

RESOLUTION NO. 79-R-4

A RESOLUTION ESTABLISHING A SOLID WASTE MANAGEMENT SYSTEM FOR CHAUTAUQUA COUNTY, KANSAS; DEFINING CERTAIN TERMS REGARDING THE SAME; PROVIDING FOR OPERATION OF, ACCESS TO, HOURS OF AND PERSONS ENTITLED TO USE, THE DISPOSAL SITE; REGULATING THE AREA OF REFUSE COLLECTION AND THE FREQUENCY THEREOF; REGULATING THE STORAGE OF REFUSE, WEIGHT OF CONTAINERS AND THEIR SANITARY CONDITION; REGULATING THE PICKUP AREA FOR REFUSE, PLACEMENT THEREOF FOR COLLECTION AND THE REFUSE ELIGIBLE FOR COLLECTION; PROVIDING FOR CLASSIFICATION OF REAL PROPERTY AND A SCHEDULE OF FEES FOR COLLECTION OF REFUSE, AND PROVIDING FOR BILLING AND COLLECTION OF SUCH FEES; PROVIDING FOR A BOARD OF REVIEW TO DETERMINE EXEMPTIONS FROM THE IMPOSED HEREIN BECAUSE OF FINANCIAL HARDSHIP; PROVIDING FOR NOTICE AND THE EFFECTIVE DATE HEREOF, AND REPEALING ALL RESOLUTIONS OR PARTS OF RESOLUTIONS IN CONFLICT HERewith.

BE IT RESOLVED BY THE GOVERNING BODY OF CHAUTAUQUA COUNTY, KANSAS.

SECTION 1. Establishment of a Solid Waste Management System. A solid waste management system is hereby established for Chautauqua County, Kansas.

SECTION 2. Definitions. When used in this Resolution, the following words and terms shall be defined as follows:

- (a) "Bulky Waste" means large items of refuse including, but not limited to, appliances, furniture, tires, large auto parts, motor vehicles, trees, branches and stumps.
- (b) "Dump" means a collection or consolidation of solid wastes from one or more sources at a central disposal site which has little or no management.
- (c) "Garbage" Means the animal and vegetable waste resulting from the handling, processing, storage, packaging, preparation, sale, cooking and serving of meat, produce and other foods and shall include unclean containers.
- (d) "Hazardous Wastes" are solid and liquid wastes which require special handling and disposal to protect and conserve the environment and shall include pesticides, acids, caustics, pathological wastes, radioactive materials, flammable or explosive materials, oils, and solvents and similar chemicals and materials and shall include containers and materials that have been contaminated with hazardous wastes.
- (e) "Mixed Refuse" means a mixture of solid waste. containing both putrescible and nonputrescible materials.
- (f) "Person" means individual, partnership, corporation, institution, political subdivision or state or federal agency.
- (g) "Refuse" shall mean unwanted or discarded material resulting from commercial, industrial and agricultural operations and from normal community activities. Refuse includes in part the following: garbage; rubbish; dead animals; animal waste; motor vehicles; agricultural, commercial and industrial waste; construction and demolition waste, and sewage treatment residue; provided, however, that the term "refuse" does not include any uncontaminated earth, stone or minerals.

(h) "Sanitary Landfill Operation" means a method of disposing of solid wastes on land without creating nuisances or hazards to the public health or safety by confining refuse to the smallest practical area, compacting it to the smallest practicable volume by employing power equipment and covering with a layer of compacted earth or other suitable cover material at the conclusion of each day's operation.

(i) "Secretary" means the Secretary of Health and Environment of the State of Kansas.

(j) "Solid Waste Management System" means the entire process of storage, collection, transportation, processing and disposal of solid wastes by any city, authority, county or any combination thereof, or by any person engaging in such process as a business.

(k) "Solid Waste Disposal Area", also referred to herein as "disposal area" or "disposal site", means any area used for the disposal of refuse from more than one residential premise, or one or more commercial, industrial, manufacturing, or municipal operation.

