

ORDINANCE NO. 5142-24

AN ORDINANCE AMENDING CHAPTER XVIII. OF THE CODE OF THE CITY OF NEWTON, KANSAS, PERTAINING TO THE COLLECTION OF MUNICIPAL SOLID WASTE, ESTABLISHING REGULATIONS AND CHARGES IN RELATION THERETO, AND PRESCRIBING PENALTIES FOR VIOLATIONS OF THE PROVISIONS OF SUCH CHAPTER; REPEALING THE ORIGINAL CHAPTER XVIII. OF THE CODE OF THE CITY OF NEWTON, KANSAS; AND REPEALING ORDINANCE NO. 5123-23

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF NEWTON, KANSAS:

SECTION 1. Chapter XVIII. of the Code of the City of Newton, Kansas, is hereby amended to read as follows:

CHAPTER XVIII. MUNICIPAL SOLID WASTE

ARTICLE 1. GENERAL PROVISIONS

18-101. DEFINITIONS.

For purposes of this Chapter, the following words and phrases shall have the following meanings:

- (a) Approved Collection Container shall mean the container or bin provided by the City for the disposal and collection of Garbage or Refuse or Recyclables, or other containers approved by the City for such disposal and collection under the terms of this Chapter.
- (b) Collection Point shall mean: (i) the unpaved area immediately behind the street pavement of each Dwelling Unit which fronts a public street; or (ii) in those cases where the sanitation department has agreed to provide collection service along alleyways, a point adjacent to the alley, outside of all private fences and outside of the established line for vehicular traffic; or (iii) such other location as may be established with the approval of the Sanitation Division.
- (c) Commercial Establishment shall include, among others, the operation of storage, mercantile, industrial, business, public assembly, institutional and all other establishments commonly designated as such, or as may hereafter be designated as such.
- (d) Construction and Demolition Waste shall mean solid waste resulting from the construction, remodeling, repair and demolition of structures, roads, sidewalks and utilities, and shall include (but not be limited to) the following: untreated

wood and untreated sawdust from any source; motor vehicle window glass; vegetation from land clearing and grubbing, utility maintenance and seasonal or storm-related clean-up; bricks; concrete; masonry materials; roofing materials; soil; rock; wood; and wood products.

- (e) Contractor shall mean a person or company who contracts with the City to collect and remove Refuse, Rubbish or Recyclables on behalf of the City.
- (f) Dwelling Unit shall mean and include a room or group of rooms within a building or structure forming a single habitable unit with facilities which are used or intended to be used for living, sleeping, cooking and eating. The term Dwelling Unit shall include each living unit within an apartment house, each apartment within a private home, each individual mobile home within a mobile home park or subdivision, and each living unit within a duplex, tri-plex or other structure designed for multi-family in separate living units.
- (g) Gallon shall mean a form of liquid measurement of capacity equal to 231 cubic inches or 3.785 liters.
- (h) Garbage shall mean and include animal and vegetable wastes resulting from the handling, preparing, cooking and consumption of food, and shall also include bakery and market waste from the handling, storage or sale of bakery goods or produce.
- (i) Junk shall mean all worn out, broken or discarded materials not included within the definitions of Garbage, Rubbish, Trash or Recyclable.
- (j) Person shall mean and include any Person, firm, partnership, association, corporation, company or organization, or any kind or a governmental body or agency.
- (k) Premises shall mean and include a lot, plot or parcel of land, including the buildings and structures thereon.
- (l) Recycle shall mean the separation from other Refuse and the preparation for disposal and collection of all materials designated as Recyclables pursuant to the provisions of a City approved Recycle agreement..
- (m) Recyclable shall include: Glass jars and bottles, aluminum and tin food and beverage containers, recyclable plastics #1-#7, and mixed paper; newspapers, books, magazines, cardboard, cereal boxes, junk mail, etc.
- (n) Refuse shall mean and include all Garbage, Rubbish and Trash.
- (o) Rubbish shall mean and include the wastes consisting of miscellaneous materials, and shall also include, among other things, shredded paper, tin foil, broken

crockery, fabrics, coffee grounds, utensils, excelsior, packing, wrappings, sweepings of dust and dirt, rubber and bits of metal.

