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ORDINANCE NO. 250

AN ORDINANCE ESTABLISHING A SYSTEM OF SOLID WASTE CHARGES FOR THE CITY OF ANDOVER, KANSAS AND DEFINING CERTAIN TERMS USED IN CONNECTION THEREWITH: PROVIDING A METHOD OF REGULATING AND LICENSING OF INDEPENDENT CONTRACTORS WHO DESIRE TO REMOVE GARBAGE AND TRASH FROM THE CITY OF ANDOVER, KANSAS AND PROVIDING LICENSE FEES THEREFOR APPLICABLE TO EACH VEHICLE AND ADDITIONAL VEHICLES OPERATED BY SAID CONTRACTORS; PROVIDING A METHOD AND GROUNDS FOR REVOCATION OF LICENSE AND THE SUSPENSION THEREOF AND PROVIDING FOR AN ADMINISTRATIVE HEARING BEFORE THE GOVERNING BODY PRIOR TO A PERMANENT SUSPENSION OF SUCH LICENSE AND PERMITTING FOR THE TEMPORARY SUSPENSION OF THE SAME UPON CERTAIN GROUNDS; PROVIDING AN EXEMPTION FOR PERSONS, FIRMS OR CORPORATIONS WHO DESIRE TO HAUL THEIR OWN GARBAGE AND TRASH AND FOR A TEMPORARY EXEMPTION WHERE THE RESIDENT CONTEMPLATES THAT NO GARBAGE OR TRASH WILL BE GENERATED FROM HIS PREMISES; PROVIDING A MONTHLY SOLID WASTE DISPOSAL CHARGE PAYABLE TO THE CITY FOR THE USE OF THE SOLID WASTE FACILITIES OF BUTLER COUNTY, KANSAS AND FOR THE ADMINISTRATION OF THIS ORDINANCE; PRESCRIBING REGULATIONS FOR PRIVATE CONTRACTORS AND OTHER PERSONS HAULING THEIR OWN GARBAGE OR TRASH FROM SAID CITY; PERMITTING RESIDENTS OR OCCUPANTS TO CONTRACT WITH PRIVATE CONTRACTORS LICENSED BY SAID CITY; PROVIDING REFUSE AND GARBAGE ACCUMULATION IN SAID CITY SHALL BE REMOVED AT LEAST ONCE EVERY WEEK; PROVIDING FOR THE TYPES OF CONTRACTS AND THE TYPES OF VEHICLES IN WHICH SAID GARBAGE AND TRASH SHALL BE DISPOSED; PROVIDING FOR THE DRAINING, WRAPPING AND ENCLOSING OF CERTAIN TYPES OF WASTE AND FOR THE MANNER IN WHICH TREE LIMBS AND GRASS CLIPPINGS MAY BE STORED OR DISPOSED OF; PRESCRIBING CERTAIN INSPECTION DUTIES FOR THE PUBLIC OFFICER OF SAID CITY; PROHIBITING THE LOOSE OR OPEN STORAGE OF CERTAIN REFUSE WITHIN OR CLOSE TO BUILDINGS; PROHIBITING THE DEPOSIGING OF REFUSE ON PUBLIC OR PRIVATE GROUNDS OF CERTAIN WASTES; PROHIBITING THE CREATION OF CERTAIN ODORS IN THE ACCUMULATION OF REFUSE ATTRACTIVE TO INSECTS OR RODENTS AND PROHIBITING THE BURNING OF CERTAIN REFUSE; PROHIBITING AND REGULATING THE COLLECTION OF HAZARDOUS SUBSTANCES; AND PROVIDING A PENALTY FOR THE VIOLATION OF THIS ORDINANCE; AND PROVIDING A SAVINGS CLAUSE.

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

Section 1. For the purpose of this Ordinance the following definitions shall apply:

1. "Private Contractor" shall mean any person, firm or corporation with whom an occupant or resident of the City of Andover, Kansas hires or engages by contract to haul such person's, firm's, or corporation's garbage, trash or refuse, and who is properly licensed by the City of Andover, Kansas as hereinafter provided.

2. "Garbage" shall mean the solid or semi-solid animal and vegetable waste resulting from the handling, preparation, cooling and serving of foods, including cans, bottles and cartons in which it was received and wrapping in which it may be placed for disposal.

