



STATE OF KANSAS

Office of the Attorney General

1st Floor, State Capitol Bldg. (913) 296-2215 Topeka, Kansas 66612

CURT T. SCHNEIDER
Attorney General

June 23, 1975

Opinion No. 75-255

Mr. Clay Cox
Assistant County Counselor
Sedgwick County Commissioners Office
Sedgwick County Courthouse - Room 320
Wichita, Kansas 67203

Dear Mr. Cox:

We have your letter of June 9, 1975, concerning the disposal of solid waste. You indicate you have reviewed Opinion No. 74-358, and perhaps several other opinions issued by this office. You inquire whether "an individual is prohibited from hauling his own trash" if he or she meets all other requirements of the Solid Waste Management Plan.

A number of Kansas cities have adopted ordinances which prohibit individuals from hauling trash and refuse through the streets of the city, permitting only licensed carriers to do so. We have no basis upon which to conclude as a matter of law that such provisions constitute an arbitrary, unreasonable or oppressive exercise of the police powers. In the substantial number of opinions this office has been called upon to prepare concerning solid waste in recent years, the legal authority for the exercise of broad municipal police powers has been canvassed fully, and need not be repeated here. As you point out, K.S.A. 65-3409 provides in pertinent part thus:

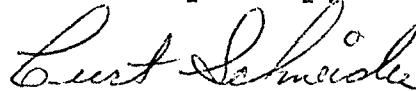
"It shall be unlawful for any person, city, county, other political subdivision or state agency to: (a) Dump or deposit, or permit the dumping or depositing of any solid wastes on to the surface of the ground or into the waters of the state without having obtained a permit as required by section 7 [65-3407] . . . *Provided further,* That this provision shall not prohibit

Mr. Clay Cox
Page Two
June 23, 1975

individuals from dumping or depositing solid wastes resulting from their own residential or agricultural activities onto the surface of land owned or leased by them when such wastes do not create a public nuisance or adversely affect the public health."

The proviso exempts from the permit requirement those persons who deposit solid wastes resulting from their own residential or agricultural activities onto land owned or leased by them. Exemption from the permit requirement does not necessarily imply exemption from municipal or county regulations regulating or prohibiting the transportation of solid wastes and refuse through the streets or on the roads or highways of such county or municipality, which such regulations are, in our view, not *prima facie* an arbitrary or unreasonable exercise of the police power.

Yours very truly,



CURT T. SCHNEIDER
Attorney General

CTS:JRM:kj