

# Chapter 3

## SOLID WASTE

### 4-3-1: TITLE:

This chapter shall be known as the *KOOTENAI COUNTY SOLID WASTE ORDINANCE*. (Ord. 449, 11-23-2010)

### 4-3-2: PURPOSE:

The purpose of this chapter shall be to protect the health, safety and welfare of the residents of the county by providing a framework for the solid waste disposal system which operates now and will operate in the future within the county. It is the intent of the board of county commissioners, through enactment of this chapter, to exercise all powers granted to them in the field of solid waste management by relevant provisions of the Idaho constitution and Idaho Code. (Ord. 449, 11-23-2010)

### 4-3-3: DEFINITIONS:

The terms listed in this section shall have the meanings set forth herein throughout this chapter:

**COMMERCIAL HAULER:** Any entity including, but not limited to, person, corporation, partnership, sole proprietorship, limited liability company or limited liability partnership who engages in collection or hauling of solid waste.

**COMMERCIAL WASTE:** All types of solid waste generated by entities including, but not limited to, stores, offices, restaurants, warehouses and other nonmanufacturing activities, excluding residential and industrial wastes.

**DANGEROUS OR HAZARDOUS WASTE MATERIAL:** Any substance in any combination of solid, liquid or gaseous form in any quantity that is defined as hazardous wastes under federal law, including the federal resource conservation and recovery act, 42 USC subsection 6901 et seq., and under comparable state laws, and any other radioactive, volatile, corrosive, flammable, explosive, biomedical, infectious, biohazardous, or toxic waste, substance or material, as defined by or listed or characterized under applicable federal, state, or local laws or regulations.

**DELINQUENT ACCOUNTS:** Accounts that have a balance due and owing for greater than sixty (60) days from the date of billing.

**DIRECTOR:** The director of the solid waste department or her/his designee.

**INDUSTRIAL WASTE:** Solid waste generated by manufacturing or industrial processes that is not a hazardous waste regulated under subtitle C of RCRA or a "dangerous or hazardous waste material" as defined herein. Such waste may include, but is not limited to, waste resulting from the following manufacturing processes: electric power generation; fertilizer and agricultural chemicals; food and related products and byproducts; inorganic chemicals; iron and steel manufacturing; leather and leather products; nonferrous metals manufacturing/foundries; organic chemicals; plastics and resins

manufacturing; pulp and paper industry; rubber and miscellaneous plastic products; stone, glass, clay and concrete products; textile manufacturing; transportation equipment; and water treatment. This term does not include mining waste or oil and gas waste.

**JOINT RESIDENTIAL COLLECTION SITE:** A site where, through the private agreement between a hauler and multiple residential customers, solid waste is deposited in and collected from containers.

**PERSON:** Any person, corporation, partnership, association, firm or other business or nonprofit entity.

**RATE SHEET AGREEMENT:** An agreement between Kootenai County solid waste department and property owners of Kootenai County acknowledging the property owner's obligation for payment of solid waste disposal fees on their property and/or authorizing billing of solid waste disposal fees to the property owner's tenant or assignee.

**RECYCLABLE MATERIALS:** Those items listed in the county solid waste handbook. Recyclable materials may (subject to their being listed in the aforementioned handbook) include, but not be limited to: cardboard, aluminum, paper, wood products, glass, selected plastics, metals and other materials for which recycling markets may be developed now and in the future.

**RESIDENCE:** A building or other suitable structure that is used as a dwelling and is inhabited by a person or persons. For solid waste fee purposes, said dwelling may be constructed to provide living space for a single family up to four (4) families (fourplex) per building regardless of the number of structures per lot. Single-family through fourplex dwellings will be assessed a single residential solid waste fee for each dwelling space. Multi-family dwellings larger than a fourplex are classed as commercial property and will fall under commercial billing procedures and are not classified as a residence.

**RESIDENTIAL SERVICE:** The regular weekly removal of not more than three (3) approved thirty two (32) gallon containers, or the preapproved equivalent (96 gallons) of waste from a residence. Regular weekly removal of one yard dumpsters (approximately 202 gallons) or greater of waste from a residence will result in conversion of service to a commercial account and will thereafter be billed accordingly.

**RESIDENTIAL SOLID WASTE:** All types of waste generated from a private household or dwelling to sustain living or quality of life for a family residing at that residence. Generally, waste quantities will not exceed ninety six (96) gallons (3 garbage cans) per week. Home business waste falls under the commercial definition and is excluded from the definition of residential solid waste. As with all solid waste, residential solid waste is subject to the provisions and restrictions of any and all fee resolutions passed pursuant to this chapter.

