

Chapter 9

**Kankakee County Solid Waste and Recycling Ordinance**

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**Art. IV. Hauler Reporting, Recycling and Additional Licensing Requirements.**

**ARTICLE I. IN GENERAL**

**Sec. 9-1. Definitions.**

The following definitions shall apply in the interpretation and enforcement of this chapter:

*Agricultural wastes* shall mean any refuse, except garbage and dead animals, generated on a farm or ranch by crop and livestock production practices including such items as bags, cartons, dry bedding, structural materials, and crop residues, but excluding landscape wastes.

*Authorized waste disposal site* shall mean a landfill or other site used for the proper disposal of solid waste or wastes as permitted and approved by the State of Illinois Environmental Protection Agency.

*Boarding House shall mean* a residential building, or portion thereof – other than a motel, apartment hotel, or hotel-containing lodging rooms for accommodation of two (2) or more persons who are not members of the keeper's family and where lodging or meals or both are provided by prearrangement and for definite periods, at a definite, prearranged price.

*Board of health* shall mean the Kankakee County Board of Health or its authorized representative(s).

*Building* means any structure designed, built, or occupied as a shelter or roofed enclosure for person, animals or property.

*Code Enforcement Officer* shall, for the purposes of this Ordinance, refer to a county employee authorized to issue citations for violations of this Ordinance.

*County* shall refer to Kankakee County, Illinois, both incorporated and unincorporated areas, for purposes of Article IV.

*Construction and demolition debris* means non-hazardous, uncontaminated materials resulting from the construction, remodeling, repair, and demolition of utilities and structures limited to the following: bricks, concrete (with and without rebar), and other masonry materials, rock, wood, including non-hazardous painted, treated, and coated wood and wood products; wall coverings, plaster, drywall, plumbing fixtures, non-asbestos insulation, roofing shingles and other roof coverings, reclaimed asphalt pavement, glass, plastics that are not sealed in a manner that conceals waste, electrical wiring and components containing no hazardous substances, and piping or metals incidental to any of those materials.

*Curbside Collection* means the pickup of garbage, general household waste and recyclables placed at a curb, alleyway, or roadside adjacent to or at the end of a private driveway leading to a residence or business.

*Domicile wastes* shall mean any refuse generated on single-family domiciliary property as a result of domiciliary activities. The term excludes landscape waste, garbage and trade waste.

*Dwelling* means a building, or portion thereof, exclusive of recreational vehicles, hotels, or motels, containing as its principle use one (1) or more dwelling units.

*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 of one family.

*Effective Date* means the date this ordinance amendment is approved and passed by the Kankakee County Board.

*Garbage* is any refuse products or materials, including, but not limited to, the following: putrescible animal and vegetable wastes resulting from the handling, storage, preparation, cooking, sale or consumption of food; animal excretion, glass or metal containers, products, or objects discarded as no longer useable; paper, wood and cardboard waste; uprooted weeds, grass clippings, leaves and the like; ashes and cinders; discarded furniture or clothing; and dead animals, or any matter that may decompose and become offensive or dangerous to health. The term "garbage" does not include human excretion of the form of body waste. Garbage is a subset of municipal waste.

*Hauler* means any person owning or controlling any vehicle used to carry or transport garbage, refuse, municipal waste, recyclables, landscape waste, or other forms of solid waste.

*Health authority* shall mean the administrator of the Kankakee County Health Department or his duly authorized representative(s).

*Health department* shall mean the Kankakee County Health Department, including its duly authorized representative(s).

*Health department administrator* shall mean the individual selected by the Kankakee County Board of Health to administer and enforce the policies, ordinances, resolutions, or law of said board.

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**\*Editor's note**—The county's solid waste ordinance, enacted on Nov. 10, 1986, did not specifically amend this Code; hence, codification of the substantive provisions thereof as superseding former Arts. I and III of this chapter is at the discretion of the editor. Former Art. I, "In General" consisted of § 9-1, which contained definitions for the chapter and derived from § 4, Rule 12 of an ordinance of March 10, 1964, and former Art. III, "Disposal Vehicles," consisted of §§ 9-41, 9-42 and 9-61—9-66, which derived from § 4, Rules 2, 4, 8, 13 and 14 of the March 10, 1964 ordinance, as amended by ordinances of April 9, 1968 and May 11, 1975.

**Cross references**—Health and sanitation generally, Ch. 9.5; health nuisances enumerated, § 9.5-22.

*Hearing Officer* means a person other than a code enforcement officer or law enforcement officer having the following powers and duties:

- A) To preside at an administrative hearing called to determine whether a code violation exists.
- B) To hear testimony, accept evidence, and make evidentiary rulings from the code enforcement officer, the respondent, and all interested parties relevant to the existence of a code violation.
- C) To preserve and authenticate the record of the hearing and all exhibits and evidence introduced at the hearing.
- D) To issue and sign written findings and a decision and order stating whether a code violation exists.
- E) To impose penalties consistent with applicable code provisions and to assess costs reasonably related to instituting the proceedings upon finding the respondent liable for

the charged violation. In no event, however, shall the hearing officer have the authority to impose a penalty of incarceration.

*Landscape waste* means a vegetable or plant refuse, except garbage and agricultural wastes. The term includes all accumulation of grass or shrubbery cuttings, leaves, tree limbs, trees, tree trimmings, branches, stumps, brush, weeds, and other materials accumulated as the result of the care of lawns, shrubbery, vines and trees. Landscape waste is a subset of municipal waste.

*License* shall mean a written permit issued by the Kankakee County Department permitting the collection, transportation, and disposal of solid waste within Kankakee County, Illinois.

*Multi-Family Dwelling* means a building or property containing two (2) or more dwelling units used for residential occupancy, including apartment houses, fraternities, sororities, dormitories, mobile home parks, town homes, condominiums and similar housing types but not including hotels, motels, hospitals, foster family homes, boarding houses, long-term care facilities or semi-independent group residents.

*Municipal waste* means garbage, general household and commercial waste, industrial waste (lunchroom, office, packaging), institutional waste (schools, hospitals, government offices), landscape waste, and construction or demolition debris.

*Occupant* means person or persons residing in dwellings of one or more units, which have either curbside, alley, or centrally located waste collection service.

*Open Burning* means the combustion of any matter in such a way that the products of the combustion are emitted to the open air without originating in or passing through equipment for which a permit could be issued under Section 9(b) of the Illinois Environmental Protection Act.

*Open Dumping* means the consolidation of refuse from one or more sources at a disposal site that does not fulfill the requirements of a sanitary landfill.

*Ordinance* shall mean the Kankakee County solid waste ordinance.

*Person* is any individual, group of individuals, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, beneficiary trust, estate, political subdivision, state agency, person doing business under an assumed name, or any other legal entity, business entity, or their legal representative, agency, or assigns.

*Planning Department* means the director of the Kankakee County Planning Department or his/her duly authorized representative in the Solid Waste & Environmental Division of the Planning Department.

*Property owner* shall mean the person in whose name legal title to the real estate is recorded.

