

## RECYCLING AND HAULER LICENSING ORDINANCE 95-157

### Sec. 11-108. Definitions:

*Commercial Establishment:* Any building or any part of a building wherein commerce or business is conducted, both profit and not for profit, including, but not limited to, stores, markets, offices, restaurants, shopping centers, theaters, schools, churches, government offices, and manufacturing facilities.

*County:* Kane County government and any duly authorized representatives or divisions, including the Kane County department of environmental management.

*Dwelling Unit Or Residential Dwelling Unit:* 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.

*Full Time Employee:* An individual who works for another at a commercial establishment, at least thirty five (35) hours per week in return for financial or other compensation.

*Garbage:* Any refuse products or materials, including, but not limited to, the following: putrescible animal and vegetable wastes resulting from the handling, preparation, cooking, sale or consumption of food; glass, metal or plastic containers, products or objects discarded as no longer usable; paper, wood, and cardboard waste; and discarded furniture or clothing.

*Hauler:* Any person who engages in the business of collecting or hauling garbage, municipal waste, recyclables or other refuse on a continuous and regular basis, and makes multiple scheduled collections per month within the county.

*Multi-Family Dwelling:* A building containing three (3) or more dwelling units used for residential occupancy, including apartment houses, nontransient apartment hotels, rooming houses, boarding houses, fraternities, sororities, dormitories and similar housing types but not including hotels, motels, hospitals, foster family homes, long term care facilities or semi-independent group residents.

*Municipal Waste:* Garbage, general household, institutional and commercial waste, industrial lunchroom or office waste, and construction and demolition debris.

*Recyclable Materials:* Materials that are separated from garbage, municipal waste, or refuse for the purpose of recycling, including, but not limited to, aluminum and tin cans, newspapers, corrugated cardboard, mixed office paper, high-grade printing and writing papers, magazines, plastic and glass containers.

*Recycling:* A method, technique, or 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, but does not include the combustion of waste for energy recovery or volume reduction.

*Refuse:* Garbage or municipal waste. (Ord. 95-157, 6-13-1995; Ord. 97-107, 4-8-1997)

## **Sec. 11-109. Applicability:**

This article shall apply to all premises located within the borders of the county; provided, however, that certain municipalities, townships and township solid waste management districts may sever themselves from county jurisdiction relative to this article pursuant to the provisions of section 11-117 of this article. (Ord. 97-107, 4-8-1997)

## **Sec. 11-110. Enforcement and Right of Inspection:**

- (a) The provisions of this article are to be managed, administered and enforced by the Kane County department of environmental management or its duly authorized representative.
- (b) The director and the recycling coordinator of the Kane County department of environmental management and their duly authorized representatives, after notification and identification and subject to constitutional limitations, may enter at reasonable times upon the private or public property, both indoors and outdoors, and including any motor vehicle used to haul refuse or recyclables, of any commercial establishment or similar entity, or of the common areas of any multi-family dwelling unit for the purposes of investigating conditions relating to the administration and enforcement of this article or to determine whether a violation of this article exists.

The owner, owner's authorized representative or occupant of a commercial establishment or of a multi-family dwelling unit shall give the director and recycling coordinator, and their authorized representatives, free access to said premises at all reasonable times relating to the administration and enforcement of this article; provided, however, that an owner of a multi-family dwelling unit, or the owner's authorized representative, shall not give the inspector access to the interior of a privately occupied residential dwelling unit. (Ord. 97-107, 4-8-1997)