**RURAL RESIDENTIAL COLLECTION SITE:** A county operated collection facility and any land upon which containers (mobile or stationary) are placed for public collection of solid waste, whether said land is publicly owned or is provided by an agreement with the county.

**SOLID WASTE:** All matter of solid substances which have been, or are intended to be, abandoned or discarded by their owner or possessor on private or public lands and as such may be additionally defined in the Idaho Code. Solid waste does not include recyclable materials.

**SOLID WASTE DISPOSAL SYSTEM:** All lands, sites, facilities, equipment and manpower necessary or used for the collection, transportation, storage, treatment, processing, reuse, recycling or other means necessary for the handling and disposal of solid waste. Said system shall include all approved public and private disposal sites and approved system components in existence at the time of adoption of this chapter and as approved subsequent to the adoption of this chapter.

**SOLID WASTE DISPOSAL SYSTEM COMPONENT:** Any public or privately owned site, collection location, disposal facility, transportation element or other functioning part of the solid waste disposal system for the county where one or more phases of solid waste disposal is carried out by one or more persons. Component shall not include the solid waste receptacle provided by a commercial solid waste hauler or generator for use by a single business, customer or client.

**SOLID WASTE INCREMENT:** A unit for measuring solid waste. For further clarification see the Kootenai County solid waste fee resolution for residential and commercial solid waste fees. (Ord. 449, 11-23-2010)

#### **4-3-4: GENERAL APPLICABILITY:**

From the date of approval and publication of this chapter, as required by law, all solid waste generated within the county shall comply with the standards and procedures set forth herein. All solid wastes shall be managed, whether during storage, collection, transfer, transport, processing, separation, incineration, composting, treatment, reuse, recycling or disposal, to prevent health hazards, public nuisances or pollution of the environment. This chapter does not regulate discharges into the waters of the county, except as those discharges are not governed by state and federal law. (Ord. 449, 11-23-2010)

#### **4-3-5: ADMINISTRATION:**

##### **A. Solid Waste Department:**

1. There is hereby established a solid waste department which is subject to direct supervision by the board of county commissioners. The board of county commissioners may delegate responsibility for the operation of the department to an employee designated as the solid waste director, said employee is selected by majority vote of the board. The director shall be responsible for carrying out the terms of this chapter and for implementing the solid waste policies adopted by the board. The director shall perform such duties as are necessary to operate the waste disposal system in the county. Said duties shall include maintaining liaison with local, state and federal regulatory agencies on behalf of the board of county commissioners.
2. The scope of authority to be exercised by the board of county commissioners through creation of the solid waste department is intended to extend as far as allowed by the Idaho constitution and by the statutes empowered and requiring counties to be responsible for solid waste disposal within their jurisdiction, including, but not limited to, Idaho Code title 31, chapter 44.

##### **B. Commercial Accountability Officer:** There may be, and this chapter hereby allows for, a commercial accountability officer.

1. Duties shall include, but not be limited to, reporting noncompliance with the provisions of this chapter to the solid waste director.
2. In order to effectuate these duties, the commercial accountability officer may investigate individuals, private haulers, commercial haulers, commercial users and any and all others for improper waste disposal as directed by the solid waste director. Upon discovery of improper acts, the commercial accountability officer may take such action as necessary to bring the noncomplying party into compliance. These actions include, but are not limited to, warning

letters, requiring remedial action and assisting in civil and criminal prosecution. (Ord. 449, 11-23-2010)

#### **4-3-6: SOLID WASTE FUND:**

For purposes of financing the operation of the solid waste department, there is hereby created a solid waste fund to be maintained as a separate fund within the county budget. This fund shall support all activities made necessary for the continued operation of the solid waste system in the county. The board of county commissioners may, by resolution, establish special accounts within the solid waste fund for stated purposes to meet anticipated operational needs of the solid waste system as it deems necessary and proper.

The board of county commissioners may choose from the various revenue options made available to counties to support solid waste activities as outlined in Idaho Code section 31-4404 and elsewhere. User fees may be charged to real property owners and other system users as the board of county commissioners deems necessary to support solid waste system operation. In accord with the provisions of this chapter, said fees may be established at any time by the board of county commissioners through passage of a resolution setting forth the fees to be charged for the system. Said fee resolution may be amended at any time to accommodate changes in the fee system and operating policies deemed appropriate by the board of county commissioners. A resolution establishing fees shall remain in full force and effect until subsequently repealed or amended. All previously adopted resolutions of the board of county commissioners not inconsistent with the terms of this chapter are hereby ratified, approved and confirmed.

If taxes are ever to be levied for support of the solid waste system, the rate shall be established through the annual budget process and certified to the state tax commission as required by law.

