

ORDINANCE NO. 9091-67

**REGIONAL POLLUTION CONTROL FACILITY**

**SITING AND LICENSING ORDINANCE**

December, 1990

WHEREAS, as of November 12, 1982, "An Act relating to the location of sanitary landfills and hazardous waste disposal sites" otherwise known as Public Act 82-682 became effective; and,

WHEREAS, Public Act 82-682 has been codified into Section 39.2 of the Illinois Environmental Protection Act (Ill. Rev. Stat. 1989, ch. 111½, par. 1001 et seq.) and requires that the governing body of the municipality approve or disapprove the request for local siting approval for each regional pollution control facility which is subject to such review; and,

WHEREAS, said Act prohibits the Illinois Environmental Protection Agency from issuing permits for the development or construction of new regional pollution control facilities unless the applicant submits proof to the Agency that the location of said facility has been approved by the governing body of the municipality (hereinafter referred to as "City Council") in which the proposed site is located; and,

WHEREAS, said Act requires an applicant to file its request for location approval with the City Council; and,

WHEREAS, the Act provides that the City Council, in granting approval for a site, may impose such conditions as may be reasonable and necessary to satisfy the criteria contained in the Act so long as conditions imposed by the City Council are not inconsistent with regulations promulgated by the Illinois Pollution Control Board; and,

WHEREAS, in order to protect the public interest and to promote the orderly conduct of the hearing process and to insure that full and complete information is made available to the City

Council, it is necessary that procedures be established for conducting the public hearings and for making decisions regarding site approval requests; and,

WHEREAS, to further safeguard the public's health, safety and welfare and to ensure that any regional pollution control facility is operated in an appropriate manner consistent with the Act, it is necessary that procedures be established for licensing of said regional pollution control facilities and for making decisions regarding the same.

NOW THEREFORE, be it ordained by the City Council, City of Urbana, Illinois, that the existing sections 10-50 and 10-51 of the Urbana City Code are hereby repealed and what is set forth below as Article IV is enacted in its place. The existing Article V entitled "Animal Waste" is to be editorially renumbered commencing with Section 10-75.

#### ARTICLE IV

##### Section 10-50 Definitions

The following words and phrases, when used in this Article, shall have the meanings respectively ascribed to them.

"Act" means the Illinois Environmental Protection Act. (Ill. Rev. Stat. 1989, ch. 111½, par. 1001 et seq.).

"Agency" is the Illinois Environmental Protection Agency. (Ill. Rev. Stat. 1989, ch. 111½, par. 1003.01).

"Applicant" means any person, and must include both the owner and the proposed operator,

submitting a request for site location approval for a regional pollution control facility to the City of Urbana.

"Board" is the Illinois Pollution Control Board. (Ill. Rev. Stat. 1989, ch. 111½, par. 1003.04).

"Completed application" is an application for site location approval determined by the Department of Community Development Services to comply with the requirements of this Article and, accordingly, accepted for filing by the City Clerk.

"Department" is the Illinois Department of Energy and Natural Resources.

"Disposal" means the discharge, deposit, injection, dumping, spilling, leaking or placing of any waste or hazardous waste into or on any land or water or building or into any well so that such waste or hazardous waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including ground waters. (Ill. Rev. Stat. 1989, ch. 111½, par. 1003.08).

"Garbage" is waste resulting from the handling, processing, preparation, cooking, and consumption of food, and wastes from the handling, processing, storage and sale of produce. (Ill. Rev. Stat. 1989, ch. 111½, par. 1003.11).

"Hazardous waste" means a waste, or combination of wastes, which because of its quantity, concentration, or physical, chemical or infectious characteristics may cause or significantly contribute to an increase in mortality or an increase in serious, irreversible, or incapacitating reversible, illness; or pose a substantial present or potential hazard to human health or the

environment when improperly treated, stored, transported, or disposed of, or otherwise managed, and which has been identified, by characteristics or listing, as hazardous pursuant to Section 3001 of the Resource Conservation and Recovery Act of 1976, or pursuant to Board regulations. (Ill. Rev. Stat. 1989, ch. 111½, par. 1003.15).

"Industrial process waste" means liquid, solid, semi-solid, or gaseous waste generated as a direct or indirect result of the manufacture of a product or the performance of a service. Any such waste which would pose a present or potential threat to human health or to the environment or with inherent properties which make the disposal of such waste in a landfill difficult to manage by normal means is an industrial process waste. Industrial process waste includes but is not limited to spent pickling liquors, cutting oils, chemical catalysts, distillation bottoms, etching acids, equipment cleanings, paint sludges, incinerator ashes, core sands, metallic dust sweepings, asbestos dust, hospital pathological wastes and off-specification, contaminated or recalled wholesale or retail products. Specifically excluded are uncontaminated packaging materials, uncontaminated machinery components, general household waste, landscape waste and construction or demolition debris. (Ill. Rev. Stat. 1989, ch. 111½, par. 1003.17).

