

STATE OF ILLINOIS,)
)
COUNTY OF FULTON.)

SS.

FULTON COUNTY BOARD
MAY SESSION, A.D. 1999

FULTON COUNTY WASTE MANAGEMENT AND RECYCLING ORDINANCE

Whereas, Illinois Compiled Statutes, Chapter 415, Act 15, Section 1 et seq. requires each county waste management plan to include a recycling program designed to recycle 15 and 25 percent of its municipal waste by 1997 and 2000; and

Whereas, the Fulton County Board has adopted the Fulton County Solid Waste Management Plan which consist of the following measures to achieve and/or exceed both the State and County recycling goals:

- A) Source Reduction and Reuse
- B) Provide Recycling Capabilities
- C) Proper Disposal of the Municipal Waste Stream
- D) License All Solid Waste Haulers Operating in the Fulton County Area And Required As A Condition Of Licensing To Demonstrate The Means, Methods, etc. To Accomplish The Recycling Goal Of The County.
- E) All Solid Waste Haulers Receiving Said License Shall Report On A Quarterly Basis The Recovery Results In Terms Of Both Material and Respective Tonnage's/Yardage's To The Fulton County Health Department Environmental Health Division, and

Original is filed in "Solid Waste" folder

Whereas, as further provided in Illinois Compiled Statutes 55 5/5 - 8001 through 8007 provides for the licensing of private disposal contractors by counties, to provide recycling collection services throughout the Fulton County area; and

Whereas, the Fulton County Board is desirous in the implementation of its recycling program within its adopted Solid Waste Management Plan and the recycling goals therein through the enactment of this ordinance; and

Whereas, the Fulton County Board finds that:

- A) The recycling of certain items, including, but not limited to, aluminum and tin cans, Newspapers, corrugated cardboard, high grade printing and writing papers, landscape waste, plastic and glass containers, and any and all recyclable materials is vital to the conservation of America's natural resources; and

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99- 97684

STATE OF ILLINOIS COUNTY OF FULTON SS
THIS INSTRUMENT FILED FOR RECORD ON THE
9 DAY OF June AD 1999
AT 9:00 O'CLOCK A M AND DULY
RECORDED IN VOL. 3 PAGE 466

[Signature]
COUNTY CLERK & RECORDER

DN.
On file

- B) The inclusion of recyclable materials in municipal waste generated by both the residents and businesses of Fulton County increases the volume of refuse which must ultimately be disposed of in sanitary landfills; and
- C) The continued disposal of recyclable material generated by both the residents and businesses in Fulton County will exacerbate the shortage of landfills; and by eliminating recyclable material from the municipal waste stream, the capacity of existing landfills to serve the needs of Fulton County for disposal of nonrecyclable solid waste will be extended for several years;

NOW, THEREFORE, BE IT ORDAINED AND RESOLVED by the Fulton County Board that an ordinance entitled "**Fulton County Waste Management and Recycling Ordinance**" is hereby established as follows:

FULTON COUNTY WASTE MANAGEMENT AND RECYCLING ORDINANCE

SECTION 1:00 DEFINITIONS

- 1.01 "**Building**" means any structure designed, built, or occupied as a shelter or roofed enclosure for persons, animals, or property.
- 1.02 "**Commercial Customer**" means person or persons engaged in business, including, but not limited to, stores, markets, offices, restaurants, shopping centers and theaters.
- 1.03 "**Composting**" means the biological process by which microorganisms decompose the organic fraction of waste, producing a humus-like material that may be used as a soil conditioner.
- 1.04 "**Construction and Demolition Waste**" means all waste resulting from the construction, renovation, and demolition of buildings, roads, bridges, docks, piers and other structures.
- 1.05 "**Curbside Collection**" refers to both recyclable and unrecyclable items collected from a set out within five feet of either a street curb, or from a roadway on a curbless street.
- 1.06 "**Dwelling**": a building, exclusive or recreational vehicles, hotels or motels containing as its principle use (1) or more dwelling units.
- 1.07 "**Dwelling Unit**" means a residential accommodation including complete kitchen facilities permanently installed which are arranged, designed, or used or intended for use exclusively as living quarters for one family and not more than an aggregate of two roomers or boarders.
- 1.08 "**Garbage**" means any refuse products or materials including but not limited to the following: putrescible animal and vegetable wastes resulting from the handling, preparation, cooking, sale or consumption of food; animal excretion; glass or metal containers, products or objects discarded as no longer usable; paper, wood, and cardboard waste; uprooted weeds, grass clippings, leaves and the like; ashes and cinders; discarded

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remove any contaminant from waste so as to render the waste reusable, or any process by which materials that would otherwise be disposed of or discarded are collected, separated or processed and returned to the economic mainstream in the form of raw materials or products.

