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MARSHALL COUNTY

RESIDENTIAL RECYCLING ORDINANCE

As Amended November 12, 1998

As Amended March 14, 2013

As Amended November 2013

WHEREAS, the Illinois Solid Waste Planning and Recycling Act, 415 ILCS 15/1, et. seq., requires that each adopted County Solid Waste Management Plan shall include a recycling program designed to recycle 15 percent of its municipal waste within three years and 25 percent of its municipal waste within five years of plan adoption; and

WHEREAS, the County of Marshall, Illinois, adopted in June of 1995 the 4-County Solid Waste Management Plan which includes a substantial reliance on recycling as a solid waste management strategy, and set the 4-county recycling goals to 15 percent by June of 1998 and 25 percent by June of 2000; and

WHEREAS, pursuant to the authority granted within the Illinois Compiled Statutes, 415 ILCS 15/6 (5), Marshall County may require residents of the County to separate recyclable materials at the time of disposal or trash pickup; and

WHEREAS, as further provided in Illinois Compiled Statutes, 55 ILCS 5/5-8002, Marshall/ County may license private disposal contractors to provide recycling collection services throughout the County; and

WHEREAS, the County of Marshall desires to implement the recycling program contained within the 4-County Solid Waste Management Plan through the enactment of this ordinance; and

WHEREAS, the Marshall County Board finds that recycling is vital to the conservation of natural resources and will significantly decrease the volume of refuse which must ultimately be disposed of in landfills, incinerators or other facilities;

NOW, THEREFORE, BE IT ORDAINED by the Marshall County Board that:

SECTION 1.00 DEFINITIONS

1.01 "Commercial Establishment" means any place where 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.

1.02 "County" means Marshall County government and any duly authorized representatives or divisions.

1.03 "Dwelling Unit" means a residential accommodation including complete kitchen facilities permanently installed which are arranged, designed, used or intended for use exclusively as living quarters for one family.

1.04 "Garbage" means any refuse products or materials including but not limited to the following: putrescible animal and vegetable wastes resulting from the handling, preparation, plastic containers, products or objects discarded as no longer usable; paper, wood, and cardboard waste; and discarded furniture or clothing.

1.05 "Hauler" means any person or company 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.

1.06 "Multi-Family Dwelling" means a building containing three (3) or more dwelling units used for residential occupancy, including apartment houses, non-transient apartment hotels, rooming houses, boarding houses, fraternities, sororities, hotels, motels, hospitals, foster family homes, long-term care facilities or semi-independent group residents.

1.07 "Municipal Waste" means garbage, general household, institutional and commercial waste, industrial lunchroom or office waste, and construction and demolition debris.

1.08 "Recyclable Materials" means 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, No. 1 and No. 2 plastic bottles and glass containers.

1.09 "Refuse" means garbage or municipal waste.

1.10 "Scavenging" means the unauthorized collection of municipal waste and recyclable materials that have been set out by residents of the county specifically for an authorized collection.

1.10 "Solid Waste Management Plan" means the officially adopted County plan pursuant to the Illinois Solid Waste Planning and Recycling Act for the management of municipal waste generated within its boundaries.

SECTION 2.00 SEPARATION AND COLLECTION OF RECYCLABLE MATERIALS FROM RESIDENTIAL DWELLING UNITS

2.01 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, and store these recyclables separately in appropriate containers.

2.02 Collection of Recyclables

- A) Collection of recyclables from all dwelling units shall be by a Hauler duly licensed by the County under this Ordinance, selected by the occupant of the premises or by a manager of such premises, or by an association governing such premises, or by franchise or contract awarded by a municipality or township.

- B) As an alternative to Section 2.02 (A), occupants of residential dwelling units may take recyclable materials to an established recycling center.

2.03 Unlawful Collection

A) 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.

2.04 Ownership of

A) Until the 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 of recyclable material set out for collection shall remain with the occupant who set out the material until removal by a licensed Hauler. Upon removal by the licensed Hauler, ownership and responsibility for the proper handling of the recyclable materials transfers to the Hauler.

B) Nothing in this Ordinance shall abridge the right of any recycling or composting program lawfully operated for profit, non-profit or charitable purposes from selling recyclables and yard waste.

