

STATE OF ILLINOIS)
) SS
COUNTY OF LAKE)

THE VILLAGE OF ROUND LAKE PARK

CERTIFICATION OF DOCUMENTS

I, Cynthia Fazekas, Village Clerk of the Village of Round Lake Park, County of Lake, State of Illinois, do hereby certify that I am the duly appointed Clerk of the Village of Round Lake Park, and that I am the keeper and custodian of the records, files, proceedings, books, papers and reports of this Village, and that the attached is a true and correct copy of: Ordinance No. 12-14 entitled "POLLUTION CONTROL FACILITIES SITING ORDINANCE" presented on the 6th day of November, 2012 and that the same was approved by the President and Board of Trustees on the 6th day of November, 2012. I do further certify that the original of which the foregoing is a true and correct copy is entrusted to me as the Clerk of the Village of Round Lake Park for safekeeping and that the original is now on file in my office.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this 6th day of November, 2012.


Village Clerk

Corporate Seal



VILLAGE OF ROUND LAKE PARK

ORDINANCE NO. 12- 14

POLLUTION CONTROL FACILITIES SITING ORDINANCE

ADOPTED BY THE PRESIDENT AND BOARD OF TRUSTEES

OF THE

VILLAGE OF ROUND LAKE PARK, ILLINOIS

ON

November 6, 2012

**Published in pamphlet form by authority of the Village Board
of the Village of Round Lake Park, Lake County, Illinois,
this 6th day of November, 2012.**

JEAN M. McCUE

President

ROBERT SEMINARY
CANDACE KENYON

**Trustee
Trustee**

CINDY FAZEKAS

Clerk

PATRICIA WILLIAMS
PAT GRAHAM

**Trustee
Trustee**

PETER S. KARLOVICS

Attorney

BOB CERRETTI
LINDA M. LUCASSEN

**Trustee
Trustee**

ORDINANCE NO. 12-14

POLLUTION CONTROL FACILITIES SITING ORDINANCE

WHEREAS, the Illinois Environmental Protection Act (415 ILCS 5/39(c) and 5/39.2) provides the authority to local municipalities for approving or disapproving requests for site location approval of pollution control facilities within their corporate limits, and said act further establishes the criteria to be utilized in reviewing and processing siting requests; and

WHEREAS, the Village of Round Lake Park (Village) has not previously adopted a Siting Ordinance which addresses the review of applications for siting pollution control facilities within the corporate limits of the Village of Round Lake Park; and

WHEREAS, it is necessary and appropriate for the Village of Round Lake Park to adopt such an Ordinance; and

WHEREAS, the Local Solid Waste Disposal Act expressly allows municipalities to oversee, monitor and control waste management and disposal practices which occur within the municipality's corporate limits, and develop a Solid Waste Management Plan to achieve the same; and

WHEREAS, it is necessary and appropriate that any application filed with the Village for site location approval be consistent with the Solid Waste Management Plan adopted by the Village.

NOW, THEREFORE, BE IT ORDAINED, by the President and Board of Trustees of the Village of Round Lake Park, Illinois, as follows:

SECTION I: There is hereby created within the Code of Round Lake Park a new Title XVI entitled "ENVIRONMENTAL" to provide as follows:

TITLE XVI: ENVIRONMENTAL

CHAPTER 160: POLLUTION CONTROL FACILITIES SITING

Section

- 160.01 Applicability
- 160.02 Definitions
- 160.03 Notice requirement and filing fee
- 160.04 Content and filing of the application
- 160.05 Procedures subsequent to filing
- 160.06 Hearing procedures

§160.01 APPLICABILITY.

This Ordinance applies to applications for site location approval of new pollution control facilities [as defined by Section 3.330 of the Illinois Environmental Protection Act (415 ILCS 5/3.30)]. An applicant is required to comply with all of the provisions of the Illinois Environmental Protection Act (415 ILCS 5/1 , et. seq.) as well as the provisions of this Ordinance. Should it be impossible to comply with both, the Illinois Environmental Protection Act shall control.

To the extent a facility described in an application proposes to manage material which is not “waste” [as defined by Section 3.535 of the Illinois Environmental Protection Act (415 ILCS 5/3.535)], or proposes to conduct an activity which is excluded from the definition of a pollution control facility as defined by the Illinois Environmental Protection Act (415 ILCS 5/39.2), or proposes to conduct an activity which does not require a permit from the Illinois Environmental Protection Agency, this Ordinance does not govern such application, and authorization to locate such a facility shall be determined by the Village’s other ordinances and codes, including but not limited to those related to zoning, special use, building or environmental requirements, as applicable.