- (p) Sanitation Division shall mean the City department or division charged with the responsibility for providing municipal solid waste collection services under the provisions of this Chapter.
- (q) Trash shall mean and include all other wastes other than Garbage and Rubbish, Recyclable, except body wastes, and shall include, among other things, wood, nonpliable crating, boxes or cartons, shrubbery and tree trimmings, discarded furniture, bedding, small appliances, clothing and shoes.
- (r) Type 1 Service shall mean a collection technique used at single Dwelling Units, and at multiple Dwelling Units where individual collection can be established, and utilizes a City-provided rollout carts for Refuse and Recyclables.
- (s) Type 2 Service shall mean a collection technique used at multiple Dwelling Units under common ownership or management where individual collection cannot be established, and generally utilizes one or more dumpsters for the collection of Refuse at a single Collection Point servicing several Dwelling Units.
- (t) Yard Waste shall mean all grass trimmings, leaves, weeds and all other vegetation or portions, trimmings or wastes therefrom, except for food wastes included within the definition of Garbage, and except for shrubbery and tree trimmings included within the definition of Trash.

18-102. CLEANLINESS OF STREETS, ALLEYS AND PUBLIC PLACES.

It shall be unlawful for any Person to throw, place or deposit, or to allow or permit the throwing, placing or depositing, or to allow the accumulation of any Refuse, Recyclables or Junk of any kind, upon any parking area, sidewalk, gutter, street, alley, thoroughfare, park or other public grounds or City-owned property.

18-103. ENCUMBERING STREETS UNDER PERMIT.

Nothing in this Chapter shall prevent any Person, under a permit from the City, from encumbering the streets or alleys with building materials or earth for the purposes of construction, demolition, remodeling or repairing any building or structure; provided, that in the event of such encumbering of the streets or alleys, the contractor, owner or occupant shall remove any and all materials remaining within 10 days from the completion of the work and shall leave the streets or alleys in the same condition that they were prior to that Person's use thereof.

18-104. KEEPING PREMISES CLEAN.

Owners or occupants shall maintain their Premises as follows:

- (a) Every owner or occupant shall maintain and keep his or her Premises in a clean and sanitary manner and free from any accumulations of Refuse and Junk of any kind except for the permissible and temporary storage thereof for purposes of collection and disposal pursuant to the provisions of this Chapter.
- (b) Every owner or occupant of any such Premises shall dispose of all Garbage, Rubbish and Recyclables in a clean and sanitary manner by placing such in an approved storage or disposal facility which is safe and sanitary. Materials not approved for collection by the City shall be disposed of in a manner as prescribed by federal, state and local regulations.

18-105. DEAD ANIMALS.

It is hereby declared to be the duty of the owner or harbinger of any animal that dies within the city limits to cause the proper disposal of the same immediately. In the event of the neglect or refusal to properly dispose of the animal, the City may dispose of the same and make a reasonable charge against the owner or harbinger thereof for the disposal of such carcass. Any animal which is disposed of by burial within the city limits shall be buried on private property, with the consent of the landowner and with a minimum of thirty-six (36) inches of earth cover. No animal shall be placed in a City Approved Collection Container.

18-106. DESIGNATION OF SOLID WASTE COLLECTION CENTER.

The landfill, solid waste collection center and any other solid waste facility or transfer station maintained and operated by the Board of County Commissioners of Harvey County, Kansas, is hereby designated for the use of the City Sanitation Division and the citizens of the City for the purpose of disposing of all Refuse, Recyclables, hazardous waste and Construction and Demolition Waste, pursuant to the rules and regulations established in this Chapter and by the Board of County Commissioners and their designees.

18-107. PROHIBITED ACTS.

