

ORDINANCE NO. 163, SERIES 2001

**AN ORDINANCE RELATING TO THE
STORAGE, COLLECTION, PROCESSING,
TRANSPORTATION AND DISPOSAL OF
SOLID WASTE**

BE IT ORDAINED BY THE FISCAL COURT OF COUNTY OF HARDIN,
COMMONWEALTH OF KENTUCKY, AS FOLLOWS:

WHEREAS, it has been determined by the Hardin County Fiscal Court that an ever increasing volume of solid waste is being generated within Hardin County as a result of increasing economic, commercial, industrial, and population growth; and

WHEREAS, it is necessary for the public health, safety, and welfare that the solid waste generated within Hardin County be properly stored, collected, processed, transported and disposed of in a comprehensive, economically and environmentally safe method; and

WHEREAS, pursuant to Kentucky Revised Statutes Chapter 224 and 109 and related regulation, Hardin County, including its municipal corporations, has been designated as a solid waste management area, based upon a Solid Waste Management Plan approved by the Natural Resource and Environmental Protection Cabinet of the Commonwealth of Kentucky; and

WHEREAS, in order to effectuate the goals and objective of said Solid Waste Management Plan and in exercise of the authority to manage solid waste as provided by Kentucky Revised Statute 67.083 (3)(0);

NOW, THEREFORE, be it ordained by the Fiscal Court of County of Hardin, Commonwealth of Kentucky, as follows:

SECTION I SHORT TITLE

This Ordinance shall be known as the "Universal Solid Waste Collection and Disposal Ordinance" and may be so cited and shall be referred to herein as "this Ordinance".

SECTION II DEFINITIONS

For the purpose of this Ordinance, the word "shall" is mandatory and not merely directory, and the following terms shall be deemed to have the meaning indicated below:

Agricultural Use: Operations for the production of agricultural or horticultural crops, including but not limited to livestock, livestock products, poultry, poultry products, grain, hay, pastures, soybeans, tobacco, timber, orchard fruits, vegetables, flowers, or ornamental plants, including provision for dwellings for persons and their families who are engaged in the above agricultural use on their tract.

Bulky Waste: Non-putrescible solid wastes consisting of combustible and/or noncombustible waste materials from dwelling units which are either too large or too heavy to be safely and conveniently loaded into solid waste transportation vehicles by one (1) person.

Cabinet: The Natural Resources and Environmental Protection Cabinet of the Commonwealth of Kentucky.

Collection: Removal of solid waste from the designated pick-up location to the transfer vehicle.

Commercial Solid Waste: Solid waste resulting from the operation of any commercial, industrial, institutional or agricultural establishment.

County: The County of Hardin, Kentucky.

Demolition and Construction Waste: Waste resulting from the construction, remodeling, repair, and demolition of structures and roads, and for the disposal of uncontaminated solid waste consisting of vegetation resulting

from land clearing and grubbing, utility line maintenance, and seasonal and storm related cleanup.

Director: The Director of the Solid Waste Management Program of the County shall be the person nominated by the Hardin County Judge/Executive and approved by the Hardin County Fiscal Court.

Disposal: The discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste or hazardous waste into or on any land or water so that such solid waste or hazardous waste or any constituent thereof may enter the environment, be emitted into the air or be discharged into any water, including groundwater's.

Disposable Solid Waste Container: Disposable plastic or paper sacks with the capacity of 10 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.

Hardin County Solid Waste Appeal Board: A board or commission of the Hardin County Fiscal Court consisting of three (3) members nominated by the Hardin County Judge/Executive and approved by the Hardin County Fiscal Court. The three members shall consist of the following: (1) The chairperson of the Sanitation Committee of the Hardin County Fiscal Court; (2) A representative of the collector franchised pursuant to this Ordinance; and (3) a citizen of the unincorporated area of Hardin County.

Hazardous Waste: Any discarded material or material intended to be discarded or substance or combination of such substances intended to be discarded, in any form which because of its quantity, concentration or physical, chemical or infectious characteristics may cause, or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness or pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of, or otherwise managed.

