

**AMENDED AND RESTATED  
KENDALL COUNTY SITE APPROVAL ORDINANCE  
FOR POLLUTION CONTROL FACILITIES**

WHEREAS, as of November 12, 1981, PA. 82-682 entitled "An Act relating to the location of sanitary landfills and hazardous waste disposal sites" (415 ILCS 5/39/2) became effective and amended the "Environmental Protection Act" (415 ILCS 5/1 et seq.) (herein the "Act"), and which has subsequently been amended; and

WHEREAS, the Act restricts the authority of the Illinois Environmental Protection Agency to issue permits for the development or construction of new pollution control facilities in unincorporated areas unless the applicant submits proof to the Agency that the location of said facility has been approved by the County Board of the county in which the proposed site is to be located; and

WHEREAS, the Act requires an applicant to file an application for site approval with the County Board; and

WHEREAS, the Act requires that the County Board shall approve or disapprove the application for site approval for each pollution control facility which is subject to the Act; and

WHEREAS, by its terms, the Act supersedes local zoning and land use ordinances and requires the County Board to evaluate applications for site approval for pollution control facilities in accordance with the following criteria, and to grant site approval only if the following criteria are met:

1. The facility is necessary to accommodate the waste needs of the area it is intended to serve;
2. The facility is so designed, located and proposed to be operated that the public health, safety and welfare will be protected;
3. The facility is located so as to minimize incompatibility with the character of the surrounding area and to minimize the effect on the value of the surrounding property;
4. (a) for a facility other than a sanitary landfill or waste disposal site, the facility is located outside the boundary of the 100 year flood plain or the site is flood-proofed; (b) for a facility that is a sanitary landfill or waste disposal site, the facility is located outside the boundary of the 100 year floodplain, or if the facility is a facility described in subsection (b) of Section 22.19a, of the Act the site is flood-proofed;

5. The plan of operations for the facility is designed to minimize the dangers to the surrounding area from fire, spills, or other operational accidents;
6. The traffic patterns to or from the facility are so designed as to minimize the impact on existing traffic flows;
7. If the facility will be treating, storing or disposing of hazardous waste, an emergency response plan exists for the facility which includes notification, containment and evacuation procedures to be used in case of an accidental release;
8. If the facility is to be located in a county where the County Board has adopted a solid waste management plan, the facility is consistent with that plan; and
9. If the facility will be located within a regulated recharge area, any applicable requirements specified by the Illinois Pollution Control Board for such areas have been met;

provided, however, that this Ordinance governs applications for site location approval of new pollution control facilities as defined by the Act. To the extent a facility described in an application proposes to handle or manage material that is not a waste, or proposes to conduct an activity which is excluded from the Act's definition of a pollution control facility, or proposes to conduct an activity which does not require a permit from the Illinois Environmental Protection Agency, this Article does not govern the application, and authorization to locate such a facility shall be determined by other provisions in the County's Code of Ordinances, including but not limited to those related to zoning, special use, building or environmental requirements, as applicable, and

WHEREAS, the Act authorizes the County Board to also consider as evidence the previous operating experience and past record of convictions or admissions of violations of the applicant (and any subsidiary or parent corporation) in the field of solid waste management when considering criteria (ii) and (v) of 415 ILCS 5/39.2(a); and

WHEREAS, the Act requires that an applicant shall file as part of its application: (1) the substance of the applicant's proposal; and (2) all documents, if any, submitted as of the date of the application to the Illinois Environmental Protection Agency pertaining to the proposed facility, except trade secrets as determined under 415 ILCS 5/7.1; and

WHEREAS, the Act requires the County Board to hold at least one public hearing to commence no sooner than 90 days but no later than 120 days from receipt of the application for site approval, such hearing to be preceded by published notice in a newspaper of general circulation published in the county of the proposed site, and notice by certified mail to all members of the General Assembly from the district in which the proposed site is located, and to the governing authority of every municipality contiguous to the proposed site, and to the Illinois Environmental Protection Agency; and

WHEREAS, the Act provides that members or representatives of the governing authority of every municipality contiguous to the proposed site, and members or representatives of the County Board, may appear at and participate in public hearings related to any application for site approval, and;

WHEREAS, the Act provides that the public hearing shall develop a record sufficient to form the basis of appeal of any decision, and that appeals shall be based exclusively on the record made before the County Board; and

WHEREAS, the Act provides that any person may file a written comment with the County Board concerning the appropriateness of the proposed site for its intended purpose; and that the County Board shall consider any comment received or postmarked not later than 30 days after the date of last public hearing; and

WHEREAS, pursuant to this Ordinance the County Board shall also consider any post-hearing memorandum submitted by the applicant and received or postmarked not later than 30 days after the date of the last public hearing; and

WHEREAS, decisions of the County Board with respect to applications for location approval for such facilities are quasi-judicial determinations, and therefore are required to be based solely upon the evidence received at said public hearing, the written comments from persons received or postmarked not later than 30 days after the date of last public hearing and, pursuant to this Ordinance, the applicant's post-hearing memorandum, if any, received or postmarked not later than 30 days after the date of last public hearing; and

WHEREAS, the Act requires that decisions of the County Board regarding such matters are required to be in writing specifying reasons for the decision, and shall be made within 180 days after the receipt for site approval has been filed; and

WHEREAS, the Act provides that if no final action is taken by the County Board within 180 days after the filing of the application for site approval, the applicant may deem the application approved, but the Act does not prohibit the applicant and the County Board from agreeing to extend the time period for final action by the County Board; and

WHEREAS, the Act provides that the County Board, in granting approval for a site, may impose such conditions as may be reasonable and necessary to satisfy the purposes of the Act as long as those conditions are not inconsistent with regulations imposed by the Illinois Pollution Control Board; and

WHEREAS, it is apparent to the County Board that unless the information submitted by each applicant for siting approval and by other persons can be evaluated by qualified professionals, including but not limited to engineering and legal professionals, the County Board cannot accomplish what the legislature has mandated; and that the employment of such qualified professionals will impose a financial burden upon the County; and that because it would be impossible for the County Board to anticipate in any

given year whether any or how many applications for approval of pollution control facilities may be filed in Kendall County, the County Board cannot justify the employment of those competent professionals as salaried employees; and it is assumed the legislature was cognizant of those facts; and

WHEREAS, recognizing that a single county should not bear the substantial financial burden of the cost of determining the appropriateness of such a regional facility, said Act provides that a county may impose a reasonable fee upon an applicant to cover reasonable and necessary costs incurred in the siting review process; and

WHEREAS, in order to protect the public interest and to promote the orderly conduct of the hearing process and to insure that full and complete information is made available to the County Board, it is necessary that procedures be established for conducting the public hearings and making decisions regarding site approval applications; and

WHEREAS, the terms of this Ordinance do not constitute or imply a policy decision by the County concerning siting pollution control facilities of any kind within the County but exist to guide the County in the fulfillment of its statutory duties with respect to applications for site location approval, and therefore

BE IT RESOLVED by the County Board of Kendall County, Illinois that the following procedures shall be established with respect to applications for site approval for pollution control facilities which are subject to Section 39.2 of the Act (415 ILCS § 5/39.2):

## **Article 1 DEFINITIONS**

1.1 The terms used in these procedural rules and regulations shall have the same meanings as the same terms are defined in the Act, in effect as of the date hereof and as said Act may be amended or modified from time to time, except where otherwise specifically defined herein. Defined terms in this Ordinance need not be capitalized to have the meaning proscribed to them herein or in the Act.