"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. (Ill. Rev. Stat. 1989, ch. 111½, par. 1003.20).

"Municipal waste" means garbage, general household and commercial waste, landscape waste, and construction or demolition debris. (Ill. Rev. Stat. 1989, ch. 111½, par. 1002.21).

"Nuisance" means the doing of or the failure to do something that injuriously affects the safety, health or morals of the public, or works some substantial annoyance, inconvenience or injury to the public and all other acts designated as such. (Ill. Rev. Stat. 1989, ch. 100 ½, par. 26 et seq.)

"Operator" is any person that operates a regional pollution control facility.

"Party" means any person, including the applicant and the City, who complies with the pre-hearing filing requirements set forth in Section 10-55 and who may be affected by the siting of the facility.

"Person" is any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust estate, political subdivision, state agency, or any other legal entity, or their legal representative, agent or assigns. (Ill. Rev. Stat. 1989, ch. 111½, par. 1003.26).

"Pollution control waste" means any liquid, solid, semi-solid or gaseous waste generated as a direct or indirect result of the removal of contaminants from air, water or land, and which pose a present or potential threat to human health or to the environment or with inherent properties which made the disposal of such waste in a landfill difficult to manage by normal means. Pollution control waste includes but is not limited to water and wastewater treatment plant sludges, baghouse dusts, landfill waste, scrubber sludges and chemical spill cleanings. (Ill. Rev. Stat. 1989, ch. 111½, 1003.27).

"Regional pollution control facility" is any waste storage site, sanitary landfill, waste disposal

site, waste transfer station, waste treatment facility or waste incinerator that accepts waste from or that serves an area that exceeds or extends over the boundaries of any local general purpose unit of government. This includes sewers, sewage treatment plants, and any other facilities owned or operated by sanitary districts organized under "An Act to create sanitary districts and to remove obstructions in the DesPlaines and Illinois rivers", approved May 29, 1889, as now or hereafter amended. The following are not regional pollution control facilities: (1) sites or facilities located within the boundary of a local general purpose unit of government and intended to serve only that entity; (2) waste storage sites regulated under 40 CFR, Part 761.42; (3) sites or facilities used by any person conducting a waste storage, waste treatment, waste disposal, waste transfer or waste incineration operation, or a combination thereof, for wastes generated by such person's own activities, when such wastes are stored, treated, disposed of, transferred or incinerated within the site or facility owned, controlled, or operated by such person, or when such wastes are transported within or between sites or facilities owned, controlled or operated by such person; (4) sites or facilities at which the State is performing removal or remedial action pursuant to Section 22.2 or 55.3; (5) abandoned quarries used solely for the disposal of concrete, earth materials, gravel, or aggregate debris resulting from road construction activities conducted by a unit of government or construction activities due to the construction and installation of underground pipes, lines, conduit or wires off of the premises of a public utility company which are conducted by a public utility; (6) sites or facilities used by any person to specifically conduct a landscape composting operation; (7) regional facilities as defined in the Central Midwest

Interstate Low-Level Radioactive Waste Compact; (8) the portion of a site or facility where coal combustion wastes are stored or disposed of in accordance with subdivision (s)(2) or (s)(3) of Section 21; or (9) the portion of a site or facility used for the collection, storage or processing of waste tires as defined in Title XIV.

A new regional pollution control facility is: (1) a regional pollution control facility initially permitted for development or construction after July 1, 1981; or (2) the area of expansion beyond the boundary of a currently permitted regional pollution control facility; or (3) a permitted regional pollution control facility requesting approval to store, dispose of, transfer or incinerate, for the first time, any special or hazardous waste. (Ill. Rev. Stat. 1989, ch. 111½, par. 1003.32).

"Resource recovery" means the recovery of material or energy from waste. (Ill. Rev. Stat. 1989, ch. 111½, par. 1003.39).

"Resource recovery facility" means a facility required to be permitted by the Agency and capable of the recovery of material or energy from waste.

"Sanitary landfill" means a facility permitted by the Agency for the disposal of waste on land meeting the requirements of the Resource Conservation and Recovery Act P.L. 94-580, and regulations thereunder, and without creating nuisances or hazards to public health or safety, by confining the refuse to the smallest practical volume and covering it with a layer of earth at the conclusion of each day's operation, or by such other methods and intervals as the Board may provide by regulation. (Ill. Rev. Stat. 1989, ch. 111½, par. 1003.41).

"Site" means any location, place, tract of land, and facilities, including but not limited to buildings and improvements used for purposes subject to regulation or control by this Article. (Ill. Rev. Stat. 1989, ch. 111½, par. 1003.43).

"Special waste" means any industrial process waste, pollution control waste or hazardous waste except as may be determined pursuant to Section 22.9 of the Act. (Ill. Rev. Stat. 1989, ch. 111½, par. 1003.45).