A. Solid Waste Increment Fee Appeal: Kootenai County shall have a process through which solid waste increment fees may be reduced due to special circumstances. The following is the appeal procedure available to citizens of Kootenai County. The appeal request must be on the form authorized by the solid waste department. Appeal request forms may be obtained from the solid waste department and/or the Kootenai County treasurer's office.

1. Deadline: The Kootenai County solid waste department shall recognize March 1 of each year as the deadline to appeal solid waste fees on the prior year tax statement (i.e., March 1, 2011, for all 2010 property tax bills).
  - a. The appeal process will begin the date property tax statements are mailed.
  - b. Appeals received after the cutoff date must be postmarked no later than March 1.
  - c. Requests for appeals received between February 19 and March 1 will be given two (2) weeks to return the written appeal form.
  - d. Exceptions to the deadline:
    - (1) Kootenai County errors - appealed when found.
    - (2) Fees on unoccupied mobile homes being moved out of Kootenai County.
    - (3) Recommendations from the Kootenai County assessor or the Kootenai County treasurer.

- (4) Hardship appeals by the board of county commissioners.
2. Criteria: The Kootenai County solid waste department will process the applications and evaluate appellants based upon criteria requirements. Limit of one appeal category to any property.
  - a. Low income appeals:
    - (1) Total household income not to exceed Idaho property tax reduction program limit;
    - (2) Full time resident of Kootenai County; and
    - (3) Must meet state requirements for Idaho property tax reduction program; or
    - (4) A written explanation of the financial hardship that exists. This may include supporting documents such as financial statements, state assistance approvals, copies of medical bills, etc.
  - b. Unoccupied building appeals:
    - (1) Structure must be empty for entire year.
    - (2) Must be appealed at the end of the year in question.
  - c. Unlivable dwellings/inoperable structures:
    - (1) Must be confirmed with assessor's office.
    - (2) A written explanation justifying the condition of building (photographs may be submitted in addition).
3. Reduction: Percentage reduction will be applied upon approval of a request. The approvals will receive the following percentage (limit of one appeal category to any property):
  - a. Low income appeals: Fifty percent (50%).
  - b. Unoccupied buildings appeals: Up to one hundred percent (100%).
  - c. Unlivable dwellings/inoperable structures: Up to one hundred percent (100%).
4. Verification: The Kootenai County solid waste department may request reasonable information to support appeal criterion. Such documentation may include a driver's license, birth certificate, income tax return, etc.
5. Process: The appeal request will be filed with the Kootenai County treasurer's office. The filed appeal request will be acted upon within thirty (30) days of the application date.
  - a. The Kootenai County solid waste director shall make recommendations and forward approvals to the board of county commissioners.
  - b. A letter will be forwarded to appellants whose requests have been denied in the original procedure. Those desiring to appeal the findings of the solid waste director may make a written request for a hearing with the board of county commissioners.
6. Frequency: In order to maintain an equitable billing system, the appeals must be updated on a continual basis. Any change in ownership will nullify the solid waste fee reduction.

- a. Low income appeals: Every year.
- b. Unoccupied building appeals: Every year.
- c. Unlivable dwellings/inoperable structures: Every year. (Ord. 449, 11-23-2010)

#### **4-3-6-1: PAYMENT FOR SERVICE PROVIDED; OWNER RESPONSIBLE:**

The county accepts solid waste generated within the county from specific physical addresses even though the beneficiary of such service may not be located directly thereon or immediately adjacent thereto. The owner of the property served shall be ultimately responsible for payment for the services provided or available to the owner's property. The county may allow the owner of the property to authorize a tenant or occupant to receive the billing and/or pay for service at a given address as a convenience to the property owner. Such convenience may be offered only if the owner of the property has executed a rate sheet agreement, a written promise to pay for or to guarantee payment for the service provided by the county. The owner of the property shall still remain ultimately responsible for all solid waste fees.

The assignment of tenant responsibility authorized above must be requested by the owner and must list the name and address of tenant for whom it is requested. Any such assignment will only remain in effect for the duration of the tenancy of the tenant named in the assignment. (Ord. 449, 11-23-2010)

#### **4-3-6-2: NONPAYMENT OF FEES AND CHARGES; DISCONTINUANCE:**

Failure of the owner of property generating solid waste to pay for service in accordance with this chapter and resolutions adopted pursuant hereto shall result in termination of all rights to use the solid waste system to the physical address for which service has been made available or provided. In addition to discontinuance of service, the director may initiate collection procedures or legal action in the civil courts to facilitate collection of amounts due and owing for solid waste. County staff may take the necessary administrative steps to implement the provisions of this section. (Ord. 449, 11-23-2010)