*Recyclables* means materials separated from garbage, municipal waste, or refuse for the purpose of recycling, including, but not limited to any or all of the following: newspaper, newspaper inserts, junkmail, phone books, aluminum cans, steel and/or bi-metal cans, corrugated cardboard, colored or white paper, magazines, ferrous and non-ferrous metals, flint, amber, and green glass bottles and jars, HDPE (#2) and PETE (# 1) plastic containers of any color, landscape waste, and any other material accepted by the hauler for recycling. Recyclables are considered a subset of municipal waste and a subset of refuse.

*Recycling* means a method, technique, or process designed to remove any contaminants from waste so as to render such waste reusable, or any process by which materials that would otherwise be disposed of or discarded are collected, separated or processed and returned to the economic mainstream in the form of raw materials or products.

*Refuse* means any discarded matter; or any matter which is to be reduced in volume, or otherwise changed in chemical or physical properties, in order to facilitate its discard, removal or disposal. For purposes of this Ordinance refuse means solid waste and includes recyclables.

*Rental Residential Dwelling Unit* means a rental multi-family dwelling.

*Respondent* means a property owner, waste hauler, or other person charged with liability for an alleged code violation and the person to whom the notice of violation is directed.

*Restricted Areas:* The area within the boundaries of any “municipality” as defined in the Illinois Municipal Code, plus a zone extending one mile beyond the boundaries of any such municipality having a population of 1,000 or more according to the latest federal census.

*Scavenging* means the unauthorized collection of municipal waste and recyclable materials that have been set out by residents and businesses of Kankakee County specifically for an authorized collection.

*Shall* means mandatory and not discretionary.

*Single Family Dwelling* means a dwelling which is a detached building containing only one (1) dwelling unit.

*Solid Waste* refers to non-hazardous, non-special waste, 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 material in domestic sewage, or solid or dissolved materials in irrigation return

flows, or coal combustion by-products as defined in Section 3.135, or industrial discharges which are point sources subject to permits under Section 402 of the Federal Water Pollution Control Act, as now or hereafter amended, or source, special nuclear, or by-product materials as defined by the Atomic Energy Act of 1954, 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 or any law or rule or regulation adopted by the State of Illinois pursuant thereto. For purposes of this Ordinance, Solid Waste refers to construction and demolition materials, food and industrial wastes, commercial wastes, garden trash, land-clearing waste, institutional waste, mixed refuse, non-combustible refuse, garbage, municipal waste, trash, debris, rubbish, inoperative, dismantled, unusable, or dilapidated appliances, furniture, equipment, machinery or parts thereof, oil, carcass of a dead animal, and any object likely to injure any person or create a traffic hazard, or anything else of an unsightly or unsanitary nature, which has been discarded, abandoned or otherwise disposed of improperly.

*Trade Waste:* Any refuse resulting from the prosecution of any trade, business, industry, commercial venture, utility or service activity, and any government or institutional activity, whether or not for profit. The term includes landscape waste but excludes agricultural waste.

(Ord. of 11-10-86, § 2)

### **Sec. 9-2. Unlawful dumping; exception.**

(a) No person shall dump, deposit, drop, throw, discard, leave, cause, or permit the dumping, depositing, dropping, throwing, discarding, or leaving of refuse upon any public or private property in Kankakee County, or upon or into any river, lake, pond, or other stream or body of water in Kankakee County unless:

- (1) The property has been designated as an authorized waste disposal site by the State of Illinois Environmental Protection Agency;
- (2) The refuse is placed into a receptacle or other container, prescribed in section 9-7 of this chapter, intended by the owner or tenant in lawful possession of that property for the depositing of refuse;
- (3) The person is acting under the direction of proper public officials during special cleanup days; or
- (4) The person is lawfully acting in or reacting to an emergency situation where health and safety is threatened, and removes and property disposes of such refuse when the emergency situation no longer exists.

(b) No person shall transport refuse from any dwelling, residence, place of business, farm, or other site to deposit such material in, around or on top of refuse containers on any other property, public, or private.

(Ord. of 11-10-86, § 3)

**Sec. 9-3. Accumulation, storage, disposal of refuse.**

(a) No person shall cause or permit refuse to accumulate in any building or on any property, improved or vacant, public or private, within Kankakee County, Illinois. Authorized junkyards or salvage yards shall not cause or permit refuse to accumulate in any building or on any property, improved, or vacant, public or private, within Kankakee County, Illinois, except for items accumulated and stored as part of the junkyard or salvage business. This notwithstanding, authorized junkyards and salvage yards shall not cause or allow any violation of the Illinois Environmental Protection Act and/or associated Title 35 Illinois Administrative Code violations.

(b) The occupant, tenant, owner or his agent of any building or property shall be responsible for placing all refuse in containers, as prescribed in section 9-7 of this chapter and for subsequent removal from such property. No person shall remove the covers from or open refuse containers, except as permitted in this chapter, or to place or disturb such containers such that their contents might be spilled or scattered. Refuse shall be removed from any building or property not less than once every two (2) weeks.

(Ord. of 11-10-86, § 4)

**Sec. 9-4. Open burning.**

(a) *Prohibited:*

(1) No person shall cause or allow open burning in Kankakee County except as provided in section 9-4(b) of this chapter.

(2) No person shall cause to allow the burning of any refuse in any chamber or apparatus, unless such chamber or apparatus is designed for the purpose of disposing of the class or refuse being burned.

(b) Exemptions: The following activities are not in violation of this chapter unless they cause air pollution as defined by the Illinois Environment Protection Act (415 ILCS 5/1 et seq.). Nothing in this chapter shall exempt such activities from applicable local restrictions.

(1) The open burning of agricultural waste, but only:

a. On the premise on which such waste is generated;

- b. In areas other than restricted areas;
- c. When atmospheric conditions will readily dissipate contaminants;
- d. If such burning does not create a visibility hazard on roadways, railroads tracks or air fields;
- e. More than one thousand (1,000) feet from residential or other populated areas, and;
- f. When it can be affirmatively demonstrated that no economically reasonable alternative method of disposal is available.

(2) The open burning of domicile waste, but only:

- a. On the premise on which such waste is generated;
- b. In areas other than restricted areas;
- c. When atmospheric conditions will readily dissipate contaminants; and
- d. If such burning does not create a visibility hazard on roadways, railroad tracks, or air fields.

(3) The open burning of landscape waste, but only:

- a. On the premise on which such waste is generated;
- b. When atmospheric conditions will readily dissipate contaminants;
- c. If such burning does not create a visibility hazard on roadways, railroad tracks, or air fields; and
- d. In those areas of the county which are not in the following prohibited areas:
  - 1. Rural areas one thousand (1,000) feet or less from a municipality in which open burning of landscape waste is prohibited.
- e. Fire location shall be located not less than 50 feet from any neighboring structure with adequate water supply source readily available to put out the fire. Neighboring structure means any and all buildings, whether structured on a foundation or mobile, including but not limited to houses, garages, shed, fences, and pole barns.

