

**JOHNSON COUNTY CODE OF REGULATIONS
for SOLID WASTE MANAGEMENT**

2010 Edition



**Regulations governing solid waste management in
Johnson County, Kansas.**

EXHIBIT A to Resolution 068-10

**Johnson County Environmental Department
11811 S. Sunset Drive
Olathe, Kansas 66061
913-715-6900
Fax: 913-715-6970**

October 7, 2010

**JOHNSON COUNTY CODE OF REGULATIONS FOR
SOLID WASTE MANAGEMENT
2010 EDITION**

Table of Contents

| | |
|---|-----------|
| ARTICLE 1. GENERAL PROVISIONS | 1 |
| Section 1. Title. | 1 |
| Section 2. Purpose. | 1 |
| Section 3. Authority. | 2 |
| Section 4. Applicability. | 2 |
| Section 5. Severability. | 2 |
| Section 6. Powers and Duties of the Director. | 2 |
| Section 7. Authorized Representatives. | 3 |
| Section 8. Access and Inspection. | 3 |
| Section 9. Exemptions. | 4 |
| Section 10. Disclaimer of Liability. | 5 |
| Section 11. Administration. | 5 |
| Section 12. Effective Date. | 5 |
| ARTICLE 2. DEFINITIONS | 6 |
| Section 1. Definitions. | 6 |
| Section 2. Interpretation. | 14 |
| ARTICLE 3. SOLID WASTE MANAGEMENT COMMITTEE | 15 |
| Section 1. Duties and Responsibilities of the Solid Waste Management Committee. | 15 |
| Section 2. Membership. | 15 |
| ARTICLE 4. IMPLEMENTATION OF SOLID WASTE MANAGEMENT PLAN | 18 |
| Section 1. Solid Waste Reduction Requirements. | 18 |
| Section 2. Solid Waste Restrictions. | 18 |
| Section 3. Solid Waste Restriction Operations Plan for Permitted Municipal Solid Waste Landfills and Transfer Stations. | 19 |
| Section 4. Solid Waste Restriction Operations Plan for County Licensed Haulers. ... | 21 |

| | |
|---|-----------|
| Section 5. Implementation of Solid Waste Reduction Requirements. | 21 |
| ARTICLE 5. OPERATING LICENSES AND PERMITS | 24 |
| Section 1. Licenses and Permits Required. | 24 |
| Section 2. License and Permit Procedure. | 24 |
| Section 3. Denial of Permit or License. | 26 |
| Section 4. Fees. | 27 |
| ARTICLE 6. STANDARDS FOR MANAGEMENT OF SOLID WASTE AND MATERIALS | |
| RECOVERY FACILITIES | 29 |
| Section 1. Storage and Disposal Requirements for Solid Waste Generators. | 29 |
| Section 2. Standards for Collection and Transportation of Solid Waste. | 29 |
| Section 3. Standards for Solid Waste Processing Facilities and Disposal Areas. | 30 |
| Section 4. Standards for Solid Waste Transfer Stations. | 30 |
| Section 5. Standards for Construction and Demolition Landfills. | 30 |
| Section 6. Standards for Composting Operations. | 31 |
| Section 7. Standards for Materials Recovery Facilities. | 31 |
| ARTICLE 7. SPECIAL WASTE | 32 |
| Section 1. Special Waste Determination. | 32 |
| Section 2. Disposal Requirements for Special Waste. | 32 |
| Section 3. Special Waste Disposal Authorization Request. | 32 |
| Section 4. MSWLF Requirements for Acceptance and Disposal of Special Waste. | 32 |
| ARTICLE 8. PROHIBITED ACTS | 34 |
| Section 1. Unlawful Acts. | 34 |
| ARTICLE 9. ENFORCEMENT | 36 |
| Section 1. Notification of Violation. | 36 |
| Section 2. Administrative Orders. | 36 |
| Section 3. Penalties and Fines. | 37 |
| Section 4. Emergency Authority. | 37 |
| Section 5. Appellate Procedure. | 38 |

ARTICLE 1
GENERAL PROVISIONS

Section 1. Title.

These regulations shall be entitled and may be referred to as the "*Johnson County Code of Regulations for Solid Waste Management, 2010 Edition*" ("Code").

Section 2. Purpose.

The purpose of this Code is to:

- (a) protect the public health, safety, and welfare of the residents of Johnson County, Kansas ("County") by establishing and maintaining a program for comprehensive solid waste management;
- (b) carry out solid waste management planning in the County as prescribed by the laws and regulations adopted by the State of Kansas, including implementation of the duly adopted *Johnson County Solid Waste Management Plan* ("SWMP") which, among other things, identifies the timely reduction of waste volumes, taking into consideration source reduction, reuse, recycling, composting, and land disposal, as a primary objective of the Plan;
- (c) provide uniform and prudent regulations of solid waste within the County, from its generation or entry into the County through its collection, storage, transportation, processing, treatment, and disposal, and to ensure that the management of solid waste within the County conforms to the rules and regulations, standards and procedures adopted by the secretary of the Kansas Department of Health and Environment ("KDHE") as authorized by state statutes, including K.S.A. § 65-3401 *et seq.*, and amendments thereto;
- (d) require licenses and permits at the County level for the collection and transportation of solid waste, and for the operation of solid waste processing facilities and solid waste disposal areas, and to provide for a monitoring and inspection program for all permitted solid waste processing facilities, solid waste disposal areas, materials recovery facilities, and composting facilities in the County;
- (e) provide procedures for investigation and resolution of complaints related to the improper disposal of solid waste in the unincorporated areas of the County or, as authorized within the cities and to provide penalties for violations of the provisions of this Code; and

- (f) assess and collect fees to support the costs of licensing, monitoring, and inspecting to determine compliance with the provisions of this Code.

Section 3. Authority.

This Code is adopted pursuant to statutory home rule authority, K.S.A. § 19-101, *et seq.*, as well as K.S.A. § 65-3401 *et seq.*, to develop and implement a comprehensive, county-wide, solid waste management plan and program.

Section 4. Applicability.

This Code shall apply to all “solid waste” and “recyclables” as those terms are defined herein, which are located within the County and which are not otherwise expressly exempted by this Code or State law, and it shall apply to each separate process of solid waste management occurring in the County, including generation, storage, collection, transportation, processing, treatment, and disposal. Interpretation of this Code shall favor the comprehensive regulation of solid waste and recyclables for the greatest possible protection of the environment and the public health, safety, and welfare.

Section 5. Severability.

If any clause, sentence, paragraph, section or subsection of this Code shall be adjudged invalid by a court of competent jurisdiction, then such judgment shall not affect, repeal, or invalidate the remaining provisions of the Code, but shall be confined to the express clause, sentence, paragraph, section or subsection which was ruled to be invalid.

Section 6. Powers and Duties of the Director.

The Environmental Department Director (“Director”) shall be responsible for the administration and enforcement of the provisions of this Code and shall have all the powers and duties necessary to fulfill that responsibility, including to:

- (a) issue, renew, suspend, deny, or revoke the County licenses and County permits pursuant to the requirements and procedures of this Code;
- (b) establish and maintain a system of records and reports as necessary or desirable in the implementation and enforcement of the provisions of this Code;

- (c) conduct inspections and to monitor solid waste processing facilities, materials recovery facilities, and solid waste disposal areas and disposal facilities in the County pursuant to the procedures established pursuant to this Code;
- (d) investigate complaints and conditions related to open dumping sites in the unincorporated area of the County or, as authorized, within cities in the County;
- (e) enforce collection of any fees and charges established by authority of this Code;
- (f) coordinate County solid waste management efforts with the solid waste management efforts of local, state, and federal officials;
- (g) monitor and support the functioning of the Solid Waste Management Committee (“SWMC”);
- (h) act as liaison between the SWMC and the Board of County Commissioners (“Board”);
- (i) review the SWMC’s recommended SWMP, including any amendments thereto, and implement the SWMP upon its approval by the Board and KDHE;
- (j) consistent with the provisions of this Code, adopt rules, regulations, procedures, policies, and set fees and charges necessary, desirable or incidental to the implementation of this Code; and
- (k) perform such other duties and responsibilities as the Board may from time to time prescribe or authorize for the purposes of this Code.

