

ORDINANCE

ORDINANCE AMENDING THE MUNICIPAL WASTE HAULER LICENSING ORDINANCE OF MCHENRY COUNTY

WHEREAS, the McHenry County Department of Health has determined that changes in the requirement of the Municipal Waste Hauler Licensing Ordinance are necessary; and

WHEREAS, Enforcement of the Municipal Waste Hauler Licensing Ordinance in McHenry County is a responsibility of the Department of Health; and

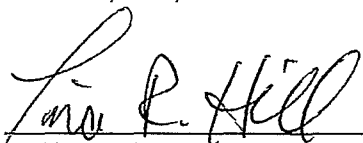
WHEREAS, the Natural Environment and Resources Committee of the County has approved the changes to the Municipal Waste Hauler Licensing Ordinance; and

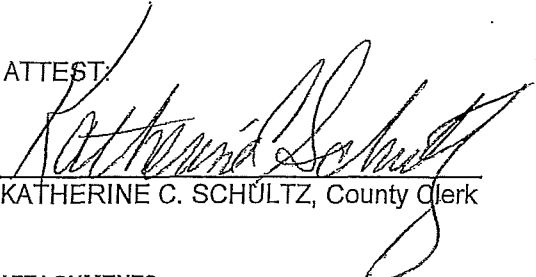
NOW, THEREFORE BE IT ORDAINED, by this County Board of McHenry County, Illinois hereby that the attached Municipal Waste Hauler Licensing Ordinance is hereby amended; and

BE IT FURTHER ORDAINED, that the County Clerk is hereby authorized to distribute a certified copy of this Ordinance to the Department of Health Administrator and the County Administrator; and

BE IT FURTHER ORDAINED, that these changes be effective on November 19, 2014

DATED at Woodstock, Illinois, this 18th day of November, A.D., 2014.


TINA R. HILL, Chairwoman
McHenry County Board

ATTEST:

KATHERINE C. SCHULTZ, County Clerk

ATTACHMENTS:

- #3646 attachment-clean copy (PDF)

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MCHENRY COUNTY
DEPT. OF HEALTH

**MCHENRY COUNTY, ILLINOIS
MUNICIPAL WASTE HAULER LICENSING ORDINANCE**

Purpose: The purpose of this Ordinance is to ensure that all municipal waste generated and disposed in McHenry County is separated and recyclables are recycled where possible; that all municipal waste haulers operating in McHenry County are licensed; and that all licensed municipal waste haulers operating in McHenry County report the quantity and types of materials recycled and landfilled to the McHenry County Solid Waste Manager.

ARTICLE ONE – EXEMPTIONS

101 EXEMPTIONS

101.1 The following persons or entities shall not be subject to this Ordinance:

- A. A person or company that transports its own personal or business discarded materials produced by said person or business;
- B. A civic, community, benevolent or charitable nonprofit organization that collects, transports and markets recyclable materials solely for the purpose of raising funds for a civic, community, benevolent or charitable organization;
- C. Demolition or construction contractors or landscaping companies that produce and transport discarded materials in the course of such occupations, where the discarded materials produced are merely incidental to the particular demolition, construction, or landscaping work being performed by such companies;
- D. Companies that solely transport liquid wastes including sewage, sewage sludge, or septage; discarded or abandoned vehicles or parts thereof; discarded home or industrial appliances; materials used as fertilizers or for other productive purposes; household hazardous wastes; special wastes; and hazardous materials as defined in the rules and regulations adopted by the Hazardous Materials Transportation Act; and
- E. Any city, village, town or township which collects and transports discarded materials.

ARTICLE TWO – DEFINITIONS

201 DEFINITIONS GENERAL

201.1 For the purposes of this Ordinance, certain terms and phrases shall be deemed to have the meaning described to them in this Section. Words in the singular shall include the plural, those in the plural number shall include the singular. Words in the present tense shall include the past and future tenses and words in the future tense shall include the present tense. Words used in the masculine gender shall include the feminine and neuter genders. The words “shall” or “must” are mandatory and not discretionary; the words “may” or “should” are permissive. Words and phrases defined herein shall be given the defined meaning. Words or phrases not defined, yet found in this Ordinance, shall have the same meaning as found in 415 ILCS 5/3. Words and phrases not defined in either this Ordinance or 415 ILCS 5/3 shall be given their usual meaning except where the context clearly indicates a different or specified meaning.

