

ORDINANCE 2004-07

**AN ORDINANCE REPEALING AND RE-ENACTING TITLE 7 OF
THE TOOEELE COUNTY CODE; SOLID WASTE MANAGEMENT**

**NOW, THEREFORE, BE IT ORDAINED BY THE LEGISLATIVE BODY OF
TOOELE COUNTY, UTAH AS FOLLOWS:**

SECTION I - TITLE REPEALED. Tooele County Code Title 7, Solid Waste Management is hereby repealed.

SECTION II - TITLE RE-ENACTED. Tooele County Code Title 7, Solid Waste Management is hereby re-enacted to read as attached hereto.

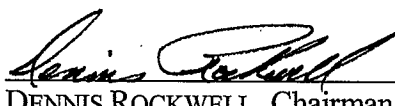
SECTION III - EFFECTIVE DATE. This ordinance shall become effective 15 days after its passage provided it has been published, or at such publication date, if more than 15 days after passage.

IN WITNESS WHEREOF, the Tooele County Commission, which is the legislative body of Tooele County, passed, approved and enacted this ordinance this 24th day of February 2004.

ATTEST:

TOOELE COUNTY COMMISSION

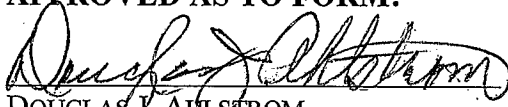

DENNIS D. EWING, Clerk


DENNIS ROCKWELL, Chairman



Commissioner Rockwell voted aye
Commissioner White voted aye
Commissioner Lawrence voted aye

APPROVED AS TO FORM:


DOUGLAS J. AHLSTROM
Tooele County Attorney

TITLE 7

SOLID WASTE MANAGEMENT

Chapter

1. Solid Waste Regulations.
2. Fees.
3. Municipal Solid Waste Facilities.
4. Waste Corridors.

CHAPTER 1

SOLID WASTE REGULATIONS

Section

- 7-1-1. Purpose - Declaration of public nuisance.
- 7-1-2. Definitions.
- 7-1-3. Solid waste management department created.
- 7-1-4. Residential solid waste collection.
- 7-1-5. Commercial solid waste collection.
- 7-1-6. Residential solid waste collection contract.
- 7-1-7. Residential solid waste collection fees.
- 7-1-8. Approved garbage containers - Rental fees.
- 7-1-9. Additional containers.
- 7-1-10. Time and place of pickup.
- 7-1-11. Closing of approved garbage container required.
- 7-1-12. Accumulation or unauthorized disposal of solid waste prohibited.
- 7-1-13. Covering waste during transport.
- 7-1-14. Penalty.

7-1-1. Purpose - Declaration of public nuisance.

(1) This title is for the purpose of providing a systematic collection, transportation, storage, processing, recovery and disposal system for all solid waste disposed of or processed within of the county. It is also for the purpose of protecting and providing for the health, safety, comfort and convenience of Tooele County and its inhabitants.

(2) All activities relating to storage, treatment and disposal of wastes classified as "municipal solid wastes" under the Solid and Hazardous Waste Act, Utah Code Annotated 19-6-102, or otherwise regulated as a "commercial nonhazardous, household, infectious, construction, solid or demolition waste" under federal or state laws and regulations, are hereby declared a public nuisance.

(3) All activities relating to storage, treatment and disposal of wastes classified as "hazardous wastes"

under the Utah Solid and Hazardous Waste Act, Utah Code Annotated 19-6-102, or otherwise regulated as a "waste" under the Toxic Substance Control Act (TSCA), the Comprehensive Environmental Response Compensation and Liability Act (CERCLA), or other federal or state laws and regulations, are hereby declared a public nuisance.