Section 7. Authorized Representatives.

The Director may designate persons employed or retained by the Environmental Department or, as authorized, by other Departments of Johnson County Government as officials to administer the provisions of this Code, and such officials shall be designated as “Authorized Representatives” of the Board and the Environmental Department for purposes of Code enforcement.

Section 8. Access and Inspection.

- (a) As a part of the standard procedures for issuance of a license or permit under this Code, the Director and/or any Authorized Representatives shall have the authority to enter upon any property of the licensee or permittee used as a solid waste facility or a materials recovery facility for the purpose of performing inspections and other necessary duties to ensure compliance and enforcement with this Code,

and they shall have the authority to seek a lawful order to compel access whenever access is denied.

- (b) In response to any complaint of a violation under this Code or under circumstances where the Director determines that there is a direct and imminent threat to the environment, the Director and/or any Authorized Representative shall have the authority to enter upon any property for the purpose of performing an investigation into the complaint or to prevent or mitigate the harm to the environment, and they shall have the authority to seek a lawful order to compel access whenever access is denied or otherwise restricted.
- (c) Except where exigent or emergency conditions require immediate action to prevent harm to the environment, or where the license or permit provides notice of compliance inspections, the Director and/or Authorized Representative shall make reasonable efforts to notify the owner of the property and to obtain consent to access prior to entry upon the property.

Section 9. Exemptions.

The following activities or types of otherwise regulated waste are exempt from the regulation of this Code:

- (a) discharges of wastewater into a wastewater treatment facility which is operating under license or permit issued by state or federal regulators, or the Environmental Department;
- (b) sewage lawfully disposed of in accordance with the Johnson County Environmental Sanitary Code;
- (c) radioactive wastes owned by the United States government or disposed of or stored by or under permit from the state of Kansas or the United States government;
- (d) "hazardous waste" as that term is defined and the waste is regulated under hazardous waste regulations adopted by KDHE;
- (e) a "Kansas Class I injection well" as defined by KDHE regulations;
- (f) yard waste which originates outside the County while it is being transported through the County by rail, truck, or other common-carrier, and is to be disposed of outside the County;

- (g) the transporting of solid waste by an individual not otherwise in business as a “hauler” for purposes of this Code, where the solid waste is generated by the individual, or their family or immediate neighbors and the solid waste is disposed of properly, consistent with this Code, at a licensed or permitted solid waste facility;
- (h) the transporting of solid waste by an individual or person not otherwise in business as a “hauler” for purposes of this Code, where the disposal is made as an incidental or related part of services or work performed by the individual or person, such as landscaping, roofing, remodeling, or similar, and where the solid waste is properly disposed of, consistent with this Code, at a licensed or permitted solid waste facility; and
- (i) the transporting of yard waste by an individual or person not otherwise in business as a “hauler” for purposes of this Code, where the yard waste is properly managed consistent with this Code.

Section 10. Disclaimer of Liability.

This Code shall not be construed or interpreted as imposing upon the Board, its officials or employees;

- (a) any liability or responsibility for damages to any property; or
- (b) any warranty that any system, installation or portion thereof that is constructed or repaired under permits or licenses issued by the Department, will function properly. In addition, any employee charged with enforcement of this Code, acting in good faith and without malice in the discharge of such employee’s duties, shall not thereby be personally liable and is hereby relieved from personal liability for damage that may occur to any person or property as a result of any act required by this Code.

Section 11. Administration.

The provisions of this Code shall be administered and enforced by the Environmental Department.

Section 12. Effective Date.

This Code shall become effective from the date of adoption by the Board and publication of the adopting Resolution.

ARTICLE 2
DEFINITIONS

Section 1. Definitions.

When used in this Code, unless the context specifically indicates otherwise or a word or phrase is defined in the body of the Code, these words and phrases shall have the following meanings:

- (a) "Agricultural waste" means solid waste resulting from the production of farm or agricultural products.
- (b) "Authorized Representative" means the person employed or retained by the Environmental Department or other Department of Johnson County Government who is designated by the Environmental Department Director as an official to administer the provisions of this Code. An Authorized Representative is also a "Code Enforcement Officer" under County Resolution 116-88.
- (c) "Backyard composting site" means a composting operation typically at a residential property that does not commercially distribute the finished compost material for off-site use or profit.
- (d) "Board" means the Board of County Commissioners of Johnson County, Kansas.
- (e) "Bulky waste" means items of refuse too large to be placed in refuse storage containers, including, but not limited to, appliances, furniture, tires, large automobile parts, trees, limbs and stumps.
- (f) "Clean rubble" means the following types of construction and demolition waste: concrete and concrete products including reinforcing steel, asphalt pavement, brick, rock, and uncontaminated soil.
- (g) "Closure" means the permanent cessation of active disposal operations, abandonment of the disposal area, revocation of the permit for filling with waste all areas and volume specified in the permit and preparing the area for the long-term care under KDHE regulations.
- (h) "Commercial facility" means all establishments engaged in business operations, including, but not limited to, government buildings, schools, churches, stores, markets, office buildings, restaurants, shopping centers, and theaters.
- (i) "Composting" means a controlled process of microbial degradation of organic material into a stable, nuisance-free, humus-like product. This term shall not

include manure storage piles, whether turned to stabilize or not turned and yard waste directly applied to agricultural land.

- (j) “Composting area” means the area used for receiving, processing, curing, and storing compostable materials and compost.
- (k) “Composting facility” means any facility that composts wastes and has a composting area larger than one-half acre.
- (l) “Composting site” means any facility other than one that is classified as a “backyard composting site” that composts wastes and has a composting area one-half acre or less.
- (m) “Construction and demolition landfill” means a permitted solid waste disposal area used exclusively for the disposal on land of construction and demolition waste. This term shall not include a site that is used exclusively for the disposal of clean rubble.
- (n) “Construction and demolition waste” means solid waste resulting from the construction, remodeling, repair and demolition of structures, roads, sidewalks and utilities; untreated wood and untreated sawdust from any source; treated wood from construction or demolition projects; small amounts of municipal solid waste generated by the consumption of food and drinks at construction or demolition sites, including, but not limited to, cups, bags and bottles; furniture and appliances from which ozone depleting chlorofluorocarbons have been removed in accordance with the provisions of the federal clean air act; solid waste consisting of motor vehicle window glass; and solid waste consisting of vegetation from land clearing and grubbing, utility maintenance, and seasonal or storm-related cleanup. Such wastes include, but are not limited to, bricks, concrete and other masonry materials, roofing materials, soil, rock, wood, wood products, wall or floor coverings, plaster, drywall, plumbing fixtures, electrical wiring, electrical components containing no hazardous materials, non-asbestos insulation and construction related packaging. “Construction and demolition waste” shall not include waste material containing friable asbestos, garbage, furniture and appliances from which ozone depleting chlorofluorocarbons have not been removed in accordance with the provisions of the federal clean air act, electrical equipment containing hazardous materials, tires, drums and containers even though such wastes resulted from construction and demolition activities. Clean rubble that is mixed with other construction and demolition waste during

demolition or transportation shall be considered to be construction and demolition waste.