1.2 Applicant, as used herein, shall include any person, group of persons, partnership, firm, association, corporation, company or organization of any kind that files an application for site approval pursuant to this Ordinance, including, but not limited to, any and all persons or entities having any pecuniary interest in the subject matter of the application for site location approval, provided, however, that this definition shall not include holders or owners of less than five percent (5%) of the stock of any such company or entity whose stock is publicly traded on a national exchange.

1.3 Operator, as used herein, shall include any person, group of persons, partnership, firm, association, corporation, company or organization of any kind that is designated or identified in an application for site approval pursuant to this Ordinance to operate the proposed facility, provided, however, that this definition shall not include

holders or owners of less than five percent (5%) of the stock of any such company or entity whose stock is publicly traded on a national exchange.

## **Article 2 FILING OF APPLICATION**

2.1 A minimum of thirty (30) complete copies of applications for site approval shall be filed in the office of the County Clerk by the applicant. All exhibits that the applicant wishes to have considered as evidence by the County Board must be attached to the application for site approval at the date of filing. The applicant shall also provide at least one (1) copy to the governing authority of each municipality, if any, contiguous to the proposed site, and to the governing authority of each municipality within five (5) miles of the borders of the proposed site.

2.2 All applications shall be in writing on eight and one-half inch by eleven inch (8 1/2" x 11 "), eight and one-half inch by fourteen inch (8 1/2" x 14"), or eleven inch by seventeen inch (11" x 17") paper, and shall also be submitted in an electronic P.D.F. format. All exhibits shall likewise be made available both in paper and electronic formats. The pages of the application and all exhibits, including pages intentionally left blank, shall be consecutively numbered.

2.3 Upon receipt of any such application and the filing fee as provided in Section 3.1, the County Clerk shall date stamp same. The date on the stamp of the County Clerk shall be considered the official filing date for all purposes relating to the time of filing. Should the application be presented to the County Clerk without the correct number of copies, in the incorrect form, or without the sections and fee described in this subsection, the application shall be rejected by the County Clerk, provided, however, that receipt and acceptance of an application by the County Clerk is pro forma, and does not constitute an acknowledgment that the applicant has complied with the Act or this Ordinance.

2.4 Three copies of the application for site approval shall be made available for public inspection in the offices of the County Clerk and members of the public shall be allowed to obtain a copy of the application or any part thereof upon payment of actual costs of reproduction to the County Clerk. The remaining copies of the application shall be delivered by the County Clerk to the County Board offices for distribution to the County Board members and County staff. The County Clerk shall also cause the electronic version of the application to be posted, in its entirety, in a publicly accessible area on the County's web site.

2.5 Copies of each application for site approval shall also be made available for public inspection in each public library within five (5) miles of the proposed facility. It shall be the responsibility of the applicant to identify all such libraries and to make such copies available.

2.6 At any time prior to the completion by the applicant of the presentation of the applicant's factual evidence and an opportunity for cross-questioning by the members of

the County Board and any other Participants, the applicant may file not more than one amended application for site approval upon payment of an additional fee as set forth in Section 3.1 of this Ordinance. In the event an amended application is filed, the time limitation for final action as set forth by the Act shall be extended for an additional period of ninety (90) days from the date of filing of the amended application.

2.7 The application for site approval shall contain a certification signed by an officer or partner of the applicant stating "I certify under penalty of law that, based on information and belief formed after reasonable inquiry, the statements and information provided in the siting application are true, accurate, correct and complete."

2.8. Withdrawal of Application. An application for site approval may be withdrawn by a siting applicant under the following circumstances:

1. The applicant may, at any time before the public hearing called for by Article 8 hereof begins and upon notice filed with the County Clerk, withdraw the application for siting approval.
2. After the commencement of the public hearing, and up to the date said hearing is closed in accordance with §8.5.16 of this Ordinance, the applicant may withdraw the application for siting approval only upon terms fixed by the Hearing Officer, on a motion specifying the ground for withdrawal, which shall be supported by affidavit or other proof.
3. An applicant may not withdraw an application for siting approval after the close of the public hearing in accordance with §8.5.16 of this Ordinance.

### **Article 3 FILING FEE**

3.1 There shall be paid to the County Clerk for delivery to the County Treasurer, for deposit in a segregated siting application fund, at the time of the filing of an application for site approval a fee of \$500,000 (Five Hundred Thousand Dollars), by certified or cashier's check. In the event an amended application is filed pursuant to Section 2.3 of this Ordinance, an additional filing fee of \$250,000 (Two Hundred Fifty Thousand Dollars) shall accompany said amended application. A fee of \$1,000,000 (One Million Dollars) is required if said facility is designed as a Hazardous Waste Treatment, Storage or Disposal Site. In the event an amended application for a Hazardous Waste facility is filed pursuant to Section 2.3 of this Ordinance, an additional fee of \$500,000 (Five Hundred Thousand Dollars) shall accompany such amended application. The County Treasurer is hereby authorized and directed to receive and hold said filing fee until payment is directed as described below.

3.2 In the event the applicant for site approval requests approval for a waste transfer station only, a reduced application fee in the amount of \$125,000.00 (One Hundred Twenty-Five Thousand Dollars) will be accepted to cover notice costs, court reporter costs, hearing officer costs and other expenses incurred by the County in conducting the review of the application for site approval, the subsequent public hearing, and the site approval decision.

3.3 The County Board may, at its discretion, retain the services of one or more professional consultants to assist the Board and County staff in the siting process. The County Board shall use the filing fee to pay any costs and expenses incurred by the County as a result of the application for site approval and the hearing process set forth herein, including, but not limited to, the fees and costs of: County employees or staff review time, legal fees, expert witnesses, scientific testing, records or other investigations, data searches, notices, court reporters, transcription costs, consultants, the hearing officer, other expenses incurred by the County in conducting the review of the application, the public hearing, and the County's site location decision, or any issue raised at any time during any hearing, to pay any costs incurred in any appeal(s) of any decision of the County Board related to the application and to pay any other cost or expenses in any way connected with the application, including, but not limited to, remand hearings.