- f. Only dry landscape wastes are permitted to be burned on the property on which such waste is generated.
- g. A competent person is required to be present at all times the fire is burning or smoldering.
- h. Fire location shall be located not less than 50 feet from any property line.
- i. Burning is not permitted when the wind is blowing smoke into nearby residential areas.
- j. Burning is not permitted on public roads, alleys, sidewalks, or easements.
- k. Burning is not allowed between the hours of 11 pm and 7 am, seven days per week.

(4) The setting of fires to combat or limit existing fires, when reasonably necessary in the judgment of the responsible government official.

(5) The burning of fuels for legitimate campfire, recreational, and cooking purposes, or in domestic fireplaces, in areas where such burning is consistent with other laws provided that no garbage shall be burned in such cases.

(6) The burning of waste gases, provided that in the case of refineries all such flares shall be equipped with smokeless tips or comparable devices to reduce pollution.

(7) Small open flames for heating tar, for welding, acetylene torches, highway safety flares and the like.

(Ord. of 11-10-86, §§ 4.1,4.2)

#### **Sec. 9-5. Highly flammable, explosive, or hazardous materials.**

No person shall place or cause to be placed in refuse containers highly flammable, explosive, or hazardous materials. All such materials shall be disposed of according to applicable state laws.

(Ord. of 11-10-86, § 4.3)

#### **Sec. 9-6. Vacated premises.**

Any person occupying or controlling any property or building shall cause to be removed therefrom all refuse, before vacating the premises. In the event refuse is not removed from said building or property and the previous occupant or tenant cannot be located, responsibility for removing all refuse shall become the responsibility of the building or property owner.

(Ord. of 11-10-86, § 4.4)

#### **Sec. 9-7. Refuse containers.**

(a) *Required.* Containers as prescribed in paragraph (b), (c) and (d) of this section shall be provided at each building or property where refuse is generated or stored.

(b) *Residential properties or small businesses.* The occupant, tenant, owner or his agent of any house, building, apartment, or tenement where persons reside, board, lodge, or work shall provide and maintain in good repair approved containers for refuse storage and collection. A sufficient number of containers shall be provided to accommodate all refuse generated between regular collection or disposal dates. However, one (1) container of at least twenty (20) gallons capacity shall be provided for any small business or for each two (2) persons residing in any premises. All containers shall be:

(1) Of rigid design;

(2) Corrosion-resistant;

(3) Constructed of metal or plastic; and

(4) Leak proof and fly proof with tight-fitting lids and handles at the sides.

All hand-emptied containers shall have capacity of at least twenty (20) gallons, but shall not exceed a capacity of thirty (30) gallons. Plastic bags shall not be accepted for the storage and collection of refuse except as provided in paragraph (c) of this section.

(c) *Use of plastic bags.* The use of plastic bags for refuse storage and collection shall only be permitted if such bagged and sealed refuse is stored within a relatively flyproof or verminproof location such as a shed, garage, other out-building or within the dwelling. Only bags specially designed for refuse storage, which are leakproof and relatively strong shall be permitted. Bags filled with refuse shall be tied and shall be placed in the out-of-doors only on the date of collection as close to the time of pickup as practical. The use of plastic bags for refuse storage and collection shall only be permitted for a single-family dwelling or duplex apartment.

(d) *Apartments or larger businesses.* The owner or agent of any apartment building or larger businesses where eight (8) or more twenty-gallon refuse containers are provided or needed shall provide containers(s) of one (1) cubic yard capacity or larger. A sufficient amount of total refuse storage capacity shall be provided to accommodate all refuse generated between regular collection dates. Such large containers shall be:

(1) Stable while loaded or empty;

(2) Equipped with lids with hinges, or sliding doors;

(3) Equipped for mechanical dumping;

(4) Durable,

(5) Leakproof and relatively fly and vermin-proof; and

(6) Maintained in good repair.

(e) *Removal of covers; cleaning.* The covers of refuse containers shall be removed or opened only for the purpose of depositing or collecting refuse therein or for the purpose of cleaning such containers. All refuse containers shall be maintained in clean and sanitary conditions. All such containers shall be cleaned as often as necessary to minimize the attraction of vermin or other animals or the creation of unsanitary conditions or offensive odors. Refuse containers may be cleaned by thorough scrubbing with detergent and water, followed by application of a suitable disinfectant. Refuse containers may also be steam- and/or pressure-cleaned with cleaning solutions. Larger, mechanically dumped containers shall be cleaned at a properly designed and operated facility, or if cleaning is done on the premises, the debris and washings generated from the cleaning operations, shall not be discharged onto the ground surface. In all cleaning, solutions, washings, and residues shall be collected and disposed of in a proper manner.

(Ord. of 11-10-86, §§ 6-6.4)

#### **Sec. 9-8. Investigation of nuisances.**

The health authority shall investigate, upon complaint of any person or on its own initiative, any solid waste nuisance in Kankakee County other than Article IV provisions of this Ordinance.

The Planning Department shall investigate, upon complaint of any person or on its own initiative, any solid waste requirement under Article IV (and including the definitions under Article 1 of this Ordinance).

(Ord. of 11-10-86, § 8)

#### **Sec. 9-9. Inspections; right of entry.**

The health authority shall have the authority to enter any property at any reasonable time to inspect for health, sanitation, or safety purposes to determine compliance with the provisions of Articles I and III of this chapter. In the event the health authority, in attempting to enter any premises for the purpose of making an inspection to carry out provisions of this article, shall be refused entry, an affidavit may be made under oath to any judge of the circuit court for a warrant authorizing the health authority named in the affidavit to enter upon, or into such premises for the purpose of determining the existence of the conditions set forth in the affidavit.

The Planning Department shall have the authority to enter any property at any reasonable time to inspect and determine compliance with Article IV of this chapter. In the event the Planning Department, in attempting to enter any premises for the purpose of making an

inspection to carry out the provisions of Article IV of this chapter, shall be refused entry, an affidavit may be made under oath to any judge of the circuit court for a warrant authorizing the Planning Department named in the affidavit to enter upon or into such premises for the purpose of determining the existence of the conditions set forth in the affidavit.

(Ord. Of 11-10-86, § 8)

**Sec. 9-10. Violations.**

- (a) *Penalties.* Any person who violates any provision of Articles I and III of this chapter shall be guilty of a Class B misdemeanor. Each day's violation constitutes a separate offense.
- (b) *Injunctions.* The state's attorney of Kankakee County may bring action for an injunction to restrain such violations or to enjoin the operations of any such establishment causing such violation.

(Ord. of 11-10-86, 11,12; Ord. No. 00009, 1, 7-13-93)

**Sec. 9-11. Conflicts.**

In any case where a provision of Article I or Article III of this chapter is found to be in conflict with a provision of any zoning, building, fire, safety, or health ordinance, or code of Kankakee County existing on January 1, 1987, the provision which, in the judgment of the health authority, established the higher standards for the promotion and protection of the health and safety of the people shall be deemed to prevail, and such other ordinance or codes are hereby declared to be repealed to the extent that they may be found in conflict.

(Ord. Of 11-10-86, § 13).

**Sec. 9-12—9-15. Reserved.**

**ARTICLE II. DISPOSAL AREAS\***

**DIVISION 1. GENERALLY**

**Sec. 9-16. Inspections.**

The zoning enforcement officer shall inspect all sanitary landfills licensed pursuant to the provisions of this article and at least once each week he shall file copy of a report of such inspections with the county clerk.