- (o) “Construction related packaging” means incidental quantities of packaging wastes that are generated in the construction, remodeling or repair of structures and related appurtenances. “Construction related packaging” does not include packaging wastes that are generated at retail establishments selling construction materials, chemical containers generated from any source or packaging wastes generated during maintenance of existing structures.
- (p) “County” means the geographical area of Johnson County, Kansas and all incorporated and unincorporated areas therein.
- (q) “County hauler license” means written authorization issued by the Environmental Department that by its conditions authorizes the licensee or applicant to undertake and perform collection, removal, and transportation of solid waste from the generation, storage or collection point.
- (r) “Director” means the director of the Environmental Department of Johnson County, Kansas or such persons designated to act on the director’s behalf, including Authorized Representatives and Code Enforcement Officers.
- (s) “Disease vector” means rodents, flies, mosquitoes, or other pests capable of transmitting disease to humans.
- (t) “Disposal” means the discharge, deposit, injection, dumping, spilling, leaking or placing of any solid waste into or on any land or water so that such solid waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any water including groundwater.
- (u) “Environmental Department” means the Johnson County Environmental Department.
- (v) “Facility” means a site and all equipment and fixtures on a site used to process or dispose of solid waste. A facility consists of the entire solid waste processing or disposal operation. All structures used in connection with the waste processing or disposal operation, including any structures used to facilitate the processing or disposal, shall be considered a part of the facility, including the following:
 - (1) solid waste disposal units;
 - (2) buildings;
 - (3) treatment systems;

Article 2

- (4) process and storage operations; and
- (5) monitoring stations.
- (w) "Garbage" means the animal and vegetable solid waste resulting from the handling, processing, storage, packaging, preparation, sale, cooking or serving of meat, produce, or other foods and shall include unclean containers.
- (x) "Generation" means the act or process of producing solid waste.
- (y) "Generator" means any person who produces or brings into existence solid waste.
- (z) "Hauler" means a person who performs the act of collecting, removing, and transporting solid waste from the generation, storage or collection point, but shall expressly exclude those persons identified in subparts (g) and (h) of Section 9 of Article 1.
- (aa) "Hazardous waste" means material determined to be hazardous waste as specified by KDHE regulations.
- (bb) "Household hazardous waste" means those small quantities of hazardous waste in the possession of homeowners and other householders and farmers including, but not limited to, household cleaners, flammable liquids, antifreeze, aerosols, corrosives, pesticides, herbicides, poisons, and latex paints. These wastes are consumer products that when discarded exhibit hazardous characteristics.
- (cc) "Household hazardous waste facility" means a facility established for the purpose of collecting, accumulating, and managing household hazardous waste and may also include small quantity generator waste or agricultural pesticide waste or both.
- (dd) "Improper disposal" means the disposal of solid waste at any location which is not permitted under the authority of this Code to receive such waste, or the disposal of solid waste contrary to any rules and regulations adopted by KDHE.
- (ee) "Incinerator" means any device or structure used for the destruction or volume reduction of solid waste by combustion pursuant to disposal or salvaging operations.
- (ff) "Industrial waste" means all solid waste resulting from manufacturing, commercial, and industrial processes which is not suitable for discharge to a sanitary sewer or treatment in a community wastewater treatment plant or is not beneficially used in a manner that meets the definition of recyclables. Industrial waste includes, but is not limited to, mining wastes from extraction, beneficiation, and processing of ores and minerals unless those minerals are returned to the mine site; fly ash, bottom

Article 2

ash, slag and flue gas emission wastes generated primarily from the combustion of coal or other fossil fuels; cement kiln dust; waste oil and sludges; waste oil filters; and fluorescent lamps.

- (gg) "KDHE" means Kansas Department of Health and Environment.
- (hh) "K.S.A." means Kansas Statutes Annotated.
- (ii) "Materials Recovery Facility" means a facility that receives, separates and prepares recyclable materials for marketing to end-user manufacturers.
- (jj) "Medical services waste" means those solid waste materials which are potentially capable of causing disease or injury and which are generated in connection with human or animal care through inpatient and outpatient services. Medical services waste shall not include any solid waste which has been classified by KDHE as a hazardous waste or radioactive treatment material.
- (kk) "Monitoring" means any procedure used to (1) systematically inspect and collect data on the operational parameters of a facility or a hauler, or (2) to systematically collect and analyze data on the quality of air, groundwater, surface water or soils on or in the vicinity of a facility.
- (ll) "Municipal solid waste landfill" or "MSWLF" means a solid waste disposal area where residential property waste is placed for disposal. A municipal solid waste landfill may also receive other nonhazardous wastes, including commercial solid waste, sludge, special waste, and industrial solid waste.
- (mm) "Nuisance" means a situation that is injurious to health or offensive to the senses or that obstructs the free use of property in a manner that interferes with the comfortable enjoyment of life or property or a situation that adversely affects the entire community or neighborhood, or any substantial number of persons, even though the extent of the annoyance or damage inflicted on individuals is unequal.
- (nn) "On-site" means on the premises where solid waste generation occurs, including two or more pieces of property that are divided only by public or private rights-of-way and that are otherwise contiguous.
- (oo) "Operator" means the person with whom rests the ultimate decision-making authority over the facility or hauler.
- (pp) "Owner" means any person in whom is vested the title of real or personal property.

- (qq) "Permit" means written authorization issued by the Environmental Department that, by its conditions, authorizes the permittee or applicant to construct, install, modify or operate a specified facility.
- (rr) "Person" means an individual, partnership, co-partnership, firm, company, public or private corporation, association, joint stock company, trust, estate, political subdivision or any agency, board, environmental department or bureau of the state or federal government or any other legal entity whatsoever which is recognized by law as the subject of rights and duties.
- (ss) "Post-closure" means that period of time subsequent to closure of a solid waste disposal area when actions at the site must be performed.
- (tt) "Processing" means incinerating, compacting, bailing, shredding, salvaging, and other processes whereby solid waste characteristics are modified or solid waste quantity is reduced.
- (uu) "Reclamation facility" means any location at which material containing a component defined as hazardous substance or industrial waste under KDHE regulations is processed.
- (vv) "Recyclables" means any materials that will be used or reused, or prepared for use or reuse, as an ingredient in an industrial process to make a product, or as an effective substitute for a commercial product. Recyclables includes, but is not limited to paper, glass, plastic, and metal, but does not include yard waste.
- (ww) "Refuse" means unwanted or discarded material resulting from residential, commercial, industrial, and agricultural operations and from normal community activities. Refuse includes in part the following: garbage, rubbish, ashes, and other residue after burning, street refuse, dead animals, animal waste, junked or abandoned motor vehicles, agricultural, commercial, and industrial wastes, construction and demolition wastes, and wastewater treatment residue.
- (xx) "Residential property" means single-family or multi-family dwelling units which are served individually for curbside collection of solid waste, yard waste, recyclables or bulky waste.
- (yy) "Residential waste" means all solid waste, including household hazardous waste, emanating from residential property, but not including wastes suitable for discharge to a sanitary sewer or community wastewater treatment plant.

