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County Board
County Administrator
Planning, Building & Development
SWALCO

STATE OF ILLINOIS)
) SS
COUNTY OF LAKE)

COUNTY BOARD, LAKE COUNTY, ILLINOIS
REGULAR SEPTEMBER, A.D., 2005 SESSION
SEPTEMBER 13, A.D., 2005

MADAM CHAIR AND MEMBERS OF THE COUNTY BOARD:

Your Public Works and Transportation and Financial and Administrative Committees present herewith an amended Solid Waste Hauling and Recycling Ordinance; and request its adoption.

Respectfully submitted,

<u>Alana O'Kelly</u>	Aye	Nay	<u>[Signature]</u>	Aye	Nay
Chairman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Chairman	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<u>[Signature]</u>			<u>[Signature]</u>	<input checked="" type="checkbox"/>	
Vice-Chairman			Vice-Chairman		
<u>Michael Kibbett</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<u>Ann Florig</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<u>Ann Florig</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<u>Robert [Signature]</u>	<input type="checkbox"/>	<input type="checkbox"/>
<u>Ann B. Mann</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<u>Carol Calabrese</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<u>Andy Cole</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<u>[Signature]</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<u>[Signature]</u>			<u>[Signature]</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Public Works & Transportation Committee			Financial & Administrative Committee		

DRAFT

SOLID WASTE HAULING AND RECYCLING ORDINANCE

WHEREAS, the County of Lake has adopted a Solid Waste Management Plan on September 12, 1989 and amended said plan on November 19, 2004; and

WHEREAS, said Solid Waste Management Plan was adopted pursuant to the requirements of the Illinois Solid Waste Planning and Recycling Act (415 ILCS 15/1 *et seq*); and

WHEREAS, the Solid Waste Planning and Recycling Act requires the County to adopt and implement a recycling program throughout the County; and

WHEREAS, the Solid Waste Planning and Recycling Act requires the recycling program to be designed to recycle a minimum of 25% of the municipal waste generated within the County by 1995; and

WHEREAS, the County of Lake has adopted a Solid Waste Management Plan that seeks as a goal to recycle in excess of 50% of the municipal waste generated within the County; and

WHEREAS, the County of Lake recognizes that construction waste materials have significant potential for recycling, and

WHEREAS, the County of Lake finds that, it is feasible to divert an average of at least thirty (30) percent of all construction waste materials, and

WHEREAS, the ability to recycle municipal waste is related to the availability of recycling services; and

WHEREAS, pursuant to 55 ILCS 5/5-15010 *et seq.*, Lake County has the authority to control and regulate waste management services; and

WHEREAS, Lake County has the authority to license Haulers pursuant to 55 ILCS 5/5-8001 *et seq.*, and

WHEREAS, to ensure compliance and ensure that construction contractors who comply with this Ordinance are not placed at a competitive disadvantage, it is necessary to impose a Performance Deposit requirement.

NOW, THEREFORE, BE IT ORDAINED BY THE LAKE COUNTY BOARD

THAT:

SECTION 1.0 DEFINITIONS

- 1.1 Applicant, in reference to a solid waste hauling license, means any Person applying for a solid waste hauling license. In reference to construction material recycling, means any Person who applies to the County for the applicable permits to undertake any Covered Project within the County.
- 1.2 Application Fee means any check submitted to SWALCO pursuant to Section 4.3 of this Ordinance.
- 1.3 Construction Material means used or discarded materials generated from a Covered Project.
- 1.4 Construction Material Management Plan (CMMP) means a SWALCO approved plan, submitted by the Applicant for any Covered Project.
- 1.5 Conversion Rate means either the rate set forth in the standardized conversion rate table provided by SWALCO pursuant to this Ordinance for use in estimating the volume or weight of materials identified in a Construction Material Management Plan, or a conversion rate table provided by the Applicant and approved by SWALCO.
- 1.6 County means Lake County, Illinois, a body politic and corporate.
- 1.7 Covered Project means all new construction projects within unincorporated Lake County that consist of subdivisions with five (5) or more lots and all non-residential construction projects exceeding 10,000 square feet of Occupiable Space.
- 1.8 Diversion/Diverted means to use material for any purpose other than disposal in a landfill.
- 1.9 Diversion Requirement means the diversion of at least thirty (30) percent of the total Construction Material generated by a Covered Project through Diversion, Reuse or Recycling, unless the Applicant has been granted an exemption pursuant to Section 4.6 of this Ordinance, in which case the Diversion Requirement shall be the maximum feasible diversion rate established by SWALCO.