"Storage" when used in connection with hazardous waste, means the containment of hazardous waste, either on a temporary basis or for a period of years, in such a manner as not to constitute disposal of such hazardous waste. (Ill. Rev. Stat. 1989, ch. 111½, par. 1003.45).

"Storage site" is a site at which hazardous waste is stored. (Ill. Rev. Stat. 1989, ch. 111½, par. 1003.47).

"Waste" means any garbage, sludge from a waste treatment plant, water supply treatment plant, or air pollution control 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 material in domestic sewage or 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, or source, special nuclear, or by-product materials as defined by the Atomic Energy Act of 1954, as amended (68 Stat. 921) or any solid or dissolved material from any facility subject to the Federal Surface Mining Control and Reclamation Act of 1977 (P.L.

95-870) or the rules and regulations thereunder or any law or rule or regulation adopted by the State of Illinois pursuant thereto. (Ill. Rev. Stat. 1989, ch. 111½, par. 1003.53.).

"Waste disposal site" is a site on which solid waste is disposed. (Ill. Rev. Stat. 1989, ch. 111½, par. 1003.54).

"Waters" means all accumulations of water, surface and underground, natural, and artificial, public and private or parts thereof, which are wholly or partially within, flow through or border upon this State. (Ill. Rev. Stat. 1989, ch. 111½, par. 1003.56).

"Groundwater" means underground water which occurs within the saturated zone and geologic materials where the fluid pressure in the pore space is equal to or greater than atmospheric pressure. (Ill. Rev. Stat. 1989, ch. 111½, par. 1003.64).

"Waste transfer station" means a facility or process required to be permitted by the Agency that is so designed and operated so as to only transfer waste from vehicle to vehicle without any material or energy recovery or other processing of waste, exclusive of compacting or baling.

Unless otherwise defined herein, all words and terms used in this Article shall have the meanings ascribed to them in the Act.

#### **Section 10-51 Licensing; Maintenance Trust**

(A) No person shall operate any regional pollution control facility without first obtaining a license from the City Comptroller and without first paying the appropriate fee as specified in Chapter 14 of this Code. Such fee shall be submitted to the City Comptroller in conjunction with an application for a license and said fee shall be made payable to the City of

Urbana. It shall be a precondition to obtaining such license that a site location approval ordinance has been adopted by the City Council for said regional pollution control facility. Any such license may be suspended or revoked if the licensee violates any provision of this Article or any special condition imposed on said licensed regional pollution control facility by the City Council. Any such license is not transferable, and a new license shall be required for any change in the owner or operator status of said regional pollution control facility.

(B) During the term of any such license required by Section 10-51(A), above, the licensee shall post a maintenance fund in the amount of fifteen thousand dollars (\$15,000) to be used by the City to abate nuisances created by the operation of said licensed regional pollution control facility. The maintenance fund must be submitted to the City Comptroller along with the application for a license and said fund shall be made payable to the City of Urbana. If upon written notice to the licensee to abate a nuisance the licensee fails to abate the nuisance within forty-eight (48) hours, or otherwise to satisfy the City that the nuisance will be abated in a reasonable time, the City will access the maintenance fund using those funds to take action to abate the nuisance. The licensee will deposit additional funds within seven calendar days into the maintenance fund to maintain a minimum balance of fifteen thousand dollars (\$15,000). Any earned interest in the maintenance fund shall remain the property of the licensee. Upon denial of an application for a license, the total amount posted for the maintenance fund shall be refunded to the prospective licensee. Upon expiration of a license, all monies remaining in the maintenance fund shall be refunded to the licensee.

(C) All persons using or operating vehicles hauling waste to or from any regional pollution control facility in the City of Urbana shall obtain a license pursuant to Article III of this Code, from the City Comptroller's Office. A copy of the permit shall be carried at all times in the hauling vehicle and displayed in the upper left hand corner of the windshield.

(D) This Section 10-51 shall apply only to regional pollution control facilities issued operating permits by the Agency after October 1, 1990.

**Section 10-52 Regional Pollution Control Facility: Inspection**

The City may conduct periodic inspections of any regional pollution control facility licensed by the City to determine if said regional pollution control facility is being operated consistent with this Article and with any special conditions imposed on the licensee by the City. This Section 10-52 only shall apply to regional pollution control facilities issued operating permits by the Agency after October 1, 1990.

**Section 10-53 Application: Siting Regional Pollution Control Facilities**

(A) The original and a minimum of twenty (20) complete copies of requests for site location approval, including twenty (20) copies of all site plans, exhibits, and maps, shall be submitted to the office of the City Clerk. Upon receipt of any such completed application for site location approval pursuant to Section 10.53(C)(14)(d) of this Article, the City Clerk shall date stamp the same and immediately deliver one (1) copy of the completed application for site location approval to the Mayor of the City. The time period designated in Section 39.2 of the Act shall not commence until the applicant has been informed that the application for site

location approval is complete and that it has been accepted for filing with the City Clerk, designating the date of the filing.

