CITY OF CHICAGO

RULES

RECYCLING FACILITY PERMITS

UNDER 2-112 AND 11-4

LAST UPDATED: March 19, 2014

Mayor Rahm Emanuel

Commissioner Julie Morita, M.D.

BY AUTHORITY VESTED IN THE COMMISSIONER OF THE DEPARTMENT OF PUBLIC HEALTH PURSUANT TO **2-112-165 and 11-4** THE FOLLOWING RULES REGARDING **RECYCLING FACILITY PERMITS** ARE ADOPTED HEREIN.

By Order of the Commissioner:

Signed: _____ Date: November 10, 2015
Commissioner Julie Morita, M.D.

Published:
Effective: March 19, 2014

CITY OF CHICAGO
DEPARTMENT OF PUBLIC HEALTH

ARTICLE XX. RECYCLING FACILITY PERMITS RULES AND REGULATIONS

Whereas, pursuant to Chapters 2-112 and 11-4 of the Municipal Code of Chicago (the "Code"), the Department of Public Health (the "Department") is charged with enforcement of environmental regulations, including the regulation of recycling facilities, within the City of Chicago; and

Whereas, pursuant to the authority granted by Section 2-112-160(b) of the Code, the Commissioner of Health (the "Commissioner") is authorized to issue rules and regulations necessary or proper for the implementation of environmental ordinances and to accomplish the purposes of Chapter 11-4 of the Code, and is further authorized to make reasonable administrative and procedural regulations or rules interpreting or clarifying the requirements which are specifically prescribed in Chapter 11-4 of the Code; and

Whereas, this general rule-making authority includes any rules necessary to implement the provisions of Article XX of the Code, Sections 11-4-2510 through 11-4-2680, the "Recycling Facility Ordinance;" and

Whereas, under Section 11-4-2510 of the Code, the Commissioner may designate additional materials as Type A, B, C, or D recyclable material by duly promulgated rules and regulations; and

Whereas, in addition, Section 11-4-2660 of the Code requires the Commissioner to promulgate rules and regulations necessary to implement the provisions of the Recycling Facility Ordinance; now, therefore,

I, Bechara Choucair, M.D., Commissioner, Department of Health, City of Chicago, issue the following rules and regulations pursuant to the authority granted to me by Sections 2-112-160 and 11-4-2660 of the Municipal Code of Chicago.

1.0 Scope and Purpose. The purpose of these rules and regulations is to further implement and accomplish the purposes of the provisions of Article XX, Section 11-4-2510 *et seq.* of the Municipal Code of Chicago (the "Recycling Facility Ordinance"). These rules and regulations replace the *Recycling Facility Permits Rules and Regulations*, promulgated on November 26, 2012.

2.0 List of Additional Recyclable Materials within the meaning of Section 11-4-2510 of the Municipal Code.

(1) "*Type A recyclable material(s)*" means any aluminum or ferrous or non-ferrous scrap metal; bi-metal or tin cans; glass products; paper products; rubber; textiles; plastic products, such as polyethelene terephthalate, high density polyethylene, low density polyethylene,

polystyrene or polypropolene; batteries, including motor vehicle batteries; tires, including motor vehicle tires and rims; electronics; and computer parts and components including, but not limited to, computer monitors, televisions, printers, electronic keyboards, facsimile machines, videocassette recorders, portable digital music players, digital video disc players, video game consoles, electronic mice, scanners, digital converter boxes, cable receivers, satellite receivers, digital video disc recorders, and small-scale servers. The following materials are also Type A recyclable materials when generated during the construction, remodeling, repair and demolition of utilities, structures, buildings, and roads, but only if: (i) they are separated, before leaving the site where they were generated, from all other materials, or (ii) they are received at a Class V recycling facility and separated from all other materials at that facility in accordance with its permit: ferrous or non-ferrous scrap metal, paper products, and plastic products.

(2) "*Type B recyclable material(s)*" means organic waste, and shall include inedible animal or marine matter. "Inedible Animal or Marine Matter" means renderings or any part or portion of an animal, poultry, fish or other marine life, including but not limited to, flesh, bone, hide, skin, muscle, tendons, ligaments, organs, cartilage, blood, fats, or oils, that is not intended or is not lawfully fit for human consumption and which is being, or has been, collected, sorted, transported, or processed with the intention or for the purpose of utilizing, reusing, or recycling such matter into commercial products.