- 1.10 Hauler means any person who engages in the business of collecting or hauling garbage, Municipal Waste, Recyclable Material, Landscape Waste, brush or other refuse on a continuous and regular basis, and makes multiple scheduled collections per month within the County.
- 1.11 Landscape Waste means all accumulations of grass or shrubbery cuttings, leaves, tree limbs and other materials accumulated as the result of the care of lawns, shrubbery, vines and trees.
- 1.12 Municipal Waste means garbage, general household institutional and commercial waste, industrial lunchroom or office waste, Landscape Waste and construction and demolition debris waste.
- 1.13 Municipality means each incorporated town, village or city located either partially or wholly within the boundaries of the County.
- 1.14 Occupancy Space means the total square footage of the Covered Project.
- 1.15 Performance Deposit means any check or letter of credit, submitted to SWALCO pursuant to Section 4.3 of this Ordinance.
- 1.16 Person means any individual, firm, limited liability company, association, partnership, political subdivision, government agency, municipality, industry, public or private corporation or any other legal entity whatsoever.
- 1.17 Recycling means a method, technique or process designed to remove any contaminant from waste so as to render such waste reusable, or any process by which materials that would otherwise be disposed of or discarded are collected, separated or processed and returned to the economic mainstream in the form of raw materials or products.
- 1.18 Recyclable Materials means materials that are separated from Municipal Waste for the purpose of recycling, including but not limited to, ferrous metal cans, aluminum containers, glass, plastic, which shall include HDPE, PET containers and plastics #3 through #7, newsprint, corrugated paper, junk mail, magazines, office paper and boxboard.
- 1.19 Salvage means the controlled removal of Construction Material from a Covered Project for the purpose of Recycling.

- 1.20 Solid Waste Management Plan means the official county plan adopted pursuant to the Illinois Solid Waste Planning and Recycling Act for the management of municipal waste generated within the County's boundaries, as amended.
- 1.21 SWALCO means the Solid Waste Agency of Lake County, Illinois.
- 1.22 Volume Based Pricing means a system under which residents pay for municipal waste management and disposal services by weight or volume collected, not a fixed fee.

**SECTION 2.0 COLLECTION OF RECYCLABLE MATERIALS
AND VOLUME BASED PRICING**

- 2.1 Recyclable Material Collection Offered
Each Hauler operating within the County shall be required to offer, either as part of basic service or alternately as an additional service, the collection of Recyclable Materials from any individual resident, single-family home, multi-family home, commercial business or institutional facility within the County.
- 2.2 Recyclable Material Collection Enforcement
Each Municipality located within the County may license, franchise or otherwise regulate the collection of Recyclable Materials within their individual jurisdictions so as to require the opportunity of any individual resident, single-family home, multi-family home, commercial business or institutional facility to recycle Recyclable Materials at the curbside or other more accessible location.
- 2.3 Collection of Recyclable Materials
All materials collected as Recyclable Materials shall not be deposited in a landfill or incinerator unless all reasonable efforts have been made to sell the Recyclable Material to a processor or end user.
- 2.4 Ownership of Recyclable Materials
Ownership of Recyclable Materials set out for collection shall remain with the individual resident, single-family home, multi-family home, commercial business or institutional facility that set out the material for collection until removal by the Hauler. Upon removal of the Recyclable Material by the Hauler, ownership shall vest in the Hauler.

2.5 Volume Based Pricing

Each Hauler operating within the County shall be required to offer Volume Based Pricing as part of their basic residential Municipal Waste collection service.

SECTION 3.0 LICENSES

3.1 License Required

No Hauler shall engage in the collection of Municipal Waste, Recyclable Materials or Landscape Waste from any individual resident, single-family home, multi-family home, commercial business or institutional facility within the County without first having applied for and obtained a license to do so from the County.