(B) A copy of the completed application for site location approval shall be made available for public inspection in the office of the City Clerk and local public library and members of the public shall be allowed to obtain a copy of the completed application for site location approval or any part thereof upon payment of the actual cost of reproduction.

(C) Applications for site location approval shall be of the form as provided by the Department of Community Development Services and shall include the following:

1. A written petition on 8 1/2" x 11" paper which sets forth:
  - (a) the identification of the applicant, and if the proposed site is owned in a land trust, each beneficiary of such land trust by name and address and his or her defined interests therein;
  - (b) the legal description of the proposed site and a street address or some other reasonable description of where the proposed site is located;
  - (c) a description of the proposed facility, its operation and the expected longevity thereof;
  - (d) the area to be served by the proposed facility and a statement of the needs of such area for such a facility;
  - (e) a list of the existing regional pollution control facilities located within or serving or capable of serving the area proposed to be served and, with

respect to each such facility, the following information shall be provided: location, size, owner and/or operator, type of pollution control facility, remaining capacity, probable life of the proposed facility, and types of wastes received;

- (f) the expected types of hazardous, non-hazardous and special wastes, amounts and methods of treatment or storage of all wastes proposed for the regional pollution control facility, and the origins of these wastes and the applicant's plan to preclude acceptance of unauthorized wastes;
- (g) in the case of a sanitary landfill, a description of the geologic and hydrogeologic character of the site including core samples, and the monitoring plans, including background analyses for ground water, surface water and air;
- (h) reasons supporting approval of the application based on the nine criteria established by Section 39.2(a) of the Act (Ill. Rev. Stat. 1989, ch. 111½, par. 1039.2), as may be amended from time to time;
- (i) a prayer for site approval; and
- (j) certification that no later than fourteen (14) days prior to a request for site location approval the applicant caused written notice either in person or by registered mail, return receipt requested, to be served on the owners of all property within the subject area not solely owned by the applicant; the

owners of all property within 250 feet in each direction of the lot line of the subject property; and members of the General Assembly from the legislative district in which the proposed facility is to be located. In addition, certification that no later than fourteen (14) days prior to a request for site location approval the applicant caused notice to be published in a newspaper of general circulation published in the county in which the site is located.

Such notices shall be in accordance with Section 39.2(b) of the Act (Ill. Rev. Stat. 1989, ch. 111½, par. 1039.2(b)) and shall state the name and address of the applicant, the location of the proposed site, the nature and size of the development, nature of the activity proposed, the probable life of the proposed activity, the date when the request for site approval will be submitted, and a description of the right of persons to comment on such a request as hereafter provided.

2. The permit application made to the Illinois Environmental Protection Agency, if any such application has been made, and any correspondence with the Agency relating thereto.
3. A site plan showing details of the proposed regional pollution control facility including but not limited to:
  - (a) fences, easements, utilities, railroad spurs, buildings and other structures;

- (b) roads, entrances, parking areas, and driveways;
  - (c) planned landscaping and screening; and
  - (d) in the case of a sanitary landfill:
    - (i) cross sections;
    - (ii) all existing wells within five hundred (500) feet of the site;
    - (iii) all monitoring wells, both existing and planned; and
    - (iv) core sample locations on and within two hundred (200) feet of the site.
4. A detailed topographic survey of the subject site and the surrounding area within five hundred (500) feet and the boundary of the 100-year flood plain.
5. A statement of the plan of operation for the proposed facility, including but not limited to the following:
- (a) method of landfilling, incineration, resource recovery or other process including flow diagrams depicting waste flow by type and volume from initial acceptance at the facility to final disposition;
  - (b) hours of operation;
  - (c) personnel;
  - (d) litter, vector, dust and odor control on and off site within one and one-half (1.5) miles;
  - (e) surface drainage and erosion control;

- (f) fire and hazardous material control;
  - (g) corrective actions for spills and other operational accidents;
  - (h) if applicable, the stages of development or use;
  - (i) building floor plans illustrating material handling equipment and processes as well as architectural elevations including exterior construction materials;  
and
  - (j) an end use plan.
6. A report of off-site traffic impact regarding the proposed site including the anticipated number of vehicles and their size, weight and directional distribution, and structural adequacy of affected pavements to include a traffic abatement and control plan to address negative traffic impacts completed by an engineer experienced in traffic engineering and registered in the State of Illinois.
  7. A storm water management plan consistent with Chapter 21, Section 21-42 of the Code of Ordinances.
  8. An identification of the drainage district in which the site is located.
  9. A statement of the applicant's ability to acquire certificates of insurance to cover accidents, such as fires, explosions, non-sudden accidental occurrences and pollution impairment.
  10. If required for the proposed regional pollution control facility, a copy of the contingency plan prepared pursuant to the Resource Conservation and Recovery

Act (42 U.S.C. §6901 et seq.) and a copy of the chemical safety contingency plan prepared pursuant to the Illinois Chemical Safety Act (Ill. Rev. Stat. 1989, ch. 111½ par. 951, et seq.)