(4) All activities relating to storage, treatment and disposal of wastes regulated by the Radiation Control Act, Title 19, Chapter 3 of the Utah Code Annotated as low-level waste or mixed wastes, or those wastes defined as such in 10 CFR 61.55, or other federal or state laws and regulations, are hereby declared a public nuisance. (Ord. 04-07; 2/24/04)

7-1-2. Definitions.

As used in this title:

(1) "Approved garbage containers" means those containers specifically provided by the county for residential waste collection, which containers are designated specifically for automated collection and have permanently attached, tight-fitting lids.

(2) "Commercial solid waste" means solid waste resulting from the activities of commercial users.

(3) "Commercial user" means an enterprise, not a residence, such as a business, association, corporation, manufacturer, hotel, motel, resort, church, ranger station, crew quarters, campground, picnic ground, day-use recreation area, and a governmental or public entity.

(4) "Low-level radioactive waste" means waste material which contains radioactive nuclides emitting primarily beta or gamma radiation, or both, in concentrations or quantities which exceed applicable federal or state standards for unrestricted release. "Low-level radioactive waste" does not include waste containing more than 100 nanocuries of transuranic contaminants per gram of material, nor spent reactor fuel, nor material classified as either high-level waste or waste which is unsuited for disposal by near-surface burial under any applicable federal regulations.

(5) "Municipal solid waste facility" means all contiguous land, structures, other appurtenances, and improvements on the land used for treating, storing, or disposing of residential and commercial solid waste.

(6) "Residence" means an occupied dwelling unit such as a home, mobile home, condominium or multi-family dwelling including apartments designed for separate housekeeping tenements, where no business is

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conducted except approved home occupations. "Residence" does not include hotels, motels, or mobile home parks.

(7) "Residential solid waste" means solid waste resulting from the activities of households and residential use.

(8) "Residential user" means an adult occupying or owning a residence.

(9) "Solid waste" means all putrescible and nonputrescible materials or substances discarded or rejected as being spent, useless, worthless, or in excess to the owner's needs at the time of disposal or rejection, including garbage, refuse, industrial and commercial waste, and waste which constitutes solid waste as defined in 40 C.F.R. Part 258, Criteria for Municipal Solid Waste Landfills, which includes household waste, commercial solid waste or industrial solid waste as such terms are defined in that part, or other types of waste governed by Subtitle D of the Resource Conservation and Recover Act, and solid waste within the meaning of the Solid Waste Management Act, Title 19, Chapter 6, Part 5, Utah Code Annotated, 1953, as amended, including demolition and construction debris.

(10) "Solid waste disposal contractor" means a person or persons engaged in the business of collecting, hauling or transporting solid waste for disposal or for any other purpose. (Ord. 04-07; 2/24/04)

7-1-3. Solid waste management department created.

There is hereby created a department of solid waste management, which shall be directed and controlled by the county commission. The department shall administer this title and may adopt such regulations necessary to implement it. (Ord. 04-07; 2/24/04)

7-1-4. Residential solid waste collection.

(1) Except as provided herein, all residences shall be provided with mandatory solid waste collection, removal and disposal services and approved garbage containers by the county or its designated agent. All residential solid waste generated within the county shall be transported and delivered to a Tooele County designated and approved solid waste disposal facility.

(2) Except as permitted by this section, no residential solid waste shall be moved, hauled away or transported upon the streets except by the county, incorporated municipalities, or their designated agents.

(3) It is hereby declared to be unlawful for any person, except as permitted in this section, to haul or

remove residential solid waste within or from the county. However, nothing contained in this section shall preclude persons from hauling their own residential solid waste over the streets or public ways to a county-designated solid waste disposal facility, provided that person is regularly paying the county or a municipality for collection services.

(4) If residential users located along the Deep Creek Mountain Range are not provided collection services by the county because of high costs in this remote area, such residential users shall be exempt from mandatory solid waste collection and the removal provisions of this chapter. However, each residential user in this remote area shall haul their own residential solid waste to a county-designated and approved landfill at least once each week and shall pay the same fees in the same manner as other residential users who are provided collection services and containers by the county. The higher costs to provide a separate landfill for these remote areas has been determined to provide sufficient justification to assess the same fee as other residential users without providing approved garbage containers and collection services. (Ord. 04-07; 2/24/04)

7-1-5. Commercial solid waste collection.