3.2 Municipal License

Each Municipality may license, franchise, contract with or otherwise control the Haulers operating within the respective boundaries of the Municipality and shall require as part of said license, franchise, contract or other control that the Hauler offer the service of Recyclable Materials collection to each individual resident, single-family home, multi-family home, commercial business or institutional facility within the Municipality.

3.3 License Procedure

A. Application

Application for each license shall be made in writing to the County on the form provided by the County, shall be verified by the Applicant and shall contain the following information:

1. The name and address of the applicant; if the applicant is a partnership, the application shall show for each partner his name and address and interest and also all information contained by paragraphs (2) and (3) of this Section. If the applicant is a corporation, the application shall show the name and address of the registered agent, and with respect to each director, and each shareholder owning 5% or more of the corporation's shares (i) his name and address, (ii) the information required by paragraph (3) of this Section, and in addition, with respect to each director and

shareholder owning more than 25% of the shares, the information required by paragraph (2) of this Section.

2. The experience of the applicant in the collection, transport and disposal of refuse and applicant's (or principal owner) business experience (or a related field) during the five (5) year period immediately preceding the date of the application.
3. The criminal record, if any, of the applicant.
4. The rates or a schedule of rates proposed to be charged.
5. The number and kind of vehicles owned and controlled by the applicant, and the number and kind of vehicles proposed to be licensed hereunder for use in the collection of Municipal Waste, Recyclable Materials or Landscape Waste from within the County's boundaries. An application may be amended from time to time during the license period to provide for increases or reductions in the number of vehicles.
6. The location of the applicant's office and garage.
7. The color scheme, insignia and trade name to be used to designate the vehicles of the applicant.
8. A description of each vehicle including the Vehicle Identification Number and license plate number of the vehicle.
9. A certificate from the Secretary of State of the State of Illinois for each vehicle proposed to be licensed hereunder showing compliance by the applicant with the statutes of the State of Illinois, or as the same may be in force and effect, relating to the bonding, licensing and/or insuring of each such vehicle.
10. A policy or certificate of insurance, issued by a company acceptable to the County, showing proof of insurance as required below. All such policies or certificates of insurance shall be in an acceptable form. The licensee shall maintain the full insurance coverage required herein at all times and a duplicate certificate of insurance shall be deposited with the County

Clerk and shall provide that such insurance may not be canceled except upon thirty (30) days prior written notice to the County Clerk. The insurance coverage specified herein constitutes the minimum requirements and said requirements shall in no way lessen or limit the liability of the licensee under the terms of this Ordinance. The licensee shall procure and maintain at its own cost and expense any additional kinds and amounts of insurance, which, in the licensee's own judgment, may be necessary for its proper protection.

- i) **Workers' Compensation Insurance:** The licensee shall carry this with a company authorized under the laws of the State of Illinois with a policy to protect itself against liability under the Workers' Compensation Act and the Workers' Occupational Diseases Act of the State of Illinois.
- ii) **Vehicle Liability Insurance:** The licensee shall carry under its own name a comprehensive policy to insure the entire vehicle liability for its operations with limits of not less than \$3,000,000 each person and \$5,000,000 each accident bodily injury liability, \$1,000,000 each accident for property damage liability.
- iii) **General Liability:** The licensee shall carry in its own name a comprehensive liability policy for its operations other than vehicular operations with limits of at least \$3,000,000 each person and \$5,000,000 each accident bodily injury liability, \$1,000,000 each accident for property damage liability.

11. Such other information as the County may require from time to time.

B. License Issuance

The County shall approve the application and issue the License upon the payment of the fee required herein if they find:

1. That the applicant is not in default to the County;
2. That the applicant has conducted his business in accordance with the

ordinances and regulations of the County;

3. That the equipment used in the applicant's business meets the requirements of the ordinances and regulations of the County;
4. The issuance of the license is in the best interest of the County and that the quality of service to be rendered will serve the public health, safety and welfare; and
5. That all information, insurance, certificates and agreements required by this Section have been provided and approved.