202 LISTING OF DEFINITIONS

- 202.1 Building means any structure designed, built, or occupied as a shelter or roofed enclosure for persons, animals, or property, which is permanently affixed to land.
- 202.2 Commercial means any use having profit as an objective.
- 202.3 Commercial Customer means a person or persons engaged in business, including, but not limited to, stores, markets, offices, restaurants, shopping centers, theaters, hotels, motels, campgrounds, kennels, and nurseries.
- 202.4 Commercial Waste is waste generated by commercial customers.
- 202.5 Conditional License means a license issued in lieu of the regular license in the event that violations of the Ordinance, other than those that require immediate abatement, prohibit the issuance or maintenance of the regular, annual license.
- 202.6 County means the County of McHenry, Illinois.
- 202.7 Department means the McHenry County Department of Health.
- 202.8 Discarded Materials mean all putrescible and non-putrescible municipal wastes discarded from any residential dwelling unit or commercial source including municipal waste, recyclable materials, mandatory recyclable materials and compostable materials.
- 202.9 Dwelling, Multi-Family 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, dormitories and similar housing types but not including hotels, motels, hospitals and foster family homes.
- 202.10 Dwelling, Single Family means a detached building containing only one (1) dwelling unit.
- 202.11 Dwelling, Two Family means a building containing two (2) dwelling units each with completely separate entrances.
- 202.12 Dwelling Unit means one (1) or more rooms in a residential building which are arranged, designed or used as living quarters for one (1) family. Bathroom and kitchen facilities are permanently installed.
- 202.13 Household Waste means any solid waste (including garbage and trash,) derived from households (including single and multiple residences, hotels, motels, bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds, and day-use recreation areas).
- 202.14 Institutional Waste means waste generated at institutions, such as schools, libraries, hospitals, and prisons.

- 202.15 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. Christmas trees are excluded.
- 202.16 Licensed Hauler means any person or persons duly licensed in accordance with this Ordinance and other such applicable ordinances of the County now or hereafter in effect.
- 202.17 Mandated Residential Recyclable Materials mean materials that are mandated by the McHenry County Residential Recycling Ordinance to be separated from discarded materials for the purpose of recycling, including but not limited to, aluminum cans, steel cans, newsprint, corrugated cardboard, plastic, mixed fiber (including magazines, high grade printing and writing papers, phone books, and chipboard), and glass containers.
- 202.18 Municipal Waste Hauler means any person or persons who engages in the business of collecting or hauling discarded materials on a regular basis, and who makes multiple scheduled collections per month within the County.
- 202.19 Occupant means a person or persons residing in residential dwelling units which have either curbside, alley or centrally located collection services.
- 202.20 Person means any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, legal entity or their legal representative(s), agent(s), or assign(s).
- 202.21 Pricing, Flat or Fixed Rate means a system in which the customer pays a fixed fee for waste collection that is not related to the volume of waste disposed.
- 202.22 Pricing, Pay-as-you-throw means a system in which the cost to the customer for waste collection is based on the number and size of containers or bags set out for pick-up, or through the purchase of special trash bags, tags or stickers that include the cost of waste collection in the purchase price.
- 202.23 Pricing, Volume Based means a system in which the cost to the customer for waste collection increases as the volume or weight of the municipal waste disposed of by the customer increases.
- 202.24 Recyclable Materials mean materials that are separated from discarded materials for the purpose of recycling, including but not limited to, aluminum and tin cans, newspapers, corrugated cardboard, high grade printing and writing papers, magazines, landscape waste, plastic and glass containers.
- 202.25 Recycling means the process by which municipal 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 municipal waste for energy recovery or volume reduction.
- 202.26 Refuse means garbage, general household, institutional and commercial waste, industrial lunchroom or office waste, landscape waste, and construction or demolition debris.

- 202.27 Residential Dwelling Unit means a single, two, or multi-family dwelling.
- 202.28 Septage means the liquid and solid material removed from domestic septic tanks or other approved pretreatment systems, and specifically excluding wastes from portable toilets, holding tanks, grease traps and sewage treatment sludge material.
- 202.29 Solid Waste Management Plan means the officially adopted McHenry County plan and subsequent updates pursuant to the Illinois Solid Waste Planning and Recycling Act for the management of municipal waste generated within its boundaries.
- 202.30 Solid Waste Manager means the person hired by the Department to oversee the implementation and management of municipal waste programs as specified within the Solid Waste Management Plan.
- 202.31 State means the State of Illinois.