3.4 Records of County-incurred fees and costs, including but not limited to relevant time records of County employees and staff and County consultants, to the extent the County is seeking reimbursement of their time, are to be submitted by the persons creating such records to the County Treasurer on a monthly basis.

1. The County Treasurer, or his/her designee, shall organize the records and prepare and submit periodic reports to the County Board, County Clerk and the applicant, of invoices to or expenditures by the County. The actual invoices and bills shall be submitted to the County Treasurer and included in the report submitted to the County Board, County Clerk and Applicant, with all privileged and confidential information, if any, redacted. Inadvertent disclosure of confidential or privileged information by the County is not a waiver of confidentiality or privilege.
2. Upon approval of each report, described in subsection (a), above, by the County Board, the County Treasurer may draw upon the applicant's filing fee deposits in the amount of the reported incurred costs and fees, or as otherwise provided by the County Board.
3. In determining the fees to be paid to the County to reimburse the County for its employees or staff's time involved in matters concerning the application, the County Treasurer shall determine a rate for each employee who submits a record of his/her time to the County Treasurer, including in such rate, all costs of the County in compensating such employee or staff member, such as salary or

wage, or benefits. The County Treasurer shall include the rate he/she calculates per employee in the report described in (a) above.

3.5 If the costs incurred by the County under this Article 3 exceed, or are reasonably estimated to exceed, the amount of the filing fee then remaining on deposit, the County shall present a claim to the applicant for the excess, and for such additional amount as is reasonably estimated to be needed to complete the siting process. Payment of this excess is due within five (5) business days of the date the claim is presented to the applicant. Any unpaid amount shall constitute a debt and the County shall recover its costs and attorneys' fees if it is required to make a claim or commence a suit against the applicant and to recover the unpaid fees.

3.6 Upon termination of all proceedings hereunder, the County Treasurer shall prepare a final accounting and summary of all bills and expenses which shall be presented for approval to the County Board. Any portion of the filing fee deposits that remains unexpended at the conclusion of the local site location review process (including all appeals), shall be returned to the Applicant.

#### **Article 4**

### **CONTENTS OF APPLICATION FOR SITE APPROVAL**

4.1 Each application for site approval shall contain information sufficient to allow the County Board to evaluate whether the proposed site meets the criteria for such facilities set forth in Section 39.2 of the Act. The determination of the quality and quantity of information to be included in an application is, ultimately, the applicant's to make, as it is the applicant's burden to demonstrate that the siting criteria set forth in Section 39.2 of the Act are met. However, for purposes of this Ordinance, an application shall contain, at a minimum, the following documents and information, in addition to what the applicant submits in support of the Section 39.2 criteria, together with, to the extent that such documents and information are based on other information or data, citations to the primary sources of data:

4.2 Background of Applicant. The application for site approval shall contain the following information concerning the applicant.

1. Applicant's full name, address, and telephone number. If applicant is a partnership or limited partnership, the names and addresses of each partner and limited partner.
2. If applicant is a corporation or is a limited partnership having a corporation as its general partner:
  - a. the names and addresses of all officers, directors, all stockholders owning five percent or more of the capital stock of



- the corporation and the name, address, and telephone number of the corporation and the registered agent of the corporation;
- b. certified copy of the Articles of Incorporation or Organization in the State of Illinois or, if incorporated or organized in a state other than Illinois, a certified copy of its authorization to do business in the State of Illinois; and
  - c. the most recent annual report.
3. If applicant is a corporation or is a limited partnership having a corporation as its general partner and more than five (5) percent of such corporation's capital stock is owned by another corporation, either directly or derivatively, then the requirements of this section shall apply to such corporation.
  4. A list of any and all court actions or administrative proceedings of any kind in which the applicant (including all persons and entities identified in Section 1.2 hereof) is or has been a named party and the subject matter of which was related to waste collection, hauling or disposal. Such list shall identify the court or agency, the number of the case, and a brief summary of the facts and disposition of the case.
  5. A description of the previous operating history of the applicant in the field of solid waste management, including all pollution control facilities as defined in the Act, and all operations relating to the transport, transfer, storage or disposal of waste, owned or operated by the applicant in the United States at any time during the fifteen (15) years prior to the filing of the application, including but not limited to:
    - a. the name of each facility.
    - b. a description of the nature of each facility (i.e., sanitary landfill, hazardous waste landfill, construction and demolition debris site, transfer station, recycling facility, composting facility, etc.).
    - c. a description of the applicant's involvement in each facility (i.e., investor, owner, operator, co-operator, etc.).
    - d. an identification of the volume of waste deposited in, on or at each such facility or processed by each such facility for each of the five (5) years preceding the filing of the application.
    - e. a description of each court action or administrative proceeding initiated against the applicant (including all persons and entities

identified in Section 1.2 hereof) related to each such facility, or complaint, notice of violation or citation received by the applicant related to each such facility, along with an identification of the court or administrative agency in which or by whom any such proceeding was initiated, if any, and a description of the outcome or resolution of each such complaint or proceeding.

- f. A description of any closure or post-closure activities undertaken by any person at each such facility within the five (5) years preceding the filing of the application.
6. With respect to each individual named in the application for site approval, said application for site approval shall state the prior employment history and qualifications of such person as it relates to the proposed site operation.
7. If the applicant (including all persons and entities identified in Section 1.2 hereof) has previously closed any facility regulated by the United States Environmental Protection Agency or the Illinois Environmental Protection Agency, the applicant shall make available a copy of all closure documents, including, but not limited to financial assurance documents, related to such closure. The terms of this paragraph shall apply to facilities which were owned or operated by a corporation, partnership or limited partnership of which the applicant was the owner of more than five (5) percent of the ownership interest of the corporation, partnership or limited partnership which owned or operated the facility.
8. A description of all claims made by the applicant within the five (5) years prior to the date of the application under or against any policy of insurance which covers, or is alleged by the applicant to cover, claims against the applicant related to any waste collection, hauling or disposal activities.

4.3 Background of Operator. The application for site approval shall contain the following information concerning the operator of the proposed facility.