C. License Renewal

The County shall provide a license renewal form to each Hauler within sixty (60) days prior to the expiration of the Hauler's current license. License renewal forms shall be completed and returned to the County at least thirty (30) days prior to the expiration of the Hauler's current license.

D. Accuracy of Information

All information required to be submitted for this license shall be complete, accurate and submitted in a timely manner.

E. Transfer of Ownership

Licenses are not transferable. Any attempted transfer of a license shall render said license immediately void. An ownership change in a corporation that involves the sale or transfer of 35% or more of the stock shall void the existing license.

3.4 License Issuance or Denial

A. License Action

The County shall have thirty (30) days from the receipt of a complete license or renewal application to issue or deny the license or the license renewal.

B. Notification

The County shall notify the applicant in writing of the issuance or denial of said application. Denial of said license shall be by certified mail, return receipt requested.

C. License Denial

A license denial shall provide written notice stating the basis for the denial and shall provide notice to the applicant that if an appeal is desired, a written request for a hearing must be filed within fifteen (15) calendar days following service, exclusive of the date of service. Upon receipt of a request for hearing, the County shall set a time and place for the hearing. The hearing shall be conducted pursuant to the procedures in Section 7.0 of this Ordinance.

3.5 License and Vehicle Registration Fee

A. Schedule of Fees

The fee for each license shall be \$50.00. Checks must be made payable to the Lake County Treasurer. Payment of all fees must accompany the license application or renewal.

B. Vehicle Registration

The County reserves the right to issue a decal and require the placement of said decal conspicuously on the outside of each vehicle so utilized by the Hauler. Such decals may be issued annually. The number of said vehicles utilized by the Hauler shall be reported in the application. If the County exercises the right to require decals on each vehicle, no vehicle may be used without displaying said decal.

3.6 Reporting

- A. On or before April 30th, July 31st and October 31st of each year, the Hauler shall submit a written report to SWALCO on its solid waste, recycling and landscape waste operations during the previous calendar quarter. Said report shall contain:
1. The total tonnage of Municipal Waste collected from within municipal jurisdictions or geographically defined unincorporated areas of the County;
 2. The total tonnage of Recyclable Material collected from residential programs within municipal jurisdictions or geographically defined unincorporated areas of the County;

3. The total tonnage of Recyclable Material collected from commercial accounts within municipal jurisdictions or geographically defined unincorporated areas of the County; and
 4. The total tonnage of Landscape Waste Material collected from within municipal jurisdictions or geographically defined areas of the County.
- B. On or before January 31st of each year, the Hauler shall submit a written report to SWALCO on its solid waste, recycling and landscape waste operations for the previous calendar year. Said report shall contain:
1. The total tonnage of Municipal Waste collected from within municipal jurisdictions or geographically defined unincorporated areas of the County;
 2. The total tonnage of Recyclable Material collected from residential programs within municipal jurisdictions or geographically defined unincorporated areas of the County;
 3. The total tonnage of Recyclable Material collected from commercial accounts within municipal jurisdictions or geographically defined unincorporated areas of the County; and
 4. The total tonnage of Landscape Waste Material from within municipal jurisdictions or geographically defined areas of the County.

3.7 Compliance with Other Laws

The obtaining of a license herein shall not be deemed to exclude the necessity of obtaining other licenses or permits as required by all applicable city, county, state or federal laws or regulations. The Hauler shall at all times operate in compliance with all applicable city, county, state or federal rules or regulations.

SECTION 4.0 CONSTRUCTION MATERIAL RECYCLING

4.1 Covered Project

Any Person who constructs or develops a Covered Project shall comply with section 4.0 of this Ordinance. Failure to comply with any of the terms of this Ordinance shall subject

the Person to the full range of enforcement mechanisms set forth in Section 5.0 of this Ordinance.

