or rule both apply, the more restrictive of any or all codes, statutes, ordinances, or rules shall prevail.

422 Interpretation

422.1 Provisions of this Ordinance shall be construed liberally so as to best preserve the public health and safety. The word "shall" is mandatory, not merely directory.

423 Severability

423.1 If any part of this Ordinance is declared illegal or unconstitutional by a court of competent jurisdiction, the decision shall not effect any portion of the Ordinance which remain but the remainder shall be in full force and effect.

424 Savings Clause

424.1 Rules, regulations and, ordinances adopted by the County Commission prior to the effective date of this Ordinance shall continue in full force and effect except to the extent they conflict with this Ordinance. In case of a conflict, this Ordinance shall apply.

(*END NOTES)

1 PART 115, RULE 299.4423 (3) C

2 PART 115, RULE 299.4423 (2) C

3 PART 115, RULE 299.4432 (8)

4 PART 115, RULE 299.4433 (4)

5 PART 115, RULE 299.4436

6 PART 115, RULE 299.4908

7 PART 115, RULE 299.4440 (8) & (9)

8 PART 115, RULE 299.4440 (8) & (9)

9 PART 115, RULE 299.4318 (9)

10 PART 115, RULE 299.4318 (9)

SECTION 2. IMMEDIATE EFFECT

This ordinance as amended and republished is effective immediately.
ADOPTED BY THE WAYNE COUNTY COMMISSION September 16, 2004.

(2004-70-067)