(3) "*Type C recyclable material(s)*" means used motor vehicles or motor vehicle parts, other than motor vehicle batteries and motor vehicle tires and rims.

(4) "*Type D recyclable material(s)*" means construction and demolition debris that does not contain lead, asbestos or any other hazardous material in such a way as to render recycling of such material illegal or impossible and that has been rendered reusable and is reused, or that would otherwise be disposed of or discarded but is collected or separated and returned to the economic mainstream in the form of raw materials or product, and may include landscape waste that is generated together with construction and demolition debris.

3.0 Conditions of Permit Issuance. The Commissioner shall not grant a new permit or renew an existing permit for any recycling facility in the City of Chicago unless the application for such permit meets each of the following conditions:

(1) The application demonstrates that the facility is designed and located in accordance with the requirements set forth in Section 11-4-2640 of the Code, including, but not limited to, a demonstration that the facility is secure from unauthorized entry, is sufficiently screened from the surrounding area and is adequately lighted after dark;

(2) The application demonstrates that the facility is sufficiently sized and staffed to handle the requested quantity of material, and that the facility is adequately paved in all material handling areas, driveways and access/haul roads to prevent migration of contaminants or track-out off-site;

(3) The applicant has certified that it has paid all fees required by the Code and any outstanding debts owed to the City as debts are defined in subsection (a) of Section 4-4-150 of the Code;

(4) For new permits only, in accordance with Section 11-4-2520 of the Code, the applicant has certified that the recycling facility is approved for operation within the zoning district in which the recycling facility is located;

(5) The applicant has not had a recycling facility permit revoked for cause within the past three years, as set forth in Section 11-4-2525 of the Code;

(6) The application passes the compliance history evaluation describe in Section 4.0 of these regulations; and

(7) The application meets all other applicable requirements of the Code.

4.0 History of Compliance/Material threat to continued compliance. Before granting a new permit or renewing an existing permit for any recycling facility, the Commissioner will conduct an evaluation of the applicant's prior experience in recycling or junk facility operations or other waste handling operations. The Commissioner may deny or refuse to renew a permit if the evaluation shows that:

(1) the applicant, or any owner or officer of the applicant, or any person having control of applicant or any of its operations, has, within the past three years, violated any federal, state, or local laws, regulations, standards, permit conditions, or ordinances in the operation of any junk facility, recycling facility, or any other type of waste or recyclable materials handling facility or site, including, but not limited to, the operation of a junk, recycling, or waste handling facility without required permits; or

(2) conditions at a previously permitted site or facility, existing at any time during the pendency of the Department's review of a permit renewal application, pose a material threat to continued compliance with any of the laws, regulations, standards, permit conditions, or ordinances identified in subsection (1) above. For purposes of this section, the phrase "material threat to continued compliance" shall mean analytical data, facility records, instrument readings, laboratory results, or photographic evidence sufficient to establish a prima facie showing of a violation(s) of any of the laws, regulations, standards, permit conditions, or ordinances identified in subsection (1) above.

If the Commissioner denies (or refuses to renew) any permit under this section, the Department shall transmit to the applicant, in accordance with the notice provisions in section 11-4-040(b), a written statement as to the reasons the permit application was denied.

For purposes of this regulation, violations committed by an entity may be attributed to any person having ownership or control of the entity or any of its operations.

5.0 Grounds for Permit Revocation or Suspension. In accordance with Section 11-4-030 of the Code, and the notice and hearing provisions referenced therein, the Commissioner may revoke, suspend, or specially condition a recycling facility permit at any time if the permitted person or entity, any owner or officer of the permitted entity, or any person having control of the permitted entity or any of its operations, has:

(1) Violated any provision of Chapter 11-4 of the Code relevant to the permit or any regulation promulgated thereunder;

(2) Violated any term or condition of the Recycling Facility Permit;

(3) Violated any provision of the Chicago Zoning Ordinance relevant to the permit or any regulation promulgated thereunder; or

(4) Knowingly submitted a materially false or inaccurate statement in the permit application or any other document submitted to the Commissioner in support of such permit application.

6.0 Appeal of Permit Denial, Revocation, Suspension, or Special Conditions.

(1) Any person who has been denied a permit pursuant to Section 3.0 or Section 4.0 of these Regulations, or whose permit has been specially conditioned pursuant to Section 11-4-030(c) of the Code, may demand a hearing on the denial or special conditions by submitting a written request for a hearing within 15 calendar days of the date of the service date of the denial letter or notice of special conditions, as provided in Section 11-4-040. The Commissioner, or the Commissioner's designee, shall initiate the hearing in the department of administrative hearings within 30 days of receiving a hearing request, unless a later date is scheduled upon mutual consent of the parties. Failure to timely request a hearing in accordance with these regulations shall constitute a waiver of the opportunity for a hearing.