1. Operator's full name, address, and telephone number. If operator is a partnership or limited partnership, the names and addresses of each partner and limited partner.
2. If operator is a corporation or is a limited partnership having a corporation as its general partner:

- a. the names and addresses of all officers, directors, all stockholders owning five percent or more of the capital stock of the corporation and the name, address, and telephone number of the corporation and the registered agent of the corporation; and
  - b. certified copy of the Articles of Incorporation or Organization in the State of Illinois or, if incorporated or organized in a state other than Illinois, a certified copy of its authorization to do business in the State of Illinois; and
  - c. the most recent annual report.
3. If operator is a corporation or is a limited partnership having a corporation as its general partner and more than five (5) percent of such corporation's capital stock is owned by another corporation, either directly or derivatively, then the requirements of this section shall apply to such corporation.
4. A list of any and all court actions or administrative proceedings of any kind in which the operator (including all persons and entities identified in Section 1.2 hereof) is or has been a named party and the subject matter of which was related to waste collection, hauling or disposal. Such list shall identify the court or agency, the number of the case, and a brief summary of the facts and disposition of the case.
5. A description of the previous operating history of the operator in the field of solid waste management, including all pollution control facilities as defined in the Act, and all operations relating to the transport, transfer, storage or disposal of waste, owned or operated by the operator in the United States at any time during the fifteen (15) years prior to the filing of the application, including but not limited to:
  - a. the name of each facility.
  - b. a description of the nature of each facility (i.e., sanitary landfill, hazardous waste landfill, construction and demolition debris site, transfer station, recycling facility, composting facility, etc.).
  - c. a description of the operator's involvement in each facility (i.e., investor, owner, operator, co-operator, etc.).
  - d. an identification of the volume of waste deposited in, on or at each such facility or processed by each such facility for each of the five (5) years preceding the filing of the application.

- e. a description of each court action or administrative proceeding initiated against the operator (including all persons and entities identified in Section 1.2 hereof) related to each such facility, or complaint, notice of violation or citation received by the operator related to each such facility, along with an identification of the court or administrative agency in which or by whom any such proceeding was initiated, if any, and a description of the outcome or resolution of each such complaint or proceeding.
  - f. A description of any closure or post-closure activities undertaken by any person at each such facility within the five (5) years preceding the filing of the application.
6. With respect to each individual named in the application for site approval, said application for site approval shall state the prior employment history and qualifications of such person as it relates to the proposed site operation.
  7. If the operator (including all persons and entities identified in Section 1.2 hereof) has previously closed any facility regulated by the United States Environmental Protection Agency or the Illinois Environmental Protection Agency, the applicant shall make available a copy of all closure documents,, including, but not limited to financial assurance documents, related to such closure. The terms of this paragraph shall apply to facilities which were owned or operated by a corporation, partnership or limited partnership of which the operator was the owner of more than five (5) percent of the ownership interest of the corporation, partnership or limited partnership which owned or operated the facility.
  8. A description of all claims made by the operator within the five (5) years prior to the date of the application under or against any policy of insurance which covers, or is alleged by the operator to cover, claims against the operator related to any waste collection, hauling or disposal activities.

4.4 Site Description. The application for site approval shall contain the following information concerning the description of the proposed site:

1. Legal description of the proposed site.
2. Vertical height (elevation-mean sea level (msl)) of site as it exists at the time of the application and vertical height (elevation-msl) of the site as it is expected to exist upon closure.

3. Name, address, and telephone number of each owner(s) (including, if applicable, beneficial owners) of the property. The requirements of Section 4.2 shall apply to owners of the property and such information should be provided at the time the application for site approval is filed by applicant.
4. If the site is not owned by the applicant, then documents granting to the applicant the right to develop the site for the proposed use must be attached to the application for site approval by the applicant.
5. A map, prepared and certified by an Illinois licensed professional engineer, of sufficient size, showing, but not limited to:
  - a. Location of the site;
  - b. Location and depths of all public and private water wells within five (5) miles of the boundaries of the proposed site and such other wells as may be affected by the proposed use (to the extent such information is available, the Application shall also contain well construction details and, if applicable, well closure information);
  - c. Location of all aquifers, streams, ponds, rivers and lakes and such bodies of water as may be affected by the proposed use;
  - d. Location of all roads and bridges and transportation structures that may be affected by the proposed use; and
  - e. Location of all fences, buildings or other structures within the proposed site and within 500 feet of the boundaries of the proposed site and all other structures that may be affected by the proposed use.
  - f. Locations of all groundwater monitoring wells in place at the site as of the date of filing of the application.
6. A complete hydrogeologic study of the site by a qualified hydrologist, including but not limited to:
  - a. Studies completed by any federal or state agency;
  - b. General description of the hydrogeologic conditions of the site and the surrounding area, based on an exploratory program including soil borings;

- c. Detailed description of all known or suspected drinking water aquifers located within three (3) miles of the site;
  - d. A complete log of each boring made during the exploratory program, including but not limited to:
    - (1) Textural soil classification (USCS);
    - (2) Particle size distribution for representative samples;
    - (3) Coefficient of permeability based on field and laboratory determinations; and
    - (4) Ion-exchange capacity and ability to absorb and fix heavy metal ions.
  - e. If bedrock was encountered:
    - (1) Depth of bedrock;
    - (2) Physical character and hydrogeologic characteristics of the bedrock formation; and
    - (3) Names and ages of the formation encountered.
7. Information on any existing surface or sub-surface mining on the site and within any area that may be affected by the proposed use, including but not limited to:
- a. Legal description of areas mined;
  - b. Materials removed by mining; and
  - c. Approximate size of displacement.
8. Information on any other activity that has occurred on the site in which the natural condition of the soil or support of the surface has been disturbed.

4.5 Proposed Service Area/Volume. The application for site approval shall contain the following information concerning the proposed service area for the proposed site:

- 1. A description of the geographic area that the proposed site is intended and designed to serve.

2. A statement identifying the location of each active Pollution Control Facility ("PCF") within the proposed service area and within 50 miles of the perimeter of the proposed service area, providing the following information:
  - a. If the PCF is a landfill:
    - (1) Dimensions of the PCF (including permitted vertical air space) that remains unfilled by waste, estimating life span of such facility;
    - (2) Owner and operator; and
    - (3) Classification of permit.
  - b. If the PCF is a transfer station:
    - (1) Permitted/allowed throughput capacity of the PCF, in tons or tons per operating day;
    - (2) Owner and operator; and
    - (3) Classification of permit.
3. Complete documentation of the facts and reasons supporting applicant's assertion that the proposed facility is necessary to accommodate the waste needs of the proposed service area.

4.6 Site Development Plan. The application for site approval shall contain the following information concerning the Site Development Plan:

1. A detailed topographic map of the site as it exists at the time of the application for site approval, prepared and certified by an Illinois licensed professional engineer, drawn to a scale of not less than 1" = 200', showing:
  - a. Five-foot contour intervals on sites, or portions thereof, where the relief exceeds 20 feet, and two (2) foot contour intervals on sites, or portions thereof, having less than 20 feet of relief; and
  - b. Location of all buildings, ponds, streams, wooded lots, bedrock outcrops, underground and overhead utilities, roads, fences, culverts, drainage ditches, drain tiles, easements, streets, boundaries, areas previously mined or where soil has been disturbed from its natural condition, the location and elevations

of borings made under Section 4.3 hereof, and any other item that may be affected by the proposed use.

