

03-44

**KENDALL COUNTY  
ILLINOIS**

**RESIDENTIAL RECYCLING ORDINANCE**

**KENDALL COUNTY  
OFFICE OF SOLID  
WASTE MANAGEMENT**

**111 FOX STREET  
YORKVILLE, IL 60560**

**WHEREAS**, the Illinois solid waste Planning and recycling 415 ILCS15/1 et seq. (1992) requires that each county in the State of Illinois adopt a solid waste management plan which shall include a recycling program designed to recycle 15% of its municipal waste by the third year (1998), 25% of its municipal waste by the fifth year of the program (2000); also, as a Kendall County goal, 30% of its municipal waste by the tenth year of the program (2005); and

**WHEREAS**, The County of Kendall, Illinois (hereafter referred to as the "County"), has adopted the Kendall County Solid Waste Plan in May, 1995; Updated the Plan in 2000; and

**WHEREAS**, pursuant to the authority granted within the Illinois Solid Waste Planning and Recycling 415 ILCS 15/1 et. Seq. (1992), counties may request residents of the County to separate recyclable materials at the time of disposal or trash pickup; and

**WHEREAS**, the Garbage Disposal Division of the County Code 55 ILCS 5/5-8002 (1992) provides for the licensing of private disposal contractors by counties, and that as a condition of licensing, a county may require that licensees provide recycling collection services; and

**WHEREAS**, the State mandate to recycle applies county wide and the County is responsible to ensure mandate is met both in incorporated and unincorporated areas, and it is in the best interest of the County to implement the recycling program and recycling goals set forth within its Solid Waste Management Plan and the recycling goals set forth therein by the enactment of this Ordinance, and Management Plan and the recycling goals set forth therein by the enactment of this Ordinance, and

**WHEREAS**, THE KENDALL County Board finds that:

- A) The recycling of certain items, including, but not limited to, newspaper, aluminum cans, bi-metal cans, tin-plated steel food cans, glass food or beverage bottles and jars, clear (#2) HDPE bottles, and all (#1) PETE soda bottles, and other recyclable materials is vital to the conservation of America's resources; and
- B) The inclusion of recyclable materials in municipal waste generated by both the residents and businesses of Kendall County increase the volume of refuse which must ultimately be disposed of in sanitary landfills or in incinerators; and
- C) By recovering recyclable materials from the waste stream, valuable resources are retained and preserved which generates benefit to society as a whole.

NOW, THEREFORE, BE IT ORDAINED by the Kendall County Board, as follows:

**1.0 DEFINITIONS**

- 1.1 “Building” means any structure designed, built, or occupied as a shelter or roofed enclosure for persons, animals or property.
- 1.2 “Composting” means the biological process by which micro-organisms decompose the organic fraction of waste, producing a humus-like material.
- 1.3 “County” means both incorporated and unincorporated areas of Kendall County, Illinois.
- 1.4 “Curbside Collection” means the pickup of garbage, general household waste and recyclables placed at curb or roadside adjacent to or at the end of a private driveway leading to a residence or business.
- 1.5 “Dwelling” means a building, exclusive of recreational vehicles, hotels or motels containing as its principle use one (1) or more dwelling units.
- 1.6 “Dwelling Unit” means a residential accommodation including complete kitchen facilities permanently installed which are arranged, designed, used or intended for use exclusively as living quarters for one family and not more than an aggregate of two roomers or boarders.
- 1.7 “Effective Date” means the date this ordinance is approved and passed by the Kendall County Board.
- 1.8 “Garbage” means any refuse products or materials including, but not limited to, the following: putrescible animal and vegetable waste resulting from the handling, preparation, cooking, sale or consumption of food; animal excretion, glass or metal containers, products or objects discarded as no longer usable; paper, wood, and cardboard waste, ashes and cinders; discarded furniture or clothing; dead animals; and any materials excluded from landfills or other final disposal by state statute. The term “garbage” does not include human excretion in the form of body waste, except for soiled disposable diapers.
- 1.9 “Hauler” means any person who engages in the business of collecting or hauling garbage, municipal waste, recyclables, landscape waste, brush or other refuse on a continuous and regular basis, and makes scheduled collections per month within the County.
- 1.10 “Landscape Waste” means all accumulations of grass or shrubbery trimmings, leaves, tree limbs, and other materials accumulated as the result of the care of lawns, shrubbery, vines and trees.
- 1.11 “Multi-Family Dwelling” means a building containing three (3) or more dwelling units

