

ORDINANCE NO. 323, SERIES 2020
AN UPDATED COMPREHENSIVE ORDINANCE RELATING TO THE
MANDATORY STORAGE, COLLECTION, PROCESSING,
TRANSPORTATION AND DISPOSAL OF
SOLID WASTE

AS IT WAS ORDAINED BY THE FISCAL COURT OF COUNTY OF HARDIN, COMMONWEALTH OF KENTUCKY INITIALLY ON FEBRUARY 12, 2001 IN ORDINANCE 2001-163, SETTING OUT THE FIRST SOLID WASTE ORDINANCE IN HARDIN COUNTY, STATING 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 Statue 67.083 (3)(0);

NOW, THEREFORE, in order to update, clarify, and to adopt all prior amendments that were previously made to this Ordinance since 2001 into one document, including:

- a. Amendment #1- clarification of financial hardship exemption (reverting to now removing any criteria other than Federal Poverty Guidelines) (VII, Item B. 4);
- b. Amendment #2- clarification that the word “shall” is “mandatory” (Section II preamble), Define “owner” (Section II), add the word “mandatory” to collection (IV. B), change occupant to owner as responsible party for payment (VII. B.), change occupant to owner (VIII. A) (Aug. 26, 2008);
- c. Amendment #3- requiring all contracts for solid waste within geographic Hardin County to dispose of waste at the Pearl Hollow Landfill (IV, Item A and V, Item C) (Jan 24, 2012);
- d. Amendment #4- permitting Franchisee to decline collection on a private roadway that is not properly maintained for safety reasons (IV, Item C) (December 27, 2018)

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 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 produced from any non-residential activity involving business or commerce, which is not demolition, construction or agricultural waste.

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.

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.

Franchisee: The company that contracts for household solid waste collection and disposal for the area within unincorporated Hardin County by a duly approved franchise agreement.

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 Solid Waste 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 County does not meet the environmental performance standards for a sanitary landfill under regulations promulgated by the Cabinet.

Owner: That person or persons, or any other legal entity authorized under Kentucky law to hold title to real property, identified as the title holder to any particular piece of property as determined by the Property Tax Roll listing maintained by the Hardin County Property Valuation Administrator.

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 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 waste water 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, semi-solid, 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 recollection.

Transfer: The placement of solid waste from smaller collection vehicles into larger vehicles from transportation to immediate 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 utilize the waste containers provided by the Franchisee for the storage of all solid waste except bulky 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. 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.

D. Storage Containers Not in Compliance

Solid Waste containers other than those provided by the Franchisee will not be collected. Non-collection based upon noncompliant storage containers will not result in a bill credit or be an exception to mandatory solid waste collection.

SECTION IV COLLECTIONS 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 unincorporated areas of the County. The County may provide for the collection service as herein provided with its own equipment and employees, or by agreeing, 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 agreement, contract or franchise shall be approved by the Hardin County Fiscal Court as required by law and shall require disposal of all non-medical solid and bulky waste at the Pearl Hollow Landfill.

All agreements, contracts and franchises existing on January 1, 2012 that allow disposal of non-medical solid and bulky waste at a site other than Pearl Hollow Landfill shall be permitted to continue until the expiration of their current contract term at which time all agreements, contracts or franchises shall require disposal of non-medical solid and bulky waste at Pearl Hollow Landfill. Any alteration, modification, or amendment to solid waste agreements, contracts or franchises shall include disposal of non-medical solid and bulky waste at Pearl Hollow Landfill.

B. Mandatory Collection

Every residential dwelling generating solid waste within the unincorporated areas of 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 suitable locations. "Public rights of way" means a right of way of a roadway that is publicly maintained by a state, county or city government entity. The Franchisee may, but is not required to, collect from the right of way of a roadway that is privately maintained if the roadway is maintained in a suitable condition considering the safety of the Franchisee's employees and the maintenance of Franchisee's equipment. 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.

D. Special Collections

The County shall establish the regulations, programs or contracts 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 residential 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 cease being the property of the individual who placed it or on whose behalf it was placed there.

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 from collection points to a transportation vehicle, provided solid waste is stored in compliance with provisions set forth in this ordinance. Spillage or litter that is located within six (6) feet of the provided receptacle(s), 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.

G. Prohibitions

The following waste may not be deposited in Franchisee provided solid waste containers defined in Section III:

1. Human, medical or otherwise hazardous waste;
2. Liquid wastes;
3. Bulky wastes 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. Non-residential solid 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, collected within the geographical boundaries of Hardin County, shall be disposed of at the Pearl Hollow Landfill. This disposal requirement is binding upon all agreements, contracts or franchise agreements issued by the incorporated cities within Hardin County.

D. Hazardous Wastes

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 (dumpster use) unless he holds a contract or franchise issued by the Hardin County Fiscal Court authorizing him to collect, transport, and dispose of residential 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 residential solid waste collection services. 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.

