

VILLAGE OF LOMBARD
REQUEST FOR BOARD OF TRUSTEES ACTION
For Inclusion on Board Agenda

 X Resolution or Ordinance (Blue) X *Waiver of First Requested*
 Recommendations of Boards, Commissions & Committees (Green)
 Other Business (Pink)

TO: PRESIDENT AND BOARD OF TRUSTEES
FROM: David A. Hulseberg, Village Manager
DATE: February 12, 2013 (B of T) DATE: February 21, 2013
TITLE: Pollution Control Facility Siting Ordinance
SUBMITTED BY: Carl Goldsmith, Director of Public Works *CG*

BACKGROUND/POLICY IMPLICATIONS:

The Department of Public Works recommends the approval of a AN ORDINANCE AMENDING TITLE 11 OF THE LOMBARD VILLAGE CODE ESTABLISHING A PROCEDURE FOR POLLUTION CONTROL FACILITY SITE APPROVAL REQUESTS IN THE VILLAGE OF LOMBARD, DUPAGE COUNTY, ILLINOIS

FISCAL IMPACT/FUNDING SOURCE

Review (as necessary):

Village Attorney X _____ Date _____
Finance Director X _____ Date _____
Village Manager X _____ Date _____

NOTE: Materials must be submitted to / approved by the Village Manager's Office by 12:00 pm, Wednesday, prior to the Agenda Distribution.



February 12, 2013

TO: Acing Village President and Board of Trustees
THROUGH: David A. Hulseberg, Village Manager
FROM: Carl Goldsmith, Director of Public Works *CG*
SUBJECT: Waste Transfer Siting Ordinance

As presented by the Village Manager at the Public Hearing for the Fiscal Year 2013 Budget conducted on December 6, 2012, staff has reviewed the procedural steps and processes of siting and approving a waste transfer station in the Village of Lombard. While no definitive site(s) has been identified, the process has been reviewed and articulated within this report.

The procedures and process, and the rights and responsibilities of the parties, are dictated by Section 39.2 of the Illinois Environmental Protection Act, by the Village's ordinance for siting new pollution control facilities (a Siting Ordinance which governs the procedures for the siting of the pollution control facilities should be adopted by the Board of Trustees) and by the cases interpreting the referenced Act. It is important to note that the process governed by Section 39.2 deals only with the Village's review of a proposed site for a pollution control facility. Any development and operational permits for the facility must be obtained from the Illinois Environmental Protection Agency. Without local siting approval, however, no permits will be issued.

Under the Act, a waste transfer station is defined as a Pollution Control Facility. The Act defines a Pollution Control Facility as any waste storage site, sanitary landfill, waste disposal site, waste transfer station, waste treatment facility or waste incinerator. A provision is included to give local government the authority and responsibility to approve the location of any Pollution Control Facility within their jurisdiction. It is only during this siting approval that "quality of life" issues relating to the landfill, or other Pollution Control Facility, can be considered. Documentation of this approval is an integral part of any permit application submitted to the Illinois EPA for review.

Waste transfer stations are subject to two (2) tiers of approval. First, approval must be granted to the owner/operator by the municipality through the siting process. Siting authority is vested with the Village Board of Trustees, subject to the provisions of the local Siting Ordinance. The Ordinance is not specific to the application and is adopted by the Village Board of Trustees to establish and codify the process an applicant or applicants would need to comply with in order to be considered for siting. The Ordinance should be in place prior to any application being made

to the Village, as this creates the guidelines for an application process in terms of notification, application fees, etc.

Pursuant to Illinois Statutes, as well as any proposed Lombard Siting Ordinance, the responsibility of each party involved in the siting process is as follows:

- The applicant must comply with notification requirements.
- The applicant must present a proposal that complies with the siting law (415 ILCS 5/1 et seq.).
- The public must be allowed an opportunity to comment on the proposal.
- The local officials must examine the application and evaluate public comments to determine whether the site meets the requirements of the siting law.
- Local officials are required to make public, orally or in writing, any host agreement between the local siting authority and the siting applicant, prior to the siting decision.
- The Illinois EPA will not review a permit application without documentation that the municipal government has approved the location of the facility.

Section 39.2 of the Illinois Environmental Protection Act requires that any person or party who desires to develop, construct or operate a pollution control facility must first file an application for site location approval with the appropriate unit of local government in which the facility is proposed to be located. In this application, the applicant must demonstrate (at a minimum) compliance with the nine statutory criteria. These are as follows:

- (i) The facility is necessary to accommodate the waste needs of the area it is intended to serve;
- (ii) The facility is so designed, located and proposed to be operated that the public health, safety and welfare will be protected;
- (iii) 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 surrounding property;
- (iv) (A) for a facility other than a sanitary landfill or waste disposal site, the facility is located outside the boundary of the 100-year flood plain or the site is flood-proofed; (B) for a facility that is a sanitary landfill or waste disposal site, the facility is located outside the boundary of the 100-year flood plain, or if the facility is a facility described in subsection (b)(3) of Section 22.19a, the site is flood-proofed;
- (v) The plan of operations for the facility is designed to minimize the danger to the surrounding area from fire, spills, or other operational accidents;
- (vi) The traffic patterns to and from the facility are so designed as to minimize the impact on existing traffic flows;
- (vii) 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 used in the case of an accidental release;
- (viii) If the facility is to be located in a county where the county board has adopted a solid waste management plan consistent with the planning requirements of the Local Solid Waste Disposal Act or the Solid Waste Planning and Recycling Act, the facility is consistent with that plan. For the purposes of this criterion (viii), the “solid waste

management plan” means the plan that is in effect as of the date of the application for siting approval is filed; and

- (ix) If the facility will be located within a regulated recharge area, any applicable requirements specified by the Pollution Control Board for such areas have been met.

If the proposed facility meets these nine criteria, local siting shall be approved. The approval expires at the end of two years, or three years for a municipal waste landfill, unless the applicant applies to the Illinois EPA for a permit to develop the site during this period. If the local decision is appealed, the period begins when the appeal process is concluded. A denial of siting approval must be based on evidence that the site does not qualify under one or more of the nine criteria. If the applicant has been denied siting approval by the county board or municipal government, two years must pass before a substantially equivalent proposal can be reconsidered.

In addition, the Village of Lombard may consider certain other factors. These are defined in Section 39.2 as follows:

"The county board or the governing body of the municipality may also consider as evidence the previous operating experience and past record of convictions or admissions or violations of the applicant (and any subsidiary or parent corporation) in the field of solid waste management when considering criteria (ii) and (v) under this Section."

As part of the siting process, an applicant can meet with the Village staff in a pre-application meeting to discuss Village concerns and to provide some preliminary information to the Village to help assess whether the proposed property has the potential for development as a pollution control facility before the applicant and the Village commits to the time and costs of preparing and going through the formal application process. Among other things to be considered at this pre-application meeting are:

- The proposed project's title, identification of the owner and the proposed operator of the pollution control facility and any consultants serving the applicant on the project;
- A description of the proposed property and anticipated limits of filling;
- Proposed pollution control facility life and disposal capacity;
- Municipalities and industries to be served;
- Anticipated waste types, characteristics and amount of waste to be handled;
- Traffic pattern and a traffic control plan;
- Local zoning issues, if any;
- Anticipated impacts on the County's solid waste management plan;
- Preliminary facility design and operational information;
- The potential impact upon public health, safety and welfare;
- A preliminary identification of all potential conflicts with the nine siting criteria set forth above (does this project merit going forward);
- Are there preliminary engineering designs, design calculations, details on the phases of construction, proposed construction documentation, sequencing of operations, end

- use determination or estimated costs for construction, operation, closure and long-term care of the pollution control facility;
- What local permits will be required by the Village of Lombard and other agencies.

As part of the discussion of these issues, the Village can also begin the preliminary "host agreement" negotiations. A host agreement is a contract between the pollution control facility developer and the Village in which the parties agree to the conditions of development and operation of the pollution control facility. In general, the site owner will offer design, financial and operational incentives to the municipality in exchange for a negotiated agreement and to gain waiver or approval of local permits. Virtually any issue is negotiable except the need to comply with the nine statutory criteria. Commonly negotiated concessions on the part of the owner include:

- Operational issues such as hours of operation, size and capacity of the pollution control facility and type of inspections and reporting requirements due to the Village;
- Waste materials to be accepted including the type, volume and origin of the waste; the right to inspect pollution control facility records;
- Security issues and surveillance cameras;
- Nuisance control and lighting;
- Vehicle routes and access;
- Aesthetic screening, fencing and landscape buffers;
- Containment of noise and odors;
- Recycling efforts to be implemented and the payment of a recycling rebate and food scraps fee;
- Guarantee of capacity for the Village's waste, free disposal or reduced rates;
- Payments to the Village for local costs of regulation, fire control, road and maintenance;
- Tipping fees and other related "host" fees to be paid to the Village;
- Reimbursement of professional fees;
- Economic protection of neighboring property owners for loss of property value;
- Indemnification to the Village;
- Insurance requirements;
- Performance bond requirements;
- Assignment rights of the agreement terms and obligations;
- Community relations/complaint resolutions.

It is important to note that for the purposes of reviewing an application for the siting of a Pollution Control Facility, local zoning and local land use requirements may not be applied to siting decisions, except when located within Chicago city limits.

Upon receipt of an application for siting of a Pollution Control Facility within the corporate limits of the Village of Lombard, the notice provisions and schedule must be following in accordance with the Illinois Pollution Control Board regulations. An application fee of \$250,000 for a Pollution Control Facility is required at the time of application. In the case of a facility designed as a Hazardous Waste Disposal Site, the fee increases to \$500,000. The applicable

filing fee is intended to defray the reasonable and necessary costs of processing the application, including, but not limited to: costs of site inspection, clerical expenses, copying costs, space rental, Hearing Officer compensation, court reporter expenses, transcription costs, public notice expenses, staff review time, if any, Village Attorney and Village consultants (such as qualified professional engineers, planners, appraisers, environmental counsel, etc.) (including tests, exhibits, and testimony, if any, provided by said consultants), and other relevant costs incident to the consideration of an application, the costs incident to preparing the record for appeal, and the cost of representing the Village on appeal in case of an appeal of a President and Board of Trustees decision (the "Village costs"). Should the Village incur any additional costs in excess of the applicable filing fee deposit, the Applicant shall bear any and all such additional costs and shall promptly pay over such additional amount to the Village upon request or demand. If at any time the funds deposited by the Applicant are reduced below Fifty Thousand Dollars (\$50,000.00), the Applicant shall deposit an additional Fifty Thousand Dollars (\$50,000.00). If funds remain at the resolution of the application process; the Village shall refund the remaining portion of the application fee to the applicant.