11. A statement describing the past operating experience of the applicant (and any subsidiary, parent corporation, or subsidiary of the parent corporation), in the field of solid waste management.
12. A statement citing the past record of convictions or admissions of violations of the applicant (and any subsidiary, parent corporation, or subsidiary of the parent corporation). Said statement shall include, but not be limited to, a citation of the applicable statute or ordinance violated; a brief written summary of the violation or conviction; and the penalty imposed.
13. A statement of compliance from Champaign County that the site and proposed regional pollution control facility are in compliance with the Champaign County Solid Waste Management Plan if such a plan has been adopted by Champaign County by the date of application.
14. (a) An application fee in the form of a certified or cashier's check or a line of credit to the City shall be paid by the applicant upon acceptance of the completed application for filing pursuant to Section 10-53(C)(14)(d) at a local financial institution acceptable to the City to cover reasonable and necessary costs including but not limited to, notice costs, court reporter

costs, transcription costs, City consultant costs, hearing officer costs, and attorneys fees, and other expenses incurred by the City in conducting the review of the request for site location approval, the subsequent public hearing, and the site location approval decision, provided however, that any portion of the application fee that remains unexpended at the conclusion of the site location approval decision shall be returned to the applicant. Should there be any additional costs incurred by the City over the amount paid by the applicant in the application fee, the applicant shall bear any and all additional reasonable and necessary costs. The application fee and all other monies due the City shall be submitted to the City Clerk and made payable to the City of Urbana.

- (b) The application fee to be submitted pursuant to this Section shall be as follows:

Waste Transfer Station	\$50,000
Resource Recovery Facility	\$75,000
Sanitary Landfill	\$250,000
Storage Site	\$50,000

- (c) In the event that at any time prior to the conclusion of the site location approval decision, the City has expended such sums so as to reduce the balance of the application fee to a figure less than two thousand five hundred dollars (\$2,500.00), the petitioner within seven (7) calendar days of receipt of written notice thereof, shall contribute an additional two

thousand five hundred dollars (\$2,500.00) to the application fee to cover costs as described above. Any portion of the fees, including any additional fees that remain unexpended at the conclusion of the site location approval decision, shall be returned to the applicant.

- (d) No application for site location approval shall be deemed to have been completed and accepted for filing unless all of the requirements of this Article applicable thereto shall have been met, and the City Clerk shall not give a receipt or other indication of filing until such time as it is determined by the Department of Community Development Services that the application is complete and complies with the requirements of this Article. Within ten (10) days after receipt of an application, the City Clerk shall advise the the applicant:
- (i) Either that the application is complete and that it has been accepted for filing, designating the date of filing; or
  - (ii) That the application is not complete, specifying wherein it is deficient.
- (e) The acceptance of the application by the City Clerk is a pro forma acceptance. The applicant solely is responsible for providing sufficient technical information to meet their burden of proving the criteria cited in Section 39.2(a) of the Act. (Ill. Rev. Stat. 1989, ch. 111½, par. 1039.2).

(f) In order to give members of the public an opportunity to make informed written comment and to give the parties an opportunity to prepare adequately and fairly for the public hearing hereinafter described, any information not included in the completed application shall be inadmissible at said public hearing unless allowed by the hearing officer pursuant to Section 10-56 of this Article.

15. A written statement of any testimony to be presented at the public hearing by the applicant and all other evidence the applicant desires the City to consider including, but not limited to: studies, maps, reports, permits, or exhibits. It is intended that the applicant provide a full and complete disclosure of the case to facilitate early review and analysis by any person.

(D) The pages of the application and all exhibits submitted to the City shall be consecutively numbered.

**Section 10-54 Amended Application**

(A) At any time prior to completion by the applicant of the presentation of the applicant's factual evidence and an opportunity for cross-questioning by any party at the public hearing, the applicant may file not more than one amended application including appropriate application fees in which case the time limitation for final action set forth in Section 10-60(A) and (D) of this Article shall be extended for an additional period of ninety (90) days. Said application shall conform to the requirements of Section 10-53.

(B) An applicant may not file a request for location approval which is substantially the same as a request which was disapproved pursuant to a finding against the applicant under any of the criteria provided for in Section 10-60 within the preceding two (2) years.

**Section 10-55 Public Hearing**

(A) The City shall hold a public hearing no sooner than ninety (90) days but no later than one hundred and twenty (120) days from acceptance for filing by the City Clerk of the completed application.

