

ORDINANCE NO. SW-2783

AN ORDINANCE RELATING TO THE REGULATION OF TRASH STORAGE AND DISPOSAL AND COLLECTION AND DISPOSAL OF SOLID WASTE; AMENDING AND REPEALING EXISTING OVERLAND PARK MUNICIPAL CODE SECTIONS 7.36.100.110, 7.36.100.250, 7.36.110, 7.36.170, 7.36.180, 7.36.190 AND 7.36.220; ADDING NEW SECTION 7.36.115; REPEALING OVERLAND PARK MUNICIPAL CODE SECTIONS 7.36.120, 7.36.130, 7.36.140, 7.36.150, 7.36.160, 7.45.010, 7.45.020, 7.45.030, 7.45.040 AND 7.45.050.

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

SECTION 1. Overland Park Municipal Code Section 7.36.100.110 is hereby amended to read as follows:

7.36.100.110 "Administrator."

"Administrator" means the ~~Administrator, Environmental Health~~Director of Planning and Development Services or his\her designee.

SECTION 2. Overland Park Municipal Code Section 7.36.100.250 is hereby amended to read as follows:

7.36.100.250 "Solid Waste Container."

"Solid Waste Container" means all containers ~~used for solid waste storage prior to collection~~designed and manufactured specifically for storage and collection of solid waste.

SECTION 3. Overland Park Municipal Code Section 7.36.110 is hereby amended to read as follows:

7.36.110 Permit Required.

No person shall engage in the business of collecting or transporting solid waste within the City without first obtaining a permit for each company or business establishment engaging in such business and a separate permit for each collection or transportation vehicle to be operated within the City. Permits shall not be required for the removal, hauling, or disposal of bulky rubbish or earth and rock material from grading or excavation activities; however all such material shall be conveyed in vehicles, trucks, or receptacles so constructed and maintained that none of the material being transported shall spill upon the public rights-of-way.

Unless otherwise specified, all requirements for the permitting of solid waste vehicles and collection and transportation of solid waste shall be as stated in the Regulations for Collection of Solid Waste and Curbside Recycling in Overland Park as adopted and amended by the Administrator following a public input process which shall include the following minimum steps:

1. Posting proposed regulations in draft form a minimum of 14 days prior to the Administrator holding a public hearing.
2. Extending a seven day period for written comments after the public hearing.

A new public input process is not required for revisions to the proposed draft regulations provided they are adopted by the Administrator within 60 days of the public informational meeting.

SECTION 4. Overland Park Municipal Code Section 7.36.115 is hereby added to read as follows:

7.36.115 Required Services.

All solid waste collectors operating within the City must provide a minimum level of service to their customers:

A. Residential Service:

1. Collectors providing residential solid waste service shall make available to each residential customer an optional curbside recycling service. Collectors may, with the approval of the Administrator, subcontract with another entity to provide curbside recycling service to their customers.
2. Curbside recycling services shall at a minimum collect materials specified in the Regulations for Collection of Solid Waste and Curbside Recycling in Overland Park as set forth by the Administrator.
3. Collectors shall provide each new recycling customer a recycling container designed and manufactured for curbside recycling with a minimum capacity of 18 gallons. Sample curbside recycling containers must be submitted to the Administrator for approval prior to distribution.
4. Collectors or their contractors shall process and market all collected recyclable materials. Collectors shall maintain for three years records demonstrating sales of collected materials for review upon request by the Administrator.
5. All residential solid waste and recyclables which meet the collector's stated policies and are properly placed for collection by the resident shall be collected at least weekly. Bulky rubbish is to be exempted as specified in these regulations.
6. The collector shall make available to each residential customer the optional service of collecting solid waste placed at or immediately behind the building setback line or existing building line, not to exceed 50 feet from the front property line.
7. The collector shall furnish special collection services for bulky rubbish to each residential dwelling regularly served. The price for said services is to be negotiated between the collector and the resident, and such bulky rubbish shall be collected within two working days of the resident's request.
8. Collectors are to return reusable solid waste containers as far as the front line of the house to ensure that said containers are not blown into the street. Recycling

containers are to be returned to the area of collection. Returned containers are not to be placed as to obstruct the customer's driveway.

B. Commercial Service:

1. Collectors are to remove solid waste from commercial properties as often as necessary to prevent health and nuisance conditions, but at least once every six months.
2. Collectors must close container lids following the collection.
3. Collectors must maintain containers which may contain putrescible waste as to be leak proof and to be bird and rodent resistant.

SECTION 5. Overland Park Municipal Code Section 7.36.170 is hereby amended to read as follows:

7.36.170 Solid Waste Storage.

The owner or occupant of every dwelling unit and of every institutional, commercial, business, industrial or other non-residential establishment producing solid waste within the City shall provide sufficient and adequate containers for the storage of such solid waste in adequate number to serve each such dwelling unit or establishment, ~~and shall maintain such solid waste containers in good repair at all times and to repair or replace same from time to time, without notice, when any such containers will no longer meet the specifications therefor as established by the Administrator.~~

All solid waste shall be stored so that:

1. it does not attract birds; or rats, flies, mosquitoes or other disease vectors;
2. it does not provide shelter or a breeding place for disease vectors;
3. it does not create a health or safety hazard;
4. it is not unsightly; ~~and~~
5. the production of offensive odors is minimized; and
6. It does not infiltrate or pollute any natural streamway or enclosed stormwater system.

SECTION 6. Overland Park Municipal Code Section 7.36.180 is hereby amended to read as follows:

7.36.180 Solid Waste and Recycling Service and Containers.

- A. The owner or occupant of every dwelling unit and of every institutional, commercial, industrial, business or other non-residential establishment, from which solid waste collection is made under these regulations, shall place all solid waste in proper containers that have been designed and manufactured specifically for storage and collection of solid waste, except as otherwise provided herein, and shall maintain such solid waste containers and the area surrounding them in a clean, neat, and sanitary condition at all times.