§160.02 DEFINITIONS.

All words used in this Ordinance shall have the same meanings and definitions as the same terms are defined in the Environmental Protection Act, 415 ILCS 5/1, et. seq., and the implementing regulations in effect as of the date hereof, and as said statute and regulations may be amended or modified from time to time.

Act. The Illinois Environmental Protection Act, 415 ILCS 5/1, et. seq.

Applicant. Any person, group of persons, partnership, firm, association, corporation, company or organization of any kind that files an application for local siting approval of a facility pursuant to this Ordinance.

Application. The document(s) filed by the Applicant requesting local siting approval for a facility.

Village. Village of Round Lake Park, Illinois, an Illinois Municipal Corporation.

Clerk. The Village Clerk for the Village of Round Lake Park, Illinois.

Facility. A new pollution control facility, as defined in the Act (415 ILCS 5/3.330).

Hearing Officer. The attorney appointed by the Mayor of the Village to preside over the Public Hearing(s) associated with a siting application.

IEPA. The Illinois Environmental Protection Agency.

Municipal Waste. Garbage, general household and commercial waste, industrial lunchroom or office waste, landscape waste, and construction or demolition debris [as defined in Section 3.290 of the Act (415 ILCS 5/3.290)].

§160.03 NOTICE REQUIREMENT AND FILING FEE.

(A) Each Applicant shall comply with the applicable notice requirements set forth in the Act. No later than 14 days before the date on which the application for site location approval is filed with the Village Clerk, the Applicant shall cause written notice of such request 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 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 Lake County; provided, that the number of all feet occupied by all public roads, streets, alleys and other public ways shall be excluded in computing the 250 feet requirement; provided further, that in no event shall this requirement exceed 400 feet, including public streets, alleys and other public ways. Such written notice shall also be served upon members of the General Assembly from the legislative district in which the proposed facility is located and shall be published in a newspaper of general circulation published in the Village. Proof of compliance with the notice requirements must be submitted with the application.

(B) The Applicant shall bare all costs in any way related to the Application including, but not limited to those related to any appeal, the Public Hearing, the Hearing Officer, court reporter, hearing room, the Villages representation and any witnesses or consultants utilized by the Village. Each application for a new pollution control facility to be processed pursuant to this Ordinance shall include an application fee of One Hundred Thousand Dollars (\$100,000.00) to be held in escrow out of which the expenses incurred prior and subsequent to the filing of the Application will be paid. After the application fee is paid, the escrow may be increased or decreased and shall be replenished in accordance with the then existing applicable provisions of Chapter 158 of the Village Code entitled "ESCROW OF FUNDS" governing the provision of security of payment of professional fees and other costs incurred by the Village for Private Developers.

§160.04 CONTENT AND FILING OF THE APPLICATION.

(A) The application shall set forth the Applicants proposal showing sufficient details describing the proposed facility to demonstrate compliance with

the Act and Pollution Control Board regulations. A minimum of twenty (20) complete copies of the application, including copies of all site plans, exhibits, and maps, shall be filed with the Village Clerk. Each copy of the filed application shall include the host agreement and a searchable (as appropriate) digital copy of the application on CDs or DVDs in portable document format (pdf). (However, only three (3) hard copies of large-scale engineering drawings are required to be filed, provided the Applicant files copies of the engineering drawings that have been reduced onto 11" x 17" paper and digital copies of the engineering drawings as a part of each application. If applicable, only one (1) hard copy of documents submitted to IEPA need be filed, so long as digital copies of said documents are included on each searchable digital copy of the application on CDs or DVDs in portable document format (pdf).)

(B) The Applicant shall provide up to ten (10) additional copies of the application to the Village upon request.

To the extent reasonably practical, the Application should be organized with separate sections for each Criterion set forth in Section 39.2(a) of the Act as well as a separate section setting forth a summary of the Applicant's previous operating experience and past record of convictions or admissions of violations in the field of solid waste management; as well as for any subsidiary or parent corporation of the Applicant for the ten (10) year period preceding the date of the application.

