

AN ORDINANCE REGULATING SOLID WASTE MANAGEMENT

AN ORDINANCE: PERTAINING TO PUBLIC HEALTH, SAFETY, AND WELFARE, REGULATING STORAGE, COLLECTION, TRANSPORTATION, PROCESSING AND DISPOSAL OF SOLID WASTE; PROVIDING FOR COLLECTION AND DISPOSAL OF SOLID WASTE; PROVIDING A PENALTY FOR VIOLATIONS OF THE PROVISIONS OF THIS ORDINANCE; AND REPEALING ALL ORDINANCES IN CONFLICT HEREWITH.

BE IT ORDAINED by the Fiscal Court of Pulaski County, Kentucky, that this ordinance shall be known as the Solid Waste Management Ordinance. The Solid Waste Management Board shall be responsible for the administrative management of this ordinance and the rules and regulations authorized in Section 2.

SECTION 1. DEFINITIONS

For the purposes of this ordinance the following terms shall be deemed to have the meanings indicated below:

Approved Incinerator: An incinerator which has been permitted and approved by the Pulaski County Solid Waste Management Board and which complies with all current regulations of the responsible State and Federal air pollution control agencies and the Pulaski County Solid Waste Management Plan and other applicable local requirements.

Bulky Rubbish: Non-putrescible solid wastes consisting of combustible and/or non-combustible waste materials from dwelling units, commercial, industrial, institutional, or agricultural establishments which are either too large or too heavy to be safely and conveniently loaded in solid waste transportation vehicles by solid waste collectors, with the equipment available therefore.

Collection: removal of solid waste from the designated pickup location to the transportation vehicle.

Contained Landfill: A facility for the disposal of solid waste pursuant to standards adopted under state law and regulations and the requirements of KRS Chap. 224 and 401 KAR Chapters 30-49.

Disposable Solid Waste Container: disposable plastic or paper sacks with a capacity of 20 to 35 gallons specifically designed for storage of solid waste.

Dwelling Unit: any room or group of rooms located within a structure, and forming a single habitable unit with facilities which are used, or are intended to be used, for living, sleeping, cooking, and eating.

Hazardous Waste: all waste listed as hazardous waste by the State Division of Waste Management and waste meeting the characteristics of a hazardous waste as set out in 401 KAR 31:020.

Multiple Housing Facility: a housing facility containing more than one dwelling unit under one roof.

Occupant: any person who, alone or jointly or severally with others, shall be in actual possession of any dwelling unit or of any other improved real property, either as owner or as a tenant.

Processing: composting, baling, shredding, salvaging, compacting, and other processes whereby solid waste characteristics are modified or solid waste quantity is reduced.

Solid Waste: any garbage, refuse, sludge, and other discarded material including solid, liquid, semisolid, or contained gaseous material resulting from industrial, commercial, mining (excluding coal mining waste, coal mining by-products, refuse and overburden), and agricultural operations, and from community activities, but does not include solid or dissolved material in domestic sewage, or solid or dissolved materials in irrigation return flows or industrial discharges.

- (a) **Commercial solid waste:** solid waste resulting from the operation of any commercial, industrial, agricultural, institutional establishment.
- (b) **Residential solid waste:** solid waste resulting from the maintenance and operation of dwelling units.
- (c) **Waste defined as Solid Waste in KRS 224.005 as amended by Senate Bill 2.**

Solid Waste Container: a receptacle for sanitation, durability and capacity used by any person to store solid waste during the interval between solid waste collections.

Solid Waste Disposal: the process of discarding or getting rid of unwanted material. In particular the final

disposition of solid waste by man.

Solid Waste Management: the administrative process controlling solid waste activities: storage, collection, source, separation, transportation, processing, treatment, and disposal.

Storage: keeping, maintaining or storing solid waste from the time of its production until the time of its collection.

Transportation: the transporting of solid waste from the place of collection or processing to a solid waste processing facility or solid waste disposal area.