- used for residential occupancy, including apartment houses, fraternities, sororities, dormitories and similar housing types but not including hotels, motels, hospitals, foster family homes, long-term facilities or semi-independent group residents.
- 1.12 “Municipal Waste” means garbage, domiciliary or general household, institutional and commercial waste, industrial lunchroom and office waste, landscape waste, and construction and demolition debris.
- 1.13 “Office of Solid Waste Management” means the Kendall County Office of Solid Waste Management.
- 1.14 “Person” is any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, political subdivision, state agency, or any other legal entity or their legal representative, agency, or assigns.
- 1.15 “Recyclable Materials” means materials that are separated from garbage, municipal waste or refuse for the purpose of recycling, including but not limited, newspaper, aluminum cans, bi-metal cans, tin-plated steel food cans, food or beverage glass bottles and jars, (#2) HDPE bottles, and (#1) PETE soda bottles.
- 1.16 Recycling Goal means the percentage of all waste generated within Kendall County that can be diverted from final disposal by way of recycling, reclamation or reuse. This goal is identified in the Kendall County Solid Waste Plan, and may be updated from time to time.
- 1.17 “Recycling Plan” means the plan submitted by solid waste haulers specifying the recycling and/or means, to be provided to residential customers per section 3.6 of this Ordinance.
- 1.18 “Recycling, Reclamation or Re-use” means a method, technique or process designed to remove any contaminant from waste so as to render the 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.
- 1.19 “Refuse” means waste.
- 1.20 “Reuse / Reclamation” means a method, technique or process designed to remove any contaminant from waste so as to render the 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.
- 1.21 “Residential Dwelling Unit” means single, two and multi-family dwelling.

- 1.22 “Occupant” means person or persons residing in dwellings of one or more units which have either curbside, alley or centrally located waste collection service.
- 1.23 “Scavenging” means the unauthorized collection of municipal waste and recyclable materials that have been set out by residents of the county specifically for an authorized collection.
- 1.24 “Single Family Dwelling” means a dwelling which is a detached building containing only one (1) dwelling unit.
- 1.25 “Solid Waste Management Plan” means the officially adopted county plan pursuant to the Illinois Solid Waste Planning and Recycling Act for the management of municipal waste generated within its boundaries.
- 1.26 “Two-Family Dwelling” means a dwelling containing two (2) dwelling units, each with completely separate entrances.
- 1.27 “Waste” means any garbage, sludge from a waste treatment plant, water supply treatment plant, or air pollution facility or other discarded material, including solid, liquid, semi-solid, or contained gaseous material resulting from industrial, commercial, mining and agricultural operations, and from community activities, but does not include solid or dissolved materials in irrigation return flows or industrial discharges which are point sources subject to permits under Section 402 of the Federal Water Pollution Control Act as now or hereinafter amended, or source, special nuclear, or by-product materials as defined by the Atomic Energy Act of 1954, as amended or any solid or dissolved material from any facility subject to the Federal Surface Mining Control and Reclamation Act of 1977 or the rules and regulations thereunder on any law or rule or regulation adopted by the State of Illinois pursuant thereto.

**SECTION 2.0 SEPARATION AND COLLECTION OR RECYCLABLES AND GARBAGE LIMITATIONS AND RESPONSIBILITIES**

- 2.1 Recycling
  - A. Each household in a residential dwelling unit in the County is encouraged to use regularly scheduled garbage/recycling services. Such services must be provided by a hauler duly licensed through the County of Kendall.
  - B. Households are encouraged to separate from their solid waste an unlimited amount of recyclable materials including but not limited to: newspaper, aluminum, bi-metal and tin-plated steel food and beverage cans, glass food and beverage bottles and jars, (#1) PETE soda bottles, (#2) HDPE bottles and other materials as accepted for recycling by the contracted hauler.
- 2.2 Responsibilities of Owners of Rental Housing Units

- A) Owners of rental residential dwelling units in the County shall furnish regularly scheduled garbage/recycling services to their tenant. Recycling collection services shall, at a minimum, include recycling of the materials listed in Section 2.1 (B) of this ordinance.