It shall be unlawful for any Person to commit any of the following acts:

- (a) To cause, allow or permit any material or matter whatsoever other than Garbage, Recyclable or Rubbish as defined in Section 18-101 to be deposited in any City-provided Garbage receptacles.
- (b) To deposit, place or leave any Garbage, Rubbish or Recyclables at any Collection Point in any manner other than in an Approved Collection Container, unless otherwise specifically allowed as a part of the disposal preparation requirements established from time to time by the City.

- (c) To deposit, throw, place or leave any Refuse or any other material or materials that are subject to be scattered by wind or otherwise, upon any property, public or private, in the City, except in an Approved Collection Container.
- (d) To cause, allow or permit any Refuse or Recyclable to burn.
- (e) To remove any contents of an Approved Collection Container; provided, however, that this prohibition shall not apply to designated city officials or employees or their duly authorized agents or contractors.
- (f) To upset, turn over, damage, remove or carry away any Approved Collection Container; provided, however, that this prohibition shall not apply to designated city officials or employees or their duly authorized agents or contractors.
- (g) To deposit, throw, place or leave any Approved Collection Container within the portions of any highway, street, road or alleyway maintained for vehicular traffic or parking.

18-108. COLLECTION AND SUSPENSION OF SERVICE.

All bills for municipal solid waste collection services furnished by the City pursuant to this Chapter shall be due and payable at such time and at such place or places as the City may from time to time specify. Any bill not paid within 20 days of the date the bill is rendered shall be considered delinquent and shall be subject to a late fee in the amount of five percent (5%) of the total amount of such bill. Notification of such delinquency shall be given by mail, and shall notify the customer that if such bill is not paid within ten (10) days thereafter then the municipal solid waste collection services shall be subject to suspension and shall not be recommenced until all charges for such service have been paid in full. All outstanding amounts owed for water service shall constitute an encumbrance against the property so served, and the Director of Finance may deny the provision of any new municipal solid waste collections services to the subject property as long as delinquent charges remain outstanding, irrespective of any intervening change in the ownership or tenancy of the property, and may deny the provision of service to any other property owned or managed by the customer.

18-109. TRANSPORTATION OF BURNING MATERIALS.

It shall be unlawful for any Person to transport burning materials through, over or across the streets, alleys or other public ways of the City.

18-110. AUTHORITY OF CITY MANAGER.

The City Manager shall have the authority to establish policies, rules and regulations regarding the operation of the City's solid waste collection and disposal activities which are not inconsistent with the provisions of this Chapter or with any other adopted ordinances or policies of the Governing Body.

ARTICLE 2. GARBAGE AND RUBBISH COLLECTION

18-201. RIGHT OF CITY.

The City shall collect and dispose of Refuse and Recyclables within the city limits as a municipal function.

18-202.

A Person may elect to dispose of Recyclables with a Contractor other than the City. If a Person elects to not recycle, Recyclables may be disposed of as part of the regular Garbage and Rubbish collection pursuant to this Chapter.

18-203. FREQUENCY OF REMOVAL.

Collection of Refuse and Recyclables shall be as follows:

- (a) Where Type 1 Service is established with the City, Refuse shall be collected and removed once each week. Recyclables shall be collected by the Contractor bi-weekly on a weekday determined by the Contractor.
- (b) Where Type 2 Service is established, Refuse shall be collected on an established frequency as determined by agreement between the customer and the City.
- (c) Collection routes and the designated day of collection as to each Dwelling Unit shall be determined by the Sanitation Division and may be adjusted from time to time as deemed appropriate for efficiency or economy of operations.

18-204. CONTAINERS.

It shall be the duty of every Person in possession, charge or control of any place, Premises, building or structure from which Refuse or Recyclables accumulates to keep or cause to be kept in collection containers provided by the City or Contractor for the collection and holding of such Refuse and Recyclables pursuant to the provisions of this Chapter.