(B) Any party who desires to participate in the public hearing shall file an entry of appearance with the City Clerk at least twenty-one (21) days prior to the public hearing and serve a copy upon the hearing officer. Any party, except the applicant who has pre-filed pursuant to Section 10-53(C)(15), shall submit all written testimony to be presented at the public hearing and all other evidence relating to the application requirements pursuant to Section 10.53, including but not limited to reports, studies and exhibits that the party desires to submit for the record by filing the original and twenty copies of the same with the City Clerk at least ten (10) days prior to the public hearing and by serving one copy upon the hearing officer and each party. In the event that the tenth (10th) day prior to the date set for public hearing falls on a Saturday, Sunday or holiday, the next business day shall be considered the day any appearance and/or evidence must be filed. The City Clerk shall date stamp any appearance and/or evidence upon receipt. In the case of documentary evidence, any person shall be allowed to obtain copies of said

evidence upon payment of the actual cost of reproduction. Any party who has pre-submitted testimony shall bring copies of that testimony and any exhibits to the public hearing.

(C) Within ten (10) working days of the date a request for site location approval is accepted for filing, the Mayor shall determine the date, time and location upon which such public hearing shall be held, but in any event the initial public hearing must be scheduled no sooner than ninety (90) days but no later than one hundred and twenty (120) days from the date the completed application was accepted for filing by the City Clerk.

(D) The Mayor shall notify the City Clerk of the date upon which such hearing shall be held and shall request the City Clerk to cause notice of such hearing to be made as follows:

1. Publish two (2) legal notices in a newspaper of general circulation published in Champaign County. One such notice shall be published no later than sixty (60) days from the date the completed application was accepted for filing by the City Clerk and one such notice shall be published no later than seventy-five (75) days from the date the completed application was accepted for filing by the City Clerk.

Such notices shall consist of the following:

- (a) The names and addresses of the applicant;
- (b) The legal description of the site;
- (c) The street address of the property, if there is no street address applicable to the property, a description of the site with reference to location,

ownership or occupancy or in some other manner that will reasonably identify the property to residents to the neighborhood;

- (d) The nature and size of the proposed development;
- (e) The nature of the activity proposed;
- (f) The probable life of the proposed activity;
- (g) The time and date of the public hearing;
- (h) The location of the public hearing; and
- (i) A statement that any person who may be affected by the siting of the facility may file an appearance twenty-one (21) days before the hearing to become a party and that twenty (20) copies of all testimony and exhibits to be submitted at the public hearing by a party must be pre-filed with the City Clerk at least ten (10) days prior to the public hearing and one copy served upon the hearing officer and each party.

- 2. Notice by certified mail to all members of the General Assembly from the district in which the proposed site is located at least ten (10) days prior to the public hearing.
- 3. Notice by certified mail to the Illinois Environmental Protection Agency at least ten (10) days prior to the public hearing.
- 4. Public hearing notice in a newspaper of general circulation in Champaign County published as a display advertisement at least once during the week preceding the

public hearing. Such notice shall consist of all items described in paragraph 1 above except for items (b) and (i).

5. Notice by certified mail to all surrounding property owners within one thousand (1,000) feet of the site at least ten (10) days prior to the public hearing.
- (E) The Mayor shall appoint the hearing officer for the public hearing upon the City Clerk's acceptance for filing of the completed application for site location approval. The hearing officer shall preside over the public hearing and shall make any decisions concerning the admission of evidence and the manner in which the hearing is conducted subject to this Article. The hearing officer shall make all decisions and rulings in accordance with fundamental fairness. The hearing officer may exclude irrelevant, immaterial, incompetent or unduly repetitious testimony or other evidence. No interlocutory appeal may be taken from a ruling by the hearing officer. The hearing officer shall cause to be made verbatim written transcript of the hearing and may cause to be made a daily audio-tape of the same.
- (F) The applicant for site location approval shall have the burden of proof of the suitability of the site location for the proposed use.
- (G) Any party appearing at such public hearing shall have the right to give testimony and comment on the suitability of the site location for the proposed use subject to this Article. Any party shall have the right to be represented by an attorney at said public hearing and the right to reasonable cross examination. To fully participate as provided for in this

paragraph, parties shall have complied with all requirements as set forth in paragraph B of this Section.

(H) Conduct of the public hearing shall be substantially as follows:

1. Call to order.
2. Introduction of the hearing officer.
3. Acknowledgment of receipt of fees, certification of notices, and date of filing of the completed application for site location approval.
4. Identification of parties which pre-filed testimony and which pre-filed exhibits pursuant to this Article.
5. The applicant, and other parties may make an opening statement.
6. The hearing officer shall then enter into the record as if read testimony from the applicant and/or any witnesses the applicant may wish to call and any evidence it wishes to present. Upon the close of the examination of applicant's witnesses, the hearing officer shall enter into the record as if read testimony by other parties and/or their witnesses and the evidence they wish to present. These other parties may or may not be represented by counsel. Upon the close of the applicant's and other parties' testimony and evidence, the hearing officer shall enter into the record as if read testimony by the City and/or its witnesses and the evidence it wishes to present. Other persons may then present oral or written comment to the

hearing officer. The hearing officer shall decide the order of presentation of testimony subject to this Article.

