

115A.94 ORGANIZED COLLECTION.

Subdivision 1. **Definition.** "Organized collection" means a system for collecting solid waste in which a specified collector, or a member of an organization of collectors, is authorized to collect from a defined geographic service area or areas some or all of the solid waste that is released by generators for collection.

Subd. 2. **Local authority.** A city or town may organize collection, after public notification as required in subdivision 4. A county may organize collection as provided in subdivision 5.

Subd. 3. **General provisions.** (a) The local government unit may organize collection as a municipal service or by ordinance, franchise, license, negotiated or bid contract, or other means, using one or more collectors or an organization of collectors.

(b) The local government unit may not establish or administer organized collection in a manner that impairs the preservation and development of recycling and markets for recyclable materials. The local government unit shall exempt recyclable materials from organized collection upon a showing by the generator or collector that the materials are or will be separated from mixed municipal solid waste by the generator, separately collected, and delivered for reuse in their original form or for use in a manufacturing process.

(c) The local government unit shall invite and employ the assistance of interested persons, including persons licensed to operate solid waste collection services in the local government unit, in developing plans and proposals for organized collection and in establishing the organized collection system.

(d) Organized collection accomplished by contract or as a municipal service may include a requirement that all or any portion of the solid waste, except (1) recyclable materials and (2) materials that are processed at a resource recovery facility at the capacity in operation at the time that the requirement is imposed, be delivered to a waste facility identified by the local government unit. In a district or county where a resource recovery facility has been designated by ordinance under section 115A.86, organized collection must conform to the requirements of the designation ordinance.

Subd. 4. **Cities and towns; notice; planning.** (a) At least 180 days before implementing an ordinance, franchise, license, contract or other means of organizing collection, a city or town, by resolution of the governing body, shall announce its intent to organize collection and invite the participation of interested persons, including persons licensed to operate solid waste collection services, in planning and establishing the organized collection system.

(b) The resolution of intent must be adopted after a public hearing. The hearing must be held at least two weeks after public notice and mailed notice to persons known by the city or town to be operating solid waste collection services in the city or town. The failure to give mailed notice to persons or defect in the notice does not invalidate the proceedings, provided a bona fide effort to comply with notice requirements has been made.

(c) During a 90-day period following the resolution of intent, the city or town shall develop or supervise the development of plans or proposals for organized collection. During this 90-day planning period, the city or town shall invite and employ the assistance of persons licensed as of the date of the resolution of intent to operate solid waste collection services in the city or town. Failure of a licensed collector to participate in the 90-day planning period, when the city

or town has made a bona fide effort to provide the person the opportunity to participate, does not invalidate the planning process.

(d) For 90 days after the date ending the planning period required under paragraph (c), the city or town shall discuss possible organized collection arrangements with all licensed collectors operating in the city or town who have expressed interest. If the city or town is unable to agree on an organized collection arrangement with a majority of the licensed collectors who have expressed interest, or upon expiration of the 90 days, the city or town may propose implementation of an alternate method of organizing collection as authorized in subdivision 3.

(e) The city or town shall make specific findings that:

(1) describe in detail the procedures it used to plan and to attempt implementation of organized collection through an arrangement with collectors who expressed interest; and

(2) evaluate the proposed organized collection method in light of at least the following standards: achieving the stated organized collection goals of the city or town; minimizing displacement of collectors; ensuring participation of all interested parties in the decision-making process; and maximizing efficiency in solid waste collection.

(f) Upon request, the city or town shall provide mailed notice of all proceedings on the organization of collection in the city or town.

(g) If the city or town and all the persons licensed to operate mixed municipal solid waste collection services and doing business in the city or town agree on the plan, the city or town may implement the plan without regard to the 180-day period specified in paragraph (a).

Subd. 5. County organized collection. (a) A county may by ordinance require cities and towns within the county to organize collection. Organized collection ordinances of counties may:

(1) require cities and towns to require the separation and separate collection of recyclable materials;

(2) specify the material to be separated; and

(3) require cities and towns to meet any performance standards for source separation that are contained in the county solid waste plan.

(b) A county may itself organize collection under subdivision 4 in any city or town that does not comply with a county organized collection ordinance adopted under this subdivision, and the county may implement, as part of its organized collection, the source separation program and performance standards required by its organized collection ordinance.

Subd. 6. Organized collection not required or prevented. (a) The authority granted in this section to organize solid waste collection is optional and is in addition to authority to govern solid waste collection granted by other law.

(b) Except as provided in subdivision 5, a city, town, or county is not:

(1) required to organize collection; or

(2) prevented from organizing collection of solid waste or recyclable material.

(c) Except as provided in subdivision 5, a city, town, or county may exercise any authority granted by any other law, including a home rule charter, to govern collection of solid waste.

Subd. 7. **Anticompetitive conduct.** (a) A political subdivision that organizes collection under this section is authorized to engage in anticompetitive conduct to the extent necessary to plan and implement its chosen organized collection system and is immune from liability under state laws relating to antitrust, restraint of trade, unfair trade practices, and other regulation of trade or commerce.

(b) An organization of solid waste collectors, an individual collector, and their officers, members, employees, and agents who cooperate with a political subdivision that organizes collection under this section are authorized to engage in anticompetitive conduct to the extent necessary to plan and implement the organized collection system, provided that the political subdivision actively supervises the participation of each entity. An organization, entity, or person covered by this paragraph is immune from liability under state law relating to antitrust, restraint of trade, unfair trade practices, and other regulation of trade or commerce.

History: 1987 c 348 s 27; 1989 c 325 s 26,27; 1990 c 600 s 1,2; 1991 c 337 s 46; 1993 c 249 s 20,21