4.2 Submission of a Construction Material Management Plan

4.2.1 Construction Material Management Forms

Applicants for a Covered Project shall complete and submit a Construction Material Management Plan ("CMMP") prior to the start of construction. The completed CMMP shall indicate all of the following:

- A. A description of the Covered Project including the number of and total Occupancy Space of the structures;
- B. An estimated date of completion of the Covered Project;
- C. The estimated volume or weight of project Construction Material, by materials type, to be generated;
- D. The estimated volume or weight of such materials that can be Diverted or Recycled;
- E. The vendor(s) or facility(ies) that the Applicant proposes to use to collect, transport, receive and process the Construction Material; and
- F. The estimated volume or weight of Construction Materials that cannot be Diverted or Recycled and will be landfilled.

4.2.2 Calculating Volume and Weight of Construction Material

In estimating the volume or weight of materials identified in the CMMP, the Applicant shall use an approved Conversion Rate.

4.3 Application Fee/Construction Material Management Plan Performance Deposit

4.3.1 The Application Fee for any Covered Project shall be \$250.00 and must be submitted with the CMMP and Performance Deposit.

4.3.2 A Covered Project consisting of single-family and multi-family principal buildings shall require a Performance Deposit of \$500 per lot or unit.

4.3.3 A Covered Project consisting of a commercial building that has a total Occupancy Space of less than 20,000 square feet shall require a Performance Deposit of \$1,000.

4.3.4. A Covered Project consisting of a commercial building that has a total Occupancy Space of 20,000 square feet or more shall require a Performance Deposit of \$2,000.

4.3.5. The Performance Deposit may be returned to the Applicant pursuant to procedures in Section 4.5 of this Ordinance.

4.4. Review of Construction Material Management Plan

4.4.1. Approval

Notwithstanding any other provision of this Ordinance, SWALCO will approve a CMMP upon receipt of an acceptable Plan, Application Fee and Performance Deposit for each lot or unit.

4.4.2. Denial

If SWALCO determines that the CMMP is incomplete or fails to demonstrate that at least thirty (30) percent of all Construction Material generated by the Covered Project will be Diverted or Recycled, it shall return the CMMP to the Applicant marked "Denied", including a written statement setting forth the basis of the denial. Said denial shall also provide notice to the Applicant that if an appeal is desired, a written request for a hearing must be filed within fifteen (15) calendar days following service, exclusive of the date of service. Upon receipt of a request for hearing, SWALCO shall set a time and place for hearing. The hearing shall be conducted pursuant to the procedures in Section 7.0 of this Ordinance. Upon the return of the CMMP, the Applicant may make necessary changes and resubmit the CMMP or appeal the return as outlined above.

4.5. Release of Performance Deposit

4.5.1. Documentation

Upon completion of any Covered Project, the Applicant shall submit to SWALCO documentation showing that they have met the Diversion Requirement. The documentation shall include all of the following:

- A. Documentation from the vendor(s) or facility(ies) which collected, transported, received or processed each material showing the actual weight

or volume of that material.

- B. A copy of the previously approved CMMP for the Covered Project adding the actual volume or weight of each material Diverted, Recycled or landfilled.
- C. Any additional information the Applicant believes is relevant to determining its efforts to comply with this Ordinance.

4.5.2 Weighing of Materials

Applicants shall make reasonable efforts to ensure that all Construction Material Diverted, Recycled or landfilled is measured and recorded using the most accurate method of measurement available. To the extent practical, all Construction Material shall be weighed by measurement on scales.

4.5.3 Determination of Compliance and Release of Performance Deposit

SWALCO shall review the information submitted under Section 4.5.1 and determine whether the Applicant has complied with the Diversion Requirement, as follows:

A. Full Compliance

If SWALCO determines that the Applicant has fully complied with the Diversion Requirement applicable to the Covered Project, SWALCO shall release the full Performance Deposit to the Applicant.

B. Non-Compliance Due to Market Conditions

If SWALCO determines that the Diversion Requirement has not been achieved, it shall determine whether the Applicant has made a good faith effort to comply with this Ordinance. In making this determination, SWALCO shall consider the availability of markets for Construction Material landfilled and the documented efforts of the Applicant to Divert the Construction Material. If SWALCO determines that the Applicant has made a good faith effort to comply with this Ordinance, it will release the Performance Deposit.