(Ord. of 8-13-74)

**Sec. 9-17—9-25. Reserved.**

DIVISION 2 LICENSE

**Sec. 9-26. Required.**

No person shall operate any garbage disposal area without a license issued by the county.

(Ord. of 3-10-64, § 4, Rule 1)

**Sec. 9-27. Fee.**

A person desiring the license required by the provisions of this division shall pay annual fee of five hundred dollars (\$500.00) to the county.

(Ord. of 3-10-64, § 4, Rule 14; Ord. of 3-11-75, § 1)

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**\*State law reference**—Authority of county board to license and regulate garbage disposal sites, 55 ILCS 5/5-8002.

**State law reference**—License fee, 55 ILCS 5/5-8003.

**Sec 9-28. Use of unlicensed areas.**

No person shall dump garbage on any premises not licensed for such purposes hereunder.

(Ord. of 3-10-64, § 4, Rule 3)

**Sec. 9-29. License does not authorize violations of law.**

No license issued hereunder shall be construed to permit the violation of state law.

(Ord. of 3-10-64, § 4, Rule 4)

**Sec. 9-30. Land not eligible for license.**

No tract of land, the condition of which, in fact, constitutes a public nuisance shall be licensed as a garbage disposal area nor shall license for same be renewed.

(Ord. of 3-10-64, § 4, Rule 11)

**Sec. 9-31. Expiration.**

Licenses issued pursuant to the provisions of this division shall expire on April thirty of each year.

(Ord. of 3-10-64, § 4, Rule 13).

**Sec. 9-32. Renewal.**

An application for the renewal of a license issued pursuant to the provisions of the division must filed with the county clerk at least fifteen (15) days prior to the expiration of the license sought to be renewed.

(Ord. of 3-10-64, § 4, Rule 13)

**Sec. 9-33—9-40. Reserved.**

**ARTICLE III TRANSPORTION OF REFUSE\***

DIVISION 1. GENERALLY

**Sec. 9-41. Approval of container; exceptions.**

No person shall transport or cause to be transported within Kankakee County, Illinois, any refuse except within a closed or covered container or specially constructed conveyance approved by the health authority. Exceptions to the section may be granted by the health authority such as for transportation of certain types of refuse which will not present a health or safety hazard or create littering of properties and roadways.

(Ord. of 11-10-86, § 5)

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\***Editor's note**—See the editor's footnote at the beginning of this chapter.

**State law reference**—Authority or county board to license and regulate garbage disposal vehicles, 55 ILCS 5/5-8002.

**Sec. 9-42—9-60. Reserved.**

DIVISION 2. REFUSE HAULER'S LICENSE

**Sec. 9-61. Required; application deemed consent to access and inspection.**

- (a) No person, except as provided in section 9-67 of this article, shall conduct a refuse transporting, processing, or disposal business nor conduct a refuse container cleaning business in Kankakee County unless such person possess a valid Kankakee County refuse hauler's license issued by the Health department.

(b) Application for a license is automatic consent to any and all reasonable inspections and access to determine compliance with this article. Failure to allow inspection and access is sufficient cause to suspend or revoke the license.

(Ord. of 11-10-86, § 7)

**Sec. 9-62. Application.**

Application for a Kankakee County refuse hauler's license shall be in writing and in such form as prescribed by the Health department.

The Planning Department and Health Department shall have concurrent authority to review the application for approval or denial with additional forms.

The Kankakee County Health Department shall not issue a hauling license or renew a hauling license until such time as the Planning Department approves applicant's compliance with this Ordinance.

(Ord. of 11-10-86, § 7.2)

**Sec. 9-63. Fee; transferability.**

(a) The fee for a Kankakee County refuse hauler's license shall be based on the number of refuse hauling vehicles operated by the applicant within Kankakee County, or it shall be based upon the number of container-cleaning and/or refuse processing sites operated by the applicant in Kankakee County.

(b) The fee for said license shall be fifty dollars (\$50.00) per year for each vehicle or site. A license shall apply to any vehicle described in the supplication and to any replacement of such vehicle upon approval of the health authority, but a license may not be transferred from one person to another person.

(Ord. of 11-10-86, § 7.3)

**Sec. 9-64. Issuance.**

(a) Upon receipt of the required application the health authority shall make an inspection of each vehicle or facility to ascertain whether the applicable performance standard of section 9-66 of this division are being met. Each vehicle or facility shall be inspected at a mutually agreed upon time and location.

(b) If the health authority, after such inspection of equipment and investigation, is satisfied that the applicant has the qualifications, or knowledge and equipment to perform the services in a manner not detrimental to public health, and upon payment of the required fee, and upon approval by the Planning Department that the applicant meets the requirements of this Ordinance, a license shall be issued to the applicant.

For operations existing on November 10, 1986, the starting date and expiration date will remain as they currently exist. For operations which come into business after November 10, 1986, that starting date and expiration of its license will commence from the month of the issuance of the initial license. The same license number shall be reissued yearly, unless revoked by the health department administrator.

(Ord. of 11-10-86, § 7.5)

#### **Sec 9-65. Suspension or revocation.**

Whenever a license holder has failed to comply with any part of Article I or Article III of this chapter, the Health department may give a written notice to request compliance within a specified time. Upon failure by the license holder to comply with such notice in the time prescribed, the license may be suspended or revoked after an opportunity for a hearing has been provided by the health department administrator. Prior to such action, the health department administrator shall notify the operator in writing, stating the reasons for which the Kankakee County refuse hauler's license is subject to suspension or revocation, and advising that said license shall be suspended or revoked at the end of five (5) days following service of such notice, unless a request for a hearing is filed with the health department administrator, by the license holder, within such five-day period. A Kankakee County refuse hauler's license may be suspended for a cause pending its revocation or a hearing relative thereto.

(Ord. of 11-10-86, § 10)

#### **Sec. 9-66. Performance standards.**

The following standards for applicable vehicles, facilities, or equipment shall be met on an ongoing basis by holders of or applicants for Kankakee County refuse hauler's license:

- (1) Each refuse hauling vehicle shall be in good mechanical condition
- (2) Each refuse hauling vehicle shall be maintained in a safe, clean, and sanitary, condition, and shall be constructed, maintained, and operated to prevent spillage of solid waste and/or liquid waste. Each refuse hauling vehicle shall be constructed with a watertight body and cover which shall be a integral part of the vehicle, or under conditions approved by the health authority, there shall be a separate cover of suitable material with fasteners designed to secure all sides of the cover to the vehicle. Such cover shall be secured in place whenever the vehicle is transporting refuse. For refuse haulers with a regular collection route, only an enclosed packer-type vehicle with exposed loading hopper shall be permitted. No refuse shall be transported in the loading hopper.
- (3) Overnight parking of a loaded refuse hauling vehicle on public or private property is prohibited.