Article 2

- (zz) “Resource recovery” means the recycling or reclamation of energy or materials from waste, its reuse or its transformation into new products which are not wastes.
- (aaa) “Salvaging” means the controlled removal of reusable materials from solid waste.
- (bbb) “Scrap material recycling and processing facility” means a fixed location that utilizes machinery and equipment for processing only recyclables.
- (ccc) “Solid waste” means discarded materials including, but not limited to, solid and semi-solid materials, sludges, and liquid and contained gaseous waste materials resulting from industrial, commercial, agricultural, and residential activities. Such term shall not include hazardous wastes or recyclables, but shall include garbage, refuse, and yard waste.
- (ddd) “Solid waste disposal area” means any area used for the disposal of solid waste from more than one residential property, or one or more commercial, industrial, manufacturing or municipal operations. Solid waste disposal area includes all property described or included within any solid waste permit issued by KDHE or the Environmental Department.
- (eee) “Solid waste management system” means the entire process of generating, storage, collection, transportation, processing, and disposal of solid wastes by any person engaging in such process as a business, or by any state agency, city, authority, county or any combination thereof.
- (fff) “Solid Waste Management Plan (SWMP)” means the then-current SWMP prepared and approved by the SWMC, adopted by the Board and subsequently approved by KDHE, which evaluates the existing solid waste management system and identifies strategies and recommendations for improving and updating the County solid waste management system based on projections of 20 years; provides guidance and direction for the management, handling, reduction of solid waste through reuse, recycling, composting, and the disposal of solid waste in the County; and satisfies the state requirement under K.S.A. § 65-3405 *et seq.* and any amendments thereto.
- (ggg) “Solid waste processing facility” means incinerator, composting facility, household hazardous waste facility, waste-to-energy facility, transfer station, reclamation facility or any other location where solid wastes are consolidated, temporarily stored, salvaged or otherwise processed prior to being transported to a final

disposal site. This term does not include a scrap material recycling and processing facility.

- (hhh) "Solid Waste Restriction Operations Plan (SWROP)" means a written plan to provide for the proper handling of yard waste or for the proper handling of other regulated solid waste material when the Board has adopted regulations which limit or restrict the manner for disposal of such material.
- (iii) "Special waste" means any solid waste that because of physical, chemical or biological characteristics requires special management standards due to concerns for owner or operator safety regarding handling, management or disposal.
- (jjj) "Special waste disposal authorization" or "SWDA" means the written authorization by the Environmental Department for disposal of special waste at a municipal solid waste landfill located in Johnson County, Kansas.
- (kkk) "Storage" means the containment of solid wastes in a manner that shall not constitute disposal or processing, under one of the following conditions:
 - (1) pre-collection: storage by the generator, on or adjacent to the premises, before initial collection. Under these regulations, pre-collection storage shall not require a processing facility permit; or
 - (2) post-collection: storage by the processor or collector, while the waste is awaiting processing or transfer to a disposal or recovery facility.
- (lll) "Transfer station" means any facility where solid wastes are transferred from one vehicle to another or where solid wastes are stored and consolidated before being transported elsewhere, but shall not include a dumpster or similar type of collection box that is not equipped with compaction mechanisms or has a volume less than 20 cubic yards.
- (mmm) "Treatment" means the processing of solid waste to remove or reduce its harmful properties or to contribute to more efficient or less costly management or to enhance its potential for resource recovery including, but not limited to, existing or future procedures for biodegradation, concentration, detoxification, fixation, incineration or neutralization.
- (nnn) "Unit" and "disposal unit" means a discrete area at a permitted landfill that is used for the final disposal of solid waste. These terms shall include the following means of disposal: trench, area fill, and cut and cover.

- (ooo) “Volume based rate structure”, sometimes also known as or referred to by the term “unit based pricing” or “pay-as-you-throw”, means a system by which the charge for solid waste disposal is variable based upon the volume or units of waste collected at a residential property on a regular collection cycle, excluding:
- (1) recyclable materials separated by the customer for recovery materials collection;
 - (2) segregated yard waste; and
 - (3) segregated bulky waste.
- (ppp) “Waste-to-energy facility” means a facility that processes solid waste to produce energy or fuel.
- (qqq) “Wastewater” means the liquid and water-carried industrial or domestic wastes from dwellings, commercial establishments, industrial facilities, institutions, and portable toilets whether treated or untreated.
- (rrr) “Yard waste” means leaves, grass clippings, and tree and brush trimmings, but does not include agricultural waste.

Section 2. Interpretation.

Words or phrases not specifically defined in this Code, but defined by KDHE regulations shall have the same meaning as set forth in KDHE solid waste regulations. If an ambiguity or conflict exists between this Code and KDHE regulations, and if such ambiguity or conflict cannot be resolved using recognized rules of interpretation, this Code shall control. Words or phrases not defined herein or in KDHE regulations shall have the common meaning attributed them as provided in *Merriam Webster's Collegiate Dictionary*, Eleventh or similarly recognized dictionary.

ARTICLE 3
SOLID WASTE MANAGEMENT COMMITTEE

Section 1. Duties and Responsibilities of the Solid Waste Management Committee.

- (a) The SWMC shall provide the Board with advice and counsel in regulating and managing solid waste and shall develop a Solid Waste Management Plan ("SWMP") for the County. The Board, upon the recommendation of the SWMC, adopted a SWMP by Resolution 090-07, which has been subsequently amended from time to time, which provides, *inter alia*, recommendations for the regulation and management of solid waste within the County, including provisions to reduce residential waste, encourage reuse and recycling, implement hauler regulations, restrict yard waste from landfill disposal, and establish a volume based rate structure. The SWMC shall perform the duties as prescribed by the Board pursuant to state statute.
- (b) The SWMC shall review the SWMP at least annually and, after review and approval by the Board, submit to the secretary of the Kansas Department of Health and Environment, or the secretary's designee, any recommendation for revision of the SWMP.
- (c) The SWMC shall provide to the Board every five (5) years a comprehensive evaluation of the SWMP with respect to the criteria established in state statute and recommend to the Board any changes that may be needed to provide for adequate solid waste management services in the county.
- (d) The SWMC shall perform any additional duties that the Board prescribes related to solid waste management and, in all cases, shall be subject to the jurisdiction and under the control and approval of the Board.

Section 2. Membership.

- (a) Number of Committee Members. The membership of the SWMC shall not exceed thirty (30) members.
- (b) Appointment of Committee Members. Members of the SWMC shall be appointed by the Board.

- (c) Selection of Committee Members. The membership of the SWMC shall be selected by the Board as follows:
- (1) Group One. Members appointed to represent cities shall be nominated by agreement of all mayors of each class of city represented. If the nominee is not appointed or rejected by the Board within thirty (30) days after nomination, the nominee shall be deemed appointed.
 - (i) Five (5) members shall be selected to represent any cities of the first class within the County;
 - (ii) Three (3) members shall be selected to represent any cities of the second class within the County; and
 - (iii) One (1) member shall be selected to represent any cities of the third class within the County.
 - (2) Group Two: One (1) member shall be selected to represent the unincorporated areas of the County.
 - (3) Group Three:
 - (i) At least one (1) member shall be selected to represent the general public within the County.
 - (ii) At least one (1) member shall be selected to represent the citizen organizations within the County.
 - (iii) At least one (1) member shall be selected to represent private industry within the County.
 - (iv) In the event any private solid waste management industry is operating in the County, then at least one (1) member shall be selected to represent said industry.
 - (v) In the event any private recycling or scrap material processing industry is operating in the County, then at least one (1) member shall be selected to represent said industry.
 - (4) Group Four: In the event the County has a designated recycling coordinator, then such person shall be selected as one (1) member of the SWMC.
 - (5) Group Five: Any other persons deemed appropriate by the Board.
- (d) Qualifications. When possible, nominees to the SWMC shall possess either formal education, work experience or community involvement in the area of waste management, the environment or a related field.