18-205. PLACING, MAINTAINING AND GENERAL USE OF CONTAINERS.

- (a) Type 1 Service. It shall be the responsibility of the owner or occupant of each Dwelling Unit designated for Type 1 Service to adhere to the following practices:
 - (1) To place the collection containers at the Collection Point not sooner than 5:00 p.m. on the day prior to scheduled collection, nor later than 7:00 a.m. on the day of scheduled collection, and to remove the collection containers

to their normal storage location at a point behind the front building line within twenty-four (24) hours after collection.

- (2) To maintain the collection containers in a serviceable and sanitary condition, which shall be used exclusively for the placement of approved Refuse and Recyclables for collection and disposal by the City or Contractor.
 - (3) To remove or cause to be removed any Refuse, Recyclables or Litter remaining at the Collection Point which is not collected because of any failure to adhere to the provisions of this Chapter.
- (b) Type 2 Service. It shall be the responsibility of the common owner or management of multiple Dwelling Units designated for Type 2 Service to adhere to the following practices:
- (1) To establish, in consultation with the Sanitation Division, one or more Collection Points which are readily accessible to City collection vehicles.
 - (2) To maintain the collection containers in a serviceable and sanitary condition, which shall be used exclusively for the placement of approved Refuse for collection and disposal by the City.
 - (3) To remove or cause to be removed any Refuse, Recyclables or Litter remaining at the Collection Point which is not collected because of any failure to adhere to the provisions of this Chapter.

18-206. FEES.

Fees for the collection and disposal of Refuse and Recyclables in the City shall be as follows:

- (a) Type 1 Service.
- (1) Curbside or Alley Collections. The monthly fee for each Dwelling Unit shall be \$24.37 per month.
 - (2) Additional Containers. Each customer will be provided with up to two containers for Refuse. There shall be an additional monthly rental fee in the amount of \$14.86 for each additional Refuse container required by a customer.
 - (3) Walk-up Collections. Where it is the choice of the customer to have Refuse collected adjacent to the dwelling, rather than at a Collection Point meeting the requirements of this chapter, the base monthly fee shall be \$37.52; however, the City Manager shall have the authority and discretion

to waive this monthly fee if the City Manager has determined that no regular resident of the Dwelling Unit is physically capable of placing the collection containers at the regular Collection Point. Walk-up collection shall only be provided to the nearest line of the dwelling to the street or alley from which collection services are rendered, unless an alternative location is designated by the Sanitation Division.

(b) Type 2 Service.

(1) Fee Adjustment. The City Manager is hereby authorized to maintain, and to change from time to time as deemed necessary, a base monthly fee for Type 2 Service which shall be determined for each facility based upon such factors as the number and sizes of collection containers and the frequency of collection required, as well as such other factors as determined by the City Manager to impact the costs of providing such collection services; provided, however, that the base monthly fee shall not exceed an amount equal to the number of Dwelling Units within the facility multiplied by the base monthly fee applicable to Type 1 Service multiplied by the number of collections provided to the facility per week.

(2) Collection Container Rental Rates. Collection containers shall be rented on a monthly basis from the City by customers receiving Type 2 Service. Rates are established as follows:

Rental Rate Per Container	
1.5	\$38.18
2	\$54.46
3	\$58.91
4	\$68.60
6	\$90.52
8	\$107.10

(c) The fees for the collection of Recyclables shall be set by the Contractor and approved by the City. Contractor will collect from each residential customer that is using the Recyclable Service quarterly, and in advance.

ARTICLE 3. COMMERCIAL COLLECTION

18-301. RIGHT OF COMMERCIAL ESTABLISHMENT.

It shall be the option of any Commercial Establishment located within the City to use the services of the City Sanitation Division or to select and use a privately-owned sanitation service. A Commercial Establishment is not required to separate Recyclables from Refuse, unless the Commercial Establishment elects to participate in a recycling program provided by the City or

Contractor.

18-302. FREQUENCY OF REMOVAL.