At least 14 days before requesting approval for the site, the permit applicant must notify owners of property within 250 feet in all directions of the boundary of the site. The applicant must also notify members of the General Assembly from the legislative district in which the site is located. The applicant must also publish a notice in a newspaper with general circulation, in the county where the site is to be located. To ensure that interested citizens understand the intentions of the applicant, the law requires that the notice contain the following information:

- The name and address of the applicant;
- The location of the proposed site;
- The nature and size of the development;
- The probable life of the proposed site;
- The date when the request for site approval will be submitted to the Village Board; and
- A description of the right of persons to comment on the request for site approval.

A copy of the applicant's request for siting approval, accompanied by supporting information, must be on file in the Office of the Village Manager for review by interested persons.

The Village must conduct at least one public hearing, between 90 and 120 days after receiving the application. A notice of public hearing must be published in a newspaper located in the county of the proposed site, sent to all members of the General Assembly from that district and to the Illinois EPA Bureau of Land. The hearing enables the officials to obtain information from everyone interested in the application. The proceedings are to be transcribed by a court reporter so that they are available for public inspection, copying and review.

The public may comment on the application in writing until 30 days after the last public hearing. They may also participate in the public hearing.

The second tier of approval is through the Illinois Pollution Control Board (IPCB) subject to the Illinois Environmental Protection Act (415 ILCS 5/1). The applicant must receive approval

through the local siting process prior to submitting to the IPCB. The Village is not involved in the review process conducted by the Illinois Pollution Control Board. It is important to note that an applicant cannot submit an application with the IPBC until such time as the Village has completed the review and granted approval of an application determined to meet all requirements under the Act and local ordinances.

The Village Attorney has drafted the attached Ordinance setting forth the process making application and review of an application for the siting of a Pollution Control Facility in the Village of Lombard.

The following documents have been included for your consideration:

- A PowerPoint presentation entitled “Waste Transfer Station” has been prepared to summarize the key issues and considerations related to the siting of a Pollution Control Facility in a community.
- An Ordinance Amending Title 11 of the Lombard Village Code Establishing a Procedure for Pollution Control Facility Site Approval Requests in the Village of Lombard, DuPage County, Illinois.

Please feel free to contact me with any questions regarding the process or the procedures outlined within this report.

Recommendation

The staff recommends the Acting Village President and Board of Trustees adopt AN ORDINANCE AMENDING TITLE 11 OF THE LOMBARD VILLAGE CODE ESTABLISHING A PROCEDURE FOR POLLUTION CONTROL FACILITY SITE APPROVAL REQUESTS IN THE VILLAGE OF LOMBARD, DUPAGE COUNTY, ILLINOIS.

Waste Transfer Station

The Local Siting Process as Required by Illinois Law

(415 ILCS 5/) Environmental Protection Act

Waste Transfer Station

“Siting a Pollution Control Facility in Illinois” – 98-021

- Illinois Environmental Protection Agency
- Bureau of Land

[http://www.epa.state.il.us/
community-relationships/pollution-control-facility-siting.pdf](http://www.epa.state.il.us/community-relationships/pollution-control-facility-siting.pdf)

What is a Pollution Control Facility?

A "Pollution control facility" is any:

1. Waste Storage Site;
2. Sanitary Landfill;
3. Waste Disposal Site;
4. Waste Transfer Station;
5. Waste Treatment Facility, or;
6. Waste Incinerator.
7. This would include sewers, sewage treatment plants, and any other facilities owned or operated by sanitary districts organized under the Metropolitan Water Reclamation District Act.

What is a Transfer Station?

A "Transfer station" means a site or facility that accepts waste for temporary storage or consolidation and further transfer to a waste disposal, treatment or storage facility.

The Illinois Environmental Protection Act of 1970

- Created the IL Pollution Control Board (IPCB)
 - sets environmental standards for pollution control facilities and the state.
 - Judges violations of those standards
- Created the IL Environmental Protection Agency (IEPA)
 - Enforces the Board's standards for facilities
 - Issues permits for facilities
- A provision is included to give local government the authority and responsibility to approve the location of any pollution control facility within their jurisdiction. It is only during this siting approval that "quality of life" issues relating to the facility can be considered. Documentation of this approval is an integral part of any permit application submitted to the Illinois EPA for review.

The Illinois Environmental Protection Act of 1970 (continued)

- Local Government (the Village) has the authority and responsibility to approve locations within its jurisdiction.
- “The Siting Process” is the mechanism used to review and approve the location.

Sample Host Community Agreement

WHEREAS, the Village has not consented to or concurred in the Application for siting of the Transfer Station the Transfer Station Operator proposes to develop, construct and operate on the Property and nothing in this Host Community Agreement shall be deemed by the Transfer Station Operator, the Village, other public agencies, the public, or any other person or entity, to indicate the Village has herein or heretofore adopted any position with regard to the proposed Application or the proposed Transfer Station; and

Sample Host Community Agreement

The Village has not approved or agreed with a siting application and the Village is neutral towards any application.

WHEREAS, if the Village approves the Application for the siting of the proposed Transfer Station with or without conditions, and if the Illinois Environmental Protection Agency issues permits for the development and operation of the Transfer Station, and if the Transfer Station Operator develops, constructs and operates the Transfer Station, the Transfer Station Operator is willing to pay to the Village, and the Village desires to accept Host Fees as hereinafter set forth to help meet direct and indirect costs of the Village associated with the approvals and the siting of the Transfer Station, and for other general revenue needs of the Village as the Village may deem appropriate; and

Sample Host Community Agreement

- IF an Application is made,
- IF the Village approves,
- IF the Illinois EPA issues permits,
- IF the operator decides to build,
- Then the Transfer Station Operator is willing to pay and the Village is willing to accept host fees.

Sample Host Community Agreement

- WHEREAS, the Transfer Station Operator is desirous of earning the good will of the citizens of the Village of Lombard by demonstrating its good faith to educate the community of the benefits of waste reduction, recycling and proper management of wastes, and as to the nature of its operations, and in demonstrating that its operations are, and will continue to be conducted in an environmentally sound manner; and
- WHEREAS, the Village is desirous of protecting the health, safety and welfare of its citizens by measures set forth herein, and insuring that factually accurate information is provided to the public.

Sample Host Community Agreement

- The *Developer/Operator* wants to be a responsible corporate resident of Lombard.
- The Village wants to protect the health, safety and welfare of the citizens.
- Both parties want to ensure the community receives factually accurate information.

Sample Host Community Agreement

COMMUNICATION, COMPLAINT INVESTIGATION AND RESOLUTION

- The Transfer Station Manager will have an office onsite, will be our point of contact and will provide his personal cell phone number for after hours contact.
- There will be a phone number, voice mail, email and website to receive public questions and complaints.
- 24 hour response time to complaints
- Maintain a detailed 'Complaint Log'

Sample Host Community Agreement

OPERATIONS, STORAGE, RECYCLABLES AND CONTAINERS

- All tipping of Waste at the Transfer Station shall be inside the building.
- Screen all storage, loading and unloading of material from viewing from Lombard Road or North Avenue.
- Conduct all operations in a manner that is protective of the public health, safety, welfare, groundwater resources, and the environment.
- On a daily basis, patrol the areas and promptly remove litter on public ways.
- All equipment shall be equipped with mufflers or other sound suppressing devices.
- Retain a pest control service on an on-going basis to address the potential for rodent/vector infestation, whereby such service shall inspect the Transfer Station as needed.

Sample Host Community Agreement

VILLAGE INSPECTION OF THE TRANSFER STATION

- The Village may, during regular business hours of the Transfer Station, inspect the Transfer Station for compliance with:
 - this Agreement,
 - the site plan,
 - conditions of approval,
 - conditions of any IEPA permit,
 - Village ordinances, and
 - any other applicable laws or regulations.

Sample Host Community Agreement

APPROVAL OF APPLICATION

- The Village has not predetermined whether it will approve, approve with conditions, or disapprove the Application.
- The Village has not pre judged whether the proposed Transfer Station will meet the criteria for approval under Section 39.2 of the Act;
- The Village shall review the application in accordance with the criteria set forth in 415 ILCS 5/39.2
- The Transfer Station Operator shall reimburse the Village for all reasonable fees and costs, including but not limited to Village consultants, a hearing officer, a Village attorney and court reporters associated with the Village's review of and the hearing on the application.

Sample Host Community Agreement

• SCALE

- The Transfer Station Operator shall allow the Village reasonable use of the scale by any trucks or vehicles from the Village's Public Works Department or for the official business of the Police Department or the Village.

• NEW TAXES

- In consideration of the Host fees, the Village shall not levy any new taxes or assess any new fees just for the Transfer Station.
- This does not apply to fees or taxes validly and uniformly assessed against all members of a class of taxpayers or fee payers (vehicle stickers, business licenses, property taxes).

Sample Host Community Agreement

Village of Lombard:

- Approves the location “siting” of a waste transfer station located within the Village.

Illinois EPA:

- Approves/reviews the technical aspects of the operation of the transfer station and issues a development permit and an operating permit.

Process Timeline

- Host Benefit Agreement – Approved by Village Board of Trustees
- Pre-Application Review by Staff (Estimate 30 days)
- Notice of Intent to File an application for site approval – (14 days prior to application)
- Application for Site Approval Submitted by developer/operator
- Public Hearing (90 -120 days from application)
- Written Comment Period (30 days after close of public hearing)

Public Involvement in the Siting Process

- Illinois law intends that citizens be fully informed about the proposal and to have an opportunity to comment.
- Local officials must conduct at least one public hearing.
- The proceedings are to be transcribed by a court reporter so that they are available for public inspection, copying and review.
- The public may comment on the application in writing until 30 days after the last public hearing.
- The public may also participate in the public hearing.

Siting Criteria 415 ILCS 5/39.2

State law specifies that the site location suitability be evaluated only in accordance with 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 designed, located and proposed to be operated so 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;
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 and from the facility are designed to minimize the impact on existing traffic flow;
7. If the facility will be treating, storing or disposing of hazardous waste...
8. If the facility will be located within a regulated recharge area,...
9. If the facility is to be located in a county where a solid waste management plan has been adopted, the facility must be consistent with that plan.

Siting Criteria 415 ILCS 5/39.2



Illinois
Environmental
Protection Agency

Bureau of Land
1021 North Grand, Ave.
Springfield, IL 62794-9276

IEPA/BOL/98-021

Revised March 2003

“If the proposed facility meets these nine criteria, local siting will be approved. A denial of siting approval must be based on evidence that the site does not qualify under one or more of the nine criteria.”

Questions ?