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

Open Burning: Burning of any matter in such manner that the combustion resulting from burning is emitted directly into the outdoor atmosphere without passing through a stack or chimney.

Open Dump: Any facility or site for the disposal of solid waste which does not have a valid permit issued by the Cabinet and/or the Director does not meet the environmental performance standards for a sanitary landfill under regulations promulgated by the Cabinet.

Person: An individual, trust, firm, joint stock company, corporation (including a government corporation), partnership, association, federal agency, state agency, city, commission, political subdivision of the State of Kentucky, or any interstate body.

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

Residential Dwelling Unit: A building or portion thereof, providing complete housekeeping facilities for one (1) person or one (1) family.

Residential Solid Waste: Solid waste resulting from the maintenance of dwelling units.

Recycling: Means any treatment process for the reclamation of material or energy from waste.

Sanitary Landfill: A permitted facility for the disposal of solid waste which complies with the "environmental performance standards" specified in 401 KAR 47:030.

Sludge: Any solid, semi-solid, or liquid waste generated from a municipal, commercial, or industrial wastewater treatment plant, water supply treatment plant, or air pollution control facility exclusive of the treated effluent from a wastewater treatment plant or any other such waste having similar characteristics and effects.

Solid Waste: Any garbage, refuse, sludge and other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from any residential use, but does not include industrial, commercial, mining (including coal mining waste, coal mining by-products, refuse and overburden), agricultural operations, and from community activities, and further does not include solid or dissolved material in domestic sewage, or solid or dissolved materials in irrigation return flows or industrial discharges which are point sources subject to permits under Section 402 of the Federal Water Pollution Control Act, as amended (86 Stat. 880), or source, special nuclear, or byproduct material as defined by the Atomic Energy Act of 1954, as amended (68 Stat. 923) or recycling material or yard wastes.

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

Transfer: The placement of solid waste from smaller collection vehicles into larger vehicles for transportation to intermediate or final disposal facilities.

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

Yard Wastes: Grass clippings, leaves, tree trimmings and shrub trimmings.

SECTION III STORAGE OF SOLID WASTE

A. Storage Containers Required

The occupant of every residential dwelling unit generating solid waste within the County shall provide sufficient and adequate containers for the storage of all solid waste except bulky waste and demolition and construction waste to serve each residential dwelling unit; and to maintain such solid waste containers in good repair at all times.

B. Solid Waste to be Stored in a Manner Prescribed by Ordinance

The occupant of every residential dwelling unit shall place all 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 be kept free from insect and rodent infestation and will not create a fire hazard.

C. Standards for Residential Storage Containers

Residential solid waste shall be stored in storage containers of not more than 95 gallons in nominal capacity. Storage containers shall be leak proof, 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 type originally manufactured for residential solid waste, with tapered sides for easy emptying. They shall be of lightweight and sturdy construction. The weight of any individual storage containers and contents shall not exceed 50 pounds. Galvanized metal containers, or rubber, fiberglass, plastic or vinyl containers, which do not become brittle in cold weather, may be used. Disposal solid waste containers within suitable frames, wire bag holders or other storage containers may also be used for storage of residential solid waste.

D. Air Tight Containers

No owner, occupant, tenant or lessee of any building or dwelling may leave outside the dwelling or building, in a place accessible particularly to children, any abandoned or unattended white goods (i.e., icebox, refrigerator, or other receptacle that has an airtight door) without first removing the door.

E. Storage Containers Not in Compliance

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

SECTION IV COLLECTION OF SOLID WASTE

A. County Responsibility

The County shall provide for the collection of all solid waste, except as otherwise provided in this ordinance, for every residential dwelling generating solid waste within the County. The availability date of the collection service as herein provided shall be declared by duly adopted resolution of the Hardin County Fiscal Court

and publicly advertised as provided by Kentucky Revised Statutes Chapter 424. The County may provide for the collection service as herein provided with its own equipment and employees, by contracting or issuing a franchise to any person, partnership, corporation, commercial entity, other governmental entities or a combination thereof for the entire County or portions thereof, as deemed by the Hardin County Fiscal Court to be in the best interest of the County. Any such contract or franchise shall be approved by the Hardin County Fiscal Court as required by law.