SECTION 3. Disposal Site. Chautauqua County shall operate a solid waste disposal area as a sanitary landfill operation as set forth in the following subsections:

(a) Ownership and Operation of Site. The disposal site shall be owned or leased by Chautauqua County, Kansas, and operated as a sanitary landfill operation by said county in conformity with requirements of the Statutes of Kansas and the Rules and Regulations of the Secretary.

(b) Access to Disposal Site; Regulations; Hours. The disposal site shall be open to the general public at least two days each week for at least four hours during each day and agents or personnel of said County shall be present at the disposal site when the same is open to the general public. The said County may adopt such regulations for the operation of said disposal site as it deems necessary. The hours of operation and other limitations and regulations shall be prominently posted at the entrance of disposal site.

(c) Persons Entitled to Access. All persons with refuse from commercial, industrial, institutional, residential or governmental establishments located within said County are entitled to access to said disposal site during the hours the same is open to the general public; provided, however, that refuse from establishments billed for and delinquent with respect to the monthly fees for required collection of refuse as hereinafter set out may be denied access to said disposal site until such time as said fees are brought current. The County's Contractor for collection of refuse, and other independent contractors when authorized by the County, shall be entitled to access at other times, subject to the regulations of the County. The County may refuse to accept hazardous wastes or unreasonably large volumes of bulky waste.

SECTION 4. Collection System. The County, through its Contractor, shall operate a refuse collection system as set forth in the following subsections:

(a) Area of Collection Service. The contractor shall collect refuse placed for collection from each and every industrial, residential, commercial, governmental and institutional establishments billed for water service by the Cities of Cedar Vale, Chautauqua, Elgin, Niotaze, Peru and Sedan, if said establishments are located within the confines of said Cities, and from each and every industrial, residential, commercial, governmental and institutional establishments within the confines of said Cities which are not billed for water service by said cities. In addition, the contractor may, at his option, collect refuse placed for collection from residential establishments and all other industrial institutions, commercial and governmental establishments within Chautauqua County.

(b) Frequency of Collection. The Contractor shall once each week collect refuse placed for collection from each single family dwelling and each unit of a multi-family dwelling billed for water service by said Cities. The contractor shall at least two times each week collect refuse placed for collection from each school building within the County where classes are regularly held, or, if necessary to comply with Regulations (28-29-9) of the Secretary, or any amendments thereto, the Contractor shall collect such refuse placed for collection, five (5) times each week. The contractor shall collect refuse placed for collection from each hospital and rest home or homes for the elderly, at least one time each week, or if necessary to comply with Regulation (28-29-9) of the Secretary, the contractor shall collect such refuse placed for collection six (6) times each week, Sundays excluded.

The contractor shall collect refuse placed for collection from every other commercial, industrial, institutional and governmental establishment within said County once each week. In addition, refuse shall be collected from such other commercial, industrial, institutional and governmental establishments as frequently as is necessary to comply with Regulation (28-29-9) of the Secretary, or any amendments thereto whether additional collections are made by the contractor or by the owner of such establishment.

(c) Storage of Refuse. Refuse shall be stored at each such establishment in accordance with Regulation (28-29-8) of the Secretary, and any amendments thereto, as follows:

(1) Garbage and putrescible wastes shall be stored in:

(A) rigid containers that are durable, rust resistant, nonabsorbent, water tight and rodent proof. The container shall be easily cleanable, fitted with close-fitting, fly-tight covers or lids, and provided with suitable handles or bails to facilitate handling; or

(B) rigid containers equipped with disposable liners made of reinforced kraft paper or polyethylene or other similar material designed for storage of garbage; or

(C) nonrigid disposable bags constructed of reinforced kraft paper or polyethylene designed for storage of garbage; or

(D) other types of containers meeting the general requirements of Section A of Regulation (28-29-8) of the Secretary, and any amendments thereto, and acceptable to the County or its Contractor collecting refuse.

(2) Mixed refuse shall be stored in containers meeting the requirements and standards for containers for garbage and putrescible wastes.

(3) Hazardous wastes shall be stored in:

(A) A manner which will prevent spillage, leaking of liquids, and/or the concentration or generation of harmful or explosive vapors or offensive odors from the stored materials.