SECTION 3.00 ROLE OF COMMUNITIES & TOWNSHIPS

3.01 Communities With Populations of 1000 or More

Communities with populations of 1000 or more, in order to implement the recommendations of the Solid Waste Management Plan, are encouraged to implement solid waste management programs which include a quantity-based fee structure which includes a 1-can limit and weekly curbside recycling pickup.

3.02 Communities With Populations of 500-1000

Communities with populations of 500-1000, in order to implement the recommendations of the Solid Waste Management Plan, are encouraged to implement solid waste management programs which include a quantity-based fee structure which includes a 1-can limit and weekly or biweekly curbside recycling pickup.

3.03 Communities With Populations of Less Than 500

Communities with populations of less than 500, in order to implement the recommendations of the Solid Waste Management Plan, are encouraged to implement solid waste management programs which include at least monthly recycling pickup.

3.04 Townships

Townships, in order to implement the recommendations of the Solid Waste Management Plan, are encouraged to provide recycling opportunities to residents in the unincorporated areas of the townships. This can be accomplished through cooperative efforts with incorporated areas or other townships, and can include some type of drop-off service, either stationary or mobile.

3.05 Cooperative Efforts

As required by the Illinois Solid Waste Planning and Recycling Act, it is the responsibility of the County to reach the goals established by the adoption of the Solid Waste Management Plan. It is the hope of the County that these goals can be reached through the cooperative efforts of residents, local government units and the County.

SECTION 4.00 LICENSES

4.01 Licenses Required

No Hauler 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. Unless earlier suspended or revoked, such license shall be valid for one calendar year, beginning on January 1.

4.02 Application

The County shall prepare and make available to all Haulers an application form for the vehicle license. The application shall include the following information:

- A) name of business operating vehicles;
- B) name of manager of business;
- C) address and telephone number of business;
- D) type, year, make, and model of each vehicle to be used within the County;
- E) vehicle identification number, license plate number, and fleet number for each vehicle;
- F) weight of each vehicle;
- G) capacity of each vehicle in cubic yards and tons;
- H) material separation plan in accordance with Section 4.11 of this Ordinance; and
- I) such other information as the County shall deem appropriate or necessary.

4.03 License Renewal

The County shall provide license renewal forms to each Hauler no later than October 15 for renewal for the following year. License renewal forms shall be completed and received by the County by November 15 of the year preceding the renewal.

4.04 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.

4.05 Accuracy of Information

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

4.06 Business Operation Change

Every licensee shall notify the County in writing of any change to their license application information prior to the effective date of the change.

4.07 Transfer of Ownership

No license is transferable; any attempted transfer of a license shall immediately void such license.

4.08 Issuance or Denial

- A) The County shall have forty-five (45) 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 forty-five (45) days.

- B) The past history of the applicant, in terms of compliance with this Ordinance, 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.
- C) 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 8.00 of this Ordinance.

4.09 License and Vehicle Registration Fee

A) Schedule of Fees

The following fees shall be required of all Haulers except for companies which are exclusively in the business of recycling:

- 1) For each *vehicle licensed to collect waste in the County - \$200.00*
- 2) ~~For each vehicle used in collecting or hauling garbage, municipal waste, recyclables or other refuse in the County - \$10.00.~~

Haulers engaged exclusively in recycling must only pay the \$10 per vehicle fee.

Payment of all fees must accompany the license application/renewal and Material Separation Plan.

B) 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 utilized by the Hauler operation in the County. Such decals may be issued annually. The number of vehicles utilized by the licensee shall be reported in the application.

4.10 Mandatory Recyclables Collection and Hauling

A) Residential Collection

Collection of recyclables shall be made available to every residential customer of a licensee at least on a monthly basis. The collection may take the form of curbside collection or drop-off bins. A Hauler may choose to provide pickup of recyclable material themselves to their customers, or to sub-contract with a licensed Hauler to provide that service for them. All collected recyclables shall be hauled to a processor or market for the materials

B) Promotion of Recycling

Every Hauler is expected to promote recycling whenever possible. These efforts can be used in place of providing curbside or drop-off collection when it is not economically feasible to do so, especially for the rural areas. Efforts in promotion and education can include, but are not limited to, volume-based pricing, educating residents on recycling options in their area, periodic messages/fliers to customers, special offers, promotion of recycling events, and financial or other support of local recycling options such as a drop off. When negotiating a new contract or contract renewal for waste collection services, a Hauler is expected to at least offer recycling as an option. All promotional efforts shall be reported to the County on an annual basis and be required for hauler license renewal.