2.3 Responsibility for Refuse and Recyclables

- A) Responsibility for refuse and recyclable material set out for collection shall remain with the occupant who sets out the material until it is removed by the licensed hauler. The occupant who sets out the refuse and recyclable material is totally responsible for its proper preparation, handling, care and storage.
- B) Upon removal by the licensed hauler, ownership and responsibility for the proper handling of the refuse and recyclable materials shall be vested in the hauler. Hauler has the right to refuse collection of recyclables which are improperly prepared or which contain garbage.
- C) It shall be unlawful for a licensed hauler to dispose of collected recyclable materials in a landfill facility or other final disposal facility (incinerator, etc.) Recyclable materials which are collected and removed by a licensed hauler shall be delivered to the appropriate resource recovery facility or recycling center.
- D) Nothing in this Ordinance shall abridge the right of any recycling and composting program or business lawfully operating for profit, non-profit or charitable purposes from selling recyclables or landscape waste.

2.4 Prohibitions

- A) It shall be unlawful for any person not licensed by the County under Section 3.0 of the Ordinance to take, collect, or scavenge any recyclable material set out for licensed collection programs within the County.

**SECTION 3.0 LICENSES**

3.1 Licenses Required

No person shall engage in the business of collecting or hauling garbage, municipal waste, recyclables, landscape waste, brush or other refuse, on a continuous and regular basis, with scheduled collections per month, from any location within the County without first procuring a license to do so from the County. Unless earlier suspended or revoked, such license shall be valid for a twelve (12) month period;

3.2 Conditions for Licensing

- A) Licensee shall provide basic curbside or end-of-the-driveway recycling service to every residential dwelling unit licensee serves with garbage pickup, at a single combined price. Materials to be recycled include, at a

minimum, those listed in Section 2.1(B). Hauler has the right to refuse collection of recyclables improperly prepared or which contain garbage.

### 3.3 License Procedure

#### A) Initial Application

Within sixty (60) days from the effective date of this Ordinance, each hauler shall complete and return an application for licensing as provided by the Office of Solid Waste management with a recycling plan for areas to be served. The applicant shall comply with the provisions of this Ordinance pending action by the Office of Solid Waste Management on the license.

#### B) License Renewal

All haulers licensed under this Ordinance must complete and return to the Office of Solid Waste management license renewal forms within (30) days prior to the expiration of the hauler's current license. The Office of Solid Waste Management will provide renewal forms to the haulers sixty (60) days prior to the expiration of the hauler's current license. However, the responsibility of timely renewal is that of the hauler only.

#### C) Conditional License

The Office of Solid Waste Management may grant a conditional license where an application and/or recycling plan is incomplete. The conditional license shall specify the conditions upon which a permanent license will be granted and the time requirement within which the conditions specified must be satisfied. Failure to satisfy the specified conditions within the time frame required shall result in a revocation of conditional license and denial of the permanent license.

#### D) Accuracy of Information

All information required by this Ordinance shall be complete, accurate, and submitted in a timely manner.

#### E) Business Operation change

Hauler shall notify the Office of Solid Waste Management in writing of any change to their respective recycling plan prior to the effective date of the change.

#### F) Transfer of Ownership

No license is transferable; any attempted transfer of a license shall

immediately void such license. Notice of change in ownership shall be filed in the Office of Solid Waste management a minimum of 30 days prior to effective date.

G) Acknowledgment of Receipt of Solid Waste Management Plan  
All waste haulers licensed by the county shall receive one copy of the Solid Waste Management Plan from the County, and shall acknowledge receipt of said Plan by available means.

H) Plan Review and Update  
When the Plan is reviewed and updated, licensed haulers will receive draft copies of the updates for their review and input.