(1) Except as provided in this section, commercial users shall collect and remove their commercial solid waste generated within the county, either directly or by employing the services of a county-licensed solid waste disposal contractor.

(2) All commercial solid waste generated within the county shall be transported and delivered to a county-designated and approved solid waste disposal facility.

(3) Owners or operators of small commercial enterprises, including mobile home parks, situated in remote locations of Tooele County that produce solid waste in amounts comparable to typical residences may, with county approval, participate in the county's solid waste collection system on the same basis as residential users, provided they are located in an area that receives residential solid waste collection services and provided they make satisfactory arrangements with the county to pay for such services, which may include periodic payment or inclusion of the fees with the ad valorem taxes on the real property upon which the commercial activity is located, in the same manner as residential collection fees are assessed and collected. (Ord. 04-07; 2/24/04)

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7-1-6. Residential solid waste collection contract.

The county may sign a contract with an independent solid waste disposal contractor to operate a residential solid waste collection and sanitary disposal service within the county upon such terms and conditions as the county commission shall require. All solid waste shall be collected, removed and disposed of with such frequency and in such manner as the county commission determines appropriate. (Ord. 04-07; 2/24/04)

7-1-7. Residential solid waste collection fees.

(1) Each owner of real property that is encumbered by one or more residences shall be assessed annually the fees for collection, removal and disposal services for residential solid waste and fees for approved garbage containers. Such fees shall be billed regularly and collected by the department of solid waste management. (Ord. 04-07; 2/24/04)

(2) Each unit of a multi-family dwelling shall be considered a separate residence for purposes of billing.

(3) Solid waste collection fees shall be assessed for the entire month if the residence is occupied at any time during that month.

(4) If a residence remains vacant for an entire month, the owner, lessee, or occupant of the residence or real property upon which the residence is situated shall make arrangements in advance with the county so that no solid waste collection fees are charged for that month.

(5) The county commission may excuse on a case-by-case basis needy persons who are not reasonably capable of paying the fee for collection of residential solid waste or the container fee for such period of time as deemed proper or necessary.

(6) Twelve percent interest shall be charged on residential solid waste collection fees that are delinquent over 30 days. Payments received shall first be applied to accrued interest, then to the delinquent principal.

(7) Fees left delinquent over 90 days shall become a lien against the owner's real property. Such delinquent fees shall be billed and collected by the treasurer as a part of the regular ad valorem property tax notice, billing and collection system of Tooele County.

(8) It shall be unlawful for any owner or occupant to fail to pay any fee required by this title or to seek to avoid the payment of fees legally owed.

7-1-8. Approved garbage containers - Rental fees.

(1) Residential solid waste shall be collected from residential users only in approved garbage containers. The use of any other type of container or the use of approved garbage containers issued to another residence is unlawful and prohibited. All other solid waste not placed in approved garbage containers shall be placed in suitable and sufficient garbage receptacles, either with tight fitting lids or durable water resistant containers manufactured specifically for use in solid waste collection.

(2) Every residential user shall be issued one approved garbage container. Title to such containers shall be retained by the county. The payment made by residents shall be rental for the use of the containers. Rental fees for containers shall be established by resolution of the county commission. Rental fees for the first container shall be incurred for a minimum of one month for each month or part thereof that a residence is occupied. Rental fees shall be charged and collected in the same manner as the service charge for solid waste collection services.

(3) Residential users shall keep their approved garbage container free from destructive or decorative markings, shall maintain the original color thereof, and shall keep the inside of the containers clean and free from build-up of fungus, bacteria or any other type of contaminant that causes odors or facilitates deterioration of the container. Residential users shall be responsible for approved garbage containers and shall not be negligent in their use.