#### **4-3-6-3: BILLING SYSTEM; AGREEMENTS REQUIRED:**

Upon a request to receive solid waste services the solid waste department is hereby authorized to establish account procedures to ensure proper provision of services and payment therefor. Such procedures include the requirement that the customer/owner execute a rate sheet agreement regarding the services to be provided. Such requirements will be invoked as necessary to comply with provisions of this code and other provisions of law and to assure that the solid waste system will be solvent and capable of meeting the needs of the community. Service requirements may include the payment of a minimum monthly charge necessary to have services available to the property, either to supply the direct needs of the user or to serve the lands of the user in the context of maintaining the public health, safety and general welfare. Additionally, in order to secure payment, the solid waste director may require a deposit from the owner and/or a cosignature from the owner of the property served.

All residential customers that have been converted to commercial accounts will be entitled to a credit equivalent to the residential solid waste fee assessed on their taxes.

Upon documented verification of services received but not billed by the county, the solid waste

department is authorized to bill the customer back to the maximum allowable by law from the date of discovery. Said billing shall be at the discretion of the county. (Ord. 449, 11-23-2010)

#### **4-3-6-4: DISCONTINUANCE OF SERVICE:**

The director is authorized to discontinue service to any premises if the entire bill is not paid within sixty (60) days of the date of billing. The customer's service may be discontinued for noncompliance with any provisions of this chapter. See also section [4-3-14](#) of this chapter.

The director is authorized to establish deposit requirements in whatever amount may be deemed reasonably necessary to assure payment of the solid waste charges in question. At any time the director may give notice to the property owner that the guarantee requirements of this code have been established. The director is authorized to take such steps as may be necessary to implement the provisions of this section.

When service is discontinued for delinquency for greater than two (2) times in a twelve (12) month period, a deposit equivalent to three (3) months' service or two hundred fifty dollars (\$250.00), whichever is greater, shall be required to restart service. The deposit will be applied to the account after twelve (12) consecutive months of on time payments, or at the time the account is closed, whichever comes first. (Ord. 449, 11-23-2010)

#### **4-3-6-5: ATTACHMENT OF DELINQUENT AMOUNTS:**

In addition to the above remedies, and subject to any appeals, the county may attach the amount of delinquent solid waste fees to the real property taxes, subject to compliance with applicable law, when the account balance is greater than one hundred twenty (120) days past due and greater than one hundred dollars (\$100.00). Any attachment shall be to the real property that is served regardless of whether the service is for the direct benefit of the landowner or a tenant of the landowner. (Ord. 449, 11-23-2010)

#### **4-3-6-6: DISPUTED BILLS:**

If requested in writing, the customer is entitled to an audience before the Kootenai County solid waste director and the Kootenai County finance director prior to any adverse action being taken against the customer. The written request for such audience must be received by the solid waste department no later than ten (10) days after the billing statement is mailed to the customer or is delivered to the premises. The audience before the finance director and the solid waste director shall be held within thirty (30) days of receipt by the solid waste department.

The procedure will be quasi-judicial and the formal rules of evidence will not be enforced. If both the finance director and the solid waste director do not agree to amend the billing, then the amount stated in the bill will remain unchanged. If both the finance director and the solid waste director do agree to a changed amount then that shall be the amount due. The decision of the finance director and the solid waste director is final if not appealed in accordance with subsection [4-3-16B](#) of this chapter. Said written decision shall be mailed to the customer within five (5) business days of conclusion of the audience. (Ord. 449, 11-23-2010)

#### **4-3-7: RULE MAKING AUTHORITY:**

The board of county commissioners shall have authority to adopt and implement rules necessary for operation of the county solid waste system. Said rules may be adopted by resolution of the board of county commissioners and may be enforced by imposition of additional fees and charges to cover costs incurred through noncompliance and/or by such other administrative remedies as the board of county commissioners deems appropriate in the circumstances.

The board of county commissioners hereby authorizes the solid waste department director to promulgate rules and regulations reasonably necessary for the implementation of this chapter. (Ord. 449, 11-23-2010)

#### **4-3-8: SYSTEM USE REQUIRED:**

No person shall discard or dispose of any solid waste in the county except by approved use of the county solid waste disposal system. The system shall consist of all components of the disposal and collection system operated by the county, the collection and disposal systems operated by cities within the county, and such private disposal systems as may comply with permitting requirements established by this chapter and applicable state and federal regulations.