B. Universal Collection

Every residential dwelling generating solid waste within the County except as set forth in Section VIII herein shall exclusively utilize and subscribe to the collection service as herein provided within 90 days of the availability date declared and advertised by the Hardin County Fiscal Court.

C. Collection Points

Points of collection of solid waste shall be from the roadside or curbside within public rights of way or other locations near buildings, parking lots, etc., on private property. In general, solid waste generated by residential uses shall be placed along the roadside or curbside fronting the subject property not more than twelve (12) hours before collection. All reusable storage containers shall be removed from the roadside or curbside by the generator within twelve (12) hours after collection. Residential uses providing bulk storage containers shall be located on private property in areas accessible to collection vehicles.

D. Special Collections

The Director shall establish the regulations for the timely collection of liquid wastes, bulky wastes (e.g. major appliances, furniture, etc.), tires, construction and demolition wastes, dead animals, and batteries generated within the County.

E. Collection Frequency

All solid waste, other than bulky waste, shall be collected at least once weekly.

F. Ownership of Solid Waste

All solid waste placed in authorized storage containers defined in Section III and placed at the point of collection defined in Section IV (C), shall become the property of the County or its duly authorized agent and no person shall be allowed to remove any item, separate, carry off or dispose of the same without written permission of the Director.

G. Collector's Responsibility Defined

Solid waste collectors operating within the County as herein provided shall be responsible for the collection of solid waste and bulky waste without limitation as to weight, volume or size from collection points to a transportation vehicle, provided solid waste is stored in compliance with provisions set forth in this ordinance. Spillage or blowing litter, caused as a result of the duties of the solid waste collector, shall be collected and placed in the transportation vehicle by the collector. Solid waste collectors shall provide collection services as herein provided regardless of the payment for said services.

H. Prohibitions

The following wastes may not be deposited in solid waste containers defined

in Section III:

1. Hazardous waste;
2. Liquid wastes;
3. Bulky waste as herein defined;
4. Tires;
5. Construction and demolition wastes;
6. Dead animals;
7. Any burning or smoldering materials or
any other materials that would create a fire
hazard; or
8. Batteries
9. Special waste

SECTION V DISPOSAL OF SOLID WASTE

A. Open Burning

Open burning of solid waste, hazardous waste or bulky waste is prohibited.

B. Open Dumping

Open dumping of solid waste, including bulky waste, on all lands (i.e., roadsides, hollows, rivers, streams, lakes, etc.) by any person is prohibited by KRS 224.835 and this Ordinance.

C. Disposal Sites

All solid waste, including bulky waste, shall be disposed of within a sanitary landfill having a valid permit issued by the Cabinet in compliance with KRS 224.830, 224.835 and 224.855 and this ordinance.

D. Hazardous Waste

As defined within this ordinance, hazardous waste will require special handling and shall be disposed of only in a manner authorized by state and/or federal regulations.

SECTION VI CONTRACTING OR FRANCHISING

A. Contract or Franchise Requirement

No person may engage in the business of solid waste collection in the County, except as provided in Section VIII unless he holds a contract or franchise issued by the Hardin County Fiscal Court authorizing him to collect, transport, and dispose of solid wastes and describing the area for which the contract or franchise is issued.

B. Establishment of a Franchise

The County shall determine the area for which a contract or franchise is granted.

C. Granting a Contract or Franchise

The Hardin County Fiscal Court may advertise and seek proposals for solid waste collection service. The Hardin County Fiscal Court may grant a contract or franchise only upon finding that the applicant will render prompt, efficient, and continuing service to the area for which the contract or 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.

SECTION VII SERVICE CHARGES

A. County Operated Collection Service Fees

In the event the Hardin County Fiscal Court elects to provide for the collection of solid waste with its own equipment and employees as provided in this ordinance, the fees charged for such collection service shall be originally set and modified only by separate ordinance duly enacted by the Hardin County Fiscal Court with an additional requirement that a public hearing shall be held on the proposed fees for the purpose of soliciting public comment no less than thirty (30) days prior to the official vote on the separate ordinance.