(4) Residential users shall report to the county, or its solid waste disposal contractor, any damage to their approved garbage container that limits its usefulness so that the same may be returned for repair or replacement.

(5) Approved garbage containers lost or missing through no fault of the residential user shall be replaced by the county without charge. Residential users shall exercise due care to protect such containers against loss through theft or misappropriation. Approved garbage containers shall not be removed from the premises to which they have been assigned.

(6) The owner or occupant of each residence shall be responsible for each approved garbage container issued to that residence.

(7) No hot ashes or flammable or explosive materials shall be deposited in an approved garbage container.

(8) A purchase fee based on the cost to the county at the current rate will be charged to anyone who

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damages or removes an approved garbage container from the property to which it has been assigned. The purchase fee may be added to the collection fee and collected in the same manner.

(9) Containers furnished by the county are issued to specific users by number and are non-transferrable.

(10) Upon discontinuance of use by a resident, approved garbage containers shall be returned to the county or its designated agent. (Ord. 04-07; 2/24/04)

7-1-9. Additional containers.

(1) Residential users may request additional approved garbage containers for an additional charge per month. That charge shall be set by resolution of the county commission. Such charge shall be incurred for a minimum of four months.

(2) When a residential user determines the additional containers are no longer needed, the user shall return them to the county at which time the additional charge will be deleted from the billing, provided the four-month minimum has been met. If an additional container is not returned to the county, the charge for such container shall continue on a month-to-month basis until it is returned.

(3) Additional containers may be rented subject to availability of the containers to the county. Providing initial containers to new residents takes priority over providing additional containers to residents who already have been issued one container. (Ord. 04-07; 2/24/04)

7-1-10. Time and place of pickup.

(1) Approved garbage containers shall be placed on the edge of the street next to the driveway on the opposite side of the driveway approach from any mailbox, but in no event within ten feet of a mailbox, and with the container's wheels as close to the curb or edge of the road as reasonably possible, with the hinge thereof to curbside and the lid opening facing toward the street. When snow or street construction prevents placing of the container against the curb, the container shall be placed not over two feet from the edge of the snow or construction and in a manner that will not obstruct traffic or unduly impede snow plowing. Where there is no curb or gutter, approved garbage containers shall be placed off the traveled portion of the street but close enough to the street that the container can be picked up without undue difficulty.

(2) Containers shall not be placed or permitted to block driveways or through traffic.

(3) Unless otherwise provided by regulation,

garbage and refuse must not be set out upon the street for collection prior to the evening of the day before collection and must be set out prior to 7:00 a.m. on the day of collection.

(4) Empty containers shall be removed from the street as soon as practicable after being emptied, and in every case shall be removed from the street the same day they are emptied.

(5) Those physically unable to wheel containers to curbside may make arrangements with the county for assistance.

(6) It shall be unlawful to park a vehicle upon a street during the hours of garbage pickup in a manner that interferes with access to approved garbage containers by the solid waste disposal contractor. (Ord. 04-07; 2/24/04)

7-1-11. Closing of approved garbage container required.

No approved garbage container shall be filled to the extent that the lid does not remain firmly closed at all times or to such an extent that the contents may be spilled during the process of pickup and dumping into the solid waste collection vehicle. (Ord. 04-07; 2/24/04)

7-1-12. Accumulation or unauthorized disposal of solid waste prohibited.

(1) It shall be unlawful for any person to accumulate solid waste or cause solid waste to be deposited upon any street or upon any premises in the county without express permission from the county or the county health department.

(2) No person shall for the purpose of final disposal dump, place or bury solid waste outside of an approved municipal solid waste facility.

(3) No person shall for the purpose of final disposal, burn solid waste except burning for agricultural purposes and then only when approved by the county health department.

(4) All solid waste generated within Tooele County shall be transported and delivered to a Tooele County designated and approved solid waste disposal facility.