3. "Refuse" shall mean all solid waste from residential, commercial or industrial premises. It shall include semi-liquid or wet wastes with insufficient moisture or other liquid contents to be free flowing. It shall not include, except for minor amounts incidental to other wastes, any refuse resulting from building excavation, demolition or remodeling work, or any construction work, nor shall it include stumps, tree trunks, tree trimmings, and limbs resulting from operation of professional tree trimmers, or the tree trimmings resulting from the cutting down, or the topping of any tree, regardless of who performs the work, including but not limited to all substances which in common terminology might be construed to be trash, nor shall it include refuse resulting from tornado, cyclone, extreme wind storms, ice storms, flood or other act of God, or the burning of any building.

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4. "Standard Containers" shall mean plastic or metal rigid containers and a capacity not exceeding 55 gallons, water tight, with tight setting covers, handle and side bails, or as hereafter otherwise approved by the City. Such containers must have solid sidewalls and bottoms.

5. "Occupant or Resident" shall mean, either or both of such words, shall mean any owner or tenant occupying lands or lots within the City of Andover, Kansas upon which there is an occupied structure or any other vehicle or mechanism or thing which creates any significant accumulation of garbage, trash, and/or any other refuse as contemplated in the definition of garbage hereinabove defined.

Section 2. Collection of Refuse and Garbage by City. Any person, firm or corporation desiring to contract with residents or occupants of land in the City of Andover, Kansas as a Private Contractor for the collection, removal and disposal of garbage, trash and refuse shall first apply to the Governing Body of said City on a form provided by said City for authorization to engage in such activities in said City. The City, upon receipt of such application, shall cause the vehicle or vehicles to be used by sa contractors to be inspected and if the same shall be found to be in good working order and capable of conveying garbage, trash or refuse in a sanitary manner, such applicant be otherwise able to meet the terms of Ordinances and Regulations of said City, then the City shall issue an annual license for each vehicle to be used in the City of Andover expiring on the last calendar day of each year to such applicant. The first license issued hereunder to each Private Contractor shall expire initially at midnight following the 31st day of December, 1976, and shall be renewable annually thereafter and each annual application for renewal shall be filed with the City Clerk more than 30 days prior to the

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expiration of the Private Contractor's license. The initial license fee for that portion of the year 1976 in which this Ordinance is in effect shall be one-half (1/2) of the annual fee provided for in Section 3 hereinafter. Similarly, should in any ensuing year a contractor apply for a license after July 1, of such calendar year, such contractor shall be liable for one-half (1/2) of the annual license fee or fees, as the case may be.

Section 3. Each applicant-Private Contractor shall pay an annual license fee of $10.00 per cubic yard of hauling capacity for the first vehicle used by him in his activities in Andover, Kansas and an additional sum of $10.00 per cubic yard of hauling capacity for each additional vehicle used by him in the City of Andover, Kansas, providing that the license fee for any vehicle shall not be less than $25.00 nor more than $100.00 per year. Nothing herein shall be construed as prohibiting a licensee upon application and approval granted by the Public Officer of the City of Andover, Kansas from using a substitute vehicle for a licensed vehicle during any period of time not exceeding 30 days when a licensed vehicle is out of operation or otherwise not available for use in the City of Andover, Kansas by reason of no act on the part of the Licensee.

Section 4. Revocation of License.

Any Private Contractor having received a license as aforesaid and who fails to comply substantially with the terms of this Ordinance, its Amendments, or with Regulations hereinafter adopted relating to the storage, collection and disposal of garbage, trash or refuse or who willfully disobeys a proper and lawful instruction of the Public Office of said City relating to the storage, collection, or disposal of garbage, trash, or refuse, shall be subject to having such license revoked, provided, however, that a hearing be held upon such revocation prior to the same becoming effective and notice of such hearing before the Governing Body of said City be given to the said Private Contractor at least 5 days prior to such revocation becoming effective. At such hearing the Private Contractor may show cause why his license should not be revoked.

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Nothing herein shall be construed as preventing the City through its Governing Body from temporarily suspending such license prior to such hearing if the Governing Body of said City in good faith determines that such temporary suspension is necessary to protect the health, safety and welfare of the inhabitants of said City.

Section 5. Exemption.