(B) Containers constructed of durable, corrosion resistant, water tight construction, provided with tight fitting lid or covers, properly labeled and kept in a safe location protected from tampering by unauthorized persons.

(C) Other types of storage containers that have the written approval of the Secretary for use at a specific location for a specific purpose.

(D) All piping, valves and other appurtenances associated with the storage and transfer of hazardous wastes shall be constructed of corrosion resistant materials and be maintained in a leak proof condition.

(4) Nonputrescible bulky wastes and other nonputrescible wastes shall be stored temporarily in any manner that does not create a health hazard, rodent harborage, or permit any unsightly condition to develop.

(d) Weight of containers; Bulk Containers. No container containing refuse placed for collection by the contractor weighing more than 60 pounds when full need be handled by the contractor;

(e) Container; Sanitary Condition. All permanent storage containers shall be maintained in a sanitary condition by the owner or user thereof.

(f) Pickup Area for Refuse. Refuse from residential establishments shall be placed at the curbside in front of each such residence. Such refuse shall be placed in order that the same will be available at the curbside by 6:00 A.M., on the day scheduled for collection by the contractor. The contractor shall make exceptions to such requirement in the case of the aged or infirm.

Refuse from all other establishments shall be collected from the alleys behind such establishment when possible, and otherwise from the curbside in front of such establishments, and shall be placed for collection by at least 7:00 A.M., of the day scheduled for collection by the contractor.

(g) Refuse Eligible for collection. The contractor shall, on said required collections, collect all types of refuse deposited at such commercial, industrial, residential, institutional and governmental establishments, except hazardous wastes or bulky wastes not compatible with the compactor truck to be used by the contractor.

(h) Classification of Real Property: Schedule of Fees. Under the authority granted by K.S.A. 65-3410, as amended, the real property within the said area of collection service is hereby classified as follows, and the following schedule of fees for the required removal of refuse by the contractor under subsections (a) and (b) of SECTION 4 of this Resolution, are hereby established.

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| (1) Occupied single family residences,
per month..... | \$ 3.60 |
| (2) School buildings where classes are
regularly held, per month..... | \$30.00 |
| (3) Hospitals and Rest Homes or Homes for
the elderly, per month..... | \$16.00 |
| (4) All other occupied commercial, industrial,
governmental and institutional establish-
ments as follows..... | \$ 3.60 |

The fees as above set forth, except those for occupied, single family residences, shall be minimum monthly charges, and should the volume of refuse or accessibility to refuse require, the County may impose a greater fee based upon the volume of refuse or accessibility to refuse.

Each occupied unit of a multi family dwelling (duplexes and apartment buildings and the like) shall be considered an occupied single family residence. Motels and hotels shall not be considered multi family dwellings, but shall be considered and classed as other commercial establishments.

If an establishment is used both as a residence and for commercial purposes, such establishment shall be classified as a commercial establishment, and shall pay the fee set forth in the above schedule according to the weekly volume of refuse collected from such establishment.

Should the owners or occupants of any of the above classified properties, desire that refuse be collected more frequently than herein required or desire collection of a volume or type of refuse not required to be collected by the contractor, they may contract on an individual negotiated basis for the collection thereof with the contractor or some independent contractor, or they may collect and haul the same themselves.

An establishment occupied for any portion of a calendar month shall be considered occupied for that entire month; provided, however, that upon two (2) weeks advance notice to the County Clerk that an establishment will be vacant or not occupied for a period of one (1) full calendar month or more, then no billing for refuse collection will be made for the full calendar month or months such establishment is vacant or not occupied. Unless specified in the above fee schedule, there shall be no limit on the volume which may be placed for collection.

All hospitals and rest homes, or homes for the elderly, administered and operated together, shall be considered one unit, and shall be charged only the monthly fee under the above schedule.