Contract or Franchise Collection Service Fees

In the event the Hardin County Fiscal Court elects to contract or enter into a franchise with a third party 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 resolution 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.

Schedule of Service Fees

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

1. A set weekly, monthly or yearly fee for each residential dwelling unit;
2. A set fee or a fee based on a per volume unit for the collection of bulky wastes (e.g., major appliances, furniture, etc.).
3. Weekly or monthly collection of recyclable materials via curbside service or drop-point collection.

B. Payment and Collection of Service Fees

1. The owner 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. All service fees shall be paid within thirty (30) days of the notice due.
2. Delinquent bills shall bear interest at the prevailing legal interest rate for judgements per annum until paid. Bills with charges outstanding may be assessed additional charges and fees as determined by a Fiscal Court approved billing and collection agreement. The Hardin County Fiscal Court hereby specifically reserves the right to require the Franchisee 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 County or Franchisee that such premises is unoccupied and not generating any solid waste. The decision of the

County or Franchisee may be appealed to the Hardin County Solid Waste Appeals Board by any interested party. And the Board's decision shall be final unless appealed to a court of competent jurisdiction. It shall be the responsibility of the owner(s) of such premises to notify the County or Franchisee 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.

4. The Franchisee shall allow a reduced rate for a residential household for the collection of solid waste which provides documentation of earning less the Federal poverty level guidelines as determined from time-to-time by the United States Department of Health and Human Services. The Franchisee shall promulgate an appropriate form, which shall be submitted to and supported by verified income for each adult living in the household that is requesting such exemption. The Franchisee shall approve or deny each application based solely upon this criterion and shall supply the County with a list of all current reduced rate households. The decision of the Franchisee to permit or deny an exemption may be appealed to the Hardin County Solid Waste Appeal Board whose decision shall be final unless appealed to a court of competent jurisdiction. An approved exemption shall be valid for a maximum period of one (1) year and a new application shall be required each year to receive the exemption. Any approved applicant who has an increase in income shall report same to the Franchisee within twenty (20) days of receipt of same.

SECTION VIII DUMPSTER EXEMPTION PERMIT

A. Any owner of a residential based business may file an application with the Franchisee for a special permit exempting the applicant from the solid waste provisions of this ordinance based upon access to alternate disposal methods. The Franchisee shall promulgate an application form, which shall require the applicant to certify the following:

1. The name, address, driver's license number or employer identification number of the applicant;
2. The approximate volume and content of the solid waste generated by the applicant;
3. A description of the alternate disposal method proposed to be utilized by the applicant;
4. The name, address, or employer identification number of the certified commercial waste hauler responsible for the disposal of the applicant's 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 Franchisee.

B. The Franchisee shall approve or deny each application in whole or in part based upon the following criteria:

1. Applications will be accepted during an enrollment period from October 1 through November 20. Applications received after November 20, but by December 31, will be charged a \$100 late fee paid to the Hardin County Treasurer's office. Applications will not be accepted after December 31.
2. Multiple owners of one (1) business: Only one of the owners can receive a dumpster exemption.
3. Multiple families: Only one (1) family can receive an exemption per dumpster.

4. Business or farm owned or rented dumpsters: If a business or farm owner's primary residence has access (access is defined as the residence being within approximately 200 yards of the dumpster) to the business or farm owned or rented dumpster, the owner (limited to his or her immediate household) can receive a dumpster exemption.
 5. Dump or garbage truck: If a business or farm owner has a dump truck (minimum gross vehicle weight rating of 15,000 pounds) and can provide receipts from Pearl Hollow Landfill verifying solid waste is properly disposed of there, can receive a dumpster exemption.
 6. Past due collections: Applicants with past due collections are not eligible for exemptions.
- C. Any interested party may appeal the decision of the Franchisee to the Hardin County Solid Waste Appeals Board whose decisions shall be final unless appealed to a court of competent jurisdiction.
- D. Any approved special permit shall be valid for a maximum period of one (1) year unless otherwise modified or revoked by the Franchisee based upon a change of circumstances or noncompliance.

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. Permit the dumping of solid waste on any property within the County;

3. Deposit solid waste in another solid waste container other than his own Franchisee-provided container with the intent of avoiding payment of the service charge required 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 or Franchisee;
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 the business of collecting, transporting, processing, or disposing of solid waste within 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 an agreement has been suspended or revoked or contract or franchise agreement cancelled; and, violate any section of this ordinance or a term of a duly adopted Franchise Agreement within the unincorporated areas of Hardin County.

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

Given First Reading on this the 26th day of May, 2020.

Given Second Reading on this the 9th day of June, 2020.

Adopted on this the 9th day of June, 2020.


HARRY E. BERRY
HARDIN CO. JUDGE/EXECUTIVE

Attested by:


DEBBIE DONNELLY
HARDIN COUNTY COURT CLERK

Approved to as form:


JENNY OLDHAM
HARDIN COUNTY ATTORNEY