B. Contract or Franchise Collection Service Fees

In the event the Hardin County Fiscal Court elects to contract or franchise for the collection of solid waste as provided in this ordinance, the fees charged for such collection service shall be originally set and modified only by separate ordinance duly enacted by the Hardin County Fiscal Court after following the legal bidding procedures as required by Kentucky Revised Statute Chapter 424 and other applicable law, with the additional requirement that a public hearing shall be held on the proposed fees for the purpose of soliciting public comments no less than thirty (30) days prior to the official vote on the separate ordinance.

C. Schedule of Service Fees

The schedule of fees for the collection of solid waste as provided by this ordinance and established by separate ordinance may include the following:

1. A set weekly, monthly or yearly fee for each residential dwelling unit;
2. A fee based on a per volume unit for each residential dwelling unit generating a volume of more than one (1) cubic yard (i.e. approximately equivalent to 250 pounds or 200 gallons) of solid waste per week;
3. A set fee or a fee based on a per volume unit for the collection of liquid wastes, bulky wastes (e.g., major appliances, furniture, etc.), tires, construction and demolition waste, dead animals, and batteries on a per collection basis.
4. Any other schedule of fees established by the Hardin County Fiscal Court.
5. The Hardin County Fiscal Court may exempt from paying a fee for the collection of solid waste as provided by this ordinance a residential household which earns less the Federal poverty level guidelines as determined from time to time by the United States Department of Health and Human Services. The Director shall promulgate an appropriate form supported by verifiable information which shall be submitted by each head of household requesting such exemption. The Director shall approve or deny each application. The decision of the Director may be appealed to the Hardin County Solid Waste Appeal Board whose decision shall be final. An approved application shall be valid for a maximum period of one (1) year unless otherwise modified or revoked by the Director based on a change of circumstances of the applicant. Any approved applicant who has an increase

in income shall report same to the Director within twenty (20) days of receipt of same.

D. Payment and Collection of Service Fees

1. The occupant of the residential dwelling unit served by the collection of solid waste as herein provided shall be financially responsible for payment of the service fees' established in accordance with this Ordinance. The records maintained by public utilities providers, such as Nolin Rural Electric Cooperative Corporation and Kentucky Utilities or their successors. All service fees shall be paid within thirty (30) days of the notice due.
2. In the event the Hardin County Fiscal Court, elects by ordinance, franchisee or contract to be responsible for the billing and collection of service fees, delinquent bills shall bear interest at the rate of twelve (12) percent per annum until paid. The Director may enforce collection of delinquent bills by bringing proper legal action against the occupants to recover all sums due plus interest, attorney's fee, court costs and any other costs involved in such collection action. The Hardin County Fiscal Court hereby specifically reserves the right to require the Collector to be responsible for the billing and collection of service fees upon such terms and conditions contained in any such ordinance, franchise or contract.
3. The service fee shall be terminated for any residential dwelling unit upon presentation of satisfactory proof to the Director that such premises is unoccupied and not generating any solid waste. The decision of the Director may be appealed to the Hardin County Solid Waste Appeal board by any

interested party whose decision shall be final. It shall be the responsibility of the owner(s) of such premises to notify the Director within five (5) days of renewed occupancy or generation of any solid waste and service fee shall commence. Occupancy for any part of a month shall constitute occupancy for an entire month.

SECTION VIII SPECIAL PERMIT

A. Any occupant of a residential dwelling may file an application with the Director for a special permit exempting all or part of the applicant's solid waste from the provisions of this ordinance. The Director shall promulgate an application form, which shall require the applicant to certify the following:

1. The name, address, social security number or employer identification number of the applicant;
2. The volume and content of the solid waste generated by the applicant;
3. A description of the disposal method proposed to be utilized by the applicant;
4. The name, address, social security number or employer identification number of the person or entity to be responsible for the disposal of the applicants solid waste, including a notarized statement from the person or entity acknowledging responsibility, term and method of disposal of the applicant's solid waste; and
5. Any other information reasonably necessary to review the application as determined by the Director.