## **Sec. 11-111. Separation and Collection Of Recyclable Materials From Residential Dwelling Units:**

- (a) *Separation Required:* It shall be the duty of every occupant of a single-family, two-family, or multi-family dwelling unit to separate recyclable materials from all other refuse, garbage, and municipal waste, and store these recyclables separately in containers designed for recycling.
- (b) *Collection Of Recyclables:*
  - (1) Collection of recyclables from all dwelling units shall be by a hauler duly licensed by the county under this article selected by the owner or occupant of the premises, or by a manager of such premises, or by an association governing such premises, or by franchise awarded by a municipality or township. It shall be the duty of every owner of a two-family or a multi-family dwelling unit to arrange for the collection of recyclables from such units by duly licensed haulers.
  - (2) As an alternative to this section, occupants of residential dwelling units may take recyclable materials to an established recycling center.
  - (3) Recyclable materials shall, in the case of multi-family dwellings, include all of those materials accepted by the single-family recycling program in the municipality in which the multi-family building is located. In unincorporated areas, recyclable materials shall include all of those materials accepted by the recycling program in the nearest municipality served by each hauler.

*(c) Ownership Of Refuse And Recyclables:*

(1) Ownership of refuse and recyclable material set out for collection shall remain with the occupant who set out the material until removal by a licensed hauler. Until the refuse and/or recyclable materials are removed by the licensed hauler, the occupant who set out the material is totally responsible for their proper preparation, handling, and storage. Ownership and responsibility for the proper handling of the refuse and recyclable materials shall vest in the licensed hauler upon removal thereon by the hauler.

(2) It is unlawful for any person who is not licensed by the county to take or collect or scavenge any refuse or recyclable materials set out for licensed collection programs within the county. (Ord. 95-157, 6-13-1995; Ord. 97-107, 4-8-1997)

## **Sec. 11-112. Separation and Collection of Recyclable Materials from Commercial Establishments:**

(a) *Separation Required:* On or before January 1, 1996, all commercial establishments with ten (10) or more full time employees, having recyclable materials which accumulate on the premises, shall separate from all other refuse, garbage, and municipal waste those two (2) recyclable materials that comprise the largest volume of the waste stream for said commercial establishment. It shall also be the duty of every owner, tenant, or occupant of a commercial establishment to store these recyclables separately in designated containers.

On or before January 1, 1997, the above requirements shall apply to all commercial establishments within Kane County, regardless of the number of employees.

*(b) Collection Of Recyclables:*

(1) Collection of recyclables from the commercial establishment shall be by a hauler selected by the owner or manager of such premises or by an association governing such premises, or by franchise awarded by a municipality, village or township, but which hauler is duly licensed by the county under section 11-113 of this article.

(2) As an alternative to the above subsection, a commercial establishment may take recyclable materials to a recycling facility, or make arrangements with a non-county licensed recycling service provider, provided that the county is provided annually with written documentation of the total number of tons of material recycled.

(3) It shall be unlawful for any hauler to knowingly collect municipal waste, garbage, or refuse from any commercial establishment that is not separating its two (2) largest volume recyclables for collection and recycling.

*(c) Ownership Of Refuse And Recyclables:*

(1) Ownership of refuse and recyclable material set out for collection shall remain with the occupant who set out the material until removal by a licensed hauler. Until the refuse and/or recyclable materials are removed by the licensed hauler, the occupant who set out the material is totally responsible for their proper preparation, handling, and storage. Ownership and responsibility for the proper handling of the refuse and recyclable materials shall vest in the licensed hauler upon removal thereon by the hauler.

(2) It is unlawful for any person who is not licensed by the county to take or collect or scavenge any refuse or recyclable materials set out for licensed collection programs within the county.

*(d) Request For Waiver:*

(1) If any commercial establishment believes that it has no recyclable materials or only one recyclable material pursuant to this article, it may request authorization from the county for a waiver to separate only one recyclable material; such request shall be submitted in writing to the Kane County department of environmental management and shall be supported by the results of a waste audit or other relevant information, which shall be submitted with the request.

(2) The county shall have thirty (30) days from the receipt of the request to approve or deny authorization for waiver. The decision shall be in writing and shall be served personally to the person requesting authorization or by certified mail to the address provided in the written request for waiver. A decision of denial of a waiver to separate only one recyclable material shall include a written notice stating the basis for the denial and shall provide notice to the applicant that a hearing may be requested in writing pursuant to section 11-116 of this article and that such request must be received by the county within fifteen (15) calendar days following service of the decision of denial on the applicant.