7. The testimony submitted prior to hearing will be entered into the record as if read, unless the hearing officer determines that it will aid public understanding to have the testimony read. Modifications to previously submitted testimony and exhibits may be allowed by the hearing officer at hearing provided that such modifications are either non-substantive in nature or would not materially prejudice another person's participation at hearing. Objections to such modifications are waived unless raised at hearing.
8. Everyone shall testify under oath. Testimony may include the use of exhibits. Everyone shall be subject to reasonable questioning as follows: direct, cross questioning, redirect, recross, etc. After all parties have presented testimony, reasonable rebuttal, sur-rebuttal, etc., may be allowed at the discretion of the hearing officer.
9. Should any issues, facts, data, or other evidence arise during the course of the public hearing, which were not apparent or reasonably foreseeable by any party from the completed application as filed with the City Clerk, such situation may constitute grounds for a recess in the public hearing for a period not to exceed five (5) working days and the hearing officer may allow admission of such additional information.

10. Closing statement including legal argument by applicant, other parties and the City subject to limitations as imposed by the hearing officer.
  11. Rebuttal statement, if any, by the applicant, subject to limitations as imposed by the hearing officer.
  12. Hearing closed.
- (I) Any member of the City Council or other officer of the City may attend the public hearing.
- (J) The hearing officer has the duty to conduct a fair hearing, to take all necessary action to avoid delay, to maintain order, and to ensure development of a clear, complete, and concise record sufficient to form the basis of appeal of any decision in accordance with Section 40.1 of the Act. (Ill. Rev. Stat. 1989, ch. 111½, Par. 1040.1).

**Section 10-56 Authority of the Hearing Officer**

He or she shall have all powers necessary to these ends, including but not limited to:

- (A) preside over the public hearing to ensure fundamental fairness;
- (B) require everyone to state his or her position with respect to the proposal;
- (C) administer oaths and affirmations;
- (D) examine witnesses and direct witnesses to testify for the sole purpose of clarifying the record established by the parties at the public hearing;

- (E) regulate the course of the hearing as set forth in this Article including the conduct of the parties, their counsel and other persons;
- (F) establish reasonable limits on the duration of the testimony and questioning of any witness and limit repetitious or cumulative testimony and questioning;
- (G) consider and rule upon objections and evidentiary questions;
- (H) consider and rule as justice may require upon appropriate motions;
- (I) grant recesses of the public hearing determined to be required; and
- (J) cause a written transcript to be made of the public hearing and may cause a daily audio-tape(s) and cause such transcript and audio-tape(s), if any, to be delivered to the City Clerk.

**Section 10-57 Motion Practice**

(A) All motions shall be in writing, unless made orally on the record during the public hearing. The original and twenty (20) copies of any written motion and proof of service shall be filed with the City Clerk ten (10) days prior to the date of the public hearing and one copy shall be served upon the hearing officer and upon each party.

(B) At any time prior to the public hearing and after receipt of the motion, any other party may file a response to the motion. If no response is filed, the parties shall be deemed to have waived objection to the granting of the motion, but such waiver of objection does not bind the hearing officer in a decision on the motion. Unless undue delay or material prejudice would

result, the hearing officer shall not grant or deny any motion before the opening of the public hearing.

(C) The moving party shall not have the right to reply, except as permitted by the hearing officer to prevent material prejudice.

(D) No oral argument will be heard on a motion before the hearing officer unless so directed by the hearing officer.

(E) No interlocutory appeal may be taken from a ruling on a motion by the hearing officer.

(F) The filing of any motion under this Section shall not stay the proceedings or extend the time for the performance of any act.

**Section 10-58 Public Comment**

(A) The City Clerk shall receive written comment from any person concerning the appropriateness of the proposed site location. Upon receipt of any such written comment the City Clerk shall date stamp same and shall file such written comment and the postmarked envelope in which comment is received.

(B) Copies of such written comments shall be made available for public inspection in the Office of the City Clerk, and any person shall be allowed to obtain copies of any written comment upon payment of actual cost of reproduction.

(C) Any written comment received by the City Clerk or postmarked not later than thirty (30) days after the date of the last public hearing shall be made part of the record of the

public hearing as hereinafter described, and the City Council shall consider any such timely written comments in making its final determination concerning said request. In the event that the thirtieth (30th) day falls on a Saturday, Sunday or holiday, the next day on which mail is delivered shall be considered the thirtieth (30th) day for purposes of this paragraph.

**Section 10-59 Record**

(A) The hearing officer shall be responsible for keeping the record of said hearing and shall file the record with the City Clerk within forty-five (45) days after the date of the last public hearing.