- (e) Term of Office. The members first appointed by the Board shall be appointed for terms of one (1), two (2) and three (3) years. The terms shall be divided equally or as nearly equally as possible among the members. Thereafter, members shall be appointed for terms of three (3) years each. All members shall serve until their successors are appointed. Vacancies shall be filled by appointment by the Board for the unexpired term. Members shall serve without compensation for their services.
- (f) Committee Officers. The Board shall designate a time and place for the initial meeting of the SWMC, at which time the members of the SWMC shall select one of their number as chairperson and one as vice-chairperson who shall serve one (1) year terms and until their successor has been selected. Elections for chairpersons shall be held the first regularly scheduled business meeting of the SWMC each calendar year. A chairperson or vice-chairperson may serve one or more successive one (1) year terms in that position.
- (g) Secretary: The Director of the Environmental Department shall designate a member of the Department as secretary for the SWMC. The secretary shall keep a proper record of the proceedings of the SWMC.
- (h) By-Laws. The SWMC shall make and adopt, with the assistance of the Johnson County Legal Department, rules for the transaction of its business.
- (i) Staff Assistance. The Environmental Department shall provide staff support to the SWMC on behalf of the Board.

ARTICLE 4
IMPLEMENTATION OF SOLID WASTE MANAGEMENT PLAN

Section 1. Solid Waste Reduction Requirements.

General and Specific Restrictions. The SWMP recommends the restriction or prohibition of the disposal or transfer for disposal of certain solid waste materials including yard waste and the SWMP may, from time to time, be amended to recommend restriction of other materials. Upon recommendation by the SWMC and inclusion of restrictions in the SWMP, the Board may adopt and enact regulations which limit or restrict the manner of disposal for such solid waste materials. When disposal of any such materials is regulated and restricted, the Environmental Department, as the administering agency, may:

- (a) require as a condition of the issuance of a solid waste permit that a facility or class of facilities, prohibit or limit the disposal, or transfer for disposal, of such materials;
- (b) require as a condition of continued operation under an existing permit that a facility or a class of facilities, prohibit or limit the disposal, or transfer for disposal, of such materials;
- (c) determine that a specific facility or class of facilities, are not approved for the disposal of such materials and may not receive for disposal such materials; or
- (d) impose conditions upon the issuance of an operating license for haulers of solid waste to require, prohibit or limit the collection or transportation of such materials.

Section 2. Solid Waste Restrictions.

The Director may, by written order, implement restrictions upon the collection, hauling, disposal, and transfer for disposal, of any regulated solid waste material which the Board determines should be restricted as prescribed the Board's adopted SWMP. Upon the publication of such written order, once in the official county newspaper, no person shall thereafter collect, haul, dispose, transfer for disposal, or contract for disposal, any such restricted material except in accordance with the Board's determination, this Code, and the Director's order.

- (a) Yard Waste Restriction. From and after January 1, 2012, yard waste shall not be disposed of in a solid waste facility disposal unit or received at a solid waste

transfer station, unless the yard waste is segregated and hauled to a composting facility.

- (b) No hauler, landfill, transfer facility, materials recovery facility, or other solid waste facility operator licensed or permitted under this Code shall recycle, compost or process any such restricted material except in accordance with a solid waste restriction operations plan submitted to and approved by the Environmental Department.
- (c) Hauling Restriction. From and after January 1, 2012, haulers required to be licensed under this Code, shall not collect yard waste from residential property within the County unless the yard waste is segregated from solid waste, placed in a container suitable for composting, or appropriately bundled and tied, to be delivered to a facility or property authorized or approved by the Environmental Department to accept yard waste for composting, mulching or other approved processing method.

Section 3. Solid Waste Restriction Operations Plan for Permitted Municipal Solid Waste Landfills and Transfer Stations.

- (a) Every county permit holder or applicant for such permit and every operator of a municipal solid waste landfill and/or transfer station shall, as a condition for such permit, submit to the Environmental Department for review and approval, a proposed written Solid Waste Restriction Operations Plan ("SWROP") to provide for the proper handling of yard waste and any other restricted material as regulated by the Board. The SWROP shall demonstrate the compliance measures that the permit holder or operator shall implement to ensure that the limitations and restrictions for the processing and disposal of yard waste and any other restricted material are met in accordance with this Code. A SWROP shall be submitted to the Environmental Department on forms provided by the Environmental Department, at the time of application for a county permit issued under this Code and thereafter at the time of any annual renewal. A new or revised SWROP may be required upon notice by the Environmental Department in the event that the Board adopts regulations which limit or restrict the manner of disposal of a solid waste material not covered by the existing SWROP.

- (b) The proposed SWROP shall contain a detailed description of the procedures and methods that the permit holder and/or operator will utilize at its facility to meet the following requirements:
- (1) An active process for ongoing monitoring and record keeping of incoming loads designed to detect and prevent the disposal of restricted materials, which shall include provisions for:
 - (i) monitoring the types and quantities of materials presented for disposal at the facility;
 - (ii) random load inspections;
 - (iii) methods to be used to determine unacceptable quantities and *de minimis* acceptable quantities of restricted materials;
 - (iv) method of operations to process any restricted materials that enter the facility gate;
 - (v) methods to ensure signed inspection checklists;
 - (vi) the process for developing and keeping a detailed list of unauthorized wastes; and
 - (vii) the process for obtaining and recording hauler information.
 - (2) the facility's proposed response to unacceptable loads including:
 - (i) communication between hauler and facility operator;
 - (ii) notification to the Environmental Department; and
 - (iii) load disposition.
 - (3) other proposed plan elements to include:
 - (i) training deemed necessary to ensure compliance with County regulations;
 - (ii) signage proposed at the facility to reduce improper dumping by haulers;
 - (iii) a proposal for routine solid waste restriction reports to be submitted to the Environmental Department for monitoring compliance with this Code;
 - (iv) the method of proposed retention of records for at least five years; and
 - (v) other items as specified by the Director.

Section 4. Solid Waste Restriction Operations Plan for Licensed Haulers.

Every applicant seeking a county hauler license shall submit to the Environmental Department for review and approval, on forms provided by the Environmental Department, a proposed written Solid Waste Restriction Operations Plan (SWROP) to provide for the proper handling of yard waste and any other restricted material covered by this Code.

- (a) The SWROP shall demonstrate the compliance measures that the hauler shall implement to ensure that the limitations and restrictions on the disposal of yard waste or other restricted materials are met in accordance with this Code. A SWROP shall be submitted to the Environmental Department for approval with an initial license application and thereafter upon annual license renewal.
- (b) Every proposed SWROP submitted shall provide:
 - (1) procedures for limiting pickup of yard waste and any other restricted material from customers including:
 - (i) employee training;
 - (ii) notification of customers about proper management of restricted materials; and
 - (iii) the hauler's proposed response to improperly managed restricted materials by a customer;
 - (2) the anticipated quantities and sources of restricted materials;
 - (3) the record keeping systems proposed to be used to allow the Environmental Department to verify compliance with the limitations on restricted materials; and
 - (4) other items as specified by the Director.

Section 5. Implementation of Solid Waste Reduction Requirements.

In accordance with the SWMP's goal to reduce the amount of waste that is generated for disposal by encouraging recycling, the following regulations are hereby adopted:

- (a) Unlimited Recycling.
 - (1) On or before January 1, 2012, every hauler licensed under this Code shall provide unlimited curbside recycling at least bi-weekly to its residential customers as a part of its basic residential hauling service, and the charge for such recycling services shall be included in the hauler's basic service charges and not as an optional service. A licensed hauler shall be deemed in

compliance with this requirement if another hauler licensed under this Code is already contracted to provide unlimited curbside recycling services to all residential customers within the service area.