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

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

RESERVED

SECTION 3.00 - LICENSES

3.01 License Required

No person shall engage in the business of collection or hauling garbage,

furniture or clothing; and dead animals. The term "garbage" does not include human excretion in the form of body waste.

- 1.09 **"Hauler"** Any person, who engages in the business of collecting or hauling garbage, municipal waste, recyclables, landscape waste, brush or other refuse on a continuous and regular basis, and makes multiple scheduled collections per month within the Fulton County area.
- 1.10 **"Landscape Waste"** means all accumulations of grass or shrubbery cuttings, leaves, tree limbs, and other materials accumulated as the result of the care of lawns, shrubbery, vines and trees.
- 1.11 **"Material Separation Plan"** means the plan submitted by solid waste haulers specifying the recycling methods, means, etc. to be provided to residential customers per Section 3.05 of this Ordinance.
- 1.12 **"Multi-Family Dwelling"** means a building containing three (3) or more dwelling units used for residential occupancy, including apartment houses, boarding houses, non-transient apartment hotels, rooming houses, fraternities, sororities, dormitories and similar housing types but not including hotels, motels, hospitals, foster family homes, long-term care facilities or semi-independent group residents.
- 1.13 **"Municipal Waste"** means garbage, general household, institutional and commercial waste, industrial lunchroom or office waste, landscape waste, and construction and demolition debris.
- 1.14 **"Person"** is any individual, partnership, co-partnership, firm, company, corporation association, joint stock company, trusts, estate, political subdivision, state agency, or any other legal entity or their legal representative, agent, or assigns.
- 1.15 **"Recyclable Materials"** means material that separated from garbage, municipal waste or refuse for the purpose of recycling, including but not limited to, aluminum and tin cans, newspaper, corrugated cardboard, high grade printing and writing papers, magazines, landscape waste, plastic and glass containers.
- 1.16 **"Recycling"** means the process by which solid waste is collected, separated and processed for reuse as either a raw material or a product which itself is subject to recycling, but does not include the combustion of waste for energy recovery or volume reduction.
- 1.17 **"Recycling Center"** means a site or facility that accepts only segregated, non-hazardous, non-special, homogeneous, non-putrescible materials such as dry paper, glass, cans or plastics, for subsequent use in the secondary materials market.
- 1.18 **"Recycling Containers"** means any and all receptacles identified specifically for the containment of recycling items.
- 1.19 **"Recycling Facility"** means a structure, building and/or parcel where material from the waste stream are collected and processed for re-use and/or recycling.
- 1.20 **"Recycling, Reclamation or Reuse"** means a method, techniques or process designed to

municipal waste, recyclable, landscape waste, brush or other refuse from sites in Fulton County without first procuring a license to do so from the Fulton County Board or its duly authorized agent. Unless earlier suspended or revoked, such license shall be valid from January 1st – December 31st of each calendar year.

3.02 License Procedure

A) Initial Application

Application shall be completed and returned with a material separation plan to the Fulton County Board or its duly authorized agent on the form provided by the Fulton County Board or its duly authorized agent. The applicant shall comply with the provisions of this Ordinance pending action by the Fulton County Board or its duly authorized agent.

B) License Renewal

The Fulton County Board or its duly authorized agent shall provide license renewal forms to the hauler within sixty (60) days prior to the expiration of the contractor's current license. License renewal forms shall be completed and received by the Fulton County Board or its duly authorized agent thirty (30) days prior to the expiration of the contractor's current license.

C) Conditional License

The Fulton County Board or its duly authorized agent 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.

D) Accuracy of Information

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

D) Business Operation Change

Every hauler shall notify the Fulton County Board or its duly authorized agent in writing of any change to their respective material separation plan prior to the effective date of change.

E) Transfer of Ownership

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

3.03 License Issuance or Denial

A) License Action

The Fulton County Board or its duly authorized agent shall have thirty (30) days from the receipt of the license or renewal application and material separation plan to issue or deny license, license renewal or conditional license. The Fulton County Board or its duly authorized agent will issue a temporary license valid for thirty (30) days upon its failure to act upon an application.

B) Notification

The Fulton County Board or its duly authorized agent 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 personally or by certified mail upon the applicant at the address provided in this application.

C) License Denial

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 Fulton County Board or its duly authorized agent within fifteen (15) calendar days following service, exclusive of the days of service. Upon receipt of a request for hearing, the Fulton County Board or its duly authorized agent shall set a time and place for the hearing.

