

Posted 12/29/87
8:25 a.m.

GARBAGE COLLECTION AND REMOVAL ORDINANCE
OF THE
TOWN OF SUPERIOR

WHEREAS, it is the responsibility of the Town of Superior Board of Supervisors, in the exercise of its police powers to regulate and provide for the removal of and disposal of garbage and refuse generated in the Town of Superior in order that the health, safety and welfare of all persons in the Town of Superior may be protected:

NOW, THEREFORE, the Town of Superior Board of Supervisors, in regular meeting assembled, do hereby ordain that the Garbage Collection and Removal Ordinance be hereby adopted and effective on January 15, 1990, and that the ordinance be posted in at least three public places in the Town of Superior and that proof of such posting be filed with the Town Clerk at least one day prior to set effective date, and that a permanent copy of said ordinance be placed on file in the records of the Clerk of the Town of Superior for public inspection at all reasonable times.

I. INTENT

A. The purpose of this ordinance is to help ensure that efficient, nuisance-free and environmentally acceptable solid waste management procedures are practiced in Douglas County.

B. It is the purpose of the Town of Superior Board of Supervisors, to provide for a means for the removal of and the disposal of garbage and refuse generated in the Town of Superior in order that the health, safety and welfare of all persons in the Town of Superior may be protected.

C. It is the intent of the Town of Superior Board of Supervisors, that all sections and provisions of this ordinance have an independent existence and should any section or provision be declared invalid or unconstitutional by a court of competent jurisdiction, it is the intent of the Town of Superior Board of Supervisors, that any section or provision so declared shall be severable from and shall not affect the validity of the remainder of the ordinance.

II. DEFINITIONS

As used in this legislation:

1. "Licensed collector" shall mean that person to whom the Township has issued a license to collect Municipal Solid Waste (MSW) and whom the Township has designated as its agent and designee for purposes of transporting said solid waste to the landfill owned and operated by the City of Superior, Douglas County, Wisconsin.

The Township, at its option, as a service to the hauler, may bill and collect from the residents of the Township. In turn the Township will pay the hauler his

fee and the tipping fee to the City of Superior from the collections from the residents of the Township.

The Township Board of Supervisors will periodically review and make any necessary adjustments in the process.

2. "Person" or "Owner" means any human being, partnership, corporation, firm, company, association, society or group.

3. "Solid Waste" shall have the meaning specified in S. NR 144.01(15) Stats.

4. "Hazardous Waste" shall have the meaning specified in S. NR 181.12.

5. "Infectious Waste" means solid waste which contains pathogens with sufficient virulence and quantity so that exposure to the waste by a susceptible host could result in an infectious disease.

6. "Municipal Solid Waste" (MSW) means solid waste generated primarily by residents and commercial activities.

7. "Garbage" shall have the meaning specified in S. 144.01(4) Stats.

8. "Refuse" shall have the meaning specified in S. 144.43(4) Stats.

9. "Owner" shall mean the individual or party responsible for paying the real estate tax bill on the property where the MSW is found.

III. DUTY OF OWNER TO REMOVE AND DISPOSE OF MUNICIPAL SOLID WASTE.

A. It shall be the duty of the owner of every residential structure, multiple residential structure, commercial or industrial establishment to provide for not less frequent than weekly disposal of all MSW generated by such dwelling units, through employment of the services of the Township's licensed collector.

B. Solid Waste Containers Required: Specifications. It shall be the duty of the owner of every dwelling or place of business in the Township to provide or cause to be provided and at all times to keep and maintain or cause to be kept and maintained in good condition, sufficient, portable, watertight containers to hold all the MSW which accumulates on such premises during the time between collections and removals. In the case of residential structures containing four or less dwelling units, such containers shall be of a maximum size of 32 gallons, shall be provided with handles and a tight and securely fitted cover; and shall be constructed of or lined with such material as to make them watertight. All MSW, as the same accumulates upon such premises, shall be placed or deposited and kept in such containers which shall not be filled to nearer than 3 inches of the top and, in the case of residential structures containing four or less dwelling units the contents shall not exceed 45 pounds in weight. Collection of solid waste kept in containers in excess of a size of 32 gallons or kept in any container in amounts in excess of 45 pounds shall not be deemed an "ordinary collection" within the meaning of this chapter.