- (4) A shovel and broom shall be kept on each refuse hauling vehicle for the purpose of cleaning up spillage.
- (5) Each refuse hauling vehicle and refuse container transported to any location of use shall be property identified with the operator's business name and of adequate letter size so as to be distinguishable at a reasonable distance. Letters should not be in any case less than four (4) inches high
- (6) Current lists of customers shall be supplied to the health authority upon request.
- (7) Licensed refuse haulers must comply with all applicable ordinances and laws of Kankakee County and the State of Illinois regarding the operation of their business.
- (8) The license or a photostatic copy of the Kankakee County refuse hauler's license must be kept on each vehicle.
- (9) Proof of ownership or of lease of a vehicle or vehicles shall be provided at the time of application.
- (10) When a complaint is received regarding noise created by the operation of refuse collection vehicles and /or crews, the health department administrator may, upon review of the complaint, set the hours of collection so that the noise does not unduly disturb the neighborhood.
- (11) Licensed refuse haulers shall be responsive to legitimate request from the health department for inquiry or action of such refuse haulers regarding collection, payment by customers, etc.

(Ord. of 11-10-86, § 7.4)

**Sec. 9-67. Exception to license requirement.**

A Kankakee County refuse hauler's license shall not be required of a property owner or tenant who may personally remove refuse generated on such single-family property. However, such exception does not relieve the property owner or tenant from complying with the other requirements of Articles I and III of this chapter. Nor shall license be required of a public (municipal entity) refuse hauling business operating in Kankakee County.

**ARTICLE IV. HAULER REPORTING, RECYCLING AND ADDITIONAL LICENSING REQUIREMENTS**

**SECTION 9-68. AUTHORITY, PURPOSE, AND EXEMPTIONS**

(a) Authority. This Article is adopted pursuant to provisions in the Illinois County Code (55 ILCS 5/5-8001 et seq.) and the Solid Waste Planning and Recycling Act (415 ILCS 15/1 et seq.).

(b) Purpose. The purpose of this Article is to establish additional rules, regulations and standards for the licensing of solid waste haulers, to increase the availability of recycling in Kankakee County, Illinois, and to collect necessary data with respect to solid waste generation and disposition to track progress towards the County's recycling goals mandated by the Solid Waste Planning and Recycling Act (415 ILCS 15/1 et seq.)

(c) Exemptions. The following entities are exempt from Article IV, Sections 9-72, 9-73, 9-74, and 9-75 of this ordinance as designated below:

1) Local governmental entities (public entities) collecting and hauling debris from storm clean-up operations or illegal dumping activities;

2) Persons hauling municipal waste or other refuse from their own residence for proper disposal, recycling or processing;

3) Businesses, industry, institutions, etc. that generate waste but do not haul it to disposal, transfer, or recycling facilities;

4) Construction and demolition debris haulers, landscape waste haulers, and businesses and industries that haul waste are exempt from 9-72, 9-73, and 9-74 but must comply with 9-75 (reporting).

5) Municipal entity haulers (public haulers) collecting and hauling waste from residents and/or businesses and institutions located within the municipality are exempt from 9-72, 9-73 (except for 9-73(1)(A) and 9-73(2)(A)(i)(ii)(iii) and 9-73(4)), and 9-74 but must comply with 9-75 (reporting). Municipal entity haulers (public haulers) must provide recycling services to every municipal residential customer to whom municipal entity hauler provides municipal waste collection service even though they are not required to be licensed.

(d) Failure to Comply.

Failure to comply with the requirements of any section of Article IV is cause for suspension, revocation, or summary suspension of Planning Department Authorization and Health Department license, pursuant to Section 9-83 of this Article.

#### Section 9-69. RECYCLING, RESPONSIBILITIES, PROHIBITIONS

(a) Each household in a residential dwelling unit, each business, each industry and each institution in Kankakee County is encouraged to use regularly scheduled recycling collection services to be provided by a hauler licensed to do business in the County of Kankakee.

(b) Each household, business, industry, and institution in Kankakee County is encouraged to separate from their solid waste stream, an unlimited amount of recyclable materials as listed under the definition of "Recyclables" in Section 9-1.

#### Section 9-70. RESPONSIBILITY FOR REFUSE AND RECYCLABLES

(a) Responsibility for refuse and recyclable materials 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 contaminants. If recyclables are refused by the hauler for this reason, hauler shall place a sticker indicating the reason for rejection on the specific contaminated recycling container at hand. Once the occupant corrects the contaminated recyclables condition, hauler shall remove recyclables from premises.

(c) It shall be unlawful for a licensed hauler to dispose of collected recyclable materials in a landfill or other final disposal facility (incinerator, transfer station, etc.). Recyclable materials which are collected and removed by a licensed hauler shall be delivered to the appropriate resource recovery facility or recycling center as identified in the hauler application submitted to the Planning Department.

#### Section 9-71. PROHIBITIONS

(a) It shall be unlawful for any person not approved by the Planning Department under Section 9-72 of this Ordinance to take, collect, or scavenge any recyclable material set out for licensed collection programs within the County.

#### Section 9-72. PLANNING DEPARTMENT APPLICATION AND AUTHORIZATION

(a) Planning Department Authorization Required.

No person shall engage in the business of collecting or hauling garbage, municipal waste, recyclables, landscape waste, brush or other refuse from any location within the County, including municipalities, without first procuring a written authorization to do so from the Kankakee County Planning Department.

(b) Application.

Application for a Kankakee County Planning Authorization shall be in such form as prescribed by the Planning Department.

(c) Unless earlier suspended or revoked, such Authorization shall be a prerequisite to and shall be included as part of the license issued by the Kankakee County Health Department and shall be valid for a 24-month period, starting date and expiration date of said approval to be specified on Authorization letter.

#### Section 9-73. CONDITION OF LICENSURE

##### **Condition of licensure.**

As a condition of licensure by the Kankakee County Health Department, all applicants shall meet the following requirements of the Planning Department:

##### (1) Municipal Residential Services

##### (A) Recycling Service.

Licensee shall provide municipal waste recycling service to every County residential customer to whom licensee provides municipal waste collection service through a municipal contract, at a single combined price. Each duly licensed hauler serving a municipality shall be selected by each jurisdictional municipality.

##### (2) Thresholds for Recycling Service.

(A) Each duly licensed hauler shall accomplish the requirement of Section 9-73 (1)(A) above through the following methods:

(i) Through a curbside recycling method if the latest official U.S. Census Bureau - documented municipal population is greater than 2000.

(ii) Through either a curbside recycling method or a conveniently located recycling drop-off center if the latest official U.S. Census Bureau -documented municipal population is greater than 500.

(iii) Nothing in this Ordinance shall prohibit haulers or municipalities with an official U.S. Census Bureau –documented municipal population of less than 500 from contracting for waste and recycling services, either curbside or drop-off, upon resolution/contract to do so.

(3) Owners or managing agents of rental residential dwelling units and non-rental multi-family dwelling units, located within the boundaries of a municipality in the County of Kankakee having a U.S. Census – documented population of greater than 2000 shall furnish regularly scheduled garbage and recycling services to their tenants at a single, combined cost if such service is not provided for in a municipal contract.

Recycling collection services at rental residential dwelling units and non-rental multi-family dwelling units shall at a minimum, include recycling of the materials as listed under the definition of “recyclables” in Section 9-1.