2. A detailed topographic map of the site as it is to be developed, prepared and certified by an Illinois licensed professional engineer/surveyor, drawn to a scale of not less than 1" = 200', showing the same types of information as the map in Section 4.5(1), and more specifically:
  - a. Location and description of all monitoring devices which will be utilized on the site;
  - b. Location and description of all leachate collection systems to be installed at the site; and
  - c. Location of all buildings and equipment to be utilized by the proposed use.
3. A description of the proposed landscaping plan and facility screening.
4. A statement of the approximate period of time for which the proposed facility will be in operation.

4.7 Operating Procedures. The application for site approval shall contain the following information concerning the operating procedures for the proposed facility:

1. Detailed operating procedures for the facility;
2. Specific details for the following items:
  - a. Personnel requirements; including training and supervision;
  - b. Traffic control on and in the vicinity of the site;
  - c. Method of determining the quantity and characteristics of waste delivered to the facility;
  - d. Method of inspection and chemical analysis of waste;
  - e. Method of landfilling, incineration, resource recovery or other process;
  - f. Hours of operation, including waste placement and non-waste placement operating hours;
  - g. Litter, vector, vermin, dust and odor control;



- h. Stormwater management and erosion control;
  - i. Fire control;
  - j. If applicable, the stages of development or use;
  - k. Landfill gas control, monitoring, recovery/re-use program, as applicable;
  - l. Leachate control, collection and treatment;
  - m. Overlay of on-site wetlands and mitigation plan;
  - n. Truck tarping and road maintenance program.
3. Specific details for the following items:
- a. Identification of the specific types of wastes which the applicant plans to accept for disposal or processing at the proposed site classified according to the definitions set forth in the Illinois Environmental Protection Act. (415 ILCS § 5.3 et seq.);
  - b. Identification of the proposed yearly volumes of each type of waste identified in response to Article 4.6(3) above which the applicant expects to dispose of or process, or reasonably anticipates disposing of or processing, at the proposed site through the end of the expected life-span of the proposed site.

4.8 Closure/Post-Closure Plan. The application for site approval shall contain a detailed plan for voluntary or involuntary closure of the proposed facility, including, but not limited to, the following information:

- 1. A detailed topographic map of the site as it will appear at the time of closure, prepared and certified by an Illinois licensed professional engineer, drawn to a scale of not less than 1" = 200', showing the same types of information as the map in Section 4.5(1), and more specifically:
  - a. Location and description of all monitoring devices which will be utilized on the site after closure;
  - b. Location and description of all leachate and landfill gas collection and control systems to be installed at the site; and

- c. Location of all buildings and equipment that will remain after closure;
  - d. Sequence/timing of closure for completed site area(s).
2. Final cover system, including proposed soil and/or geosynthetic material specifications, as applicable.
  3. Proposed use(s) after operation (*i.e.*, end-use plan) including changes in topography and all new surface features, and plans for how site controls and engineered features will be compatible with end use plan(s).
  4. Satisfactory evidence of financial assurance adequate to insure the implementation of the closure plan and the performance of all applicable closure/post-closure requirements.

4.9 The application for site approval shall include information on contingency and emergency plans, including, but not limited to:

1. List of possible emergency situations which might occur at or near this facility which might affect the operations of the facility, including, but not limited to, explosion, fire, spills, power outages, tornadoes, and vandalism.
2. The applicant's plan to insure against risks of injury to the person and property of others, including copies of insurance policies or commitment letters.
3. A summary of measures that the applicant will take to limit site access and other appropriate site security measures to prevent acts of vandalism and terrorism.

4.10 Flood Plain. There shall be filed with the application for site approval:

1. A statement that the facility is within or outside the 100-year flood plain as determined by the Federal Emergency Management Agency.
2. A map prepared and certified by an Illinois licensed professional engineer documenting the boundaries of the 100-year flood plain.
3. If the site is not a sanitary landfill or waste disposal site, and is within the 100-year flood plain, there shall be filed:

- a. Evidence that the site has been flood-proofed to meet the requirements of the Federal Emergency Management Agency and the requirements of any other federal or state agency; and
- b. Evidence of approval by applicable federal and state agencies.

4.11 Traffic Patterns. There shall be filed with the application for site approval:

- 1. A map of the county, prepared by an Illinois licensed professional engineer, showing the roads which will be used to transport material to and from the site.
- 2. A traffic impact study showing the present traffic flows on said roadways and the impact that the traffic generated by the facility will have thereon. The traffic study shall be in accordance with guidelines recommended by the Institute of Transportation Engineers regarding the proposed site, and shall include, at a minimum, the following information:
  - a. The anticipated number of motor vehicles and the types and weights (loaded and empty gross) thereof which will be entering and exiting the site, broken down by each hour of the day. If the number of vehicles is expected or intended to be greater or less on particular days of the week, identify those days, the numbers of vehicles, and where it includes vehicles other than passenger automobiles, include the hourly analysis for each day of the week.
  - b. Direction of flow of traffic, into, within and from, the proposed facility, and provide a copy of any driveway permit, if applicable.
  - c. A statement of the speed limits and load limitations of any and all roads and bridges that will be utilized by traffic entering and exiting the site;
  - d. Ascertainable accident history data compiled for roads and intersections within 2 miles of the site.
  - e. Detailed design plans for any roadway improvements, modifications proposed by the applicant to mitigate traffic impacts, if applicable.

4.12 The application shall be signed by the applicant, landowner(s), operator, engineer registered in the State of Illinois under the Illinois Professional Engineering Practice Act, land surveyor and any other technical consultant responsible for drafting all

or portions of the application. The application shall provide a contact address, telephone number and e-mail address for all persons named.

## **Article 5 PARTICIPANTS**

5.1 The Applicant is a Participant.

5.2 The County, its employees and staff, and any experts, consultants, investigators or attorneys hired by the County to review, investigate, present at hearing, or otherwise work for the County concerning the application, are Participants. To the extent the County employees and staff wish to participate in the public hearings outside their roles or employment with the County, they must submit a Notice of Participation, as do other members of the public.

5.3 Any person other than described in 5.1 and 5.2 above, must file a written notification of intent to participate (Notice of Participation), with the County Clerk before the start of the first day of public hearing or, after the start and before the adjournment of the first day of public hearing, with the Hearing Officer. Such notification shall state, at a minimum:

1. The name, address daytime phone number and, if available, facsimile number of the person filing the Notice of Participation;
2. Whether the person will be participating on his/her own behalf or as a representative/spokesperson of another person or entity (and if on behalf of another person or entity, identify the name of that person or entity),
3. Whether the person (or the entity or association he/she represents) will be represented by an attorney during the public hearings, and
4. Whether the person intends on providing oral testimony or comment during the public hearing.

5.4 A person may not become a Participant after the first day of the hearing except for good cause shown. The County shall liberally interpret this limitation if the additional participation shall not delay the process or unfairly prejudice a prior Participant. No late Participant shall be entitled to cross-examine a witness who has previously testified.