ORDINANCE NO. _____

**AN ORDINANCE AMENDING TITLE 11 OF THE LOMBARD
VILLAGE CODE ESTABLISHING A PROCEDURE FOR POLLUTION
CONTROL FACILITY SITE APPROVAL REQUESTS IN THE
VILLAGE OF LOMBARD, DUPAGE COUNTY, ILLINOIS**

BE IT HEREBY ORDAINED by the President and Board of Trustees of the Village of Lombard, DuPage County, Illinois, as follows:

WHEREAS, the Illinois Environmental Protection Act (415 ILCS 5/1, et seq.) requires the approval by the President and Board of Trustees as to the site location suitability of each new Pollution Control Facility to be established within the Village's jurisdiction; and

WHEREAS, Section 39.2(c) of the Illinois Environmental Protection Act (415 ILCS 5/39.2(c)) provides that the Illinois Environmental Protection Agency may not grant a permit for the development or construction of a new Pollution Control Facility which is to be located within the Village's jurisdiction without proof that the location of said facility has been approved by the President and Board of Trustees; and

WHEREAS, the Illinois Environmental Protection Act requires an Applicant for local siting to file a request for site approval with the Village, and prescribes the criteria with which such request must comply; and

WHEREAS, Section 39.2 of the Illinois Environmental Protection Act (415 ILCS 5/39.2) provides that the President and Board of Trustees shall approve the site location for a new Pollution Control Facility which is to be located within the Village's jurisdiction only if the President and Board of Trustees find:

1. That the facility is necessary to accommodate the waste needs of the area that it is intended to serve; and
2. That the facility is so designed, located, and proposed to be operated that the public health, safety and welfare will be protected; and
3. That 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; and
4. (A) for a facility other than a sanitary landfill or waste disposal site, the facility is located outside the boundary of the 100 year flood plain, or that the site is flood-proofed; (B) for a facility that is a sanitary landfill or waste disposal site, the facility is located outside the boundary of the 100 year flood plain, or if the facility is a facility described in subsection (b)(3) of Section 22.19a of the Illinois Environmental Protection Act (415 ILCS 5/22.19a), the site is flood-proofed.
5. That the plan of operations for the facility is designed to minimize the danger to the surrounding area from fire, spills, or other operational accidents; and

6. That traffic patterns to or from the facility are so designed as to minimize the impact on existing traffic flows; and
7. That 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; and
8. That if the facility is to be located in a county where the county board has adopted a solid waste management plan consistent with the planning requirements of the Local Solid Waste Disposal Act, or the Solid Waste Planning and Recycling Act, the facility is consistent with that plan. For the purposes of this criterion, the "solid waste management plan" means the plan that is in effect as of the date the application for siting approval is filed; and
9. That if the facility will be located within a regulated recharge area, any applicable requirements specified by the Illinois Pollution Control Board for such areas have been met; and

WHEREAS, the Village may also consider as evidence the previous operating experience and past record of convictions or admissions of violations of the Applicant (and any subsidiary or parent corporation) in the field of solid waste management when considering criteria 2 and 5 above.

WHEREAS, the Illinois Environmental Protection Act provides that the governing body of the municipality, in granting approval for a site, may impose such conditions as may be reasonable and necessary to accomplish the purposes of 415 ILCS 5/39.2, as long as said conditions are not inconsistent with regulations promulgated by the Illinois Pollution Control Board; and

WHEREAS, it is the judgment of the President and Board of Trustees that in order for it to properly and effectively reach a decision upon an application for a new Pollution Control Facility which conforms to the criteria set forth above, it must have presented to it meaningful information relative to each criteria at the earliest possible time; and

WHEREAS, the Illinois Environmental Protection Act requires the Village of Lombard to hold at least one public hearing no sooner than 90 days but no later than 120 days from receipt of the request for site approval, such hearing to be preceded by published newspaper notice and notice to certain identified persons or entities; and

WHEREAS, the Illinois Environmental Protection Act provides that the public hearing shall develop a record sufficient to form the basis of appeal of the decision under the Act, and that appeals shall be based exclusively on the record before the governing body of the municipality; and

WHEREAS, decisions of the President and Board of Trustees with respect to requests for site approval for such facilities, are quasi-judicial determinations, and, therefore, are required to be based solely upon the evidence received at said public hearing and the written comments from persons received or postmarked not later than 30 days after the date of the last public hearing; and

WHEREAS, decisions of the President and Board of Trustees regarding such matters are required to be in writing, specifying reasons for the decision; and

WHEREAS, failure to take final action on a request for site approval within the specified time after filing of the request is deemed by the Illinois Environmental Protection Act to be approval of the site location;

WHEREAS, it is apparent to the President and Board of Trustees that due to the necessarily technical nature of the information provided to it relative to the above-mentioned criteria, evaluation of such information will require the analysis and opinions of qualified professionals, without which the Board of Trustees will be unable to properly and effectively fulfill the mandate imposed upon it by the General Assembly; and

WHEREAS, Section 39.2(k) of the Illinois Environmental Protection Act expressly authorizes the President and Board of Trustees to charge Applicants for siting review a reasonable fee to cover the reasonable and necessary costs incurred by the Village in the siting review process; and

WHEREAS, in order to protect the public interest and to promote the orderly conduct of the hearing process and ensure that full and complete information is made available to the President and Board of Trustees, it is necessary and desirable that procedures be established for conducting the public hearings and making decisions regarding site approval requests; and

WHEREAS, it is deemed necessary and desirable for the President and Board of Trustees to delineate the substance and procedures for the application, hearing and approval or denial of applications for site location approval of new Pollution Control Facilities, by adopting this ordinance setting forth rules and regulations relating to the form, content, fees, filing, hearings and procedures applicable to such applications which shall be called "AN ORDINANCE AMENDING TITLE 11 OF THE LOMBARD VILLAGE CODE ESTABLISHING A PROCEDURE FOR POLLUTION CONTROL FACILITY SITE APPROVAL REQUESTS IN THE VILLAGE OF LOMBARD, DUPAGE COUNTY, ILLINOIS" or "Ordinance".

NOW, Therefore, Be It Ordained, by the President and Board of Trustees of the Village of Lombard, DuPage County, Illinois, as follows:

SECTION 1: That Title 11 of the Lombard Village Code is hereby amended by adding a new Chapter 128 thereto, which shall read in its entirety as follows:

"CHAPTER 128: POLLUTION CONTROL FACILITY SITING

§ 128.01 DEFINITIONS.

(A) For the purposes of this Chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

The **ACT** is the Illinois Environmental Protection Act, as amended from time to time. (415 ILCS 5/1, et seq.)

APPLICANT: is any person, firm or partnership, association, corporation, company, limited liability company or organization of any kind proposing to obtain site location approval

and IEPA permits for a new Pollution Control Facility within the Village of Lombard's jurisdiction and file an application for local siting approval pursuant to this Chapter 128.

BOARD: refers to the Illinois Pollution Control Board.

COUNTY: refers to the County in which the new Pollution Control Facility is proposed to be located.

HAZARDOUS WASTE DISPOSAL SITE: A site at which hazardous waste is to be managed, i.e., treated, stored or disposed. "Hazardous Waste" is waste so defined in the "Act".

HEARING OFFICER: refers to a person appointed by the President, with the advice and consent of the Board of Trustees to conduct a Public Hearing and make Findings of Fact, Conclusions of Law and recommendations to the President and Board of Trustees.

IEPA: refers to the Illinois Environmental Protection Agency.

LOMBARD'S JURISDICTION: refers to the corporate boundaries of the Village of Lombard and to the jurisdiction granted to a municipality pursuant to 65 ILCS 5/11-15.1-2.1.

PCF: refers to a Pollution Control Facility as defined in the Act. "PCF" includes a new Pollution Control Facility as defined by the Act.

PRESIDENT AND BOARD OF TRUSTEES: refers to President and Board of Trustees of Lombard, Illinois.

RULES AND PROCEDURES: refers to the "Rules and Procedures Pollution Control Facility Siting Village of Lombard, Illinois", established by the President and Board of Trustees and are incorporated herein by reference as "Exhibit A".

VILLAGE: refers to the Village of Lombard, Illinois.

(B) All other terms used in this Chapter 128 and defined in the Act shall have the same definitions and meanings as found in said Act, including, but not limited to those terms defined in Section 3, thereof. (415 ILCS 5/3)

§ 128.02 APPROVAL OF POLLUTION CONTROL FACILITIES.

No site location approval for the development or construction of a new PCF within Lombard's jurisdiction may be granted by the President and Board of Trustees unless an application is filed for approval of such site and is submitted for consideration to said President and Board of Trustees.

§ 128.03 POLLUTION CONTROL FACILITY SITING HEARING OFFICER.

(A) Within fourteen (14) days following the receipt of the request for site location approval, the President, with the advice and consent of the Board of Trustees shall appoint a Hearing Officer to serve during any public hearing concerning an application for site location approval. The Hearing Officer shall serve at the pleasure of the President and Board of

Trustees. Compensation for the services of the Hearing Officer shall be agreed upon between the Hearing Officer and the President and Board of Trustees before the public hearing commences. The duties of the Hearing Officer shall be as provided for herein and in the Rules & Procedures.

(B) All meetings and hearings on the Siting Application shall be at the call of the Hearing Officer at such times as may be required.

§ 128.04 PROCEDURE FOR FILING AN APPLICATION FOR APPROVAL OF A POLLUTION CONTROL FACILITY.

(A) (1) To request siting approval for a new PCF within Lombard's jurisdiction, an Applicant must file an application with the Village Clerk, with, unless otherwise authorized by the President and Board of Trustees pursuant to Section 128.04(A)(2) below, a minimum of twenty (20) copies of the application and the substance of the Applicant's proposal showing sufficient details describing the proposed facility to demonstrate compliance with the Act and Board regulations, including all site plans, engineering including calculations, exhibits and maps, and all documents, if any, to be submitted to the IEPA as of the date of filing the application. In addition, the Applicant shall also provide one (1) electronic version to the Village Clerk. At a minimum, the application shall comply with the Rules and Procedures. The form of said application may be obtained from the Lombard Village Clerk.

(2) A simple majority of the President and Board of Trustees may, prior to receipt of a particular request for site location approval hereunder, reduce the number of copies of such request, or particular portions thereof, which must be submitted under Section 128.04(A)(1). Such reductions may be granted upon the written motion of a person who has, pursuant to Section 39.2(b) of the Act, filed a notice of intent to submit an application for location approval, which notice has also advised the recipients of the Applicant's intention to move for a copies reduction under this Section. Such reductions motion must be filed with the Clerk at least five (5) calendar days prior to a regularly scheduled President and Board of Trustees meeting. The moving party must submit a certified copy of the notice of intent, and demonstrate that: compliance with the copies requirement of Section 128.04(A)(1) will be inordinately expensive, without commensurate benefit to the Village and the public; and that the proposed copies reduction will not work any fundamental unfairness on the Village or the public, in their ability to review, and prepare for the hearing on the location approval application. The President and Board of Trustees shall act upon the motion expeditiously and may act upon the request for copies reduction at its first regular meeting after filing of the motion.

(3) In addition to the foregoing, the Applicant shall deposit with the Village Clerk at the time of filing the application for site approval of a new PCF a filing fee deposit in the form of a certified or cashier's check of Two Hundred Fifty Thousand Dollars (\$250,000.00), except that a filing fee deposit of Five Hundred Thousand Dollars (\$500,000.00) is required if said proposed facility is designed as a Hazardous Waste Disposal Site or if the disposal or volume reduction of any waste will be by incineration or burning. If the Applicant elects to file an amended application for site location approval for any PCF in accordance with this Chapter 128, such filing shall be accompanied by payment of a supplemental fee of Fifty Thousand Dollars (\$50,000.00).