C) Exemption for Self Hauling

Any customer of a Hauler may choose to haul their own recyclables to a processor or other market for recyclable materials.

D) Non-Compliance

Non-compliance with Section 4.10 can result in non-renewal of the Hauler's license.

4.11 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 plan shall contain:

- A) Identification of the types of recyclable material to be collected.
- B) The means and methods employed to collect, process and market the collected recyclable materials.
- C) The identification of specific recycling services to be employed (e.g., curbside services, drop-off center).
- D) The frequency of collection for each method, and manner of recovering costs from customers.
- E) A description of the method and materials which will be used to explain to customers the number of materials to be collected, material preparation instructions, and frequency of service.

SECTION 5.00 REPORTING

5.01 Licensed Haulers

On or before January 31st of each year, each licensee shall submit a written report, on forms provided by the County, on its service operations during the previous twelve (12) months (January 1-December 31). Failure to submit such a report shall constitute a violation of this Ordinance and may result in suspension or revocation of the license. This report shall include:

- 1) The total tonnage of municipal waste collected in the County;
- 2) The total tonnage of municipal waste collected in each community in the County serviced by the Hauler;
- 3) The total tonnage of recyclable material collected in the County split out by type categories as specified on the form supplied by the County; and
- 4) The total tonnage of landscape waste collected for land application and/or composting.

5.02 Certification of Information Requested

Each written report shall be accompanied by a statement attesting that the information provided is complete, true, accurate, and signed by the authorized officer of the Hauler.

SECTION 6.00 VIOLATIONS AND PENALTIES

6.01 Civil Penalties

- A) Any licensed Hauler who violates any provision of this Ordinance shall be subject to a fine of two hundred and fifty dollars (\$250.00) for the first violation; and one thousand dollars (\$1000.00) for the second violation. A third violation may result in two (2) months suspension of license. For 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 Ordinance may result in suspension or revocation proceedings pursuant to Section 7.01.

- B) 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 ordinance shall be subject to a fine of up to five hundred dollars (\$500.00). Each day any violation of this ordinance continues shall constitute a separate offense.

6.02 Warnings

The County or any of its duly authorized representatives may issue a warning notice to any occupant observed not in compliance with any provision of this Ordinance.

6.03 Injunctive Relief

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

SECTION 7.00 ADMINISTRATIVE PROCEDURES

7.01 Suspension or Revocation of License

- A) Any license required under this Ordinance may be suspended or revoked for violation of any provision of this Ordinance.

- B) Written notice of a suspension or revocation shall be served personally or by registered or certified mail upon the licensee at least fifteen (15) calendar days prior to the effective date of the suspension or revocation. The written notice shall contain the effective date of the suspension or revocation; the facts which support the conclusion that a violation or violations have occurred; a statement that if the licensee desired to appeal, a written request for a hearing must be received by the County within fifteen (15) calendar days following service of the notice, exclusive of the day of service; and that the request for hearing must state the grounds for appeal. If a hearing is requested, the suspension or revocation shall be stayed pending outcome of the hearing.

- C) Upon receipt of a request for hearing, the County shall set a date, time, and place for the hearing. The hearing shall be conducted pursuant to the procedures in Section 8.00 of this Ordinance.

7.02 Summary Suspension of License

- A) If the County finds that the public health, safety, or welfare requires immediate action, summary suspension of a license may be ordered.
- B) Written notice of a summary suspension shall be by 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.
- C) The written notice shall state the effective date of the summary suspension; the violation requiring emergency action; the facts which support the conclusion that a violation has occurred; a statement that if the licensee desires to appeal, a written request for 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.
- D) Upon receipt of a request for hearing, the County shall set a date, time, and place for the hearing. The hearing shall be conducted pursuant to the procedures in Section 8.00 of this Ordinance.
- E) The summary suspension shall not be stayed pending an appeal.