SECTION 2. POWERS AND DUTIES OF THE BOARD

2.1 The Solid Waste Management Board shall make, amend, revoke, and enforce reasonable rules and regulation, which shall govern the storage, collection, transportation, processing, and disposal of solid waste, included, but not limited to:

- (a) Preparation, drainage, and wrapping of storage deposited in solid waste containers.
- (b) Specifications for solid waste containers, including the type, composition, equipment, size and shape thereof.
- (c) Identification of solid waste containers and of the covers thereof, and of equipment thereto appertaining, if any.
- (d) Weight limitations on the combined weight of solid waste containers and the contents thereof, and weight and size limitations on bundles of solid waste too large for solid waste containers.
- (e) Storage of solid waste in solid waste containers.
- (f) Sanitation, maintenance and replacement of solid waste containers.
- (g) Schedules and routes for collection and transportation of solid waste.
- (h) Collection points of solid waste containers.
- (i) Collection, transportation, processing, and disposal of solid waste.
- (j) Processing facilities and fees for the use thereof.
- (k) Disposal facilities and fees for the use thereof.
- (l) Records of quantity and type of wastes recovered at processing and/or disposal facilities.

- (m) Handling of special wastes such as sludges, ashes, agriculture, construction; bulky items, tires, automobiles, oils, greases, etc.
- (n) Hours of operation.
- (o) Any other subject for which the board is authorized to issue regulations pursuant to KRS 109.120.

2.2 The Solid Waste Management Board is hereby declared to be the Governing Body for the purposes of preparing, updating, implementing and maintaining the Solid Waste Management Plan for the planning area of Pulaski County. In furtherance of this authority, the Board shall undertake the following:

- (a) Provide, after public notice, for a public meeting to gather public comment and suggestions on matters to be included in the solid waste management plan;
- (b) Prepare and provide public notice of the availability of a draft solid waste management plan, addressing those matters required by state law and additionally, at a minimum, the following matters:
 - (1) The capacity that will be authorized in the waste management plan for disposal of out-of-area waste, identified by source(s), volumes and types of solid waste, if any, originating outside of the planning area, and any conditions placed on the disposal of any or all waste streams authorized for disposal in the planning area;
 - (2) The procedures for assurance that wastes that are land-banned by state law or regulation are not disposed at any solid waste disposal facility in the planning area;
 - (3) Procedures for public notification of proposed revisions or amendments to the solid waste management plan; and
 - (4) Other measures that the Board believes are necessary for the adequate management of solid waste in a manner that will protect public health; and;
 - (5) A TEN (10) day comment period and public meeting on the draft solid waste management plan, after which time the plan will be finalized and submitted to the Division of Waste Management, but no later than October 1, 1991.

SECTION 3. FRANCHISE FOR SOLID WASTE COLLECTION

3.1 No person may engage in the business of solid waste collection unless he holds a franchise issued by the Board

authorizing him to collect and transport solid waste. The Board shall determine the area for which a franchise is granted.

3.2 The Board shall advertise and seek proposals to serve each franchise area. Applications for franchises shall be filed with the Board on forms prescribed by the Board. A public hearing shall be held prior to the granting of a franchise. The Board may grant a franchise only upon finding that the applicant shall demonstrate adequate financial resources, will render prompt, efficient, and continuing service to the area for which the franchise is granted and that the applicant has sufficient equipment and personnel to render service to all persons generating solid waste within the service area. A franchise shall be granted for a term not to exceed TEN (10) YEARS and shall be renewable. No franchise shall be assignable.

3.3 The Board shall approve all fees charged by solid waste collectors. Fee schedules may be amended periodically.

3.4 The Board may terminate or suspend all or any portion of a franchise for failure to comply with any provision of this ordinance, failure to render prompt and effective service, or failure to comply with authorized fee schedules.

3.5 All persons engaging in the business of collecting, transporting, and processing of solid waste within the boundary limits of Pulaski County, Kentucky shall first obtain an annual permit from the Board.

3.6 No such permit shall be issued until and unless the applicant therefore, in addition to all other requirements set forth, shall file and maintain with the board evidence of a satisfactory public liability insurance policy, covering all operations of such applicant pertaining to such business and all vehicles to be operated in the conduct thereof, in the amount of not less than ONE HUNDRED THOUSAND DOLLARS (\$100,000.00) for each person injured or killed, and in the amount of not less than FIVE HUNDRED THOUSAND DOLLARS (\$500,000.00) in the event of injury or death of two or more persons in any single accident, and in the amount of not less than FIFTY THOUSAND DOLLARS (\$50,000.00) for damage to property.