ARTICLE THREE – DISCARDED MATERIAL

301 OWNERSHIP OF DISCARDED MATERIALS

- 301.1 Until the discarded materials are removed by the licensed hauler, the occupant who sets out the discarded materials is fully responsible for their proper preparation, handling and storage. Ownership and responsibility for the proper handling of the discarded materials shall be vested in the licensed hauler upon removal thereon.
- 301.2 It shall be the responsibility of the occupant whose discarded materials were not removed because they contained mandated recyclable materials to properly segregate the uncollected discarded materials in accordance with the McHenry County Residential Recycling Ordinance.

302 UNAUTHORIZED COLLECTION OF DISCARDED MATERIAL

- 302.1 All materials collected as recyclable materials shall not be directly deposited in a landfill. Recyclable materials which are collected and removed by a licensed hauler shall be delivered to the appropriate resource recovery facility or recycling center.
- 302.2 It shall be unlawful for any unauthorized collection of mandated recyclable materials that have been set out by any residential dwelling unit or commercial source specifically for an authorized collection by a licensed hauler.
- 302.3 A municipal waste hauler shall not provide municipal waste removal services for residential dwelling units in an area where the County, township, municipality or other authorized entity has awarded an exclusive service contract to another municipal waste hauler.

303 RIGHT TO SELL RECYCLABLE MATERIAL AND LANDSCAPE WASTE

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

ARTICLE FOUR – LICENSES

401 LICENSES REQUIRED

- 401.1 No person or company shall engage in the business of collecting or transporting discarded materials from a residential dwelling unit or commercial customer in McHenry County without first procuring a license to do so from the Department.
- 401.2 Unless otherwise provided by the McHenry County Board, each license granted pursuant to the provisions in this Ordinance shall be in effect from January 1 through December 31 of each year.

402 LICENSE APPLICATION

402.1 The application for a Municipal Waste Hauler License shall be made to the McHenry County Department of Health on the appropriate form. The application shall include the following:

- A. A completed McHenry County Municipal Waste Hauler Licensing Application;
- B. Payment as determined in Sections 402.4 and 402.5.

The municipal waste hauler shall comply with the provisions of this Ordinance pending action by the Department on the license.

- 402.2 The Department shall provide license renewal forms to the licensed hauler at least sixty (60) calendar days prior to the expiration of the licensed hauler's current annual license. The requirements in Section 402.1 shall be completed and received, by the Department, prior to the expiration of a licensed hauler's current license.
- 402.3 As part of the license application, the municipal waste hauler shall report the number of said vehicles utilized by the municipal waste hauler in McHenry County and where such vehicles are kept when not in use.
- 402.4 Payment of all fees must accompany the license application or license renewal. No fees shall be refunded. The following annual fees shall be required:
- A. Municipal Solid Waste Hauler operating in McHenry County: \$50.00
For each vehicle operated in McHenry County: \$25.00
 - B. Fees for licenses issued between July 1 and December 31 are 50% of the annual licensing fee.
 - C. Conditional License Fee: \$50.00. Conditional license fees are in addition to annual license fees. See Section 404.1.

- 402.5 License renewal applications submitted after December 31 shall be subject to a 50% late fee.
- 402.6 License applications submitted after commencing services within McHenry County shall be subject to a 100% penalty fee.
- 402.7 Payment of the fees together with the payment of any penalties shall not bar other enforcement action by the County.