(i) Billing and Collection of Fees. The County shall provide to all occupied family residences, school buildings, hospitals, rest homes, commercials, industrial and institutional establishments a payment book in which a monthly statement may be filled out by occupant of the residence or representative of the schools, hospitals, nursing homes, or other commercial, industrial or institutional establishments and either mailed together with their remittance for the fees set out in subsection (h) of Section 4 of this resolution, to the Chautauqua County Solid Waste Office in the Chautauqua County Courthouse at Sedan, Kansas, or delivered to the designated pickup points as advertised in the County Newspapers in the Cities of Cedar Vale, Chautauqua, Elgin, Niotaze and Peru

at times designated by the County's collection agent for pickup for said remittances, or delivered to the Solid Waste Office in the County Courthouse. The County shall each month for all other classifications of real property bill the monthly fees by mail to the property owner involved as are the tax statements for that real estate mailed under K.S.A. 79-2001, and any amendments thereto; Provided, however, that the property owner may direct the County in writing to mail said monthly bill to the occupant of such property or elsewhere, but the owner of each such parcel shall nonetheless be ultimately responsible for payment of delinquent fees.

A five percent (5%) penalty shall be added to such fees which remain unpaid for a period of fifteen (15) days after they are due.

All such fees which remain unpaid for a period of sixty (60) days or more after the date upon which they were billed, shall be collected by the County as follows:

- (1) At least once a year the Board of County Commissioners shall cause to be prepared a report of delinquent fees. The board shall fix a time, date, and place for hearing the report and any objections or protests thereto.
- (2) The board shall cause notice of the hearing to be mailed to the property owners listed on the report not less than ten (10) days prior to the date of hearing.
- (3) At the hearing the Board shall hear any objections or protests of property owners liable to be assessed for delinquent fees. The Board may make such revisions or corrections to the report as it deems just, after which, by resolution, the report shall be confirmed.
- (4) The delinquent fees set forth in the report as confirmed shall constitute assessments against the respective parcels of land and are a lien on the property for the amount of such delinquent fees. A certified copy of the confirmed report shall be filed with the County Clerk for the amounts of the respective parcels of land as they appear on the current assessment roll. The lien created attaches upon recordation, in the office of the County Clerk of the County in which the property is situated, of a certified copy of the resolution of confirmation. The assessment may be collected at the same time and in the same manner as ordinary county ad valorem property taxes are collected and shall be subject to the same penalties and the same procedure and sale in case of delinquency as provided for such taxes. All laws applicable to the levy, collection, and enforcement of County ad valorem property taxes shall be applicable to such assessments.

In addition, the County may instruct the contractor to cease collecting refuse from parcels of real estate delinquent with respect to payment of such fees, and may deny the owner and/or occupant access to the disposal site.

Governmental, institutional and other entities owning real estate not ordinarily assessed as valorem real property taxes, shall nonetheless be billed and responsible for the foregoing fees specified in subsection (h) of SECTION 4 of this Resolution.

(j) The adult occupant or occupants of a single family residence may make written application to the Board of County Commissioners for exemption from payment of the above stated fee for the required weekly collection of refuse by the contractor. Said application shall be accompanied by such financial statements and data as the Board may require. If, from such application and such financial statements and data, the Board determines that said occupants of said residence are unable to pay the above charge for required weekly collection of refuse, without due financial hardship, the Board may exempt said residence and occupants from the payment of said fee, and the contractor shall continue to make the required weekly collection of refuse from such residence without charge and no billing shall be made for such service.

SECTION 5. Notice; Effective Date. This Resolution shall become effective upon the publication in the official County newspaper, the Sedan Times Star, one time. The contractor shall begin collecting refuse hereunder on the first day of March, 1979, and the County shall then begin billing for such month in the following month of April, 1979.

SECTION 6. All Resolutions or parts of resolutions in conflict herewith are hereby expressly repealed.

SECTION 7. Severability Clause. The holding of any provision of this Resolution to be invalid shall not affect the validity of any other provision, but all other provisions shall remain in full force and effect.

ADOPTED by the Board of County Commissioners of Chautauqua County, Kansas, this 12th day of February, 1979.

Everett G. Smith
Everett G. Smith, Chairman

Allen D. Moore
Allen D. Moore, Member

T.M. Doty
T.M. Doty, Member

ATTEST:

Sarah Leach
County Clerk

BY
Margaret Stephens
Margaret Stephens, Deputy
County Clerk.