(5) It shall be unlawful for commercial users to deposit commercial solid waste in residential containers.

(6) It shall be unlawful for a person to deposit residential solid waste in a commercial user's solid waste container. (Ord. 04-07; 2/24/04)

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7-1-13. Covering waste during transport.

It shall be unlawful for any person to haul, convey or transport upon any public street open solid waste in any truck, trailer or other conveyance unless covered or contained completely in such a manner that no solid waste is capable of leaving the container or conveyance. If a vehicle or other conveyance arrives at an approved solid waste disposal facility that is not covered or contained as required by this section, the regular gate fee shall be doubled. (Ord. 04-07; 2/24/04)

7-1-14. Penalty.

Any person, firm or corporation who violates the terms of this title by any act of omission or commission shall be deemed guilty of a class C misdemeanor and upon conviction thereof shall be sentenced to pay a fine not exceeding \$750.00 and to imprisonment in the Tooele County Detention Center not exceeding 90 days or by both such fine and imprisonment. (Ord. 04-07; 2/24/04)

CHAPTER 2

FEEES

Section

- 7-2-1. Fees.
- 7-2-2. Payments.
- 7-2-3. Failure to timely pay.
- 7-2-4. Community cleanup.

7-2-1. Fees.

(1) The fees for approved garbage container rental and collection and disposal of permitted material at county-designated and approved solid waste facilities shall be set by resolution of the county commission.

(2) All municipal solid waste facilities shall pay to the county an inspection fee and host fee which shall be set by resolution of the county commission. (Ord. 04-07; 2/24/04)

7-2-2. Payments.

(1) Unless prior arrangements are made with the department of solid waste management to pay solid waste disposal fees on a monthly basis, all fees shall be paid at the time of the use of the solid waste facility. Users who request to pay fees on a monthly basis shall sign an agreement supplied by the department of solid waste management.

(2) All municipalities that use a Tooele County

designated and approved solid waste facility and that have their solid waste collected under a municipal contract or that collect their own residential solid waste shall, in conjunction with their hauler, directly pay Tooele County the appropriate tipping fee. Payments shall be submitted to Tooele County within 30 days of receipt of monthly billings.

(3) Individuals or companies may contract with Tooele County to pay fees on a monthly basis. The terms of payment shall be as stated in the contract. (Ord. 04-07; 2/24/04)

7-2-3. Failure to timely pay.

(1) If any municipality, person or company fails to pay the fees within the time periods allowed, a \$50 late fee shall be charged in addition to the delinquent amount, plus interest at the rate of 1½% per month. If the county initiates legal action to collect delinquent fees, late fees or interest charges, the county shall be entitled to recover a reasonable attorney's fee, plus all costs of the action.

(2) Any municipality, person or company who has failed to pay fees within 45 days of the due date or who fails to comply with any other provision of this title may be denied access to the solid waste facility.

(3) Anyone aggrieved of a decision restricting access to the solid waste facility may within ten days request in writing to have the decision reviewed by the county commissioner responsible for the facility, whose decision shall be final. (Ord. 04-07; 2/24/04)

7-2-4. Community cleanup.

(1) The county commissioner responsible for the solid waste facility may designate a specific time period during which county residents may use the facility without paying a tipping fee, provided all other applicable regulations are complied with.

(2) Persons or organizations providing community service cleanup projects in Tooele County may haul the solid waste they collect to the solid waste facility without paying a tipping fee, provided they receive prior written approval from the county commissioner responsible for the facility or a designee. (Ord. 04-07; 2/24/04)

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CHAPTER 3

MUNICIPAL SOLID WASTE FACILITIES

Section

7-3-1. Staff's findings and recommendations for conditional use permit.

7-3-2. Inspections.

7-3-1. Staff's findings and recommendations for conditional use permit.