(C) To the extent reasonably practical, the Application should:

(1) identify the Applicant and the owner of the Facility, and if the Applicant is a subsidiary of a larger entity, the controlling entity of the Applicant, and if the proposed site is owned in a land trust, each beneficiary of such land trust by name and address and his or her defined interest therein;

(2) contain the legal description of the proposed site and a street address or some other reasonable description of where the proposed site is located;

(3) contain a description of the proposed facility, its operation and the expected longevity thereof;

(4) contain a list of the existing Pollution Control Facilities of the same nature being proposed that are located within or serving the area proposed to be served and those within a ten (10) mile radius of the proposed facility;

(5) contain a list and description of each material proposed to be accepted by the proposed facility and a statement regarding whether, upon acceptance, each material is a waste;

(6) contain a list and description of each material proposed to be shipped from the proposed facility and a statement regarding whether, at the time of shipment from the proposed facility, each material is waste;

(7) contain a statement disclosing whether any material will be shipped from the proposed facility to a recycling facility;

(8) contain a statement regarding the expected types, amounts and methods of treatment or storage of all wastes proposed for the site and the general origins of these wastes;

(9) contain a site plan showing details of the proposed facility including, but not limited to:

(a) building elevations;

(b) fences, buildings and other structures; and

(c) roads, entrances and driveways.

(10) contain all pertinent documentary support for the application.

(11) contain a disclosure of proposed insurance coverage to cover single accidents, such as fires, explosions, non-sudden accidental occurrences and pollution impairment coverage relating to the operation of the Pollution Control Facility and which could result in bodily injury, property damage, or environmental impairment.

(D) The Village, in its sole discretion, may provide a pre-filing review of the application if requested by the Applicant.

§160.05 PROCEDURES SUBSEQUENT TO FILING.

(A) The Clerk or Clerk's designee(s), upon receiving said application, shall do the following:

(1) Accept for filing, and promptly date stamp as filed, any application that is filed. The date on the date stamp of the Clerk shall be considered the official filing date for all time limit purposes. Receipt and acceptance of an application by the Clerk is pro forma, and does not constitute an acknowledgment that the Applicant has complied with the Act or this Ordinance.

(2) Upon the filing of an application, the Clerk shall immediately distribute copies of the application to each member of the Village Board then holding office, a copy to the Mayor of the Village, a copy to the Village Administrator for the Village and a copy to the Attorneys for the Village.

(B) The Clerk shall make available a copy of the application and public record concerning the application for public inspection during the normal business hours of the Village Hall. Additionally, the Clerk, or Clerk's designee(s), shall provide to any person so requesting, copies of the application or the public record, upon such person's payment of the actual cost of reproduction.

§160.06 HEARING PROCEDURES.

(A) The Mayor shall appoint an attorney skilled and experienced in facility sitings to act as the Hearing Officer for the Public Hearing on the Application. The Hearing Officer shall preside over the Public Hearing, and shall make decisions concerning the admission of evidence and the manner in which the hearing is conducted. The Hearing Officer shall make all rulings in accordance with fundamental fairness and statutory and constitutional requirements. The Hearing Officer shall prepare proposed findings of fact and conclusions of law following the adjournment of the Public Hearing.

(B) To the extent reasonably practical, within 60 days of the receipt of the application, the Hearing Officer shall schedule the commencement of the Public Hearing and set the location and time thereof.

(C) Promptly thereafter, Village Clerk shall notify the Applicant, in writing, of scheduled Public Hearing date, location and time.

(D) No later than 14 days prior to such hearing, the Applicant shall publish notice of Public Hearing date, location and time, in a local newspaper(s) and notify, by certified mail, all members of the General Assembly for the legislative district in which the facility is proposed to be located, all members of the General Assembly from the district in which the proposed site is located, the governing authority of every municipality contiguous to the proposed site or contiguous to the Village as well as the Lake County Board.

(E) The Applicant shall include the following in the notice of Public Hearing:

“Members of the public may speak and present their comments at the Public Hearing and/or do so in writing. However, in order to participate as a party in the hearing with the right to, among other things, be represented by an attorney, offer evidence and present witnesses, a person must file an appearance as a Public Participant and file other documents meeting the specified requirements and within the time limits specified in the Village Siting Ordinance. A copy of the Village Siting Ordinance may be obtained from the Village Clerk.”