- (2) Haulers licensed under this Code shall only deliver recyclable materials to a recycling or processing facility authorized or approved by the Environmental Department.
 - (3) As a part of their basic residential service, haulers licensed under this Code shall accept common recyclables for which a readily identifiable market exists, such as food-grade plastics, cardboard, office paper, newspaper, chip board, phone books, junk mail, magazines, and aluminum and steel cans when they are properly prepared for recycling by the customer. Haulers are not required to accept recyclable materials which customers have not properly prepared for recycling. The Environmental Department, consistent with the provisions of this Code and as authorized by the Board, may determine that certain materials shall be included, or may be excluded, in the listing of items for which recycling services are required and shall provide every licensed county hauler with a current list of such materials.
 - (4) Recyclables placed at residential curbside shall be deemed the property of the property owner until removed by the hauler contracted to remove such recyclables.
- (b) Volume Based Rate Structure.
- (1) From and after January 1, 2012, every hauler required to be licensed under this Code shall have a volume based rate structure for its residential customers which meets the following requirements.
 - (i) The volume based rate structure shall apply to all residential property and must be based upon the total volume or weight of the containers or bags of solid waste collected for the customer's regular collection cycle.
 - (ii) The volume based rate structure shall establish a base charge for the customer's regular collection cycle and shall contain maximum volume or weight of solid waste that may be disposed of at the base charge. The maximum volume or weight of solid waste which may

be disposed of at the base charge shall not exceed the equivalent of a 95/96 gallon container.

- (iii) The volume based rate structure shall include an appropriate charge for the collection of solid waste which is in excess of the maximum volume or weight allowed in the base charge, and the additional charge shall be in an amount which is sufficient to establish a clear financial incentive for customers to reduce solid waste disposal in area landfills.
 - (iv) The volume based rate structure for the regular collection cycle shall be based upon the total volume of the containers or bags placed for collection and not on the actual volume of trash, or the rate may be based upon actual weight. For purposes of this Code, the manufacturer's stated volume for a container, whether paper, plastic or metal, shall be deemed accurate.
 - (v) Additional container and bag charges associated with a volume based rate structure shall be administered through a readily identifiable system, such as attachable tags, marked containers or designated bags which shall be made available for sale to the customer.
- (2) The charges for services, including base charges and charges for additional containers, tags or bags, may vary depending on individual contract negotiations. Different rate structures may be appropriate and are permissible for separate and readily definable service areas and nothing in this Code is intended to impose a uniform volume based rate structure for all haulers.
- (3) The Director shall review a hauler's proposed volume based rate structure at the time of license application or annual license renewal to ensure that the proposed rate structure meets the intent and requirements of this Code.

ARTICLE 5
OPERATING LICENSES AND PERMITS

Section 1. Licenses and Permits Required.

- (a) Haulers.
 - (1) Every person who owns or operates any commercial transportation business that collects, hauls, and transports any residential property solid waste within the County shall obtain a county hauler license from the Environmental Department.
 - (2) Any hauler that is exempt from local licensing regulations under federal statutes governing interstate carriers is exempt from the licensing requirements of this section.
 - (3) Persons exempt under the provisions of subparts (g), (h) or (i) of Section 9 of Article 1 are exempt from the licensing requirements of this section unless they otherwise qualify as a “hauler” under this Code due to other business activities or requirements.
- (b) Owners or Operators of Storage, Processing, Treatment, Transfer Stations, Composting Facilities, Materials Recovery Facilities, or Disposal Facilities.
 - (1) Every person who owns or operates any commercial facility within the County for the storage, transfer, processing, treatment or disposal of any solid waste, recyclables or composting material shall obtain a permit for such facility from the Environmental Department.
 - (2) Composting sites of ½ acre or less shall not be required to obtain a permit.
- (c) A new permit or license application shall be submitted for a hauler, solid waste processor, disposal facility, or materials recovery facility if there is any change, either directly or indirectly, in ownership or control of the operation.

Section 2. License and Permit Procedure.

- (a) Every person required to obtain a permit or license under this Code shall file an application on forms provided by the Environmental Department.

- (b) If the Director determines that the hauler, solid waste processor, disposal facility, or materials recovery facility operator meets the requirements of this Code, the Director shall approve the application and shall issue a license or permit for each hauling operation, solid waste processing, disposal facility, or materials recovery facility set forth in the application. If the application fails to meet the requirements of this Code, the Director shall inform the applicant of the deficiencies and allow a resubmission.
- (c) If a permit applicant is required to file an application with the KDHE for a solid waste processing or disposal facility permit, the applicant shall provide the Director with a copy of the KDHE application, including all drawings, designs, maps, financial documents, reports, and other documentation as needed.
- (d) The Director may authorize the following activities to occur without a permit:
- (1) Disposal of solid waste from a site where the waste was improperly or illegally dumped so long as such disposal is an integral part of a site cleanup and closure plan submitted to the Environmental Department. No additional solid waste shall be brought to the site following the Environmental Department's approval of the site cleanup and closure plan.
 - (2) Disposal of hydrocarbon contaminated soil caused by a transportation accident on public rights-of-way if such waste is disposed of on property adjacent to or near the accident site with the approval of the Environmental Department, KDHE, and the Kansas Department of Transportation.
 - (3) Disposal of clean rubble material at a property within the unincorporated areas of the County if the disposal site complies with all county planning and zoning regulations.
 - (4) Any temporary projects to remediate soils contaminated by organic constituents capable of being reduced in concentration by biodegradation processes or volatilization shall comply with KDHE regulations.
 - (5) Temporary storage or permanent disposal of solid waste resulting from natural disasters, such as storms, tornadoes, floods, and fires or other such emergencies, when a request for disposal is made by the local governmental authority having jurisdiction over the area and the failure to act quickly could jeopardize human health or the environment. Prior to the Environmental Department's authorization, written approval for the

storage or disposal must be obtained from the landowner and the local governmental authority having jurisdiction over the disposal site. The local governmental authority must agree to provide proper closure and post-closure maintenance of the disposal site as a condition of authorization.

- (e) The Director shall consider the following factors in determining whether to issue a permit:
 - (1) potential impacts to human health and the environment;
 - (2) urgency to perform necessary work compared to typical permitting timeframes;
 - (3) costs and impacts of alternative solid waste handling methods;
 - (4) local land use restrictions;
 - (5) financial resources of responsible parties;
 - (6) technical feasibility of proposed project;
 - (7) technical capabilities of persons performing proposed work; and
 - (8) eligibility of site for soil conservation grants or KDHE solid waste grants.

Section 3. Denial of Permit or License.