Such policy may be written to allow the first TWO HUNDRED FIFTY DOLLARS (\$250.00) of liability for damage to property to be deductible. Should any such policy be canceled, the Board shall be notified of such cancellation by the

insurance carrier in writing not less than SIXTY (60) DAYS prior to the effective date of such cancellation, and provisions to that effect shall be incorporated in such policy, which shall also place upon the company writing such policy the duty to give such notice.

3.7 Each applicant for any such permit shall state in his application therefore:

- (a) the nature of the permit desired, as to collection, transportation; or processing of solid waste or any combination thereof;
- (b) name(s), address(es), Social Security Number(s), birth date(s) of applicant(s) and whether a sole proprietorship, corporation, or partnership, with disclosure of the ownership interests;
- (c) the number of employees and solid waste collection vehicles to be operated thereunder;
- (d) schedule of fees the applicant plans to charge;
- (e) the precise location or locations of solid waste processing or contained landfill to be used.
- (f) geographic boundaries of the collection area.
- (g) such other information as required by the Board; and,
- (h) State of Incorporation and/or County of Partnership registration.

3.8 If the applications shows that the applicant will collect, transport and process solid wastes without hazard to the public health or damage to the environment, in conformity with the laws of the Commonwealth of Kentucky and this Ordinance and any regulations adopted by the Solid Waste Management Board, and will be in the best interest to the citizens of Pulaski County, Kentucky, then the Board may issue the permit authorized by this Ordinance. The Board shall have the authority to limit the number of annual permits issued under this section in order to preserve the health, comfort, safety and welfare of the residents, to prevent contamination of groundwater reserves, to promote energy conservation, and to provide for collection and disposal consistent with good solid waste management practices. The permit may be reissued for a period of one year, and each applicant shall pay therefore a fee of ONE HUNDRED DOLLARS (\$100.00),

3.9 If the application does not clearly show that the collection, transportation, or processing of solid waste

will create no public health hazard or be without harmful effects to the environment, or will be in the best interests of the citizens of Pulaski County, then the application shall be denied and the applicant notified by the Board.

3.10 an annual permit may be renewed upon payment of the fee or fees as designated herein if the business has not been modified and the collection vehicles meet the requirements of this Ordinance. If modifications have been made, the applicant shall apply for a new permit as set forth in this Ordinance, subject to approval by the Board. No permits authorized by this Ordinance shall be transferable without prior approval of the Board.

3.11 In order to insure compliance with the laws of the Commonwealth, this Ordinance and the rules and regulations authorized herein, the Board or its designated agent is authorized to inspect all phases of solid waste management within the County of Pulaski. In all instances where such inspections reveal violation of this Ordinance, the Board shall issue a written notice for each such violation stating therein the violation or violations found, the time and date and the corrective measure to be taken, together with the time in which such corrections shall be made.

3.12 In all cases, when the corrective measure has not been taken within the time specified, the Board shall suspend or revoke the permit or permits involved in the violations; however, in those cases where an extension of time will permit correction and there is not a public health or environmental hazard created by the delay, an extension of time not to exceed the original time period may be given.

3.13 In the event a permit is revoked and the person continues to operate, the Board shall request the action of a court of law to enjoin the acts and to enforce compliance with this Ordinance or any rule or regulations promulgated thereunder.

3.14 All motor vehicles operating under any permit required by this Ordinance shall display the number or numbers on each side in colors with contrast with that of the vehicle, such numbers to be clearly legible and not less than 3" high. Each permit for processing or disposal facilities shall be prominently displayed at the facility.

3.15 There shall be specific limits for the number of permits issued to applicants for permits authorizing

collection or transportation of solid waste under the terms of this Ordinance. The number of permits issued in any ONE (1) year shall be determined by the Board, and such determination shall be made on an annual basis.

3.16 All permits issued by the Board shall be non-transferable except by express written permission of the Board.

SECTION 4. COLLECTION OF SOLID WASTE

4.1 The Board shall provide for the universal collection of solid waste by July, 1994 as follows:

- (a) The Board may, at its discretion, provide for the access to collection of all residential solid waste in the County, provided, however, that the Board may provide the collection service by contracting with a person, county, or city or a combination thereof, for the entire County or portions thereof, as deem to be in the best interests of the County.
- (b) The Board may, at its discretion, provide access to commercial solid waste collection services upon specific application of the owners or persons in charge thereof. However, in the event that such application is not made or approved it shall be the duty of such establishment to provide for collection of all solid waste produced upon any such premises.