The applicable filing fee is intended to defray the reasonable and necessary costs of processing the application, including, but not limited to: costs of site inspection, clerical

expenses, copying costs, space rental, Hearing Officer compensation, court reporter expenses, transcription costs, public notice expenses, staff review time, if any, Village Attorney and Village consultants (such as qualified professional engineers, planners, appraisers, environmental counsel, etc.) (including tests, exhibits, and testimony, if any, provided by said consultants), and other relevant costs incident to the consideration of an application, the costs incident to preparing the record for appeal, and the cost of representing the Village on appeal in case of an appeal of a President and Board of Trustees decision (the "Village costs"). Should the Village incur any additional costs in excess of the applicable filing fee deposit, the Applicant shall bear any and all such additional costs and shall promptly pay over such additional amount to the Village upon request or demand. If at any time the funds deposited by the Applicant are reduced below Fifty Thousand Dollars (\$50,000.00), the Applicant shall deposit an additional Fifty Thousand Dollars (\$50,000.00).

If there are funds remaining in the filing fee deposit after payment of the Village costs, such amount shall be refunded to the Applicant upon the final resolution of the application process (including appeals to the Illinois Pollution Control Board, Appellate Court, Illinois Supreme Court, Federal Courts, and administrative review in the Courts, if any).

The application must be complete, with answers provided for each question on the application form. The application must contain consecutively numbered pages and it must be accompanied by all site plans, exhibits, maps and documents required by this Chapter 128 and by the Rules and Procedures. The date that the Applicant files a complete application in proper form, together with the applicable filing fee deposit, with the Village Clerk shall be considered the official filing date for all time limit purposes. The application is not effective unless the application is in strict compliance with this Chapter 128, the Rules and Procedures and with the Act. If upon review of the application within twenty-one (21) days of its submittal it is determined by the Village to be incomplete and not in strict conformance with the aforesaid, the application is deemed not filed and the filing fee (less Village costs and expenses) shall be returned to the Applicant. Failure of the Village to reject a request for site approval is not, and shall not be deemed, acceptance of the form or substance of the request, and the Applicant remains solely responsible to demonstrate that the location approval criteria are all met. 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 the Hearing Officer, Village representatives and any participants, the Applicant may file not more than one amended application upon payment of additional fees pursuant to Section 39.2(k) of the Act and Section 128.04 (A)(3) of this Chapter 128. Provided, however, that the time limitation for final action set forth in Section 39.2(e) of the Act and Section 128.07(B) of this Chapter 128 shall be extended for an additional period of ninety (90) days.

(4) If, prior to making a final local siting decision, the Village has negotiated and entered into a host agreement with the Applicant, the terms and conditions of the host agreement, whether written or oral, shall be disclosed and made a part of the hearing record for that local siting proceeding. In the case of an oral agreement, the disclosure shall be made in the form of a written summary jointly prepared and submitted by the Village and the Applicant and shall describe the terms and conditions of the oral agreement.

(B)(1) Upon receipt of a proper and complete application, and payment of the applicable filing fee deposit, the Village Clerk shall date stamp all the copies and immediately deliver one copy to the Village President, one copy to each member of the Board of Trustees, one copy to the clerk of each municipality entitled to notice of the public hearings pursuant to Section 128.06(B), two copies to the Village Attorney and one copy to the Hearing Officer

selected by the President and Board of Trustees. The Village's Attorney shall be responsible for coordinating review of the request for site approval and is authorized to call interdepartment meetings for the purpose of defining those reports and studies which are desired and for setting deadlines for the submittal of reports and recommendations.

(2) The Village Attorney may retain consultants on behalf of the Village to develop a record sufficient to form the basis of an appeal of the President and Board of Trustees' decision. The consultants and the Village departments shall then commence a study of the application. The Applicant shall cooperate fully with the consultants and the technical staff of the Village in their review of the application, including providing access to the site for study or testing, including but not limited to geophysical testing.

(C) A copy of the application and all related documents or other materials on file with the Village Board of Trustees shall be made available for public inspection in the office of the Village Clerk during normal business hours. Members of the public shall be allowed to obtain a copy of said application or any part thereof upon payment of the actual cost of reproduction as outlined in the Illinois Freedom of Information Act (5 ILCS 140/1, et seq.) The Village Clerk shall post a copy of the electronic version of the application and all related documents or other materials on the Village's website.

(D) It is the Applicant's duty to comply with all notice requirements set forth in the Act. The Applicant shall:

(1) No later than fourteen (14) days prior to filing an application for site location approval with the Village Clerk, cause written notice of such application to be served either in person or by registered mail, return receipt requested, on the owners of all property within the subject area not solely owned by the Applicant, and on the owners of all property within two hundred fifty (250) feet in each direction of the lot line of the subject property, said owners being such persons or entities which appear from the authentic tax records of the County in which the facility is to be located; provided, that the number of all feet occupied by public roads, streets, alleys and other public ways shall be excluded in computing the two hundred fifty (250) feet requirement; provided further, that in no event shall this requirement exceed four hundred (400) feet, including public streets, alleys and other public ways.

(2) The Applicant shall serve such written notice upon each member of the General Assembly from the legislative district in which the proposed facility is to be located, and this notice shall also be published in a newspaper of general circulation in the County in which the site is located.

(3) The Applicant shall state in such notice the name and address of the Applicant, the location of the proposed site, the nature and size of the development, the nature of the activity proposed, the probable life of the proposed activity, the date when the request for site approval will be submitted to the Village Clerk, a description of the right of persons to comment on such request as hereafter provided, and any other information as may be required by the Rules and Procedures and the Act.

(4) The Applicant shall include in the application proof of compliance with all pre-filing notice requirements, including verified or certified copies of those pre-filing notices required by Section 39.2(b) of the Act.

§ 128.05 PROCEDURE FOR FILING WRITTEN COMMENTS TO AN APPLICATION FOR SITE LOCATION APPROVAL FOR A PCF.

(A) Any person may file written comments with the Village Clerk concerning the appropriateness of the proposed site for its intended purpose. The Hearing Officer shall consider any comment received or postmarked from the date of acceptance of the application through and until thirty (30) days after the date of the last public hearing in making a final determination. Said written comments shall be mailed or delivered to the Lombard Village Clerk, 255 E. Wilson Avenue, Lombard, Illinois 60148. Said written comments shall clearly designate reference to the PCF application to which they refer to ensure their consideration by the Hearing Officer. Upon receipt, the Village Clerk shall date stamp the comments and refer them to the Hearing Officer.

(B) The above-mentioned written comments shall become part of the record of the proceedings.

§ 128.06 HEARINGS ON APPLICATIONS.

(A) At least one public hearing shall be held by the Hearing Officer no sooner than ninety (90) days but no later than one hundred twenty (120) days from and after the receipt of the application for PCF site location approval. Any Board of Trustees member may attend such hearings and a transcript shall be made and retained of all portions of the public hearing.

(B) The Applicant shall cause to be published in a newspaper of general circulation in the County of the proposed site and in a newspaper of general circulation in the Village of Lombard a notice of such public hearing not later than fourteen (14) days prior to said hearing.

The Applicant shall also serve written notice of such hearing by certified mail, return receipt requested, on all members of the Illinois General Assembly from the district in which the proposed site is located, to the governing authority of every municipality contiguous to the proposed site or contiguous to the municipality in which the proposed site is to be located, to the county board of the county where the proposed site is to be located and to the IEPA. The Applicant shall file with the Village Clerk copies of each notice with proof of service of such notice prior to the commencement of said public hearing.

(C) The Hearing Officer shall notify the Applicant in writing of the date and location of the public hearing at least twenty-one (21) days prior to such hearing.

(D) Members or representatives of the governing authority of any municipality contiguous to the proposed site or contiguous to the municipality in which the proposed site is to be located and members or representatives of the county board of the County in which the proposed site is to be located may appear at and participate in the public hearings.

(E) The public hearing shall develop a record sufficient to form the basis of appeal of the decision in accordance with Section 40.1 of the Act. During the course of the public hearing before the Hearing Officer, the Hearing Officer shall receive testimony from the Applicant and witnesses whom the Applicant may call in support of the application, any Village witnesses, any objectors, and any other witnesses having relevant information in order for the Board of Trustees to determine if the proposed facility meets the following criteria (or such amended criteria as may be set forth from time to time in the Act):

(1) That the facility is necessary to accommodate the waste needs of the area that it is intended to serve; and

(2) That the facility is so designed, located, and proposed to be operated that the public health, safety and welfare will be protected; and

(3) That 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; and

(4) (a) for a facility other than a sanitary landfill or waste disposal site, the facility is located outside the boundary of the 100 year flood plain, or that the site is flood-proofed; (b) for a facility that is a sanitary landfill or waste disposal site, the facility is located outside the boundary of the 100 year flood plain, or if the facility is a facility described in subsection (b)(3) of Section 22.19a of the Illinois Environmental Protection Act (415 ILCS 5/22.19a), the site is flood-proofed.

(5) That the plan of operations for the facility is designed to minimize the danger to the surrounding area from fire, spills, or other operational accidents; and

(6) That traffic patterns to or from the facility are so designed to minimize the impact on existing traffic flows; and

(7) That 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; and

(8) That if the facility is to be located in a county where the county board has adopted a solid waste management plan consistent with the planning requirements of the Local Solid Waste Disposal Act, or the Solid Waste Planning and Recycling Act, the facility is consistent with that plan. For the purposes of this criterion, the "solid waste management plan" means the plan that is in effect as of the date the application for siting approval is filed; and

(9) That if the facility will be located within a regulated recharge area, any applicable requirements specified by the Illinois Pollution Control Board for such areas have been met.

The Hearing Officer and the Board of Trustees may also consider as evidence the previous operating experience and past record of convictions or admissions of violations of the Applicant (and any subsidiary or parent corporation of the Applicant) in the field of solid waste management when considering criteria (2) and (5). The Applicant shall affirmatively present oral testimony fairly showing the previous operating experience and past record of convictions or admissions of violations of the Applicant (and any subsidiary or parent corporation of the Applicant) in the field of solid waste management.

(F) A transcript shall be kept of all proceedings before the Hearing Officer. The Hearing Officer shall preside at 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 Chapter 128 and the Rules and Procedures. However, the Hearing Officer shall make all rulings and decisions in accordance with fundamental fairness. No ruling of the Hearing Officer concerning admissibility of evidence or procedural issues at the public hearing shall be appealable to the

President and Board of Trustees. Issues of jurisdiction shall be finally determined by the President and Board of Trustees.