(F) The Applicant shall file proof of publication and service of the notice of the Public Hearing as required in 415 ILCS 5/39.2.

(G) No sooner than 90 days, but no longer than 120 days, from the date of receipt of the application, the Hearing Officer shall commence Public Hearings which are adequate to establish the facts in the case. All Public Hearings shall be conducted as follows:

(1) A pre-hearing conference shall, in the discretion of the Hearing Officer, be conducted either in person or by teleconference. It shall be held not less than five (5) days prior to the date established for commencement of the hearing. The Applicant, the Village and any other Party of record may participate. Any pre-hearing motions which have been filed and/or any motions which will be presented on the first day of the hearing should be addressed at the prehearing conference.

(2) All members of the public desiring to participate in the Public Hearing as a Party by becoming Public Participants in the Public Hearing shall file with the Village Clerk and promptly serve on all other Parties, by email and regular mail, their written appearance (including email, and mailing addresses), a list of witnesses and copies of all exhibits which the Public Participant wishes to utilize at the hearing not less than seven (7) business days prior to the date scheduled for commencement of the hearing on the application. Any person so appearing shall have the right to present testimony and witnesses as well as have the right to be represented by an attorney at the Public Hearing. The opportunity for Public Participants to cross-examine witness may be reasonably limited in form, time and duration by the Hearing Officer.

(3) Any additional Demonstrative Evidence or Exhibits which the Applicant wishes to use in its case in chief which are not contained in the Application may be utilized by the Applicant upon the entry of an order by the Hearing Officer upon the same considerations as the waiver of a time limit as described herein.

(4) Any additional material used by the Applicant that in any way materially changes the proposed design, location and/or operation of the facility shall be considered an amendment to the Application, and all sections of this Ordinance pertaining to amendments shall take effect.

(5) Any witnesses, Demonstrative Evidence or Exhibits that a Public Participant anticipates presenting during the public hearing which were not revealed by filing at the time the Public Participant's appearance was filed may be allowed, at the discretion of the Hearing Officer, through the entry of an order by the Hearing Officer upon the same considerations as the waiver of a time limit as described herein.

(6) All witnesses shall testify under oath. All witnesses shall be subject to reasonable direct examination, cross examination, redirect examination and re-cross examination.

(7) Witness testimony may utilize prepared statements or be by way of PowerPoint. If testimony is by prepared statement or PowerPoint hard copies and electronic copies (in portable document file [pdf] format) shall be filed prior to such testimony and promptly served on the Parties in attendance. Parties not in attendance shall be served in accordance with this ordinance.

(8) No Party shall be precluded from utilizing previously undisclosed Demonstrative Evidence or Exhibits in redirect examination of a witness which is within the scope of cross examination nor shall same be precluded in a Party's rebuttal cases.

(9) The time limits set forth in this Ordinance are meant to minimize surprise and insure fundamental fairness. Accordingly, in the discretion of the Hearing Officer, the time limits may be waived upon a showing of good cause and upon such conditions as fundamental fairness may dictate. Where reasonably necessary, the allowance of time to prepare following a Party's receipt of new material and prior to its use at the Public Hearing is encouraged.

(10) The Hearing Officer may propound questions to any witness or to the Applicant to clarify the record or to bring out relevant information. The Hearing Officer may ask questions or rephrase questions asked of any witness.

(11) Further, the Hearing Officer may require Public Participants to submit questions to the Hearing Officer, who shall exercise discretion in the manner in which such questions are to be posed to witnesses and by whom and in what form those questions will be asked.

(12) If the Village is not the Applicant, the Village shall be deemed to be a Party all proceedings, and shall proceed last with its case and cross-examination.

(13) All documents filed with the Village Clerk shall be filed in person or by regular mail unless the Hearing Officer expressly orders an alternative mechanism for the Village Clerk to obtain copies of all documents filed with the Hearing Officer. Notice of filing and service on the Hearing Officer and attorneys for Parties shall be by email. The Hearing Officer shall automatically be sent copies of all notices and filings by email and the Hearing Officer may exercise discretion and modify by order any mode of service set forth herein.

(14) The Applicant and the Village's counsel 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. Public Participants may be allowed to

cross-examine in the discretion of the Hearing Officer regardless of whether they are represented by counsel.

(15) Public Comment. Public Comment is encouraged. The Hearing Officer may exercise discretion regarding when to allow public comment.