- B. Residential solid waste shall be stored in a container that has been designed and manufactured specifically for storage and collection of solid waste, and shall be leak proof and ~~waterrain~~ proof. That container shall be closed at all times except when depositing waste therein or removing the contents thereof. Containers not intended to be disposed of shall have tapered sides for ease of emptying. Containers shall be of a light weight and sturdy construction and shall not exceed 90 gallons in capacity. The collector will determine combined weight of container and solid waste that is permissible for all customers served by that collector. All solid waste shall be removed from residential properties as often as necessary to prevent health and nuisance conditions, but at least once a week.
- C. No owner or occupant of any residential dwelling unit with individual solid waste service shall place any solid waste, ~~or~~ solid waste container or recycling container in front of the building setback line or existing building line upon any real property or public right-of-way in a residential district in the City more than 24 hours in advance of the scheduled collection. ~~Following collection such solid waste container not intended for disposal must be returned by the collector to the building line, or to a point 50 feet from the front property line, whichever is a lesser distance from the point of collection.~~
- D. Solid waste collectors, operating under City permit, or a solid waste collection agency operating under contract with the City, are hereby authorized to enter in and upon private property for the purpose of collecting solid waste therefrom as required by these regulations.
- ~~DE.~~ No person shall collect or cause to be collected any solid wastes placed or stored in violation of the above standards except ~~as hereinafter provided that~~
- ~~1.~~ ~~T~~ree trimmings and limbs placed at the curb for collection are to be less than four inches in diameter and securely tied in bundles not larger than 48 inches long and 18 inches in diameter, when not placed in a solid waste storage container are allowed.
 - ~~2.~~ ~~The placement of recyclable materials, as specified in Chapter 7.45, shall be governed by the provisions of that Chapter.~~
- ~~EF.~~ Commercial solid waste shall be stored in containers that are ~~waterrain~~ proof, leak proof and shall be covered at all times except when depositing waste therein or removing the contents thereof; and shall meet all requirements as set forth in these regulations. Construction and demolition wastes and other bulky wastes may be stored in a non-covered container, provided the wastes are:
1. non-putrescible; and
 2. not subject to being blown out of the container by wind.
- Commercial solid waste storage sites shall be welldrained, and maintained in a clean and sanitary condition.
- FG. Non-conforming containers and unserviceable trash containers will be considered to have been placed for collection and disposal.
- H. All solid wastes collected pursuant to these regulations shall, upon being loaded into collection equipment, become the property of the collection company.

- ~~61.~~ All solid waste containers, whether containing solid waste or not, shall, at all times other than when placed out for collection within the allowable collection time period, be screened from view from any public right-of-way or adjoining property and located behind the existing building line.

SECTION 7. Overland Park Municipal Code Section 7.36.190 is hereby amended to read as follows:

7.36.190 Prohibited Acts.

No person shall:

1. Deposit solid waste in any solid waste container other than that owned by them or under their control without the written consent of the owner or party responsible for such container.
- ~~2.~~ Tamper with, damage, and scavenge or remove a container or contents thereof, or any recyclable materials in proximity to a container marked as intended for recycling.
- ~~3.~~ Intentionally place, in any marked recycling container, anything other than the appropriate recyclable or compostable material.
- ~~24.~~ Interfere in any manner with solid waste collection equipment; or with solid waste collectors in the lawful performance of their duties as such, whether such equipment or collectors shall be those of the ~~e~~City or those of a solid waste collection agency operating under permit by the City.
- ~~35.~~ Dispose of solid waste at a facility which is not licensed and approved by the appropriate regulatory authority.
- ~~46.~~ Store or place any solid waste or solid waste contained in or on any curb, gutter, drainage area, sidewalk or paved portion of the street at any time for any purpose.
- ~~57.~~ Burn, or cause or permit the open burning of vegetation, leaves, wastes, or other combustible materials, except as specifically permitted by Section F-301.0 of the City's adopted edition of the International Fire Code.

SECTION 8. Overland Park Municipal Code Section 7.36.220 is hereby amended to read as follows:

7.36.220 Penalty.

Any person convicted of violating any of the provisions of these regulations shall be deemed guilty of a public offense and subject to the general penalty provisions of O.P.M.C. Section 1.12.010. Any Solid Waste Collection Permit issued by the City may be suspended or revoked by the Administrator if the person holding that permit, or their agent or employee, is convicted of, or enters into a diversion agreement concerning, any of the provisions of these regulations. Any affected person is entitled to a hearing on that matter before the Administrator prior to said suspension or revocation. The procedure for such hearing shall generally follow that set forth in O.P.M.C. Section 8.08.160.

SECTION 9. Existing Overland Park Municipal Code Sections 7.36.100.110, 7.36.100.250, 7.36.110, 7.36.120, 7.36.130, 7.36.140, 7.36.150, 7.36.160, 7.36.170, 7.36.180, 7.36.190, 7.36.220, 7.45.010, 7.45.020, 7.45.030, 7.45.040 and 7.45.050 are hereby repealed.

SECTION 10. This ordinance shall take effect and be in force from and after January 1, 2009, and from and after its publication in an official City newspaper.

PASSED by the City Council this 17th day of November, 2008.

APPROVED by the Mayor this 17th day of November, 2008.

Carl Gerlach, Mayor

ATTEST:

Marian Cook,
City Clerk

APPROVED AS TO FORM:

J. Bart Budetti
Senior Assistant City Attorney