(G) The Applicant for site location approval shall have the burden of proof and the burden of going forward with evidence. The testimonial evidence introduced by the Applicant may not exceed the scope of the application. Such oral testimony may only explain and clarify the application, not expand or amend the application.

(H) All persons desiring to be participants in the hearing, including members of the public, must submit written notification of said intent to the Village Clerk before the first day of the public hearing or register with the Hearing Officer on the first day of the hearing. Any person so appearing at such public hearing shall have the right to present testimony and witnesses relating to the pending application. Any such person shall have the right to be represented by an attorney at said public hearing. Opportunity for any persons appearing at said public hearing to cross-examine any witness may be reasonably limited in time and duration by the Hearing Officer, to assure completion of the hearings in accordance with the deadlines of the Act. The Hearing Officer may propound questions to any witness or to the Applicant to clarify the record established by the participants at the hearing or to bring out relevant information. The Village shall be deemed a participant and a party to all proceedings and shall proceed last with its case and cross-examination.

(I) The Applicant and the Village's Attorney shall be allowed to cross-examine witnesses by right, subject to such reasonable limitation as may be set by the Hearing Officer. Cross-examination by the Village shall not be limited to matters contained in the application. Parties represented by attorneys may be allowed to cross-examine in the discretion of the Hearing Officer. Other persons shall be allowed to submit questions to the Hearing Officer, who shall exercise discretion in the manner in which such questions are to be posed to witnesses. Sufficient examination of witnesses is to be allowed so as to provide for fundamental fairness.

(J) All witnesses shall testify under oath. Testimony may include the use of prepared statements and exhibits. If testimony is by prepared statement, copies of such prepared statements shall be made available at the hearings (or, prior to the first hearing date, at the office of the Village Clerk) at least one day in advance of such testimony being given. All witnesses shall be subject to reasonable examination as follows: direct, cross-examination, redirect, and recross.

(K) Public Comment. The Hearing Officer may exercise discretion to allow public comment at each hearing or may set one time for public comment.

(L) The Hearing Officer shall, in the Hearing Officer's discretion and to the extent reasonably practicable, permit the Village, the Applicant and any party to file Proposed Findings of Fact and Conclusions of Law. The Hearing Officer shall draft a Proposed Findings of Fact and Conclusions of Law and submit them, and copies of such other Proposed Findings of Fact and Conclusions of Law as may have been filed, to the President and Board of Trustees.

(M) The decision of the Hearing Officer on the application shall be in writing, specifying the reason(s) for the decision, in accordance with Section 128.06(E), above. The Hearing Officer shall submit a report to the President and Board of Trustees as soon as practicable, but in no event earlier than the end of the 30-day comment period.

(N) The siting approval procedures and criteria provided for in the Act and in this Chapter 128 for new PCF's shall be the exclusive siting procedures and rules and approval procedures. Local zoning or other local land use requirement shall not be applicable to such siting decisions. However, to the extent provided by law, the Applicant shall also comply with zoning and other requirements.

§ 128.07 DECISIONS.

(A) Once the Hearing Officer has made his/her written report containing the public record, the report shall be submitted to the President and Board of Trustees for its decision as to the ultimate approval or disapproval of the proposed site location. Five (5) copies of the record of the public hearing shall also be made available to the President and Board of Trustees as soon as the transcript becomes available.

(B) The President and Board of Trustees shall make a decision based on the record from the public hearing and review of the recommendation of the Hearing Officer. The decision of the President and Board of Trustees shall be by resolution in writing, specifying the reasons for the decision, such reasons to be in conformity with Section 39.2(a) of the Act. In granting site location approval, the President and Board of Trustees may impose such conditions as may be reasonable and necessary to accomplish the purposes of the Act to the extent that said conditions are not inconsistent with the Act and the regulations promulgated by the Illinois Pollution Control Board. Such decisions shall be available for public inspection at the office of the Village Clerk and may be copied upon payment of the cost of reproduction. The Village Clerk shall post a copy of the transcript of the hearing and a copy of the President and Board of Trustee's written decision on the Village's website. If there is no final action by the President and Board of Trustees within one hundred eighty (180) days after the filing of the application for site location approval, the Applicant may deem the application approved unless the time for approval has been extended for an additional period of 90 days pursuant to the Act and this Chapter 128.

(C) An Applicant may not file an application for site location approval which is substantially the same as a request which was disapproved, pursuant to a finding against the Applicant under any criteria (1) through (9) of Section 128.06(E), above, and of Section 39.2(a) of the Act, within two (2) years.

(D) Siting approval obtained pursuant to this Chapter 128 is transferable and may be transferred to a subsequent owner or operator. In the event that siting approval has been transferred to a subsequent owner or operator, that subsequent owner or operator assumes and takes subject to any and all conditions imposed upon the prior owner or operator by the Village. However, any such conditions imposed pursuant to this Section may be modified by agreement between the subsequent owner or operator and the Village. Further, in the event that siting approval obtained pursuant to this Section has been transferred to a subsequent owner or operator, that subsequent owner or operator assumes all rights and obligations and takes the facility subject to any and all terms and conditions of any existing host agreement between the prior owner or operator and the Village.

(E) A local siting approval granted under this Section shall expire at the end of 2 calendar years from the date upon which it was granted, unless the local siting approval granted under this Section is for a sanitary landfill operation, in which case the approval shall expire at the end of 3 calendar years from the date upon which it was granted, and unless within that

period the Applicant has made application to the Agency for a permit to develop the site. In the event that the local siting decision has been appealed, such expiration period shall be deemed to begin on the date upon which the appeal process is concluded.

§ 128.08 ADMINISTRATION OF FEES AND COSTS.

(A) All expenses incurred by the Village in managing or reviewing of the request for site approval, conducting the public hearing, arriving at the site approval decision, and any appeals from the President and Board of Trustees decision shall be paid from the costs deposit as provided in this Chapter 128. The costs deposit shall be placed in one or more interest-bearing savings or checking accounts in the name of the Village, with rights of withdrawal limited to the Village Treasurer. Depositories shall be financial institutions resident in the Village.

(B) The Village Treasurer shall, within twenty-one (21) days after the filing of the application for site approval, determine an hourly rate at which the services of Village employees will be charged, for services in the receipt, review, processing of and response to the application. Such rate shall include all costs of the Village in compensating its employees, including benefits and retirement. A single Village-wide rate, or a Departmental or Office rate may be determined, in the discretion of the Treasurer. Services performed by Village employees will be charged at the established rate. The Applicant shall be notified of such rate within seven (7) days of its establishment.

(C) Records of Village-incurred expenses, including relevant time records of Village employees, will be submitted to the Village Treasurer, who shall organize the records and prepare and submit periodic reports of expenditures to the President and Board of Trustees, the Clerk and the Applicant. Not earlier than seven (7) days after the submittal of each such report to the Applicant, the Village Treasurer may draw upon the application fee deposit in the amount of the reported incurred expenses.

(D) Upon termination of proceedings (including appeals), a final accounting and summary of all authorized expenditures and reimbursements shall be presented to the President and Board of Trustees by the Village Treasurer.

(E) Any portion of a costs deposit not required for payment of costs or expenses incurred by the Village hereunder shall be returned to the Applicant within a reasonable time. Should there be costs and/or expenses in excess of the amount paid by the Applicant in the costs deposit, the Applicant shall pay any and all additional costs within a reasonable time of presentment of a statement from the Village Treasurer.

(F) In order to expedite payment of all bills incurred as a result of administering the hearing process, all bills and questions concerning billing should be directed to the Village Treasurer."

SECTION 2: The Rules and Procedures Pollution Control Facility Siting Village of Lombard, Illinois attached hereto as EXHIBIT A are hereby established and adopted by the President and Board of Trustees and apply to all Pollution Control Facility Siting under Title 11, Chapter 128 of the Lombard Village Code.

SECTION 3: That this Ordinance shall be in full force and effect from and after its passage, approval and publication in pamphlet form as provided by law.

Passed on first reading this ____ day of _____, 2013.

First reading waived by action of the Board of Trustees this ____ day of _____, 2013.

Passed on second reading this ____ day of _____, 2013, pursuant to a roll call vote as follows:

AYES: _____

NAYS: _____

ABSENT: _____

APPROVED by me this ____ day of _____, 2013.

William Ware, Acting Village President

ATTEST:

Brigitte O'Brien, Village Clerk

Published by me in pamphlet form this ____ day of _____, 2013.

Brigitte O'Brien, Village Clerk

**RULES AND PROCEDURES
POLLUTION CONTROL FACILITY SITING
Village of Lombard, Illinois**

ARTICLE I: GENERAL PROVISIONS

- SECTION 1: These rules and procedures are supplementary to the provisions of Title 11, Chapter 128, of the Lombard Village Code (the "Village Code") and relate to procedures of the Pollution Control Facility Siting Hearing Officer (the "Hearing Officer"). References and terms herein shall be defined as in the Village Code.
- SECTION 2: The Village Attorney shall be consulted where the powers of the Hearing Officer are not clearly defined.

ARTICLE II: RESPONSIBILITIES AND DUTIES

- SECTION 1: The Hearing Officer shall supervise and preside at all meetings and public hearing(s).
- SECTION 2: A court reporter shall be employed by the Hearing Officer, subject to the approval of the Village Attorney, and shall be present at any and all public hearings on an application for local siting approval and shall provide the Hearing Officer with a certified transcript of the hearing as soon as possible. A secretary may be employed by the Hearing Officer, subject to the approval of the Village Attorney, to assist the Hearing Officer during the hearing process.
- SECTION 3: In order to give members of the public an opportunity to make informed written comments and to give members of the public and departments of the Village an opportunity to prepare adequately and fairly for the public hearing hereinafter described, the Applicant must fully comply with all application requirements as set forth below. Failure to comply timely with such application requirements may, in the discretion of the Hearing Officer, and as necessary to avoid fundamental unfairness to the Village and the public, render such untimely submitted information inadmissible at the public hearing.

ARTICLE III: MEETINGS AND HEARINGS

- SECTION 1: Meetings and hearings shall be called by the Hearing Officer at such times as may be deemed necessary. At public hearings conducted pursuant to the Village Code wherein evidence is taken, arguments made or procedures discussed, the Hearing Officer may schedule continued hearings.
- SECTION 2: The Hearing Officer shall provide at least forty-eight (48) hours notice of any special meeting called by him/her. The forty-eight (48) hour notice requirement does not apply to continued public hearings for local siting approval pursuant to the Village Code.

SECTION 3: All hearings shall be open to the public.

SECTION 4: The Hearing Officer shall be present when public hearings under the Village Code are being conducted and the meeting is being transcribed as provided therein.

SECTION 5: CONDUCT OF THE HEARING.