Such containers shall, during the hours scheduled for collection, be kept or placed in a convenient location readily accessible to the collector.

Except while loading or unloading, the tops and covers of all such containers shall be kept tightly covered and securely closed at all times when they contain putrescible MSW. When such containers contain only non-putrescible MSW,

they shall be kept covered when and as necessary to prevent such solid waste from being blown out of such container.

It shall be the duty of the licensed collector to report violations of this section to the Town Constable. The licensed collector shall also leave a tag setting forth the nature of any violations hereof on the premises where such violations are discovered and shall attach such tag either to the handle of a MSW container used upon the premises or in some other conspicuous location.

IV. COLLECTIONS AND ASSESSMENTS

A. Collection Schedules to be Established. It shall be the duty of the licensed collector to collect and remove any of the MSW referred to in this chapter and to establish and maintain a schedule for regular ordinary collection of such MSW providing for collection on at least a weekly basis and to make available a schedule setting forth the days or day of the week and the hours during which such collections will be made.

It shall also be the duty of the licensed collector to be available to and to make any collection and removal directed by the Township pursuant to Section V of this ordinance.

B. Establishment of Fees for Collections. The fee to be charged for making ordinary collections and removal shall be reasonable and within a rate schedule approved by the Board of Supervisors. Such fees shall be fixed based upon the frequency of collection and removal, the character and quantity of the material collected and removed and length of haul and cost of making same. The licensed collector shall not charge anything in excess of the maximum rate for ordinary collections or fail or refuse to make any collection. A copy of the maximum rate schedule shall at all times be kept on file in the office of the Clerk of the Town of Superior. The maximum rate schedule for ordinary collections and removal shall be reviewed and determined by the Board of Supervisors once each year.

Rates for special collections and for items that are not capable of ordinary collection shall be as agreed upon between the party requesting removal and the licensed collector.

C. List of Delinquent Accounts. The Town Clerk shall compile a list of delinquent accounts which have not been paid by their due dates to which collection and removal service has been rendered pursuant to Section V (A) in the event the owner of such property has not earlier reimbursed the Township for sums expended by it to secure such service.

D. Assessment for Municipal Solid Waste Removal. The Town Treasurer shall make an assessment roll containing the name of the resident or owner of each lot or parcel of land separately assessed if known to him or her, together with a description of each such lot or parcel of land and the amount of such assessment.

E. Collection of Delinquent Accounts. In addition to other methods provided by law, it is hereby provided that special assessments for delinquent garbage collection bills may be levied in accordance with the provisions of this section, which are hereby adopted pursuant to Section 66.60 of the Wisconsin Statutes. Delinquent garbage collection bills shall be levied as a special assessment against the real property, shall become a lien thereon, and placed on the tax roll with the same effect as other town taxes. A garbage collection bill shall be deemed delinquent if any amounts remain unpaid after the due date/s. A penalty for this infraction will be \$1.00 per month and posted in a prominent place in the Town Hall, with the current rate structure for collection of MSW. A copy is also to be kept on file by the Town Clerk. The Board of Supervisors may not permit payment of the delinquent garbage collection bill by installments.

V. REMOVAL OF OFFENSIVE MATTER FROM PREMISES

A. Removal of Offensive Matter From Premises - Authority of Township. Whenever MSW, dead animals or parts thereof or other putrescible materials shall not be contained or removed as required by this chapter, the Town Constable or any member of the Board of Supervisors may direct the removal of such material by the licensed collector. In such event, the licensed collector shall within the time specified by the Town Constable or any member of the Board of Supervisors, (which time shall not be less than within 24 hours of being so directed, Saturdays, Sundays and holiday excluded) make such collection and removal. Whenever such Town Constable or member of the Board of Supervisors directs a licensed collector to remove material from any premises pursuant to this section he or she shall make a written record of such action and provide a copy to the licensed collector. If such collection and removal requires an expenditure of time and effort comparable to that required for ordinary collections, the collector shall be paid at his regular rate for ordinary collections. If such collection and removal requires an expenditure of time and effort in excess of that required for ordinary collections, the collector shall be paid a reasonable hourly rate determined by the Board of Supervisors. The fee for such collection shall be paid by the Township and pursuant to Sections IV (A) through V (A) of this ordinance, recovered from the owner of the premises from which such collection and removal is made.