Should a generator of commercial waste, or a business owner of a commercial activity, fail to take garbage service and fail to have a commercial account, then the owner of the property and the commercial generator shall be jointly and severally assessed an appropriate number of commercial increments as defined above. (Ord. 449, 11-23-2010)

#### **4-3-9: RIGHTS OF OWNERSHIP:**

Upon delivery of solid waste to an approved transfer or disposal site, all rights of ownership and exclusive possession to lawfully deposited solid waste shall vest in the county or in the owner of the site, if the site is not county owned. Any waste collection sites provided by contractors who collect or haul solid waste pursuant to contracts with the county shall be considered county operated sites for purposes of this section and ownership of solid waste lawfully deposited and delivered to any such site shall vest in the county. The county reserves the right to authorize recycling of materials in the waste stream in accordance with standards and conditions to be set by the board of county commissioners. Hazardous or improperly handled wastes shall remain in the ownership of their prior possessor until they are disposed of in compliance with this chapter and other applicable laws and regulations. (Ord. 449, 11-23-2010)

#### **4-3-10: SCAVENGING AND SALVAGING ACTIVITIES:**

No person shall scavenge or attempt to salvage materials from waste delivered to or deposited at a solid waste collection site. Nor shall any such party interfere or intercede in any way with the lawful activities of residents of the county or collection system users who are delivering or depositing solid waste for collection at an approved solid waste site or with commercial haulers or county employees who are removing or handling waste which has been deposited at an approved collection site. For purposes of this chapter, a solid waste collection site shall include any landfill or other collection facility and any land upon which containers are placed for public collection of solid waste, whether said land is publicly owned or is provided by an agreement with the county. No person shall act in violation of the posted regulations at any approved solid waste collection site. No person shall dispose of waste at a county operated collection system component without having paid his solid waste fees or other

obligations on a current basis.

Kootenai County reserves the right to authorize recycling of materials in the waste stream in accordance with standards and conditions to be set by the board of county commissions.

Any person who violates any provisions of this section shall be deemed to have violated this chapter and shall be subject to the provisions of section [4-3-16](#) of this chapter. (Ord. 449, 11-23-2010)

#### **4-3-11: DEAD ANIMAL DISPOSAL:**

##### **A. Acceptance:**

1. The county solid waste system will accept dead animals and parts thereof for disposal. Dead animals and all parts thereof constitute a health hazard and will be disposed of in such a manner as to minimize exposure to and handling by landfill personnel.
2. Disposal of dead animals processed by large volume generators and/or commercial generators such as animal control activities, veterinarians or humane societies as well as large dead animals such as livestock, including sheep, pigs, cows, horses and llamas, will be disposed of at the county farm landfill at Fighting Creek.
3. To allow adequate preparation time, twenty four (24) hours' notice will be given to the solid waste department prior to disposal of large dead animals and animals disposed of by commercial or large volume generators at the county farm landfill at Fighting Creek. All disposal locations will be logged in the operational log at the end of each workday. When practical, the operation of equipment and trafficking of personnel through the disposal site will be minimized and if possible avoided to preclude unnecessary exposure to potential health hazards.

**B. Small Animals:** Owners of small dead household personal pets may bring them directly to a solid waste transfer station for disposal at any time. To preclude trips through a solid waste transfer station, nonprofit animal control customers may set up a schedule which will include day and hour of disposal. Because of processing constraints, customer must arrive within one hour of the scheduled time.

**C. Large Animals:** Disposal of large dead animals, parts thereof, and commercial/large volume generators will be under one of two (2) options. Both options require at least one stop at a solid waste transfer station to obtain authorization before going to Fighting Creek.

Option 1: The generator will weigh in at a solid waste transfer station before going to Fighting Creek and then return to the same solid waste transfer station to weigh in upon return from Fighting Creek. Disposal fee will be charged on a per ton basis at the current rate.

Option 2: The generator will come to a solid waste transfer station and pay on a per animal basis, receive a paid receipt and authorization for disposal and continue to Fighting Creek. Customer need not return to the solid waste transfer station. The per animal rate is reflected in the county waste fee resolution.

**D. Government Agencies:** Government agencies such as municipalities, the Idaho department of fish and game, Idaho department of transportation and others whose duties require the disposal of

animal remains may be exempt from disposal fees outlined in the county solid waste fee resolution.