B. The Director shall approve or deny each application in whole or in part. The decision of the Director may be appealed to the Hardin County Solid Waste Appeal Board by any interested party whose decisions shall be final. An approved special permit shall

be valid for a maximum period of one (1) year unless otherwise modified or revoked by the Director based on a change of circumstances or noncompliance.

SECTION IX RULES AND REGULATIONS

The Director shall have the authority to promulgate all rules and regulations reasonably necessary to implement the terms and policies of this ordinance. The Director shall submit all such rules and regulations in writing to the Hardin County Fiscal Court for its consideration and approval, modification or disapproval. After due consideration the Hardin County Fiscal Court shall approve, modify or disapprove the proposed rules and regulations and specify the effective date of all approved or modified rules and regulations.

SECTION X PROHIBITED PRACTICES

It shall be unlawful for any person to:

1. Dispose of solid waste by dumping same on any premises in the County with or without the consent of the owner of the premises;
2. Dump or permit the dumping of solid waste on any property within the County;
3. Deposit solid waste in any solid waste container other than his own, without the written consent of the owner of such container and/or with the intent of avoiding payment of the service charge hereinafter provided for solid waste collection and disposal;
4. Fail to have solid waste collected as provided in this ordinance;

5. Interfere in any manner with solid waste collection and transportation equipment or with solid waste collectors in the lawful performance of their duties as such, whether such equipment or collectors shall be those of the County or those of a solid waste collection agency operating under contract with the County;
6. Burn solid waste unless an approved incinerator is provided or unless a variance has been obtained from the appropriate air pollution control agency;
7. Dispose of dead animals in any container to be collected by the County;
8. Own or operate an open dump;
9. Dispose of solid waste at any facility or location which is not approved by the County and permitted by the Kentucky Department for Environmental Protection;
10. Engage in business of collecting, transporting, processing or disposing of solid waste within the geographic boundaries of the unincorporated areas of the County without a contract or franchise agreement from the County, operate under an expired contract or franchise agreement, or operate after a agreement has been suspended or revoked or contract or franchise agreement cancelled; and,
11. Violate any section of this ordinance or any other rule or regulation promulgated under the authority of Section IX. property within the unincorporated areas of Hardin County on a regular basis, to investigate complaints by private citizens of violation of this Ordinance and notify the

owner, occupant and/or person having control or management of such property in violation of this Ordinance. Such notice shall be in writing and shall allow for 10 days from the date of the notice for the owner, occupant and/or person having control or management of the property to be in compliance with this Ordinance.

II. PENALTIES

Any owner, occupant and/or person having control or management of any property violating any provision of this Ordinance shall be deemed guilty of a violation and shall upon conviction be fined not less than \$10.00 but not more than \$500.00 for each conviction. Each day of violation shall constitute a separate offense.

III. SEVERABILITY

If any part of this Ordinance shall be held invalid, such part shall be deemed severable and the invalidity thereof shall not effect the remaining parts of this Ordinance.

Given First Reading on this the 22 day of January, 2001.

Given Second Reading on this the 12 day of February, 2001.

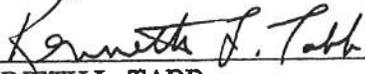
Adopted on this the 12 day of February, 2001.



GLEN D. DALTON
HARDIN CO. JUDGE/EXECUTIVE

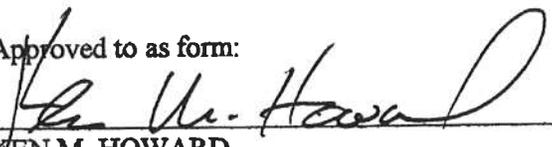
Attested by:

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KENNETH L. TABB
HARDIN COUNTY COURT CLERK

Approved to as form:



KEN M. HOWARD
HARDIN COUNTY ATTORNEY
FAWORDMISCORDINANCE4