3.04 License and Vehicle Registration Fee

A) Schedule of Fees

The following fees shall be required:

- (1) For each License - \$50.00
- (2) For each Vehicle used in collecting or hauling garbage, municipal waste, recyclables, landscape waste, brush or other refuse - \$25.00. Payment of all fees must accompany the license application or license renewal and material separation plan. These payments may be made at the Fulton County Treasurer's office.

B) Vehicle Registration

The Fulton County Board or its duly authorized agent reserves the right to issue to each applicant or licensee a vehicle registration decal to be placed conspicuously on the outside of each vehicle so utilized by the contractor operating in Fulton County. Such decals may be issued annually. The number of said vehicles utilized by the contractor shall be reported in the application.

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3.05 Material Separation Plan Information Required

As a condition of licensing and on a form supplied by the Fulton County Board or its duly authorized agent, each applicant or licensee shall submit a material separation plan with the license application to the Fulton County Board or its duly authorized agent for approval, which shall contain:

- A) The means and method employed to collect, process and market those separated materials from occupants of single family, two family, and multi-family dwelling units.
- B) The identification of specific recycling services to be employed (e.g. curbside services and/or recycling drop-off center).
- C) Number of households proposed to be serviced during license year by each collection method used in 0.05 Sub-section B.
- D) The frequency of collection per each method(s) and manner of recovering costs from customers.

The Fulton County Board or its duly authorized agent encourages applicants to submit material separation plans which reflect alternative means for collection and processing recyclable material under this Ordinance and volume based incentives for reducing the amount of waste generated.

3.06 Reporting by Licenses

Quarterly reports shall be made to the Fulton County Board or its duly authorized agent, by the Licensee as follows: Attention: Solid Waste Program on or before April 30th, July 30th, October 31st and January 31st of each year are requested on form(s) supplied by the Fulton County Board or its duly authorized agent. All licensees will submit a written report on its recycling service operations during the previous year. Said report shall contain:

- A) The total tonnage of municipal waste collected in the Fulton County Area; and
- B) The following:
 - 1) The total tonnage or volume of recyclable material collected and individual material tonnage's; and
 - 2) The total tonnage's or volume of solid waste collected from the Fulton County area.

3.07 Certification of Information Reported

Each written report shall be accompanied by a notarized statement attesting that the information provided is complete, true, and accurate.

3.08 Compliance with Other Laws

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

SECTION 4.00 - VIOLATIONS AND PENALTIES

4.01 Penalties

Any hauler, collector or licensee who violates any provision of this Ordinance shall be guilty of a petty offense and shall be fined a minimum of not less than \$250.00 and/or suspension of license as authorized in Illinois Compiled Statutes, 55ILCS 5/5 - 8001 et seq., and by this ordinance.

4.02 Warnings

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

4.03 Citations

The Fulton County Board or its duly authorized agent, its duly authorized representative, or any Fulton County peace officer shall have the power to issue written citations citing the particular violations of this Ordinance alleged to have been violated. This shall not permit the Fulton County Board or its duly authorized agent or its representatives to physically arrest or take into custody any alleged violators.

4.04 Departmental Order

The Fulton County Board or its duly authorized agent may institute appropriate actions or proceedings, including application for injunctive relief, action to prevent, restrain, correct or abate any violation(s) or threatened violation(s) of this Ordinance.

4.05 Injunctive Relief

The Fulton County Board or its duly authorized agent may institute appropriate actions or proceedings, including application for injunctive relief, action to prevent, restrain, correct or abate any violation(s) or threatened violation(s) of this Ordinance.

4.06 Time Period

For purpose of enforcement, the period of time in which these violations accumulate will be the period of the license.

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SECTION 5.00 ADMINISTRATIVE PROCEDURES

5.01 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 suspension or revocation. The written notice shall contain the effective date of suspension or revocation; the facts which support the conclusion that a violation or violations have occurred; a statement that if the licensee desires to appeal, a written request for a hearing must be received by the Fulton County Board or its duly authorized agent within fifteen (15) calendar days following service of the notice, exclusive of the day of service; and that the request for the hearing must state the grounds for the 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 Fulton County Board or its duly authorized agent shall set a date, time and place for the hearing. The hearing shall be conducted pursuant to the procedures in Section 6.00 Hearings of this Ordinance.