- A. 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. He or she will have all powers necessary to these ends, including (but not limited to) the authority to do the following, provided no ruling of the Hearing Officer shall be appealable to the President and Board of Trustees:
- (a) Require all witnesses to state their position with respect to the request for site location approval.
 - (b) Administer oaths and affirmations.
 - (c) Examine witnesses and direct witnesses to testify.
 - (d) Regulate the course of the hearing, including but not limited to, controlling the order of proceedings, consistent with these Rules and Procedures.
 - (e) Establish reasonable limits on the duration of the testimony and questioning of any witness and limit repetitive or cumulative testimony and questioning.
 - (f) Rule upon objections and evidentiary questions.
 - (g) Allow the introduction of late-filed reports, studies, exhibits or other non-testimonial evidence, on behalf of any participant, provided good cause is shown for the late-filing, the evidence is offered in the rebuttal portion of the participant's case, the evidence was filed with the Clerk at least one day before the public hearing at which it is offered, and fundamental fairness to all parties will be preserved.
- B. The Applicant for siting approval shall have the burden of proof and the burden of going forward with the evidence as to the suitability of the site location for the proposed use.
- C. If the Applicant is a natural person, the Applicant may appear at the public hearing on his/her own behalf, or be represented by counsel or agent. If the Applicant is not a natural person, the Applicant must be represented by counsel.
- D. The Hearing Officer shall call the hearing to order and shall allow the Applicant and the Village or its counsel or agent, to make an opening statement. The Hearing Officer may allow objectors or their counsel to make an opening statement.
- E. The Hearing Officer shall then hear testimony from the Applicant and/or any witnesses the Applicant may wish to call. Upon the close of the Applicant's testimony, any other parties may offer any witnesses and evidence they may wish to present. These other

parties may or may not be represented by counsel on the same basis as the Applicant. Upon the close of the Applicant's and other parties' testimony and evidence, the Village may present any witnesses and evidence it may wish to present, unless the Village is the Applicant, in which case it shall proceed as set out above. The Hearing Officer shall decide the order of presentation of testimony subject to these rules.

- F. All witnesses shall testify under oath. Testimony may include the use of exhibits. All witnesses shall be subject to reasonable examination as follows: direct, cross, redirect, recross, etc. After all parties have presented testimony, reasonable rebuttal, sur-rebuttal, etc., may be allowed at the discretion of the Hearing Officer.
- G. The Hearing Officer may exclude irrelevant, immaterial, incompetent or unduly repetitious testimony or other evidence. The Hearing Officer shall rule on all questions relating to the admissibility of evidence. These rulings shall not be appealable to the President and Board of Trustees.
- H.
 - (1) 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 the Village and any participants, the Applicant may file not more than one amended application upon payment of additional fees pursuant to Section 128.04(A)(3) of the Village Code. Provided, however, that the time limitation for final action set forth in Section 39.2(e) of the Act, as amended, and Section 128.07(B) of the Village Code, shall be extended for an additional period of 90 days, such that final action shall be taken not later than 270 days after filing of the request for site approval.
 - (2) Within thirty (30) days of the filing of the amendment(s), the Hearing Officer, pursuant to Section 128.06(C) of the Village Code, shall notify the Applicant of the date of the public hearing, said public hearing to be held pursuant to these Rules and Procedures.
 - (3) An Applicant may not file a request for local siting approval which is substantially the same as a request which was disapproved, pursuant to a finding against the Applicant under any of criteria (1) through (9) of Section 128.06(E) of the Village Code, within two (2) years.
- I. All parties wishing to testify or cross-examine must sign in or submit written notification of said intent to the Village Clerk on or before the first date of the hearing; if the hearing should extend beyond one session no additional parties shall be allowed to testify or cross examine.
- J. Post-hearing briefs, including proposed findings of fact, conclusions of law, and recommendations may be submitted by any person accorded participant status in the public hearing. Briefing shall be according to a time schedule and page limitation established by the Hearing Officer. Provided, the Hearing Officer may dispense with the opportunity for post-hearing briefing in the event of shortness of time for the President and Board of Trustees decision.

ARTICLE IV:

HEARING OFFICER REPORT

The Hearing Officer shall, at the conclusion of the hearing and after consideration of all timely post-hearing written comments, prepare a written report to the President and Board of Trustees containing:

- (a) Proposed findings of fact and conclusions of law, if pertinent, concerning each of the criteria; and
- (b) Proposed recommendations concerning a decision on the application and any conditions to be attached to a favorable decision.

In making a recommendation on the pending application, the Hearing Officer shall base the decision on the factors listed in the Village Code.

ARTICLE V: NOTICES

SECTION 1: The Hearing Officer shall determine the date, time and location of such public hearing, but in no event shall the initial public hearing be scheduled sooner than 90 days or later than 120 days from the date the request for site approval was filed with the Clerk.

SECTION 2: Public Notice of the Public Hearing. The Hearing Officer shall notify the Applicant in writing of the date upon and location which such hearing shall be held at least twenty-one (21) days prior to such hearing, and the Applicant no later than fourteen (14) days prior to such hearing, shall thereafter cause public notice of such hearing to be made as follows:

- A. A published legal notice in a newspaper of general circulation published in the County where the PFC is proposed to be located.
- B. Certified mail to all members of the General Assembly from the district in which the proposed site is located.
- C. Certified mail to the Illinois Environmental Protection Agency.
- D. Certified mail to the governing authority of each municipality contiguous to the proposed site or contiguous to the Village.
- E. Certified mail to the County Board of the County where the proposed site is to be located.
- F. The aforesaid notices shall consist of the following:
 - (a) The name and address of the person, partnership or corporation requesting site location approval.

- (b) The owner of the site, and in case ownership is in a land trust, the names of the beneficiaries of said trust.
- (c) The legal description of the site.
- (d) The street address of the property, and 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 of the neighborhood.
- (e) The nature and size of the proposed development.
- (f) The nature of the activity proposed.
- (g) The probable life of the proposed activity.
- (h) The time and date of the public hearing.
- (i) The location of the public hearing.
- (j) A statement that, except as otherwise allowed by the Hearing Officer, all copies of evidence other than testimony to be submitted at the public hearing must be filed with the Clerk not later than 7 days before the date of the first public hearing; and, that any written prepared witness statements must be made available at the hearing (or prior to the first hearing date, at the office of the Village Clerk) at least one day before the date of the public hearing at which such statement is to be offered.
- (k) A statement that written comment may be served upon or postmarked to the Village not later than thirty (30) days following the last day of hearing.
- (l) A statement that, for a person to participate in the public hearing, a written notice of intention to participate must be submitted to the Clerk prior to the first day of hearing or presented to the Hearing Officer prior to the close of the first day of hearing.

SECTION 3: Notice shall be given in the manner prescribed by the Village Code and the Act.

ARTICLE VI: FEES

The Fee, as described in the Village Code, Section 128.04(A)(3)(4), must be paid by the Applicant at the time an application is filed and additional payments must be made as required by the Village Code, before the application may be considered.

ARTICLE VII: HEARING OFFICER RECOMMENDATION

SECTION 1: The Hearing Officer shall, after a Public Hearing, make a recommendation as to site approval to the President and Board of Trustees. Any person may file written comments with the Village Clerk concerning the appropriateness of the proposed

site for the intended purpose. In the event that the 30th day falls on a Sunday or a federal holiday, the next day on which mail is delivered shall be considered the 30th day for purposes of this Section. The Hearing Officer shall consider any comment received or postmarked from the date of acceptance of the application through and until thirty (30) days after the date of the last public hearing in making a final determination. Said written comments shall be mailed or delivered to the Lombard Village Clerk, 255 E. Wilson Avenue, Lombard, Illinois 60148. Said written comments shall clearly designate reference to the PCF application to which they refer to ensure their consideration by the Hearing Officer. Upon receipt, the Village Clerk shall date stamp the comments and refer them to the Hearing Officer. Copies of such written comments shall be made available for public inspection in the office of the Village Clerk, and members of the public shall be allowed to obtain a copy of any written comment upon payment of actual cost of reproduction. No further evidence, testimony or input from the parties or the public will be allowed after thirty (30) days of the close of the Public Hearing.

SECTION 2: The Hearing Officer shall submit a written report containing Findings of Fact and Conclusions of Law and a recommendation (and amendment, if applicable) to the President and Board of Trustees. This report must be filed with the Village Clerk as soon as practicable.

ARTICLE VIII: WAIVER OF RULES

In order to ensure fundamental fairness, compliance with the Act, and to protect the public interest, the Hearing Officer may waive any of these Rules and Regulations.

ARTICLE IX: APPLICATION

SECTION 1: General Procedures

- A. An application for a Pollution Control Facility shall be presented as described in the Village Code and these Rules and Regulations. Additional pages shall be attached where the space provided is insufficient.
- B. The Applicant shall submit twenty (20) paper copies and one electronic version of the completed application as described in the following sections.
- C. Requests for site approval shall be bound in sturdy three-ring binders or their equivalent, with pages and exhibits consecutively numbered. All Sections of the application shall be clearly marked and submitted with dividers. Exhibits and drawings shall be clearly marked as to what Sections they pertain. Notwithstanding the specific application requirements detailed herein, Applicant must include all information which the Applicant believes necessary to demonstrate compliance with the standards of the Village Code. The written petition shall be on 8-1/2" x 11" paper which sets forth the information below.
- D. The application shall be deemed amended if at any time after the official filing date the Applicant either changes any of the information contained in the application or submits any additional substantive information, either written or oral, regarding the application.

**"APPLICATION FOR POLLUTION
CONTROL FACILITY SITING APPROVAL"**

A. IDENTIFICATION

1. Name of Applicant _____

2. Address of Applicant _____
(Street, P.O. Box, RR)

Telephone _____
Village State Zip Code
(Area Code) (Number)

3. Name of Operator _____

4. Address of Operator _____
(Street, P.O. Box, RR)

Telephone _____
Village State Zip Code
(Area Code) (Number)

5. For both the Applicant and the proposed Operator, provide the following information:

- (a) Identification of the Applicant and each of its owners, all subsidiaries of the Applicant, the ultimate parent of the Applicant, all intermediate owners between Applicant and its ultimate parent, and those subsidiaries of the Applicant's parent operating within the United States, indicating the full legal name and business form of each person or entity, the date and state of its creation, and its headquarter's office address.
- (b) If the proposed operator of the facility is not the Applicant, identification in all respects of the operator, of the same information required from the Applicant.
- (c) Identification of the name, current address and interest held by each owner and occupier of the subject site, including each person who is a contract-purchaser of the site, each lessee, and each person holding a current option to purchase an interest in such site. If any such owner or occupier is a non-natural person, identification shall include the name, current address and nature of interest held by the owner(s), legal and beneficial, of such non-natural person.
- (d) If a partnership, submit names and addresses of all partners. If a corporation, submit names and addresses of all Officers and Directors, and the names and addresses of all shareholders owning ten percent (10%) or more of the capital stock of said corporation. If a limited liability

company, submit the names and addresses of all members and the manager(s).

- (e) If a corporation, submit a copy of the Articles of Incorporation as an exhibit. If the corporation is more than fifty percent (50%) owned by another corporation, the requirements of this part shall be applicable to said corporation. If a limited liability company, submit a copy of the Articles of Organization as an exhibit.
- (f) Submit audited financial statements of the Applicant and operator for the three (3) preceding years. If new corporation, provide statement for years available.