SECTION 5. TRANSPORTATION OF SOLID WASTE

5.1 All transportation vehicles shall be maintained in a safe, clean and sanitary condition and shall be so constructed, maintained and operated as to prevent spillage of solid waste therefrom. All vehicles to be used for transportation of solid waste shall utilize covers which shall be an integral part of the vehicle or shall be a separate cover of suitable material with fasteners designed to secure all sides of the cover to the vehicle and shall be secured whenever the vehicle is transporting solid waste, or, as an alternate, the entire bodies thereof shall be enclosed, with only loading hoppers exposed. No solid waste shall be transported in the loading hoppers. They shall be cleaned as often as necessary to prevent a nuisance and insect breeding and shall be maintained in good repair.

SECTION 6. SOLID WASTE STORAGE

6.1 Solid Waste to be Stored in a Manner Prescribed by Ordinance:

- (a) The occupant or owner of every dwelling unit and of every institutional, commercial, industrial, agricultural, or business establishment shall place all solid waste to be collected in proper solid waste containers, except as otherwise provided herein, and shall maintain such solid waste containers and the area surrounding them in a clean, neat and sanitary condition at all times. Solid waste shall be stored in a manner that will not provide harborage to rodents or vermin and will not create a fire hazard.
- (b) Plastic garbage bags may be used as containers for solid waste only if they are made of a strong material able to withstand compaction of garbage, are absent of holes or flaws that will produce leakage of leachate or other materials, and are securely fastened. Plastic garbage bags or other solid waste containers may be left at the point of where collection services are performed but shall not be left out for more than TWELVE (12) HOURS prior to time of collection.

6.2 Residential solid waste shall be stored in containers of not more than THIRTY-FIVE (35) gallons nor less than FIVE (5) gallons in nominal capacity. Containers shall be leakproof, waterproof, and fitted with a fly-tight lid and shall be properly covered at all times except when depositing waste therein or removing the contents thereof. The containers shall have handles, bails or other suitable lifting devices or features. Containers shall be of a type originally manufactured for residential solid waste, with tapered sides for easy emptying. They shall be of light weight and sturdy construction. The weight of any individual container and contents shall not exceed SEVENTY-FIVE (75) POUNDS. Galvanized metal containers, or rubber, fiberglass, or plastic containers which do not become brittle in cold weather, may be used. Disposable solid waste containers with suitable frames or containers as approved by the Solid Waste Management Board may also be used for storage of residential solid waste.

6.3. Commercial solid waste shall be stored in solid waste containers as approved by the Board. The containers shall be waterproof, leakproof, and shall be covered at all times

except when depositing waste therein or removing the contents thereof; and shall meet all requirements as set forth by Section 2.

6.4 No owner, occupant, tenant or leasee of any building or dwelling may leave outside the dwelling or building, in a place accessible to children, any abandoned or unattended icebox, refrigerator or other receptacle that has an airtight door without first removing the door.

6.5 Solid Waste containers which do not meet the specifications as outlined in this Section shall be considered waste and will be collected together with their contents and disposed of.

SECTION 7. DISPOSAL OF SOLID WASTE

7.1 Solid wastes shall be deposited at a processing facility and/or contained landfill approved by the Board and complying with all requirements of Kentucky Revised Statutes 224.830, 245.835, 224.855 and the rules and regulations adopted thereunder or by the Board. The Board may designate the processing facility or contained landfill to be utilized by persons operating under Section 3 of this ordinance.

There shall be no more than ONE (1) contained landfill in Pulaski County, Kentucky. This site shall be utilized for the disposal of all solid waste and said site shall be designated and operated by the persons or entities contracting with the Board as provided by the Solid Waste Management Plan.

SECTION 8. ACCOUNTABILITY: LANDFILL OWNER/OPERATOR AND FRANCHISE HOLDER

8.1 The Landfill Owner/Operator and/or Franchise Holder shall pay to the board the sum of a monthly fee not to exceed FIVE (5%) PERCENT of the Landfill Owner/Operator and/or Franchise Holder's gross revenue from all customers, within THIRTY (30) DAYS from the end of the quarter. The Board shall have the authority to impose a license fee of up to but no more than the maximum amount of surcharge allowed by KRS 68:178 for solid waste received outside the district.