SECTION 8.00 HEARINGS

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

8.01 Hearing Commission

The hearing shall be before an impartial Hearing Commission consisting of three (3) members appointed by the County Board upon recommendation from the County solid waste committee.

8.02 Pre-Hearing and Hearing Notice

The County shall schedule and provide notice of the date, time and place of the pre-hearing conference and hearing. The pre-hearing conference shall be held at least three (3) weeks prior to the hearing. 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.

8.03 Procedures

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

- A) The pre-hearing conference shall be attended by all parties. The purpose of the pre-hearing conference shall be to define the issues, schedule the exchange of witness lists and documentary evidence, seek agreement on the authenticity of documents and relevant testimonial evidence, determine whether intended evidence is cumulative and repetitive, and consider all other matters that will assist in a fair and expeditious hearing.
- B) Each party shall exchange all relevant information and documentary evidence at least one (1) week prior to the hearing date. Such information shall include all evidence intended for introduction at the hearing and includes but is not limited to the following: exhibits, statements, reports, witness lists including a description of the fact and opinions to which each is expected to testify, photographs, slides, and demonstrative evidence. Evidence not

exchanged in accordance with this provision will not be considered in the hearing unless good cause is shown to the Hearing Commission.

- C) The hearing shall be public and shall be recorded by a certified court reporter.
- D) All witnesses shall testify under oath or affirmation.
- E) The hearing is subject to the general rules of evidence with latitude necessary to gain facts or information. Irrelevant, immaterial or unduly 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 commission, 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. Within thirty (30) days after the hearing, the Hearing Commission shall make a report of its findings to the County Board. Upon the Hearing Commission's report of the findings of fact, the County Board may, without further public hearing, affirm or reverse the Hearing Commission's findings or it may refer the matter back to the Commission for further consideration.
- I) The cost of preparing and certifying a record shall be borne by the applicant or licensee. Should the plaintiff in the review proceeding fail to make payment, the provisions of Section 3-109 of the Civil Procedure, as now or hereafter amended, shall apply. (55 ILCS 515-8007)
- J) Appeal of a decision by the Hearing Commission shall be made to the Circuit Court within thirty (30) calendar days following the Hearing Commission decision.

SECTION 9.00 SEVERABILITY

9.01 Provisions

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

9.02 Particular Application

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

SECTION 10.00 PROVISIONS CUMULATIVE

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

SECTION 11.00 EFFECT DATE

This Ordinance shall be effective immediately. Licensing requirements shall commence six months after the adoption date of this Ordinance or with the January 1st following the adoption of this Ordinance, whichever is longer. The time available between Ordinance adoption and the date of licensing requirement shall be used to educate the public and the Haulers on the requirements of this Ordinance. However, reporting requirements for the first year a license is required will include the entire calendar year.

SECTION 12.00 AMENDMENTS

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

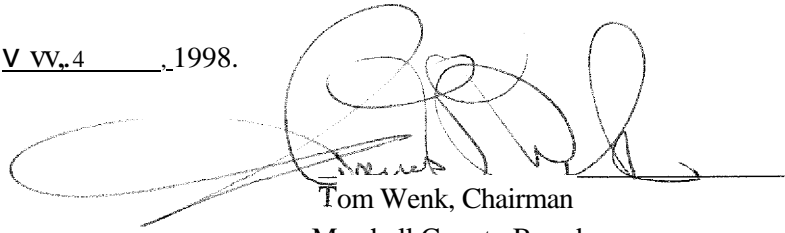
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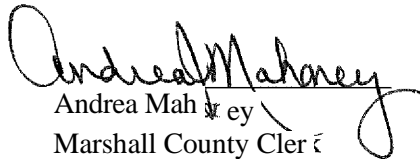
Nov., 1998.

Pass

Ayes: 10 Nays: —

Attested to by:


Tom Wenk, Chairman
Marshall County Board


Andrea Mahoney
Marshall County Clerk

ed this 12th day of November, 1998.
Ayes: 10 Nays: 0
Attested to by:

Andrea Mahoney
Marshall County Clerk

Tom Wenk, Chairman
Marshall County Board

Passed this 14th day of March, 2013
Ayes: 8 Nays: 0

ATTESTED TO BY:

Gary Kroeschen, Chairman
Marshall County Board

Melody A. Weber
Marshall County Clerk