5.02 Summary Suspension of License

- A) If the Fulton County Board or its duly authorized agent finds that the public health, safety, or welfare requires immediate action, summary suspension of a license may be ordered.
- B) Written notice of a summary suspension shall be by personal service upon the licensee or sent by certified return receipt mail to the licensee's business address. The Fulton County Board or its duly authorized agent 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 Fulton County Board or its duly authorized agent within ten (10) calendar days following service of the notice, exclusive of the day of service; and that the request must state the grounds for appeal.
- D) Upon receipt of a request for hearing, the Fulton County Board or its duly authorized agent shall set a date, time, and place for the hearing. The hearing shall be conducted pursuant to the procedures in Section 6.00 Hearings of this Ordinance.

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

SECTION 6.00 HEARINGS

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

6.01 Hearing Officer/Hearing Commission

The hearing shall be before an impartial Hearing Commission consisting of three (3) members appointed by the Fulton County Board.

6.02 Prehearing and Hearing Notice

The Hearing Commission shall schedule and provide notice of the date, time and place of the prehearing conference and hearing. The prehearing conference shall be held at least three (3) weeks prior to the hearing. The hearing shall be held no later than forty-five calendar days after receipt of the request for hearing, unless otherwise agreed to by the parties.

6.03 Procedures

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

- A) The prehearing conference shall define the issues, schedule the exchange of witness lists and documentary evidence, seek agreement on the authenticity of documents and relevant testimonial evidence, determine whether intended evidence is cumulative and repetitive, and consider all other matters that will assist in a fair and expeditious hearing.
- B) Each party shall exchange all relevant information and documentary evidence at least one (1) week prior to the hearing date. Such information shall include all evidence intended for introduction at the hearing and includes but is not limited to the following: exhibits; statements; reports; witness lists including a description of the facts and opinions to which each is expected to testify; photographs; slides; demonstrative evidence. Evidence not exchanged in accordance with this provision will not be considered in the hearing unless good cause is shown to the hearing officer.
- C) The hearing shall be public and shall be recorded by a certified court reporter.
- D) All witnesses shall testify under oath or affirmation.
- E) The Hearing is subject to the general rules of evidence with latitude necessary to gain facts or information. Irrelevant, immaterial, or unduly repetitious evidence shall be excluded.
- F) The Fulton County Board or its duly authorized agent shall have the burden of proof by the preponderance of the evidence.

- G) The Fulton County Board or its duly authorized agent, licensee or applicant, and additional parties as determined by the hearing officer, shall present evidence in that order. Each party shall have the opportunity to cross-examine the witnesses of the other party. The Hearing Commission may examine witnesses.
- H) The Hearing Commission shall make a written finding of fact and conclusions based upon the evidence provided at the hearing.
- I) The cost of preparing a record shall be borne by the applicant or licensee.
- J) Any appeal of a decision by the Hearing Commission shall be made to the Circuit Court within thirty (30) calendar days following the Hearing Commission's decision.

SECTION 7.00 - SEPARABILITY

7.01 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.

7.02 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 judgement.

7.03 Township/Municipality

If a township or municipality within Fulton County has a recycling ordinance in place on the effective date of this Ordinance which substantially conforms with or exceeds the requirements of this Ordinance including but not limited to the required separation and collection of recyclable material, submission of a material separation plan and reporting requirements; the township or municipality may continue to enforce its ordinance and such enforcement shall constitute within that township or municipality implementation of this Ordinance. A township or municipality may at any time adopt and enforce a recycling ordinance that is more stringent than that required by this Ordinance.

SECTION 8.00 - PROVISIONS CUMULATIVE

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

SECTION 9.00 - EFFECTIVE DATE

This Ordinance shall be in full force and effect commencing January 1, 2000.

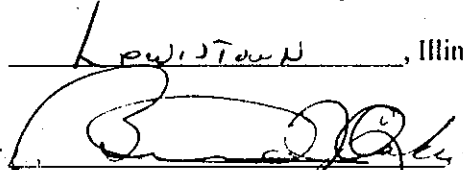
SECTION 10.00 - AMENDMENTS

This Ordinance may be amended at any time by amendatory Ordinances.

SECTION 11.00 - EXPECTATIONS

A township or municipality may be exempt from the requirements of this Ordinance and the Fulton County Solid Waste Management Plan, if a written agreement which demonstrates that the Township or Municipality has complied with the diversion goals of the Fulton County Solid Waste Management Plan is accepted and exists on file at the Fulton County Courthouse. A township or municipality must demonstrate through reporting, as set forth in Section 3.06 of this ordinance, to the Fulton County Board or its duly authorized agent that the township or municipality continues to meet the diversion goals of the Fulton County Solid Waste Management Plan.

Approved and passed this 8th day of June, 1999, at
Lewistown, Illinois.


Chairman, Fulton County Board


ATTEST 
County Clerk