403 LICENSE HOLDER DUTIES

- 403.1 Municipal waste haulers that provide regularly scheduled municipal waste collection service to residential dwelling units in unincorporated areas of McHenry County and/or incorporated municipalities without service contracts, shall offer those customers, in addition to the standard flat fee method of payment, the options of either pay-as-you-throw or volume based pricing for collection service.
- 403.2 Prior to putting an additional vehicle into service during the license year, the licensed hauler shall submit the required information and applicable fees, pursuant to Sections 402.4 through 402.6, for this vehicle to the Department .
- 403.3 Semi-annually, each licensed hauler shall submit a written report, on forms provided by the Department, on its municipal waste hauling and recycling service operations. Reports shall be submitted to the Department by July 31st for January 1 – June 30, and by January 31st for July 1 – December 31. Failure to submit such a report shall constitute a violation of this Ordinance and may result in fines, suspension of the license, and/or issuance of a conditional license. Each written report shall be signed by the licensed hauler attesting that the information provided is complete, true and accurate.
- 403.4 At the time of license application or renewal, each licensed hauler shall provide a list of all communities currently under contract for municipal waste and/or mandated recyclable materials collection.
- 403.5 It shall be unlawful for any licensed hauler to collect discarded materials from any residential dwelling unit in McHenry County containing visible signs of mandated recyclable materials. It is also unlawful for licensed haulers to remove, for disposal, those bags or containers of discarded materials which visibly display a warning notice, sticker or some other device indicating that the load of discarded materials contains mandated recyclable materials and therefore should not be removed for disposal.
- 403.6 Municipal waste haulers that provide regularly scheduled municipal waste collection service in unincorporated areas of McHenry County and/or incorporated municipalities without service contracts, shall not begin collection activities prior to 5:00 a.m.
- 403.7 Municipal waste haulers that provide regularly scheduled municipal waste collection service to residential dwelling units, in unincorporated areas of McHenry County and/or incorporated municipalities without service contracts, shall also offer, as an option, seasonal collection of leaves. The licensed hauler may charge their customers that request this service a separate fee.

404 LICENSE ISSUANCE OR DENIAL .

- 404.1 The Department may grant a conditional license where an application is incomplete or violations of the Ordinance have occurred. The conditional license shall be valid for thirty (30) days and specify the conditions upon which a permanent license shall be granted. Failure to comply with the specified conditions within the thirty (30) day time frame may result in issuance of another conditional license. A maximum of three (3) conditional licenses may be issued in a calendar year. The conditional license replaces the regular, annual license. Failure to resolve the specified conditions may result in denial or suspension of the permanent license.
- 404.2 The Department shall notify the applicant in writing of its decision to either issue or deny the license. If issued, the license shall be mailed by first class mail to the address provided in the application. If denied, a written decision shall be served personally or by certified mail upon the applicant at the address provided in the application.
- 404.3 A license denial shall include a 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 Department within fifteen (15) calendar days following service, exclusive of the day of service. Upon receipt of a request for hearing, the Department shall set a time and place for said hearing. The hearing shall be conducted pursuant to the procedures in Article Six of this Ordinance.
- 404.4 No license is transferable; any attempted transfer of a license shall immediately void such license.

405 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 other applicable state or federal laws or regulations. The licensed hauler shall at all times operate in compliance with all applicable rules and regulations.

ARTICLE FIVE – VIOLATIONS

501 VIOLATIONS

- 501.1 The Department may issue a Notice of Violation letter as may be necessary for the enforcement of this Ordinance. Each Notice of Violation shall state the violation, the necessary corrective action, and time schedule required for compliance.
- 501.2 The Department or its duly authorized representative, shall have the power to issue a Notice to Appear citing the particular section(s) of this Ordinance alleged to have been violated.
- 501.3 The Department may institute appropriate actions or proceedings, including application for injunctive relief, to compel performance or other appropriate action to prevent, restrain, correct or abate any violation or potential violation of this Ordinance.

502 PENALTIES

- 502.1 Any person who commits a violation of this Ordinance, shall be punishable by a fine not less than one hundred dollars (\$100.00) or more than five hundred dollars (\$500.00) per violation.
- 502.2 The Department may, at its discretion, deny the renewal of a license to a company for failure to comply with Ordinance requirements.
- 502.3 Each observed violation shall constitute a separate and distinct offense.

ARTICLE SIX – ADMINISTRATIVE PROCEDURES

601 SUSPENSION OF LICENSE

- 601.1 Any license required under this Ordinance may be suspended for violation of any provision of this Ordinance.
- 601.2 Written notice of a suspension shall be by personal service upon the licensed hauler or sent by certified mail to the licensed hauler's business address at least (15) calendar days prior to the effective date of the suspension. The written notice shall contain:
- A. The effective date of the suspension;
 - B. The facts which support the conclusion that a violation or violations have occurred;
and
 - C. A statement that the licensed hauler may appeal the notice of suspension.
- 601.3 Any licensed hauler, subject to the provisions set forth in Article Four and whose license is suspended or revoked by operation of this Ordinance may petition the Department for a hearing under the rules set forth in Section 603.
- 601.4 If a hearing is desired, a written request for a hearing must be received by the Department within fifteen (15) calendar days following service of the notice, exclusive of the day of service. The request for hearing must state the grounds for appeal. If a hearing is requested, the suspension shall be stayed pending outcome of the hearing.
- 601.5 Upon receipt of a request for hearing, the Department shall set a date, time and place. The hearing shall be conducted pursuant to the procedures in Article Six of this Ordinance.