Any firm, person or corporation who may otherwise be required by reason of the next preceding section of this Ordinance to have their refuse and garbage collected and disposed of by a Private Contractor may elect to have such garbage and refuse collected and disposed of in the following alternative method, to-wit:

a. By such occupant or owner removing and disposing of the same in his own vehicles or having the same collected and removed by an employee (providing if such election is made under this sub-section such person shall in all other respects comply with the other applicable provisions of this Ordinance), providing that such person making such election set out in this section shall file with the City its certificate or affidavit in a form prescribed by said City, thus notifying said City that such election has been made by such person. Said application and certificate shall include an address and legal description of said land occupied by such person and the name of the owner or owners thereof, and providing further that nothing herein shall be construed as a waiver by said City of its right to collect the monthly solid waste disposal charge provided for hereafter.

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Likewise, any resident or occupant who by reason of his vacation or other absence from the City or a temporary disability of such owner or occupant may apply for a temporary exemption on the grounds and for the reason that such resident or occupant contemplates that no garbage or trash will be generated from his

premises, but that such temporary exemption shall not exceed six (6) months at any one time.

Section 6. Monthly Solid Waste Disposal Charge.

In that the Board of County Commissioners have levied a charge against said City as a municipal corporation for its share of the cost of acquiring sites for solid waste disposal and its cost of preparing and maintaining such sites for solid waste disposal and for the purpose of paying the City's administrative cost incurred for same the City does hereby levy against each occupant or owner of a private dwelling unit a monthly charge to be established from time to time by Resolution or Motion of the Governing Body of the said City and not to exceed $.70 and initially such charge shall be $.55 commencing on the first day of the month following the effective date of this Ordinance. The owners or occupants of business, commercial or industrial establishments shall pay to the City a similar charge for similar purposes in an amount of twelve percent of the contract price charged to such occupant by a Private Contractor for the disposal of all of such occupant's garbage, trash and refuse but not less than $.60 per month and in the event that such owner or occupant has applied for an exemption hereunder then the charge shall be computed by the Public Officer based upon the estimated amount of garbage, trash and refuse accumulated monthly by such owner or occupant using as a guideline the formula above set out by estimating through data accumulated by him as to the cost which a Private Contractor would charge monthly. Any person electing to dispose of his garbage or refuse by the alternate method above described in the section immediately preceding this section of this Ordinance shall upon the filing of the certificate and affidavit above described be entitled to the issuance of a permit executed by the City Clerk or Treasurer of said City, which permit will serve and constitute notice to Butler County, Kansas that such person has applied for such exemption and shall be entitled to dispose of his garbage and refuse at the

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solid waste disposal site or sites operated by Butler County, Kansas without payment of any further disposal charges to said County, and such person having been granted such exemption shall notwithstanding such exemption pay to the City a sum equal to such exempted person's share of the City's contribution to Butler County, Kansas for the maintenance of said solid waste disposal site and such incremental administrative costs as may be attributable to each case. The occupant or owner of any commercial business or industrial establishment shall in no event pay less than the amount then being charged to a single residence use or said City for the use of said land fill and for the City's administrative costs.

Section 7. Any person, firm or corporation desiring to operate as a Private Contractor within the City of Andover, Kansas and the City's Contractor shall, prior to engaging in such pursuit in the City, submit any motor vehicle equipment which he intends to use in the hauling of garbage and trash within the City of Andover, Kansas to inspection by the Public Officer of said City prior to the issuance of a license as hereinafter provided.

Section 8. At the end of and within 15 days following the end of each month each Private Contractor shall furnish to the City the names of all occupants and residents with whom he is then currently contracting for the removal of garbage and trash together with the street address from which such garbage and trash is to be removed.

Section 9. Residents or occupants employing a Private Contractor to dispose of such resident's or occupant's garbage, trash or refuse shall pay to such Private Contractor such sum as is determined by contract between such occupants or residents and the Private Contractor for such service. Notwithstanding that a person may employ or enter into a contract with such Private Contractor

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nothing shall be construed as preventing such occupants or residents from periodically hauling garbage, trash or refuse from such occupant's or resident's premises providing that the same is collected and disposed of in tight containers and in a manner so as to prevent any danger to the public health of the inhabitants of the City and in such manner as not to litter the streets, alleys or other public or private property in said City.