5.5 Participant rights.

1. Participants have the right to present sworn testimony and witnesses; provide un-sworn, oral comment during the public hearing (subject to the Hearing Officer's judgment and consistent with fundamental

fairness); to cross-examine or question witnesses who provide sworn testimony or, alternatively, submit to the Hearing Officer written questions to be asked of the witnesses by the Hearing Officer and at the Hearing Officer's discretion as to whether and how such questions are to be posed.

2. Participants shall have the right to be represented by a licensed attorney-at law at the public hearing(s). Any attorneys representing a Participant must be licensed and in good standing to practice law in the State of Illinois, or if licensed and in good standing to practice law in another State which is part of the United States, shall be allowed to serve as an attorney for a Participant upon motion made to and granted by the Hearing Officer. Subject to the authority of the Hearing Officer, such attorneys shall have the right of reasonable cross-examination. Any Participant not represented by an attorney shall also have the right to reasonable cross-examination of witnesses.
3. Subject to the Hearing Officer's right to extend filing deadlines as set forth in Article 7, all reports, studies, exhibits or other evidence or copies thereof, other than testimony, which any Participant desires to submit for the record at the public hearing must be filed with the County Clerk at least seven (7) calendar days before the public hearing and shall be available for public inspection in the office of the County Clerk. In the event that the seventh day prior to the date set for public hearing falls on a Saturday, Sunday or holiday, the next working day shall be considered the day that reports, studies and exhibits must be filed. The formatting requirements set forth in Article 2 hereof, including submittal of electronic versions of all materials, shall apply to Participants, provided, however, that Participants shall be required to file only fifteen (15) paper copies and one (1) electronic copy. One paper copy shall be provided by the County Clerk to the applicant.
4. The County Clerk shall cause all Participant submittals in electronic format to be posted on the County's web site, in the same manner and location as provided for the application.
5. Upon conclusion of the public hearing, any Participant may submit to the County Board a post-hearing memorandum addressing the siting criteria set forth in Section 39.2(a) of the Act (415 ILCS § 5/39.2(a)), as well as any other issue relevant to the proceeding. The post-hearing memorandum shall be based on the record developed during the siting approval process. Any such post hearing memorandum must be submitted within 30 days after the date of the last public hearing, by filing 8 copies with the County Clerk who shall receive and date stamp the post-hearing memorandum, which shall be made part

**Article 6  
PUBLIC COMMENT**

6.1 The County Clerk shall receive and date stamp written comments from any person concerning the appropriateness of the proposed site for its intended purpose.

6.2 Copies of written comments shall be made available for public inspection in the offices of the County Clerk, and members of the public shall be allowed to obtain a copy of any written comments upon payment of actual cost of reproduction.

6.3 Subject to the Hearing Officer's authority to impose reasonable limits on the timing and duration of un-sworn oral comments, as set forth in Article 7 of this Ordinance, any member of the public shall have the opportunity to submit such oral comments during the course of the public hearing. Oral comments shall be transcribed in the same manner as sworn testimony and shall become part of the record of the public hearing.

6.4 Any written comment received by the County Clerk postmarked not later than 30 days after the date of the last public hearing, shall be made part of the record of the public hearings as hereinafter described and the County Board shall consider any such timely written comments and post-hearing memorandum in making its final determination. In the event that the 30th day falls on a Saturday, Sunday, a Federal, State or Kendall County holiday, the next day on which mail is received by the Kendall County Clerk shall be considered the 30th day for purposes of this paragraph.

**Article 7  
HEARING OFFICER**

7.1 HEARING OFFICER. The County Board Chairman, with the advice and consent of the County Board, shall appoint a Hearing Officer to govern the proceedings under this Ordinance.

1. The Hearing Officer shall be a licensed attorney in the State of Illinois, skilled in matters of trial or administrative hearing procedures.
2. The Hearing Officer shall be authorized to perform the following functions:
  - a. To preside over the siting hearing and be responsible for ruling on preliminary motions, evidentiary issues, objections or any other contested legal issues.

- b. To make any decisions concerning the manner in which the hearing is conducted subject to this Ordinance and the law concerning such applications. All decisions and rulings shall be in accordance with the concept of fundamental fairness (unless a different standard is adopted as a matter of Illinois law), but need not be in strict compliance with the Illinois Supreme Court Rules, Illinois Code of Civil Procedure, or any local rules of evidence governing a civil judicial trial in the State of Illinois, County of Kendall, provided, however, that the rules relating to privileged communications and privileged topics shall be observed.
- c. To conduct a fair hearing, to take all necessary actions to avoid delay, to maintain order and to ensure development of a clear, complete and concise record.
- d. To administer oaths and affirmations.
- e. To conduct a public meeting, prior to the start of the public hearings, to explain the public hearing procedure and site location review process. If the Hearing Officer decides to hold such a meeting, it shall be held no sooner than the ninetieth (90th) day from the date the Petition was filed, and notice shall be given in a newspaper of general circulation one week prior to the meeting (or alternatively, as part of the first published notice of the hearing) and such notice shall expressly state that it is a informational meeting concerning the procedure to be used at the public hearing and the site location review process, and that it is not a public hearing at which evidence will be taken for purposes of making a determination in accordance with this Ordinance and the Act.
- f. To arrange for the presence of a certified court reporter to attend and transcribe the conduct of all public hearings for the public record.
- g. To require a witness or person presenting un-sworn public comment to State his/her position either for, against, or undecided with respect to the proposed facility.
- h. To examine a witness and direct a witness to testify.
- i. To establish reasonable limits on the duration of the siting hearing consistent with the Act and this Ordinance, including but not limited to the reasonable limitation of sworn testimony, un-sworn oral comment, direct and cross-examination of any

witnesses, and the limitation of repetitive or cumulative testimony and questioning.

- j. To allow the introduction of late-filed evidence, be it written or testimonial, on behalf of any Participant, provided good cause is shown for the late-filing, the evidence is offered in and is relevant to the rebuttal portion of the Participant's case, and the evidence was filed with the County Clerk at least one day before the public hearing at which it is offered, and fundamental fairness to all parties will be preserved.
  - k. The Hearing Officer, at his discretion or at the request of the County Board, may continue any session of the hearing from time-to-time, consistent with the timing provisions set forth in this Ordinance and the Act.
  - l. Pursuant to §2.8.2 hereof, to rule upon a motion to withdraw the application for siting approval filed prior to the close of the public hearing, and to impose reasonable terms upon the grant of such a motion.
3. The Hearing Officer shall confer with the County Board, and counsel for the County, as necessary, concerning the application, between the time of the filing of the application and the County Board's decision on the application. Given the Hearing Officer's role of communicating with the County Board, the Hearing Officer may not confer with Participants (members of the public, and applicant included) concerning the application, unless such conference takes place during the public hearing, is through correspondence which is filed with the County Clerk (and, thus, available for everyone to view), or concerns location, time or other similar scheduling aspects of the public meeting or public hearing, or the notices for same. The only additional exception from this restriction is that the Hearing Officer may confer with the County Clerk about the upkeep or status of the public record, make a request to review or copy the public record, or confer with the County Clerk regarding the scheduling or location of the public meeting or hearing, or arrangements for the notices of the public meeting and hearing.
4. At the conclusion of the public hearing and after consideration of all timely-filed written comments, the Hearing Officer shall submit draft written findings to the County Board and file a copy of such findings with the County Clerk.
5. The Hearing Officer does not have the right or the power to vote, as a County Board Member votes, on the application.