(3) A request for hearing on a denial of a waiver shall be made by the applicant in writing to the Kane County department of environmental management, and must be received by said department within fifteen (15) calendar days following the service of the decision of denial on the applicant. 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 of section 11-116 of this article. (Ord. 95-157, 6-13-1995; Ord. 97-107, 4-8-1997)

## **Sec. 11-113. Licenses:**

*(a) Licenses Required:* No person or company with two (2) or more trucks shall engage in the business of collecting or hauling garbage, municipal waste, recyclables, or other refuse from sites within the county without first procuring a license to do so from the county. Such license shall be valid for one calendar year, beginning on January 1.

*(b) Application:* Kane County shall prepare and make available to all haulers an application form for vehicle licenses. The application shall include the following information:

(1) Name of business operating vehicles.

(2) Name of manager of business.

(3) Address and telephone number of business.

(4) Year, make, and model of each vehicle.

(5) Type of each vehicle (e.g., dump truck, packer, pickup, etc.).

(6) Vehicle identification number, license plate number, and fleet number for each vehicle.

(7) Weight of each vehicle.

(8) Capacity of each vehicle in cubic yards and tons.

(9) Such other information as the county shall deem appropriate or necessary.

The licensee shall notify the county in writing within thirty (30) days following a change in any information contained in the license application.

The completed license application shall be accompanied by a material separation plan in accordance with subsection (g) of this section.

(c) *License Renewal:* The county shall provide license renewal forms to each hauler within sixty (60) days prior to the expiration of the contractor's current license. License renewal forms shall be completed and received by the county thirty (30) days prior to the expiration of the contractor's current license.

(d) *Conditional License:* The county may grant a conditional license where an application and/or material separation 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 must be met. Failure to comply with the conditions specified shall result in a revocation of the conditional license and denial of the permanent license.

(e) *Issuance Or Denial:*

(1) The county shall have thirty (30) days from the receipt of the license or renewal application to issue or deny the license, license renewal, or conditional license. The county will issue a temporary license valid for thirty (30) days upon its failure to act upon the application within thirty (30) days.

(2) The past history of the applicant, in terms of compliance with this article, will be considered for purposes of issuance or denial of the license. The county shall notify the applicant in writing of its decision. 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 by certified mail upon the applicant at the address provided in the application.

(3) A license denial shall provide written notice stating the basis for the denial and shall provide notice to the applicant that if an appeal is desired, a written request for a hearing must be received by the county within fifteen (15) calendar days following service. Upon receipt of a request for hearing, the county shall set a time and place for the hearing. The hearing shall be conducted pursuant to the procedures in section 11-116 of this article.

(f) *License And Vehicle Registration Fee:*

(1) *Schedule Of Fees:* The following fees shall be required:

a. For each license \$50.00

b. For each vehicle used in 10.00

collecting or hauling

garbage, municipal waste,

recyclables, or other refuse

Payment of all fees must accompany the license application/renewal and material separation plan.

(2) *Vehicle Registration:* The county reserves the right to issue to each licensee a vehicle registration decal to be placed conspicuously on the outside of each vehicle so utilized by the contractor operating in Kane County. Such decals may be issued annually. The number of said vehicles utilized by the licensee shall be reported in the application.

(g) *Material Separation Plan, Information Required:* As a condition of licensing and on a form supplied by the county, each applicant or licensee shall submit a material separation plan with the license application to the county for approval. Each material separation plan shall contain:

(1) The means and methods employed to collect, process and market those separated materials from occupants of single-family, two-family and multi-family dwelling units, and commercial establishments, as required under sections 11-111 and 11-112 of this article.

(2) The identification of specific recycling services to be employed (e.g., curbside services, drop off bins at apartment buildings, front or rear loader containers, roll off boxes, etc.).