Collection of Refuse and Recyclables from Commercial Establishments may be provided on a weekly, twice-weekly, three-times-weekly or four-times-weekly basis depending upon the needs of the customer, and as established in consultation with the sanitation department or Contractor.

18-303. CONTAINERS.

Containers used by Commercial Establishments shall be of an approved design provided by the City at a rental rate set forth in 18-306. The container size shall not exceed a total capacity of eight (8) cubic yards. Commercial Establishments utilizing the same containers as provided for residential collection shall be entitled to service under the residential fee schedules set forth in Article 2 of this Chapter, provided that the Commercial Establishment accepts and adheres to a residential collection pick-up schedule and complies with all of the requirements applicable to residential collection.

18-304. PLACING, MAINTAINING AND GENERAL USE OF CONTAINERS.

It shall be the responsibility of the owner or management of any Commercial Establishment receiving service under this Article to adhere to the following:

- (a) To place or cause to be placed the collection container or containers at a suitable location, determined in consultation with the Sanitation Division, which is readily accessible to City collection vehicles.
- (b) To maintain the collection containers in a serviceable and sanitary condition, which shall be used exclusively for the placement of approved Refuse for collection and disposal by the City.
- (c) To remove or cause to be removed any Refuse, Recyclables or Litter remaining at the Collection Point which is not collected because of any failure to adhere to the provisions of this chapter.

18-305. REFUSE NOT IN CONTAINERS.

The Sanitation Division or Contractor shall be under no obligation to collect any Refuse or Recyclables which are not in an Approved Collection Container. If the Sanitation Division does collect any such Refuse or Recyclables, the Commercial Establishment shall pay an additional charge equal to the minimum monthly charge for each increment in volume of such Refuse or Recyclables, equal to or less than the volume of the containers for which the Commercial Establishment's monthly minimum charge is determined.

18-306. FEES.

Each subscribing Commercial Establishment shall pay the minimum monthly fee as prescribed below as to the size of the collection containers and the frequency of collection. Establishments having multiple containers shall pay the designated charge as to each such container. In addition, each establishment shall pay the designated special pick-up charge for each additional collection requested and received beyond the establishment's normal collection schedule. Establishments requesting a special pick-up as to multiple containers shall pay the designated special pick-up charge as to each such container. Rates in the table below include the rental fee found 18-206(b)(2).

Type 2 Costs					Special Pickup Charge
Number of Collections Per week					
Container Size	One	Two	Three	Four	
1.5 cubic yard	\$67.30	\$96.42	\$125.54	\$154.66	\$31.80
2 cubic yard	\$89.16	\$123.86	\$158.57	\$193.27	\$37.89
3 cubic yard	\$104.78	\$150.64	\$196.51	\$242.38	\$50.09
4 cubic yard	\$125.63	\$182.66	\$239.70	\$296.73	\$62.28
6 cubic yard	\$169.88	\$249.25	\$328.61	\$407.97	\$86.66
8 cubic yard	\$208.79	\$310.49	\$412.18	\$513.87	\$111.05

ARTICLE 4. YARD WASTE

18-401. TRANSPORTING YARD WASTE.

Any vehicle used by any Person for the collection and transportation of Yard Waste shall be equipped with an enclosed body to prevent the contents escaping therefrom; provided, that loads of Yard Waste secured in bags or other closed containers, tree trimmings or brush only may be transported in open-bodied vehicles provided the material is properly secured in place to prevent scattering along the streets and alleys.

18-402. DISPOSAL OF YARD WASTE.

It shall be unlawful for any Person to dispose of Yard Waste within the city limits of the City; provided, however, that nothing herein shall prevent or restrict a property owner or tenant from making a domestic use of Yard Waste upon such Person's property or upon property as to which such Person has the right of use, if such use is made in a manner which does not create a public nuisance.

18-403. LICENSURE AND REGULATION OF YARD WASTE COLLECTORS AND DISPOSERS.