(16) A verbatim transcript prepared by a certified court reporter or a certified short hand reporter shall be made available, at cost, upon request. Written transcripts will be provided to all Village Board members, the Village Attorney, and outside counsel retained by the Village to represent its interests during the siting process.

(H) At any time prior to completion by the Applicant's case the Applicant may file not more than one amended application. In such a case, the time limitation for final action set forth in the Environmental Protection Act, 415 ILCS 5/39.2(e), as amended, shall be extended for an additional period of 90 days.

(I) Members of the public offering public comment shall file with the Hearing Officer or Village Clerk any exhibits they expect to use prior to the time designated for the public to offer comment. At least three (3) copies of all such exhibits shall be submitted. The Applicant shall be provided one (1) of the three (3) copies.

(J) At the conclusion of the hearing, the Hearing Officer shall, to the extent reasonably practicable and in the Hearing Officer's discretion, permit the Parties to prepare and file proposed findings of fact and conclusions of law.

(K) The Village Board shall deliberate in one or more public meetings and may, should it desire, adopt, in whole or in part the findings of fact and conclusions of law of any Party or of the Hearing Officer.

(L) The Village Board shall grant or deny siting approval based upon the record from the Public Hearing and review of all of the filed findings of fact and conclusions of law. The decision of the Village Board shall be by duly adopted 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 Village Board may impose such conditions as may be reasonable and necessary to accomplish the purposes of the Act said conditions not being inconsistent with the Act or the regulations promulgated by the Illinois Pollution Control Board. The Village Board's decision shall be available for public inspection at the office of the Village Clerk, and may be copied upon payment of the cost of reproduction. If there is no final action by the Village Board within 180 days (or 270 days if an amended application has been filed) after the filing of the application for site location approval, the Applicant may deem the application approved.

(M) Within seven days after the Village Board approves or denies the application, the decision, and basis for the decision, shall be provided to the Applicant in writing, and shall be further forwarded to the Illinois Environmental Protection Agency by the Village Clerk.

(N) Pursuant to Section 40.1 of the Act (415 ILCS 5/40.1), within 35 days after the Village Board approves or denies the application, any appeal of the Village Board decision (by Applicant, objector, public or anyone affected by the proposal) must be filed with the Illinois Pollution Control Board.

(O) 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 of Section 39.2(a) of the Act, within two years of the time of the disapproval.

SECTION II: Nothing in this Ordinance shall be construed to affect any suit or proceeding pending in any court, or any rights acquired, or liability incurred, or any cause or causes of action arising, acquired or existing under any act or ordinance or portion thereof hereby repealed or amended by this ordinance; nor shall any just or legal right, claim, penalty or remedy of any character of the corporate authority existing on the effective date hereof be lost, impaired or affected by this Ordinance.

SECTION III: All ordinances or parts of ordinances in conflict herewith are, to the extent of such conflict, hereby repealed.

SECTION IV: If any provision, clause, sentence, paragraph, section, or part of this ordinance or application thereof to any person, firm, corporation, public agency or circumstance, shall, for any reason, be adjudged by a court of competent jurisdiction to be unconstitutional or invalid, said judgment shall not affect, impair or invalidate the remainder of this ordinance and the application of such provision to other persons, firms, corporation, or circumstances, but shall be confined in its operation to the provision, clause, sentence, paragraph, section, or part thereof directly involved in the controversy in which such judgment shall have been rendered and to the person, firm, corporation, or circumstances involved. It is hereby declared to be the legislative intent of the corporate authorities that this ordinance would have been adopted had such unconstitutional or invalid provision, clause, sentence, paragraph, section, or part thereof not been included.

SECTION V: This ordinance shall be in full force and effect from and after its passage and approval as required by law.

Passed this 6 day of November, 2012.

TRUSTEES

ROBERT SEMINARY
CANDACE KENYON
PATRICIA WILLIAMS
PAT GRAHAM
BOB CERRETTI
LINDA M. LUCASSEN

Ayes:

X
X

X
X

Nays:

Absent/Abstain

X

X

APPROVED:

By: Jean McCall Date: November 6, 2013
Village President

ATTEST:

By: Cynthia Faykas
Village Clerk

Presented and read, or reading having been waived, at a duly convened meeting of the Corporate Authorities on November 6, 2012.

By: Cynthia Faykas
Village Clerk