(3) Number of dwelling units and commercial establishments proposed to be serviced during the license year by each collection method used in subsection (g)(2) of this section, and the frequency of collection for each method.

(4) Identification of the types of recyclable material to be collected in accordance with, or beyond that required for separation under sections 11-111 and 11-112 of this article.

(5) A description of the method and materials which will be used to explain to each customer the number of materials to be collected, material preparation instructions, and frequency of service.

(h) *Compliance With Material Separation Plan And Collection Of Recyclables:* Within ninety (90) days of the effective date of its license, each licensee shall implement its material separation plan. Failure to collect, process and market separated recyclables from any dwelling unit or commercial establishment in accordance with an approved material separation plan shall constitute a violation of this article and will result in suspension or revocation of the license.

(i) *Reporting:* On or before January 31 of each year, each licensee shall submit a written report, on forms provided by the county, on its recycling service operations during the previous calendar year. Failure to submit such a report shall constitute a violation of this article and will result in suspension or revocation of the license. This report shall contain:

(1) The total tonnage of municipal waste collected in the county.

(2) The total tonnage of recyclable material collected in the county in each sector (i.e., municipal residential, unincorporated residential, multi-family residential, and commercial).

(3) The total tonnage of landscape waste collected for land application and/or composting. (Ord. 95-157, 6-13-1995; Ord. 97-107, 4-8-1997)

## **Sec. 11-114. Violations and Penalties:**

(a) *Civil Penalties:*

(1) Any licensed hauler who violates any provision of this article 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 a third violation. In the case of a fourth violation, a fourteen (14) day suspension of a license to collect or haul garbage, municipal waste, recyclable materials, or other refuse within the county shall be imposed. A fifth violation may result in two (2) months' suspension of license. For further subsequent violation(s), the license may be revoked for the remainder of the license term plus an additional year. For purposes of enforcement, the time period in which these violations accumulate shall be the period of the license. Notwithstanding these provisions, any flagrant violation of this article may result in suspension or revocation proceedings pursuant to subsection 11-115(a) of this article.

(2) Any commercial establishment who violates any provision of this article shall be subject to a fine of not less than twenty five dollars (\$25.00) or more than one hundred dollars (\$100.00) per day in violation. Each day the violation continues shall constitute a separate and distinct violation.

(3) Any owner of a two-family or multi-family dwelling unit who fails to arrange for the collection of separated recyclables from such unit or who otherwise violates any provision of this article shall be subject to a fine of not less than twenty five dollars (\$25.00) or more than one hundred dollars (\$100.00) per day in violation. Each day the violation continues shall constitute a separate and distinct violation.

(4) Any person who scavenges municipal waste and recyclable materials that have been set out by residents, or businesses, or the county specifically for an authorized collection under this article shall be subject to a fine of up to five hundred dollars (\$500.00). Each day any violation of this article continues shall constitute a separate offense.

(b) *Warnings:* The county or any of its duly authorized representatives will issue a warning notice to any occupant of a dwelling unit, owner of a two-family or multi-family dwelling unit, hauler or establishment observed not in compliance with any provision of this article.

(c) *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 article. (Ord. 95-157, 6-13-1995; Ord. 97-107, 4-8-1997)

## **Sec. 11-115. Administrative Procedures:**

(a) *Suspension Or Revocation Of License:*

(1) Any license required under this article may be suspended or revoked for violation of any provisions of this article.

(2) Written notice of a suspension or revocation shall be served personally or by registered or certified mail upon the licensee at least fifteen (15) calendar days prior to the effective date of the suspension or revocation. The written notice shall contain the effective date of the suspension or revocation; the facts which support the conclusion that a violation or violations have occurred; a statement that if the licensee desires to appeal, a written request for a hearing must be received by the county within fifteen (15) calendar days following service of the notice, exclusive of the day

of service; and that the request for hearing must state the grounds for appeal. If a hearing is requested, the suspension or revocation shall be stayed pending outcome of the hearing.