- (a) Except as otherwise provided herein, it shall be unlawful for any Person or party to engage in the business of the collection or disposal of Yard Waste within the City unless such Person or party is licensed therefor in the manner hereinafter provided.
- (b) All such licenses shall be issued by the City Clerk upon proper application therefor, upon the presentation of the proof of the satisfaction of all requirements therefor, and upon the payment of the annual license fee. All such licenses shall be issued for a term not to exceed one year from the date of issuance. All such licenses shall expire on the 31st day of December in the year as to which such license is effective.
- (c) No such license shall be issued unless the applicant therefor has satisfied the following requirements:
 - (1) All applicants for such a licensee shall pay a non-refundable license application fee in the amount of \$50;
 - (2) All applicants for such a license shall obtain and exhibit satisfactory proof of insurance, with provision for a 10-day notice to the City Clerk prior to cancellation, covering (i) all such licensed activities for comprehensive general liability in an amount not less than \$100,000 for each occurrence, and (ii) all vehicles utilized in such collection and disposition activities for such vehicular liability insurance as is then required under the laws of the State of Kansas; and
 - (3) All applicants for such a license shall exhibit and permit the photocopying by the City Clerk of the Kansas certificate of title of all vehicles to be utilized in such collection and disposition activities.
- (d) All Persons or parties holding a license for the collection and disposal of Yard Waste shall be subject to the following requirements:
 - (1) All Yard Wastes to be collected from or near the Premises of the customers of such licensees shall be contained in clearly marked or otherwise clearly identifiable bags or containers sufficient to identify the contents thereof as being Yard Wastes, and sufficient to identify the licensee. To satisfy this requirement, a licensee shall provide or otherwise have its customers use bags or containers of a distinctive type, design or marking which shall be subject to the prior approval of the director of public works of the city. The Director of Public Works shall be entitled to disapprove of any such bags or containers if, in the judgement of the director, such bags or containers are not sufficiently distinctive from other previously approved bags or containers approved for use by another licensee.

- (2) All such collections from or near the Premises of the customers of all such licensees shall be by curbside collection upon or adjacent to the Premises of such customer.
 - (3) All Yard Wastes collections by licensees shall be by use of vehicles registered with the City as herein provided.
 - (4) All Yard Wastes collected by licensees shall be disposed of in a lawful manner outside of the city limits of the City.
- (e) The license of a licensee shall be subject to revocation by the City upon any of the following events:
- (1) Failure to maintain the required insurance coverage during the term of such license;
 - (2) Failure to notify the City of any different or additional vehicles put into service in such collection and disposition activities, and to provide the certificate of title and insurance information required in relation thereto;
 - (3) Failure to comply with any of the other provisions and requirements of this Chapter.
- (f) Persons or parties who dispose of the Yard Wastes of no greater than 10 other Persons or households shall be exempt from the licensure requirements and regulations of this Section; but such Persons shall not be exempt from the other requirements of Sections 18-401 and 18-402 of this Article.

ARTICLE 5. PENALTIES AND SAVINGS CLAUSE

18-501. PENALTY.

Any Person violating any of the provisions of this Chapter shall, upon conviction thereof, be fined in any sum not less than \$100 nor more than \$500, and by imprisonment for not more than thirty (30) days, with each day of failure to comply with any such provisions of this Chapter constituting a separate violation.


SECTION 2. SAVINGS CLAUSE. If any clause, sentence or section of this Chapter shall be declared void by any court, the same shall not affect the remainder of this Chapter.

SECTION 3. Original Chapter XVIII. of the Code of the City of Newton, Kansas, is hereby repealed.

SECTION 4. Ordinance No. 5123-23 is hereby repealed.

SECTION 5. This Ordinance shall take effect and be in force from and after summary publication in the official newspaper of the City.

PASSED AND ADOPTED this 26th day of March 2024.



Rod Kreie, Mayor

ATTEST:



Denise R. Duerksen, City Clerk