(4) Materials To Be Collected in Incorporated Areas

Materials to be collected for recycling (at a minimum) include those listed under the definition of “recyclables” in Section 9-1.

(5) Unincorporated Residential Services

(A) Recycling Services

Owners or Managing agents shall provide recycling services to every unincorporated rental residential dwelling unit and non-rental multi-family dwelling units, including but not limited to mobile home parks, apartments, condominiums, in unincorporated areas of Kankakee County at a single combined price. Each duly licensed hauler serving a rental residential dwelling unit or multi-family unit shall be selected by the owner and/or manager of each rental residential dwelling unit and non-rental multi-family dwelling unit property.

Any duly licensed hauler may provide recycling services to residents and owners of single-family residential dwelling units, upon request, in unincorporated areas of Kankakee County.

(B) Nothing in this Ordinance shall preclude the County of Kankakee or a Township located within the County of Kankakee from awarding a franchise agreement to a County-licensed hauler for exclusive residential waste and recycling services to specific unincorporated areas under the County of Kankakee’s or the Township’s jurisdiction.

(C) Materials To Be Collected in Unincorporated Areas

Materials to be collected for recycling (at a minimum) include those listed under the definition of “recyclables” in Section 9-1.

Section 9-74. RECYCLING PLAN.

(a) Each applicant for a license shall submit a recycling plan or plans to be offered to their municipal residential customers to the Planning Department for approval. The Planning Department, through the Solid Waste and Environmental Division of the County shall supply the form to be used for submission of these plans. The recycling plan or plans shall include, but not be limited to, the following information:

1) The means and methods to be employed for the collection, processing, and marketing of material collected from residential customers served. Each municipality served shall be listed individually and each individual contract with each municipality served shall be

submitted with the plan. A copy of any new, amended, or renewed contract with any municipality shall be submitted to the Planning Department upon execution of said contract by both parties.

2) Identification of specific recycling services to be employed (i.e., curbside bins or bags, recycling drop-off containers, distinctly marked dumpsters used for recycling, etc.)

3) The plan shall include the means and methods used to notify customers regarding the availability of recycling services as well as information on how to comply with the hauler's requirements. This information for the public shall be in the form of a brochure or flyer and shall include a listing of all recyclable material to be accepted and shall also include, at a minimum, all the materials listed under the definition of "recyclables" under Section 9-1 of this Ordinance. If the recycling processing center to be utilized by the licensed hauler accepts single-stream recyclable materials, customer notification shall state that the customer does not have to separate recyclables.

4) All customers/households served shall receive a copy of said notification upon approval of the notification by the Planning Department.

5) Expected number of households to be serviced with garbage/recycling pick up during the license period by each method as referenced in Section 9-74 (a)(1) and (2) above.

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

7) The license plate number of all vehicles (both waste & recycling hauling vehicles) proposed to be used while conducting operations within Kankakee County borders.

8) Names and address of all facilities to which the waste and recyclables from each municipality or unincorporated Township area are anticipated to be hauled.

### **Section 9-75. REPORTING**

**(a)** For purposes of tracking the implementation progress of the Solid Waste Management Plan, and in compliance with the mandates of 415 ILCS 15/4 as amended from time to time, all haulers of waste and/or recyclables shall submit annual reports to the Solid Waste Division of the Kankakee County Planning Department documenting the tonnages of municipal waste and recyclables collected from the following sectors in both the incorporated and unincorporated areas of Kankakee County:

**(1) Residential Sector** – including all single family, two-family, multi-family dwellings, rental residential dwelling units, mobile homes, apartment buildings, fraternity and sorority residences, rural residences, summer cottages, recreational cabins, and group homes.

**(2) Commercial Sector** – including all commercial businesses served. For purposes of this Reporting Ordinance, this includes hotels, motels, camps and campgrounds, cemeteries, child care centers, clinics, physician offices, hospitals, club houses, stores, recreational facilities, industrial park tenants, banks, financial institutions, auto salvage or wrecking yards, junk yards, kennels, airports, train stations, marinas, convalescent and nursing homes, agribusiness facilities, veterinarian facilities, nurseries, greenhouses, warehouses, laboratories, restaurants, sanitariums, scrap yards, and all other occupations, employment, or enterprises which occupy time, attention, labor and materials; or where merchandise is exchanged or sold, or where services are offered.

**(3) Institutional Sector** – including all pre-school, kindergarten, elementary, junior high, high school, college, junior college, and university public and private educational institutions and associated buildings (exempting fraternity or sorority residences), churches, chapels, temples, synagogues, municipal, township, county, state, and federal agencies and offices.

**(4) Industrial Sector** – including all manufacturing enterprises/businesses and all facilities zoned with an industrial designation.

**(5) Construction and Demolition debris Sector** – including all construction and demolition debris materials as defined under Section 9-1.

#### Section 9-76. ANNUAL REPORT REQUIRED CONTENTS AND DUE DATES

**(a)** Annual reports are due March 31 for the previous calendar year

(January 1 – December 31) and must include the following information:

(1) Total tonnages of municipal waste collected within Kankakee County borders by the sectors listed under Section 9-75. This data is to be reported in tonnage, not volume (cubic yards). Only where a scale is not available at the receiving storage, treatment, transfer or disposal facility, shall data be reported in cubic yards.

(2) Total tonnages of recyclable materials collected within Kankakee County by the sectors listed above. This data is to be reported in tonnage, not volume (cubic yards). Only where a scale is not available at the receiving storage, treatment, transfer or disposal facility, shall data be reported in cubic yards.

(3) In the case of transfer stations located within the boundaries of Kankakee County that do not have weighing capability, records must be kept and submitted of both cubic yards received and tonnage (based on all tonnage receipts received from the landfills, transfer stations, and/or recycling facilities to which the waste is ultimately transferred.)

(4) Identification (names/addresses/phone numbers of all recycling centers and waste transfer or disposal facilities utilized during the year to manage the reported tonnages of waste and recyclables.

(5) In case of doubt regarding which sector a particular waste and/or recycling customer belongs to, the Solid Waste & Environmental Division of the Kankakee County Planning Division shall be consulted.

(6) Annual reports from each licensed hauler must include documentation in the form of receipts from the receiving facility for each load of waste and recyclables delivered there.

(b) Reported data will be treated as proprietary and confidential business information, if so requested and stated by the hauler, and will not be released to the public except in aggregate form.

#### Section 9-77. PLANNING DEPARTMENT AUTHORIZATION PROCEDURE

##### (a) Initial Application.

1) Within sixty (60) days from the effective date of this amended Ordinance, each hauler engaged in waste or recycling hauling operations within Kankakee County prior to the effective date of this amended Ordinance, shall complete and return an application for Authorization in accordance with Section 9-72 above, on forms to be provided by the Solid Waste and Environmental Division.

2) Each hauler who first engages in hauling operations after the effective date of this amended Ordinance shall complete and return an application for Authorization as provided by the Solid Waste and Environmental Division within sixty (60) days of commencement of hauling operations.