(2) Any person whose permit has been revoked or suspended pursuant to Section 5.0 of these Regulations may appeal the revocation or suspension, by following the procedures set forth in Sections 11-4-025 and 11-4-030 of the Code.

7.0 Permit Renewals and Modifications. Any permittee wishing to renew or modify the terms of an existing recycling facility permit shall submit a new permit application prior to the expiration of the existing permit. On the first page of the application, the permittee shall indicate whether the application is for a renewal or a modification. Pending the Department's determination on the renewal or modification application, the permittee may continue to operate under the terms of the existing permit.

8.0 Hours of Operation.

(1) No recycling facility shall receive, process, transport, or otherwise handle recyclable materials between the hours of 9:00 p.m. and 7:00 a.m. unless a written waiver is granted by the commissioner.

(2) In order to obtain a written waiver under this Rule 8.0, the permittee must demonstrate, to the satisfaction of the commissioner, that operation of the facility after 9:00 p.m. and before 7:00 a.m. will not create a public nuisance or adversely impact the surrounding area or surrounding users. Such operation after 9:00 p.m. and before 7:00 a.m. will be presumed to create a public nuisance if the facility is located within 200 feet of any residential building or mixed occupancy building with a residential use; however, this presumption may be overcome if the permittee demonstrates to the satisfaction of the commissioner that extended hours will not create a public nuisance or adversely impact the surrounding area or surrounding users.

(3) If, after a waiver is granted under this Rule 8.0, the commissioner finds that operation of the facility after 9:00 p.m. and before 7:00 a.m. is creating a nuisance, the commissioner may revoke the waiver at any time.

9.0 Prohibited and Regulated Materials.

(1) Pursuant to Section 11-4-2625(b), the following materials are hereby designated as PROHIBITED MATERIALS, which may not be accepted without proper documentation as described in 9.0(3) below:

a. Any material of the type typically owned or maintained by a governmental entity or a utility company, including but not limited to:
   - Stop signs and other street signs
   - Utility hole covers, including sewer lids, "manhole covers" and grates
   - Fire hydrant parts, including caps and nozzles
   - Water meters, and parts of water meters including meter lids
   - Gas meters, and parts of gas meters
   - Electric meters, and parts of electric meters
   - Exterior telephone wire
   - Transformers
   - Metal street lamp posts, sign posts, and flag poles
   - City street lights, including viaduct lights

b. Cemetery urns and plaques
c. Historical markers
d. Metal sculpture and statuary
e. Tree grates and flower grates
f. Beer kegs
g. Retail store shopping carts of the type commonly provided by big-box stores and supermarkets
h. Catalytic converters

(2) Pursuant to Section 11-4-2625(b), the following materials are hereby designated as REGULATED MATERIALS, which may not be accepted without proper documentation as described in 9.0(3) below:

a. Metal fencing and gates
b. Metal downspouts and gutters
c. Metal siding and doors, including siding from homes and garages
d. Metal door hardware, including knobs, hinges and kick plates
e. Metal sinks
f. Aluminum wire
g. Copper wire
h. Copper pipes
i. Metal coils
j. Copper/aluminum radiators
k. Automobile radiators
l. License plates
m. Barbeque grills
n. Metal patio furniture
o. Satellite dishes
p. Metal exterior light fixtures
q. Boilers, furnaces, water heaters, and any parts thereof
r. Metal mailboxes and mailbox covers
s. Air conditioners
t. Central air conditioning units, and any parts thereof
u. Metal bleachers
v. Bicycles
w. Aboveground and Underground Storage Tanks and parts thereof

(3) Pursuant to Sections 11-4-2625(c)(1) and (d)(1), in retail transactions a permittee shall only accept, receive or purchase regulated and prohibited material if the permittee keeps a record in English, which is either typed or printed in ink or maintained in a computer database at the time of acceptance of the material, which legibly and accurately details:

a) a description of the regulated and prohibited material accepted, received, or purchased, including, for prohibited materials only, a statement from the person delivering the material that specifies the location from where the person obtained the material;
b) the date of the transaction;
c) a description and license plate number of any vehicle used to deliver the material;
d) the name, current address and a copy of the photo identification of the person delivering the regulated or prohibited material to the facility, as required in section 11-4-2625(c)(2). If the required photo identification does not list such person's current address, a copy of a utility bill, lease, recently postmarked letter or other reliable written proof of such person's current address is required; and

e) for prohibited materials, copies of receipts or other documentation from a credible source, such as the owner of the prohibited materials, that the prohibited materials are intended to be recycled.