602 SUMMARY SUSPENSION OF LICENSE

- 602.1 If the Department finds that the public health, safety, or welfare requires immediate action, summary suspension of a license may be ordered.
- 602.2 Written notice of a summary suspension shall be by personal service upon the licensed hauler or sent by certified mail to the licensed hauler's business address. The Department shall also take reasonable steps to notify the licensed hauler by telephone, facsimile, or electronic mail prior to the summary suspension.

602.3 The written notice shall contain:

- A. The effective date of the summary suspension;
- B. The violation requiring emergency action;
- C. The facts which support the conclusion a violation has occurred; and
- D. A statement that the licensed hauler may appeal the summary suspension.

602.4 If a hearing is desired, a written request for a hearing must be received by the Department within fifteen (15) calendar days following service of the notice, exclusive of the day of service. The request for hearing must state the grounds for appeal.

602.5 Upon receipt of a request for a summary suspension hearing, the Department shall set a date, time and place. The hearing shall be conducted pursuant to the procedures in Article Six of this Ordinance.

602.6 The summary suspension shall not be stayed pending an appeal.

603 HEARINGS

603.1 It is the intent and purpose of this section to set forth a procedural system for hearings on appeals to the suspension, revocation, or denial of the issuance of a license. The hearing shall be before the McHenry County Board's Natural Environment and Resources Committee and conducted by a Hearing Officer, at a regularly scheduled or special meeting, upon completion of proper notice.

- A. The Municipal Waste Hauler must file a copy of their appeal with the McHenry County Solid Waste Manager. The Solid Waste Manager will provide the Natural Environment and Resources Committee and Hearing Officer with a copy of the entire file in the matter.
- B. The appeal shall provide the name and address of the Municipal Waste Hauler, a copy of the decision being appealed, identification of the ordinance provisions in dispute, and be signed by the Municipal Waste Hauler or their attorney with their address and telephone number.

603.2 The Department shall schedule and provide notice of the date, time and place of 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.

603.3 License hearings shall proceed under established Illinois administrative procedure in addition to the specific rules listed below:

- A. The general rules of evidence used by Illinois courts in civil proceedings at the time of the hearing shall govern the admission of evidence. The Hearing Officer shall not be bound by the strict rules of evidence and may exclude irrelevant, immaterial, incompetent or unduly repetitious testimony.
- B. A Hearing Officer will conduct the hearing and rule on the evidentiary matters.

- C. The hearing shall be transcribed by a court reporter. The cost of paying the court reporter to attend the hearing will be borne by the Department. The Municipal Waste Hauler shall pay the Department for the cost of preparing the transcript; and
- D. Testimony at the hearing will be under oath.
- E. Suggested Order of Business during Hearings (subject to modification by Hearing Officer):
 - i. Call to order and reason or purpose for hearing.
 - ii. The Appeal will be read at the discretion of the Hearing Officer.
 - iii. Introduction of the Hearing Officer and Committee members.
 - iv. Recognition of fees and meeting notice.
 - v. Citation of proceedings.
 - vi. Recognition of Municipal Waste Hauler and witnesses. Swearing-in those who will present testimony.
 - vii. Recognition of public and observers.
 - viii. Municipal Waste Hauler presents testimony and evidence.
 - ix. Cross examination by Committee, public and observers.
 - x. Public and staff, who are sworn, present testimony and evidence.
 - xi. Cross examination of public's testimony by Committee and Municipal Waste Hauler.
 - xii. Summary statements by Municipal Waste Hauler or his/her attorney.

603.4 The Natural Environment and Resources Committee shall make specific factual findings at the hearing. The findings shall include, but not be limited to the following: a short summary of the appeal, the reasons for the board's decision, and the name of the committee member making the motion, second and votes by name for or against the motion. Those members abstaining should indicate a reason for the same. These findings will then be forwarded to the McHenry County Board for a final decision on the recommendation in accordance with the McHenry County Board's rules and procedures.

ARTICLE SEVEN - SEVERABILITY

701 SEVERABILITY

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.

ARTICLE EIGHT – PROVISIONS CUMULATIVE

801 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.