6. Name of Site _____

7. Address of Site _____
(Street, P.O. Box, RR)

	Village	State	Zip Code
Telephone	_____	_____	_____
	(Area Code)	(Number)	

8. The legal description and attach a Plat of Survey of the proposed site, a street address or some other reasonable description of where the proposed site is located and designation on the survey of the various parcels which constitute the proposed site (if there are more than one);

9. Attach copies of all insurance policies relevant to the premises and the operations carried on at the location for which the Applicant seeks site location approval. Describe the insurance policies carried by the Applicant to cover single incidents and gradual and fortuitous incidents, as well as insurance coverage which the Applicant intends to obtain. Attach certificates of insurance (or other documentary proof) verifying the insurance policies (or other proof of financial responsibility) carried by the Applicant to cover sudden and accidental, and non-sudden and accidental occurrences arising out of operation of the Pollution Control Facility and resulting in bodily injury, property damage and environmental impairment.

B. SITE HISTORY (Check applicable box or boxes)

1. This is a proposed operation
 This is a proposed expansion of an existing operation:
 Illinois E.P.A. Permit No. _____
 No Illinois E.P.A. Permit

2. Existing land use on Site

3. List any covenants recorded against the Site

C. OPERATION CLASSIFICATION

1. Type of Pollution Control Facility proposed (Check applicable box or boxes)

- Waste storage site
- Landfill or other disposal site
- Transfer Station
- Incinerator
- Other: Explain _____

2. Type(s) of wastes proposed to be deposited at the Site, as defined in the Illinois Environmental Protection Act ("Act"):

D. SITE LOCATION

1. Attach a copy of the United States Geological Survey (U.S.G.S.) topographic quadrangle map of the area which includes the site (7.5 minute quadrangle, if published).

Quadrangle Map provided: _____ (name) _____ (date)

2. Outline the location and extent of the site on the U.S.G.S. topography quadrangle map.
3. Provide State Plane coordinates of the Southwest Corner of the Site using the State Plane Coordinate System.
(East Zone):

_____ feet east, _____ feet north of origin.

4. General characteristics (Flood plain, Hillside, Field, Strip Mine, Quarry, Gully, Gravel Pit, Swamp, etc.)

Briefly describe:

E. NOTICE TO ADJOINING LAND OWNERS

There shall be filed with the application copies of the pre-filing notices required to be served under the Act, together with evidence of service thereof as provided in said Act.

F. SPECIFIC INFORMATION BY CRITERIA

1. The Applicant shall submit the information requested hereafter as part of the application.
2. The format of this part of the application shall be as follows:
 - a. This part of the application shall be divided into nine (9) subsections corresponding to the nine (9) criteria given in Section 39.2(b) of the Act. These subsections shall be clearly marked with dividers or other suitable means. Exhibits and drawings shall be clearly marked with respect to which section and subsection they pertain.
 - b. A tenth subsection shall be included that provides documentation concerning the previous operating experience and past record of convictions or admissions of violations of the Applicant (and any subsidiary or parent corporation of Applicant) in the field of solid waste management.

3. Subsection One. The application shall contain sufficient detail to demonstrate that the proposed facility is necessary to accommodate the waste needs of the area that it is intended to serve. Subsection One shall include but is not limited to the following:
- a. A map showing the extent of the service area the facility is intended to serve and a statement of that area's waste management needs.
 - b. A study performed by an experienced solid waste planner establishing that the proposed facility is necessary to accommodate the needs of the service area. The subsection shall include the qualifications of the individual or company that completed the study. Minimum requirements of the study are:
 - (1) A calculation of the current amount of waste generated and disposed within the service area and an estimate of the amount of waste to be generated and disposed within the service area for the next 20 years.
 - (2) A calculation of the current amount of waste exported out of and imported into the service area.
 - (3) A calculation of the capacity of the proposed facility, the estimated daily volume of waste to be received and the source of said waste, and the estimated duration of operation at the proposed facility.
 - (4) A description of the type(s) of waste to be received.
 - (5) A calculation of the permitted landfill disposal capacity and permitted transfer station capacity available within the service area.
 - (6) An estimate of the current cost of disposal in the service area.
 - (7) An economic analysis comparing the cost of disposal in the service area if the facility is sited and if the facility is not sited.
 - c. A description of the proposed facility, its operation and the expected longevity thereof;
 - d. A list of the existing and permitted-for-development Pollution Control Facilities and other Solid Waste Management facilities located within or serving or reasonably capable of serving the area proposed to be served and, with respect to each such facility, to the extent such is reasonably available, the following information shall be provided: location, size, owner and/or operator, type of facility, remaining capacity, annual permitted or design capacity for waste/material throughput, probable life of the proposed facility, publicly announced or filed facility expansions, and generic types of wastes received and authorized to be received.

- e. A description of the expected types, amounts and methods of disposal, treatment or storage of all wastes proposed to be received at the facility and the expected generating sources and geographical locations of these wastes in general.
4. Subsection Two. The application shall contain sufficient detail to demonstrate that the proposed facility is so designed, located and proposed to be operated that the public health, safety and welfare will be protected. The study shall be performed under the direction of a Professional Engineer registered in the State of Illinois. The subsection shall include the qualifications of the individual and company that completed the study. Subsection Two shall include but is not limited to the following:
- a. The subsection shall contain all applicable information required by the Act and the Pollution Control Board regulations for development permit applications.
 - b. The subsection shall include a site plan showing details of the proposed facility and that area within 1,500 feet of the facility property lines, including but not limited to:
 - (1) all existing and publicly disclosed or recorded wells;
 - (2) fences, buildings and other structures;
 - (3) roads, entrances and driveways;
 - (4) flow of traffic and waste/materials through the site and facility; and
 - (5) the location of all streams, ponds, rivers and lakes and other surface; waters and wetlands within a one-half (1/2) mile radius of the site.
 - c. Elevation views of the proposed facility from the north, south, east and west.
 - d. All documents, if any, submitted, as of the filing date, to the Illinois Environmental Protection Agency pertaining to the proposed facility, except trade secrets determined to be such pursuant to the Act and Illinois Pollution Control Board regulations.
 - e. The subsection shall include a demonstration and determination that all applicable location standards in the Act and the Pollution Control Board regulations have been met.
 - f. A statement of the plan of operation for the proposed facility, including but not limited to the following:
 - (1) methods of waste and material transferring at the facility and ultimate management of all waste and/or materials accepted at the facility;
 - (2) days and hours of operation and daily cleanup procedures to be used at the site or facility;
 - (3) personnel including number and duties of employees - including person(s) directly responsible for operations of the site or facility;

- (4) litter, vector, dust and odor control;
- (5) surface drainage and erosion control;
- (6) fire control;
- (7) corrective actions for spills and other operational accidents;
- (8) if applicable, the stages of development or use;
- (9) an end use or closure plan - a post-closure case plan is required if waste is intended to remain at the site after closure is completed;
- (10) equipment utilized - each item's function, physical description, capacity and number of units used in the operations;
- (11) description of type of waste to be received, i.e., municipal solid waste and commercial waste, landscape waste, construction and demolition debris, etc. Describe prohibited wastes and wastes to be received which will require special handling (asbestos, landscape waste, etc.);
- (12) describe the methods used to screen each load of waste coming into the site to assure only municipal solid waste is received, or, if other waste types are to be received, describe segregation procedures;
- (13) describe the methods used to transfer and dispose of generated waste such as wash down liquids, residues, run off, etc. Include any documentary evidence of the site or third party acting as the repository of the wastes, such as permits issued by the Illinois EPA Bureau of Water or waste stream authorizations;
- (14) specify alarms and firefighting equipment as well as a contingency or action plan to be implemented in the event of an emergency. All applications must contain a description of, and a plan sheet showing:
 - 1. any primary or secondary containment control system, i.e., embankments, dikes or internal drainage systems.
 - 2. capacity of the containment system relative to the number and volume of containers or maximum quantity of waste in the building.
- (15) describe the site or facility inspection procedures and provide an inspection schedule. Describe how leaking containers will be managed, and procedures for managing and removing unauthorized wastes;
- (16) describe procedures for managing surface water (run-on/run-off) during construction and operation;
- (17) Recycling
 - A. Describe the type(s) of recycling and/or salvaging at your facility. Indicate storage areas for recyclables on plans. Describe minimum frequency of removal for each recyclable material.
 - B. Storage Information for Recyclable Materials: This information may be provided in narrative form.

- i. Physical Location - Surface area must be described. List materials to be stored and cross reference the type of storage with location on map of developed site. For any tanks, indicate if located above grade or below grade.
 - ii. Refuse Volume - Include maximum daily volume and annual projected volume for each recyclable material.
 - iii. Number of Containers - Provide the maximum number of containers in the storage area as well as any proposed stacking scheme.
 - iv. Duration of Storage - Turnover rate or frequency of removal.
 - v. List planned markets - also discuss contingency to ensure that materials are not accumulated speculatively.
 - vi. Design - Describe how materials will be sorted. Include the method to assure salvaged materials are free of waste and will not cause environmental problems during storage.
5. Subsection Three. The application shall contain sufficient detail to demonstrate that the proposed 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. Section Three shall include but is not limited to the following:
- a. A Land Assessment Study shall be performed by a certified land use planner who will consider the proposed facility and its compatibility with the surrounding land uses. The subsection shall include the qualifications of the individual and company that completed the study. The study shall include, but not be limited to:
 - (1) An exhibit showing the land uses and zoning designations within a one mile radius of the proposed site and all airports within five miles of the site.
 - (2) Typical photographic views of the proposed site from selected residences and commercial/industrial establishments within one mile of the boundary of the proposed facility which fairly depict the site from each direction.
 - (3) A description of the landscape mitigation plan to be implemented at the proposed facility to minimize the incompatibility with the surrounding area during the operating life of the facility. The landscape mitigation plan shall include the final design grades of the facility.

