

**ATCHISON COUNTY, KANSAS
RESOLUTION NO 2012 - 1354**

**A RESOLUTION SETTING A SERVICE FEE FOR SOLID WASTE
FACILITIES, ASSESSING THE FEE ON REAL PROPERTY OWNERS, AND
SETTING THE MANNER OF COLLECTION OF THE SOLID WASTE FEE.**

WHEREAS, K.S.A. 65-3410, as amended, authorizes a schedule of solid waste fees to be imposed on real property within a County; and

WHEREAS, it is in the best interest of Atchison County, Kansas, for a solid waste facility to be at least partially financed through the collection of fees levied on all real property on which solid waste is or may be produced.

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF ATCHISON COUNTY, KANSAS:

1. The following definitions shall apply throughout this resolution:

"Business" shall mean any place including, but not limited to any commercial, industrial, institutional or governmental entity that generates solid waste or files personal property tax renditions from a business address in Atchison County, other than a residence as described below. Home-based businesses, hotels, motels, nursing homes, college dormitories and other such institutions shall be considered as a business for this resolution. This definition of business does not include retirement center independent living units.

"Commercial garbage" means garbage produced from activities on any premises other than an occupied residence or dwelling unit.

"Commercial hauler" means any person whose business purpose is to gather, pick-up, transport, or haul solid waste for disposal or processing.

"Commercial trash" means solid waste generated by any business or commercial establishment or institution, but does not include garbage, hazardous waste, or sewage.

"Construction contractor" means any person who generates demolition or construction waste.

"Demolition and construction wastes" means lumber, masonry, concrete, other building materials and the resultant mixture with soil or other solid waste resulting from construction, remodeling, repair or demolition of buildings, structures, pavements, bridges and similar projects, as defined by the Kansas Department of Health and Environment.

"Garbage" means the animal and vegetable waste or the mixture thereof, resulting from the handling, processing, storage, packaging, preparation, sale, cooking and serving of meat, produce, and other foods and shall include unclean containers. This definition is intended to include all material defined as "garbage" in K.S.A. 12-2101(1).

"Generator" means the person or (any) persons, actually bringing into existence, generating or producing solid waste or recyclable materials and includes its point of generation or origin.

"Hazardous wastes" means solid and liquid wastes which require special handling and/or disposal to avoid illness or injury to persons or damage to property and to protect and conserve the environment and shall include, but not be limited to pesticides, acids, caustics, other dangerous chemicals, pathological wastes, radioactive materials, flammable or explosive materials, oils, solvents and similar chemicals, and materials that are significantly contaminated with one or more of the above enumerated wastes, and shall also include containers, materials and solid wastes that have been contaminated with hazardous wastes. Furthermore, such definition shall be expanded to include materials or substances which, by reason of their composition or characteristics are:

(i) Hazardous waste as defined in the Solid Waste Disposal Act, 42 U.S.C. 6901, et seq., or the regulations thereunder, Resource Conservation and Recovery Act, Subtitle D, and applicable Kansas Statutes or the regulations thereunder, and any similar or substituted legislation or regulations or amendments to the foregoing.

(ii) Any other materials which any governmental agency or unit having appropriate jurisdiction shall determine from time to time are harmful, toxic or dangerous.

"Atchison County Transfer Station" means the transfer station owned and permitted by Atchison County, Kansas, and operated by the Atchison County Board of Commissioners.

"Person" means any individual, firm, trust, partnership, company, association, corporation, institution, political subdivision or state agency or federal department or agency.

"Public Housing" means multi-family Housing that is built, operated, and owned by a governmental unit or a nonprofit corporation where housing is typically provided at nominal rent to the needy. Public Housing programs shall be considered to be nonresidential properties.

"Residence" shall mean living quarters for one family, whether it be an apartment, a single family dwelling, duplex (two [2] residences), triplex (three [3]

unit of solid waste generated annually.

3. The Solid Waste Director or his or her designee is hereby authorized to determine the number of units of solid waste each business generates above the one unit minimum. The Solid Waste Director or his or her designee shall certify to the County Clerk the name and address of the business, and the total dollar amount to be assessed to each business. The County Clerk shall then levy a special assessment on the real estate of each business certified as provided herein.

4. All solid waste assessments shall be collected on an annual basis, and shall be billed on the ad valorem property tax statements. Owners of tax exempt real property on whose property solid waste is generated shall be sent a notice of assessment by the County Clerk at the same time that ad valorem property tax statements are issued. In the event more solid waste is generated by a business than originally established and assessed, an additional assessment shall be certified to the County Clerk by the Solid Waste Director or his or her designee and forwarded to the owner of said real property.

5. Solid waste assessments which appear on the statements are for the calendar year—January 1 to December 31—in which the solid waste statement is dated and mailed. Solid waste assessments are due and payable at the office of the County Treasurer at the same time that the general property tax bill is due and payable. Delinquent solid waste assessments shall be subject to the same penalties, interest, and procedures and sale in case of delinquency as provided for ad valorem property taxes. All laws applicable to the levy, collection, and enforcement of County ad valorem property taxes shall be applicable to solid waste assessments.