(3) Upon receipt of a request for hearing, the county shall set a date, time, and place for the hearing. The hearing shall be conducted pursuant to the procedures in section 11-116 of this article.

*(b) Summary Suspension Of License:*

(1) If the county finds that the public health, safety, or welfare requires immediate action, summary suspension of a license may be ordered.

(2) Written notice of a summary suspension shall be by certified return receipt mail to the licensee's business address. The county shall also take reasonable steps to notify the licensee by telephone prior to the summary suspension.

(3) The written notice shall state the effective date of the summary suspension; the violation requiring emergency action, the facts which support the conclusion that a violation has occurred; a statement that if the licensee desires to appeal, a written request for hearing must be received by the county within ten (10) calendar days following service of the notice, and that the request must state the grounds for appeal.

(4) Upon receipt of a request for hearing, the county shall set a date, time, and place for the hearing. The hearing shall be conducted pursuant to the procedures in section 11-116 of this article.

(5) The summary suspension shall not be stayed pending an appeal. (Ord. 95-157, 6-13-1995; Ord. 97-107, 4-8-1997)

## **Sec. 11-116. Hearings:**

Hearings conducted pursuant to this article shall be conducted as follows:

(1) *Hearing Commission:* The hearing shall be before a hearing commission consisting of the three (3) members of the solid waste committee of the Kane County board.

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

(3) *Procedures:* The prehearing conference and hearing shall be conducted in the following manner:

a. The prehearing conference shall define the issues, schedule the exchange of witness lists and documentary evidence, seek agreement on the authenticity of documents and relevant testimonial evidence, determine whether intended evidence is cumulative and repetitive, and consider all other matters that will assist in a fair and expeditious hearing.

b. Each party shall exchange all relevant information and documentary evidence at least one 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 officer.

- c. The hearing shall be public and shall be recorded by a certified court reporter.
- d. All witnesses shall testify under oath or affirmation.
- e. The hearing is subject to the general rules of evidence with latitude necessary to gain facts or information. Irrelevant, immaterial, or unduly repetitious evidence shall be excluded.
- f. The county shall have the burden of proof through preponderance of evidence.
- g. The county, licensee or applicant, and additional parties as determined by the hearing officer, shall present evidence in that order. Each party shall have the opportunity to cross examine the witnesses of the other party. The hearing commission may examine witnesses.
- 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 preparing and certifying a record of proceedings shall be borne by the applicant or licensee.
- 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. (Ord. 95-157, 6-13-1995; Ord. 97-107, 4-8-1997)

### **Sec. 11-117. Severability:**

- (a) *Provisions:* If any section, subsection, sentence, clause, phrase or portion of this article is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions thereof.
- (b) *Townships:* If a township or township solid waste disposal district within the county has a recycling ordinance in place on the effective date of this article which substantially conforms with or exceeds the requirements of this article including, but not limited to, the required separation and collection of recyclable material, submission of a material separation plan and reporting requirements, the township may continue to enforce its ordinance and such enforcement shall constitute within that township implementation of this article. A township or township solid waste disposal district may at any time adopt and enforce a recycling ordinance that is more stringent than that required by this article.
- (c) *Municipalities:* A municipality which is located in two (2) or more counties, one of which is a home rule county, may, by ordinance, sever itself from county jurisdiction relative to this article if the municipality is a member of a municipal joint action agency formed prior to June 15, 1988, pursuant to section 3.2 of the Intergovernmental cooperation act. (Ord. 95-157, 6-13-1995; Ord. 97-107, 4-8-1997)

## **Sec. 11-118. Provisions Cumulative:**

The provisions in this article are cumulative and are additional limitations upon all other laws and ordinances covering any subject matter in this article. (Ord. 95-157, 6-13-1995; Ord. 97-107, 4-8-1997)