### 3.4 License Issuance or Denial

A) License Action  
The Office of Solid Waste management shall have thirty (30) days from the receipt of the initial license application or renewal application to issue, request modifications and clarifications or deny the license, license renewal or conditional license.

B) Notification  
The Office of Solid Waste Management shall notify the applicant in writing of its decision on a license application. If issued, the license shall be mailed by first class mail to the address provided in the application. If denied, a written decision shall be served personally or by certified mail upon the applicant at the address provided in the application.

C) License Denial  
A written decision of denial shall also include notice to the applicant that, if an appeal is desired, a written request for a hearing must be received by the Office of Solid Waste Management within fifteen (15) calendar days following receipt of the decision. 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 6.0 of this Ordinance.

### 3.5 License & Vehicle registration Fee

A) Schedule of Fees  
The following fees shall be required for each license and vehicle registration.

1. \$50.00 For each license
2. \$25.00 For each vehicle used in collecting or hauling garbage, municipal waste, recyclables, landscape waste, brush or other

refuse

Payment of all fees must accompany the license application or license renewal application.

Exempted are such vehicles owned or operated by any incorporated or unincorporated city, village, or township used in hauling garbage or landscape waste to any disposal area owned or maintained by such city, village, or township. Also, exempted are vehicles owned or operated by waste haulers used, temporarily, to provide garbage, recycling or landscape waste collection service to their customers residing on public roads posted with weight limitations.

B) Vehicle Registration

The County reserves the right to issue to each applicant or licensee a vehicle registration decal to be placed conspicuously on the outside of each vehicle to be utilized by the hauler in Kendall County. Such decals may be issued annually. The number of said vehicles utilized by the hauler shall be reported in the application.

3.6 Recycling Plan, Information Required

As a condition of licensing approval, each applicant or licensee shall submit a recycling plan or plans to be offered to their residential customers. The Office of Solid Waste Management shall supply the form to be used for submission of the plan(s). The recycling plan or plans shall include, but not be limited to, the following information:

- A) The means, method, and venue to be employed for the collection, processing and marketing of separated material collected from occupants of residential dwelling units served.
- B) Identification of specific recycling services to be employed (e.g. 64 gallon Toters, 18 gallon bins or 32 gallon "blue bag", etc.).
- C) Expected number of households proposed to be serviced with garbage/recycling pick up during the license year by each collection method used in Subsection B, above.
- D) The frequency of collection of garbage, recyclables and landscape waste, length of contract where applicable, and the method and frequency of billing to be used.
- E) The identification of the types of recyclable material to be collected, in addition to those listed under 2.1.B of this Ordinance.

- F) Provisions, if any, being offered for collection or disposal of items that may not be landfilled including, but not limited to major appliances, scrap tires, waste oil, landscape waste, or other materials currently banned from landfills.

3.7 Reporting

As a minimum, haulers will be required to submit quarterly reports to the Office of Solid Waste Management documenting the tonnage of waste collected to be used for purposes of tracking the implementation progress of the Kendall County Solid Waste Management Plan. The quarterly reports are due no later than 60 days after the ending date of the quarter, and must report the following information:

- A) Total tonnage of municipal waste collected by the hauler pursuant to each municipal or township hauling contract within the county. The reported tonnage shall identify the total tonnage collected in each municipality and as possible, by geographic area within the unincorporated portions of the county.
- B) The individual tonnages of various categories of recyclable material collected and recycled pursuant to each hauling contract within the County.

3.8 Compliance with Other Laws

The obtaining of a license herein shall not be deemed to exclude the necessity of obtaining other licenses, permits, or approvals as required by applicable laws or regulations. The hauler shall at all times operated in compliance with all applicable laws, rules, or regulations.

**SECTION 4.0 VIOLATIONS AND PENALTIES**

4.1 Civil Penalties

Any hauler who violates any provision of this Ordinance shall be subject to a fine of fifty dollars (\$50.00) for the first violation; one hundred dollars (\$100.00) for the second violation; and two hundred dollars (\$200.00) for three or more violations or for each day of continuing violation.