3) Each hauler who has submitted an application for Authorization shall comply with the provisions of this amended Ordinance until the Solid Waste & Environmental Division has issued a written Authorization or a conditional written Authorization as provided under Section 9-77 (c) below.

(b) Authorization Renewal. All haulers authorized under Article IV of this Ordinance must complete and return to the Solid Waste and Environmental Division, an authorization renewal form within thirty (30) days prior to the expiration of the hauler's current authorization. The Solid Waste and Environmental Division will provide these renewal forms to all authorized haulers at least sixty (60) days prior to the expiration of the hauler's current authorization. However, the responsibility of timely renewal is that of the hauler only.

(c) Conditional Authorization. The Solid Waste and Environmental Division may grant a conditional Authorization where an application is incomplete. The conditional Authorization shall specify the conditions upon which a permanent Authorization will be granted and the time requirement within which the conditions must be satisfied. Failure to satisfy the specified conditions within the time frame required shall result in a revocation of conditional Authorization and denial of the permanent Authorization.

(d) Accuracy of Information. All information required by this Article should be complete, accurate, truthful and submitted in a timely manner.

(e) Recycling Service Change. Each hauler shall notify the Solid Waste & Environmental Division of any change to the information submitted in the application thirty (30) days prior to the effective date of the change.

(f) Transfer of Ownership. No Authorization is transferable; any attempted transfer of an Authorization shall immediately void such Authorization. Notice of change in ownership shall be filed in the Solid Waste and Environmental Division a minimum of thirty (30) days prior to effective date of the change. At that time, the new owners shall apply for Authorization under the same terms and conditions set forth in Section 9-77.

#### **Section 9-78. AUTHORIZATION ACTION**

(a) **License Action.** Within thirty (30) days of receipt of a complete Authorization application or Authorization renewal application, the Solid Waste and Environmental Division shall either issue a new or renewed Authorization, issue a conditional Authorization, or deny such application. If a submitted application is not complete, the Solid Waste and Environmental Division shall request the necessary modifications or clarifications of the applicant within thirty (30) days from the receipt of the incomplete application.

(b) Notification. The Solid Waste and Environmental Division shall notify the Applicant in writing of its decision on an Authorization application. If issued, the Authorization shall be mailed by certified 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.

(c) Authorization 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 Solid Waste & Environmental Division within fifteen (15) calendar days following receipt of the County's decision by the applicant.

(d) 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 9-84 of this Ordinance.

#### **Section 9-79. AUTHORIZATION FEE.**

(a) There shall be no fee required for each two-year hauler Authorization.

#### **Section 9-80. VEHICLE REGISTRATION.**

(a) The County reserves the right to issue each Authorization holder a vehicle registration decal on a two-year basis to be placed conspicuously on the outside of the vehicle identifying the hauler.

#### Section 9-81. COMPLIANCE WITH OTHER LAWS.

(a) Issuance of a waste hauling Authorization by the Kankakee County Planning Department shall not be deemed to exclude the necessity of obtaining other licenses, permits or approvals as required by applicable law or regulations. The hauler shall at all times operate in compliance with all applicable local, state, and federal laws, rules or regulations.

#### Section 9-82. VIOLATIONS AND PENALTIES

##### (a) Civil Penalties.

(1) Any hauler who violates any provision of this Article shall be subject to a fine of one hundred dollars (\$100.00) for the first violation; two hundred fifty dollars (\$250.00) for the second violation; and five hundred dollars (\$500.00) for each additional violation. Each day any violation of this ordinance continues, following the third violation, shall constitute a separate offense and a \$500.00 fine per day. The time period under which these violations accumulate shall be continuous and shall not accumulate under the time period of the license only.

Notwithstanding these provisions, any flagrant violation of this Article may result in suspension or revocation of Authorization proceedings pursuant to Section 9-83.

(2) Any person who scavenges municipal waste and recyclables that have been set out by residents or businesses, institutions, or agencies within Kankakee County for an authorized collection under this Ordinance shall be subject to a fine of up to \$ 500. Each day any violation of this Ordinance continues shall constitute a separate offense.

##### (b) Injunctive Relief.

(1) 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.

#### Section 9-83. ADMINISTRATIVE PROCEDURES

(a) Warning Notice; Complaint. The Authorization of any hauler who fails to abide by the provisions of this Article may be suspended or revoked as herein provided.

(1) Within 14 days of becoming aware of an alleged violation of this Article, the Solid Waste & Environmental Division of Kankakee County shall issue and serve, by certified mail or personally, upon the person complained against, sent to the address of the

respondent, a written warning notice informing that person that the County has evidence of the alleged violation. At a minimum, the written notice shall contain:

(2) An explanation by the County of the violation(s) alleged, including the type and nature of the violation; the date and time the violation was observed; the names of witnesses to the violation, if applicable, and the address of the location or property where the violation is observed.

(3) An explanation by the County of the actions the County believes may resolve the alleged violation(s), including a 30-day time period from the date of receipt by the respondent of the written notice to resolve such alleged violation(s).

(b) If the name or address of the respondent cannot be ascertained or if service on the respondent cannot be made by mail, service may be made on the respondent by posting a copy of the violation notice and report form in a prominent place on the property where the violation is found and photographing said posting.

(c) If the person complained against fails to comply with the required resolution after the 30-day time period, nothing shall preclude the County from proceeding with the provisions of Section 9-84 of Article IV of this Ordinance.

**(d) Nothing** in this Ordinance shall preclude the County and the apparent violator from meeting to discuss the alleged violation(s) during the 30-day time period for compliance, when requested by alleged violator(s).

#### Section 9-84. SUSPENSION; REVOCATION OF AUTHORIZATION

(a) Suspension; Revocation.

Written notice of a suspension or revocation shall be served personally or by certified return receipt 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:

(1) the effective date of the suspension or revocation,

(2) the facts which support the conclusion that a violation or violations have occurred,

(3) a statement that if the licensee desires to appeal, a written request for a hearing must be received by the Planning Department, Solid Waste & Environmental Division within fifteen (15) calendar days following receipt of the notice, and 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.

(4) The hearing shall be conducted pursuant to the procedures in Section 9-85 of Article IV of this Ordinance.

(b) Upon receipt of a request for hearing, the Planning Department, Solid Waste & Environmental Division shall set a date, time and place for the hearing. The hearing shall be conducted pursuant to the procedures in Section 9-85 of this Ordinance. A copy of such notice of date, time, and place for the hearing shall be mailed, certified receipt requested, to the alleged violator. Notice shall also be posted in a publicly conspicuous place within the County Administration Building. Said notice shall state that failure to appear at the hearing on the date and time indicated may result in a determination of liability for the cited apparent violation(s), and the imposition of fines and assessment of costs as provided by this Article. The notice shall also state that upon a determination of liability and the exhaustion of or failure to exhaust procedures for judicial review, any unpaid fines or costs imposed will constitute a debt due and owed the County.

(c) Summary Suspension of Authorization

(1) If the Planning Department, Solid Waste & Environmental Division determines that the public health, safety, or welfare requires immediate action, summary suspension of Authorization may be ordered.