Section 10. All refuse and garbage accumulated within the City of Andover shall be collected, conveyed and disposed of by the City's Contractor or in the alternate method provided for in this Ordinance at least once a week.

Section 11. It shall be the duty of every person, firm or corporation owning,managing, operating, leasing or renting any premises or place where garbage, trash and refuse accumulates to provide at all times and at all times to maintain in good order and repair on said premises portable container or containers for refuse and garbage storage of sufficient capacity and of sufficient number to accomodate and securely hold all of the garbage and refuse that may accumulate within one week's time from said premises.

Section 12. Within the corporate limits of the City all garbage and refuse consisting of waste animal or vegetable matter which might attract flies, dogs or rodents shall be drained of all excess liquid, wrapped in paper or disposable containers and stored until collection in covered containers.

The owner or occupant of any premises in the City who avails himself of the services of a Private Contractor shall place all tree limbs and grass clippings near or adjacent to his garbage and trash containers and in a length and condition such that the same may be readily removed by the Private Contractor and the same shall not be intermingled with other forms of garbage and trash.

Section 13. No person shall permit to accumulate on any premises, improved or vacant, or on any public place in the

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City, such quantities of garbage or refuse, either in containers or not, that shall, in the opinion of the Public Officer, constitute a health or sanitation hazard.

Section 14. No person shall be permitted to accumulate quantities of refuse, papers, trash, ashes, or other waste materials, within or close to any building in the City, unless the same is stored in containers in such a manner as not to create a health or fire hazard.

Section 15. No person shall bury refuse at any place within the City of Andover or to keep, place, or deposit refuse on any public or private grounds or premises whatsoever, except in containers or receptacles for collection upon premises owned, occupied, or under possession and control of such person, provided, however, that lawn and garden trimmings may be composted.

Section 16 No person shall create, cause, or add to any refuse accumulation not placed for regular or special haul, or to cause unwholesome odors , or to cause the attraction or collection of insects or rodents, or burn any garbage, leather, rubber, plastic, green or wet vegetation or organic material, or burn any other substance producing smoke problems within the City of Andover.

Section 17. No person shall deposit in a garbage or refuse container or otherwise offer for collection any hazardous garbage, refuse or waste. Hazardous materials shall be transported by the owner, responsible person or his agent, to a place of safe deposit or disposal as prescribed by the Public Officer or his authorized representative. Hazardous material shall include: explosive materials; rags or other waste soaked in volatile and inflammable materials; drugs; poisons; radioactive materials; highly combustible materials; soiled dressings; clothing, bedding and/or other wastes contaminated by infection or contagious disease, and other materials which may present a special hazard to collection or disposal personnel or equipment or to the public.

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Section 18. The City of Andover or the City's Contractor or residents of the City removing garbage and trash under the alternate method provided in this Ordinance shall collect from residential areas of the City at least weekly and from the designated business routes and all food establishments of the City at least weekly; provided, that it shall be the duty of any person in possession or control of any premises to place the standard containers at a place readily accessible for its removal whereby collectors can obtain the same without going into buildings, garages, locked gates or fenced yards.

Section 19. Any person, firm or corporation desiring to remove garbage and trash from premises occupied by such person, firm or corporation under the exemption provided for herein and any Private Contractor of said City shall remove the same in tightly enclosed bins or containers so that garbage is not accessible to flies and other insects and so that such garbage and trash will not be strewn among the public or private property in the City of Andover, Kansas.

Section 20. Any person, firm or corporation upon being found guilty of a violation of this Ordinance shall be fined not less than $5.00 nor more than $100.00 for such violation and each day such violation is allowed to continue shall constitute a separate violation of this Ordinance.

Section 21. Notwithstanding the illegality or unconstitutionality of any section or portion of a section of this Ordinance, all remaining sections, notwithstanding such illegality, shall remain in full force and effect.

Section 22. This Ordinance shall become effective on July 1, 1976 and after its publication once in the official paper.

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THE ABOVE ORDINANCE PASSED AND ADOPTED this 27th day of April, 1976.

Goldie M. Buchanan
GOLDIE M. BUCHANAN
Mayor

Patricia M. Stuenkel
PATRICIA M. STUENKEL
City Clerk

(SEAL)

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