8.2 Any person, partnership, corporation or other entity issued a permit for the operation of solid waste collection, transportation, or disposal thereof is required to make all books, records, and accounts available to the Board, its agents or employees, for purpose of examination, audit or

verification of gross receipts and type of waste materials being received.

8.3 Financial reports shall be submitted quarterly to the Board by the permit holders.

8.4 Nothing herein shall prevent or preclude the Board from conducting an examination and audit of the books, record, and accounts, as herein provided at any time the Board may have reasonable grounds to believe that the permit holder has not correctly reported and paid the fees due under the provisions of this ordinance.

8.5 The landfill owner/operator shall upon request make available to the Board or its agent all manifests.

SECTION 9. BOARD MEMBERS COMPENSATION

9.1 Each Board member shall receive an annual salary and expenses of not more than ONE THOUSAND EIGHT HUNDRED (1,800.00), except the Secretary/Treasurer shall receive a salary and expenses not to exceed TWO THOUSAND FOUR HUNDRED DOLLARS (2,400.00); which shall be paid out of the 109 District Funds.

SECTION 10. PUBLIC NUISANCES

10.1 It shall be the duty of the Board to serve or cause to be served upon the owner or occupant of any premises on which there is kept or maintained any nuisance in violation of this ordinance or any other statute, regulation, or law and to demand the abatement of the nuisance within FIVE (5) DAYS.

10.2 If the person so served does not abate the nuisance within FIVE (5) DAYS, the Board shall proceed to abate such nuisance, keeping in account of the expense of abatement, and such abatement shall be charged and paid by such owner or occupant. Whenever a bill for such charges remains unpaid for TEN (10) DAYS after the nuisance has been abated, the Board shall file a statement of lien claim against the property.

SECTION 11. PENALTIES

11.1 Any person, partnership, corporation or other entity who violates any of the provisions of this ordinance, by failing to file quarterly reports, pay fees when due, or

fail to file any report or submit to any examination required by this ordinance or in any manner fails to or refuses to comply with any terms or provisions of this ordinance or regulations promulgated pursuant thereto within THIRTY (30) DAYS, shall be guilty of a misdemeanor and upon conviction shall be fined not less than FIVE HUNDRED DOLLARS (\$500.00) nor more than ONE THOUSAND DOLLARS (\$1,000.00); or imprisonment for a period not to exceed TWELVE (12) MONTHS, or both. Such penalties shall be in addition to other penalties imposed by this Ordinance. Each failure or refusal to comply with any of the provisions of this Ordinance shall constitute a separate offense, and each day that such failure or refusal continues without compliance shall constitute a separate offense.

SECTION 12. SEVERABILITY CLAUSE

The provisions of this ordinance are severable and if any provisions or part thereof shall be held invalid or unconstitutional or inapplicable to any persons or circumstance, such invalidity, unconstitutionality or inapplicability shall not affect or impair the remaining provisions of this ordinance.

SECTION 13. ENACTMENT

13.1 A copy of any and all rules and regulation promulgated under the provisions hereof shall be filed in the office of the County/Judge Executive within a thirty day period of enactment.

13.2 The 109 Board shall file a statement of income, expenses, and balance of all funds not later than 15 days after each quarter.

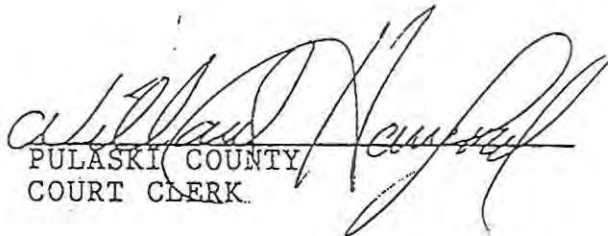
13.3 This ordinance shall become immediately effective upon adoption by the Pulaski County Fiscal Court.

Introduced for first reading on Motion made by Magistrate Hansford and seconded by Magistrate Jasper and passed by majority of vote of the Pulaski County Fiscal Court in duly session assembled on the 13 day of August,

1991, and finally adopted, after due advertisement on Motion made by Magistrate Hansford and seconded by Magistrate Jasper and passed by majority vote of the Pulaski County Fiscal Court in duly session assembled on the 27 day of August, 1991.

ATTEST:


PULASKI COUNTY
JUDGE/EXECUTIVE


PULASKI COUNTY
COURT CLERK