#### E. Enforcement:

1. Dead animals or parts thereof may only be disposed of in accordance with the above procedures. Failure to give the required notice or obtain authorization for disposal at a solid waste transfer station will result in denial of disposal. Loads will be returned to the solid waste transfer station or point of origin until proper processing and documentation occurs.
2. Any person unlawfully depositing or disposing of or in any way aiding or assisting in the depositing or disposing of, or provide for delivery of, any dead animals within the county disposal system or anywhere within the county in an improper manner shall be civilly liable for the full costs and expenses of cleanup, control, elimination, abatement, decontamination, disinfection or other remediation which is undertaken by the county or any other public agency to properly correct damages or potential damages associated with said violation. (Ord. 449, 11-23-2010)

### **4-3-12: MUNICIPAL AND PRIVATE COLLECTION SYSTEM PERMITS:**

No person shall operate a solid waste collection system component excluding collection and transportation without a permit, properly issued by the solid waste department. This requirement shall not apply to a municipal corporation operating a collection system for its residents, wholly within its own corporate limits.

Permits may be granted for operation of waste collection system components upon compliance with the procedural standards set forth in this chapter and its attendant rules and upon compliance with applicable rules for collection sites and practices adopted by the board and appropriate state and federal agencies. Permit applicants shall bear full responsibility for showing compliance with the standards applicable to their proposed operation of a solid waste collection system component. Fees may be charged for permit issuance as established by resolution of the board of county commissioners.

No person shall dispose of solid waste within the county at a location not approved for disposal, collection or transfer by the county and state and federal regulatory agencies unless a prior exemption has been granted by the authority with jurisdiction. Permits for operation of a solid waste collection site may be obtained from the county subject to Panhandle health district approval. To obtain a permit for operation of a collection site, the applicant must show that it meets at least the following criteria: (Ord. 449, 11-23-2010)

- A. That the site proposed complies with requirements of the county land use regulations. (Ord. 449, 11-23-2010; amd. Ord. 493, 6-9-2016)
- B. That the site has been reviewed and approved as an appropriate location for a solid waste collection site by the Panhandle health district and any state or federal agency with jurisdiction.
- C. That an operations plan for use and closure of the site has been approved by the Panhandle health district and any state or federal agency having jurisdiction (58.01.06 IDAPA, review). This subsection shall not apply to rural residential collection sites.

- D. That any private site operator has posted a performance bond to guarantee adequate financial resources to assure proper operation and closure of the site.
- E. That operation and closure will comply with any rules, regulations or policies adopted by the county regarding the operation of solid waste collection sites in addition to all applicable state and federal regulations.
- F. That the operator has provided adequate safeguards to see that no hazardous wastes, as such are classified by county, state or federal regulations, are to be disposed of in the solid waste collection site.
- G. The application shall have been first reviewed and signed by the director of the solid waste department. (Ord. 449, 11-23-2010)

#### **4-3-13: JOINT RESIDENTIAL COLLECTION SITES:**

- A. When establishing a site, hauler shall advise customers that the container is for the sole use of those who have paid for it and that commercial waste, industrial waste, medical waste or hazardous waste is not to be placed in said container. If appropriate, hauler will cause adequate safeguards including, but not limited to, locking covers, fences, card lock devices, etc., to be put in place to assure only contracted residences use the container.
- B. Upon entering into an agreement for the creation of a joint residential collection site, the hauler shall report to the county the size of the container, the addresses of the customers serviced, the frequency of pick up and the physical location of the container. Container should be sized to accommodate an amount of a weekly average of three (3) approved thirty two (32) gallon containers, or the preapproved equivalent (96 gallons) per household serviced. Customers shall be billed as a residential unit as fixed by the county solid waste fee resolution.
- C. Hauler will use all reasonable means necessary to keep site clean, free of pests and free of odors. No public nuisance or public health issue associated with a rural residential collection site shall be created or allowed to be created. Placement of joint residential collection sites shall be in conformance with all applicable federal, state and local laws, rules and ordinances.
- D. Establishment of a joint residential collection site automatically implies and allows a county representative to periodically inspect the site without being considered in trespass of private property. Hauler shall certify in writing to the county that all users have been notified of all requirements of this section.
- E. Hauler shall cease collection if it is deemed by hauler or county that waste deposited in the residential collection site is not "residential solid waste" as defined herein, or in any way in violation of this chapter or any other applicable law, order or resolution. (Ord. 449, 11-23-2010)

#### **4-3-14: COMMERCIAL HAULERS; COMMERCIAL SOLID WASTE PRODUCERS:**

Any person who engages in collection, hauling or disposal of solid waste within the county or who generates solid waste as result of commercial or industrial activities shall comply with the provisions of this chapter and any regulations adopted pursuant to the authority established by this chapter, as well as any and all applicable federal, state and local laws.

All haulers shall provide to the solid waste department, or its designated agent, the original rate sheet and agreement, executed by the customer, within seven (7) days of establishing service. Haulers are responsible for all fees of commercial accounts established in violation of this provision.