4.2 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 5.0 ADMINISTRATIVE PROCEDURES**

### **5.1 Suspension or revocation of License**

- A) 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 Office of Solid Waste Management within fifteen (15) calendar days following receipt of the notice; 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.
- B) Upon receipt of a request for hearing, the Office of Solid Waste Management shall set a date, time and place for the hearing. The hearing shall be conducted pursuant to the procedures in section 6.0 of this Ordinance.

### **5.2 Summary Suspension of License**

- A) If the Office of Solid Waste Management 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 Office of Solid Waste Management shall also take reasonable steps to notify the licensee by telephone prior to the summary suspension.
- C) The written notice shall state the effective date of the summary suspension; the violation(s) occurred; a statement that if the licensee desires to appeal, a written request for hearing must be received by the Office of Solid Waste management within ten (10) calendar days following receipt of the notice; and that the request must state the grounds for appeal.
- D) Upon receipt of a request for hearing, the Office of Solid Waste management shall set a date, time and place for the hearing. The hearing shall be conducted pursuant to the procedures in Section 6.0 of this

Ordinance.

- E) The summary suspension shall not be stayed pending an appeal.

### **SECTION 6.0 HEARINGS**

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

#### **6.1 Hearing Commission**

The hearing shall be before an impartial Hearing Commission consisting of three (3) members appointed by the Kendall County Board upon recommendation from the Public Works Committee of the Kendall County Board.

#### **6.2 Pre-hearing and Hearing Notice**

The Office of Solid Waste Management shall schedule and provide notice of the date, time, and place of the pre-hearing conference and hearing. The pre-hearing conference shall be held at least three (3) weeks prior to the hearing or by mutual agreement of the parties.

#### **6.3 Procedures**

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

- A) The pre-hearing conference shall define issues, schedule the exchange of witness lists and 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; demonstrative evidence. Evidence not exchanged in accordance with this provision will not be considered in the hearing unless good cause is shown to the hearing commission.
- 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 repetitive evidence shall be excluded.
- F) The Office of Solid Waste Management shall have the burden of proof

through preponderance of the evidence.

- G) The Office of Solid Waste Management, licensee or applicant and additional parties as determined by the hearing commission, shall present evidence in that order. Each party shall have the opportunity to cross-examine the witnesses.
- H) The Hearing Commission shall make a written finding of fact and conclusions based upon the evidence provided at the hearing.
- I) The cost of making and preparing a record shall be borne by the party requesting the hearing.
- J) 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 7.0 MUNICIPAL AGREEMENT**

If a municipality within the County has signed the Intergovernmental Agreement between the County and the municipalities and has a recycling ordinance in place on the effective date of this Ordinance which substantially conforms with or exceeds this Ordinance, the municipality may continue to enforce its ordinance and such enforcement shall be considered as meeting the requirement of this Ordinance except the licensing requirements which will continue in full force and effect. A municipality may choose, at any time, to enact and enforce a recycling ordinance that is more stringent than this ordinance.

### **SECTION 8.0 SEPARABILITY**

#### **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 reason by any court or competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validation of the remaining portions thereof.

#### **8.2 Particular Application**

Should any court of competent jurisdiction adjudge invalid the application of any provision of this Ordinance to a particular private disposal hauler, recycling plan, or recycling operation such judgment shall not affect the application of such provision to any other private disposal hauler, recycling plan, or recycling operation not specifically included in such judgment.

### **SECTION 9.0 PROVISIONS CUMULATIVE**

**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 shall be in full force and effect upon approval and passage by the Kendall County Board.

**SECTION 11.0 AMENDMENTS**

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

**RESIDENTIAL RECYCLING ORDINANCE KENDALL COUNTY ILLINOIS  
APPROVED BY THE KENDALL COUNTY BOARD OF HEALTH**

THIS 19 DAY OF AUGUST, 2003.

President, Kendall County Board of Health Jamie Kellogg

ADOPTED AND APPROVED THIS 16<sup>th</sup> DAY OF Dec, 03.

Chairman, Kendall County Board J. Church

Ayes 10  
Nays 0  
Abstain 0

Attest Paul Anderson  
Kendall County Clerk