**Article 8**  
**PUBLIC HEARING**

8.1 Within forty-five (45) days from the date the application for site approval is filed, the County Board shall determine the date, time and location upon which a public hearing shall commence. The initial session of the public hearing shall be scheduled no sooner than 90 days but not later than 120 days from the date the application for site approval was filed with the County Clerk.

8.2 If, in the County Board's opinion, County facilities are not sufficient to accommodate the number of persons expected to attend the hearing, the County Board may arrange for the hearing to be conducted at another site. In such an event, the County Board is authorized to lease an adequate auditorium and sound system for the hearing. Any and all costs associated with such lease or acquisition shall be paid from the filing fee.

8.3 The County Board shall notify the County Clerk of the date upon which such hearing shall be held and shall request the County Clerk to cause notice of such hearing to be made as follows. Upon receipt of such request, the County Clerk, and, at the County Clerk's discretion, with the help of the attorney representing the County (its staff and employees), shall cause the publication of notice pursuant to the following requirements.

1. By publication of two (2) legal notices in a newspaper of general circulation published in the County. One such notice shall be published no later than sixty (60) days from the date the application was filed and one such notice shall be published no later than seventy five (75) days from the date the application was filed.
2. Such notices shall consist of the following information, which, except for h. through k., below, must be disclosed by the applicant in the application:
  - a. The name and address of the person, partnership or corporation requesting site location approval;
  - b. The name and address of the owner of the site, and in case ownership is in a land trust, the names of the beneficiaries of said trust;
  - c. The legal description of the site;
  - d. The street address of the property, and if there is no street address applicable to the property, a description of the site with reference to location, ownership or occupancy or in some other

manner that will reasonably identify the property to residents of the neighborhood;

- e. The nature and size of the proposed facility;
  - f. The nature of the activity proposed;
  - g. The probable life of the proposed activity and facility;
  - h. The time and date of the public hearing(s);
  - i. The location(s) of the public hearing(s);
  - j. A statement that all copies of evidence other than testimony to be submitted at the public hearing(s) must be filed with the County Clerk at least seven (7) days before the date of the first public hearing; and
  - k. A statement that any person wanting to present sworn testimony or cross-examine witnesses must register as a Participant with the County Clerk no later than the first day of the public hearing, or register with the Hearing Officer no later than the adjournment of the first day of the public hearing.
3. A copy of the notice shall also be sent, no later than fifty-five (55) days after the date the application was filed, by certified mail return receipt requested to the following. This notice, pursuant to Section 39.2(d) of the Act, must be delivered to the following persons/entities no later than fourteen (14) days prior to the first day of public hearing. If a return receipt is not received by the County Clerk confirming delivery of the notice on the following persons/entities, by the sixty-fifth (65th) day following the filing of the application, the County Clerk shall arrange for personal service on the following persons/entities.
- a. all members of the General Assembly from the district in which the proposed facility is located;
  - b. the Illinois Environmental Protection Agency;
  - c. to the governing authority of every municipality whose corporate limits are within 1 mile of the boundary of the proposed facility;
4. Additional notice of the public hearing may, at the discretion of the County Board, be given, by publishing a notice in a newspaper of general circulation published as a display ad at least once during the

week preceding the public hearing. Such notice shall consist of all items described in subsection 8.3.2.a.-k. above except for item 8.3.2.c.

8.4 The State's Attorney, or an assistant, shall serve as legal advisor for the County Board. The County Board, with the advice of the State's Attorney, shall engage outside counsel to serve as legal advisor for the County and County staff. Such outside counsel shall be responsible for evaluating the application and advising the County and County staff throughout the application and hearing process, including any appeals or remand hearings. Said counsel shall be entitled to examine witnesses, and otherwise to participate in the Hearing as counsel to the County. At the conclusion of the public hearing and after consideration of all timely-filed written comments, said outside counsel may submit draft written findings to the County Board. A copy of any such submittal shall be filed with the County Clerk. Any and all costs and fees associated with such outside counsel shall be paid from the filing fee.

8.5 Conduct of the public hearing shall be substantially as follows:

1. Call to order with determination of a quorum;
2. Introduction of the Hearing Officer;
3. Introduction of the County Board Members who are present;
4. Recognition of the applicant and identification of the application;
5. Recognition of fees, notices, and date of filing of the application;
6. Recognition of the County staff and attorneys present;
7. Recognition of all other Participants who have filed a Notice of Participation pursuant to Section 5.3.
8. Recognition of all reports, exhibits, maps or documents of record as filed pursuant to Section 5.5.3.
9. Applicant, the County, and Participants may then make an opening statement.
10. The County Board shall then hear testimony from the applicant and/or any witnesses the applicant may wish to call. Upon the close of the applicant's testimony, Participants, other than the applicant and the County, may present sworn testimony, including any witnesses and evidence they wish to present.

11. After the close of the Applicant's and Participants' cases, the County may present any witnesses and evidence they wish to present.
12. Rebuttal testimony and evidence will be allowed at the discretion of the Hearing Officer; but if it is allowed, it will be presented in the same order as described in (9), above.
13. Following rebuttal testimony, if any, any Participant or other member of the public who wishes to present un-sworn oral comment may then present such comment to the County Board.
14. Closing statements, if any, by Participants, including the applicant and the County, who presented evidence or testimony at or questioned witnesses during the public hearing.
15. Rebuttal statement, if any, by the applicant, subject to limitations as imposed by the Hearing Officer.
16. Hearing closed.

8.6 All testimony at any public hearing shall be under oath or affirmation. All witnesses who testify under oath shall be subject to reasonable questioning as follows: direct, cross-examination, redirect, re-cross, etc.

8.7 The applicant requesting site approval shall have the burden of going forward with evidence of the suitability of the site for its proposed use, and that the proposed facility meets the criteria set forth in Section 39.2(a) of the Act (415 ILCS § 5/39.2(a)).