- (a) The Director may, upon notice and an opportunity to be heard, deny, revoke, suspend or refuse the issuance of any permit or license upon a finding that the applicant, licensee, or permittee:
 - (1) failed to meet the requirements of this Code; or
 - (2) failed to comply with any applicable state or federal law or regulation regulating solid wastes; or
 - (3) filed an application that is inconsistent with the County's SWMP including any guidelines developed by the SWMC; or
 - (4) allowed a condition to exist that jeopardizes the operation of the facility for the proposed term of the permit; or
 - (5) any principal, shareholder or other person exercising partial or total control over the applicant, licensee, or permittee has violated the provisions of this Code or KDHE solid waste regulations.
- (b) Hearing and review procedures.
 - (1) Upon a determination by the Environmental Department to deny the issuance, renewal or modification of any license or permit, or , to suspend

or revoke, any license or permit by, a written notice of the contemplated action, and the grounds therefore, shall be given by the Environmental Department to the applicant, license holder, or permit holder, as the case may be, and the person aggrieved by such determination may request a hearing before the Director by filing a written request with the Director whereupon an informal hearing shall be held before the Director within ten (10) days from the receipt of the request. Within ten (10) days after such informal hearing, the Director shall issue a final decision in writing. Any person aggrieved by the Director's final written decision shall have ten (10) days after mailing of the decision to request a Board review of the Director's decision, which review may, at the Board's discretion, be held before the entire Board or before a panel of not less than three (3) Board members. The request for review shall be made in writing and shall state the decision appealed from and the basis for the appeal.

- (2) The Board shall have fourteen (14) days from the date of the request for review to hold a hearing and shall issue its written decision within seven (7) days following the hearing. Such decision shall be mailed to the appellant. The Board's review shall be *de novo* and its decision shall be a final decision for purposes of appeal, which appeal shall be to the district court.
- (3) Every notice required under this section shall be sufficient if mailed by first class mail.

Section 4. Fees.

- (a) Every person seeking a license or permit from the Environmental Department shall pay the appropriate fee established under this section at the time of submittal of the original application and upon each renewal application.
- (b) Fee schedule.
 - (1) The fee for the initial application and each annual renewal application for licenses and permits issued pursuant to this Code shall be:
 - (i) solid waste incinerator: \$26,000.00
 - (ii) industrial solid waste disposal facility: \$1,000.00
 - (iii) municipal solid waste landfill: \$26,000.00

Article 5

- (iv) solid waste processing facility: \$1,000.00
- (v) reclamation facility: \$250.00
- (vi) composting facility: \$250.00
- (vii) materials recovery facility (MRF): \$200.00
- (viii) transfer station (more than 20,000 tons per year): \$1000.00
- (ix) transfer station (20,000 tons or less per year): \$250.00
- (x) construction and demolition landfill: \$500.00
- (xi) solid waste haulers:
 - (1) 1 to 10 vehicles used for residential solid waste collection: \$100.00
 - (2) 11 to 50 vehicles used for residential solid waste collection: \$250.00
 - (3) Over 50 vehicles used for residential solid waste collection: \$500.00

- (c) Each holder of a license or permit issued by the Environmental Department shall renew such license or permit annually and pay the appropriate annual permit fee.
- (d) There shall be no proration of annual fees, except that if the applicant's initial license or permit is issued on or after the first day of July, the fee shall be reduced by fifty percent for that calendar year. All license and permits shall expire on December 31 of the year of issuance.
- (e) The Environmental Department may annually adjust or change the fees established under this Code by an amount not exceeding ten percent (10%) without the requirement for formal Board action by filing with the Board a proposed adjustment of the fees and publication of a notice in the official county newspaper of the intent to adjust or change the fees. If within thirty (30) days after the filing and publication, the Board does not rescind, modify or defer the proposed fee changes, then the fees shall be adjusted as proposed and shall be and become effective upon final publication of the fee schedule. Any fee increase shall be reasonably related to off-setting inflation, an increase in services, or increased costs and notice of such increase shall be given to all license and permit holders.

Article 5

ARTICLE 6
STANDARDS FOR MANAGEMENT OF SOLID WASTE AND MATERIALS RECOVERY
FACILITIES

Section 1. Storage and Disposal Requirements for Solid Waste Generators.

- (a) The owner and the occupant of real property shall be jointly and severally responsible for the proper handling and disposal of all solid waste generated or accumulated on the property.
- (b) Solid waste shall be properly stored and shall not:
 - (1) be kept in containers or bags other than those designed for that purpose and acceptable to the hauler except for bulky waste and agricultural solid waste;
 - (2) be allowed to attract, provide shelter, or create a breeding place for rats, flies, mosquitoes or other vectors;
 - (3) create a fire, health or safety hazard;
 - (4) be unreasonably unsightly;
 - (5) cause offensive odors off-site; or
 - (6) be allowed to remain uncovered in the rain or snow except for bulky waste and agricultural solid waste.

Section 2. Standards for Collection and Transportation of Solid Waste.

Except as expressly provided otherwise, it shall be a violation of this Code for any person to collect or transport solid waste from residential property within the County without a county hauler license issued by the Environmental Department.

- (a) A hauler that exclusively collects solid waste from only commercial or industrial properties or sites is not required to be licensed, and such hauler is not subject to this Code, so long as such hauler does not collect solid waste from residential property.
- (b) All vehicles and equipment used for collection and transportation of solid waste shall be designed, constructed, maintained, and operated in a manner that will prevent the escape of wastes from the vehicle.

- (c) The business name and telephone number of every county hauler licensed under this Code shall be printed or painted in legible characters on both sides of all vehicles and conveyances owned or operated by the hauler to collect or transport waste in the County.
- (d) Every hauler required to be licensed by this Code shall provide, on forms provided by the Environmental Department, an annual report of the estimated tonnage of solid waste, recyclables, and yard waste collected in the County by such hauler during the prior calendar year.
- (e) Solid waste shall not be unloaded from any hauler's vehicle into another solid waste collection vehicle except at a permitted transfer station. A vehicle may be unloaded to facilitate repairs, to extinguish a fire, or for some other emergency. When a vehicle is unloaded due to an emergency situation, the solid waste shall be reloaded and removed promptly after the emergency no longer exists.
- (f) Solid waste shall not be stored in a collection vehicle for more than 12 hours unless the vehicle is parked in an area in which the land use is predominantly industrial or light industrial; or overnight in a collection vehicle parked in an area in which the land use is predominantly residential.

Section 3. Standards for Solid Waste Processing Facilities and Disposal Areas.

Solid waste disposal areas and solid waste processing facilities shall be located, designed, operated, maintained, and closed in conformity with KDHE rules and regulations, and applicable zoning regulations and ordinances and shall meet all the permitting requirements of this Code.

Section 4. Standards for Solid Waste Transfer Stations.

Solid waste transfer stations shall be located, designed, operated, maintained, and closed in conformity with KDHE rules and regulations, applicable zoning regulations and ordinances and shall meet all the permitting requirements of this Code.

Section 5. Standards for Construction and Demolition Landfills.

Construction and demolition landfills shall be located, designed, operated, maintained, and closed in conformity with KDHE rules and regulations, any applicable zoning regulations and ordinances, and shall meet all the permitting requirements of this Code.

Section 6. Standards for Composting Operations.

Composting facilities shall be located, designed, operated, maintained, and closed in conformity with KDHE rules and regulations, any applicable zoning regulations and ordinances and shall meet all the permitting requirements of this Code.

Section 7. Standards for Materials Recovery Facilities.

Materials Recovery Facilities shall be located, designed, operated, and maintained in conformity with local planning and zoning regulations and shall meet all the permitting requirements of this Code.

October 7, 2019

ARTICLE 7
SPECIAL WASTE

Section 1. Special Waste Determination.

Special waste is any solid waste that because of physical, chemical or biological characteristics requires special management standards due to concerns for owner or operator safety regarding handling, management or disposal.

Section 2. Disposal Requirements for Special Waste.

Disposal of special waste in the County shall meet the following requirements:

- (a) Disposal only within a permitted municipal solid waste landfill.
- (b) Disposal in conformity with KDHE regulations and this Code.
- (c) Disposal only with a current special waste disposal authorization issued by the Environmental Department.

Section 3. Special Waste Disposal Authorization Request.