(B) The record shall consist of the following:

1. The completed application for site location approval as described in Section 10-53 hereof.
2. Certificate of notice given by applicant pursuant to section 39.2(b) of said Act. (Ill. Rev. Stat. 1989, ch. 111½, par. 1039.2(b)).
3. Written comments filed by any person received by the City Clerk postmarked within 30 days after the date of the last public hearing.
4. All testimony, reports, studies, exhibits, written comments, or documents received into evidence at the public hearing.
5. The written transcript of the public hearing and the daily audiotape(s), if any.

(C) The City Clerk shall be responsible for certifying all copies of the record of the public hearing.

**Section 10-60 Site Location Approval Ordinance**

(A) The City Clerk shall transmit a certified copy of the record of the public hearing to each member of the City Council within fifty (50) days after the date of the last public hearing.

(B) In making its decision on the request for site location approval, the City Council shall base its decision on the following criteria:

1. The facility is necessary to accommodate the waste needs of the area it is intended to serve;
2. The facility is so designed, located and proposed to be operated that the public health, safety and welfare will be protected;
3. The facility is located so as to minimize incompatibility with the character of the surrounding area and to minimize the effect on the value of the surrounding property;
4. The facility is located outside the boundary of the 100-year flood plain, or the site is flood-proofed;
5. The plan of operations for the facility is designed to minimize the danger to the surrounding area from fire, spills, or other operational accidents;

6. The traffic patterns to or from the facility are so designed as to minimize the impact on existing traffic flows;
7. If the facility will be treating, storing or disposing of hazardous waste, an emergency response plan exists for the facility which includes notification, containment and evacuation procedures to be used in case of an accidental release;
8. If the facility will be located within a regulated recharge area, any and all applicable requirements specified by the Illinois Pollution Control Board for such area have been met; and
9. If the facility is to be located in a county where the County Board has adopted a solid waste management plan, the facility is consistent with that plan.

(C) The City Council shall consider as evidence the previous operating experience and past record of convictions or admissions of violations of the applicant (and any subsidiary, parent corporation, or subsidiary of the parent corporation), in the field of solid waste management when considering Criteria [2] and [5] of subsection (B) of this Section.

(D) The City Council shall consider the certified record of the public hearing and shall make a determination concerning the completed application not later than one hundred and eighty (180) days after the City Clerk's filing of the completed application. The decision shall be in writing and be in the form of a site location approval ordinance specifying the reasons for the decision in conformance with Section 39.2(a) of the Act.

(E) The City Council in granting approval for a site may impose such conditions as may be reasonable and necessary to accomplish the purposes of Section 39.2 of the Act and are not inconsistent with regulations promulgated by the Illinois Pollution Control Board.

(F) Such site location approval ordinance shall be served upon all parties and shall be available for public inspection at the Office of the City Clerk and may be copied upon payment of the actual cost of reproduction.

(G) This site location approval ordinance shall expire at the end of two calendar years from the date upon which it is granted unless within that period the applicant has made application to the Agency for a permit to develop the site.

**Section 10-61 Fees and Costs**

(A) All reasonable and necessary costs and expenses incurred by the City in conducting the review of the completed application, the subsequent hearing, and the site location approval ordinance shall be paid from the fees as provided in this Article.

(B) Upon termination of any proceedings under this Article a final accounting and summary of all authorized reasonable and necessary expenditures shall be made.

(C) Any portion of an application fee not required for reimbursement to the City for reasonable and necessary costs and expenses under this Article incurred by the City shall be returned to the applicant. Should there be costs and/or expenses in excess of the amount paid by the applicant in the application fee, the applicant shall bear any and all additional reasonable and necessary costs.

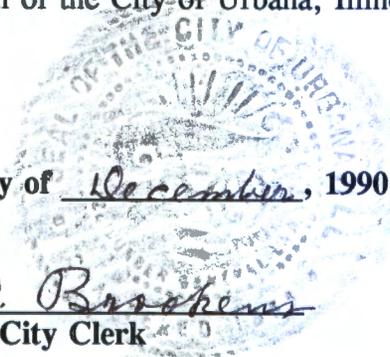
**Section 10-62 Severability**

If any provision of this Article or the application thereof to any party, person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Article which can be given effect without the invalid provisions or applications of this Article and to the end that the provisions or applications of this Article are declared to be severable.

This Ordinance shall become effective immediately upon its passage and approval as required by law.

This Ordinance is hereby passed by the affirmative vote, the "ayes" and "nays" being called, of a majority of the members of the City Council of the City of Urbana, Illinois, at a regular meeting of said City Council.

PASSED by the City Council this 3rd day of December, 1990.

  
Ruth S. Brookens  
Ruth S. Brookens, City Clerk

APPROVED by the Mayor this 13<sup>th</sup> day of December, 1990.

Jeffrey T. Markland  
Jeffrey T. Markland, Mayor