- (4) A description of the proposed use of the site after the PCF is closed.
 - (5) A description of the history of the development of the site and the surrounding area and current trends of development in the surrounding area and the proposed facility's impact on those trends.
 - b. A Property Value Impact Study shall be performed by a certified real estate appraiser to determine the effects on property values in the surrounding areas. The subsection shall include the qualifications of the individual and company that completed the study. The study shall include, but not be limited to:
 - (1) A map that graphically depicts the existing property values within a one quarter mile radius of the site as determined by the study. The map should be based upon a survey of property values based on transactions occurring within the past 5 years. All values shall be given in present dollar values. Where transaction data is unavailable, tax assessments shall be used provided they are adjusted to account for local differences between market values and assessed values.
 - (2) A map that graphically depicts the proposed site's impact on property values within the one mile radius.
 - (3) A description and analysis of factors relating to the proposed site that may impact property values in the area along with a description of the design features and operating procedures that will be used to minimize the impact on property values.
 - (4) A description of the anticipated cost of developing the proposed site, and in turn, the economic yield to the Village resulting from the proposed development.
6. Subsection Four. The application shall contain sufficient detail to demonstrate that (A) for a facility other than a sanitary landfill or waste disposal site, the facility is located outside the boundary of the 100 year flood plain, or that the site is flood-proofed; (B) for a facility that is a sanitary landfill or waste disposal site, the facility is located outside the boundary of the 100 year flood plain, or if the facility is a facility described in subsection (b)(3) of Section 22.19a of the Illinois Environmental Protection Act (415 ILCS 5/22.19a), or that the site is flood-proofed. Subsection Four shall include but is not limited to the following:
 - a. A map prepared by a professional engineer registered in the State of Illinois showing the proximity of any 100 year flood plain to the proposed site.
 - b. For a facility other than a landfill or waste disposal site or a facility described in subsection (b) of Section 22.19a of the Illinois Environmental Protection Act (415 ILCS 5/22.19a), if the site is located in the 100 year

flood plain, design drawings and calculations prepared by a professional engineer registered in the State of Illinois shall be required as evidence that the site is flood-proofed.

- c. A detailed topographic survey of the subject site and the surrounding area within 1,500 feet which indicates land use and, if applicable, the boundary of the 100 year flood plain.
7. Subsection Five. The application shall contain sufficient detail to demonstrate that the proposed plan of operations for the facility is designed to minimize the danger to the surrounding area from fire, spills, or other accidents. Subsection Five shall include but is not limited to the following:
- a. A Fire Protection Plan that includes, but is not limited to maintaining a supply of water on-site and radio or telephone access to the nearest fire department.
 - b. A Load Checking Program for detecting and discouraging the disposal of hazardous waste in non-hazardous waste facilities.
 - c. An Accident Prevention Plan designed to prevent spills and other accidents that may occur on the site. The plan shall include but is not limited to providing emergency response instructions, spill prevention and clean-up methods and worker safety instructional plans.
8. Subsection Six. The application shall contain sufficient detail to demonstrate that the proposed traffic patterns to and from the facility are so designed as to minimize the impact on existing traffic flows. Subsection Six shall include but is not limited to the following:
- a. A Traffic Impact Study performed by an experienced traffic engineer who is registered as a professional engineer in the State of Illinois. The subsection shall include the qualifications of the individual and company that completed the study. The subsection shall include, but is not limited to:
 - (1) A statement of the qualifications of the individual and company that completed the study.
 - (2) A map showing all roads and highways along with their respective classifications that will be used by traffic generated by the proposed facility.
 - (3) Volume counts taken within the past six months for the roads and highways indicated in (2) above.
 - (4) A gap analysis indicating the time intervals for ingressing and egressing the facility.
 - (5) A survey of accidents within the past five years that may indicate problem intersections or roads.

- (6) A calculation of average and peak traffic flows that will be generated by the proposed site.
 - (7) A statement or report of traffic information regarding the proposed site including the anticipated number and hourly concentration of vehicles and their size, weight and direction of movement.
9. Subsection Seven. The application shall contain sufficient detail to demonstrate that if the proposed 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. The subsection shall include the qualifications of the individual and company that completed the study. Subsection Seven shall include, but not be limited to the following:
 - a. Certification that hazardous waste will not be treated, stored or disposed of on site; or
 - b. A proposed Emergency Response Plan for the site which shall include, but not be limited to:
 - (1) Provision for the notification of appropriate agencies and personnel in the event of a release or substantial threat of a release;
 - (2) Containment and removal procedures; and
 - (3) Evacuation procedures for the facility and the surrounding area.
10. Subsection Eight. The application shall contain sufficient detail to demonstrate that it is consistent with the appropriate County solid waste management plan adopted under the Local Solid Waste Disposal Act or the Solid Waste Planning and Recycling Act. The subsection shall include the qualifications of the individual and company that completed the study. Subsection Eight shall include, but not be limited to the following:
 - a. Evidence from the solid waste management plan that the facility is consistent with that plan; or
 - b. Statement that no such plan has yet been adopted.
11. Subsection Nine. The application shall contain sufficient detail to demonstrate that if the proposed facility will be located within a regulated recharge area, all applicable requirements specified by the Board for such areas have been met. Subsection Nine shall include but is not limited to the following:
 - a. Evidence and documentation that any requirements specified by the Board have been met; or

- b. Evidence and documentation that the facility will not be located in a regulated recharge area.
12. Subsection Ten. The President and Board of Trustees may also consider as evidence the previous operating experience and past record of convictions or admissions of violations of the Applicant (and any subsidiary or parent corporation) in the field of solid waste management when considering criteria two and five as defined by Section 39.2(a) of the Act. Subsection Ten shall include, but not be limited to the following:
- a. A statement describing the past operating experience of the Applicant (and any subsidiary, parent corporation, or subsidiary of the parent corporation), with respect to the type of solid waste management facility or solid waste management operations which are the subject of the request for site location approval, such statement to identify, at a minimum, each such past or current operating facility in Illinois, Indiana, Wisconsin, which has received solid waste at any time during the past ten years. Such statement shall also identify particularly the Applicant's experience at Applicant-designed-and-constructed facilities within the three-state area and the Applicant's prior experience with any unusual design or operational features of the proposed facility.
 - b. Documentation regarding the previous operating experience and past record of convictions or admissions of violations of the Applicant (and any subsidiary or parent corporation) in the field of solid waste management.
 - c. A clear listing of the following information for the three-state area of Illinois, Indiana and Wisconsin in the last five years:
 - (1) All convictions or admissions of violations, either criminal or civil, of any foreign, federal, state or local environmental regulation or statute of (a) the Applicant, (b) any subsidiary corporation of the Applicant, (c) any parent corporation of the Applicant in the field of solid waste management, and (d) any subsidiary of the parent corporation.
 - (2) Description of solid waste management program operated at the facility which involved the conviction(s) or admission(s) of violation(s).
 - (3) Enforcement action, if any, taken by government entity involved.
 - (4) Remedial action taken at site, if any, including cost thereof.
 - d. State whether or not the Applicant or operator has ever closed a Pollution Control Facility voluntarily or involuntarily and the location of said facility and the date on which the process of closing started and the date on which it was completed.
 - e. Where a prospective Applicant anticipates filing an application for site location approval and believes that the volume of documents required to

be include in the application pursuant to this subsection is unduly voluminous, that prospective Applicant may petition the Hearing Officer in writing for relief. Such a petition must be filed prior to filing an application for site location approval. The petition must be filed with the Village Clerk and be clearly labeled as a filing pertaining to the Hearing Officer. A copy of said petition must be sent by registered mail return receipt requested to the Hearing Officer.

The petition must show with particularity the following:

- (1) a summary of each conviction or admission of civil and criminal violations in the field of waste management; and
- (2) the full and complete basis for the prospective Applicant's contention that the filing of the documentation required by this subsection and providing the requisite number of copies thereof is unduly burdensome; and
- (3) the basis upon which it is contended that the burden on the prospective Applicant outweighs the Village's need for the information, documentation or other material required be filed pursuant hereto.

The Hearing Officer shall determine whether fundamental fairness requires granting the requested relief. The Applicant shall furnish any additional information and documentation requested.

The granting of such relief is not favored and relief will be granted only to the extent necessary to prevent a breach of fundamental fairness. The Hearing Officer shall not explain the reasons for its decision. It shall simply deny the petition or grant some form of relief. No decision of the Hearing Officer is appealable to the President and Board of Trustees.

The prospective Applicant shall have no right to address the Hearing Officer. The Hearing Officer may make its determination solely upon the petition of the prospective Applicant. The prospective Applicant or his attorney shall be notified by letter at the address supplied in the petition.

13. Additional Information. Additional information may be included as an appendix to the application if the Applicant feels this information is helpful and/or necessary. The Applicant should provide reasons supporting approval of the application and a prayer for site approval.
14. The Applicant should provide physical evidence (except oral testimony or written witness statements) which Applicant desires the President and Board of Trustees to consider at the public hearing including but not limited to studies, maps, reports, permits or exhibits. To facilitate early review and analysis by all parties, it is intended that the Applicant provide a full and complete disclosure of its case, except for rebuttal evidence, if any, which Applicant may introduce at the public hearing, and except for written comments filed pursuant to 415 ILCS 5/39.2(c). Evidence unavailable at filing must be described with reasonable particularity in

the request and must be filed not less than thirty (30) days before the first day of hearing.

G. SIGNATURE AND NOTARY

I hereby affirm that all information contained in this application is true and complete to the best of my knowledge and belief.

Signature of Applicant: _____ (Date)

Notary: _____ (SEAL) (Date)

Signature of Proposed Operator(s):

(Date)
(Date)

Notary: _____ (SEAL) (Date)

Signature of Engineer/Land Surveyor:

(Date)

Illinois Registration Numbers: _____ (SEAL) (Date)

Signature of other person(s), technical and non-technical, who have supplied data contained in the submittal:

(Signature) (Date)

(Registration Number, Position, Title) (Date)

(Signature) (Date)

(Registration Number, Position, Title) (Date)

ARTICLE X: RECORD

- A. The Clerk shall be responsible for keeping the record of said hearing.
- B. The record shall consist of at least the following:
 - 1. The request for site location approval as described in ARTICLE IX hereof (including the required pre-filing notices).
 - 2. Proof of the hearing notices as described in ARTICLE V hereof and the Act and Village Code.
 - 3. Written comments filed by the public and received by the Clerk or postmarked within 30 days of the close of the hearing.
 - 4. All reports, studies, exhibits or documents received into evidence at the public hearing.
 - 5. The transcript of the public hearing.
 - 6. Proposed findings of fact and recommendations of the Hearing Officer.
 - 7. Post-hearing briefs filed pursuant to ARTICLE III.
 - 8. Any other records or documents required to be part of the record under the Village Code and/or the Act.
- C. The Clerk shall be responsible for certifying all copies of the record of the public hearing.

ARTICLE XI: SITE APPROVAL DECISION

- A. After the public hearing and any continuation thereof, one copy of the record shall be made available to each President and Board of Trustees member and posted on the Village's website.
- B. The President and Board of Trustees shall base its decision on the criteria and factors set forth in the Village Code.
- C. The President and Board of Trustees shall consider the record of the public hearing and shall make a final written decision concerning a site approval request: (1) within 180 days from the filing of the site approval request; or (2) within 270 days from the filing of an original site approval request, with respect to an amended application pursuant to Section 128.04(A)(3) of the Village Code. Reasons for the decision shall be specified, addressing each of the criteria above. The President and Board of Trustees may conditionally approve any request for site approval provided such conditions are reasonable, 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. Any decision by the President and Board of Trustees shall be supported by those portions of the record identified in ARTICLE X.
- D. No written determination by the President and Board of Trustees of a site approval request may be reconsidered.