C. Non-Compliance

If SWALCO determines that the Applicant has not complied with this Ordinance or if, within two (2) years of the date of approval of the CMMP or extension thereof, the Applicant fails to submit the documentation required by Section 4.5.1 or does not request a release of the Performance Deposit, then the Performance Deposit shall be forfeited to SWALCO. An Applicant may appeal said decision by filing a written request for a hearing within fifteen (15) calendar days following service, exclusive of the date of service. Upon receipt of a request for hearing, SWALCO shall set a time and place for hearing. The hearing shall be conducted pursuant to the procedures in Section 7.0 of this Ordinance.

4.6 Exemptions and Allowances to the Construction Material Management Plan

4.6.1 Application

If an Applicant for a Covered Project experiences unique circumstances that make the Applicant believe that they cannot comply with the Diversion Requirement, the Applicant may apply for an exemption at the time that they submit the CMMP required under Section 4.2 of this Ordinance. The Applicant shall indicate on the CMMP the maximum rate of diversion that is feasible for each material and the specific circumstances contributing to non-compliance.

4.6.2 Meeting with SWALCO

SWALCO shall review the information supplied by the Applicant and may meet with the Applicant to discuss possible ways of meeting the Diversion Requirement. Based on the information supplied by the Applicant, SWALCO shall determine whether it is possible for the Applicant to meet the Diversion Requirement.

4.6.3 Granting of Exemption

If SWALCO determines that the Applicant cannot meet the Diversion Requirement due to unique circumstances, SWALCO shall determine the maximum feasible diversion rate for each material and shall indicate this rate on

the CMMP submitted by the Applicant. SWALCO shall return a copy of the CMMP to the Applicant marked "Approved Exemption".

4.6.4 Denial of Exemption

If SWALCO determines that it is possible for the Applicant to meet the Diversion Requirement, it shall inform the Applicant in writing. The Applicant shall have thirty (30) days to resubmit a CMMP form in full compliance with Section 4.2 of this Ordinance. If the Applicant fails to resubmit the CMMP, or if the resubmitted CMMP does not comply with Section 4.2 of this Ordinance, SWALCO shall deny the CMMP in accordance with Section 4.4.2 of this Ordinance. An Applicant may appeal said decision by filing a written request for a hearing within fifteen (15) calendar days following service, exclusive of the date of service. Upon receipt of a request for hearing, SWALCO shall set a time and place for hearing. The hearing shall be conducted pursuant to the procedures in Section 7.0 of this Ordinance.

SECTION 5.0 VIOLATIONS AND PENALTIES

5.1 Civil Penalties

Any Person who violates any provision of this Ordinance shall be subject to a fine of up to Five Hundred Dollars (\$500.00) for each day a violation has been found to have been committed. In the case of a licensed Hauler's second violation, a fourteen (14) day suspension of a license to collect or haul Municipal Waste, Recyclable Materials or Landscape Waste within the County shall be imposed. A licensed Hauler who incurs a third violation within 12 months of the first violation shall result in revocation of the license for one (1) year.

5.2 Injunctive Relief

The County may institute appropriate actions or proceedings, including application for injunctive relief, action to compel performance or other appropriate action to prevent, restrain, correct or abate any violation or threatened violation of this Ordinance.

SECTION 6.0 ADMINISTRATIVE PROCEEDINGS

6.1 Suspension or Revocation of License

- A. Any license required under this Ordinance may be suspended or revoked for violation of any provision of this Ordinance. Suspension shall be for a period as prescribed within Section 5.0 of this Ordinance.
- B. Written notice of a suspension or revocation shall be served personally or by registered or certified mail upon the licensee at least fifteen (15) calendar days prior to the effective date of the suspension or revocation. The written notice shall contain the effective date of the suspension or revocation; the facts which support the conclusion that a violation or violations have occurred; a statement that if the licensee desires to appeal, a written request for a hearing must be received by the County within fifteen (15) calendar days following service of the notice, exclusive of the day of service; and that the request for hearing must state the grounds for appeal. If a hearing is requested, the suspension or revocation shall be stayed pending outcome of the hearing.
- C. Upon receipt of a request for hearing, the County shall set a date, time and place for the hearing. The hearing shall be conducted pursuant to the procedures in Section 7.0 of this Ordinance.