(1) Upon receipt of a complete application for a conditional use permit along with the required fees for a municipal solid waste facility, the zoning administrator shall notify the county health department and the director of the solid waste management of the application.

(2) Within seven working days of the date application is made, the county health department and the director of the solid waste management shall submit written findings and recommended conditions to the zoning administrator.

(3) Upon receipt of the findings and recommended conditions, the zoning administrator shall submit them to the planning commission members for consideration on the conditional use permit application and the applicant. (Ord. 04-07; 2/24/04)

7-3-2. Inspections.

(1) The zoning administrator, health department official and the director of the solid waste management may at any reasonable time enter any municipal solid waste facility and inspect the property, records, monitoring systems, activities and practices, or wastes being handled for the purpose of ascertaining compliance with this title and the approved plan of operation for the facility:

(2) The inspector may:

(a) conduct monitoring or testing, or collect samples for testing, to verify the accuracy of information submitted by the owner or operator or to ensure that the facility is in compliance, and the owner or operator may request split samples and analysis parameters on any samples collected by the inspector; and

(b) use photographic equipment, video cameras, electronic recording devices, or any other reasonable means to record information during any inspection;

(3) The inspector shall:

(a) cause notice of the results of any inspection to be sent promptly to the owner or operator of the facility

if not left on site and place a copy in the file of the conditional use permit; and

(b) submit findings of the inspection where the conditions of the conditional use permit are in violation to the planning commission. (Ord. 04-07; 2/24/04)

CHAPTER 4

WASTE CORRIDORS

Section

7-4-1. Purpose.

7-4-2. Municipal solid waste east corridor.

7-4-3. Municipal solid waste west corridor.

7-4-4. Hazardous waste corridor.

7-4-1. Purpose.

The purpose of this chapter is to establish corridors in which facilities disposing, storing or treating municipal solid waste, hazardous waste or low-level radioactive waste could possibly be located, should the appropriate permit be issued pursuant to the Uniform Zoning Ordinance of Tooele County. (Ord. 04-07; 2/24/04)

7-4-2. Municipal solid waste east corridor.

The municipal solid waste east corridor is described as beginning at the south quarter corner of Section 10, T1N, R8W, SLB&M, thence running northerly along the quarter section lines to the north quarter corner of Section 34, T3N, R8W; thence, westerly along the section lines to the northwest corner of Section 32; thence southerly along the section lines to the southwest corner of Section 8, T1N, R8W; thence easterly along the section lines to the point of beginning. Contains about 14,400 acres. (Ord. 04-07; 2/24/04)

7-4-3. Municipal solid waste west corridor.

The municipal solid waste west corridor is described as beginning at the southeast corner of Section 5, T1S, R11W, SLB&M, and running thence northerly along the section lines to the northeast corner of Section 5, T1N, R11W; thence, westerly along the section lines to the northwest corner of Section 6, T1N, R12W; thence southerly along the section lines to the southwest corner of Section 6, T1S, R12W; thence easterly along the section lines to the point of beginning. Contains about 35,840 acres. (Ord. 04-07; 2/24/04)

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7-4-4. Hazardous waste corridor.

The hazardous waste corridor is described as beginning at the southwest corner of T1S, R12W, SLB&M, and running thence east along the south township lines of Ranges 12, 11, and 10, to the 5,000 foot elevation line on the west side of the Cedar Mountains in T1S, R10W, SLB&M; thence northeasterly along said 5,000 foot elevation line to the north line of Section 2, T1S, R10W; thence west along the north line of T1S, R10W to its point of intersection with a line running parallel to the south right-of-way line of Interstate 80, said "parallel line" being located 3,960 feet south of the I-80 right-of-way; thence southwesterly along said parallel line to its point of intersection with the east line of Section 20, T1S, R11W, SLB&M; thence north to the northeast corner of Section 5, T1N, R11W; thence west to the northwest corner of T1N, R12W; thence south to the point of beginning. (Ord. 04-07; 2/24/04)