(4) Pursuant to Section 11-4-2625(a), a "retail transaction" does not include donations from, or the purchase or receipt of regulated or prohibited material from: (1) another recycling or junk facility; or (2) a governmental entity. In order to invoke this exception to the recordkeeping requirements for regulated and prohibited materials, the permittee must be able to identify the recycling or junk facility or governmental entity from which the permittee received such materials, through the use of load tickets, receipts, or other documentation, which shall be made available for inspection upon the request of the commissioner, or the commissioner's authorized agent, or any member of the police department.

(5) If a permittee accepts, receives, or purchases prohibited material in a retail transaction, the permittee shall tag, label, store, video record, or otherwise identify the material in such manner as to correspond said material with the record required to be kept pursuant to 11-4-2625 and Rule 9.0(3).

(6) No prohibited material received by any permittee in a retail transaction shall be removed from the recycling facility for the period of three business days after the date the material was accepted by the permittee.

10.0 Timeframe for Maintenance of Required Records. All records required to be kept pursuant to the Recycling Facility Ordinance and the rules and regulations promulgated thereunder shall be kept and maintained at the Recycling Facility for a minimum of three (3) years from the date the record is created.

11.0 Stolen Property. Pursuant to Section 11-4-2657(e) of the Code, no recycling facility permittee shall keep, maintain or conduct a place for the purchase, reception or keeping of stolen goods. In furtherance of this prohibition: No recycling facility permittee shall purchase, accept or receive any item of regulated or prohibited material from any person known to be a thief or to have been convicted of theft or burglary. Except as otherwise provided by court order, no charge or cost of any type shall be assessed by the permittee in connection with the return of stolen property to any person determined to be its rightful owner.

12.0 Established Customer Account. Pursuant to Section 11-4-2625(a) of the Code, a "retail transaction" does not include the receipt of items from "a regular customer with an established customer account." For the purposes of this ordinance, in order to set up an "established customer account," a permittee must comply with the following criteria:

(1) The permittee must document all transactions conducted with the account holder and must maintain at the facility a log of all transactions;
(2) The permittee must assign to the account a unique account number or other similar identifier;
(3) The permittee must maintain a record of the account in a database or other

organized system which shall be described in the permit application and shall be kept at the permitted facility; and

(4) The permittee must include in the account record the following information about the account holder:
   a. Customer's Name
   b. Customer's Address
   c. Customer's Business License, Peddler's License Number, Corporate Registration Number, FEIN number, or other valid business identification information
   d. Customer's contact name and telephone number; and

(5) The permittee must adopt and implement procedures to confirm or update, on a semi-annual basis, the information about the account holder required to be provided pursuant to item (4) of this Rule 12.0.

13.0 Class IV Recycling Facilities - Processing of Motor Vehicles. In accordance with Section 11-4-2540 of the Code, Class IVA facilities are recycling facilities that may perform any activity permitted in a Class II facility and may engage in the manual, or with the use of small power tools, dismantling of used vehicles and used vehicle parts for resale, and Class IVB facilities are recycling facilities which may perform any activity permitted in a Class IVA facility and may also engage in the shredding, crushing, or other large scale processing of vehicles. For permitting purposes, the term "large scale processing" shall be interpreted as follows:

Large-scale processing means the shredding, crushing, compacting, baling, or other processing of a vehicle (or vehicle body) using mechanical equipment designed for such purpose such that 100% of the vehicle (or vehicle body) is shredded, crushed, compacting, baled or otherwise processed. *Large-scale processing* does not include procedures used to flatten a vehicle roof for the purpose of safe transport of the vehicle or vehicle body, so long as vehicle fluids are properly removed prior to any such flattening.