6.2 Summary Suspension of License

- A. If the County finds that the public health, safety or welfare requires immediate action, summary suspension of a license may be ordered.
- B. Written notice of a summary suspension shall be by personal service upon the licensee or sent by certified return receipt mail to the licensee's business address. The County shall also take reasonable steps to notify licensee by telephone prior to the summary suspension.
- C. The written notice shall state the effective date of the summary suspension, the violation requiring emergency action, the facts which support the conclusion that a violation has occurred, a statement that if the licensee desires to appeal, a written request for a hearing must be received by the County within ten (10)

- calendar days following service of the notice, exclusive of the day of service, and that the request for hearing must state the grounds for appeal.
- D. Upon receipt of a request for hearing the County shall set a date, time and place for the hearing. The hearing shall be conducted pursuant to the procedures in Section 7.0 of this Ordinance.
- E. The summary suspension shall not be stayed during the appeal.

SECTION 7.0 HEARINGS

Hearings required pursuant to this Ordinance shall be conducted as follows:

7.1 Hearing Officer

The hearing shall be before an impartial Hearing Commission consisting of three (3) members appointed by the Lake County Board.

7.2 Prehearing and Hearing Notice

The County shall schedule and provide notice of the date, time and place of the prehearing conference and hearing. The prehearing conference shall be held at least three (3) weeks prior to the hearing. The hearing shall be held no later than forty-five (45) calendar days after receipt of the request for hearing or by mutual agreement of the parties.

7.3 Procedures

The prehearing conference and hearing shall be conducted in the following manner:

- A. The prehearing conference shall define the issues, schedule the exchange of witness lists and documentary evidence, seek agreement on the authenticity of documents and relevant testimonial evidence, determine whether intended evidence is cumulative and repetitive and consider all other matters that will assist in a fair and expeditious hearing.
- B. Each party shall exchange all relevant information and documentary evidence at least one (1) week prior to the hearing date. Such information shall include all evidence intended for introduction at the hearing and includes, but is not limited to, the following: exhibits, statements, reports, witness lists including a

description of the facts and opinions to which each is expected to testify, photographs, slides and demonstrative evidence. Evidence not exchanged in accordance with these provisions will not be considered in the hearing unless good cause is shown to the hearing officer.

- C. The hearing shall be public and shall be recorded by a certified court reporter.
- D. All witnesses shall testify under oath or affirmation.
- E. The hearing is subject to the general rules of evidence with latitude necessary to gain facts or information. Irrelevant, immaterial or unduly repetitious evidence shall be excluded.
- F. The County, licensee or applicant, and additional parties as determined by the Hearing Officer, shall present evidence in that order. Each party shall have the opportunity to cross examine the witnesses of the other party. The Hearing Commission may examine witnesses.
- G. The Hearing Commission shall make written findings of fact and conclusions based upon the evidence provided at the hearing.
- H. The cost of preparing a record shall be borne by the applicant or licensee.
- I. Appeal of a decision by the Hearing Commission shall be made to the Circuit Court within thirty (30) calendar days following the Hearing Commission decision.

SECTION 8.0 SEVERABILITY

8.1 Provisions

If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions thereof.

8.2 Township

If a township within the County has an ordinance in place on the effective date of this Ordinance which substantially conforms with or exceeds the requirements of this

Ordinance including but not limited to the required collection of Recyclable Material, reporting requirements and the offering of Volume Based Pricing to residential customers, the township may continue to enforce its own ordinance and such enforcement shall constitute, within that township, implementation of this Ordinance. A township may at any time adopt and enforce an ordinance that is more stringent than that required by this Ordinance.

SECTION 9.0 PROVISIONS CUMULATIVE

The provisions in this Ordinance are cumulative and are additional limitations upon all other laws and Ordinances covering any subject matter in this Ordinance.

SECTION 10.0 EFFECTIVE DATE

This Ordinance as amended on the ___ day of _____, 2005, shall be in full force and effect beginning on January 1, 2006.

SECTION 11.0 AMENDMENTS

This Ordinance may be amended from time to time by amendatory Ordinances.

Approved and passed this ___ day of _____, 2005 at Waukegan, Illinois.