8.8 Upon conclusion of the public hearing the applicant may submit to the County Board a post-hearing memorandum addressing the siting criteria set forth in Section 39.2(a) of the Act (415 ILCS § 5/39.2(a)), as well as any other issue relevant to the proceeding. The post-hearing memorandum shall be based on the record developed during the siting approval process. If the applicant elects to submit a post-hearing memorandum, it shall do so within 30 days after the date of the last public hearing by filing 8 copies with the County Clerk who shall receive and date stamp the post-hearing memorandum, which shall be made part of the record of the public hearings and the County Board shall consider any such timely submitted post-hearing memorandum in making its final determination. The post-hearing memorandum shall be limited to no more than 25 pages in length.

## **Article 9 RECORD**

9.1 The County Clerk or his/her designee shall be responsible for keeping the record of the hearing and site review process.

9.2 The record shall consist of the following:

1. The application for siting approval and any amendments filed with the County Clerk.
2. Proof of notice as described in Section 8.3 hereof.
3. Proof of each notice given by applicant pursuant to Section 39.2(b) and Section 39.2(d) of the Act (415 ILCS § 5/39.2).
4. Written comments filed by the public and received by the County Clerk or postmarked within 30 days of the last public hearing.
5. All evidence, reports, studies, exhibits or documents admitted into evidence at the public hearing.
6. All motions filed during the course of the public hearing.
7. All notices of participation filed with the County Clerk within the time frame specified in Section 5.3.
8. A complete transcript of the public hearing(s), in both written and electronic/digital form.
9. All post-hearing memoranda submitted by the applicant and any participant, received by the County Clerk or postmarked within 30 days of the last public hearing.
10. Written findings provided by outside counsel for the County.
11. The Hearing Officer's written findings.
12. A copy of the Resolution containing the final decision of the County Board.
13. A log which the County Clerk shall require each person seeking to view, copy or file documents with or in the public record, shall sign, stating the date the request to view, copy, file or other was made, the nature of the request (i.e., view, copy, file or other, and identifying the "other"), and the requesting person's name and address.

9.3 The County Clerk or his/her designee shall, during the regular business hours of the County Clerk's Office, make the public record available to any person requesting to review it.

9.4 The County Clerk or his/her designee shall, during the regular business hours of the County Clerk's Office, accept requests from persons for copies of the public record, in whole or in part, and arrange for copying so requested upon the requesting person's payment of the actual cost of copying. The County Clerk shall respond to copying requests within a reasonable time.

9.5 The County Clerk shall be responsible for certifying all copies of the public record.

9.6 Although late filed public comments are not part of the public record pursuant to this Article, they shall be retained by the County Clerk with any evidence of date of filing, such as the County Clerk's date stamp copy of the written comment or the postmark, if the written comment was mailed.

## **Article 10 SITE APPROVAL DECISION**

10.1 After the public hearing(s) or any continuation thereof, the County Board shall consider the record of the public hearing, the findings of fact and the proposed findings of outside counsel for the County and the Hearing Officer, and shall, by written resolution, upon the vote of a majority of its members, make a written decision concerning a site approval application not more than 180 days from the date of the County Clerk's receipt of the site approval application, or within such extended time period as has been agreed upon by the applicant and the County Board. In the event an application for site approval is amended, the County Board shall render a decision within 270 days, or within 90 days after the amended application is received by the County Board, whichever period is longer, or within such extended time period as has been agreed upon by the applicant and the County Board. Such decision by the County Board may be to:

1. grant the application, without any conditions; or
2. grant the application, but with conditions on such approval, provided such conditions are reasonable and necessary to accomplish the purposes of Section 39.2 of the Act and are not inconsistent with the regulations promulgated by the Illinois Pollution Control Board; or
3. deny the application.

10.2 The County Board shall state in its decision its findings as to whether the applicant has established, and whether the public record supports the establishment of each of the following criteria:

1. The facility is necessary to accommodate the waste needs of the area it is intended to serve;

2. The facility is so designed, located and proposed to be operated that the public health, safety and welfare will be protected;
3. The facility is located so as to minimize the incompatibility with the character of the surrounding area and to minimize the effect on the value of the surrounding property;
4. For a transfer facility or facility other than a sanitary landfill or waste disposal site, the facility is located outside the boundary of the 100 year flood plain or the site is flood-proofed; and for a facility that is a sanitary landfill or waste disposal site, the facility is located outside the boundary of the 100-year floodplain, or if the facility is a facility described in subsection (b)(3) of Section 22.19a of the Act, the site is flood-proofed;
5. The plan of operations for the facility is designed to minimize the danger to the surrounding area from fire, spills, or other operational accidents;
6. The traffic patterns to or from the facility are so designed as to minimize the impact on existing traffic flows;
7. If the facility will be treating, storing or disposing of hazardous waste, an emergency response plan exists for the facility which includes notification, containment and evacuation procedures to be used in case of an accidental release;
8. The consistency of the facility with the County's Solid Waste Management Plan, including any updates of that Plan;
9. If the facility is located in a regulated recharge area, any applicable requirements specified by the Illinois Pollution Control Board for such areas have been met.

10.3 The County Board shall consider as evidence the previous operating experience and past record of convictions or admissions of violations of the applicant (and any subsidiary, parent corporation, or subsidiary of the parent corporation) in the field of solid waste management when considering the second and fifth criteria in Section 39.2 of the Act, and subsections 10.3.2 and 10.3.5, above.

10.4 In making its decision, the County Board shall consider the public record of the hearing proceedings. The County Board shall give greater evidentiary weight to sworn testimony and evidence presented during the public hearings than to un-sworn oral or written comment.

10.5 No determination by the County Board of an application may be reconsidered, except to the extent it is reversed and remanded on appeal and the County Board is directed by the Illinois Pollution Control Board or Illinois Appellate Court to conduct all or part of the review process again.

10.6 Any County Board member may be excused from participation in the hearing and decision upon demonstration of any disqualifying direct and personal interest in the property or the affairs of the applicant or any objector to the proceedings. Additionally, any County Board Member may abstain from voting on the decision, except to the extent there are insufficient number of Board Members to pass a resolution consistent with Section 10.2, above.

**Article 11  
SEVERABILITY**

11.1 The sections, subsections, paragraphs, and provisions of this Ordinance shall be deemed severable and the invalidity of any portion of this Ordinance shall not affect the validity of the remainder.

**Article 12  
REPEAL**

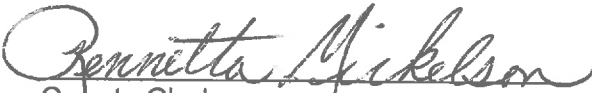
12.1 Any or all Ordinances pertaining to a procedure for hearing site approval applications for new regional pollution control facilities prior to the enactment of this ordinance are hereby repealed.

**Article 13  
EFFECTIVE DATE**

13.1 This Ordinance shall become effective upon its adoption by the County Board of Kendall County, Illinois.

Adopted by the County Board of Kendall County, Illinois this 15 day of April, 2008.

ATTEST:

  
County Clerk  
Kendal County, Illinois

  
Chairman  
Kendall County Board