This provision shall apply to all commercial accounts that include containers, cans and/or wheeled carts, as defined by the current fee resolution. This provision applies equally to commercial and noncommercial accounts.

All haulers of commercial waste are responsible for confirming the accuracy of any agreements entered into with commercial accounts/customers, at the time service is established.

Any person collecting or hauling commercial solid waste within the county shall report the amounts and frequency of solid waste collected and hauled. The reporting shall include all special pick ups, unscheduled collections and irregular services (including no pick ups) in addition to all regularly scheduled collections. Reporting shall be based on container size and/or the actual weight of the refuse when requested. Said reports shall be filed in a form acceptable to the solid waste department weekly.

Commercial containers shall not be undersized for the needs of the account. Containers will be sized to contain all of the waste generated within the confines of the container and shall not be undersized so that garbage is caused to rest outside of the interior of the container including on top of and/or adjacent to grounds or structures. If additional garbage is generated beyond the size of the container, said additional garbage shall be reported to the solid waste department.

Any person collecting or hauling commercial solid waste within the county shall also report the location of disposal of all solid waste hauled or generated, no less frequently than weekly, on forms acceptable to the solid waste department. The county may, by regulation, establish bond requirements to assure performance of responsibilities established by this chapter.

The county reserves the right to check accuracy of hauler records in whole or on a case by case basis. The hauling companies are hereby required to comply with a request for information regarding accuracy checks.

An administrative fee will be assessed to the hauling company when greater than thirty six (36) documented reporting errors occur within a twelve (12) month period. Following the thirty six (36) documented errors, an administrative fee of fifty dollars (\$50.00) per each occurrence will be assessed. In the event that the customer disputes a billing due to a documented reporting error by the hauler, then the administrative fee will be two hundred dollars (\$200.00) per each occurrence.

Failure of solid waste collectors, haulers and/or commercial solid waste generators to comply with regulations implemented to carry out responsibilities established by this chapter may result in imposition of a surcharge on fees charged to the hauler for use of county operated disposal facilities. Such failure shall also be considered a violation of this chapter, subject to all penalties and remedies otherwise prescribed herein and in Idaho Code 31-4410.

Upon receipt of notice, by the hauler from the solid waste department or one of its agents, that a commercial user has failed and/or refused to pay its assessed charges to the solid waste department, the hauler shall cease collection from said commercial user. If, after receipt of notice, the hauler

continues to collect from the commercial user the hauler shall be assessed a one hundred dollar (\$100.00) fine per violation/collection, subject to the provisions of section [4-3-16](#) of this chapter. In the event that the hauler is in receipt of a notice from a governmental entity claiming jurisdiction, requiring collection of the specific delinquent generator, said notice shall be provided to the county. Upon receipt of said notice by the county, hauler shall be relieved of all liability under this section. (Ord. 449, 11-23-2010)

#### **4-3-15: PROHIBITED ACTS AND CONDITIONS:**

- A. Disposal Of Hazardous Or Dangerous Waste Material: It shall be unlawful and a violation of this chapter for any person to deposit or dispose or in any way aid or assist in the deposition or disposal of, or provide for delivery of, any hazardous waste material within the Kootenai County waste disposal system or anywhere within Kootenai County. Nothing in this chapter is intended to conflict with the provisions of the Idaho hazardous waste management act from Idaho Code section 39-4401 et seq., or any other state or federal regulation.
- B. Improper Disposal At Approved Rural Residential Collection Site:
1. The county maintains rural residential collection sites solely for the use of its residential citizens who reside on properties that have paid the county solid waste fee, as defined in the current fee resolution.
  2. Rural residential collection sites are for garbage generated from residential dwellings. Prohibited are any commercial waste, yard waste (greater than three 32-gallon cans or equivalent [96 gallons]), tires, batteries, construction materials, appliances, furniture, carpet, large bulky items, liquid waste, wood or wood products, petroleum products or any other hazardous material (as defined in federal code and/or on the label of the container).
  3. Any person who deposits or disposes of any hazardous or otherwise dangerous waste matter at, or provides for delivery of same to an approved solid waste rural residential collection site, transfer station or landfill, shall be liable for the full costs of controlling or eliminating any posed health hazard and/or properly disposing of said dangerous materials, as may be incurred by the county or any other public agency.
  4. Persons shall comply with all signs posted by the county at rural residential collection sites, transfer stations and landfills.
  5. Any person, commercial or industrial entity, or commercial hauler who deposits or disposes of any waste that is prohibited, as defined herein, at, or provides for delivery of same to an approved rural residential collection site, shall be liable for the penalties articulated below, as well as criminal fines.
- C. Covered Loads:
1. Vehicle Requirements: No vehicle shall be driven or moved on any street or highway unless the vehicle is so constructed, covered or loaded as to prevent:
    - a. Any of its contents or load from dropping, sifting or leaking; and
    - b. The possibility of any of its contents or load from blowing, spilling or otherwise escaping therefrom.