6. A real property owner may file an appeal of the solid waste assessment to the Board of County Commissioners, after the solid waste assessment statement is mailed each year until December 18th of each year. The real property owner may present information at the appeal before the Board of County Commissioners. The Board of County Commissioners may adjust the solid waste assessment. If necessary, a refund shall then be issued by the County Treasurer to the said real property owner. A notice of the appeal provision deadline date of December 18th of each year, and provisions for filing an appeal shall be listed on the solid waste assessment statement.

7. Refunds for solid waste assessments may be authorized for the current year and the immediately preceding year. Should it be verified by the Solid Waste Director or his or her designee that a business has been under-assessed; Atchison County may collect the proper fee for the current year and the preceding year from the owner of the real property on which the solid waste was generated.

8. During the current calendar year and prior to the mailing of the solid waste assessments, should a real property owner on whose property solid waste is generated believe that an error has occurred, the said owner shall supply the Solid Waste Director or his or her designee with a verified application for review. Upon review of and

residences), etc., whether or not actually occupied. Each mobile home in a mobile home park shall be considered as one residence. Each apartment in an apartment complex shall be considered as one residence. Each retirement center independent living unit shall be considered as one residence.

"Sewage" means sewage as defined by K.S.A. 65-164, which includes any substance that contains any of the waste products or excrementitious or other discharges from the bodies of human beings or animals, or chemical or other wastes from domestic, manufacturing or other forms of industry.

"Solid waste" means garbage, trash, commercial garbage, commercial trash, demolition and construction waste and all other discarded materials (including recyclable materials), but is not limited to, useless, unwanted, or discarded solid or liquid (other than sewage) material relating to or produced by agricultural, commercial, domestic, industrial or manufacturing and other containers, packing material, vegetation, ashes, lumber, masonry, concrete and other building materials, appliances and furniture, pesticides, chemicals, medical wastes, flammable and explosive materials, oils and solvents, manure, street sweepings and mud trap accumulations. The term "solid waste" does not include any uncontaminated earth, stone, or minerals or junk vehicles or hazardous wastes, although – solid include small waste" amounts of non-regulated and spent or empty containers of hazardous wastes mixed with regular refuse.

"Trash" means non-putrescible materials, including all materials defined as "trash" in K.S.A. 12-2101(2).

"Unit of Solid Waste" shall mean containers which have 26 material cubic yards of capacity for generating solid waste in a period of one (1) year. Construction and demolition waste as defined by the Kansas Department of Health and Environment which can be disposed of in an unlined landfill is not included in a "unit of solid waste."

2. The owners of all real property in Atchison County, on whose property solid waste is generated, shall pay the following price for each residence and/or business located on their premises:

- A. **Residence**
For each residence located in Atchison County, the assessed fee shall be \$72.00 per year.
- B. **Business**
Each business in Atchison County shall be assessed a minimum of one (1) unit of solid waste annually, at a rate of \$72.00 per unit. Businesses generating more than one unit of solid waste shall be assessed \$72.00 per

agreement with the request, the Solid Waste Director or his or her designee shall change and certify to the Atchison County Clerk the correct assessment.

9. Should an assessment be made on an abandoned residence or home-based business which is uninhabitable or on a vacated residence which is habitable, but on which no solid waste was generated during the complete assessment year, the taxpayer shall supply the Solid Waste Director or his or her designee with a written, verified application for a refund of said tax requesting a refund for the assessment year for the which the property was uninhabitable or vacated. The full assessment shall be paid unless the property was vacant for the entire calendar year.

Upon review and agreement with such application by the Solid Waste Director or his or her designee, an assessment shall be refunded to the real property owner by the County Treasurer. Said application for refund of the solid waste assessment shall be required to be filled out annually provided the property continues to remain uninhabitable or vacant for the entire calendar year.

10. For newly constructed residences or home-based businesses, solid waste assessments shall go into effect January 1 of the first calendar year that any improvements are on the real property assessment rolls as provided by the office of the County Appraiser.

11. In accordance with K.S.A. 65-3410, the Solid Waste Director or his or her designee shall cause to be mailed annually a schedule of the solid waste assessment fees to each owner of real property on which solid waste is generated in Atchison County. Said schedule of fees shall be mailed with the annual solid waste assessments.

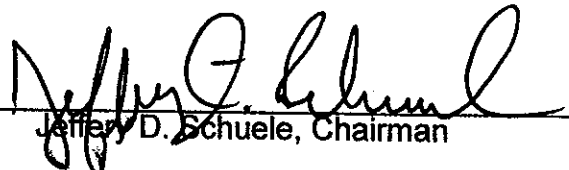
12. In accordance with K.S.A. 65-3410, on or before September 30th of each year the Atchison County Board of Commissioners shall prepare a report of delinquent payments of and hear objections from said delinquent owners of real property on which solid waste is generated.

13. This Resolution shall be effective from and after its adoption by the Board of County Commissioners.

ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS of Atchison

County, Kansas, this 27 day of June, 2012.

By:


Jeffrey D. Schuele, Chairman

By: Thomas D. Wagner
Thomas D. Wagner, Commissioner

By: Mike Bodenhausen
Mike Bodenhausen, Commisisoner



Pauline M. Lee
Pauline M. Lee, Atchison County Clerk