B. Removal of Offensive Matter from Premises - Notice to Owner. When the Town Constable or a member of the Board of Supervisors shall deem it necessary to remove, at the expense of the owner, any MSW, dead animals or parts thereof as provided in the preceding section, the Town Constable or a member of the Board of Supervisors shall personally serve a written notice upon the owner or agent of the property affected or, if the owner or his agent cannot be found, by posting said notice on the premises setting forth the fact that such removal has been ordered and granting the owner or agent a reasonable period of time for the completion for such removal. Such time allowance shall in no case be less than 24 hours and no more than 48 hours. In cases considered extreme, the time limits can be waived by a Supervisor or Town Constable.

C. Removal of Offensive Matter From Premises - Duty of Owner. Every owner or agent served with a notice, as described in the preceding section, shall cause an abatement of the nuisance or health hazard described in such notice within the time limits prescribed by such notice.

VI. DUTY OF LICENSED COLLECTOR

The Duty of the Licensed Collector to Operate in Accordance with Landfill Regulations. It shall be the duty of the licensed collector to abide by the regulations and policies of the City of Superior and Department of Natural Resources in the transportation of solid waste and depositing of solid waste at the Municipal Landfill. Failure in this regard will result in termination of the hauler's access to the landfill and the loss of the Town-issued license for the purposes of collecting MSW.

VII. WASTE CHARACTERIZATION

Waste Characterization. Only the waste types and sources listed in the plan of operation approval, waste previously approved by the City of Superior and Department of Natural Resources in writing or otherwise allowed under S. MR 506 may be accepted for disposal. Hazardous waste and infectious waste will not be accepted at the Municipal Landfill.

VIII. EFFECTIVE DATE

This ordinance shall be in full force and effect from and ~~after~~ 30 days of the date of passage and posting of this ordinance and proof of such posting is filed in the official Town Records of the Town Clerk.

Passed and Approved this 20TH
day of DECEMBER, 1989

Lloyd E. Sears
Chairman

Charles J. Allen Jr.
Supervisor

Paul Nelson
Supervisor

Filed this 29TH day of DECEMBER
1989.

Lucy A. Johnson
Town of Superior Clerk.

ASHLEY, HANNULA & HALOM

ATTORNEYS AND COUNSELORS AT LAW

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MARC ASHLEY
DANIEL D. HANNULA
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AREA CODE 715
TELEPHONE 392-3000

*ALSO ADMITTED IN MINNESOTA

December 26, 1989

Mr. Lloyd Sears, Chairman
Town of Superior
County Trunk A
Superior, WI 54880

RE: Garbage Collection and Removal Ordinance
Our File No: S-133-2

Dear Lloyd:

This letter is a follow-up to our recent telephone conversations concerning the new garbage removal ordinance. You asked me whether or not the town had the authority to charge a late fee which then becomes part of one's property tax. I believe that the town does have this authority.

I spoke with Lucy Johnson on December 22, 1989. At that time, she indicated that by resolution dated January 15, 1971, the town board was given village powers. This means that the town board has authority similar to that of a village board.


Under the statutes governing villages, there is a provision set forth under Wisconsin Statutes 61.34(1) giving the village board (and in this case the Town of Superior board) the power to act for the government and good order of the village (or town) and for the welfare and convenience of the public and may carry its powers into effect through taxation, special assessments, or fines. Under subsection 4 of that same statute, the town board may levy and provide for the collection of taxes and special assessments.

Therefore, since the Town of Superior has village powers, I believe that the town board is acting within its authority when it imposes a \$1.00 per month fee, fine, or tax when an individual has failed to pay their garbage collection charge in a timely manner. It also appears that you have the authority to properly tax for this. In other words, when this late payment charge is put on the tax roll of the late paying individual, I believe that the town is still acting within its authority.

I hope that this answers your questions. If you have any further questions in this matter, please feel free to contact me.

Very truly yours,

ASHLEY, HANNULA & HALOM


Gary J. Halom
GJH:sro