#### D. Throwing Or Depositing Materials:

1. No person shall throw or deposit, nor shall the registered owner or the driver, if such owner is not then present in the vehicle, aid or abet in the throwing or depositing upon any street or highway any bottle, can, garbage, glass, nail, offal, paper, wire, burning materials, any substance likely to injure or damage traffic using the highway, or any noisome, nauseous or offensive matter of any kind.
2. No person shall place, deposit or dump or cause to be placed, deposited, or dumped, any rocks, refuse, garbage or dirt in or upon any street or highway, including any portion of the right of way thereof, without the consent of the state or local agency having jurisdiction over the street or highway.

E. Unauthorized Deposits: No person shall deposit upon any public or private property any debris, paper, litter, glass bottles, glass, nails, tacks, hooks, cans, barbed wire, boards, trash, garbage, lighted material or other waste substances on any place not authorized by any county, city, village or the owner of such property. (Ord. 449, 11-23-2010)

### **4-3-16: PENALTIES AND REMEDIES:**

A. Violations: Violation of the provisions of this chapter shall be subject to the following penalties and/or remedies:

1. Past Due Accounts: All accounts that are sixty (60) days past due will be charged a thirty five dollar (\$35.00) service charge. Accounts that are sixty (60) days past due and have a balance of two hundred dollars (\$200.00) or more will be charged an additional fifteen dollar (\$15.00) fine for a total of fifty dollars (\$50.00).
2. Civil Responsibility For Violation: To obtain compliance with the requirements of this chapter, the county may initiate civil action in a court of competent jurisdiction. Said action may be either legal or equitable in nature and may seek any remedy deemed appropriate by the board of county commissioners or otherwise authorized by Idaho Code 31-4410 to carry out the purposes of this chapter. In addition to the above, violators will be liable for any and all damages incurred by the county in addition to all reasonable costs and attorney fees incurred in the prosecution and collection of amounts due.
3. Civil Liability For Cleanup Costs: Any person found to have violated any provision of this chapter shall be civilly liable for the full costs and expenses of cleanup, control, elimination, abatement or other remediation which is undertaken by Kootenai County or any other public agency to properly correct damages or potential damages associated with said violation of this chapter.
4. Criminal Misdemeanor Liability: Any violation of this chapter shall be considered a misdemeanor subject to punishment to the maximum allowed by Idaho Code 18-113 or its successor, in addition to the civil remedies above. At the time of adoption of this chapter, the maximum penalties provided for a misdemeanor violation are a fine of up to one thousand dollars (\$1,000.00) and/or imprisonment for up to six (6) months. A separate violation shall be deemed to have occurred for each action committed in violation of this chapter and for each day that a violation has been delivered to the alleged violator. The penalty provisions of Idaho Code 31-4410 are incorporated into this section and are made part of it as if set forth fully herein.

## B. Notice And Hearing:

1. Kootenai County shall have a process through which solid waste increment fees may be reduced due to special circumstances. Refer to section [4-3-6](#) of this chapter for the appeal procedure available to citizens of Kootenai County.
2. Any civil penalty, administrative action, or administrative fee imposed pursuant to the above provisions may be appealed to the board of county commissioners by filing, within thirty (30) days after receiving notice, a written request for a hearing before the board of county commissioners to contest the civil penalty, administrative action, or administrative fee.
3. The hearing shall be informal and strict rules of evidence shall not apply. The alleged violator may be represented by licensed legal counsel, present oral and written evidence and cross examine witnesses.
4. The board of county commissioners shall issue a decision within a reasonable time after the close of the hearing and shall notify the alleged violator in writing of the decision.
5. If the alleged violator fails to appear at a hearing or fails to request a hearing, it shall be conclusively established that this chapter was violated, and the civil sanctions shall apply.
6. Additionally, if an aggrieved person disagrees with the solid waste department's interpretation of this chapter said person may appeal the interpretation to the board of county commissioners, as laid out above.
7. If the appellant prevails and it is determined that there has been an overpayment of fees, the successful applicant shall be entitled to a credit to be used as an offset against future billings.
8. If the department prevails then the outstanding balance shall attach as a lien upon the property where the waste was generated.
9. Appeals of a decision of the board of county commissioners must commence within thirty (30) days, by filing a complaint for judicial review in the district court. (Ord. 449, 11-23-2010)