Each person requesting to dispose of a waste as a special waste for disposal shall submit a request on an application form provided by the Environmental Department.

- (a) All required forms, analytical reports, and other documentation as needed must be submitted completely prior to review of the request.
- (b) Upon review and approval of the special waste disposal request by the Environmental Department, a special waste disposal authorization letter and number is issued by the Environmental Department.

Section 4. MSWLF Requirements for Acceptance and Disposal of Special Waste.

The owner or operator of each MSWLF in Johnson County shall comply with each of the following requirements:

- (a) The transporter of each load of special waste must present the special waste disposal authorization letter or authorization number to the waste facility operator.

- (b) The waste facility owner or operator shall reject any waste load requiring a special waste disposal authorization if it does not comply with the conditions of the special waste disposal authorization issued by the Environmental Department.
- (c) The waste facility owner or operator shall notify the Environmental Department in writing of each special waste load that is rejected at the MSWLF in Johnson County within one business day after the rejection.
- (d) A Special Waste Logbook shall be prepared monthly by the MSWLF operator listing all special wastes delivered and accepted for disposal and shall include the following information:
- (1) the date of disposal;
 - (2) the ticket number;
 - (3) the SWD number;
 - (4) the company disposing the special waste;
 - (5) the transporter of the special waste;
 - (6) the net tons disposed;
 - (7) description of the special waste (eg: medical waste, sludge, etc); and
 - (8) the disposal location (survey coordinates) of the special waste within the disposal unit.

ARTICLE 8
PROHIBITED ACTS

Section 1. Unlawful Acts.

- (a) Except as otherwise provided by this Code, it shall be a violation of this Code for any person to:
- (1) collect, store, transport, process, treat or dispose of solid waste within Johnson County except in accordance with the provisions of this Code;
 - (2) collect, haul, or transport solid waste from residential property within Johnson County without obtaining a county hauler license from the Environmental Department;
 - (3) place yard waste at curbside of residential property within Johnson County for pickup by a hauler unless such yard waste is segregated from solid waste, placed in a container suitable for composting or processing, or appropriately bundled and tied.
 - (4) remove recyclables placed at the curbside of residential property within Johnson County for pickup without the property owner's consent.
 - (5) construct, alter or operate a materials recovery facility or a solid waste storage, treatment, processing or disposal facility within Johnson County without obtaining a state permit from KDHE and a county permit from the Environmental Department;
 - (6) violate any condition of any county hauler license or a solid waste processing, disposal facility, or materials recovery facility permit issued by either KDHE or the Environmental Department;
 - (7) refuse or hinder the entry, inspection, sampling, examination or copying of any property or records by an Authorized Representative of the Environmental Department where such property or records are subject to the requirements or other provisions of this Code and access to and inspection of them is authorized under this Code in connection with any annual or other routine compliance inspection intended to ensure that the licensee or permittee meets the requirements of any county hauler license or solid waste processing permit issued under the provisions of this Code.

- (b) It shall be a violation of this Code for any person to improperly dispose of any solid waste within Johnson County by open dumping or otherwise in a manner prohibited by this Code, but this provision shall not prohibit:
- (1) The use of solid wastes, except for waste tires as defined by K.S.A. 65-3424, and amendments thereto, in normal farming operations or in the processing or manufacturing of other products in a manner that will not create a public nuisance or adversely affect the public health.
 - (2) An individual from dumping or depositing solid wastes resulting from such individual's agricultural activities onto the surface of land owned or leased by such individual when such wastes do not create a public nuisance or adversely affect the public health or the environment.
 - (3) If such person is the victim of illegal dumping or unauthorized depositing of any solid waste on land owned or leased by such person without such person's express or implied consent, permission, or knowledge so long as such person removes and properly disposes of such solid waste upon 30 days' notice or such time as the Environmental Department determines is reasonably necessary under the circumstances.
- (c) It shall be a violation of this Code for any person to knowingly disobey, or fail to comply, with any order, directive, rule or regulation promulgated and adopted by the Director as authorized by this Code.

ARTICLE 9
ENFORCEMENT

Section 1. Notification of Violation.

- (a) Whenever any person is found to be in violation of any provision of this Code, or not in compliance with the conditions of any license or permit issued pursuant to this Code, or in violation of any administrative order, directive, rule, or regulation promulgated and adopted by the Director, a notice of violation letter shall be delivered by any reliable means to the person at the person's last known address advising the person of the violation and the remedial action required, if any.
- (b) A notice of violation may be accompanied by a citation for the alleged violation requiring the alleged violator to appear for arraignment. All citations shall be prosecuted in Johnson County District Court, Codes Court Division.

Section 2. Administrative Orders.

The Director is authorized to issue the following administrative orders at any time it is deemed that such action is appropriate to secure timely and effective compliance with this Code or order issued pursuant to this Code, whether or not any previous notifications of violation have been provided:

- (a) Cease and Desist Order. The Director may issue an order to cease and desist a violation or an action or inaction which threatens a violation and to direct the violator to comply or to take such appropriate remedial or preventive action as may be needed to address the violation, including halting operations.
- (b) Compliance Order. The Director may issue an order requiring a person to provide within a specified period of time, implementation of corrective actions as are necessary to correct a violation.
- (c) Consent Order. The Director may enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with an alleged violator. Such orders shall include specific actions to be taken by the alleged violator and specific time frames to correct a violation or to remove the threat of a violation.

Section 3. Penalties and Fines.

- (a) Any person who violates any provision of this Code, including the failure to follow and obey and order, rule, directive, or pay any fee when required to do so, shall be subject to the enforcement procedures set forth in the *"Code of Regulations for Procedures & Enforcement"* established by Resolution 116-88, adopted on August 25, 1988, and punishable, upon conviction, of a "Class I Infraction", with a fine not less than One Hundred Dollars (\$100.00) nor more than Five Hundred Dollars (\$500.00); and
- (b) Multiple or repeated violations of any class of violation shall be deemed a violation of the next most serious violation class and subject to a higher fine amount, as provided under the Code of Regulations for Procedures & Enforcement.
- (c) Each separate day that a violation exists or occurs after the issuance of a citation shall be considered, for purposes of assessing fines and without the necessity for the issuance of multiple citations, a separate violation, subject upon conviction to an additional and separate fine amount for each day.
- (d) The provisions for enforcement of these regulations shall be cumulative and in addition to all other procedures provided by law for the enforcement of county resolutions, codes, or regulations.
- (e) This Code is not intended to supersede state statutes or KDHE regulations relating to solid waste.
- (f) The Director may, upon any person's conviction for a violation of this Code, and after notice and an opportunity to be heard, suspend, modify, or revoke such person's county hauler license or solid waste processing permit issued by the Environmental Department.

Section 4. Emergency Authority.

For an alleged violation which the Director believes presents or appears to present an immediate, specifically identified, and serious danger to the health, safety, or welfare of the public, the Director may notify the responsible party by any reliable means, including telephone, to take immediate action to discontinue or reduce the imminent threat and to take appropriate actions to eliminate the threat within a reasonable amount of time as established by the Director.

Section 5. Appellate Procedure.

The issuance of a notice of violation or a citation by the Director under this Code shall not be appealable to either the Director or the Board. All such notices and citations shall proceed through the codes court process without administrative appeal. However, the Director may enter into conciliation procedures or utilize Alternative Dispute Resolution procedures to consider and resolve any notice of violation; provided that the result of the conciliation or dispute resolution is consistent with and not contrary to the provisions of this Code and causes the alleged violation to be brought into compliance.

-END of DOCUMENT-

October 7, 2010