(2) Written notice of a summary suspension shall be by personal service upon the hauler or sent by certified return receipt mail to the hauler's business address or home address. The Planning Department, Solid Waste & Environmental Division shall also take reasonable steps to notify the hauler by telephone prior to the summary suspension.

(3) The written notice shall state the effective date of the summary suspension; any violation(s) which has occurred; and a statement that if the hauler desires to appeal, a written request for hearing must be received by the Solid Waste and Environmental Division within fifteen (15) calendar days following receipt of the notice. The request for hearing must state the grounds for appeal.

(4) Upon receipt of a request for hearing, the Solid Waste and Environmental Division shall set a date, time, and place for the hearing. The hearing shall be conducted pursuant to the procedures in Section 9-85 of this Ordinance.

(5) The summary suspension shall not be stayed pending an appeal.

#### Section 9-85. HEARING

(a) Hearings required pursuant to this Article shall be conducted as follows:

(1) Appointment of Hearing Officer

The hearing shall be before an impartial hearing officer to be appointed by the County Board Chairman with the approval of the County Board.

(2) Procedures.

The hearing shall comply with 55 ILCS 5/5-41010, but the County is not precluded from using other methods to enforce the provisions of its codes.

(3) Subpoenas; Default

A) At any time prior to the hearing date, at the request of the Planning Department Code Enforcement officer, the attorney for the county, the respondent, or the attorney for the respondent, the hearing officer assigned to hear the case may issue subpoenas directing witnesses to appear and give testimony at the hearing.

B) If the respondent or the respondent's attorney fails to appear on the date set for the hearing, the hearing officer may find the respondent in default and shall proceed with the hearing and accept evidence relating to the existence of a code violation.

(4) Representation at Hearings. The case for the county may be presented by the Planning Department Code Enforcement officer or by the State's Attorney. In no event, however, may the case for the county be presented by an employee or relative of the code-hearing unit. The case for the respondent may be presented by the respondent or the respondent's attorney. If the respondent is a corporation, it may appear through any officer, director, manager or supervisor of the corporation.

(5) Evidence at Hearings. The hearing officer shall preside at the hearing, shall hear testimony and shall accept any evidence relevant to the existence or non-existence of a code violation. The Planning Department's code enforcement officer's signed violation notice and report form shall be prima facie evidence of a code violation described in the form. The strict rules of evidence applicable to judicial proceedings do not apply to these code enforcement violation hearings. 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 by the hearing officer.

(6) Public Hearing. The hearing shall be public and shall be recorded by a certified court reporter. The cost of preparing a record shall be borne by the applicant or licensee.

(7) Witnesses. All witnesses shall testify under oath and affirmation.

(8) Presentation Order. The Solid Waste & Environmental Division, hauler 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.

(9) Findings, Decision, and Order. At the conclusion of the hearing, the Hearing Officer shall make a determination on the basis of the evidence presented at the hearing as to whether a code violation exists. The determination shall be in writing and shall be designated as the hearing officer's findings, decision, and order. The findings, decision,

and order shall also include the hearing officer's findings of fact, a determination of whether a code violation exists based on the findings of fact, and an order imposing a fine or other penalty, directing the respondent to correct the violation, or dismissing the case if the violation is not proved. If the hearing officer determines that the respondent is liable for the cited violation, the hearing officer shall enter an order imposing sanctions that are provided for in the code for the violations proved, including the imposition of fines and the recovery costs of the proceedings. The order must also direct the respondent to correct the violation(s) within a specified time period. Costs may be recovered in the same manner as fines and penalties. A copy of the findings, decision, and order shall be served by personal service or by any method provided for service of the violation notice and report form under Section 5-41020 of the Illinois Counties Code. The payment of any penalty or fine or costs of the proceedings and the disposition of that money shall be in the manner provided in the Illinois Counties Code unless the County Board provides otherwise when establishing the code-hearing unit.

(10) Administrative Review. The findings, decision, and order of the Hearing Officer shall be subject to review in the circuit court of the county. The Administrative Review Law and the rules adopted pursuant thereto shall apply to and govern every action for the judicial review of the final findings and order of the Hearing Officer. The appeal of a decision by the Hearing Officer shall be made to the Circuit Court within 30 calendar days of the Hearing Officer decision.

(11) Collection of unpaid fines or other sanctions.

A) Any fine or other sanction or costs imposed, or any part of any fine or other sanction or costs imposed, remaining unpaid after the exhaustion of or failure to exhaust procedures for judicial review under the Administrative Review Law is a debt due and owed to the county and, as such, may be collected in accordance with applicable law.

B) After expiration of the period within which judicial review under the Administrative Review Law may be sought for a final determination of the code violation, the county may commence a proceeding in the circuit court of the county for purposes of obtaining a judgment on the hearing officer's findings, decision, and order. Nothing in the Section prevents a county from consolidating multiple findings, decisions, and orders against a person or property in such a proceeding.

C) Upon commencement of the action, the county shall file a certified copy of the findings, decision, and order, which shall be accompanied by a certification that recites facts sufficient to show that the findings, decision, and order were issued in accordance with Division 5-41 of the Illinois Counties Code and the applicable county ordinance. Service of the summons and a copy of the petition may be by any method provided by Section 2-203 of the Code of Civil Procedures or by certified mail, return receipt requested, provided that that total amount of fines or other sanctions and costs imposed by the findings, decision, and order does not exceed \$ 5,000.

D) If the court is satisfied that the findings, decision, and order were entered within the requirements of this Division 5-41 of the Illinois Counties Code, and the applicable county ordinance and that the respondent had an opportunity for a hearing under this Division 5-41 of the Illinois Counties Code and for judicial review as provided in Section 5-41045:

(1) The court shall render judgment in favor of the county and against the respondent for the amount indicated in the findings, decision, and order plus court costs. The judgment has the same effect and may be enforced in the same manner as other judgments for the recovery of money.

(2) The court may issue other orders or injunctions, or both, requested by the county to enforce the order of the hearing officer or to correct a code violation.

#### Section 9-86 SEVERABILITY

(a) 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 of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not effect the validity of the remaining portions thereof.

#### Section 9-87 PROVISIONS CUMULATIVE

(a) 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 9-88 TOWNSHIPS

(a) If a Township within the County has a recycling ordinance in place on the effective date of this amended Ordinance which substantially conforms with or exceeds this amended Ordinance, the township may continue enforcing its ordinance and such enforcement shall be considered as meeting the requirement of this Ordinance except the County licensing and authorization requirements which will continue in full force and effect. If a Township does not have a recycling ordinance in place on the effective date of this amended Ordinance or if such ordinance does not conform to this amended Ordinance in all respects, this amended Ordinance shall take precedence and be in effect in such Township on the effective date of this amended Ordinance.

A Township may choose, at any time to enact and enforce a recycling ordinance that is more stringent in all respects than this amended Ordinance.

#### Section 9-89 PARTICULAR APPLICATION

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

**Section 9-90 EFFECTIVE DATE**

- (a) This Ordinance, shall be in full force and effect as of the date of County Board approval and passage.

**Section 9-91. AMENDMENTS**

- (a) This Ordinance may be amended from time to time by amendatory ordinances.