14.0 Class V Recycling Facilities – Proof of responsibility; Storage and Sorting of C&D debris.

(1) *Proof of responsibility.*

a) *Amount of security.* In accordance with Section 11-4-370, applicants for Class V Recycling Facilities shall post and maintain security in the amount of at least $25,000.00. Upon review of the applicant's operations and/or the applicant's closure plan, the commissioner may determine that a higher amount is necessary.

b) *Closure plan, cost estimate, and financing.* The application for a Class V Recycling Facility Permit shall include a closure plan to be implemented when recycling activities cease at the recycling facility. At a minimum, the closure plan shall include the following:

i) a plan for removing all waste and material from the facility
ii) a plan for decommissioning and cleaning all equipment and structures at the facility
iii) a cost estimate for the completion of all closure activities. The closure cost estimate required by this section shall be based on the cost necessary for closure at

anytime during the life of the facility and shall not be discounted for current values. The cost estimate shall reflect a worst case scenario.
iv) a demonstration that sufficient financing is available to complete all closure activities.

c) *Form of Security.*

i) Security in the amount of $25,000.00 shall take the form of a letter of credit. The applicant shall furnish an original irrevocable, unconditional, standby letter of credit naming the City of Chicago as beneficiary. The letter of credit shall meet all requirements as to form and content as set forth in the City of Chicago Rules and Regulations for Security Requirements.

ii) If the commissioner determines that a higher amount of security is necessary pursuant to Section 11-4-370, the commissioner may specify an alternate form of security, such as a bond, for the amount above $25,000.00.

(2) *Storage of stockpiles.* Construction and demolition (C&D) debris accepted at a Class V Recycling Facility may be stored on site pursuant to the timeframes set forth in Section 11-4-2565 of the Code, provided that the permittee maintains the following limitations on C&D debris stockpiles:

a) *Height Limit.* The vertical distance from grade to the highest point of the stockpile shall be no greater than 20 feet.

b) *Setbacks.* The distance between the base of the stockpile and the property use described below shall be equal to or greater than the following distances, unless a written waiver is granted by the commissioner:

i) 200 feet from residential buildings, child care facilities, preschools, primary and secondary schools and hospitals
ii) 100 feet from buildings located off the recycling facility site
iii) 100 feet from outdoor recreational areas
iv) 100 feet from public ways

c) *Waiver.* In order to obtain a written waiver under this Rule 13.2(b) and (c), the permittee must demonstrate, to the satisfaction of the commissioner, that the presence of stockpiles within the specified setback areas will not create a public nuisance or adversely impact the surrounding area or surrounding users. If, after a waiver is granted under this Rule 13.2(b) and (c), the commissioner finds that the presence of stockpiles within the specified setback areas is creating a nuisance, the commissioner may revoke the waiver at any time.

d) *Containment.* All material stockpiles shall be contained on three sides with concrete blocks, jersey barriers, or similar materials approved by the Department of Public Health.

(3) *Definition of "manual sorting."* For purposes of Section 11-4-2540, "manual sorting" means the handling, moving, sorting, or separating of recyclable material from other recyclable or

non-recyclable material by hand or by means of a pre-approved sorting device such as a conveyor, screener, sifter, shaker, or trommel, as specified in the Class V permit. To facilitate such authorized sorting, Type D materials may be moved by mobile equipment such as front-end loaders and backhoes.

(4) *Recycling Plan.*

a) An application for a Class V permit shall include:

(i) A list of the specific kinds of recyclable C&D materials that will be recovered at the facility, e.g., bricks, concrete, rock, etc., along with an estimate of the total average volume and total peak volume of these materials to be recovered each operating day and a concise explanation of the basis for this estimate;

(ii) A list of the specific kinds of materials that will be recovered at the facility and sent off-site for processing for use as fuel, along with an estimate of the total average volume and total peak volume of these materials to be recovered each operating day and a concise explanation of the basis for this estimate; and

(iii) A list of the specific kinds of materials that will be recovered at the facility and sent off-site for use at a municipal solid waste landfill unit as alternative daily cover, road building material or drainage structure building material in accordance with the unit's Illinois-EPA-issued waste disposal permit, along with an estimate of the total average volume and total peak volume of these materials to be recovered each operating day and a concise explanation of the basis for this estimate.

b) A description of the receiving market/facility/facilities, intermediate processing facility/facilities, and disposal facility/facilities for each material listed pursuant to (4)(a).

c) A quality control/quality assurance plan to ensure that recovered material will meet the required specifications for the intended receiver of each material listed in 4(a).

I, Bechara Choucair, hereby promulgate the foregoing Recycling Facility Rules and Regulations on this 19th day of March 2014.

Bechara Choucair, M.D.
Commissioner of Health
City of Chicago