

FILE

Subject

Cities - Public Imp.

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General
Health Public - Ma. & Pgs.
Collection General



STATE OF KANSAS

Office of the Attorney General

State Capitol Bldg. (913) 296-2215 Topeka, Kansas 66612

VERN MILLER
Attorney General

October 8, 1974

Opinion No. 74-332

Mr. Jerry M. Smetana
City Attorney
P. O. Box 205
Plainville, Kansas 67663

Dear Mr. Smetana:

You enclose a copy of Ordinance No. G-16, recently adopted by the City of Plainville, providing for the systematic collection and disposition of refuse. Section 24 states thus:

"A request for water service shall automatically constitute a request for refuse service. A termination of water service shall automatically terminate refuse service; provided, however, that the absence of public water service shall not relieve any owner or occupant of any residence, multi-family dwelling or commercial enterprise from the responsibility of complying with the provisions of this ordinance."

I enclose copies of opinions dealing with the matter of the collection of fees for the collection of solid waste, opinion nos. 73-289, 74-308, and 73-392.

In these opinions, we concluded, in brief, that it is within the power of the city to require all citizens to utilize a collection or disposal service furnished by the city or by its contractor, to prohibit citizens from burning, burying, or otherwise disposing of solid waste other than through the municipal service, to require citizens to pay the charge for this service, and to suffer loss of municipal water or other utility service for non-payment of charges for refuse collection and disposal services.

Section 24, quoted above, is fully consistent with the conclusions reached in these opinions. There remains, of course, always the question of reasonableness. This determination involves a question of mixed fact and law. We believe it to be within the police power of the community, however, to impose requirements such as those listed above, and that section 24 is within the police power of the city to enact and enforce.

Mr. Jerry M. Smetana
October 8, 1974
page two

I hope that the enclosed opinions, and the views set out herein, will be of assistance to you. If further questions arise concerning this issue, which is one of interest in a number of communities and thus, one of concern to us, please feel free to contact us.

Yours very truly,



VERN MILLER
Attorney General

VM:JRM:tp
Enclosures